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PART I

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HIGHLIGHTS OF THIS ISSUE

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

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REMINDERS

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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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

Rules and Regulations

Title 12—Banks and Banking

CHAPTER IV—EXPORT-IMPORT BANK OF THE UNITED STATES

PROCEDURES, EXTENSIONS OF CREDIT, DISCLOSURE OF INFORMATION, POLICIES

Parts 401 and 402 have been revised and updated in order to insure that they are consistent with current procedures and policies of Export-Import Bank of the United States. Parts 401 and 402 as they appear below replace the corresponding parts which appear in Chapter IV of Title 12 of the Code of Federal Regulations. Part 404 is hereby being issued by the Export-Import Bank of the United States in order to clarify and protect the right of the public to information from the Bank.

1. Part 401 is revised to read as follows:

PART 401—PROCEDURES

Sec.

AUTHORITY: Sec. 2, 59 Stat. 526, as amended; 12 U.S.C. 635.

§ 401.1 Purpose, organization and programs.

(a) *Purpose.* The purpose of the Export-Import Bank is to aid in financing and to facilitate the export sales of United States goods and services.

(b) *Organization and funding.* The Export-Import Bank is an independent corporate agency, founded by Executive Order in 1934, and currently operating under authority of the Export-Import Bank Act of 1945, as amended. One billion dollars in capital stock is held by the U.S. Treasury, to which the Bank pays dividends annually. The Bank does not use appropriated funds from the Congress. It derives its funds primarily from selling debentures in the private market and secondarily from short term borrowings from the U.S. Treasury.

(1) *Offices.* The Bank's headquarters are located at 811 Vermont Avenue, NW., Washington, D.C. 20571. A branch office is maintained in the U.S. Embassy in Vienna and in the U.S. Consulate in Hong Kong.

(2) *Board of Directors.* The Board of Directors of the Export-Import Bank consists of the President of the Bank who serves as Chairman and Chief Executive Officer, the First Vice President of the Bank who serves as Vice Chairman, and three additional Directors. All five members are appointed by the President of the United States, by and with the consent of the Senate. Of the five members, no more than three may be members of any one political party. A majority of the Board constitutes a quorum. The Board of Directors adopts, and from time to time amends, such bylaws as are necessary for the proper management of the Bank, and in such bylaws, designates the vice presidents and other officers and prescribes their duties.

(3) *Advisory Committee.* An Advisory Committee of nine members, broadly representative of production, commerce, finance, agriculture and labor, meets with the Bank one or more times a year, on the call of the President of the Bank, to advise with the Bank on its program. Members are appointed by the Board of Directors on the recommendation of the President of the Bank.

(c) *Programs.* (1) *Direct loans and participation financing.* Direct Loans are dollar credits extended by Eximbank directly to borrowers outside of the United States for purchases of U.S. goods and services. Disbursements under the loan agreement are made in the United States to the suppliers of the goods and services, and the loans plus interest must be repaid in dollars by the borrowers.

Participation financing is the combining of Eximbank's direct lending with loans provided by private sources of funds. If required by the private lender, Eximbank may extend its Financial Guarantee to assure repayment of that portion of the total financing. Eximbank also is prepared, when necessary, to finance through its direct lending the later maturities of the total credit, allowing the private lender to obtain repayment of its loan in a shorter period of time.

(2) *Guarantees for U.S. financial institutions.* Eximbank will extend its Financial Guarantee to cover loans made by U.S. financial institutions to the purchasers in other countries of U.S. goods and services. The buyer may be either a government or private entity. Eximbank's Financial Guarantee will unconditionally guarantee repayment by a borrower of up to 100 percent of the outstanding principal due on such loans plus interest at a rate satisfactory to Eximbank.

(3) *Guarantees for non-U.S. financial institutions.* Eximbank will extend its Financial Guarantee to cover loans made by financial institutions located outside of the United States for exports of U.S. goods and services. Eximbank will unconditionally guarantee repayment by a borrower of up to 100 percent of the principal amount of the loan plus interest at a rate satisfactory to Eximbank. In the event of default, Eximbank payments will be made in the same currencies which the borrower has agreed to repay the lender.

(4) *Local cost financing.* Eximbank is prepared to assist exporters in obtaining local cost financing when it has been clearly demonstrated as necessary to support sales abroad of U.S. goods and services. As a form of such assistance, Eximbank is prepared to use its Financial Guarantee to cover loans made by non-U.S. financial institutions for the financing of local cost in cases in which the Bank is participating through a Direct Loan, a Financial Guarantee or a combination thereof, in financing the procurement of U.S. goods and services.

For transactions in the developing countries, there must be a clear indication that local cost support is essential to achieve an important contract or purchase arrangement and mobilization of the required funds does not appear feasible in the absence of Eximbank assistance. For transactions in the developed countries, there must be a clear indication that local cost support is necessary to counter non-U.S. competition offering publicly assisted local cost financing. Normally, Eximbank will guarantee local cost financing up to an amount equal to 15 percent of the value of the capital goods and services exported from the United States in the related transaction.

(5) *Preliminary commitments.* Eximbank is prepared to provide Preliminary Commitments outlining the terms and conditions of the financial assistance it would extend to purchasers of United States exports of goods and services. The Preliminary Commitment is issued without charge and in no way obligates the inquirer. The program can be used advantageously by U.S. exporters in their marketing efforts as well as in meeting tender requirements. A Preliminary Commitment can be helpful to buyers in planning new purchases and in making presentations to their governments. A financial institution may find a Preliminary Commitment useful when helping both seller and buyer to arrange total financing packages.

(6) *Cooperative Financing Facility.* Under the Cooperative Financing Facility, Eximbank arranges the cooperation of financial institutions abroad to extend loans at their own risk to purchasers of U.S. exports. Eximbank in turn lends these institutions half the funds and the cooperating financial institutions provide the other half from their own resources. If a cooperating institution is in a lesser developed country and wishes to borrow its half of the financing, Eximbank can assist by guaranteeing repayment to another lender of these funds.

(7) *Relending Facility.* A Relending Facility is a line of credit extended by Eximbank directly to a non-U.S. finan-

cial institution to use for "relending" for export loans to small and medium-sized private buyers of U.S. goods and services. Each Relending Facility will include a specific list of eligible product lines, designed either to penetrate a new market or to salvage a declining U.S. share in a particular market. No other products will be financed under this Facility.

(8) *Medium-term discount program.* Eximbank will lend to commercial banks and Edge Act and "Agreement" corporations, up to 100 percent of their eligible medium-term export debt obligations arising from current U.S. exports. Eximbank will also purchase on a case-by-case basis eligible export debt obligations, satisfactory to Eximbank, with full and unconditional recourse on the commercial bank.

In order to obtain a Discount Loan, a bank must have applied for and received from Eximbank an advance commitment to obtain such loan. This advance commitment will be valid for the full term of the obligation, thereby assuring the bank of liquidity, if needed. Application must be made before shipment of the products or services. Discount Loans may be prepaid at any time without penalty.

(9) *Short-term discount program.* Eximbank will make advance commitments for Discount Loans of up to 100 percent of the principal amount or discounted value of eligible export debt obligations having an original maturity of 364 days or shorter arising from the financing of current U.S. exports of goods and services. Eximbank will make Short-Term Discount Loans based on its advance commitment, which must be applied for before shipment of the products or services. The interest "spread" varies from 1 to 2 percent per annum depending upon the amount and term of the obligation. Packaging of certain obligations is permitted in order to expedite handling.

(10) *Commercial bank exporter guarantees.* Eximbank will guarantee repayment of export debt obligations acquired by U.S. banking institutions from U.S. exporters. The Eximbank guarantee covers part of the commercial credit risks and all of the political risks.

(11) *Credit insurance for exporters.* The Foreign Credit Insurance Association (FCIA), a group of some fifty of the principal U.S. maritime, casualty and property insurance companies, in cooperation with Eximbank, offers broad based protection for U.S. exporters' export receivables. Coverage is available for both commercial and political risk which could result in the default of payment from a foreign buyer. To meet the needs of all exporters, large and small, several types of policies are now being offered by FCIA.

(12) *Lease guarantee program.* Eximbank is prepared to extend to either a U.S. or a non-U.S. lessor a guarantee of payment by a lessee for the lease of U.S. equipment outside of the United States on either a non-payout or a full payout basis. The lease transaction must result in an export of the U.S. equipment. Two types of guarantees are available to the lessor: political risk coverage, or comprehensive risks coverage, including both political and commercial risks.

(13) *Engineering, planning and feasibility studies.* Eximbank will finance engineering, planning and feasibility studies by U.S. firms for their non-U.S. clients on large capital projects. If the contractor funds his study, Eximbank will provide a Commercial Bank Exporter Guarantee enabling the contractor to sell without recourse his debt obligation to a commercial bank. If Eximbank's assistance is to be given the client, it would be in the form of Participation Financing, consisting of a Direct Loan and a Financial Guarantee of a loan extended by a U.S. or a non-U.S. bank. By assisting U.S. engineering firms to obtain studies sponsored by clients outside of the U.S., it is anticipated that there will be larger purchases of U.S. equipment and services when the project is constructed.

(14) *Equipment political risk guarantee.* Eximbank will provide political risk guarantee coverage on U.S. equipment used by U.S. contractors in their performance on contracts abroad. The policy will reimburse the owner for 75 percent of the depreciated equipment value at the time of loss, should a loss occur without compensation.

(15) *Export finance counseling service.* Eximbank provides a Counseling Service for exporters, banks and financial institutions seeking financing for U.S. exports. The service provides information on the availability of financing services and resources, within the U.S. and abroad, and information on each of the pertinent Eximbank programs which could be of assistance to exporters who find it necessary to offer deferred payment terms on their export sales.

(16) *Credit information service for U.S. commercial bankers.* Eximbank will make available to commercial bankers credit information or financial information on a specific country or individual company abroad, to assist U.S. banks in meeting the problem of investigation.

(17) *Professional training in international finance for U.S. commercial bankers.* Eximbank offers a six-month program of professional training for representatives of U.S. commercial banks that are involved in or might become involved in export trade financing. Trainees work in Washington and are, in fact, employees of the Federal Government during this period.

(18) *Orientation program for business and industry.* Eximbank conducts day-long saturation sessions in all phases of Eximbank export financing programs for representatives of various businesses and industries engaged in export trade. The selection of the trainees is the prerogative of the customer company.

(19) *Commercial bank export symposia.* Export symposia are meetings arranged by commercial banks in their own communities. A bank sponsoring one of these Export Symposia extends invitations to its business account customers to send representatives to the meeting. Eximbank officials explain the various ways in which financing of U.S. exports can be arranged, with emphasis upon the part that private financial institutions will play, as well as the types and extent of Eximbank export financing programs.

(20) *Overseas business promotion and liaison.* Eximbank has established an office to develop and coordinate the Bank's cooperation with specific trade promotion events outside the United States. This office provides comprehensive information on export financing to prospective U.S. participants in these trade promotion events; arranges Bank staff assistance for U.S. exhibitions, trade missions and other trade promotion events abroad; and coordinates special financing procedures set up to support important trade promotions.

§ 401.2 How to apply.

Applications for the Bank's financial assistance should be submitted in the form of a letter, including sufficient information to enable the Bank to appraise the technical, economic and financial aspects of the proposed transaction.

§ 401.3 Principals, agents, certifications and covenants.

(a) *Principals.* Applications for credits must be signed by the principals involved. In the case of a corporation or similar entity, a duly authorized officer of the entity shall sign on its behalf. In the case of a government, a duly accredited representative of the government shall sign on its behalf. In the case of a United States exporter seeking financing of the sale of goods to a foreign buyer on credit terms, the exporter shall constitute the principal.

(b) *Agents.* The Bank prefers to deal with principals, especially in negotiations leading up to the granting of a loan, but the applicant has the right to engage attorneys, engineers or other qualified persons to advise and aid in preparing material required by the Bank in connection with a loan application or with the operation of a loan which has been granted.

(c) *Certification.* (1) Every person, including any foreign government or an agency thereof, individual, partnership, corporation or association, in whose favor the Bank authorizes the extension of financial assistance within the purview of the Export-Import Bank Act of 1945, as amended, shall, as a condition precedent to the utilization of such financial assistance, represent and certify to the Bank in such form and at such time or times as may be prescribed by the Bank that:

(i) Such person has not paid or agreed to pay to any person including any individual, partnership, corporation or association, except its regular full-time individual employees or staff members to the extent of their regular remuneration, any commission, fee or compensation in connection with obtaining such financial assistance, except such amounts as are included in the certificate, such certificate to set forth the name and address of each such person

or persons, together with the description of the services rendered, accompanied by the verification of the recipient or beneficiary of an agreement to pay named in the certificate required hereunder.

(ii) No agent or attorney of such person who was previously an officer or employee of the Bank participated personally and substantially as an officer or employee of the Bank (through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise) in connection with the extension of such financial assistance while so employed by the Bank.

(2) Upon a determination by the Board of Directors that any commission, fee or other compensation paid or agreed to be paid in connection with the obtaining of such financial assistance and disclosed in the certification required under this subsection is unreasonable, the person in whose favor the extension of financial assistance has been authorized shall as a condition precedent to the utilization of such assistance, effect an adjustment satisfactory to the Bank in such commission, fee or other compensation.

(3) Every person including any foreign government or agency thereof, individual, partnership, corporation or association, in whose favor the Bank authorizes the extension of financial assistance within the purview of the Export-Import Bank Act of 1945, as amended, shall, as a condition precedent to each advance:

(i) If such person is the supplier of the equipment, materials or services with respect to which the advance has been requested, certify that, other than as disclosed to the Bank, no payments, allowances or charges in connection with the sale of, or obtaining the contract to sell, such equipment, materials or services have been paid or granted or agreed to be paid or granted by such person to any other person, except such person's regular full-time individual employees or staff members to the extent of their regular remuneration.

(ii) If such person is not the supplier of the equipment, materials or services with respect to which the advance has been requested.

(a) Certify that such person has paid or agreed to pay for the equipment, materials or services with respect to which the advance has been requested, no more and no less than the amounts which such person has certified to the Bank as the purchase price and all payments, allowances and charges connected therewith.

(b) Furnish the Bank with a certificate of the supplier of the equipment, materials or services, with respect to which the advance has been requested, addressed to the Bank and setting forth that such supplier has not, other than as disclosed to the Bank, paid or granted or agreed to pay or grant to such person or any other person, except such supplier's regular full-time individual employees to the extent of their regular remuneration, any payments, allowances or charges in connection with the sale of, or obtaining the contract to sell, such equipment, materials or services.

(d) *Covenants.* (1) Every person, including any foreign government or an agency thereof, individual, partnership, corporation or association, in whose favor the Bank authorizes the extension of financial assistance within the purview of the Export-Import Bank Act of 1945, as amended, shall, as a condition precedent to the utilization of such financial assistance, covenant and agree with the Bank in such form as may be prescribed by the Bank that:

(i) Such person will not employ any person to appear personally before the Bank as agent or attorney in connection with such financial assistance within one year after that person's employment by the Bank has ceased if such financial assistance was under that person's official responsibility as an officer or employee of the Bank at any time within a period of one year prior to the termination of such responsibility.

(ii) Such person has not paid or agreed to pay to any person including any individual partnership, corporation or association except its regular full-time individual employees or staff members to the extent of their regular remuneration, any fee, commission or compensation in connection with obtaining such financial assistance, except for reasonable compensation, satisfactory to the Bank for bona fide professional, technical or other comparable services incident to presenting the merits of the application and operation of the credit and such person will certify to the Bank any such amounts, such certificates to set forth the name and address of each such person together with a description of the services rendered, accompanied by the verification of the recipient or beneficiary of an agreement to pay named in the certificate required hereunder.

(2) Upon a determination by the Board of Directors that any commission, fee or other compensation paid or agreed to be paid in connection with the obtaining of such financial assistance and disclosed in the certification or covenants required under this sub-section is unreasonable, the person in whose favor the extension of financial assistance has been authorized shall, as a condition precedent to the utilization of such assistance, effect an adjustment satisfactory to the Bank in such commission, fee or other compensation.

(e) *Remedies and penalties.* (1) The certificates, representations and covenants provided for in this part are deemed to be material to and an inducement for the extension by the Bank of such financial assistance and falsifications in any such representation on certificate or the breach of any such covenant shall entitle the Bank to cancel any commitment for the extension of financial assistance to such person or such additional remedies as may be provided in the credit agreement.

(2) The remedies of the Bank provided for in this section and in the contract shall be in addition to any liability or penalty provided by law including those provided for in 18 U.S.C. 1001.[1]

2. Part 402 is revised to read as follows:

PART 402—EXTENSION OF CREDIT

Sec.
402.1 Basic principles.
402.2 Cash Payment, maturities, interest rates and participation.
402.3 Marine transportation and insurance.

AUTHORITY: Sec. 2, 59 Stat. 526, as amended; 12 U.S.C. 635.

§ 402.1 Basic principles.

The Export-Import Bank is guided in its operations by the following basic principles:

(a) The basic purpose of the Bank is to aid in financing and to facilitate exports and imports and the exchange of commodities between the United States or any of its Territories or insular possessions and any foreign country or the agencies or nationals thereof. To accomplish this purpose, the Bank extends loans, guarantees or other forms of financial assistance. This foreign trade may be assisted, for example, by financing specific exports of United States products or by financing exports of equipment, materials and services required for specific developments abroad. Foreign trade may also be promoted through financing to build up the economy, increase employment and raise income levels in foreign countries, which thereby afford better markets for American products or become better suppliers of imports required by the United States. Imports can usually be financed through normal commercial channels; but in exceptional cases where private financing is not available the Bank may assist in their financing.

(b) The Bank generally makes loans only for specific purposes. A corollary of this principle is that disbursements under a commitment by the Bank are made only upon receipt of satisfactory evidence that the purposes of the loan have been or are being carried out.

(c) As a general rule, the Bank makes only loans which offer reasonable assurance of repayment. This assurance usually involves not only the creditworthiness of the borrower but also the ability of the borrower to obtain the necessary dollar exchange to service the loan.

(d) As a general rule, the Bank extends credit only to finance purchases of

[1] Section 18 U.S.C. 1001 provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both" (June 25, 1948, ch. 645, sec. 1, 62 Stat. 749).

materials and equipment produced or manufactured in the United States together with technical services of American firms and individuals, as distinguished from expenditures for goods and services in the borrowing country or for purchases in third countries.

(e) The Bank supplements and encourages the utilization of private capital in export and import trade. Financial assistance is not extended by the Bank for any purpose if capital for the same purpose is believed to be obtainable from private sources on reasonable terms.

(f) The Bank is prepared to consider proposals for the purchase of portions of its portfolio by commercial banks or other private investors.

§ 402.2 Cash payment, maturities, interest rates and participation.

(a) *Cash payment.* The Bank ordinarily requires a foreign purchaser to make a cash payment of not less than 10 percent of the invoice value on or prior to the time of delivery of the goods. In its direct lending program, the cash payment must be made either prior to or pari passu with disbursements by Eximbank.

(b) *Maturities.* The maturities of credits granted by the Export-Import Bank are arranged in accordance with the circumstances in each case. Generally speaking they are commensurate with those customarily extended in international trade for similar goods or projects. Principal amounts are generally repayable in equal semiannual installments.

(c) *Interest rates.* The Bank normally charges interest on its loans at a rate of 6 percent per annum. However, such rate of interest is subject to change upon review of the Bank with the approval of the National Advisory Council on International Monetary and Financial Policies. Interest is computed on the outstanding principal balance and is usually payable semiannually.

(d) *Participation.* The exporter may be required to participate in the financing if in the Bank's judgment the circumstances warrant such participation.

§ 402.3 Marine transportation and insurance.

(a) *Marine transportation.* Public Resolution No. 17, Seventy-Third Congress, requires that exports of agricultural or other products fostered by loans made by any instrumentality of the United States Government shall be carried exclusively in vessels of United States registry unless a waiver is granted by the United States Maritime Administration. When appropriate the Bank is prepared to finance United States inland freight and ocean freight on vessels of United States registry under the relative credit.

(b) *Insurance.* When the Bank determines that shipments of exports financed through its credits must be covered by marine insurance, the insurance contracts shall be satisfactory to the Bank and shall provide that payments for loss or damage will be made in United States dollars in the United States. When such insurance contracts are placed in the United States market with United States companies the Bank is prepared to finance the premiums under the relative credit.

3. Part 404 is added to read as follows:

PART 404—DISCLOSURE OF INFORMATION

Public Law 89-487, 80 Stat. 250, approved July 4, 1966 (popularly known as the Freedom of Information Act or Public Information Act), substantially revised 5 U.S.C. 552, formerly section 3 of the Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. 1002 (1964 Ed.), to clarify and protect the right of the public to obtain information from Federal agencies. To clarify and protect the right of the public to information from the Export-Import Bank of the United States pursuant to Public Law 90-23, 5 U.S.C. 552, which subsequently codified and repealed Public Law 89-487, Part 404 of Chapter IV of Title 12 of the Code of Federal Regulations is issued as follows:

Sec.

AUTHORITY: 5 U.S.C. 552 and 12 U.S.C. 635.

§ 404.1 Purpose and policy.

(a) This part establishes policy and procedures governing public access to information contained in the files, documents, and records of the Export-Import Bank of the United States (Eximbank). In keeping with the spirit as well as the letter of Public Law 90-23, which codified and repealed Public Law 89-487, amending 5 U.S.C. 552, formerly section 30 of the Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. 1002 (1964 Ed), it reflects Eximbank policy that disclosure is the general rule rather than the exception. It is in addition a recognition that this policy in favor of disclosure extends in many instances to information technically exempt from disclosure under the law where such disclosure would not adversely affect some legitimate public or private interest intended to be protected by law, would not otherwise violate law or other authority, and would not impose an unreasonable burden upon Eximbank.

(b) This part is also a recognition that the soundness of many Eximbank programs, e.g. loans, guarantees and insurance, depends in large measure upon the reliability of commercial, technical, financial and business information relating to the affairs of applicants for Eximbank assistance. Since the release of such information would jeopardize the credit and competitive business position of an applicant it is essential that applicants be assured that the information is considered to be submitted to Eximbank in confidence and will not be disclosed to the public. Thus applicants will be encouraged to make complete disclosure of material bearing upon an application and Eximbank decisions on whether financial or other assistance should be approved will be made with greater assurance that the interests of the United States will be protected.

§ 404.2 Scope.

(a) This part applies to all files, documents, records, and information obtained or produced by officers and employees of Eximbank in the course of their official duties as well as all files, documents, records and other information in the custody or control of any Eximbank officer or employee. It does not purport to describe or set forth every Eximbank file, document, record, or item of information which may or may not be disclosed or to incorporate every exemption from disclosure provided by law. Material described is illustrative rather than exclusive.

(b) Moreover, this part deals with the availability of information to the public, including parties involved in litigation affecting Eximbank. It does not apply to the disclosure of information to persons, organizations or institutions participating in Eximbank programs or activities, or to other activities in the executive and legislative branches of the Federal Government.

§ 404.3 Information and records available to the public and exempt from disclosure.

(a) *General.* (1) All Eximbank information and records in existence which are not exempt by law are available for public inspection and copying in, or through, facilities described in § 404.4. In addition, certain materials technically qualifying for exemption from disclosure are to be made available where disclosure would not adversely affect some legitimate public or private interest, would not otherwise violate law or other authority, and would not impose an unreasonable burden on Eximbank. Reasonable requests for material not in existence may also be honored where their compilation will not unduly interfere with Eximbank activities, programs and operations.

(2) Specific examples of information routinely available in Eximbank facilities are listed in § 404.0. Examples of information and other material, available and exempt, in which there should be general interest are discussed in succeeding paragraphs of this section.

(b) *Information and records relating to Eximbank programs.* (1) Although Eximbank programs typically involve the consideration of material constituting in large part trade secrets, commercial or financial information, information submitted in confidence, or information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, the following kinds of information are nevertheless available to the public:

(i) Names of recipients of loans, guarantees, insurance and other assistance.
(ii) The kind and amount of assistance.
(iii) The purpose of the approved assistance in general terms.
(iv) The extent of outside participation, if any.
(v) Statistical data on Eximbank programs.
(2) Information which is not available to the public includes:
(i) Information other than statistical on declined, withdrawn, or canceled applications for assistance.
(ii) Financial or other confidential information about applicants or borrowers obtained from any source.
(iii) Individual case files relating to such activities as loans, guarantees and insurance.
(iv) Internal Eximbank communications showing, for example, recommendations on applications for assistance.
(v) Information concerning losses, delinquencies and defaults in individual cases.
(vi) Names of participating lending institutions without their consent.
(vii) Information regarding the character of applicants, borrowers, or other persons.
(viii) Examination, audit, investigation and litigation reports.

(c) *Minutes of the Meetings of the Board of Directors.* These are available for inspection and copying in the office of the Secretary of Eximbank as provided in § 404.4.

(d) *Personnel and similar files.* The names, position titles, and duty stations of Eximbank employees are public information but their home addresses are not so considered. The disclosure of private or personal information contained in other files, for example, in the files relating to members of Eximbank's Advisory Board and to applicants for Eximbank assistance would normally amount to a clearly unwarranted invasion of privacy and thus would be considered exempt.

(e) *Eximbank staff directives and other instructions to staff.* All directives are considered public information except those relating to audits and investigations, internal financial management and fiscal operations, and portions of directives containing confidential standards and instructions, as, for example, instructions concerning negotiations or bargaining in connection with the disposition and liquidation of loans and loan collateral held by Eximbank.

(f) *Litigation materials.* Copies of pleadings, motions, orders, transcripts of testimony, and documentary evidence introduced in pending or closed litigation are available once such items are a matter of public record.

(g) *Internal communications.* Interagency or intraagency communications not routinely available to a party to litigation with Eximbank are exempt from disclosure. These would include, among other things, drafts, memoranda between officials or agencies, opinions and interpretations prepared by Eximbank attorneys and other staff members or consultants for use of Eximbank, research studies performed internally or under contract for internal management purposes, and internal management reports.

§ 404.4 Public access to information and records.

(a) *Facilities.* Eximbank facilities are available to the public during normal business hours for requesting, inspecting and copying information and records. Reproduction machines will also be available in or, through, such facilities. A public affairs office is located in Room 1231; 811 Vermont Ave. NW., Washington, D.C. 20571.

(b) *Materials available in public affairs office.* (1) For the convenience of the public certain Eximbank materials will be maintained and readily available in the public information office. These will include:
(i) All Eximbank directives and manuals not exempt from disclosure.
(ii) Eximbank Rules and Regulations (including Interpretations).
(iii) Index of Eximbank materials, including lists of directives, forms and reports.
(2) The public affairs will, in addition to the above, have normally available, among other things:
(i) Pamphlets describing Eximbank programs.
(ii) Press releases.
(iii) Names of recipients of Eximbank support and related information not exempt from disclosure.
(iv) Eximbank's Annual Report to the President and the Congress.
(v) Routine statistical reports on Eximbank activities.
(vi) Minutes of Meetings of the Board of Directors.
(vii) Blank Eximbank forms.

(c) *Other materials.* Requests for information, records, and other materials not readily available at the public information office areas may be requested through such facility. Requests will be referred to the proper Eximbank office and the person making the request will be notified of the availability of the material and any charges involved. If the material requested is the exclusive concern of another agency, the request will be referred to that agency. If the material is of concern to more than one agency, the request will be referred to the agency whose interest is paramount for a decision to disclose or withhold the material.

(d) *Forms for requesting information.* (1) EIB Form 73-5, "Request for Eximbank Forms, Documents, Records and Other Information", is used for processing requests. Any person desiring information or records may be asked to complete Part I of the form identifying the material requested and the copies, if any, desired. If requests are received by mail or telephone, Part I will be completed by Eximbank.

(2) EIB Form 73-6, "Answer to Request", is a form letter or notice which will advise the requester of the availability of the material, any charges involved, or the referral of the request to another office of agency.

(3) EIB Form 73-7, "Invoice", will be used to record transactions involving charges and a copy thereof will be served as a receipt to the purchaser.

§ 404.5 Administrative appeal of refusal to disclose.

(a) *Who may appeal.* Any person whose request for information or records has been denied shall be entitled to submit a written appeal to Eximbank.

(b) *Form of appeal.* While no particular form is prescribed, the letter or other written statement utilized for such purpose shall contain a description of the information or records requested, the name and place of employment of the Eximbank official or employee who denied the request, the reason, if any, given for the denial, and such other pertinent facts and statements as the appellant may deem appropriate. Eximbank may request additional details where the information submitted is insufficient to support a decision.

(c) *Where to appeal.* Appeals shall be addressed to the Export-Import Bank of the United States, Attention: Vice President-Administration, 811 Vermont Ave., Washington, D.C. 20571.

(d) *Eximbank decision.* Final Eximbank decision on appeals from refusals to disclose information or records shall be made by the Executive Vice President. He shall promptly review each appeal and provide appellant and other interested parties, if any, with a written notification of the decision. If the decision upholds the refusal to disclose, the notification shall contain a statement sufficiently explaining the reasons for the refusal.

§ 404.6 Fees.

(a) *Basis.* Factors taken into account in establishing fees for reproducing copies of documents, records search, and compilation of materials include reproduction cost, average salary of employees involved, and overhead cost.

(b) *Method of payment.* Remittances shall be in the form of cash or cashier's check, money order or other guaranteed remittance made payable to the Export-Import Bank of the United States. Payment shall normally be due at the time the service is rendered. However, where extensive record searches or compilations are involved the person requesting the service shall pay whatever fee is estimated by Eximbank to be appropriate before any search or compilation is undertaken. Fees paid in advance shall be held in suspense pending completion of the search or compilation and adjusted when final charges have been determined.

(c) *Prices.* (1) For documents available in the public information office, the charge for reproduction may be 50 cents per page.

(2) For requests requiring a search of Eximbank records but no compilation, there may be a minimum charge of $5 plus the regular charge of 50 cents per

page for reproduction. In addition, the total charge will include a charge based upon employees' time required for the search.

(3) For information which has to be compiled the charge will include the cost of employees' time, cost of computer runs or other equipment use, and other overhead expense. Since there is no obligation on the part of the Eximbank to compile records or data, requests for compilations must be reasonable and not unduly interfere with normal operations or program activities.

(4) Persons may inspect and copy documents by their own means in the Eximbank facilities without charge except for search or compilation charges which may be otherwise payable.

§ 404.7 Appearances and testimony by Eximbank officers and employees.

Whenever an officer or employee of Eximbank is served with a subpoena demanding the disclosure of the information or the production of files, documents, and records described in this part, or is requested by court, committee or other body to disclose such information, the officer or employee shall promptly inform his superior of the requirements of the subpoena or request and shall ask for instructions from the Vice President-Administration with respect thereto. Such officer or employee shall appear before the court, committee or body and, if the Vice President-Administration has not authorized disclosure, the employee shall respectfully decline to disclose the information or produce the files, documents, and records demanded or requested, basing such refusal upon this part.

[SEAL] HENRY KEARNS,
President and Chairman.

[FR Doc.73-16500 Filed 8-8-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73-AL-16]

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

Redesignation of Colored Federal Airway, Reporting Point, Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to redesignate the Farewell, Alaska, navigational aid, control zone and transition area.

This action is based on the need to convert the Farewell low frequency range to a nondirectional radio beacon. The Farewell RR is currently advertised as unreliable because of shifting courses and multiple course signals. Reliable repairs are impracticable since standard parts are no longer available.

Furthermore, on March 1, 1971, the Federal Aviation Administration issued a Notice under Aeronautical Study No. 71-AL-18NR, proposing to convert all four-course radio ranges in Alaska to nondirectional radio beacons. No objections were received.

For reasons stated above, the Farewell low frequency range will be permanently converted to a nondirectional radio beacon effective September 13, 1973.

Since these amendments involve a change only in the type of navigational aid on which the airspace is described and makes no change to the current airspace configuration, notice and public procedure hereon are unnecessary. However, in order to allow sufficient time to make appropriate changes to aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., September 13, 1973, as hereinafter set forth.

1. Section 71.105 (38 FR 305) in A-1, "Farewell, Alaska, RR;" is deleted and "Farewell, Alaska, RBN;" is substituted therefor.

2. Section 71.171 (38 FR 351) Farewell, Alaska, control zone is amended to read:

FAREWELL, ALASKA

Within a 5-mile radius of the Farewell airport (latitude 62°30'30" N, longitude 153°52'30" W); and within 3.5 miles each side of the 306° bearing from the Farewell RBN extending from the 5-mile radius zone to 8.5 miles northwest of the RBN. This control zone is effective from 0745 to 1545 local time daily, or during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication, Supplement Alaska.

3. Section 71.181 (38 FR 435) Farewell, Alaska, transition area is amended to read:

FAREWELL, ALASKA

That airspace extending upward from 1,200 feet above the surface within 9.5 miles northeast and 5 miles southwest of the Farewell RBN 126° and 306° bearings, extending from 6 miles southeast to 18.5 miles northwest of the RBN.

4. Section 71.211 (38 FR 618) low altitude reporting points, delete "Farewell, Alaska, RR" and add "Farewell, Alaska, RBN".

(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 Anchorage, Alaska, on July 31, 1973.

THOMAS J. CRESWELL,
Director, Alaskan Region.

[FR Doc.73-16413 Filed 8-8-73;8:45 am]

[Airspace Docket No. 73-WA-35]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Areas

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to change the title of the designated controlling agency for Restricted Areas R-2533, Oceanside, Calif., R-2908 and R-2909, Pensacola, Fla., and R-5202, Gardiner's Island, N.Y.

The title, "Radar Air Traffic Control Center (RATCC)," has been changed to "Radar Air Traffic Control Facility (RATCF)." The title of the controlling agency designated for each of the restricted areas, R-2533, R-2908, R-2909 and R-5202 must therefore be corrected.

This amendment is editorial in nature and it is a minor amendment upon which the public would have no particular reason to comment. Therefore, notice and public procedure thereon are deemed unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 11, 1973, as hereinafter set forth.

1. In § 73.25 (38 FR 634) the controlling agency for Restricted Area R-2533, Oceanside, Calif., is amended to read as follows:

Controlling agency: FAA, El Toro RATCF

2. In § 73.29 (38 FR 640) the controlling agency for Restricted Area R-2908, Pensacola, Fla., and for R-2909, Pensacola, Fla., is amended to read as follows:

Controlling agency: FAA, Pensacola RATCF

3. In § 73.52 (38 FR 662) the controlling agency for Restricted Area R-5202, Gardiner's Island, N.Y., is amended to read as follows:

Controlling agency: FAA, Quonset RATCF

(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 Washington, D.C., on August 3, 1973.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-16416 Filed 8-8-73;8:45 am]

[Docket No. 13070; Amdt. No. 876]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

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

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

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation

Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

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

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

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective September 20, 1973.

Pasco, Wash.—Tri-Cities Arpt., VOR-A, Amdt. 4
Pasco, Wash.—Tri-Cities Arpt., VOR Rwy 29, Amdt. 2
Tifton, Ga.—Henry Tift Myers Arpt., VOR Rwy 27, Orig.
Tifton, Ga.—Henry Tift Myers Arpt., VOR Rwy 33, Amdt. 1

Effective September 13, 1973:

Chicago, Ill.—Chicago O'Hare Int'l Arpt., VOR Rwy 4L, Amdt. 1, Canceled
Chicago, Ill.—Chicago O'Hare Int'l Arpt., VOR Rwy 4R, Amdt. 1
Chicago, Ill.—Chicago O'Hare Int'l Arpt., VOR Rwy 22L, Amdt. 1
Chicago, Ill.—Chicago O'Hare Int'l Arpt., VOR Rwy 22R, Amdt 11, Canceled

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective September 13, 1973.

New York, N.Y.—LaGuardia Arpt., LOC (BC) Rwy 31, Amdt. 6

Effective August 16, 1973:

St. Paul, Minn.—St. Paul Downtown Holman Field, LOC Rwy 30, Amdt. 2

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective September 20, 1973:

Tifton, Ga.—Henry Tift Myers Arpt., NDB Rwy 33, Amdt. 4

Effective September 13, 1973:

Caldwell, N.J.—Caldwell-Wright Arpt., NDB-A, Amdt. 1
Caldwell, N.J.—Caldwell-Wright Arpt., NDB Rwy 22, Amdt. 2
Chicago, Ill.—Chicago O'Hare Int'l Arpt., NDB Rwy 14L, Amdt. 14
Chicago, Ill.—Chicago O'Hare Int'l Arpt., NDB Rwy 27R, Amdt. 13
Chicago, Ill.—Chicago O'Hare Int'l Arpt., NDB Rwy 32R, Amdt. 9
New York, N.Y.—LaGuardia Arpt., NDB Rwy 4, Amdt. 33
New York, N.Y.—LaGuardia Arpt., NDB Rwy 22, Amdt. 8
Shirley, N.Y.—Brookhaven Arpt., NDB-A, Amdt. 1
Teterboro, N.J.—Teterboro Arpt., NDB Rwy 6, Amdt 13

Effective July 19, 1973:

Newark, N.J.—Newark Int'l Arpt., NDB Rwy 22L, Amdt. 1
Newark, N.J.—Newark Int'l Arpt., NDB Rwy 22R, Amdt. 4

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective September 20, 1973.

Everett, Wash.—Snohomish County (Paine Field) Arpt., ILS Rwy 16, Amdt. 14
Moses Lake, Wash.—Grant County Arpt., ILS Rwy 32R, Amdt. 7
Pasco, Wash.—Tri-Cities Arpt., ILS Rwy 20R, Amdt. 4

Effective September 13, 1973:

Calverton, N.Y.—Peconic River Plant (Grumman) Arpt., ILS Rwy 5, Amdt. 6
Chicago, Ill.—Chicago O'Hare Int'l Arpt., ILS Rwy 32R, Amdt. 7
Chicago, Ill.—Chicago O'Hare Int'l Arpt., Parallel ILS Rwy 32R, Amdt. 2
Chicago, Ill.—Chicago O'Hare Int'l Arpt., ILS Rwy 14L, Amdt. 18
Chicago, Ill.—Chicago O'Hare Int'l Arpt., Parallel ILS 14L, Amdt. 1
Chicago, Ill.—Chicago O'Hare Int'l Arpt., ILS Rwy 27R, Amdt. 15
Chicago, Ill.—Chicago O'Hare Int'l Arpt., Parallel ILS Rwy 27R, Amdt. 4
New York, N.Y.—LaGuardia Arpt., ILS Rwy 4, Amdt. 29
New York, N.Y.—LaGuardia Arpt., ILS Rwy 13, Amdt. 9
New York, N.Y.—LaGuardia Arpt., ILS Rwy 22, Amdt. 9
Teterboro, N.J.—Teterboro Arpt., ILS Rwy 6, Amdt. 21

Effective July 19, 1973:

Newark, N.J.—Newark Int'l Arpt., ILS Rwy 22L, Amdt. 1
Newark, N.J.—Newark Int'l Arpt., ILS Rwy 22R, Amdt. 5

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective September 13, 1973.

Chicago, Ill.—Chicago O'Hare Int'l Arpt., RADAR-1, Amdt. 26

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

Issued in Washington, D.C., on August 2, 1973.

JAMES M. VINES,
Chief, Aircraft Programs Division.

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

[FR Doc.73-16414 Filed 8-8-73;8:45 am]

[Docket No. 10865; Amdt. No. 121-105]

PART 121—CERTIFICATION AND OPERATIONS; DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Public Address and Interphone Communications Systems

The purpose of these amendments to Part 121 of the Federal Aviation Regulations is to require that all airplanes having a passenger seating capacity greater than 19 and operated under Part 121 be equipped with an approved electronic public address system and an interphone communication system that are in satisfactory operating condition at takeoff. Parts 123 and 135 of the Federal Aviation Regulations incorporate the requirements of this amendment by references in §§ 123.27 and 135.2. Therefore, this amendment applies to Air Travel Clubs governed by Part 123 and also Air Taxi Operators governed by Part 135 using large airplanes in the conduct of their operations that have a passenger seating capacity greater than 19.

Interested persons have been afforded an opportunity to participate in the making of this amendment by a notice of proposed rulemaking (Notice No. 72-6) published in the FEDERAL REGISTER on March 2, 1972 (37 FR 4358) and due consideration has been given to all comments received in response to the notice, insofar as they relate to matters within the scope of the notice. Except for editorial changes, and except as specifically discussed hereinafter, this amendment and the reasons therefor are the same as those contained in the notice.

All but one of the seven public comments received were in favor of the proposal, but recommended certain specific changes.

The Air Transport Association of America (ATA) and the Aerospace Industries Association of America (AIA) recommended the addition of selector switches and signaling devices to those components that may be common to both the public address system and the crewmember interphone system. The FAA believes this recommendation has merit and has, therefore, included in this amendment selector switches and signaling devices as components that may be common to both systems. However, the FAA is unable to agree with the ATA that the commonality between the two systems should be expanded to include power sources. Accordingly, that recommendation has not been adopted.

The AIA recommended that for practical reasons, such as the possibility that use of the public address or interphone system may be preempted by a flight crewmember in the pilot compartment, the regulation should allow a delay of ten seconds for operation of either system by a flight attendant in the passen-

ger compartment. The FAA concurs and provision for such a ten second delay has been made in the amendment adopted. However, the FAA does not agree that a ten second delay is appropriate for use of the two systems by flight crewmembers in the pilot compartment. In our opinion, safety considerations require both systems to be accessible for immediate use from each of two flight crewmember stations in the pilot compartment and such a requirement is adopted in this amendment.

Comment also objected to the proposal to require, with respect to the interphone system for large turbojet-powered airplanes, both aural and visual signals for use by flight crewmembers and flight attendants to alert each other of an impending call. The FAA believes there is adequate justification for such redundancy in the alerting system, since it will reduce the probability of a complete alert system failure or delays in responding to an alert, and provide greater assurance that the recipient of an emergency call will be alerted. Accordingly, this requirement is adopted as proposed. In this regard, it should be noted that the requirement for both aural and visual signals does not extend to the requirement for a means that enables the recipient to determine whether it is a normal or an emergency call.

The wording of the proposal regarding the location of interphone stations for use by flight attendants in the passenger compartment of a large turbojet-powered airplane has been changed in this amendment to more clearly express its intent. As adopted, the wording of § 121.319(b)(5)(i) makes it clear that the interphone system on those airplanes must be accessible for use at enough flight attendant stations so that all floor level emergency exists in the passenger compartment are observable from one or more of those stations so equipped.

With regard to the requirement in § 121.319(b)(5)(iv) for a separate ground to flight attendant interphone communication system, the FAA believes that experience gained from incidents endangering the security of passenger-carrying airplanes clearly indicates the need for a ground communication capability with a flight attendant in the passenger compartment. The FAA anticipates that operators will establish appropriate procedures pertaining to interphone switching and alerting functions and include them in their operations manuals and training programs for the guidance of flight crewmembers and flight attendants.

One commentator recommended that operators be given four years to achieve compliance with the public address and interphone equipment requirements of §§ 121.318 and 121.319. On the basis of our review of this matter, we believe the two year compliance period proposed will provide operators with a sufficient amount of time to accomplish the required equipment installations and modifications.

Other minor word changes have been adopted in this amendment for editorial and clarification purposes.

These amendments are issued under the authority of sections 313(a), 601, and 604 of the Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1424, and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Part 121 of the Federal Aviation Regulations is amended, effective September 8, 1973, as follows:

1. By adding a new § 121.318 to read as follows:

§ 121.318 Public address system.

(a) After September 8, 1975, no person may operate an airplane with a seating capacity of more than 19 passengers unless the airplane is equipped with a public address system that:

(1) Is capable of operation independent of the crewmember interphone system required by § 121.319(a) except for handsets, headsets, microphones, selector switches, and signaling devices; and

(2) Meets the requirements of paragraph (b) of this section.

(b) The public address system required by paragraph (a) of this section must be approved in accordance with § 21.305 of this chapter and meet the following requirements:

(1) It must be accessible for immediate use from each of two flight crewmember stations in the pilot compartment;

(2) It must be accessible for use from at least one normal flight attendant station in the passenger compartment;

(3) It must be capable of operation within ten seconds by a flight attendant at those stations in the passenger compartment from which its use is accessible; and

(4) Transmission must be audible at each passenger and flight attendant seat and in each lavatory.

2. By adding a new § 121.319 to read as follows:

§ 121.319 Crewmember interphone system.

(a) After September 8, 1975, no person may operate an airplane with a seating capacity of more than 19 passengers unless the airplane is equipped with a crewmember interphone system that:

(1) Is operational at takeoff;

(2) Is capable of operation independent of the public address system required by § 121.318(a) except for handsets, headsets, microphones, selector switches, and signaling devices; and

(3) Meets the requirements of paragraph (b) of this section.

(b) The crewmember interphone system required by paragraph (a) of this section must be approved in accordance with § 21.305 of this chapter and meet the following requirements:

(1) It must provide a means of two-way communication between the pilot compartment and the passenger compartment;

(2) It must be accessible for immediate use from each of two flight crewmember stations in the pilot compartment;

(3) It must be accessible for use from at least one normal flight attendant station in the passenger compartment;

(4) It must be capable of operation within ten seconds by a flight attendant at those stations in the passenger compartment from which its use is accessible; and

(5) For large turbojet-powered airplanes:

(i) It must be accessible for use at enough flight attendant stations so that all floor level emergency exits in the passenger compartment are observable from one or more of those stations so equipped;

(ii) It must have an alerting system incorporating both aural and visual signals for use by the flight crewmember to alert flight attendants and for use by flight attendants to alert flight crewmembers;

(iii) The alerting system required by subparagraph (b)(5)(ii) of this section must have a means for the recipient of a call to determine whether it is a normal call or an emergency call; and

(iv) When the airplane is on the ground, it must provide a means of two-way communication between ground personnel and at least one flight attendant in the passenger cabin, and separately, between ground personnel and either of at least two flight crewmembers in the pilot compartment. The interphone system station for use by the ground personnel must be so located that personnel using the system may avoid visible detection from within the airplane.

Issued in Washington, D.C., on July 27, 1973.

JAMES E. DOW,
Acting Administrator.

[FR Doc.73-16410 Filed 8-8-73;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 14—ADMINISTRATIVE INTERPRETATIONS, GENERAL POLICY STATEMENTS, AND ENFORCEMENT POLICY STATEMENTS

Foreign Language Advertising; Correction

FR Doc. 73-16085, appearing at page 20820 for the issue of Friday, August 3, 1973, is corrected to read as follows:

§ 14.9 Requirements concerning clear and conspicuous disclosures in foreign language advertising and sales materials.

The Federal Trade Commission has noted that, with increasing intensity, advertisers are making special efforts to reach foreign language-speaking consumers. As part of this special effort, advertisements, brochures and sales documents are being printed in foreign languages.

In recent years the Commission has issued various cease-and-desist orders as well as rules, guides and other state-

ments, which require affirmative disclosures in connection with certain kinds of representations and business activities. Generally, these disclosures are required to be "clear and conspicuous." Because questions have arisen as to the meaning and application of the phrase "clear and conspicuous" with respect to foreign language advertisements and sales materials, the Commission deems it appropriate to set forth the following enforcement policy statement:

(a) Where cease-and-desist orders as well as rules, guides and other statements require "clear and conspicuous" disclosure of certain information, that disclosure must be in the same language as that principally used in the advertisements and sales materials involved.

(b) Any respondent who fails to comply with this requirement may be the subject of a civil penalty proceeding for violating the terms of a Commissioner cease-and-desist order.

(Sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

By direction of the Commission dated July 24, 1973.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.73-16442 Filed 8-8-73;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Civil Division Memo 374; Civil Division Directive 44-73]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart Y—Authority To Compromise and Close Civil Claims and Responsibility for Judgments, Fines, Penalties, and Forfeitures

DELEGATION OF AUTHORITY TO UNITED STATES ATTORNEYS IN CIVIL DIVISION CASES

The purpose of this Directive is to increase the authority of United States Attorneys to accept or reject offers in compromise or to close claims other than by compromise or entry of judgment, in cases under the jurisdiction of the Assistant Attorney General in charge of the Civil Division.

By virtue of the authority vested in me by Part O of Title 28, Code of Federal Regulations, particularly §§ 0.45, 0.46, 0.160, 0.162, 0.164, 0.166, and 0.168, Civil Division Memo No. 374 of the Appendix to Subpart Y of Part O of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. The figure "$10,000" is substituted for the figure "$5,000" in paragraphs A, B, D, E(1), and F of section 3 each place where that figure appears.

2. The figure "$20,000" is substituted for the figure "$10,000" in paragraph E(2) of section 3 each place where that figure appears.

3. Paragraph C of section 3 is revised to read as follows:

C. *General claims section matters.*

1. Claims by the Government and Government owned corporations, other than claims involving fraud, or negligence claims arising out of personal injury or property damage, whenever the amount claimed does not exceed $10,000, exclusive of interest and costs, as follows:

a. Claims for the recovery of the possession of Government personal property or for the conversion thereof, including the conversion of personal property mortgaged to the Government, but excluding conversion claims involving ships, cargoes and other maritime property.

b. Statutory civil penalty and civil monetary forfeiture claims of the Government which are not assigned to any other organizational unit within the Department of Justice.

c. Claims in bankruptcy, insolvency and decedents' estate proceedings involving non-tax debts due the Government.

d. Loan default, contractual and quasi-contractual claims arising under statutes administered by the Department of Agriculture.

e. Contractual and quasi-contractual claims of the Army and Air Force Exchange Service and other non-appropriated fund instrumentalities of the Government.

f. Claims referred upon General Accounting Office certificates of indebtedness, except those involving carriage of goods by water.

g. Loan default, contractual and quasi-contractual claims arising under statutes administered by the General Services Administration.

h. Claims of the Department of Housing and Urban Development on account of loans made or insured by that Department and claims arising under HUD planning advance agreements.

i. Contractual and quasi-contractual claims of the U.S. Postal Service.

j. Claims of the Railroad Retirement Board for the recovery of benefit payments and the enforcement or vindication of RRB liens.

k. Claims of the Small Business Administration arising out of the lending programs of that agency, except loans on the security of vessels.

l. Claims by the Treasury Department for the collection of customs duties and for recovery against sureties on customs bonds provided by importers.

m. Claims by the Veterans Administration on account of farm, business and home loans made, guaranteed or insured by that Agency.

n. Claims by the Veterans Administration for the escheat of funds pursuant to 38 U.S.C. 3203(e) and for the vesting of personal estates of deceased veterans pursuant to 38 U.S.C. 5220-5228.

2. Suits in which the United States or an officer or agency thereof or a Government-owned corporation has been made a party defendant pursuant to 28 U.S.C. 2410 in a quiet title, foreclosure, partition or interpleader action because of a lien of the Government and the current lien interest of the Government does not exceed $10,000, exclusive of interest and costs, but excluding suits in which the Government's interest is a tax lien, a lien on a vessel or other maritime property, or in which the lien arises from a criminal fine judgment or judgment on an appearance bond.

4. Existing sections 4, 5, 6, 7, 8 and 9 are renumbered as sections 5, 6, 7, 8, 9 and 10, respectively, and the following new section 4 is inserted:

SEC. 4. *Further delegations.*

Notwithstanding any of the provisions of this Memorandum, Section Chiefs, may delegate to U.S. Attorneys any claims or suits, including those involving amounts greater than as set forth above, and up to the maximum limit of said Section Chiefs' authority, where the circumstances warrant such delegation. Upon recommendations of Section Chiefs, the Assistant Attorney General may delegate to U.S. Attorneys any claims or suits including those involving amounts greater than as set forth above, and up to the maximum limit of said Assistant Attorney General's authority, where the circumstances warrant such delegations. Such further delegations are intended to effect maximum utilization of U.S. Attorneys' resources and provide on-site litigating authority wherever feasible.

IRVING JAFFE,
Acting Assistant Attorney General, Civil Division.

Approved: August 2, 1973.
ELLIOT L. RICHARDSON,
Attorney General.

[FR Doc.73-16439 Filed 8-8-73;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 204—DANGER ZONE REGULATIONS

Florida Bay, Fla.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) § 204.86 establishing and governing the use of a danger zone in Florida Bay, Northeast of Pine Islands, Florida is hereby revoked, effective August 9, 1973.

Since the revocation constitutes only a procedural matter, notice of proposed rule making and public procedures thereto are considered unnecessary. Accordingly, § 204.86 *Florida Bay northeast of Pine Islands, Fla., live firing area for strafing,* of Title 33 of the Code of Federal Regulations is hereby revoked.

(Regs., July 16, 1973, 1522-01 (Florida Bay, Fla.) DAEN-CWO-N; Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.73-16440 Filed 8-8-73;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 113—SERVICE IN POST OFFICES

General Delivery

Regulations dealing with General Delivery have been amended to clarify that the intended purpose of this service at post offices which do not have carrier delivery. Publication in the FEDERAL REGISTER of the following amendment to paragraph (a) of § 113.3 is effective immediately.

§ 113.3 **General delivery.**

(a) *Use.* General delivery is primarily for use at offices without carrier delivery to serve transients and for other customers who prefer not to use lockbox service. Mail endorsed "Transient," "To Be Called For," "General Delivery," or with other suitable words will be placed in the general delivery case to be delivered to the addressee on his application and proper identification.

* * * * *

(39 U.S.C. 401)

ROGER P. CRAIG,
Acting General Counsel.

[FR Doc.73-16476 Filed 8-8-73;8:45 am]

PART 124—MATTER MAILABLE UNDER SPECIAL RULES

Perishable Matter

Regulations dealing with the mailing of live day old poultry have been amended to specify conditions applicable to airmail shipments of live day old poultry. Publication of the amendment in the FEDERAL REGISTER is effective immediately.

Accordingly, new paragraph (c)(1)(xiv) is added to § 124.3 to read as follows:

§ 124.3 **Perishable matter.**

* * * * *

(c) *Live animals*—(1) *Live day old poultry* * * *

(xiv) When shipped by airmail, all shipping provisions of the airline tariffs must be met, and air carriers must have equipment available to safely deliver shipments within the specified time limitations, allowing for delays en route and ground transportation to the addressee.

(39 U.S.C. 401)

ROGER P. CRAIG,
Acting General Counsel.

[FR Doc.73-16475 Filed 8-8-73;8:45 am]

PART 162—INSURED MAIL

Insurability Requirements

Regulations dealing with insured mail have been amended to specify that in order for packages to be mailable, they should meet the requirements for insurability, whether insured or not.

Accordingly, paragraph (c)(4) of § 162.1 *Description* is amended by the addition of the following sentence: "As a general rule, any package that is mailable should be insurable." Publication in the FEDERAL REGISTER is effective immediately.

(39 U.S.C. 401)

ROGER P. CRAIG,
Acting General Counsel.

[FR Doc.73-16474 Filed 8-8-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-1—GENERAL

PART 14-7—CONTRACT CLAUSES

Federal Reports Act

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Part 14-1 and Part 14-7 of Chapter 14 of Title 41 of the Code of Federal Regulations are hereby amended. The purpose of the amendments is to further implement the Federal Reports Act of 1942.

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments herein involve administrative procedures. Therefore, the public rulemaking process is waived in this instance and the amendments will become effective on August 20, 1973.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

AUGUST 3, 1973.

1. Part 14-1, subpart 14-1.3, of the Interior Procurement Regulations is amended by adding the following to the table of contents:

Sec.
14-1.351 Federal Reports Act of 1942

2. Part 14-7 of the Interior Procurement Regulations is amended by adding the following to the table of contents:

Subpart 14-7.50—Special Contract Clauses

Sec.
14-7.5001 Federal Reports Act

3. Subpart 14-1.3, General Policies, of the Interior Procurement Regulations is amended by adding the following:

§ 14-1.351 Federal Reports Act of 1942.

(a) *General.* The Federal Reports Act of 1942 (44 U.S.C. 3501 et seq.), requires that no Federal agency shall conduct or sponsor the collection of information, upon identical items, from ten or more public respondents unless the approval of the Office of Management and Budget is obtained in advance of the adoption or revision of any plans or forms for such collection.

(b) *Approvals.* Data requirements shall be defined, cleared with the Department, and approved by the Office of Management and Budget prior to the issuance of solicitations, requests for proposals or contracts which involve the collection of information subject to the Act. Procedures and clearance requirements are contained in the Departmental Manual (305 DM 2) and Office of Management and Budget Circular No. A-40, Revised.

(c) *Clauses.* Solicitations, requests for proposals, and contracts will contain a clause concerning the Act when the contract will require or may require the collection of information subject to the Act. The appropriate clause listed in this § 14-1.351(c) should be used.

(1) When there is uncertainty at the time of contract execution whether collection of information will be required, the following clause should be used:

FEDERAL REPORTS ACT

In the event that it subsequently becomes a contractual requirement to collect information from 10 or more public respondents, the Federal Reports Act shall apply to this contract and the Contractor shall obtain through the Contracting Officer the clearance and approval required by the act and implementing regulations. Funds shall not be expended and contacts shall not be made for the collection of data and information from public respondents until Office of Management and Budget approval is obtained and written notice of approval is given to the Contractor by the Contracting Officer.

(2) When preclearance approval has been obtained but final approval by the Office of Management and Budget has not been obtained, the following clause should be used:

FEDERAL REPORTS ACT

This contract is subject to the Federal Reports Act and has received preclearance by the Department and the Office of Management and Budget but is subject to final approval. The Contractor shall not expend any funds or take any action whatsoever in soliciting data and information from any public respondent until the Contracting Officer has notified the Contractor in writing that Office of Management and Budget final approval has been obtained. The Contractor shall provide the Contracting Officer with any information that is necessary to obtain the final approval.

(3) When Office of Management and Budget approval has been obtained prior to contract execution, the following clause should be used:

FEDERAL REPORTS ACT

This contract is subject to the Federal Reports Act and the required clearances and approvals have been obtained. Office of Management and Budget report number_____ has been assigned. Instructions concerning the application of the clearance will be provided by the Contracting Officer.

4. Part 14-7, Contract Clauses, of the Interior Procurement Regulations is amended by adding a new Subpart 14-7.50 as follows:

Subpart 14-7.50—Special Contract Clauses

§ 14-7.5001 Federal Reports Act.

The appropriate clause set forth in § 14-1.351(c) should be used as prescribed therein when the contract requires or may require the collection of information upon identical items, from ten or more public respondents and is subject to the Federal Reports Act of 1942 (44 U.S.C. 3501 et seq.).

[FR Doc.73-16422 Filed 8-8-73;8:45 am]

CHAPTER 15—ENVIRONMENTAL PROTECTION AGENCY

PART 15–1—GENERAL

Subpart 15–1.3—General Policies

DISPUTES CLAUSE

Section 15–1.318–1, *Contracting Officer's Decision Under a Disputes Clause*, Subpart 15–1.3, Part 15–1, Chapter 15, Title 41 of the Code of Federal Regulations, is hereby amended to emphasize the contracting officer's obligation to secure opinions from technical and legal officers prior to issuance of a final decision under a disputes clause.

Effective date: This regulation will become effective August 9, 1973.

Dated: August 3, 1973.

ROBERT W. FRI,
Acting Administrator.

1. Section 15–1.318–1(a) (1) is amended to read as follows:

§ 15–1.318–1 Contracting officer's decision under a disputes clause.

(a) *Action prior to issuance of a final decision.* (1) In resolving a dispute, the contracting officer must understand that the Environmental Protection Agency (EPA) does not seek litigation as an end in itself. The contracting officer should consider the advisability of attempting to mediate the dispute or hear out the contractor through discussion meetings or other means. The contracting officer is required to effect the prompt determination of disputes arising out of the performance of contracts. He is required to give his personal and independent consideration to the making of each determination to decision with the aid of such technical and legal advice as may be necessary. The contracting officer shall thoroughly examine the project officer's files on the contract to determine the project officer's relationship with the contractor. The contracting officer shall discuss the contractor's claim with the project officer, a representative of the office of the Associate General Counsel, Grants, Contracts and General Administration, and representatives of such other EPA offices as are appropriate to the dispute, e.g., Contracts Management Division, Audit, etc. These representatives shall furnish the contracting officer their respective opinions. However, he must not base his decision on summary advice from members of his legal, technical, and administrative team, since the decision must be the result of the independent judgment and discretion of the contracting officer. He must obtain and study all the facts which bear upon the issue before him. He must insist that his advisors in technical areas give him concrete advice on how to decide and present him with a detailed, understandable statement of the reasoning process by which they arrive at their conclusions.

* * * * *

(40 U.S.C. 486(c), 63 Stat. 377, as amended)

[FR Doc.73–16444 Filed 8–8–73;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Kenai National Moose Range, Alaska

The following special regulation is issued and is effective on August 9, 1973.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

ALASKA

KENAI NATIONAL MOOSE RANGE

Upland game may be hunted on the Kenai National Moose Range in accordance with applicable State regulations. The use of aircraft, boats, and other motorized vehicles is restricted to certain designated areas and periods of use. Information relative to hunting and use of refuge lands may be obtained from the Refuge Manager, Kenai National Moose Range Headquarters, Box 500, Kenai, Alaska 99611.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through August 19, 1974.

JAMES B. MONNIE,
Refuge Manager, Kenai National Moose Range, Kenai, AK 99611.

AUGUST 2, 1973.

[FR Doc.73–16428 Filed 8–8–73;8:45 am]

PART 32—HUNTING

Kenai National Moose Range, Alaska

The following special regulation is issued and is effective on August 9, 1973.

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

ALASKA

KENAI NATIONAL MOOSE RANGE

Big game may be hunted on the Kenai National Moose Range in accordance with applicable State regulations. The use of aircraft, boats, and other motorized vehicles is restricted to certain designated areas and periods of use. Information relative to hunting and use of refuge lands may be obtained from the Refuge Manager, Kenai National Moose Range Headquarters, Box 500, Kenai, Alaska 99611.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through August 19, 1974.

JAMES B. MONNIE,
Refuge Manager, Kenai National Moose Range, Kenai, AK 99611.

AUGUST 2, 1973.

[FR Doc.73–16429 Filed 8–8–73;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 225—SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

Appendix—Apportionment of Food Assistance and Nonfood Assistance Funds Pursuant to National School Lunch Act for Fiscal Year 1974

Pursuant to section 13, of the National School Lunch Act, as amended, food assistance and nonfood assistance funds available for the fiscal year ending June 30, 1974, are apportioned among the States as follows:

State	Total Apportionment
Alabama	$651,502
Alaska	76,933
Arizona	236,262
Arkansas	390,003
California	1,414,765
Colorado	209,564
Connecticut	188,788
Delaware	86,522
District of Columbia	133,207
Florida	702,995
Georgia	675,395
Guam	11,571
Hawaii	93,693
Idaho	98,797
Illinois	720,040
Indiana	321,858
Iowa	203,320
Kansas	191,101
Kentucky	530,177
Louisiana	766,618
Maine	117,179
Maryland	321,577
Massachusetts	320,229
Michigan	567,253
Minnesota	257,248
Mississippi	659,119
Missouri	431,165
Montana	105,975
Nebraska	152,827
Nevada	76,540
New Hampshire	80,657
New Jersey	404,864
New Mexico	225,384
New York	1,262,151
North Carolina	710,415
North Dakota	101,310
Ohio	712,861
Oklahoma	316,175
Oregon	178,875
Pennsylvania	708,965
Puerto Rico	362,486
Rhode Island	108,593
Samoa, American	14,056
South Carolina	491,173
South Dakota	122,005
Tennessee	578,907
Texas	1,328,004
Trust Territory	7,492
Utah	118,787
Vermont	72,643
Virginia	496,010
Virgin Islands	4,395
Washington	238,403
West Virginia	291,162
Wisconsin	280,429
Wyoming	71,576
Total	20,000,000

(Sec. 13, 82 Stat. 117; 42 U.S.C. 1761)

Dated: August 1, 1973.

EDWARD J. HEKMAN,
Administrator.

[FR Doc.73–16419 Filed 8–8–73;8:45 am]

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

[Valencia Orange Regulation 444]

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

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period August 10–16, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.744 Valencia Orange Regulation 444.

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

(2) The need for this section to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges improved during the past week. Prices f.o.b. averaged $3.42 per carton on a sales volume of 538 carlots during the week ended August 2, 1973, compared with $3.31 per carton on sales of 533 carlots a week earlier. Track and rolling supplies at 333 cars were down 19 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 7, 1973.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period August 10, 1973, through August 16, 1973, are hereby fixed as follows:

(i) District 1: Unlimited;

(ii) District 2: 500,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: August 8, 1973.

D. S. KURYLOSKI,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.73-16668 Filed 8-8-73;12:07 pm]

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 AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 931]

FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Proposed Expenses and Fixing of Rate of Assessment for 1973–74 Fiscal Period

This notice invites written comments relative to the proposed expenses of $18,105, and rate of assessment of one cent per standard western pear box to support the activities of the Northwest Fresh Bartlett Pear Marketing Committee for the 1973–74 fiscal period under marketing Order No. 931.

Consideration is being given to the following proposals submitted by the Northwest Fresh Bartlett Pear Marketing Committee, established pursuant to the marketing agreement and Order No. 931 (7 CFR Part 931), regulating the handling of fresh Bartlett pears grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Northwest Fresh Bartlett Pear Marketing Committee, during the period July 1, 1973, through June 30, 1974, will amount to $18,105.

(2) That the rate of assessment for such period, payable by each handler in accordance with § 931.41 be fixed at $0.01 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112A, Administration Building, Washington, D.C. 20250, not later than August 24, 1973. 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: August 6, 1973.

D. S. KURYLOSKI,
Acting Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc.73-16421 Filed 8-8-73;8:45 am]

[7 CFR Part 1207]

POTATO RESEARCH AND PROMOTION PLAN

Proposed Revision of Basis for Board Representation

Consideration is being given to the approval of a proposal to amend the base period to be used to determine representation on the National Potato Promotion Board. The proposal was unanimously recommended by the National Potato Promotion Board, established pursuant to the Potato Research and Promotion Plan (7 CFR Part 1207; 37 FR 5008). The Plan is effective under the Potato Research and Promotion Act (7 U.S.C. 2611–2627).

All persons who desire to submit written data, views, or arguments in connection with this proposal should file the same in quadruplicate with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than September 10, 1973. 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)).

Statement of consideration. The National Potato Promotion Board at its 1973 annual meeting unanimously recommended that each future Board's membership be determined on the basis of average potato production during the three preceding years, rather than the one preceding year as is currently used.

The one-year basis for representation results in a Board composition which reflects the relative importance of each State in total U.S. potato production the preceding year. However, this basis can result in significant variation in representation from year to year. For example, because of an unusual sharp drop in production in 1972 mainly due to extreme weather, six States lost a member on the 1973 Board. It is anticipated that some of these States will regain these membership losses in 1974. The effect of such short term variation is a decline in continuity of membership which may be detrimental to operations of the Board.

If the Board's recommendation is adopted, membership on the 1974 Board would reflect 1971–73 average production, the 1975 Board would be based upon 1972–74 production, and so on.

The proposal is as follows:

§ 1207.550 Determination of membership.

Pursuant to § 1207.320(b) and the recommendation of the National Potato Promotion Board, annual membership on the Board shall be determined on the basis of the average potato production of the three preceding years in each of the 48 contiguous States as set forth in the Crop Production Annual Summary Reports issued by the Crop Reporting Board of the U.S. Department of Agriculture.

Dated: August 3, 1973.

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

[FR Doc.73-16420 Filed 8-8-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 10]

FOOD STANDARDS FOR CERTAIN TYPES OF EDIBLE OILS

Termination of Proposal To Develop U.S. Standards of Identity Based on International Codex Standards

In the FEDERAL REGISTER of October 5, 1972 (37 FR 21123), the Commissioner of Food and Drugs published a notice of opportunity for review and informal comment on the Codex Alimentarius Recommended International Standards for Edible Soya Bean Oil (Soybean Oil), Arachis Oil (Peanut Oil), Cottonseed Oil, Sunflowerseed Oil, Rapeseed Oil, Maize Oil (Corn Oil), Sesameseed Oil, Safflowerseed Oil, and Mustardseed Oil. This notice was published in conformity with proposed 21 CFR 10.8 (37 FR 21102). Thirteen responses from consumer organizations, trade associations and industry representatives were received subsequent to receipt of the Codex standards from the Codex Alimentarius Commission or in response to the October 5, 1972 FEDERAL REGISTER notice. The responses are summarized as follows:

1. Four respondents stated that there is no need to promulgate United States standards for the cited oils in view of the domestic laws which now govern the oils marketed in the United States. The comments indicated that these oils are subject to industry trading rules, to the specifications of the United States Department of Agriculture for international trade purchases and exchanges, to Public Law 480, and to various domestic commodity buying procedures. The respondents knew of no conditions existing in the market which would necessitate the promulgation of United States

standards of identity for these oils in order to promote honesty and fair dealing in the interest of consumers.

2. Six respondents recommended that the Codex standards be revised to include separate specifications for the various forms in which such edible oils move in international trade. The respondents stated that the current Codex requirements are, in some instances, too restrictive for once-refined oils or fully refined oils; and in others, too general to be of value.

3. Seven respondents replied that the parameters in the Essential Composition and Quality Factors of the Codex standards as so imprecise that they cannot be depended upon to differentiate the common edible oils. For example, the Codex permissible ranges for the chemical parameters for soybean oil are saponification values of 189–195 and iodine values of 120–143; while those for sunflowerseed oil are 183–194 and 110–143, respectively. The respondents further stated that the physical constants (density and refractive index) and the quality criteria (acid and peroxide values) are also inadequate for differentiation of the oils.

4. Two respondents recommended that gas-liquid chromatographic procedures and other sophisticated techniques which would permit more exact characterization of the fats and oils from their fatty acid composition be utilized. They stated that the Codex standards do not use this procedure, but instead rely on obsolete analytical determinations.

5. Five respondents recommended that safe and suitable nondeceptive colors and flavors be provided in lieu of their specific enumeration in the Codex standards.

6. Two respondents stated that not all the antioxidants, synergists, and antifoaming agents provided in the Codex standards are approved for food use by the Food and Drug Administration, nor are they permitted in certain standardized foods. For example, one respondent noted that soybean oils containing antioxidants, synergists, or antifoaming agents cannot be used in margarine under the present United States standards of identity.

7. One respondent requested that the Codex "Recommended General International Standard for Edible Fats and Oils not covered by the individual Codex standards" (CAC/RS 19–1969) also be published for consideration and comment.

8. One respondent recommended that since edible oils are subject to rancidity, each package label should contain the packaging date and storage instructions.

9. Three respondents stated that sunflowerseed oil has only recently been introduced into the United States commerce. As a result, they have not had sufficient time or experience to document oil characteristics which might be significantly different from oil produced in other parts of the world, and feel that they are not in a position at this time to judge the Codex specifications for sunflowerseed oil. The consensus of the recommendations from the respondents is that the Codex standard for sunflowerseed oil not be accepted until sufficient data are acquired for evaluation of the criteria involved.

Having considered all the comments received and other relevant information, the Commissioner has concluded that there is insufficient interest or need to warrant proposing standards of identity for edible oils at this time pursuant to section 401 of the act.

Therefore, in accordance with 21 CFR 10.8 (38 FR 12396) notice is given that the Commissioner has terminated consideration of developing United States standards of identity based upon the Codex Alimentarius recommended international standards for the edible oils named above. This action is without prejudice to further consideration to the development of United States standards of identity for edible oils upon appropriate justification in the future.

Dated: August 1, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-16470 Filed 8-8-73;8:45 am]

[21 CFR Parts 141b, 141c, 141e, 146b, 146c, 146e, 148i, 148n]

OTIC AND OPHTHALMIC/OTIC PREPARATIONS

Proposed Revocation and Amendment

In notices published in the FEDERAL REGISTER as indicated below, the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs for otic and/or ophthalmic use:

1. DESI 50205 published August 19, 1971 (36 FR 16130).

Achromycin Ear Solution containing tetracycline hydrochloride and benzocaine; Lederle Laboratories Division, American Cyanamid Co., Pearl River, NY 10965 (NDA 50–275).

2. DESI 8583 published June 23, 1972 (37 FR 12418).

a. Terramycin Ophthalmic-Otic Ointment with Polymyxin B Sulfate containing oxytetracycline hydrochloride and polymyxin B sulfate; Pfizer Inc., 235 East 42d St., New York, NY 10017 (NDA 61–015).

b. Chloromycetin-Polymyxin Ophthalmic Ointment containing chloramphenicol and polymyxin B sulfate; Parke, Davis and Co., Joseph Campau at the River, Detroit, MI 48232 (NDA 50–203).

c. Polysporin Ophthalmic Ointment containing polymyxin B sulfate and zinc bacitracin; Burroughs Wellcome & Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27709 (NDA 61–229).

3. DESI 9152 published June 23, 1972 (37 FR 12419).

Terra-Cortril Eye/Ear Suspension containing oxytetracycline hydrochloride and hydrocortisone acetate; Pfizer, Inc. (NDA 60–016).

4. DESI 9188 published June 6, 1972 (37 FR 11283).

a. Neo-Delta-Cortef Eye/Ear Ointment containing prednisolone acetate and neomycin sulfate; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002 (NDA 61–039).

b. Neo-Cortef Eye/Ear Drops containing hydrocortisone acetate and neomycin sulfate; The Upjohn Co. (NDA 60–612).

c. Neo-Delta-Cortef Eye/Ear Drops containing prednisolone acetate and neomycin sulfate, The Upjohn Co. (NDA 61–037).

d. Neo-Cortef Eye/Ear Ointment containing hydrocortisone acetate and neomycin sulfate; The Upjohn Co. (NDA 60–610).

e. Neo-Medrol Eye/Ear Ointment containing methylprednisolone and neomycin sulfate. The Upjohn Co. (NDA 60–645).

f. Neo-Hydelthasol Ophthalmic Solution (for eye or ear) containing prednisolone sodium phosphate and neomycin sulfate; Merck, Sharp, and Dohme, Division Merck and Co., Inc., West Point, PA 19486 (NDA 50–379).

g. Neo-Hydeltrasol Ophthalmic Ointment (for eye or ear) containing prednisolone sodium phosphate and neomycin sulfate; Merck, Sharp, and Dohme (NDA 50–378).

h. Neo-Decadron Ophthalmic Ointment (for eye or ear) containing dexamethasone sodium phosphate and neomycin sulfate; Merck, Sharp, and Dohme (NDA 50–324).

i. Neo-Aristocort Eye/Ear Ointment containing triamcinolone acetonide and neomycin sulfate; Lederle Laboratories Division, American Cyanamid Co. (NDA 60–442).

j. Neo-Decadron Ophthalmic Solution (for eye or ear) containing dexamethasone sodium phosphate and neomycin sulfate; Merck, Sharp, and Dohme (NDA 50–322).

k. Cor-Oticin Eye/Ear Suspension containing hydrocortisone acetate and neomycin sulfate; Maurry Biological Co., Inc., 6109 South Western Ave., Los Angeles, CA 90047 (NDA 60–188).

5. DESI 8674 published June 29, 1972 (37 FR 12855).

a. Terramycin Otic with Polymyxin B Sulfate and Benzocaine containing polymyxin B sulfate, oxytetracycline hydrochloride and benzocaine; Pfizer, Inc. (NDA 61–087 (incorrectly published as NDA 60–392)).

b. Otobione Otic Drops containing prednisolone acetate; neomycin sulfate, and sodium proprionate; Schering Corp., 60 Orange St., Bloomfield, NJ 07003 (NDA 50–363).

c. Otobiotic Otic Solution containing neomycin sulfate and sodium propionate; Schering Corp. (NDA 50–364).

d. Biomydrin Otic with Hydrocortisone containing neomycin sulfate, gramicidin, hydrocortisone acetate, thonzylamine hydrochloride and thonzonium bromide; Warner-Chilcott Labortories

Division, Warner-Lambert Pharmaceutical Co., 201 Tabor Rd., Morris Plains, NJ 07950 (NDA 50-351).

e. Neo-Cort-Dome Otic Suspension containing hydrocortisone, neomycin sulfate, and acetic acid; Dome Laboratories, Division of Miles Laboratories, Inc., 125 West End Ave., New York, NY 10023 (NDA 50-238).

With the exception of DESI 8583 in which the drugs were regarded as effective and/or possibly effective for labeled indications, the notices stated that the above drugs were regarded as possibly effective and lacking substantial evidence of effectiveness for their labeled otic and/or ophthalmic indications. The possibly effective indications for all of the drugs, including those in DESI 8583, have been reclassified as lacking substantial evidence of effectiveness in that no data have been submitted pursuant to the above-listed notices. Accordingly, this notice proposes to revoke provisions for the certification or release of these drugs for such uses.

In addition to the drugs named above, some of the DESI notices referred to included other preparations not included in this notice. They have been either reclassified as effective or are being allowed to remain on the market, based upon medically justified need, pending reevaluation of the published classifications or completion of scientific studies to determine effectiveness in accordance with the requirements set forth in "Notice of Prescription Drugs for Human Use Affected by Drug Efficacy Study Implementation" published in the FEDERAL REGISTER of December 14, 1972 (37 FR 26623).

In addition to the products mentioned in the published notices, certification of other related products is provided in § 146b.110 *Streptomycin otic with antifungal agent or dihydrostreptomycin otic with antifungal agent;* * * * and § 146e.432 *Bacitracin-neomycin undecylenate otic drops.* Although not reviewed by the Academy, such drugs are regarded as lacking substantial evidence of effectiveness for their labeled indications.

Otalgine Drops containing neomycin undecylenate - tyrothricin - hydrocortisone - ethyleneoxidepolyoxypropylene glycol condensate; Purdue Frederick Co., Yonkers, NY 10701 (NDA 50-066), is on release status and was not reviewed by the Academy or mentioned in the published notices. This drug is also considered lacking substantial evidence of effectiveness for its labeled indications.

Accordingly, the Commissioner concludes that the antibiotic drug regulations should be amended to revoke provisions, where applicable, for certification or release of the above-named antibiotic drugs for otic use in humans. The Commissioner also concludes that the regulations should be amended, as appropriate, to provide separate rather than combined monographs for both ophthalmic and otic preparations.

Therefore, pursuant to provisions of the Federal Food, Drug and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended; 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Chapter I of Title 21, Code of Federal Regulations, as follows:

PART 141b—STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

§ 141b.115 [Revoked]

1. By revoking § 141b.115 *Streptomycin otic with antifungal agent; dihydrostreptomycin otic with antifungal agent* and reserving it for future use.

PART 141c—CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

§ 141c.208 [Revoked]

2. By revoking § 141c.208 *Tetracycline hydrochloride otic* and reserving it for future use.

PART 141e—BACITRACIN AND BACITRACIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

§ 141e.432 [Revoked]

3. By revoking § 141e.432 *Bacitracin-neomycin undecylenate otic drops* and reserving it for future use.

PART 146b—CERTIFICATION OF STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS

§ 146b.110 [Revoked]

4. By revoking § 146b.110 *Streptomycin otic with antifungal agent;* * * * and reserving it for future use.

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

§ 146c.208 [Revoked]

5. By revoking § 146c.208 *Tetracycline hydrochloride otic (tetracycline hydrochloride for ear solution)* and reserving it for future use.

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

§ 146e.432 [Revoked]

6. By revoking § 146e.432 *Bacitracin-neomycin undecylenate otic drops* and reserving it for future use.

PART 148i—NEOMYCIN SULFATE

7a. By adding new subdivisions (*d*), (*e*), and (*f*) to paragraph (a)(1)(ii) and deleting paragraph (a)(1)(iii) of § 148i.3 to read as follows:

§ 148i.3 Neomycin sulfate ointment; neomycin sulfate _____ ointment (the blank being filled in with the established name(s) of the other active ingredients(s) present in accordance with paragraph (a)(1) of this section).

(a) * * *

(1) * * *

(ii) * * *

(*d*) 1.0 milligram of methylprednisolone; or

(*e*) 1.0 milligram of triamcinolone acetonide; or

(*f*) 2.5 milligrams or 5.0 milligrams of prednisolone acetate.

* * * * *

§§ 148i.8 and 148i.24 [Revoked]

b. By revoking § 148i.8 *Neomycin sulfate-sodium propionate otic solution; neomycin sulfate-sodium propionate-prednisolone acetate otic solution* and § 148i.24 *Neomycin sulfate-gramicidin-hydrocortisone - thonzylamine hydrochloride-thonzonium bromide otic solution* and reserving them for future use.

c. By revising the section heading and the first and second sentences of paragraph (a)(1) of § 148i.39 to read as follows:

§ 148i.39 Neomycin sulfate-hydrocortisone acetate ophthalmic suspension; neomycin sulfate-prednisolone acetate ophthalmic suspension.

(a) * * *

(1) * * * Neomycin sulfate-hydrocortisone acetate ophthalmic suspension is an aqueous suspension containing, in each milliliter 3.5 milligrams of neomycin and 5 milligrams or 15 milligrams of hydrocortisone acetate. Neomycin sulfate-prednisolone acetate ophthalmic suspension is an aqueous suspension containing, in each milliliter, 3.5 milligrams of neomycin and 2.5 milligrams of prednisolone acetate. * * *

* * * * *

PART 148n—OXYTETRACYCLINE

8a. By revising the section heading, the first sentence of paragraph (a)(1), and paragraph (b) of § 148n.21 to read as follows:

§ 148n.21 Oxytetracycline hydrochloride-polymyxin B sulfate ophthalmic ointment.

(a) * * *

(1) * * * Oxytetracycline hydrochloride-polymyxin B sulfate ophthalmic ointment is oxytetracycline hydrochloride and polymyxin B sulfate in a suitable and harmless ointment base. * * *

* * * * *

(b) *Tests and methods of assay—(1) Potency—(i) Oxytetracycline content.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until

homogeneous. Add 20 to 25 milliliters of 0.1*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20 to 25-milliliter quantities of 0.1*N* hydrochloric acid. Combine the extractives in a suitable volumetric flask and fill to volume with 0.1*N* hydrochloric acid. Further dilute an aliquot with 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Weigh accurately 0.5 to 1 gram of the ointment and place into a 15-milliliter centrifuge tube. Add 10 milliliters of ethyl ether. Stir until contents are homogeneous and centrifuge for 10 minutes at 3,000 revolutions per minute. Decant the supernatant ether. Repeat washing and centrifugation steps once more. Add 10 milliliters of acetone, stir until contents are homogeneous, and centrifuge for 10 minutes at 3,000 revolutions per minute. Decant the supernatant acetone. Repeat acetone wash and centrifugation once more. Continue acetone washings until the yellow color in the residue disappears. Add 3 to 4 drops of polysorbate 80 to residue and mix well. Gently wash residue into a 100-milliliter volumetric flask with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

b. By revising the section heading and the first sentence of paragraph (a)(1) of § 148n.23 to read as follows:

§ 148n.23 Oxytetracycline hydrochloride-hydrocortisone acetate ophthalmic suspension.

(a) * * *

(1) * * * Oxytetracycline hydrochloride-hydrocortisone acetate ophthalmic suspension is oxytetracycline hydrochloride and hydrocortisone acetate in a suitable and harmless oil base containing aluminum tristearate. * * *

* * * * *

§ 148n.28 [Revoked]

c. By revoking § 148n.28 *Oxytetracycline hydrochloride-polymyxin B sulfate-benzocaine for otic solution* and reserving it for future use.

d. By adding the following new section:

§ 148n.30 Oxytetracycline hydrochloride-polymyxin B sulfate otic ointment.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Oxytetracycline hydrochloride-polymyxin B sulfate otic ointment is oxytetracycline hydrochloride and polymyxin B sulfate in a suitable and harmless ointment base. Each gram of ointment contains 5 milligrams of oxytetracycline and 10,000 units of polymyxin B. Its moisture content is not more than 1 percent. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 148n.2(a)(1)(i), (vi), (vii), (viii), and (ix). The polymyxin B sulfate used conforms to the standards prescribed by § 148p.1(a)(1)(i), (v), (vi), (vii), and (ix) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The oxytetracycline hydrochloride used in making the batch for potency, moisture, pH, absorptivity, crystallinity, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, pH, moisture, residue on ignition, and identity.

(*c*) The batch for oxytetracycline content, polymyxin B content, and moisture.

(ii) Samples required:

(*a*) The oxytetracycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*c*) The batch: A minimum of 6 immediate containers.

(b) *Tests and methods of assay—*(1) *Potency—*(i) *Oxytetracycline content.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogenous. Add 20 to 25 milliliters of 0.1*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20 to 25-milliliter quantities of 0.1*N* hydrochloric acid. Combine the extractives in a suitable volumetric flask and fill to volume with 0.1*N* hydrochloric acid. Further dilute an aliquot with 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.24 microgram of oxytetracycline per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Weight accurately 0.5 to 1 gram of the ointment and place into a 15-milliliter centrifuge tube. Add 10 milliliters of ethyl ether. Stir until contents are homogenous and centrifuge for 10 minutes at 3,000 revolutions per minute. Decant the supernatant ether. Repeat washing and centrifugation steps once more. Add 10 milliliters of acetone, stir until contents are homogenous, and centrifuge for 10 minutes at 3,000 revolutions per minute. Decant the supernatant acetone. Repeat acetone wash and centrifugation once more. Continue acetone washings until the yellow color in the residue disappears. Add 3 to 4 drops of polysorbate 80 to residue and mix well. Gently wash residue into a 100-milliliter volumetric flask with 10 percent potassium phosphate buffer, ph 6.0 (solution 6), and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

Interested persons may, on or before October 9, 1973, file with the Hearing Clerk, Food and Drug Administration, Rm. 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during regular working hours, Monday through Friday.

Dated: August 2, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-16467 Filed 8-8-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73-GL-35]

TRANSITION AREA

Notice of Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Peru, Indiana.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before Sept. 10, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new public use instrument approach procedure has been developed for the

Peru Airport, Peru, Indiana, based on the Kokomo VORTAC. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Peru, Indiana.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is added:

PERU, IND.

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

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

Issued in Des Plaines, Illinois, on July 23, 1973.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.73-16412 Filed 8-8-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-RM-22]

TRANSITION AREA

Notice of Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the transition area at Sheridan, Wyoming.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colorado 80207. All communications received on or before September 4, 1973 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the 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, 10455 E. 25th Avenue, Aurora, Colorado 80010.

An extension to the existing transition area is necessary in order to provide controlled airspace protection for aircraft executing a transition via the 22 NM DME from V86 to the localizer course.

In view of the foregoing, the FAA proposes to amend the description of the Sheridan, Wyoming, transition area as follows:

In § 71.181 (38 FR 578) after the text "... from 18.5 miles northwest to 34 miles southeast of the VORTAC", add:

• • • and that airspace southeast of Sheridan bounded on the north by a line located 5 miles south of and parallel to the Sheridan VORTAC 104° radial, on the east by a 35-mile radius arc of the Sheridan VORTAC, and on the south by a line located 10 miles north of and parallel to the Sheridan VORTAC 138° radial.

This amendment is proposed under 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 Aurora, Colorado, on July 31, 1973.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.73-16411 Filed 8-8-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-SO-49]

VOR FEDERAL AIRWAYS

Notice of Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would realign V-97 between Nelson, Ga., Intersection and Knoxville, Tenn., and realign alternate airway V-51W between Nelson Intersection and Hinch Mountain, Tenn.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before Sept. 10, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An offical docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would:

1. Realign V-97 between Nelson, Ga., Intersection, and Knoxville, Tenn.; via Atlanta, Ga., 003°T (002°M) and Knoxville 203°T (204°M) radials.

2. Realign V-51W between Nelson, Ga., Intersection and Hinch Mountain, Tenn., via Atlanta, Ga., 003°T (002°M) and Hinch Mountain 150°T (149°M) radials.

This amendment would lower the MEA at Nelson Intersection from 9,000 feet to 6,000 feet and permit added traffic control flexibility in the Chattanooga, Tenn., Terminal Area.

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

Issued in Washington, D.C., on August 3, 1973.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-16415 Filed 8-8-73;8:45 am]

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSOR-2, Notice 1]

RAILROAD OPERATING RULES

Advance Notice of Proposed Rule Making

The Federal Railroad Administration (FRA) is studying possible courses of action with respect to the development of minimum standards for rules governing the operation of trains and other railroad rolling equipment. The rules would apply to railroads that are part of the general railroad system of transportation and to railroads operating exclusively in rapid transit, commuter, or other short-haul passenger service in a metropolitan or suburban area. The FRA believes that in the area of railroad operating rules early participation by the public will be helpful in selecting a course of action with respect to a number of rule-making problems. In a closely related matter, the FRA published in the FEDERAL REGISTER on May 14, 1973 (38 FR 12617) a notice of proposed rule making that would require railroads to provide the FRA with certain information concerning their operating practices. It is anticipated that the information furnished as a result of that rule making would be useful in developing uniform Federal operating requirements, of which the rules under consideration in this notice would be a part.

BACKGROUND

In the past three years, an average of 7950 train accidents has been reported annually to the FRA. Approximately one-third of those accidents is attributable to human factors, which generally involve noncompliance with operating rules. At present there are no federally prescribed railroad operating rules. The Association of American Railroads' Standard Code of Operating Rules is the foundation on which most railroads have constructed their own rule books. Each railroad then constructs, interprets, and applies its rules as it sees fit according to the conditions under which it operates. The resulting ambiguous construction and varying interpretations of existing rules were cited by the National Transportation Safety Board (NTSB) as a major factor contributing to the property damage and loss of life due to train

accidents. (See the NTSB Special Study: Signals and Operating Rules as Causal Factors in Train Accidents, Report Number: NTSB–RSS–71–3.)

Recognizing the serious safety hazards inherent in the existing operating rules system, the FRA is considering rule making with respect to the three most troublesome causes of serious accidents resulting from human factors. These causes are: (1) failure to operate trains in accordance with restrictive signal indications and other restrictive conditions, (2) excessive speed within yard limits, and (3) failure of crew members to provide adequate flag protection when a train is operated under circumstances in which it may be overtaken by another train. In this notice, FRA is considering developing uniform minimum standards for the four operating rules which are directly involved in these problem areas. The text of these rules appears in the Appendix to this notice.

The first problem area relates to Rule 291 of the AAR's Standard Code of Operating Rules. On most railroads with automatic block signal systems, a signal will display a red aspect, indicating "stop-and-proceed", when its block is occupied by a train, engine or car. This requires a train to come to a full stop before passing the signal, and then to proceed at a restricted speed. The AAR's Standard Code defines restricted speed as: "proceed prepared to stop short of train, obstruction, or switch not properly lined looking out for broken rail, not exceeding _____ miles per hour." It goes on to suggest that 20 m.p.h. be inserted in the blank as a suitable maximum speed. The NTSB study pointed out that this definition itself creates a potential hazard since such a "subjective restricted speed rule puts the safety of the operation directly up to the judgment of the engineer." (p. 4) To compound the problem, Rule 291 also provides that "railroads desiring to avoid stopping trains may arrange accordingly." A few railroads have made such arrangements by providing in their rule books that certain signals displaying red aspects shall indicate "proceed-at-restricted-speed." Thus a train may pass a restrictive signal, without stopping. A number of railroad accidents in recent years have involved trains operating under such arrangements. The FRA believes that the likelihood of an accident would have been greatly reduced in most of these cases if the train involved had been required to come to a full stop at the signal, before proceeding at a clearly defined restricted speed. The development of a "stop-and-proceed" rule by FRA which sets a definite and objective minimum standard of operation, and which can be enforced effectively will counter this unsafe trend in railroad operations.

The second problem area relates to Rule 34 of the AAR's Standard Code and involves the failure of train operators to obey restrictive signal indications, and the failure of other crew members to take timely and appropriate action for the safety of a train when the operator neglects to do so. The regulation to be developed would define what other crew members would be required to do to insure that the train operator operate the train safely, in accordance with all signal indications and operating rules.

The third problem area relates to the AAR's Rule 93 which controls operation of trains within yard limits. The regulation to be developed would begin by defining "yard speed" in objective, miles-per-hour terms. Exceptions to the yard speed limitation would only be permited under certain well-defined conditions which allow movements to be expedited within yard limits without diminishing safety.

The fourth and final problem area addressed by this notice relates to the flagging requirements of the Rule 99 of the AAR's Standard Code. The NTSB study noted that "the vagueness of the flagging rule makes it almost impossible for a flagman to comply with its requirements intelligently. Almost every detail regarding flagging is left to the judgment of the flagman." (p. 4) The FRA believes that the current Rule 99 is basically sound. The regulation to be developed would modify the existing rule so as to more specifically define what is required of crew members in protecting their trains.

Public Participation Requested

The purpose of this advanced notice is to solicit public participation and comment on the nature of the contemplated federal standards for four operating rules. Should these rules be promulgated in the form of minimum standards, allowing individual railroads to enforce more stringent rules of their own; or should such federal standards require absolute uniformity of application to all railroads? How may the present operating rules and practices be strengthened and clarified to improve safety of operations? Interested persons are invited to submit written data, views or comments on these and other questions raised by this notice, including suggestions of appropriate minimum standards and sample versions of the rules referred to herein.

Additional information which responds to the following specific questions would also be useful in the development of these regulations:

AAR Rule 291—Stop-and-Proceed and Other Permissive Signal Aspect Rules

Is it necessary in the interest of safe operations, for all trains to come to a full stop before entering a block controlled by a signal displaying a permissive signal aspect indicating that the block is not clear?

If such a rule is necessary, should an exception be made which would permit a train to pass a grade signal displaying a permissive signal aspect indicating that the block is not clear? If such an exception is necessary, what is the maximum speed at which a train may safely pass such a signal?

What objective, maximum speed would be suitable for a definition of "restricted speed", keeping in mind that the train must be capable of stopping short of a train, obstruction, or a switch not properly lined?

AAR Rule 34—Calling of Signal Indications

Should the regulation specify that the conductor or certain other crew members must ride in the cab of the locomotive and keep a look out for signals and hazardous conditions along the track?

Should the rule specify courses of action which other crew members in the cab should take when the train operator neglects to stop the train or reduce speed as required? If so, should the regulation require other crew members to operate the emergency brake valve? Under what conditions should other crew members operate the emergency brake?

AAR Rule 93—Speed Within Yard Limits

Should a specific maximum yard speed be prescribed for all trains operating on the main track within yard limits? If so, what speed would be suitable to assure safety?

Should an exception to the yard speed limitation be made when the track is shown to be clear by signal indications? Under such a condition could a train move safely within yard limits at the normal authorized speed?

Should an exception to the yard speed limitation be made to permit a train to move at an increased speed within yard limits when it is seen that the route ahead is clear for at least one mile, and is likely to remain so? If so, what is the maximum speed at which a train should move under such conditions?

AAR Rule 99—Protective Flagging

Under what circumstances may a train be "overtaken"?

What are "proper intervals" at which to drop fuses?

What actions do the phrase "such other action" refer to in the existing AAR Rule 99?

What is "full protection"?

What is "a sufficient distance to insure full protection"?

What "conditions" require displaying lighted fuses?

When is it "necessary, in addition", to place two torpedoes?

When a person flagging is recalled, how does he determine that the "safety of the train will permit" him to return? What conditions require him to leave the lighted fusees and torpedoes?

When is it "necessary" to protect the front of the train?

Communications should identify the docket number and notice number and be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before October 15, 1973 will be considered by the FRA in development of a Notice of Proposed Rulemaking. Comments received after that date will be considered

so far as practicable. All comments received will be available both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5428, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

This advance notice is issued under the authority of section 202, 84 Stat. 971, 45 U.S.C. 431; and section 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 C.F.R. 1.49(n).

Issued in Washington, D.C. on August 15, 1973.

JOHN W. INGRAM,
Administrator.

APPENDIX

AAR Rule 34. All members of the crew in cab of engine must, and other members of crew will, when practicable, communicate to each other by its name the indication of each signal affecting the movement of their train or engine as soon as it becomes clearly visible. It is the responsibility of the engineman to know that these requirements are complied with in cab of engine.

AAR Rule 93. Within yard limits the main track may be used, clearing the time of first-class trains at the next station where time is shown. Protection against _____ class, extra trains and engines is not required _____ class, extra trains and engines must move within yard limits at yard speed unless the main track is known to be clear.

A train or engine must not be moved against the current of traffic within yard limits until provision has been made for the protection of such movement. (Blanks to be filled by each railroad)

AAR Rule 99. When a train is moving under circumstances in which it may be overtaken by another train, a member of the crew must drop lighted fusees at proper intervals and take such other action as may be necessary to insure full protection.

When a train stops under circumstances in which it may be overtaken by another train, a member of the crew must go back immediately with flagman's signals a sufficient distance to insure full protection. When conditions require he will display lighted fuses and when necessary, in addition, place two torpedoes.

When recalled and safety of the train will permit, he may return and when conditions require, he will leave the lighted fuse and torpedoes.

When a train stops under circumstances in which it may be overtaken by another train, the engineman will immediately sound signal 14(c). When ready to proceed he will recall the flagman.

The front of the train must be protected in the same way when necessary by a member of the crew.

AAR Rule 291. Provides that a train must come to a full stop before passing a signal indicating "Stop-and-Proceed" and may then proceed at restricted speed, i.e., prepared to stop short of train, obstruction, or switch not properly lined looking out for broken rail, not exceeding miles per hour (each railroad may insert a suitable speed not exceeding 20 miles per hour).

[FR Doc.73-16443 Filed 8-8-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

TRANSPORTATION CONTROL PLANS FOR CERTAIN STATES

Extension of Public Comment Periods

On July 2, 3, and 16, 1973, transportation control plans were proposed for several areas of the nation. (38 FR 17683, 17782, and 18938.)

Although promulgation was originally scheduled for August 15, 1973, the Court of Appeals for the District of Columbia has granted a request that the deadline for promulgation be October 15, 1973. Accordingly, the period for public comment in writing is hereby extended to August 31, 1973, for proposals for the following States: Alaska, Arizona, California, Indiana, and Utah. The comment period is hereby extended to August 15, 1973, for proposals for the following States: New Jersey, Pennsylvania, and Massachusetts. The comment period for all other plans will remain as published in the FEDERAL REGISTER.

Dated: August 3, 1973.

ALAN G. KIRK II,
Acting Assistant Administrator for Enforcement and General Counsel.

[FR Doc.73-16445 Filed 8-8-73;8:45 am]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Parts 724, 725]

[Administrative Order No. 627]

INDUSTRY COMMITTEES FOR CERTAIN INDUSTRIES IN PUERTO RICO

Revision of Schedules of Meetings

Administrative Order No. 625, 38 FR 9031, provided for the appointment of various Industry Committees for various defined industries in Puerto Rico, including Industry Committees Nos. 114-A and 114-B, and gave notice of dates for investigations and hearings.

Pursuant to the authority given me under section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004) and 29 CFR Part 511, the time of the investigations and hearings of Industry Committees Nos. 114-A and 114-B set forth in section 3(c) of Administrative Order No. 625, are changed as follows:

Industry Committee No. 114-A will meet in executive session to commence its investigation at 9:30 a.m. and begin its public hearing at 10:30 a.m. on Monday, October 15, 1973. Following this hearing Industry Committee No. 114-B will immediately convene to conduct its investigation and hold its hearing.

Signed at Washington, D.C. this 7th day of August 1973.

PETER J. BRENNAN,
Secretary of Labor.

[FR Doc.73-16637 Filed 8-8-73;10:04 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Proposed Withdrawal and Reservation of Lands

JULY 31, 1973.

The Forest Service, Department of Agriculture, has filed an application, serial number AA-8093, for withdrawal of lands described herein from location and entry under the public mining laws. The withdrawal would designate the lands as a travel influence zone and recreation area. The Forest Service desires that the tract be preserved in a near natural condition because of its pristine and aesthetic values. The land is being used by the public for hiking and camping and during the summer season approximately 5,000 visitor days are spent on the trail. Future use of the area for hunting, hiking, and camping is expected to increase. An appropriation of the land under the mining laws would not be compatible with this use.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views, on or before September 10, 1973, in writing to the undersigned officer of the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

The Department's regulation 43 CFR 2351.4(c) provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The land involved in this application is described as follows:

RESURRECTION CREEK TRAIL

TRAVEL INFLUENCE ZONE AND RECREATION AREA

Chugach National Forest Seward Meridian, Alaska

A strip of land ⅛ mile on each side of Resurrection Creek Trail, approximately 5½ miles due south of Hope, Alaska, on the northern Kenai Peninsula between the end of the Hope road and Cooper Landing on the Sterling Highway, beginning at the south boundary of Mineral Survey No. 1449 and continuing up the creek to the summit of Resurrection Pass. All within protracted survey, Ts. 6 and 7 N., R. 3 W.; T. 8 N., Rs. 2 and 3 W.; and T. 9 N., R. 2 W, Seward Meridian.

Containing approximately 2,400 acres in the Kenai Peninsula Borough.

RICHARD L. THOMPSON,
Acting State Director.

[FR Doc.73-16472, Filed 8-8-73;8:45 am]

Fish and Wildlife Service

NATIONAL ELK REFUGE

Public Hearing Regarding Wilderness Study

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (P.L. 88-577: 78 Stat. 890-896: 16 U.S.C. 1131-1136), that a public hearing will be held beginning at 9 a.m. on October 6, 1973, at the Virginian Motel, U.S. Highway 187, 1 mile north of Jackson, Teton County, Wyoming, on a study leading to a recommendation to be made to the President of the United States by the Secretary of the Interior regarding the desirability of including a portion of the National Elk Refuge within the National Wilderness Preservation System. The wilderness study included the entire acreage within National Elk Refuge which is located in Teton County, State of Wyoming.

A brochure containing a map and information about the Elk Refuge wilderness study may be obtained from the Refuge Manager, National Elk Refuge, Box C, Jackson, Wyoming 83001 or the Regional Director, Bureau of Sport Fisheries and Wildlife, 10957 West 6th Avenue, Denver, Colorado 80215. Individuals or organizations may express their oral or written views by appearing at this hearing, or they may submit written comments for inclusion in the official record of the hearing to the Regional Director at the above address by November 6, 1973.

F. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 6, 1973.

[FR Doc.73-16491 Filed 8-8-73;8:45 am]

MARINE MAMMALS

Administrative and Status Report

The following report of administrative actions and status of marine mammals under the jurisdiction of the Department of Interior is hereby published in the FEDERAL REGISTER in compliance with section 103(f) of the Marine Mammal Protection Act of 1972 (Public Law 92-522). Administration and status of marine mammals is current as of 21 June 1973.

ADMINISTRATIVE ACTIONS

Thirteen applications for economic hardship exemptions under the Marine Mammal Protection Act of 1972 were received between 7 January 1973 and 21 June 1973. As of 21 June, eight of the requests have been acted on. Two exemptions were granted and six were denied. The remaining five applications are currently pending review by the Bureau.

The economic hardship exemptions granted were for scientific research and public display purposes. The scientific project will be conducted on three (3) adult manatees (*Trichechus manatus*) in the waters of Florida. Research will be conducted by Dr. Daniel S. Hartman, World Wildlife Fund, Manatee Research Project. The public display exemption was granted to Sea World, Inc., San Diego, California. The exemption provided for the taking of twelve (12) live Pacific Walrus (*Odobenus rosmarus divergens*) from the area around St. Lawrence Island, Alaska. The animals will be used to stock the Sea World of San Diego and Sea World of Florida facilities.

The six applications denied were for trophy walrus hunts in Alaska.

SUMMARY

STATUS OF MARINE MAMMAL APPLICATIONS AS OF 21 JUNE 1973

Type application	Number received	Number approved	Number rejected	Number pending
Scientific research	2	1		1
Public display	2	1		1
Hunting (trophy)	6		6	
Other (skins, sale of ivory, sale of hides)	3			3

STATUS OF MARINE MAMMALS

POLAR BEAR

(*Ursus maritimus*)

Distribution and migration. Polar bears occur only in the northern hemisphere, nearly always in association with Arctic sea ice. Centers for six geographically isolated polar bear populations which

have been identified in the main polar basin are Wrangell Island-western Alaska, northern Alaska-northeastern Canada, northern Canada, Greenland, Spitsbergen-Fran Josef Land, and central Siberia. Separate populations also occur further south in Hudson Bay in Canada. Bears are most abundant near the southern edge of the sea ice but do occur throughout most of the polar basin and have been recorded as far north as 88° N. latitude. They make extensive north-south movements related to the seasonal position of the southern edge of the ice. In winter, bears off Alaska commonly occur as far south as Bering Strait and occasionally reach St. Lawrence Island and even St. Matthew Island in the Bering Sea. In the summer, north of Alaska, the bears commonly occur along the edge of the ice pack between 71° and 72° N. latitude. Pregnant females concentrate for winter denning and bearing young on large offshore Russian islands, northern Canadian islands, and certain of the Spitsbergen islands.

Abundance, trends, and harvest. Total population estimates, which range from a low of 10,000 by the Soviets to a high of 20,000 by the Norwegians, are based on broad assumptions and should be considered an approximation. Abundance of bears off the Alaska coast and the magnitude of sustained long-term harvests suggest that the 20,000 figure may be low. The number of bears seen per hour of flying by Alaska hunting guides has not shown a consistent change since 1956 when data were first collected. Sex composition of the Alaska harvest, between 70 and 80 percent males each year since 1961, has also not shown a tendency to change. Selective hunting has reduced the percentage of mature males in the population. The high percentage of females with young in the population indicates a healthy rate of reproduction. Age composition of bear harvest west of Alaska has not shown a trend in numbers. Age composition of bears harvested north of Alaska declined in 1970 and 1971 and then increased in 1972. The average annual Alaska kill during the 1930's, 1940's, and 1950's was about 120. It gradually increased to about 250 for 1960–1972. The U.S.S.R. believes that polar bear populations in the Soviet Arctic declined during the first half of this century and have now stabilized since hunting was stopped in 1956. Average annual harvests in Spitsbergen were about 300 prior to 1970 and have since been sharply reduced. The harvest in Greenland is 125 to 150 bears per year. Annual harvests in Canada approached 600 during the early 1960's and are now about 450.

General biology. Polar bears, other than family groups of females and young, are solitary most of the year. During the breeding season in late March, April, and May, males actively seek out females by following their tracks on the sea ice. Bears are polygamous and a male remains with a female for a relatively short time and then seeks another female. Delayed implantation probably occurs. Pregnant females seek out denning areas, generally in October. Known denning concentration areas occur on Russian, Canadian, and Spitsbergen islands. Bears den along sections of the Greenland coast and to a limited extent on the north Alaska coast. Some denning occurs on heavy pack ice north of Alaska. Bears most commonly den under banks along the coast or rivers or on slopes where snow drifts. A denning female commonly forms a depression in the snow and then enlarges a denning chamber as snow drifts over her. Young, weighing between 0.4 and 0.9 kg, are born in December. A litter of two is the most common, one is quite common, and three is rare. The female and cubs break out of the den in late March or early April when the cubs weigh about 6.8 kg. They make short trips to and from the opened den for several days as the cubs become acclimated to outside temperatures. If the den is on land, the family group then travels to the sea ice. In most sections of the Arctic, young remain with the mother until they are about 28 months old. In Spitsbergen, family breakup occurs when cubs are about 16 months old; possibly milder weather and better feeding conditions allow them to develop faster there than in other areas. Females breed again at about the time they separate from their young; so normally they can produce litters every third year. Females can first breed at 3 or 4 and males at 4 years, of age, but some animals are older at first breeding. Most bears do not live beyond 25 years. Mature females off the Alaskan coast weight 181 to 317 kg and mature males 317 to 634 kg. Animals west of Alaska are larger than animals north of Alaska. Polar bears feed primarily on ringed seals and also on bearded seals, harp seals, and bladdernose seals. They occasionally eat carrion, including whale, walrus, and seal carcasses, and small mammals, birds, eggs, and vegetation when other food is not available. Approximately 60 percent of Alaska bears harbor *Trichinella spiralis*, apparently obtained from seals and other marine mammals, garbage, and possibly carcasses of other bears. Polar bear liver is toxic if eaten because of its high vitamin A content.

Ecological problems. Long term climatic trends probably have a major impact on bear populations. Warming trends restrict areas that are suitable for denning and feeding, and cooling trends favor expansion of populations. Human development, especially that associated with oil extraction, poses the greatest immediate threat to polar bears. Oil exploration and drilling in denning areas could cause bears to den in less suitable areas. Oil spills from offshore drilling or transporting of oil through ice covered waters could reduce insulating value of bears' fur and also adversely affect the food chain below them. Ice would hinder or prevent containing of a spill, and currents could distribute oil over large areas. Mercury and low levels of DDT and PCB's have been found in tissue samples of all Alaskan bears checked for these contaminants.

Allocation problems. In Alaska after about 1950, trophy hunting with aircraft largely replaced Native hunting from the ground for subsistence and the sale of hides. Use of airplanes for hunting has been severely criticized in recent years, and some preservationists would like to stop even the small amount of hunting which coastal residents now do from the ground. The U.S.S.R. believes that bear stocks off the Siberian coast have been reduced and restricts taking to a few cubs for zoos. Until recent years, Norwegian sealers killed bears as predators, Spitsbergen trappers baited bears to set guns to obtain hides for sale, and trophy hunters took bears from Norwegian boats in the summer. The present belief in Norway is that only a few residents of Spitsbergen should take bears and that set guns should not be allowed. In Greenland the harvest is limited to Eskimos or long term residents primarily for subsistence and personal use of skins. The Canadian harvest has traditionally been by Eskimos for subsistence and to obtain skins for sale. Trophy hunting from the ground is starting in Canada and is being encouraged by managing agencies.

Regulations. In past years, regulations to limit polar bear harvests in Alaska were hunting seasons, bag limits, a permit system, limits on the number of hunts by individual guides, and protection for young and for females with young. Two management areas were established, one to the west of Alaska and and one to the north of Alaska. Residents were allowed to hunt bears at any time for food, provided aircraft were not used. Hides and skulls of all bears taken had to be presented to the Alaska Department of Fish and Game within 30 days for examination, sealing, and removal of a tooth for age determination. Alaska banned the use of aircraft for hunting polar bears after 1 July 1972, and lengthened the season to encourage sport hunting from the ground. The Federal Marine Mammal Protection Act of 1972 assumed management authority for polar bears and limited their harvest to Alaska coastal Eskimos for subsistence or for manufacture of traditional Native articles of clothing or handicraft. The Marine Mammal Act removed restrictions on harvest of cubs and females with cubs by Natives. The demand for illegal trophy hunts and skins, and the difficulties of monitoring small aircraft operators on the high seas, will probably cause some significant enforcement problems. The U.S.S.R. has not allowed polar bear hunting since 1956. Norway has stopped set gun and trophy hunting and is now considering a 5-year moratorium on all harvesting because recent studies indicate that their polar bear population is smaller than previously believed. In Greenland only Eskimos or long term residents may take bears and the hunters must use traditional ground methods of hunting. In Canada, prior to 1968, Es-

kimos hunting from the ground took bears with few restrictions.

The Northwest Territories, where most bears are taken, has now established polar bear hunting district, with quotas. Trophy hunters may purchase a permit to take a bear from a district provided a resident is used as a guide. The five nations cooperating in polar bear studies are considering an interim agreement to ban hunting on the high seas until a treaty for management and research can be put into effect.

Current research and funding. The governments of Norway, Canada, and the United States are conducting intensive long-term investigations. The U.S.S.R. has a limited government research program and the Danish government is planning research in Greenland. Norwegian government funds are supplemented by grant and university funds. Short-term university projects complement government programs in Canada. The Federal Government and the State of Alaska fund the United States program. Research programs are coordinated internationally by the Polar Bear Specialist Group under the auspices of the International Union for the Conservation of Nature.

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SEA OTTER

(ENHYDRA LUTRIS)

Distribution and Migration. Populations in waters of the United States are resident (the sea otter is not migratory) along the west coast of North America from Central California north to Prince William Sound and westward along the Aleutian Chain to Attu Island (Kenyon, 1969). In waters of the U.S.S.R. the sea otter occurs at the Commander Islands, along the southern Kamchatka Peninsula and among the Kuril Islands (Nikolaev, 1961). It seldom ranges offshore beyond the 30 fathom (180 foot) depth curve (Kenyon, 1969).

Abundance and Trends. In 1956 the Alaska sea otter population, based on aerial surveys, was estimated at about 25,000 animals and increasing exponentially at about 4 to 5 percent per year; the world population was estimated at 32,000 to 35,000 animals (Kenyon, 1969, p. 200). In 1970 after additional surveys, the Alaska population estimate was 50,000 (K. B. Schneider, pers. comm., 1970). Refined techniques and additional surveys, using a variety of methods, yielded a 1972 Alaska population estimate of 100,000 to 125,000 animals and still increasing (Schneider, 1973). The Alaska Department of Fish and Game (1973) published a breakdown of sea otter population estimates according to Game Management units. The total estimates taken from this publication are 101,050 to 121,050 otters.

The sea otter has received a high measure of protection by both Federal and State laws since 1911 and is not subject to any aboriginal hunting. Prior to 1741, a large coastal native population had exploited the sea otter for some thousands of years (Laughlin, 1970; and Laughlin and Reeder, 1962). Thus, the sea otter today (where it has repopulated habitat left vacant by 18th and 19th century exploitation) is probably more abundant than it has been for centuries.

Otters from Amchitka Island and Prince William Sound were transplanted to the following locations: southeastern Alaska in 1965, 1966, 1968 and 1969 (total 413); British Columbia in 1969, 1970 and 1972 (total 89); Washington in 1969 and 1970 (total 59); Oregon in 1970 and 1971 (total 93); and the Pribilof Islands in 1959 and 1968 (total 64). (All transplant figures are from J. S. Vania and are contained in unpublished reports of the Alaska Department of Fish and Game and annual reports of the Marine Mammal Committee of the American Society of Mammalogists, 1965–1973.) Among transplanted otters, young have been observed in southeastern Alaska (J. S. Vania, pers. comm., 1973); British Columbia (M. J. Bigg, pers. comm., 1973); and Oregon (Jameson, 1973). Survival on release ranged from poor to excellent, so the numbers of animals reported transplanted is of variable significance.

California population counts are as follows: about 150 in 1938 (Bolin, 1938); 638 in August 1957 (Boolootian, 1961); 1014 in August 1968 (Peterson and Odemar, 1969); and 1060 in January, 1972 (Wild, 1972). Otters occur from Monterey Bay, California, south to Morro Bay and are extending their range north and south (Peterson and Odemar, 1969; and P. W. Wild, June 1973, pers. comm.). Wild (1972) estimates the total California population at 1,200 to 1,500 animals. The counts indicate that the population is following a nearly constant growth curve.

A refuge was established to protect the sea otter on the central California coast. When the refuge was established in 1941, it consisted of two separate areas, both in Monterey County. Area 1 extended from Malpaso Creek to Swiss Canyon Arroyo, which is just south of Pt. Sur. This refuge area consisted of about 15 linear miles of coast. There was a break, probably because the highway runs inland here. Area 2 began at Castro Canyon, i.e., Pfiefer Point, and continued south to Dolan Creek, or on some maps Dolan Canyon, a distance of approximately 10 miles.

In 1959 the refuge was increased to a continuous linear distance of approximately 100 miles, beginning at the mouth of the Carmel River and continuing south to Santa Rosa Creek near Cambria. The area is open to sport abalone fishing for its entire length and is only partially closed to commercial abalone fishing. Commercial abalone fishing is permitted south of Yankee Point.

A survey of 15 and 16 April 1971 showed that approximately 48 percent of the otters were outside of the refuge area. Of 902 otters counted, 275 were north of the refuge in the Monterey area and 162 were south of the refuge; three were recently seen near Santa Cruz.

No reliable figures are available for numbers of otters killed but Ebert (pers.

comm., 3 June 1971) reported 40 or 50 during the previous year.

General Biology (from Kenyon, 1969). The sea otter is the largest member of the family Mustelidae, reaching a length of 148 cm and a weight of 45.4 kg. It becomes sexually mature at about 4 years of age and bears a single young, weighing approximately 2.3 kg, about every 2 years. The pup nurses for 10 to 12 months, but during this period often takes solid food gathered by the mother. The mother is very attentive to her young. Most of the young are born during the summer but births, and mating, may occur at any season. Breeding behavior is promiscuous. A mating male and female remain together for as long as 3 days. The anatomy of reproduction was studied by Sinha, Conaway and Kenyon (1966). The dense underfur is about 1 inch long; the guard hairs are about 0.25 inch longer. A healthy animal may accumulate considerable body fat but there is no layer of blubber.

The sea otter is, therefore, dependent for insulation from cool (35° to 50° F.) marine waters on the air blanket retained among the 800,000,000 pelage fibers (V. B. Scheffer, in Kenyon, 1969, p. 32).

Mortality at Amchitka Island (the only area studied intensively) is greatest in winter and early spring. A dense population there depleted food organisms, and starvation occurred during stormy weather. Young, deserted by mothers during storms, accounted for 70 percent of the mortality. The remaining 30 percent were predominantly animals showing signs of old age. Most of the dead animals exhibited signs of starvation and enteritis. Internal parasites include Trematoda (4 spp.), Cestoda (2 spp.), Nematoda (1 sp.), and Acanthocephala (5 or possibly 6 spp.) (Daily and Brownell, 1972). A nasal mite, the only ectoparasite found, is common in harbor seals but occurred rarely in the sea otter (infestation from contact on common hauling out places is suspected; Kenyon, Yunker and Newell, 1962).

Ecological problems. In several Aleutian Island areas the sea otter has overpopulated its habitat and depleted food resources; population declines were observed (Kenyon, 1969, p. 167). Oil pollution of waters occupied by sea otters would be fatal to them. Pesticide residues have been found in California sea otters (Vandevere and Mattison, 1970), but the effect on them is unknown.

Allocation problems. There is conflict over management of the population off the coast of California, because the sea otter is a predator of the abalone. An organized group (Friends of the Sea Otter, Big Sur, California 93920) want the population completely protected so that it can expand into its original range. Abalone fishermen, both commercial and sport, want the population controlled and limited to the refuge and areas where the abalone is not abundant.

From 1962 through 1969, the State of Alaska took 2,933 pelts for sale at auction, but the enterprise was of marginal financial success (J. S. Vania, pers. comm., 1973). No harvest of skins has been taken since 1969. The final sale of 402 skins took place on 9 February 1972.

Regulations. The sea otter is protected by the Marine Mammal Protection Act of 1972 (PL 92-522). In California it is listed as a completely protected animal.

Current research and funding of sea otter studies. The State of Alaska employed one full-time biologist (Karl B. Schneider) from 1965 to 1973. The Bureau of Sport Fisheries and Wildlife employed one full-time biologist (Karl W. Kenyon) from 1955 to 1973. A new biologist will be assigned in mid-1973. The California Department of Fish and Game employs one full-time biologist (Paul W. Wild) and an assistant (Jack Ames). This program began in 1968 and continues. The Owings Foundation, privately endowed, employs Judson Vandevere as a full-time sea otter naturalist.

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PACIFIC WALRUS

(*Odobenus rosmarus*)

Distribution and migration. The entire population winters in the seasonal pack ice of the Bering Sea. When the ice was at maximum extent in April 1972, concentration of walruses were found north and south of the west end of St. Lawrence Island and in central Bristol Bay (Kenyon, 1972). Areas of sparse abundance surround the areas of concentration. Ice movements caused by currents of wind and water create leads and break up pack ice. Walruses are thus able to feed in water 30 to 42 fathoms (180 to 252 feet) deep.

In migration, there may be two or more peaks, depending on weather and ice conditions. From mid-May to early June most females and young move through Bering Strait with ice carried by strong currents. In mid-June large numbers of males move north (Burns, 1970). However, Brooks (1954) recorded that about 1,000 adult and subadult males traditionally remain throughout the summer on and near Round Island in northern Bristol Bay. In June 1958 Kenyon estimated the numer there at 1,500 to 2,000 (Kenyon, 1960), and in 1966 Burns (1967) reported 2,000 to 3,000 on shore plus additional animals in the waters. Other haul-out areas may be used in winter. In 1962 and 1965 small numbers (100 to 150) were seen on beaches of Amak Island (Kenyon and King, 1965). Burns (1967) recorded that "several thousand" were hauled out on the east shore of Big Diomede Island in December 1966 and, at the same time, between 1,000 and 1,500 came ashore on the Punuk Islands, south of St. Lawrence Island.

In the west, walruses haul out on Ruder Spit (Gulf of Anadyr), Arakamchechen Island (Bering Strait) and on Cape Intsova (in the Chukchi Sea) (Nikulin, 1947). At one site, Cape Intsova, Nikulin (1947) observed that the first walruses came ashore on 8 August and by 10 October there were about 8,000 hauled out.

During the northward spring migration into the Arctic Ocean, the majority of walruses pass through the western side of Bering Strait and proceed westward to Wrangell Island. Here, Krylov (1966) identified three types of hauling grounds: those used by mothers with young, those used by adult males, and those used by subadults. Few walruses and no mothers with young move eastward into the Beaufort Sea.

Abundance and trends. Prior to large-scale exploitation by whalers of European descent which began in about 1868 (Allen, 1880, p. 185), the Pacific walrus was estimated to number about 200,000 animals (Fay, 1957). Fay (1957) estimated that the population may have fallen to a low of 40,000 to 50,000 in the 1950 to 1956 period. Beginning in 1960, aerial surveys of walruses were undertaken. From data obtained on the five surveys (two in 1960, one each in 1961, 1968 and 1972), total estimates were computed by extending the number of animals observed in a 1 mile flight track to the estimated area occupied by walruses. From the 1960 surveys, the total population was estimated to range from 73,000 to 117,000 (Kenyon, 1960). The 1972 surveys provided a median esti-

mate of 135,000 walruses, and a range of 93,000 to 178,000 (Kenyon, 1972). Bychkov (1971), quoting Shustov (1969), however, estimates the present population at 45,000 to 46,000. J. J. Burns has gathered much basic biological information from walruses taken by Eskimos. From this, his estimate of the walrus population approximates the computed mean of the 1972 aerial survey (pers. comm., 1973). He considers that the similar results obtained by the very different methods confirm a population of approximately 140,000 walruses. Studies of his material, as well as a comparison of the 1960 and 1972 surveys, indicate that the population may still be increasing. Burns (1967) considers, however, that the population will not continue to increase if the annual kill is increased.

Annual hunting mortality rates, using Ricker's (1948) "catch curve," are estimated as follows: 11 percent (Fay, 1955), 15 percent (Fay, 1960), 12 to 15 percent (Harbo, 1961), and 13 percent (Burns, 1967). Among males from 14 to 33 years of age, the mortality rate was 14 percent (Burns, 1967).

The take of walruses in Alaska in 1972 was about 1,350 animals (945 adult males, 270 adult females, and 135 calves) (J. J. Burns, pers. comm., 1973). This is about an average take. In 1966 the take was unusually high at 2,788 animals (Burns, 1967). Considering that about 50 percent of the animals killed are lost (Burns, 1967), the annual kill may range from about 2,700 to 5,600 animals.

General biology. Only one pinniped, the southern elephant seal, is larger than the Pacific walrus. The following data are provided by Fay (MS). An adult male weighed 1,557 kg. The maximum standard length of 23 adult males was 356 cm. Among 26 adult females the maximum weight was 1,062 kg and the maximum length was 238 cm. From a sample of newborn young the maximum weight was 77 kg and the maximum length was 137 cm. Some females ovulate for the first time at age 5; others, more rarely, are delayed until age 8. Males become fertile at ages 7 to 8 years but are not physically mature until they are at least 10 years old. The walrus is polygamous, with a mid-season sex ratio of 5 cows to 1 bull in the main breeding area southwest of St. Lawrence Island. The gestation period, including a 3 to 3½ month delayed implantation, is about 15 months. The young are usually born in May, during the spring migration northward. Each female bears a single calf and nurses it about 2 years. The females and young are very gregarious; males are gregarious outside the breeding season. Studies of cementum layers in canine teeth indicate that walruses often attain ages of 20 to 30 years, with maximum ages of 37 years for a male and 26 years for a female.

Walruses, having a greater specific gravity than water, must rest on ice or land at fairly frequent intervals (Nikulin, 1947). By means of pharyngeal pouches that may be inflated, however, walruses are able to sleep while floating upright at sea (Fay, 1960).

Brooks (1954) recorded information on food habits. Clams (six species identified) are the most important food species. The stomach contents of an adult male contained about 50 pounds of *Mya truncata* siphons and 35 pounds of *Clinocardium nuttalli* feet. Other food includes echinoderms, annelids, sipunculids, and priapuloids. Occasionally individual adult males turn to a diet of seal flesh (Fay, 1960).

Parasites and diseases. Internal parasites recorded from walruses include the following: Trematoda (3 spp.), Cestoda (3 spp.), Nematoda (6 spp.), and Acanthocephala (4 spp.) (Dailey and Brownell, 1972). All walruses except calves are infested with external parasites, including three species of sucking lice (Brooks, 1954). A small percentage of adult male walruses become carnivorous and feed on seal flesh. Probably it is this abnormal feeding behavior that accounts for trichinosis infection of from 1 to 10 percent of 1,060 male walruses sampled from four arctic region (Fay, 1960). Incidence of uterine cysts and other disease conditions is low, as far as is known, and such diseases and abnormalities appear to unimportant (Brooks, 1954).

Ecological problems. Dredging for gold and offshore drilling for oil in the Bering and Arctic Seas are activities now under consideration by industry (J. J. Burns, pers. comm., 1973). The extensive clam beds, which furnish the basic food resource of the walrus, are not yet subject to human exploitation. If dredging for clams is undertaken, the food base of the Pacific walrus could be seriously threatened. Also of concern is the frequent harassment of walrus by aircraft when they are hauled out in summer on the Walrus Islands State Game Sanctuary (Togiak Bay), Bristol Bay.

Allocation problems. Siberian and Alaskan Natives kill 5,000 to 6,000 walruses annually for subsistence, and less than 50 were taken per year by trophy hunters and for display in marine aquariums. Loss of walruses during hunting ranges from 20 to 60 percent and averages about 50 percent because of inefficient Eskimo hunting techniques. Additional waste occurs in the utilization of the products of retrieved walruses. If ivory is the primary objective, utilization amounts to as little as 1 to 3 percent of the potential. When meat and hides are used, utilization is as high as 90 percent of the carcasses taken (Burns, 1967).

Regulations. Trophy hunting was stopped by the Marine Mammal Protection Act of 1972 (PL 92-522). Requested trophy hunting permits by guides under the hardship clause were not issued by the Secretary of the Interior (J. S. Vania, pers. comm., 1973). The taking of walruses by Native Alaskans (Eskimos and Aleuts) for meat, hides, and ivory which may be used to manufacture traditional artifacts for sale is permitted. PL 92-522 allows Natives to take an unlimited number of male and female walruses. The Alaska State law, which the Federal legislation invalidated was more restrictive. It imposed a bag limit of 5 females per resident hunter with no limit on males (Burns, 1967).

Current research and funding of walrus studies. No full-time walrus research program *per se* has been established. The Bureau of Sport Fisheries and Wildlife in cooperation with the Alaska Department of Fish and Game furnished personnel and funded the aerial surveys, F. H. Fay, U.S. Department of Health, Education, and Welfare, has worked part-time for many years on walrus studies. In the 1973 hunting season the Alaska Department of Fish and Game maintained observers on St. Lawrence Island and on Little Diomede (J. S. Vania, pers. comm., 1973) and also on King Island (F. H. Fay, pers. comm., 1973) to monitor the kill. Studies have also been supported under the Sea Grant Program, University of Alaska.

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ATLANTIC WALRUS

(ODOBENUS ROSMARUS ROSMARUS)

Distribution and migration. The Atlantic walrus is found in open waters near ice in the Arctic and Atlantic Oceans. There appear to be two breeding groups: (1) Kara Sea to eastern Greenland and (2) western Greenland and eastern Canada. Most animals migrate south in winter and move north in the spring as the ice retreats. Stormy weather may occasionally force overland travel.

Abundance and trends. No figures on numbers are available since 1967 when the estimate was 25,000. The average annual kill is estimated at 2,700 and the annual increment is believed to be between 12 and 20 percent. Any increase in kill would seriously jeopardize this subspecies. Herds in the Barnets, Kara, and White Seas are reported to be close to extinction.

General biology. This subspecies is smaller than the Pacific walrus with males averaging 680 kg and female 566 kg. Gestation period is thought to be 10 to 11 months with one young produced every other year. The young nurse for as long as 24 months.

Ecological problems. Dredging or other disturbance of clam beds would probably threaten the primary food base of the walrus.

Allocation problems. Eskimo hunters kill about 2,700 per year with the meat being used primarily for dog food and the tusks used for carving figurines and tools. The number of animals lost after killing is probably high.

Regulations. Since 1956 the U.S.S.R. has prohibited all hunting except that necessary to meet the needs of the Eskimo people. Denmark limits the take to Greenland residents using craft under 40 tons. Hunting areas and dates are also specified. Canada limits killing to Eskimos and a few white residents. The Atlantic walrus is not covered by Endangered Species Treaty.

AMERICAN MANATEE

(TRICHECHUS MANATUS)

Distribution and migration. Manatees inhabit sluggish rivers, shallow estuaries, and salt-water bays of eastern North and South America from Florida and southern Georgia to Guiana, including the West Indies. There seems to be an irregular intermixing of animals between population concentrations in certain estuarine and riverine habitats. This intermixing is probably effected by offshore migrations. During winter cold spells, manatees congregate in warm-water discharges from power plants and natural springs.

Abundance and trends. Manatees are classified as an endangered species. The total population in the United States probably numbers between 2,000 and 4,000. Manatees are increasing on the central west coast of Florida; elsewhere the number of animals appears to be stable or decreasing.

General biology. Manatees are massive, fusiform, thick-skinned, nearly hairless aquatic mammals. The skeleton is dense and heavy (pachyostosis). The forelimbs are paddlelike, the hind limbs are lacking, and the tail is horizontally flattened. The cheek teeth are replaced consecutively from the rear. The maximum recorded weight is 680 kg; average weight is 360 to 540 kg. Maximum recorded length is 460 cm; average length, 300 cm. Their diet is strictly herbivorous, consisting of vascular aquatic vegetation found in fresh, brackish, or salt water. The gestation period is believed to be between 385 and 400 days. Manatees are uniparous; twins are rare. The calves are born and nursed in the water. Weights and lengths of calves at birth range from 28 to 32 kg and from 100 to 130 cm, respectively. The reproductive rate is probably one calf per adult female every 2½ to 3 years. The calves are born throughout the year.

Pleurisy and bronchial pneumonia from exposure to cold have been responsible for the deaths of captive manatees and may be the cause of fatalities in the wild during unusually low temperatures.

Ecological problems. There is no indication that sharks, crocodilians, or other aquatic animals prey on manatees. Man appears to be the only threat to the manatee's survival in the United States. Wounds inflicted by boat propellers are apparently a chief cause of mortality among manatees. Also important is the destruction of the manatee's food resources following water contamination. Industrial effluents, notably in upper Tampa Bay, seem to have eliminated the plants on which the animals normally feed. In the St. Johns River a combination of two factors, dredging to facilitate passage of oil barges and spraying of herbicides to control water hyacinth, have in places drastically altered the composition and abundance of aquatic vegetation. In the absence of their preferred foods, manatees in the St. Johns watershed have adopted water hyacinth as a substitute staple. The toll of manatees killed by vandals, poachers, and inadvertently, by net fishermen, must also be considered in any appraisal of the species' future in the United States.

Allocation problems. The use of manatees in small scale weed clearing operations is feasible but limited in Florida's temperate climate by the animals' need for warm-water refugia during cold weather. Difficulties involved in the capture, transport, and maintenance of manatees seem, at this time, to outweigh their utility. Another problem has been the failure of manatees to breed in a captive or semicaptive situation. Hopes to "farm" manatees as a potential source of protein are presently unrealistic. The vast number of animals required for sustaining a business, and the manatee's slow reproductive capability, should deter such ventures.

Regulations. The manatee is completely protected in the United States by the Marine Mammal Protection Act of 1972.

Current research and funding: Dr. D. S. Hartman is conducting a year-long study of the manatee's status and distribution in Florida and Georgia (December 1972 through December 1973). The study is being funded by the World Wildlife Fund, the Office of Endangered Species (Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior), and the Friends of the Earth Foundation.

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DUGONG

(DUGONG DUGON)

Distribution and migration. The dugong lives in tropical bays and estuaries of the Red Sea, east coast of Africa, Bay of Bengal, Malay Archipelago, the Moluccas as far as the Philippines, New Guinea, and the tropical Australian coast. The species are tropical warm water animals not ranging far to sea or

into fresh water, and never leaving the water.

Abundance and trends. The dugong is nearing extinction in some areas with nearly all portions of its range showing a great decline. The only stable population appears to be that off the northern Australian coast.

General biology. Dugongs are large fusiform marine mammals with a thick skin, heavy skeleton, flipperlike forelimbs and a broadly notched horizontal tail fin. Average length as adults is 250 to 320 cm and weight is 140 to 300 kg. Skin color ranges from blue-grey to brown. Males possess short tusklike incisors. Breeding apparently lasts throughout the year with a single young born after a gestation of 11 months. Calves are born and nursed in the water.

Ecological problems. Man is apparently the major threat to the dugong's existence at this time although climatic changes are probably responsible for its historical scarcity. Dugongs are widely and intensively hunted for flesh, oil, hides and tusks. An adult dugong will yield from 5 to 6 gallons of oil, which is used for medicinal purposes. The "tears" and pulverized tusks are valued in some areas as aphrodisiacs. Keels and propellers of powerboats often inflict mortal wounds. Oil spills, effluent and general pollution of coastal waters are also potential dangers inasmuch as they affect the food plants and general health of the dugong.

Regulations. The dugong is totally protected in Australian waters, except that it can be taken by Aborigines for their own use. It is protected by law in many other parts of its range also, but the laws are seldom enforced. The species is listed in Appendices I and II of "Endangered Species" Treaty.

F. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 2, 1973.

[FR Doc.73-16465 Filed 8-8-73;8:45 am]

SAVANNAH NATIONAL WILDLIFE REFUGE

Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (P.L. 88-577, 78 Stat. 890-896, 16 U.S.C. 1131-1136), that a public hearing will be held beginning at 9 a.m. on September 27, at the U.S. Court House, Room 108, Bull and State Streets, Savannah, Georgia, 31401, and to be continued on September 27, at 7:00 p.m., at the Hardeeville Elementary School Auditorium, Hardeeville, South Carolina 29927, on a proposal leading to a recommendation to be made to the President of the United States by the Secretary of the Interior regarding the desirability of including a portion of the Savannah Refuge within the National Wilderness Preservation System. The wilderness study included the entire acreage within Savannah National Wildlife Refuge, which is located in Jasper County, State of South Carolina, and Chatham County, State of Georgia.

A study summary containing a map and information on the Savannah Wilderness proposal may be obtained from the Refuge Manager, Savannah National Wildlife Refuge, Route 1, Hardeeville, South Carolina 29927, or the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive, NE., Atlanta, Georgia 30329.

Individuals or organizations may express their oral or written views by appearing at this hearing, or they may submit written comments for inclusion in the official record of the hearing to the Regional Director at the above address by October 29, 1973.

F. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 6, 1973.

[FR Doc.73-16490 Filed 8-8-73;8:45 am]

National Park Service

GLACIER NATIONAL PARK, MONT.

Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), and in accordance with Departmental procedures as identified in 43 CFR 19.5 that public hearings will be held beginning at 6:00 p.m. On October 15, 1973, in the Rainbow Room, Rainbow Hotel, 20 Third Avenue North, Great Falls, Montana, and on October 18, 1973, 6:00 p.m. at the Elks Club, Highway 93 South, Kalispell, Montana, for the purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness comprising about 917,600 acres within the Glacier National Park, Flathead and Glacier Counties, Montana.

A packet containing a draft master plan and preliminary wilderness study report, and providing additional information about the proposal, may be obtained from the Superintendent, Glacier National Park, West Glacier, Montana 59936, or from the Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102.

A description of the preliminary boundaries and a map of the areas proposed for establishment as wilderness are available for review in the above offices and in Room 1210 of the Department of the Interior Building at 18th and C Streets N.W., Washington, D.C.

Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearings, provided they notify the Hearing Officer, in care of the Superintendent, Glacier National Park, West Glacier, Montana 59936, by October 11 of their desire to appear. Those not wishing to appear in person may submit written statements on the wilderness proposal to the Hearing Officer, at that address for inclusion in the official record, which will be held open for 30 days following conclusion of the hearing.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

(1) Governor of the State or his representative.
(2) Members of Congress.
(3) Members of the State Legislature.
(4) Official representative of the counties in which the proposed wilderness is located.
(5) Officials of other Federal agencies or public bodies.
(6) Organizations in alphabetical order.
(7) Individuals in alphabetical order.
(8) Others not giving advance notice, to the extent there is remaining time.

Dated: August 1, 1973.

STANLEY W. HULETT,
Associate Director, National Park Service.

[FR Doc.73-16173 Filed 8-8-73;8:45 am]

OLYMPIC NATIONAL PARK, WASH.

Public Hearings Regarding Wilderness Proposals

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132) and in accordance with Departmental procedures as identified in 43 CFR 19.5 that public hearings will be held November 1 and 3, 1973, for the purpose of receiving comments and suggestions as to the appropriateness of proposals for the establishment of wilderness within Olympic National Park, Washington. The November 1 hearing will be held in the Courtesy Room of the Aberdeen Federal Savings and Loan Association, Broadway and First Streets, Aberdeen, Washington, beginning at 9:30 a.m. A similar hearing will be held on November 3 in the Little Theater at Peninsula College, East Park Avenue, Port Angeles, Washington, starting at 9:00 a.m.

The wilderness proposal for Olympic National Park includes 834,490 acres. All lands proposed for wilderness are presently within the exterior boundaries of the park. Olympic National Park is located on the Olympic Peninsula in the northwest corner of the State of Washington.

Packets containing draft master plans, maps depicting the preliminary boundaries of the proposed wilderness areas, and draft environmental impact statements for the proposals may be obtained from the Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, Washington 98362, or from the Regional Director, Pacific Northwest Region, National Park Service, Fourth and Pike Building, Seattle, Washington 98101.

Descriptions of the preliminary boundaries and maps of the areas proposed for establishment as wilderness are available for review in the above offices and in Room 1210 of the Interior Building at 18th and C Streets N.W., Washington, D.C.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the aforementioned public hearings. In order to be included on the hearing program, notify the Hearing Officer in care of the Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, Washington 98362 by October 26, 1973.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearings will be considered for inclusion in the transcribed hearing records. However, all materials so presented at the hearings shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

(1) Governor of the State or his representative.
(2) Members of Congress.
(3) Members of the State Legislature.
(4) Official representative of the counties in which the proposed wilderness is located.
(5) Officials of other Federal agencies or public bodies.
(6) Organizations in alphabetical order.
(7) Individuals in alphabetical order.
(8) Others not giving advance notice, to the extent there is remaining time.

Dated: August 1, 1973.

STANLEY W. HULETT,
Associate Director,
National Park Service.

[FR Doc.73-16174 Filed 8-8-73;8:45 am]

Bureau of Reclamation

[INT FES 73-42]

AUTHORIZED BONNEVILLE UNIT, CENTRAL UTAH PROJECT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the authorized Bonneville Unit of the Central Utah Project, Utah.

The environmental statement concerns a proposed multipurpose project which includes a transbasin diversion of water from the south slope of the Uinta Mountains to water-deficient areas of the Bonneville Basin and development of additional water resources along the Wasatch Front. Water would be used for irrigation, municipal and industrial needs, and hydroelectric power production. The Unit would also provide recreation, fish and wildlife, water quality control, and area redevelopment benefits.

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7620
Bureau of Reclamation, Department of the Interior,
Washington, D.C. 20240
Telephone (202) 343-4991

Division of Engineering Support, Technical Services Branch,
E&R Center, Denver Federal Center,
Denver, Colorado 80225
Telephone (303) 234-3007

Office of the Regional Director, Bureau of Reclamation, Room 7203, Federal Building, 125 South State Street, (Mailing address: P.O. Box 11568) Salt Lake City, Utah 84111 Telephone (801) 524-5409

Central Utah Projects Office, Bureau of Reclamation, 160 North 2nd West Provo, Utah 84601 Telephone (801) 374-5011.

Copies available for public inspection are also being forwarded to the libraries at the University of Utah, Salt Lake City; Brigham Young University, Provo; Utah State University, Logan; and Weber State College, Ogden, all in Utah.

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Virginia 22151. Please refer to the statement number above.

Dated: August 2, 1973.

LAURENCE E. LYNN, Jr.,
Assistant Secretary of the Interior.

[FR Doc.73-16473 Filed 8-8-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

RIO GRANDE NATIONAL FOREST GRAZING ADVISORY BOARD

Notice of Meeting

The Rio Grande National Forest Grazing Advisory Board will meet at the River Springs Ranger Station located in Section 25, Township 33 North, Range 6 East, New Mexico Principal Meridian at 9:30 a.m., September 7, 1973.

The purpose of this meeting is to field review land uses in the Conejos River Canyon. This will familiarize the Board with conflicts in allocating land for the various uses including the grazing of domestic livestock, as background for advising the Forest Supervisor in preparation of unit plans.

The meeting is open to the public. Persons wishing to attend should notify Mr. Dale Sowards, Manassa, Colorado, 81141.

Dated: August 3, 1973.

JAMES R. MATHERS,
Forest Supervisor,
Rocky Mountain Region.

[FR Doc.73-16496 Filed 8-8-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 8674]

CERTAIN OTIC PREPARATIONS CONTAINING ANTIBIOTICS

Drugs for Human Use; Drug Efficacy Study Implementation Follow-up Notice

In a notice (DESI 8674) published in the FEDERAL REGISTER of June 29, 1972 (37 FR 12855), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on the following drugs (other drugs were also included in that notice, and other notices concerning them will be published in future issues of the FEDERAL REGISTER):

1. Cortomixin Sterile Ear Drops containing polymyxin B sulfate and hydrocortisone; Broemmel Pharmaceuticals, 1235 Sutter St., San Francisco, CA 94109 (NDA 60-719 (previously published as 60-179)).

2. Cortisporin Otic Drops containing polymyxin B sulfate, neomycin sulfate and hydrocortisone; Burroughs-Wellcome and Co., Inc., 3030 Cornwallis Rd., Research Triangle Park, NC 27709 (NDA 60-613).

3. Coly-mycin S Otic with Neomycin and Hydrocortisone containing colistin sulfate, neomycin sulfate, thonzonium bromide, and hydrocortisone acetate; Warner Chilcott Laboratories Division, Warner Lambert Pharmaceutical Co., 201 Tabor Rd., Morris Plains, NJ 07950 (NDA 50-356).

4. Cor-Otic P-N Ear Drops containing neomycin sulfate, polymyxin B sulfate and hydrocortisone; Don Hall Laboratories, 1935 North Argyle, Portland, OR 97217 (NDA 90-263).

The notice stated that the drugs were regarded as lacking substantial evidence of effectiveness when labeled for treatment of otitis media and possibly effective for their other labeled indications.

Based upon a reevaluation of the preparations listed above, the Commissioner concludes that these drugs are effective for the indications set forth in the labeling guidelines below.

DESCRIPTION

(To be supplied by the manufacturer)

ACTIONS

(To be supplied by the manufacturer)

INDICATIONS

For the treatment of superficial bacterial infections of the external auditory canal caused by organisms susceptible to the action of the antibiotic(s), and for the treatment of infections of mastoidectomy and fenestration cavities caused by organisms susceptible to the antibiotic(s).

CONTRAINDICATIONS

This product is contraindicated in those individuals who have shown hypersensitivity to any of its components, and in herpes, simplex, vaccinia and varicella.

WARNINGS

As with other antibiotic preparations, prolonged treatment may result in overgrowth of nonsusceptible organisms and fungi.

If the infection is not improved after one week, cultures and susceptibility tests should be repeated to verify the identity of the organism and to determine whether therapy should be changed.

Patients who prefer to warm the medication before using should be cautioned against heating the solution above body temperature, in order to avoid loss of potency.

PRECAUTIONS

If sensitization or irritation occurs, medication should be discontinued promptly.

(To be included for neomycin-containing preparations). This drug should be used with care in cases of perforated ear drum and in longstanding cases of chronic otitis media because of the possibility of ototoxity caused by neomycin.

Treatment should not be continued for longer than ten days.

Allergic cross-reactions may occur which could prevent the use of any or all of the following antibiotics for the treatment of future infections: Kanamycin, paromomycin, streptomycin, and possibly gentamicin.

ADVERSE REACTIONS

(FOR PREPARATIONS CONTAINING NEOMYCIN)

Neomycin is a not uncommon cutaneous sensitizer. There are articles in the current literature that indicate an increase in the prevalence of persons sensitive to neomycin.

DOSAGE AND ADMINISTRATION

The external auditory canal should be thoroughly cleansed and dried with a sterile cotton applicator.

For adults, 4 drops of the solution should be instilled into the affected ear 3 or 4 times daily. For infants and children, 3 drops are suggested because of the smaller capacity of the ear canal.

The patient should lie with the affected ear upward and then the drops should be instilled. This position should be maintained for 5 minutes to facilitate penetration of the drops into the ear canal. Repeat, if necessary, for the opposite ear.

If preferred, a cotton wick may be inserted into the canal and then the cotton may be saturated with the solution. This wick should be kept moist by adding further solution every four hours. The wick should be replaced at least once every 24 hours.

HOW SUPPLIED

(To be supplied by the manufacturer)

Batches of drugs for which certification is requested should provide for labeling information in accord with the guidelines developed on the basis of the reevaluation of the drugs and published in this notice.

Batches of such drugs with labeling bearing indications other than those published in this announcement are no longer acceptable for certification or release.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended; 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 2, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-16468 Filed 8-8-73;8:45 am]

[GRASP 3G0030]

HOKKAIDO SUGAR CO., LTD.

Notice of Filing of Petition for Affirmation of GRAS Status

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201 (s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1786; 21 U.S.C. 321(s), 348, 371(a)) and the regulations for affirmation of GRAS status (21 CFR 121.40), published in the FEDERAL REGISTER of December 2, 1972 (37 FR 25705), notice is given that a petition (GRASP 3G0030) has been filed by Markel, Hill & Byerly, 1625 K St. NW., Washington, DC 20006, on behalf of the Hokkaido Sugar Co., Ltd., Tokyo, Japan, and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that beet sugar (sucrose) treated with enzyme alpha-galactosidase is generally recognized as safe (GRAS) for use in foods. Final action on this petition will not be possible until the current GRAS status reviews of sucrose and certain other sugars have been completed.

Interested persons may, on or before October 9, 1973, review the petition and/or file comments (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, during working hours, Monday through Friday.

Dated: July 25, 1973.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.73-16469 Filed 8-8-73;8:45 am]

THERMAL PROCESSING OF LOW-ACID FOODS PACKAGED IN HERMETICALLY SEALED CONTAINERS

Notice of Availability of Forms for Filing of Process Information

In the matter of thermal processing of low-acid foods packaged in hermetically sealed containers, there was published in the FEDERAL REGISTER of May 14, 1973 (38 FR 12716), an order promulgating 21 CFR 90.20 which requires that commercial processors (1) register their plants with the Food and Drug Administration on form FD-2541, and (2) submit to the Food and Drug Administration on specified forms information as to the process used for each low-acid food in each container size. The effective date of the order required registration on or before July 13, 1973, and stated that notice of availability of forms for submitting the process information would be published in the FEDERAL REGISTER.

The process information forms are now available: Form FD-2541a (food canning establishment and process filing for still retort processes), form FD-2541b (food canning establishment and process filing for agitating processes), and form FD-2541c (food canning establishment and process filing for other than still retorts and agitating processes).

All commercial processors who have registered their plants by submitting form FD-2541 will be mailed the appropriate process filing forms (FD-2541a, b, or c). A review of all registrations has been completed and the appropriate number and type of process filing forms and instructions for their use are being sent to each registrant by the Industry Guidance Branch.

Additional forms and instructions are available any may be obtained from the Food and Drug Administration, Bureau of Foods, Industry Guidance Branch (BF-342), 200 C St., SW., Washington, DC 20204, or any FDA District Office.

Objections have been received and are being evaluated with respect to the provisions of § 90.20(c)(2) and (3) which require submission of process information and adherence to the submitted processes. In the interim, the Food and Drug Administration requests that submission of process information on the forms that are now being made available continue without interruption. No objections were received on the provisions of § 90.20(c)(1) requiring registration on form FD-2541. Accordingly, that portion of the order requiring registration is now effective.

This notice is issued pursuant to provisions of the Federal Food, Drug, and

Cosmetic Act (secs. 402, 404, 701, 52 Stat. 1046–1047, as amended, 1048, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 342, 344, 371) and under authority delegated to the Commissioner (21 CFR 2.120):

Dated: August 2, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-16471 Filed 8-8-73;8:45 am]

[DESI 8530; Docket No. FDC-D-141; NDA Nos. 8-530 and 10-613]

WINTHROP PRODUCTS, INC. AND WINTHROP LABORATORIES

Alevaire; Notice of Withdrawal of Approval of New Drug Applications

Pursuant to the proposed order withdrawing marketing approval for the drug Alevaire published in the FEDERAL REGISTER of December 6, 1969 (34 FR 19389), Winthrop Products, Inc., holder of New Drug Application (NDA) No. 8-530, and Winthrop Laboratories, holder of NDA No. 10-613, filed a request for a hearing on the issue of whether there was a lack of substantial evidence of effectiveness for the drug cognizable under section 505(e) of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)). The request for hearing was evaluated and a final decision was published in the FEDERAL REGISTER of September 11, 1971 (37 FR 17229), denying the request for a hearing and withdrawing approval of NDAs Nos. 8-530 and 10-613 on the grounds that there is a lack of substantial evidence that Alevaire is effective for its recommended uses.

The notice of withdrawal was vacated and proceedings remanded to the agency on January 11, 1972, by the United States Court of Appeals for the Second Circuit. A second notice denying the request for a hearing and withdrawing approval of the Alevaire NDAs was published in the FEDERAL REGISTER of March 8, 1973 (38 FR 6305). Thereafter, holders of the Alevaire NDAs filed a petiton for reconsideration, and on June 14, 1973, the final order was set aside.

REQUEST FOR HEARING

The holders of the Alevaire NDAs have submitted a large amount of documentation upon which they state the effectiveness of Alevaire has been established. All of the material, including affidavits and miscellaneous citations to the medical literature, are claimed to be corroborative of the drug's effectiveness which is said to rest upon two adequate and well-controlled clinical studies of the drug denominated as the Milled-Paez study and the Cohen study. Because the Commissioner finds that the Miller-Paez and Cohen studies cannot demonstrate the effectiveness of Alevaire for its recommended uses, it is not necessary to re-analyze the other data the NDA holders cite. In any event, the Commissioner adheres to his analysis of the corroborative data in his decision of March 8, 1973.

REASONS FOR DENIAL OF HEARING AND WITHDRAWAL OF NDA APPROVAL

The claims made for Alevaire in its labeling and the manner in which the previous critiques of the Miller-Paez and Cohen studies were phrased in previous FEDERAL REGISTER notices have engendered some confusion concerning the nature of the drug and the types of clinical investigations necessary to establish drug effectiveness. Therefore, a description of the nature of Alevaire's composition in light of its labeling claims is required to place in perspective the evaluation of the Miller-Paez and Cohen studies.

1. *The drug.* Alevaire is a combination of three components in a sterile aqueous solution, as follows: 0.125 percent tyloxapol, with 2 percent sodium bicarbonate and 5 percent glycerin.

2. *Recommended uses.* In the Alevaire labeling printed in Physicians' Desk Reference, 25th Ed. 1971, the drug is recommended in the treatment of patients "with diseases and disorders of the lungs accompanied or complicated by the presence of excessive or thickened bronchopulmonary secretions" as may be present in, among other things laryngotracheobronchitis and laryngitis, bronchitis and bronchiolitis, bronchial pneumonia, asthma, emphysema, allergic bronchopneumonia, neonatal asphyxia, atelectasis, diaphragmatic paralysis, bronchiectasis, pulmonary abscess, and aspiration of foreign material. Alevaire is also indicated as a vehicle to which other compatible medications, such as antibiotics, may be added for administration through intermittent positive pressure breathing machines.

Alevaire is recommended for administration in an undiluted form by an aerosol nebulizer delivering a fine mist to the patient in an open tent, croup tent, incubator, etc., or by means of a face mask.

The labeled indications for use and recommended methods of administration for Alevaire have remained substantially unchanged since NDA No. 8-530 became effective in December, 1952, and NDA No. 10-613 became effective in July 1956.

3. *Rationale for Alevaire.* The labeling for Alevaire when the NDAs became effective in the mid-1950's described the contribution of each component in Alevaire as follows:

> The sodium bicarbonate and glycerin in Alevaire act in synergy with the detergent to create an alkaline medium for the liquefication of mucus and to stabilize the aerosol droplets. An alkaline medium enhances the antibacterial activity of streptomycin * * *

The labeling described the "Advantages of Alevaire" by stating that the addition of glycerin prevented the evaporation of aerosol droplets; that glycerin increases viscosity of the droplets causing them to remain suspended when inhaled and lost on exhalation; that the addition of a balanced amount of tyloxapol lowers the surface tension of the droplets, causing them to be deposited in the mucosa where tyloxapol liquefies mucopurulent secretions; that the addition of sodium bicarbonate to the balanced solution creates a favorable pH for the activity of tyloxapol and liquefication of mucus; and that these effects have been demonstrated in laboratory tests. This passage in the labeling cites a paper by Miller, J.B., which contains no reference to laboratory tests. No such tests were submitted by the NDA holders as part of their request for hearing.

The Alevaire labeling printed in the Physicians' Desk Reference, 20th Ed. 1966 (and as late as 1971), described the "Action and Uses" of Alevaire as follows:

> * * * Superinone [tyloxapol] is effective in lowering surface tension; sodium bicarbonate creates an alkaline medium to help liquefy mucus; glycerin assists in the stabilization of the aerosol droplet.

However, another version of the labeling of Alevaire in circulation in 1966, and the one submitted to and reviewed by the National Academy of Sciences-National Research Council, did not describe the contribution each component made to the claimed efficacy of Alevaire. It described the "Action" of Alevaire in the following terms:

> Alevaire mist lowers the surface tension and viscosity of secretions * * * whereas plain water does not * * * Alevaire loosens and frees secretions from contact with surfaces, and by greatly reducing frictional forces allows mucus to be propelled more rapidly.

This version of the labeling, unlike the labeling printed in the Physicians' Desk References, described Alevaire as a "Detergent Aerosol for Inhalation" and contained a section entitled "Tolerance" in which the toxicity of tyloxapol was described and compared with other detergents. Whether or not this labeling reflects that the NDA holders then considered tyloxapol the main ingredient is not clear, although it may be the reason why the NAS–NRC did not evaluate any ingredients in Alevaire other than tyloxapol.

Nevertheless, Alevaire is composed of a combination of ingredients whose total action is claimed to be more effective than water. The appendix to the request for hearing states that "Alevaire's action is similar to that of water, but it is more effective than water because it can be deposited further into the air passageways and because it more effectively lowers surface and interfacial tension than does water" (p. 16). Thereafter follows an abbreviated description of the function of each component in the combination and the explanation that:

> * * * the stabilized droplets of aerosolized Alevaire are able to achieve deep penetration into distal air passageways, and interfacial tensions and surface tensions are reduced, thus achieving a greater mucoevacuant action than that of water. (p. 33)

The inquiry into whether the Miller-Paez and Cohen studies demonstrate the effectiveness of Alevaire must be in terms of the claimed contribution each

component makes to the drug's effectiveness (21 CFR 3.86).

4. *Clinical investigations of Alevaire.* In the petition for reconsideration filed by the NDA holders following publication of the March 8, 1973 notice, the NDA holders took issue with ever facet of the evaluations of the Miller-Paez and Cohen studies contained in that notice.

The Commissioner finds that certain criticisms delineated in the petition are well-founded when the investigations are accepted at face value as is required in ruling upon the adequacy of a request for hearing under 21 CFR 130.12 (a) (5) and 130.14. However, the Commissioner also finds that another analysis of these two studies, which would take into account the several valid objections made in the petition for reconsideration, would be a meaningless and unnecessary endeavor. Even assuming that the studies are adequate and well-controlled investigations comparing Alevaire with other control substances, a conclusion not warranted by analysis of the investigations, the studdies cannot demonstrate the effectiveness of Alevaire because their design precludes assessments respecting the contribution each of the three components of Alevaire makes to the claimed effectiveness of the drug.

(a) W. F. Miller and P. Paez, "Blind Comparison Among Normal Saline, Distilled Water and Two Surface Active Agents in Sputum Evacuation". A double-blind crossover design was used in which 20 patients with chronic bronchopulmonary diseases were randomly tested on a different aerosol solution each week for a total of three weeks. Each patient was administered distilled water and normal saline, and one half of the population was administered Alevaire and the other half Tergemist, another commercially available drug for inhalation therapy. The authors concluded that there was no difference between saline and Tergemist; that distilled water was more effective than saline; and that Alevaire was more effective than distilled water.

(b) B. M. Cohen, "Ultrasonic Nebulization of Water and Mucoevacuant Solutions in Patients With Obstructive Lung Disease: Volumetric and Ventilatory Responses to Acute Administration". Fifteen patients with obstructive ventilatory diseases (bronchial asthma and chronic bronchitis) and retained secretions were administered Alevaire and distilled water aerosols in a single-blind crossover study. The study was conducted over two days, with administration of the test substances being given twice on each day. The author concludes that Alevaire was more effective than water.

Neither investigation purported to examine into the role that tyloxapol vis-a-vis sodium bicarbonate vis-a-vis glycerin plays in the claimed effectiveness of the drug. To demonstrate the claimed effectiveness of Alevaire, adequate treatment controls as required under 21 CFR 130.12(a) (5) (ii) (a) (4) are necessary i.e., a comparison of treatment groups administered Alevaire, Alevaire less tyloxapol, Alevaire less sodium bicarbonate, Alevaire less tyloxapol and sodium bicarbonate, water, etc. In this respect, the NDA holders in their request for hearing analyzed a study by Palmer, "The Effect of an Aerosol Detergent in Chronic Brochitis", Lancet 1:611–613, 1957, (Appendix to p. 20 of request) which is a comparison in 25 patients of Alevaire to glycerine and sodium bicarbonate, and water.

The NDA holders criticize the conclusion that the study showed Alevaire is no more effective than water or saline and state that the study is really a comparison of Alevaire:

> * * * to a control aqueous solution of glycerine and sodium bicarbonate, both of which are effective additives to water for inhalation therapy. The design of this study was not adequate to elicit differences * * * between the two effective mucoevacuant agents.

While each of the components is described as being "effective mucoevacuant agents", no data have been produced or cited. What is needed are data derived from adequate and well-controlled clinical investigations to show what effectiveness, if any, each of the four components of Alevaire may individually and in various combinations possess.

In any study designed to investigate each component in Alevaire insofar as it is claimed to be effective, the Commissioner is concerned that measures be incorporated to demonstrate that whatever effect is achieved is therapeutic. The Commissioner concurs with the statements of affiants Beck, Collins, and Miller, submitted in support of the request for hearing, that water has significant irritating properties. One possible reason for water-induced irritation is that water per se is not a physiologic liquid. Alevaire's ingredients also are not physiological, e.g., 2 percent sodium bicarbonate content contrasts with a 1.39 percent physiologic value and 5 percent glycerin contrasts with a 2.6 percent physiologic value. Thus, it is possible that increases in sputum volume, if any, following administration of water, Alevaire, or other substances may reflect no more than the results of the host's response to irritants. In this frame of reference, a determination needs to be made as to which therapeutic indices would be evaluated. Also, it is possible that increased sputum volume might be a reflection not only of mucoevacuation of retained secretions, but also of irritant-produced de novo secretions. In the later case, a possible adverse clinical effect might accrue.

5. *Legal and other objections.* The legal objections cited in the request for hearing have been considered in the Courts and decided adversely to the NDA holders. In this respect, the Commissioner adheres to his findings published in the notice of March 8, 1973, that Alevaire is not a "grandfathered" drug; that the NDA holders must demonstrate that they are prepared to produce evidence raising genuine issues of pertinent fact to obtain a hearing; and that the NAS-NRC Report warrants institution of withdrawal procedures. The Commissioner reiterates that the other reasons cited for granting a hearing are without merit.

6. *Findings.* The Commissioner, on the basis of the information before him and a review of the documentation, affidavits and legal arguments offered to support the claims of effectiveness for Alevaire, finds that there is a lack of substantial evidence that the drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling, that the legal arguments are insubstantial, and that the petitioners have failed to set forth specific facts showing that there is a genuine and substantial issue of fact requiring a hearing.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)) and under the authority delegated to the Commissioner (21 CFR 2.120), the request for hearing is denied, and the approval of new drug applications Nos. 8–530 and 10–613, and all amendments and supplements thereto, is withdrawn effective on Aug. 9, 1973.

Dated: August 7, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73–16650 Filed 8–8–73;8:45 am]

National Institutes of Health

ADVISORY COMMITTEE FOR THE FREDERICK CANCER RESEARCH CENTER

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board ad hoc Advisory Committee for the Frederick Cancer Research Center (FCRC), National Cancer Institute, August 29, 1973, 9:00 a.m. to 4:00 p.m., National Institutes of Health, Building 31, Conference Room 3. This meeting will be open to the public from 9:00 a.m. to 4:00 p.m., August 29, 1973, to discuss consideration of preliminary recommendations of the Committee. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301/496–1911) will furnish summaries of the open meeting and roster of committee members.

Dr. William W. Payne, Executive Secretary, Building 560, Room 11–82, NCI Frederick Cancer Research Center, Fort Detrick, Frederick, Maryland 21701 (301/663–7305) will provide substantive program information.

Dated: July 31, 1973.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.73–16464 Filed 8–8–73;8:45 am]

Office of Education

GRANTS FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES

Notice of Acceptance of Applications for Filing

Notice is hereby given that the following described applications for Federal financial assistance in the construction of noncommercial educational broadcasting facilities are accepted for filing under the provisions of Title III, Part IV of the Communications Act of 1934, as amended (47 USC 390–399) and in accordance with 45 CFR 60.8.

Any interested person may, pursuant to 45 CFR 60.10, on or before September 10, 1973, file comments regarding these applications with the Director, Educational Broadcasting Facilities Program, Division of Technology Development, National Center for Educational Technology, Office of Education, Code 525, Washington, D.C. 20202.

EDUCATIONAL TELEVISION

Viewer Sponsored Television Foundation, 7333 Trask Avenue, Playa del Rey, California 90291, File No. 419–T, to improve noncommercial educational television station KVST on Channel 68, Los Angeles, California, accepted as of May 28, 1968. Estimated project cost: $418,914. Grant requested: $315,368. Application signed by: Mr. Clayton Stauffer, President.

Board of Education of Jefferson County, 3332 Newburg Road, Louisville, Kentucky 40218, File No. 420-T, to improve noncommercial educational television station WKPC, on channel 15, Louisville, Kentucky, accepted as of April 14, 1969. Estimated project cost: $357,945. Grant requested: $120,000. Application signed by: Mr. Richard Van Hoose, Superintendent.

University of Washington, Seattle, Washington 98105, File No. 421-T, for the improvement of noncommercial educational television station KCTS on Channel 9, Seattle, Washington, accepted as of September 29, 1970. Estimated project cost: $387,749. Grant requested: $290,812. Application signed by: Mr. Donald E. Bevans, Assistant Vice President for Research

Public Television Foundation for North Texas, 3000 Harry Hines Boulevard, Dallas, Texas 75201, File No. 422-T, for the improvement of noncommercial educational television station KERA on Channel 13, Dallas, Texas, accepted as of October 19, 1970. Estimated project cost: $282,518. Grant requested: $211,889. Application signed by: Mr. Robert A. Wilson, Executive Vice President and General Manager.

Board of Regents, University of Idaho, Moscow, Idaho 83843, File No. 423-T, for the improvement of noncommercial educational television station KUID on Channel 12, Moscow, Idaho, accepted as of August 24, 1972. Estimated project cost: $255,364. Grant requested: $165,364. Application signed by: Mr. Sherman Carter, Financial Vice President.

San Diego State University Foundation, 5402 College Avenue, San Diego, California 92115, File No. 424-T, for the improvement of noncommercial educational television station KPBS on Channel 15, San Diego, California, accepted as of November 15, 1972. Estimated project cost: $113,489. Grant requested: $85,117. Application signed by: Mr. Ernest B. O'Byrne, Vice President for Administration.

Southern Oregon Educational Company, 128 East Main Street, Medford, Oreg. 97501, File No. 425-T, for the establishment of a noncommercial educational television station on Channel 8, Medford, Oregon, accepted as of May 29, 1973. Estimated project cost: $435,161. Grant requested: $326,370. Application signed by: Mr. W. Boyce Standard, President.

Delta College, University Center, Michigan 48710, File No. 426-T, to improve noncommercial educational television station WUCM on Channel 19, Bay City, Michigan, accepted as of June 15, 1973. Estimated project cost: $233,000. Grant requested: $140,000. Application signed by: Donald J. Carlyon, President.

University of Vermont and State Agricultural College, Burlington, Vermont 05401, File No. 427-T, to expand noncommercial educational television station WETK, Colchester, Vermont, accepted as of June 14, 1973. Estimated project cost: $550,000. Grant requested: $412,000. Application signed by: Edward C. Andrews, Jr., President.

EDUCATIONAL RADIO

University of Northern Iowa, Cedar Falls, Iowa 50613, File No. 149–R, for the improvement of noncommercial FM radio station KHFE on Channel 215, Cedar Falls, Iowa, accepted as of September 15, 1972. Estimated project cost: $76,854. Grant requested: $57,641. Application signed by: Dr. John Kamerick, President.

Greater Asheville Educational Radio Association, Inc., 2 South Lexington Avenue, Asheville, North Carolina 28801, File No. 150–R, for the establishment of a noncommercial FM radio station on Channel 215, Asheville, North Carolina, accepted as of May 29, 1973. Estimated project cost: $40,296. Grant requested: $30,071. Application signed by: Mr. James E. Robinson, President.

This Notice issued in Washington, D.C.

Catalog of Federal Domestic Assistance Program No. 13.413, Educational Broadcasting Facilities (Public Broadcasting)

Dated: July 27, 1973.

JOHN OTTINA,
Acting U.S. Commissioner of Education.

[FR Doc.73-16497 Filed 8-8-73;8:45 am]

Social and Rehabilitation Service

CUBAN REFUGEE PROGRAM

Suspension of Phaseout of Federal Reimbursement to States

Notice of the phaseout of Federal Cuban Refugee Program reimbursements to the States, under the Migration and Refugee Assistance Act of 1962 (Public Law 87–510), was published in the FEDERAL REGISTER of June 27, 1973 (38 FR 16928), effective July 1, 1973.

Subsequent to the publication of the phaseout notice, Congress passed and the President approved Public Law 93–52 (Continuing Appropriations) which authorizes expenditures for the Cuban Refugee Program at the fiscal year 1973 level.

In light of the Congressional action, the Secretary has decided to continue the program on the previous basis until further notice. Therefore the Notice of June 27 is suspended, and States may, without interruption, continue to claim reimbursement of assistance to Cuban refugees in accordance with the eligibility and reimbursement policies in effect prior to July 1, 1973.

Dated: August 6, 1973.

J. R. DWIGHT, Jr.,
Administrator, Social and Rehabilitation Service.

[FR Doc.73-16493 Filed 8-8-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Management

[Docket No. D-73-245]

REGIONAL ADMINISTRATORS, ET AL.

Rehabiltation Loan Program; Redelegation of Authority

The Redelegation of Authority to Regional Administrators et al., with respect to Rehabilitation Loan Program published at 37 FR 15948, August 8, 1972, is amended by deleting section A, 3.

(Secretary's delegation of authority to redelegate published at 36 FR 5005, March 16, 1971.)

Effective date. This amendment to redelegation of authority is effective as of April 17, 1973.

H. R. CRAWFORD,
Assistant Secretary for Housing Management.

[FR Doc.73-16488 Filed 8-8-73;8:45 am]

[Docket No. D-73-246]

REGIONAL ADMINISTRATORS ET AL.

Loan and Contract Servicing; Redelegation of Authority

The Redelegation of Authority to Regional Administrators et al. with respect to Loan and Contract Servicing published at 35 FR 16104, October 14, 1970, and amended at 36 FR 1488, January 30, 1971, 36 FR 21539, November 10, 1971, 37 FR 104, January 5, 1972, 37 FR 14427, July 20, 1972 and 38 FR 1298, January 11, 1973 is further amended as follows:

1. In section A, 1, in the third line of paragraph m the word "mortgagees" is corrected to read "mortgages" and the words "and Secretary-held mortgages"

are inserted immediately following the word "mortgages."

2. In section A, paragraph 3 is amended to read as follows:

"3. Each Director, Housing Management Division, Area and Insuring Office; each Director, Loan Management and Property Disposition Branch, or Loan Management Branch, Area Office; and each Chief, Management and Mortgage Servicing Section, Insuring Office, is authorized to exercise the power and authority under section A,1."

3. In section C, paragraph 7 is deleted. (Secretary's delegation of authority to redelegate published at 36 FR 5005, March 16, 1971)

Effective date. This amendment to redelegation of authority is effective as of April 17, 1973.

H. R. CRAWFORD,
Assistant Secretary for Housing Management.

[FR Doc.73-16489 Filed 8-8-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

NORTH CAROLINA

Availability of Proposed Action Plan

The North Carolina Department of Transportation and Highway Safety has submitted to the Federal Highway Administration of the U.S. Department of Transportation a proposed Action Plan as required by Policy and Procedure Memorandum 90-4 issued on June 1, 1973. The Action Plan outlines the organizational relationships, the assignments of responsibility, and the procedures to be used by the State to assure that economic, social and environmental effects are fully considered in developing highway projects and that final decisions on highway projects are made in the best overall public interest, taking into consideration: (1) Needs for fast, safe and efficient transportation; (2) public services; and (3) costs of eliminating or minimizing adverse effects.

The proposed Action Plan is available for public review at the following locations:

1. North Carolina Department of Transportation
   1 S. Wilmington St.
   Raleigh, N.C. 27611
2. North Carolina Division Office—FHWA
   310 New Bern Avenue
   Raleigh, N.C. 27611
3. FHWA Regional Office—Region 4
   Office of Environment and Design
   1720 Peachtree Rd., N.W.
   Room 208
   Atlanta, Ga. 30309
4. U.S. Department of Transportation
   Federal Highway Administration
   Environmental Development Division
   Nassif Building, Room 3246
   400 7th Street S.W.
   Washington, D.C. 20590

Comments from interested groups and the public on the proposed Action Plan are invited. Comments should be sent to the FHWA Regional Office shown above before September 3, 1973.

Issued on August 3, 1973.

R. R. BARTELSMEYER,
Deputy Federal Highway Administrator.

[FR Doc.73-16433 Filed 8-8-73;8:45 am]

Office of the Secretary

ASSOCIATE ADMINISTRATOR FOR TRAFFIC SAFETY PROGRAMS

Revocation of Delegation of Authority

By notice in the FEDERAL REGISTER of Wednesday, May 9, 1973 (38 FR 12147), by authority vested in me by section 9(e) of the Department of Transportation Act (October 15, 1966, Public Law 89-670, § 9(e), 80 Stat. 944; 49 U.S.C. 1657(e)), I delegated to James E. Wilson, Associate Administrator for Traffic Safety Programs of the National Highway Traffic Safety Administration, all functions previously delegated to the Administrator of the National Highway Traffic Safety Administration.

By that same authority, I hereby revoke that delegation, effective August 6, 1973.

Issued in Washington, D.C., on August 6, 1973.

CLAUDE S. BRINEGAR,
Secretary of Transportation.

[FR Doc.73-16576 Filed 8-8-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-319]

NEW YORK STATE ELECTRIC & GAS CORP.

Withdrawal of Application for Utilization Facility License

The New York State Electric & Gas Corporation, 4500 Vestal Parkway East, Binghamton, New York 13902, by letter dated July 23, 1973, has requested withdrawal of its application for licenses to construct and operate the Bell Station facility, a single-unit boiling water reactor at its 900-acre site located on the east side of Cayuga Lake in the Town of Lansing, Tompkins County, New York. A copy of the letter of withdrawal is available for inspection in the AEC's Public Document Room, 1717 H Street, NW., Washington, D.C. The Atomic Energy Commission grants the applicant's request for withdrawal of this application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 20, 1968, 33 FR 6144.

Dated at Bethesda, Maryland, this 2nd day of August, 1973.

For the Atomic Energy Commission.

RAYMOND R. POWELL,
Acting Chief, Boiling Water Reactors, Branch 1 Directorate of Licensing.

[FR Doc.73-16409 Filed 8-8-73;8:45 am]

URANIUM HEXAFLUORIDE

Charges, Enriching Services, Specifications and Packaging; Revisions

The U.S. Atomic Energy Commission (AEC) hereby announces revisions to the notice entitled, "Uranium Hexafluoride: Base Charges, Use Charges, Special Charges, Table of Enriching Services, Specification and Packaging", as published in the FEDERAL REGISTER on November 29, 1967 (32 FR 16289), and as amended in 35 FR 13457, August 25, 1970, 36 FR 4563, March 9, 1971 and in 38 FR 4432, February 14, 1973 (referred to herein as the notice).

1. Paragraph 3 of the notice is deleted and the following paragraph 3 is inserted in lieu thereof:

3. *Standard table of enriching services, charges per kilogram unit of separative work, base charges and standard processing loss.* The AEC's Standard Table of Enriching Services is set forth in Table 1 of this notice.

The charge per kilogram unit of separative work furnished pursuant to Requirements-type contracts is $38.50. The charge per kilogram unit of separative work furnished pursuant to other than Requirements-type contracts is $36.00. These charges, and successor charges determined in accordance with this sentence, shall be increased by 1 percent (rounded upward to the nearest $0.05) on January 1 and July 1 of each year with the first such increase to occur on January 1, 1974.

The base charge ($/kgU) for uranium, enriched or depleted in the isotope U^{235} and in the form of UF_6, is determined by summing the number opposite the desired assay in the Feed Component column of Table 1 multiplied by $23.46 and the number opposite the desired assay in the Separative Work Component column of Table 1 multiplied by the then current charge per kilogram unit of separative work furnished pursuant to other than Requirements-type contracts. The calculated base charge is rounded up to the nearest $0.01. For assays not shown in Table 1, the Feed Component and Separative Work Component are first determined by linear interpolation before calculation of the base charge. Any resulting base charge less than $3.00 is increased to $3.00. The base charge for depleted uranium requested without a specification as to assay is $2.50. The assay furnished by the AEC in this case will normally be in the neighborhood of 0.20 wt. percent U^{235} of which large amounts are available.

The standard processing loss factor to be applied to toll enricher's acquisition of tails material is 0.05 percent.

2. Table 1 of the notice is revised to read as follows:

TABLE 1

STANDARD TABLE OF ENRICHING SERVICES

Assay (wt. % U-235)	Feed component (normal kgs U feed/kg U product)	Separative work component (kg SWU/kg U product)
0.20	0	0
0.25	0.098	−0.100
0.30	0.196	−0.158
0.35	0.294	−0.189
0.38	0.352	−0.197
0.40	0.391	−0.198
0.42	0.431	−0.197
0.44	0.470	−0.194
0.46	0.509	−0.189
0.48	0.548	−0.182
0.50	0.587	−0.173
0.52	0.626	−0.163
0.54	0.665	−0.151
0.56	0.705	−0.137
0.58	0.744	−0.123
0.60	0.783	−0.107
0.65	0.881	−0.062
0.70	0.978	−0.012
0.711	1.000	0.000
0.75	1.076	0.044
0.80	1.174	0.104
0.85	1.272	0.168
0.90	1.370	0.236
0.95	1.468	0.307
1.00	1.566	0.380
1.10	1.761	0.535
1.20	1.957	0.698
1.30	2.153	0.868
1.40	2.348	1.045
1.50	2.544	1.227
1.60	2.740	1.413
1.70	2.935	1.603
1.80	3.131	1.797
1.90	3.327	1.994
2.00	3.523	2.194
2.20	3.914	2.602
2.40	4.305	3.018
2.60	4.697	3.441
2.80	5.008	3.871
3.00	5.479	4.306
3.20	5.871	4.746
3.40	6.262	5.191
3.60	6.654	5.638
3.80	7.045	6.090
4.00	7.436	6.544
4.50	8.415	7.690
5.00	9.393	8.851
5.50	10.372	10.022
6.00	11.350	11.203
7.00	13.307	13.587
8.00	15.264	15.995
9.00	17.221	18.422
10.00	19.178	20.863
12.00	23.092	25.782
14.00	27.006	30.737
16.00	30.920	35.719
18.00	34.834	40.724
20.00	38.748	45.747
25.00	48.532	58.369
30.00	58.317	71.064
35.00	68.102	83.816
40.00	77.886	96.616
50.00	97.456	122.344
60.00	117.025	148.235
70.00	136.595	174.302
80.00	156.164	200.605
85.00	165.949	213.892
90.00	175.734	227.341
92.00	179.648	232.706
93.00	181.605	235.550
94.00	183.562	238.328
96.00	187.476	244.842
98.00	191.389	269.982

All values are computed on the basis of taking normal uranium, having an assay of 0.711 wt. percent U^{235}, as having a zero separative work component, and on the basis of a tails (waste) assay of 0.20 wt. percent U^{235}.

The feed and separative work components for assays not shown will be determined by linear interpolation between the nearest assays listed above.

The inclusion of specific assays above 93.00 wt. percent U^{235} is for the purpose of interpolation and for calculation of base charges for limited amounts of specified assays above 93 percent. Inquiries concerning the availability of material for lease or sale of specified assays above 93 percent should be addressed to the AEC Materials Leasing Officer, USAEC, Oak Ridge Operations Office, Post Office Box E, Oak Ridge, TN 37830.

Effective date. This notice shall become effective on August 14, 1973.

Dated at Germantown, Md., this 6th day of August 1973.

UNITED STATES ATOMIC ENERGY COMMISSION,
GORDON M. GRANT,
Acting Secretary of the Commission.

[FR Doc.73-16531 Filed 8-8-73;8:45 am]

[Docket No. 50-348A, 50-364A]

ALABAMA POWER CO.

Prehearing Conference

In the matter of Alabama Power Company (Joseph M. Farley Nuclear Plant Units 1 and 2).

Pursuant to an order issued August 6, 1973, a prehearing conference will be held on September 10, 1973 at the U.S. Tax Court, Room No. 1 (2132), 1111 Constitution Avenue, NW, Washington, D.C. at 9:00 a.m.

The Parties will be prepared to argue all motions at such prehearing conference and to justify the schedules proposed.

Issued at Washington, D.C. this 6th day of August, 1973.

For the Atomic Safety and Licensing Board Panel.

WALTER W. K. BENNETT,
Chairman.

[FR Doc.73-16533 Filed 8-8-73;8:45 am]

[Docket No. 50-366A]

GEORGIA POWER CO.

Prehearing Conference

In the Matter of GEORGIA POWER CO. (Hatch Nuclear Plant—Unit 2)

Pursuant to an order issued August 6, 1973, a prehearing conference will be held on September 6, 1973 at the U.S. Tax Court, Room No. 2 (2142), 1111 Constitution Avenue, NW, Washington, D.C. at 9:00 a.m. for the purpose of:

(1) Adjudicating all matters then outstanding regarding discovery or the need for it;

(2) Determining a time schedule for completion of discovery and exchange and submission of written testimony, briefs and exhibits and thereafter holding of an evidentiary hearing and the submission of proposed findings and conclusions;

(3) Each of the Parties will exchange and serve on the Board a proposed time schedule including dates for the above events and such other events as they may deem necessary.

Issued at Washington, D.C. this 6th day of August, 1973.

For the Atomic Safety and Licensing Board Panel.

WALTER W. K. BENNETT,
Chairman.

[FR Doc.73-16532 Filed 8-8-73;8:45 am]

[Docket Nos. 50-443, 50-444]

PUBLIC SERVICE CO., NEW HAMPSHIRE, ET AL.

Hearing on Application for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Public Service Company of New Hampshire, The United Illuminating Company, Central Maine Power Company, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Montaup Electric Company, New Bedford Gas and Edison Light Company, New England Power Company, Vermont Electric Power Company, Inc. Ashburnham Municipal Light Plant, Burlington Electric Light Department, Eastern Maine Electric Cooperative, Inc., Holyoke Gas and Electric Department, Hudson Light and Power Department, Hull Municipal Light Plant, Marblehead Municipal Light Department, Middleborough Gas and Electric Department, Middleton Municipal Light Department, New Hampshire Electric Cooperative, Inc., North Attleborough Electric Department, South Norwalk Electric Works, and Templeton Municipal Light Plant (the applicants), for construction permits for two pressurized water nuclear reactors designated as the Seabrook Station, Units 1 and 2 (the facilities), each of which is designed for initial operation at approximately 3411 thermal megawatts with a net electrical output of approximately 1194 megawatts. The proposed facilities are to be located in Rockingham County, in the township of Seabrook, New Hampshire. The hearing will be scheduled to begin in the vicinity of the site of the proposed facilities.

The hearing will be conducted by an Atomic Safety and Licensing Board (Board) which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel, consisting of Dr. Ernest Salo, Dr. Marvin M. Mann, and Daniel M. Head, Esq., Chairman. Dr. Kenneth A. McCollom has been designated as a technically qualified alternate, and Joseph F. Tubridy, Esq. has been designated as an alternate qualified in the conduct of administrative proceedings.

Upon completion by the Commission's regulatory staff of a favorable safety evaluation and an environmental review

of the application and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Regulation will consider making affirmative findings on Items 1–3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of construction permits to the applicants:

ISSUES PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) The applicants have described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and have identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicants and the applicants have identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicants are technically qualified to design and construct the proposed facilities;

3. Whether the applicants are financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

ISSUE PURSUANT TO NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

5. Whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permits should be issued as proposed.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine (1) without conducting a de novo evaluation of the application, whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff has been adequate, to support the findings proposed to be made by the Director of Regulation on Items 1–4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Regulation; and (2) determine whether the review conducted by the Commission pursuant to NEPA has been adequate. In the event that this proceeding is not contested, the Board will convene a prehearing conference of the parties at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1–5 above as a basis for determining whether the construction permits should be issued to the applicants.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held at such time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a. Notice of the special prehearing conference will be published in the FEDERAL REGISTER.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference, after discovery has been completed, or within such other time as may be appropriate, at a time and place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (1) determine whether the requirements of section 102 (2)(C) and (D) of NEPA and Appendix D of 10 CFR Part 50 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (3) determine whether the construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

For further details, see the application for construction permits and applicants' Environmental Report dated July 9, 1973, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m. on weekdays. Copies of those documents will also be made available at the Exeter Public Library, Front Street, Exeter, New Hampshire for inspection by members of the public between the hours of 1:00 p.m. and 8:00 p.m. Monday, Wednesday and Friday, and between the hours of 10:00 a.m. and 6:00 p.m. Tuesday, Thursday and Saturday. As they become available, a copy of the safety evaluation by the Commission's Directorate of Licensing, the Commission's draft and final detailed statements on environmental considerations, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permits, other relevant documents, and the transcripts of the prehearing conferences and of the hearing will also be available at the above locations. Copies of the Directorate of Licensing's safety evaluation and the Commission's final detailed statement on environmental considerations, the proposed construction permits, and the ACRS report may be obtained, when available, by request to the Deputy Director for Reactor Projects, Directorate of Licensing, United States Atomic Energy Commission, Washington, D.C. 20545.

Any person who does not wish to, or is not qualified to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, not later than September 10, 1973.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

Any person whose interest may be affected by the proceeding, who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR 2.714.

A petition for leave to intervene shall set forth the interest of petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to inter-

vene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A petition for leave to intervene must be filed with the Office of the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., not later than September 10, 1973. A petition for leave to intervene which is not timely will not be granted unless the Board determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Board has considered those factors specified in 10 CFR § 2.714(a)(1)–(4) and 2.714(d).

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have all the rights of the applicant to participate fully in the conduct of the hearing, such as the examination and cross-examination of witnesses, with respect to their contentions related to the matters at issue in the proceeding.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the applicant not later than August 29, 1973.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of the petitions or request for limited appearance should also be sent to the Chief Hearing Counsel, Office of the General Counsel, U.S. Atomic Energy Commission, Washington, D.C. 20545 and to John A. Ritsher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110, attorney for the applicants.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission.

With respect to this proceeding, pursuant to 10 CFR 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 31st day of July, 1973.

UNITED STATES ATOMIC ENERGY COMMISSION,
GORDON M. GRANT,
Acting Secretary of the Commission.

[FR Doc.73-16331 Filed 8-8-73;8:45 am]

URANIUM LEASES ON LANDS CONTROLLED BY THE AEC

Modification of Regulations

1. Notice is hereby given by the Atomic Energy Commission of its modification of Domestic Uranium Program Circular 8 setting forth the regulations concerning the leasing of certain lands controlled by the Commission. This Circular was originally published July 14, 1956 (21 FR 5259). The proposed modification of Circular 8 was published in the FEDERAL REGISTER on November 10, 1970 (35 FR 17271). As a result of comments received from the public on the proposed modified Circular, provision has been made to allow a small business set-aside (under authority of the Small Business Act) of some of the lands for bidding solely by qualified small business concerns.

2. The revised regulations follow:

DOMESTIC URANIUM PROGRAM CIRCULAR 8 REVISED

Title 10—Atomic Energy Chapter I—Atomic Energy Commission (Domestic Uranium Program Circular 8) Part 60—Domestic Uranium Program.

URANIUM LEASES ON LANDS CONTROLLED BY COMMISSION

(a) *What this section does.* This section sets forth regulations governing the issuance of leases to permit the exploration for and mining of deposits containing uranium in public lands withdrawn from entry and location under the general mining laws for use of the Commission, and in certain other lands under Commission control.

(b) *Statutory authority.* The Atomic Energy Act of 1954, as amended (68 Stat. 919, 42 USC 2011 et seq.) is the authority for this section.

(c) *Who may hold leases.* Only parties who are (1) citizens of the United States; (2) associations of such citizens; or (3) corporations organized under the laws of the Untied States or territories thereof, are eligible lessees under this section. Persons under 21 years of age or employees of the Commission are not eligible.

(d) *Issuance of leases through competitive bidding.* Except under special circumstances as provided in paragraph (u), each lease will be offered through competitive bidding and, except as otherwise provided in this paragraph (d), will be issued to the acceptable bidder offering the highest bid. The bid may be on a cash bonus, royalty bonus, or other basis as specified in the invitation to bid. Invitations to bid on some of the lands may be limited to small business concerns as defined by the Small Business Administration, and such invitations may limit the number of leases to be awarded to each bidder. In such cases the Commission will accept those bids which, in relation to other bids received pursuant to the invitation, are most advantageous to the Government. Before any lease is awarded, the Commission may require high bidders to submit a detailed statement of the facts as to such matters as their experience, organization, and financial resources. The Commission reserves the right to reject any and all bids.

(e) *Solicitation of bids.* Announcements of the availability of invitations to bid for a lease will be publicly posted and published. Copies of such announcements will also be mailed to parties who submit to the Commission's Grand Junction, Colorado Office subsequent to publication in the FEDERAL REGISTER of this Domestic Uranium Program Circular 8, Revised, written requests that their names be placed on a mailing list for receipt of such announcements. The invitations containing information for preparation and submission of bids, will be available at the Grand Junction Office, and will be mailed only on specific written request, following announcement of their availability. Invitations will specify the land to be leased, the basis on which bids are to be submitted, the amount of the monetary deposit which must be transmitted with the bid, the place and time the bids will be publicly opened, the term, royalty and other payments, performance requirements, and other conditions which will become a part of the lease. In addition, data which has been assembled pertaining to the lands to be leased will be available for public inspection at the Grand Junction Office; copies will also be available for purchase.

(f) *Bidding requirements; deposits.* All bids must be filed at the place and prior to the time set forth in the invitation. Each bid must be sealed and accompanied by a deposit, in the form of a certified check, cashier's check, or bank draft, in an amount as specified in the invitation to bid. Deposits of unsuccessful bidders will be returned. If the bidder is an individual, he must submit with his bid a statement of his citizenship and age. If the bidder is an association (including a partnership), the bid shall be accompanied by a certified copy of the articles of association together with a statement as to the citizenship and age of its members. If the bidder is a corporation, evidence that the officer signing the bid had authority to do so and a statement as to the State of incorporation shall also be submitted.

(g) *Awarding of lease.* Following public opening of the bids the Commission, subject to the right to reject any and all bids, will determine the successful bidder. In the event the highest acceptable bids are tie bids, a public drawing will be held by the Commission to determine the successful bidder. After notice of award and within the time period prescribed in the invitation, the successful bidder shall execute and return to the Commission three (3) copies of the lease and shall remit payments due as prescribed in the invitation. should the successful bidder fail to execute the lease, or make payments as required, in accordance with the terms of the invitation, or fail to otherwise comply with applicable regulations, he may be required to forfeit any payments previously made, and lose any further right or interest in the lease. In such event, the Commission may offer the lease to the next highest acceptable bidder, reoffer the lease for bidding, or

take such other action as appropriate. If the awarded lease is executed by the bidder through an agent, evidence of authorization must be submitted.

(h) *Dating of lease.* A lease issued under this section will ordinarily be effective as of the date it is signed by the Commission.

(i) *Term of lease.* A lease shall be for the period specified in the invitation to bid. When deemed desirable by the Commission, the lease will provide that the lease term may be extended at the option of the lessee for a specified period and upon stipulated conditions.

(j) *Payments to AEC under lease.* Royalty payments shall be specified in the invitation to bid; base royalty, minimum royalty, advance royalty, land rental payments, or a combination thereof may be required.

(k) *Title to unshipped ore.* The Commission, unless it approves otherwise, reserves all right and title to property in and to all ores and other uranium- or vanadium-bearing material not removed from the leased premises within sixty days after expiration or other termination of the lease. Unless the Commission approves otherwise, all material mined from the leased premises and not marketed by the lessee shall remain on the leased premises.

(l) *Environmental controls.* Each lease will contain such provisions as may be deemed necessary by the Commission with respect to the lessee's use of the leased lands. The Commission may require periodic submission of plans for exploration and mining activities including provisions for control of environmental impact. The lessee will be required to conduct operations so as to minimize adverse environmental effects, to comply with all applicable State and Federal statutes and regulations and to the extent stipulated in the lease agreement, will be held responsible for maintenance or rehabilitation of affected areas in accordance with plans submitted to and approved by the Commission.

(m) *Performance requirements.* A lease shall require that exploration, development, and mining activities, as appropriate, be conducted on the leased premises with reasonable diligence, skill, and care as required to achieve and maintain production of uranium ore at rates consistent with good and safe mining practice, and with market conditions.

(n) *Health and safety requirements.* A lease (1) shall require that exploration, development, and mining activities, as appropriate, be conducted on the leased premises with due regard for the health and safety of those involved, and (2) shall include appropriate measures for the control of radiation exposure in the mines.

(o) *Lessee's records.* Leases shall provide that the lessee keep and make available to the Commission such records as the Commission deems necessary for the administration of the lease and its leasing program.

(p) *Rights of the Commission.* The Commission reserves the right to enter upon the leased property and into all parts of the mine for inspection and other purposes. The Commission also reserves the right to grant to other persons easements or rights of way upon, through, or in the leased premises. The Commission and the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after termination or expiration of lease, have access to and the right to examine any directly pertinent books, papers, and records of the lessee involving transactions related to the lease.

(q) *Relinquishment of leases.* A lease may be surrendered by the lessee upon filing with and approval by the Commission of a written application for relinquishment. Approval of the application shall be contingent upon the delivery of the leased premises to the Commission in a condition determined to be satisfactory to the Commission. The lessee shall continue to be liable for the payment of all royalty and other debts due the Commission.

(r) *Assignment of leases.* Any transfer of a lease or any interest therein or claim thereunder, will not be recognized unless and until approved by the Commission in writing. Ordinarily, the Commission will not approve any transfer of a lease which involved overriding royalties or deferred payments of any kind to the transferor.

(s) *Cancellation.* Any lease may be cancelled by the Commission whenever the lessee fails to comply with the provisions of the lease. Failure of the Commission to exercise its right to cancel shall not be deemed a waiver thereof.

(t) *Form of lease.* Leases will be issued on forms prescribed by the Commission.

(u) *Noncompetitive leases.* Under special circumstances, where the Commission believes it to be in the best interest of the Government, the Commission at its discretion may award or extend leases on the basis of negotiation.

(v) *Commission decisions.* All matters connected with the issuance and administration of leases will be determined by the Commission whose decisions shall be final and conclusive.

(w) *Definitions.* "Commission" as used in this section means the United States Atomic Energy Commission or its duly authorized representative or representatives.

(x) *Multiple use of land.* Leases issued under this section shall provide that operations under them will be conducted so as not to interfere with the lawful operations of any third party having a lease, permit, easement, or other right or interest in the premises.

(y) *Compliance with State and Federal Regulations.* Every lease shall provide that the lessee is required to comply with all applicable State and Federal statutes and regulations.

Dated at Germantown, Md., this 3rd Day of August, 1973.

For the Atomic Energy Commission.

GORDON M. GRANT,
Acting Secretary
of the Commission.

[FR Doc.73-16494 Filed 8-8-73;8:45 am]

[Docket Nos. 50-443 and 50-444]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL.

Receipt of Application for Construction Permits and Facility Licenses; Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matter

Public Service Company of New Hampshire, The United Illuminating Company, Central Maine Power Company, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Montaup Electric Company, New Bedford Gas and Edison Light Company, New England Power Company, Vermont Electric Power Company, Inc., Ashburnham Municipal Light Plant, Burlington Electric Light Department, Eastern Maine Electric Cooperative, Inc., Holyoke Gas and Electric Department, Hudson Light and Power Department, Hull Municipal Light Plant, Marblehead Municipal Light Department, Middleborough Gas and Electric Cooperative, Inc., North Attleborough Electric Department, South Norwalk Electric Works, and Templeton Municipal Light Plant (the applicants), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, have filed an application dated June 29, 1973, which was docketed on July 9, 1973, for authorization to construct and operate two electric generating units utilizing pressurized water reactors. The application was initially tendered on March 25, 1973. Following a preliminary review for completeness, it was rejected on May 7, 1973 for lack of sufficient information. The applicants submitted additional information on June 15, 1973 and the application was found acceptable for docketing.

The proposed nuclear facilities, designated by the applicants as the Seabrook Station, Units 1 and 2, are to be located at the applicants' site in Rockingham County, in the township of Seabrook, New Hampshire. Each unit is to be designed for initial operation at approximately 3411 megawatts thermal, with a net electrical output of approximately 1194 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on

or before October 8, 1973. The submittal should reference Docket Nos. 50-443-A and 50-444-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, and at the Exeter Public Library, Front Street, Exeter, New Hampshire 03833.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an environmental report dated June 29, 1973. The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations related to the proposed construction of the Seabrook Station is also being made available at the Office of Comprehensive Planning, Office of the Governor, State House, Concord, New Hampshire 03301, and at the Southeastern New Hampshire Regional Planning Commission, 10 Front Street, Exeter, New Hampshire 03833.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Maryland, this 26th day of July 1973.

For the Atomic Energy Commission.

KARL R. GOLLER,
Chief, Pressurized Water Reactors Branch No. 3, Directorate of Licensing.

[FR Doc.73-16347 Filed 8-8-73;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

List of Statements Received

Environmental impact statements received by the Council on Environmental Quality from July 30 through August 3, 1973.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley
Acting Coordinator
Environmental Quality Activities
Office of the Secretary
U.S. Department of Agriculture
Room 331-E, Administration Building
Washington, D.C. 20250
(202) 447-3965

FOREST SERVICE

Draft	*Date*
Red River Gorge, Daniel Boone N.F. Kentucky	07/30

County: Wolfe Powell

The statement refers to a proposed ten year management plan for the Red River Gorge Unit, Stanton Ranger District, Daniel Boone National Forest. The unit contains 42,023 acres, 25,663 of which will be managed as a Geological Area and 16,360 of which will be managed for multiple use benefits, including timber management. Major impact will be reduction of timber use and big game species within the Geological Area, and impact on water quality, soil, and vegetative cover from timber harvest and road construction in the remaining areas. (131 pages) (ELR ORDER # 31264) (NTIS ORDER # EIS 73 1264D)

Alpine Lakes, Snoqualmie and Wenatchee N.F.'s	07/30

Washington
County: several

The statement refers to a proposed land use management plan for portions of the two Forests, including the Alpine Lakes Area Wilderness, in Chelan, King, Kittitas, and Snohomish Counties. (92 pages) (ELR ORDER # 31265) (NTIS ORDER # EIS 73 1265D)

Final	*Date*
Anthony Lakes Unit, Wallowa Whitman N.F.	08/01

Oregon
County: Grant Union, Baker

The proposal is for the relocation and consolidation of certain recreational activities, including camping facilities, picnicking grounds, and hiking trails, and the expansion of an adjacent privately owned ski area. There will be adverse visual impact, and some soil disturbance. (approximately 150 pages) COMMENTS MADE BY: EPA DOI DOT USDA HEW COE state agencies and concerned citizens (ELR ORDER #31285) (NTIS ORDER # EIS 73 1285F)

RURAL ELECTRIFICATION ADMINISTRATION

Final	*Date*
Transmission Lines, 230 kV South Carolina	07/30

County: Several

The statement refers to the proposed use of REA loan funds for the construction by Central Electric Cooperative of: 34 miles of 230 kV transmission line from Pinopolis to Kingstree and a 230/69 kV substation at Darlington; 62 miles of 230 kV line from the Robinson plant to Blythewood with a switching station at Camden; and 30 miles of line from Batesburg to Newberry. Counties involved are Berkley, Williamsburg, Darlington, Kershaw, Richland, Saluda, and Newberry. (approximately 250 pages) COMMENTS MADE BY: EPA DOI USDA FPC DOT state and regional agencies (ELR ORDER #31272) (NTIS ORDER # EIS 73 1272F)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters:
Mr. Robert J. Catlin, Director, Division of Environmental Affairs
Washington, D.C. 20545
(202) 973-5391
For Regulatory Matters:
Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing
(202) 973-7373, Washington, D.C. 20545

Draft	*Date*
Newbold Island Nuclear Generation Station, Units 1	07/30

New Jersey
County: Burlington

The statement refers to the proposed issuance of a construction permit to the Public Service Electric and Gas Co. for the construction of the Station. Each of the Station's two boiling water reactors will produce 3293 MWt, for the generation of 1067 MWe (net). Waste heat will be dissipated through the use of two natural draft towers, with water being drawn from and discharged to the Delaware River. An earlier draft statement was issued by the Commission in December, 1972. Additional information is presented in this statement concerning the possibility of a supplemental water source. (ELR ORDER # 31263) (NTIS ORDER # EIS 73 1263D)

Final	*Date*
Guidelines for Design, Light Water-Cooled Reactors	07/26

The statement refers to the proposed adoption of numerical guidelines for design objectives, and limiting conditions for operation to meet the criterion "as low as possible" for radioactive material in light-water-cooled reactor effluent. The expected result of the action is to improve assurance that: radiation exposure to those living near site boundaries be less than 5 m Rem/yr.; annual exposures to sizeable population groups from radioactivity released from reactors on all sites in the U.S. through the year 2000 be less than 1 m Rem; and there be no demonstrable biological effects to aquatic or terrestial organisms from exposure to radioactivity from nuclear power reactors. (3 volumes) COMMENTS MADE BY: USDA FPC EPA TVA DOI agencies of several States, and concerned citizens (ELR ORDER # 31252) (NTIS ORDER # EIS 73 1252F)

Beaver Valley Power Station Unit 1 Pennsylvania	07/30

County: Beaver

The proposed action is the continuation of a construction permit and the granting of an operating license to the Duquesne Light Company, the Ohio Edison Company, and the Pennsylvania Power Company. Unit 1, which is situated on the Ohio River near Shippingport, will employ a 2666 MWt pressurized water reactor to produce 851.9 MWe (net). (Future power levels of 2774 MWt and 885 MWe are anticipated.) Cooling will be by a closed-cycle natural draft tower. There will be a consumptive use of 14,000 acre-ft. of water annually. Small quantities of radioactive gases and liquids will be discharged to the environment. (two volumes) COMMENTS MADE BY: AHP USDA COE DOC HUD DOI FPC state agences (ELR ORDER # 31262 (NTIS ORDER # EIS 73 1262F)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Mr. Francis X. Kelly
Director, Office of Public Affairs
Attn: DAEN-PAP
Office of the Chief of Engineers
U.S. Army Corps of Engineers
1000 Independence Avenue, S.W.
Washington, D.C. 20314
(202) 693-7168

Draft	*Date*
Fidalgo Bay, Anacortes	07/30

Washington
County: Skagit

The statement refers to the proposed dredging of a navigation channel from deep water in Guemes Channel to Anacortes. The project would provide access to moorage facilities and an industrial park under development by the City of Anacortes. Spoil will be deposited in dike areas supplied by the city. Marine biota will be adversely affected by dredging. (Seattle District) (34 pages) (ELR ORDER # 31266) (NTIS ORDER # EIS 73 1266D)

Bayou Bartholomew and Tributaries Arkansas Louisiana	07/30

The statement refers to a proposed flood control project involving ten detention lakes, five high water outlet closures, a wildlife mitigation plan, and channel clearing of Bayou Bartholomew in the vicinity of Pine Bluffs, Arkansas. Adverse impact will include the loss of timber resource and wildlife habitat. (Vicksburg District) (48 pages) (ELR

ORDER # 31267) (NTIS Order # EIS 73 1267D)

Los Angeles—Long Beach Harbors 07/27
California
County: Los Angeles
The revised statement refers to the proposed deepening of areas within the Los Angeles port of the Harbors, and use of the fill to create new lands for terminals. Impact of the action would include the socio-economic impacts from increased trade; use of the harbor by larger vessels, with reduction in the total number of commercial vessels and a corollary reduction in discharge of pollutants; the loss of harbor bottom habitat and open space. The loss of marine habitat will include a part of the present catch areas for a large part of the southern California live bait anchovy fishery. (Los Angeles District) (172 pages) (ELR ORDER # 31258) (NTIS ORDER # EIS 73 1258D)

Preferential Mail Facility, Hartford 7/25
Connecticut
The proposed project is the construction of a Preferential Mail Facility in Hartford, Conn. The building will be a single floor operation with a public lobby multi-story office area, and parking area. The facility will acquire 22.5 acres. Adverse effects stemming from the project are increased traffic, and noise and air pollution levels. (24 pages) (ELR ORDER # 31234) (NTIS ORDER # EIS 73 1234D)

Local Protection Project, Muscatatuck River 07/26
Indiana
County: Jackson Washington
Proposed is a small flood protection project which involves the removal of two logjams and channel relocation around the third, on the Muscatatuck River between Mile 24 and 26. There will be disruption of riparian habitat. (Louisville District) (18 pages) (ELR ORDER # 31245) (NTIS ORDER # EIS 73 1245D)

Saylorville Flood Control Project, Des Moines River 07/31
County: Polk
The statement refers to the continuation of construction of the Saylorville Lake multipurpose project for flood control, low-flow augmentation, fish and wildlife management, and recreation. The project includes a 6,750 foot crest-length, 105 foot high earth fill dam on the Des Moines River, with a permanent pool of 5,400 acres and a full flood pool of 16,700 acres. Also included is the Big Creek sub-impoundment and its 885 acre lake. Adverse impact will include the loss of wildlife habitat and archeological sites, and the displacement of residents. (Rock Island District) (ELR ORDER # 31281) (NTIS ORDER # EIS 73 1281D)

Local Protection Project, Chillicothe 07/26
Ohio
The statement refers to a proposed protection project involving 10,500 feet of earthen levee, 250 feet of concrete floodwall, two gate openings, four pump stations, and 82 pressure relief wells. There will also be associated recreational measures including a bike and walking trail, rest stops, overlooks, picnic areas, and related facilities. Adverse impact will be the partial loss and degradation of bottomland hardwood forest wildlife habitat within the urban environment. (Huntington District) (90 pages) (ELR ORDER # 31242) (NTIS ORDER # EIS 73 1242D)

Aransas Pass, Gulf Intracostal Waterway 07/27
Texas
The statement refers to the proposed deepening and widening of the channel of Aransas Pass and nearby navigation areas. Dredged spoil will be placed in existing land disposal areas. Adverse impact will be to marine biota; 30 acres of marsh will be covered by spoil. (Galveston District) (15 pages) (ELR ORDER # 31244) (NTIS ORDER # EIS 73 1244D)

Final *Date*
Columbia Drainage and Levee District No. 3 07/27
Illinois
County: Monroe
The statement refers to a proposed flood protection project involving the construction of two pumping stations, 2,500 feet of interceptor ditches, and the cleaning out of 11,400 feet of ditches. The project is expected to reduce annual flooding from 2,170 acres to 540 acres. (St. Louis District) (37 pages) COMMENTS MADE BY: USDA DOI EPA state agencies (ELR ORDER # 31259) (NTIS ORDER # EIS 73 1259F)

Field Research Facility, Duck 7/19
North Carolina
The proposal involves the construction of a research facility on a 175 acre site on the Outer Banks 1 mile north of Duck. Included are a 1800 foot ocean pier and associated shore facilities. There will be damage to the dunes and to marine biota, as well as adverse aesthetic impact. The pier will be a obstruction to the navigation of boats, and to migratory birds and fish, and an interruption to vehicular traffic on the beach. (Wilmington District) (90 pages) COMMENTS MADE BY: AEC EPA DOT USDA state agencies (ELR ORDER # 31203) (NTIS ORDER # EIS 73 1203)

DEPARTMENT OF DEFENSE, NAVY

Contact: Mr. Joseph A. Grimes, Jr.
Special Civilian Assistant to the Secretary of the Navy
Washington, D.C. 20350
(202) 697-0892

Final *Date*
Bolling/Anacostia Base Development 07/23
District of Columbia
The statement refers to the proposed construction of new facilities for joint military use at the Bolling/Anacostia tract in southeast Washington. Included are continued development of Tri-Service Support Facilities, such as enlisted man dormitories, a mess hall, and supportive facilities. Also proposed are 900,000 sq. ft. of Air Force administrative space and 1,400,000 sq. ft. of DOD administrative space, an industrial/technical area, two schools, a park and related works. Adverse impacts will include the severe overtaxing of existing transportation facilities. (124 pages) COMMENTS MADE BY: EPA NCPC AHP COE DOT DOI regional agencies and concerned citizens (ELR ORDER # 31241) (NTIS ORDER # EIS 73 1241F)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill
Acting Advisor on Environmental Quality
441 G Street, N.W.
Washington, D.C. 20426
(202) 386-6084

Final *Date*
Racine Lock and Dam, Project 2570 08/01
Ohio
County: Meigs
The statement refers to the proposed approval of an application by the Ohio Power Company for a license to construct a 40MW hydroelectric project on the Ohio River, 21 river miles upstream from the mouth of the Kanawha River. The statement predicts no significant adverse environmental impacts. (120 pages) COMMENTS MADE BY: AHP OEO USDA COE HEW HUD EPA agencies of Ohio and West Virginia (ELR ORDER # 31284) (NTIS ORDER # EIS 73 1284F)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard
Director, Environmental Project Review
Room 7260
Department of the Interior
Washington, D.C. 20240
(202) 343-3891

BUREAU OF OUTDOOR RECREATION

Draft *Date*
Continental Divide and Kit Carson Trails 07/31
The statement refers to the proposed authorization and designation of the Continental Divide and Kit Carson Trails as components of the National Trails System. The proposal would establish a 3,100 mile foot and horseback trail along the Divide from the Mexican border to the Canadian border, through New Mexico, Colorado, Wyoming, Idaho, and Montana; and a 370 mile Kit Carson Trail along the mountain ranges in north-central New Mexico. Approximately 1900 miles of the Trails are presently in existence. Development will cause disturbance of soils and vegetation, and there will be impact from visitor use. (64 pages) (ELR ORDER # 31273) (NTIS ORDER # EIS 73 1273D)

BUREAU OF RECLAMATION

Final *Date*
North Side Collection System, Frying Pan-Arkansas 07/23
Colorado
County: Eagle Pitkin
The statement refers to a major feature of the Fryingpan-Arkansas Project. The collection system involves an arrangement of diversion dams, conduits, and tunnels designed to intercept and transport 18,400 acre feet of runoff annually from the Colorado River Basin to the Arkansas River Basin. The water will serve municipal and industrial needs, supplement irrigation, enable power generation, and enhance recreation in central and southeastern Colorado. The system will result in a slight increase in the salinity of Colorado River water, and a corresponding increase in the water quality of the Arkansas River. COMMENTS MADE BY: DOI USDA USCG COE EPA state agencies and concerned citizens (ELR ORDER # 31216) (NTIS ORDER # EIS 73 1216F)

Bonneville Unit, Central Utah Project 08/02
Utah
County: several
The statement refers to a project begun in 1967 and now 10% complete, which is intended to divert water from the sparsely populated Uinta Basin to the more densely populated, water deficient Bonneville Basin. Facilities of the project will include 10 new reservoirs, 140 miles of aqueducts, tunnels, and canals, 3 power plants, 9 pumping plants, and 200 miles of pipe drains. The project will increase salinity of the Colorado River; 22,000 acres of land will be inundated. (two volumes) COMMENTS MADE BY: DOI USDA AHP COE HEW HUD FPC state, local, and regional agencies and concerned citizens (ELR ORDER # 31289) (NTIS ORDER # EIS 73 1289F)

NATIONAL PARK SERVICE

Draft *Date*
Master Plan, Olympic National Park 07/27
Washington
The statement refers to a proposed new conceptual master plan, which will establish developmental patterns and management goals. The plan calls for improved visitor information-orientation programs; improved backcountry experience and reduced ecologi-

cal degradation, and improved access and reduced traffic congestion. Adverse effects will include the acquisition of private lands and phasing out of low-cost cabins at Sol Duc Hot Springs. (173 pages) (ELR ORDER # 31253) (NTIS ORDER # EIS 73 1253D)

Proposed Wilderness, Olympic National Park 07/27
Washington
The statement refers to the proposed legislative designation of 834,980 acres in Olympic National Park as wilderness. Major portions of the park will thereby be preserved in a completely undeveloped state, with natural succession allowed to continue without interference by man. Adverse effects will include foregoing the possibility for development of additional visitor use facilities, and possible restriction on backcountry use. (106 pages) (ELR ORDER # 31254) (NTIS ORDER # EIS 73 1254D)

Jackson Hole Airport, Grand Teton N.P. 07/27
Wyoming
The statement refers to proposed modifications to the Jackson Hole Airport, within the Grand Teton National Park. The modifications, including the extension of the 6,305 foot runway to 8,000 feet, the construction of a parallel 8,000 foot taxiway, additional aprons, lighting, a control tower, a sewage system, and related works, are intended to give the airport the capacity to handle jet carrier aircraft, and to increase the passenger carrying capability of turbo-prop aircraft. Ecological, social, and economic impacts are discussed, including the destruction of 65 acres of sagebrush grassland and a sage grouse strutting ground. (181 pages) (ELR ORDER # 31257) (NTIS ORDER # EIS 73 1257D)

Final *Date*
Bandelier National Monument 07/27
New Mexico
County: Los Alamos Sandoval
The statement refers to the proposed legislative designation of 21,110 acres of the Monument as wilderness within the National Wilderness Preservation System. Management options for the Monument will thereby be reduced. (82 pages) COMMENTS MADE BY: AHP USDA DOT (ELR ORDER No. 31256) (NTIS ORDER No. EIS 73 1256F)

Theodore Roosevelt National Memorial Park 07/27
North Dakota
The statement refers to a proposal that 28,335 acres of the Park be designated by Congress as Wilderness. Enactment of the proposal could result in restrictions on back country facility development, the construction of mass recreational needs in other areas, and restricted resource management practices. (58 pages) COMMENTS MADE BY: USDA DOI EPA FPC AHP state agencies (ELR ORDER No. 31255) (NTIS ORDER No. EIS 73 1255F)

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Final *Date*
Green Lake Salmon Fish Hatchery 07/18
Maine
County: Hancock
The statement refers to the proposed construction and operation of a national fish hatchery for the propagation of Atlantic salmon, to help restore the species to the waters of New England. The annual output for the hatchery is programmed for 600,000 one year old smolts. There will be possible adverse impact on Graham Lake from hatchery effluent discharge. (100 pages) COMMENTS MADE BY: USDA COE DOI EPA state agencies (ELR ORDER No. 31188) (NTIS ORDER No. EIS 73 1188D)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director
Office of Environmental Quality
400 7th Street, S.W.
Washington, D.C. 20590
(202) 466-4357

FEDERAL AVIATION ADMINISTRATION

Draft *Date*
Hettinger Municipal Airport 07/26
County: Adams
The statement refers to the proposed expansion of the existing airport at Hettinger. The action consists of land acquisition for development and clear zones; site preparation and drainage to expand and construct a hard-surfaced runway; constructing connecting and access taxiways; constructing an access road; and constructing a maintenance building. Air and noise pollution levels will increase with increased activity. (40 pages) (ELR ORDER # 31248) (NTIS ORDER # EIS 73 1248D)

Elkhart-Morton County Airport 07/26
Kansas
County: Morton
The proposed project is the improvement of the existing airport to allow the facility to be used on a year-round basis. Project features include extending and widening Runway 17/35 to 4900' x 75', including taxiways; future extension of Runway 3/21 to 4250' x 75', including paving and taxiways; installation of VASI and beacon; construction of lighted wind cone and segmented circle; and ultimate extension of runways to 620' x 100'. (22 pages) (ELR ORDER # 31250) (NTIS ORDER # ELS 73 1250D)

FEDERAL HIGHWAY ADMINISTRATION

Draft *Date*
Route 60 and 95, Missouri 07/30
County: Texas Wright
The action proposed the acquisition of limited access right-of-way, grading, interchanges, bridges, and ultimate dual lane paving for the relocation of Route 60. It provides for grading and single land paying of Route 95. Approximately 400 acres of rural land will be committed to right-of-way; 20 residences and 5 businesses will be displaced. (14 pages) (ELR ORDER # 31269) (NTIS ORDER # EIS 73 1269D)

Superstition Freeway (State Route 36) 07/30
Arizona
County: Maricopa Pinal
Proposed is the construction of approximately 25 miles of the Route 360 Freeway. The project will extend from Rural Road in Tempe to U.S. Highway 60-80-89 southeast of Apache Junction. Approximately 10 residences, part of two trailer parks and three businesses may be displaced; 850 acres of agricultural land and 415 acres of undeveloped desert will be required for right of way. Adverse impacts include the loss of breeding habitat and the bisecting of at least six prehistoric Hohokam Indian canals and probable archaeological sites. (301 pages) (ELR ORDER # 31268) (NTIS ORDER # EIS 73 1268D)

I-70 (Capitol Avenue), Indianapolis 07/30
Indiana
County: Marion
The proposed project is the improvement of three sections of I-70 (Capitol Avenue). The facility will displace one family and one business. An increase in noise pollution levels will occur. (31 pages) (ELR ORDER #31270) (NTIS ORDER # EIS 73 1270D)

Central Avenue, Kansas City 07/26
Kansas
County: Wyandotte
Proposed is the improvement of Central Avenue, 26th Street, Westview Drive and 29th Street in the City of Kansas City. Two residences and one business will be displaced; an unspecified amount of additional land will be required for right-of-way. (18 pages) (ELR ORDER # 31246) (NTIS ORDER # EIS 73 1246D)

US-62 and SH-80A, Fort Gibson 07/26
Oklahoma
County: Muscogee
Proposed is the improvement of US 62 by relocation from the Arkansas River, northeasterly 6.8 miles bypassing Fort Gibson on the south, and the extension of SH 80A from Fort Gibson south 1.1 mile to connect to US 62. Adverse impacts include the displacement of 13 families and the reduction of area pasture lands, cultivated lands and woodlands. (78 pages) (ELR ORDER # 31243) (NTIS ORDER # EIS 73 1243D)

Loop 1 (Mo Pac Boulevard) 07/26
Texas
County: Travis
The 5.7 mile section of Loop 1 considered in this statement is the northern portion of a 16.5 mile north-south freeway which traverses the City of Austin. The project extends from F.M. Highway 1325, south to 0.2 mile north of R.M. 2222 (Northland Drive). Development of the six-lane, controlled access facility will require the relocation of three businesses and four residences. (35 pages) (ELR ORDER # 31247) (NTIS ORDER # EIS 73 1247D)

S.T.H. 70, Wisconsin 07/30
Wisconsin
County: Oneida Vilas
The proposed project is the reconstruction and realignment of S.T.H. 70 for a distance of 10.6 miles. The facility will traverse portions of the Chequamegon National Forest and the Lac du Flambeau Indian Reservation. One hundred and forty acres of timberland will be acquired for right-of-way. The facility will traverse the Squaw, Koernet and Lower Creeks. Adverse affects are loss of timberland and wildlife habitat. (17 pages) (ELR ORDER # 31271) (NTIS ORDER # EIS 73 1271D)

Final *Date*
Missouri Route 71 and 71 Alternate 07/27
County: Jasper
The proposed action consists partly of adding an additional lane and partly of relocating Route 71 from the Barton County line to south of Carthage. Length of the project is 17.2 miles. Approximately 470 acres of agricultural land will be committed to the project. Thirty-seven residences including 8 farm units, and 8 businesses will be displaced. Construction activity will generate erosion, noise, air, and possible water pollution; channel changes to Buck Creek and an unnamed stream are required. (30 pages) COMMENTS MADE BY: DOT HEW HUD DOI EPA COE state and local agencies (ELR ORDER # 31260) (NTIS ORDER # EIS 73 1260F)

US 319 07/31
Florida
County: Leon
The project involves the reconstruction of 1.8 miles of highway, from 2 to 4 lanes. Displacements will number 8 businesses and 5 families. An increase in noise and air pollution levels will occur. (44 pages) COMMENTS MADE BY: DOC DOI EPA state and local agencies (ELR ORDER # 31279) (NTIS ORDER # EIS 73 1279F)

US 69 07/27
Kansas
County: Miami
The statement considers the corridor location for the reconstruction, from 2 to 4 lanes, of 16.5 miles of highway. The number of residences to be displaced and the amount of acreage needed for right-of-way depends upon the route chosen. (155 pages) COMMENTS MADE BY: USDA COE HEW EPA DOI DOC state agencies and concerned citi-

zens (ELR ORDER # 31281) (NTIS ORDER # EIS 73 1281F)

I-275, Michigan 07/31
Michigan
County: Wayne
The proposed project is the construction of a portion of I-275 for 6.5 miles. The facility will displace an unspecified number of families and businesses. A 4(f) review will be filed to obtain 16 acres from the Lower Route Parkway. The facility will increase noise, air and litter pollution levels and affect existing groundwater characteristics. (86 pages) COMMENTS MADE BY: COE USCG DOC DOI DOT EPA state and regional agencies (ELR ORDER # 31280) (NTIS ORDER # EIS 73 1280F)

SH 3, Oklahoma 07/31
Oklahoma
County: Pontotoc Coal
The proposed project is the improvement of SH 3, for a distance of 11.8 miles. Four hundred and fifty acres of agricultural land will be acquired for right-of-way. Relocations will include 3 to 23 families and 42 businesses. Two streams will be crossed increasing erosion and sedimentation. An increase in noise and air pollution levels will occur. (41 pages) COMMENTS MADE BY: USDA COE DOI EPA HUD state and regional agencies (ELR ORDER # 31276) (NTIS ORDER # EIS 73 1276F)

Extension of Road S-179, South Carolina 07/31
South Carolina
County: Georgetown
The statement refers to the proposed extension of Road S-179 north of the town of Dunbar. The project would extend from the present edge of S-179 and proceed northerly, crossing the Black River, and terminating at Road S-6. Project length is approximately one mile. Acquisition of a 66-foot right-of-way will involve the removal of trees from an experimental tract; one tin storage building will be displaced. (29 pages) COMMENTS MADE BY: COE EPA DOC DOI HUD DOT state agencies (ELR ORDER # 31277) (NTIS ORDER # EIS 73 1277F)

U.S.H. 41, Wisconsin 07/31
Wisconsin
County: Washington Dodge Fond du Lac
The proposed project is the upgrading of 50 miles of U.S.H. 41. Five hundred and fifty acres of agricultural land will be acquired for right-of-way. Twenty-nine parcels will become landlocked. A 4(f) review has been filed to obtain 10 acres of land from the Allenton marsh and Teresa Marsh Wildlife Areas. Three farms and 10 businesses will be required to relocate. The facility will cross several streams increasing erosion and siltation; some wildlife will be lost. (137 pages) COMMENTS MADE BY: USDA EPA HEW DOI DOT state and regional agencies (ELR ORDER # 31274) (NTIS ORDER # EIS 73 1274F)

State Trunk Highway 23 07/31
Wisconsin
County: Fond du Lac Sheboygan
The statement considers a proposal to construct a complete or partial relocation of approximately 35 miles of S.T.H. 23. The amount of land required and the number of displacements will depend upon the route chosen. Section 4(f) statements have been filed for lands that may be required from the Kettle Morraine State Forest and the Old Wade State House Park. (306 pages) COMMENTS MADE BY: USDA COE DOI DOT EPA HUD OEO state agencies (ELR ORDER # 31275) (NTIS ORDER # EIS 73 1275F)

TIMOTHY ATKESON,
General Counsel.

[FR Doc.73-16418 Filed 8-8-73;8:45 am]

COST OF LIVING COUNCIL

[Cost of Living Council Order 34]

ACTING DEPUTY DIRECTOR, COST OF LIVING COUNCIL

Revocation of Delegation of Authority

Cost of Living Council Order Number 31 (38 FR 16268) designating the General Counsel as Acting Deputy Director of the Cost of Living Council and delegating to him the authority to carry out the activities theretofore carried out by the Deputy Director is hereby rescinded effective July 25, 1973.

Issued in Washington, D.C. on July 25, 1973.

JOHN T. DUNLOP,
Director, Cost of Living Council.

[FR Doc.73-16626 Filed 8-8-73;8:45 am]

[Cost of Living Council Order 35]

ADMINISTRATOR, OFFICE OF HEALTH

Delegation of Authority

Pursuant to the authority vested in me as Director of the Cost of Living Council by Cost of Living Council Order Nos. 14 and 29, it is hereby ordered as follows:

1. There is delegated to the Administrator, Office of Health, subject to the general policy guidance of and in coordination with the Director of the Cost of Living Council, or his delegate, authority to:

(a) Make decisions and issue orders with respect to requests by providers of health services for exceptions from the regulations and orders governing price matters;

(b) Make decisions and issue orders with respect to requests by providers of health services for reconsiderations of denials and partial approvals of requests for exceptions governing price matters;

(c) Consider and decide appeals from decisions of the Internal Revenue Service denying or partially denying exception requests from providers of health services;

(d) Monitor price adjustments disclosed as a result of filings or reports submitted by providers of health services, issue challenges or notices of probable violations as appropriate, and remedial orders to providers of health services, monitor remedial activities and approve compliance actions with respect thereto;

(e) Direct the Internal Revenue Service to conduct investigations to determine whether persons are in compliance with the regulations and orders of the Cost of Living Council pertaining to providers of health services and supervise those investigations; and

(f) Request information and conduct hearings with respect to functions delegated in this paragraph.

2. Numbered paragraphs 1 and 2(c) of Cost of Living Council Order No. 25 are superseded to the extent they are inconsistent with this order.

3. Each official to whom authority is delegated by this Order may redelegate that authority.

4. In exercising the authority delegated by this order or redelegated pursuant thereto officials of the Cost of Living Council shall be governed by the regulations and rulings of the Cost of Living Council and by the policies, procedures, and controls prescribed by the Director of the Cost of Living Council, or his delegate.

5. Actions taken by the Administrator, Office of Health, under paragraphs 1 (b) and (c) are administratively final. Review of these actions may be sought in the appropriate Federal district court pursuant to section 211 of the Economic Stabilization Act of 1970, as amended (Public Law 92-210, 85 Stat. 744).

6. This order is effective July 31, 1973.

JOHN T. DUNLOP,
Director,
Cost of Living Council.

[FR Doc.73-16624 Filed 8-8-73;8:45 am]

[Cost of Living Council Order 36]

DIRECTOR, OPERATIONS, OFFICE OF HEALTH

Delegation of Authority

Pursuant to the authority vested in me as Administrator, Office of Health, Cost of Living Council by Cost of Living Council Order No. 35, it is hereby ordered as follows:

1. There is delegated to the Director, Operations, Office of Health, authority to:

(a) Make decisions and issue orders with respect to requests by providers of health services for exceptions from the regulations and orders governing price matters;

(b) Consider and decide appeals from decisions of the Internal Revenue Service denying or partially denying exception requests from providers of health services;

(c) Monitor price adjustments disclosed as a result of filings or reports submitted by providers of health services, issue challenges or notices of probable violations as appropriate, and remedial orders to providers of health services, monitor remedial activities and approve compliance actions with respect thereto;

(d) Direct the Internal Revenue Service to conduct investigations to determine whether persons are in compliance with the regulations and orders of the Cost of Living Council pertaining to providers of health services and supervise those investigations; and

(e) Request information and conduct hearings with respect to functions delegated in this paragraph.

2. In exercising the authority delegated by this order or redelegated pursuant thereto, officials of the Office of Health shall be governed by the regulations and rulings of the Cost of Living Council and by the policies, procedures, and controls prescribed by the Director of the Cost of Living Council, or his dele-

gate, and by the Administrator, Office of Health.

3. Actions taken by the Director, Operations, Office of Health, under paragraph 1(b) are administratively final. Review of these actions may be sought in the appropriate Federal district court pursuant to section 211 of the Economic Stabilization Act of 1970, as amended (Public Law 92–210, 85 Stat. 744).

4. This order is effective July 31, 1973.

JOHN D. TWINAME,
Administrator, Office of Health, Cost of Living Council.

[FR Doc.73–16625 Filed 8–8–73;8:45 am]

FEDERAL POWER COMMISSION

AMERADA HESS CORPORATION, ET AL.[1]

[RI74–15]

Order To Show Cause

JULY 31, 1973.

On December 21, 1971, this Commission initiated the study and analysis which ultimately led to the issuance of the National Gas Reserves Study (1973) in May of this year by the National Gas Survey.[2a] In that order, we recognized the value of having voluntary cooperation by natural gas companies in the production of proprietary reserve information and, accordingly, provided in paragraph (B):

> Any non-public commercial information concerning an individual natural gas company's reserves obtained during the course of this survey and analysis shall be treated as confidential without public disclosure by the staff of the Commission and its agents, including any accounting firm selected by the Commission to assist in this survey and analysis, unless otherwise directed by the Commission. The provisions of section 8(b) of the Natural Gas Act [15 U.S.C. 717g(b)] and 5 U.S.C. 522(b)(4) and (9) [Freedom of Information Act] shall apply.

In our amending order of March 9, 1972, we reiterated our belief in the need for protecting the confidentiality of this reserve data, specifically noting that "the publicizing of such information would have an inhibiting effect upon future exploration for natural gas reserves since speculators could equally benefit with those companies willing to make geological and geophysical expenditures."[3]

To insure that confidentiality would be maintained in fact, we went further in those orders and established detailed procedures for the compilation and analysis of individual company reserve data. To begin with, industry representatives who provide A.G.A. reserves were to submit those reserves by fields on a confidential basis to an independent accounting agent. A list of all gas fields for which A.G.A. reserve data was submitted was then to be prepared by the accounting agent and forwarded to the Oil Information Center (OIC) of the University of Oklahoma Research Institute. After comparing the accounting agent's field list developed from the A.G.A. records with a list from the United States Government Interagency Oil and Gas Field Study and other government data, the OIC was to compile a complete list of gas fields in the United States with remaining recoverable reserves as of December 31, 1970.

A copy of the OIC gas field identification list and a supplemental list of "A.G.A. omitted fields" was to be forwarded to the accounting agent who, in turn, was to stratify all fields in each A.G.A. subcommittee area by size and age so that a statistically valid sampling procedure could be prescribed. Following the determination by a statistical validation team of the number of fields to be surveyed independently in each A.G.A. subcommittee area, the accounting agent was to make a random selection of the fields to be surveyed.

Upon receiving a list of the fields to be surveyed, independent reserve teams, under supervision by the staff of the Federal Power Commission, were to visit various natural gas companies and examine data relating to each selected field.[3] The companies were requested to furnish the reserve teams with such information as (1) field area maps showing the location and completion of all wells drilled prior to December 31, 1970, (2) electrical well surveys, (3) core analyses, (4) reservoir production histories, (5) specific gravities of gas, (6) formation temperatures, (7) original reservoir pressures, (8) isopach maps, (9) records and backup data on reservoir pressure measurements, and (10) other pertinent data requested by the reserve teams. After analyzing such data, the independent reserve teams were to transmit their estimations on a confidential basis to the reserve team supervisor who, in turn, was to furnish the accounting agent with a final reserve estimate for each field after comparing the reserve team data with A.G.A. reserve estimates or any other source.[4] The worksheets which were prepared by the reserve teams were to be returned to the Commission's offices in Washington and placed in the custody of the Technical Director of the National Gas Survey who was to have the responsibility of protecting their confidentiality.

Once all sampling had been completed and all final estimates submitted, the independent accounting agent was to provide a report to the National Gas Survey on United States gas reserves as of December 31, 1970. When the report was accepted by the National Gas Survey, the accounting agent and the reserve team supervisor were to return all A.G.A. records to the member of the A.G.A. Committee of Natural Gas Reserves assigned to the particular area involved.

All of these procedures have been implemented in the compilation and analysis of the reserves which are reported in the National Gas Reserves Study. We must now address ourselves to the proper disposition of the confidential data now in the possession of the Technical Director of the National Gas Survey who has been directed to retain custody until further order. We are particularly concerned with internal records and worksheets which contain detailed information of each reservoir examined, including the reservoir's (1) principal sellers and operators, (2) size and location, (3) number of productive acres, (4) porosity, (5) initial and current pressures, (6) depth, (7) basic lithology, and (8) remaining recoverable reserves. Furthermore, we must determine whether the National Gas Survey should formally accept the accounting agent's report, thereby permitting the accounting agent and the reserve team supervisor to release all A.G.A. records to an appropriate member of the A.G.A. Committee on Natural Gas Reserves. As we have indicated, the accounting agent has a complete list of A.G.A. individual field reserve estimates, while the reserve team supervisor possesses A.G.A. reserve estimates only as to those selected fields actually surveyed.

At the outset, it should be made clear that this Commission intends to comply to the fullest extent possible with all assurances of confidentiality. However, our discretion may be limited to the demands of certain Congressional committees and subcommittees which are independently investigating the energy crisis.[5] Already, the Chairman of the Commission has been compelled by subpoena duces tecum to furnish uncommitted gas reserve data to the Senate Judiciary Committee's Subcommittee on Antitrust and Monopoly.[6] Under compulsion of process, we authorized the Chairman to comply with the subcommittee's demands, but expressly noted the Constitutional and statutory infirmities inherent in such a procedure:

> * * * [T]he procedural and substantive due process rights of citizens of the United States are placed in jeopardy. The time constraint imposed by the Subcommittee precludes any meaningful notice to those whose property

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[1] See Appendix A.

[2a] Order Directing Study and Analysis of Natural Gas Reserves and Prescribing Procedures for the National Gas Survey (December 21, 1971).

[3] Order Amending Order Prescribing Procedures for the National Gas Survey (March 9, 1972).

[2] Reserves in selected fields lying in the Outer Continental Shelf, offshore Louisiana, were examined and estimated by the United States Geological Survey. The Office of Naval Petroleum and Oil Shale Reserves was also instrumental in the estimation of certain state land field reserves.

[4] A.G.A. reserve estimates for the fields surveyed were made available to Mr. Lawrence R. Mangen, supervisor of the reserve teams.

[5] The staff of the Federal Trade Commission has also expressed an interest in obtaining a portion of the reserve data to be used in conjunction with its investigation styled In the Matter of the American Gas Association, File No. 721 0042.

[6] On June 21, 1973, Senator Philip A. Hart, acting on behalf of the subcommittee, issued a subpoena duces tecum demanding production of virtually all documents whatsoever relating to the updated nationwide investigation in Docket No. R–405.

rights are being affected, and any real opportunity on their part to be heard prior to the entry of this order and prior to the disclosure now demanded by the Subcommittee.[1]

In order to avoid any further encroachment upon the procedural and substantive rights of those whose property is involved without their opportunity to defend such property, we are hereby initiating a proceeding to determine what action, if any, should be taken regarding disclosure of the reserve data upon which the National Gas Reserves Study is based. Specifically, we invite not only the natural gas companies listed in Appendix A, but indeed all interested parties, to show cause why all or a portion of the reserve data in question should either be (1) retained on a confidenital basis, (2) disclosed to the public in general, (3) disclosed only to Congressional committees and subcommittees, without restriction, (4) disclosed only to Congressional committees or subcommittees but subject to confidential treatment, (5) disclosed to other Federal agencies without restriction, or (6) disclosed to other Federal agencies but subject to confidential treatment.

Each party responding to this proceeding should explain in detail the reasons in support of its position. In particular, respondents are requested to comment on the following questions:

1. Would disclosure of the detailed reserve data to the public, other Federal agencies, or any committee or subcommittee of Congress be inimical to competition? If so, to what extent?

2. Would disclosure of the detailed reserve data to the public, other Federal agencies, or any committee or subcommittee of Congress inhibit future exploration and development for new gas reserves?

3. Would disclosure of the detailed reserve data to the public, other Federal agencies, or any committee or subcommittee of Congress cause economic harm to the companies whose reserves are involved?

4. Would disclosure of the detailed reserve data to the public, other Federal agencies, or any committee or subcommittee of Congress place sellers of natural gas in an unfair position to negotiate with potential buyers?

5. Is any of the reserve data underlying the National Gas Reserves Study available from any other source to the public, other Federal agencies, or any committee or subcommittee of Congress? If so, to what extent?

6. Has any natural gas company whose data is involved provided the same or similar information to any other agency or any committee or subcommittee of Congress? If so, under what circumstances?

7. Are there any other public policy reasons why such data should not be disclosed to the public, other Federal agencies, or any committee or subcommittee of Congress?

In the last analysis, it is the desire of this Commission to comply with all lawful requests of Congress without violating either the terms of our orders or the provisions of the Natural Gas Act, and without breaching the trust of those who have relied upon our assurances of confidentiality. Hopefully, through the cooperation of all concerned, a proper balance will be reached between all legitimate areas of public and private concern.

All responses to this order shall be in writing and shall be filed on or before August 15, 1973. Any definitive order hereinafter entered regarding disclosure of the data in question shall be deemed by this Commission to be final and reviewable by a court of competent jurisdiction.

The Commission finds:

It is in the public interest and required by due process that all interested parties, particularly those listed in Appendix A, be given an opportunity to show cause why the gas reserve data compiled and analyzed for the National Gas Reserves Study (1973) should be either retained on a confidential basis, publicly disclosed, disclosed to any committee or subcommittee of Congress without restriction, disclosed to any committee or subcommittee of Congress subject to confidential treatment, disclosed to other Federal agencies without restriction, or disclosed to the Federal agencies subject to confidentiality.

The Commission orders:

(1) All interested parties, particularly those listed in Appendix A, are invited to show cause why the gas reserve data described above should either be retained on a confidential basis, publicly disclosed, disclosed to any committee or subcommittee of Congress without restriction, disclosed to any committee or subcommittee of Congress subject to confidential treatment, disclosed to other Federal agencies without restriction, or disclosed to other Federal agencies subject to confidentiality.

(2) All responses shall be in writing and shall be filed on or before August 15, 1973.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

APPENDIX A

The natural gas companies who should respond to this order are as follows:

Amerada Hess Corporation
Arkansas Louisiana Gas Company
Atlantic Richfield Company
Austral Oil Company, Inc.
Champlin Petroleum Company
Cities Service Company
Continental Oil Company
Consolidated Gas Supply Corporation
El Paso Natural Gas Company
General Crude Oil Company
Getty Oil Company
Gulf Oil Corporation
Exxon Company, U.S.A.
Kentucky-West Virginia Gas Company
Kerr-McGee Corporation
Lone Star Gas Corporation
Marathon Oil Company
Mitchell Energy and Development Corporation
Michigan Wisconsin Pipe Line Company
Mobil Oil Corporation
Montana-Dakota Utilities Company
Murphy Oil Corporation
Natural Gas Pipeline Company of America
Northern Natural Gas Company
Panhandle Eastern Pipe Line Company
Pennzoil United, Inc.
Phillips Petroleum Company
Shell Oil and Gas Company
Signal Oil and Gas Company
Skelly Oil Company
Southern Natural Gas Company
Standard Oil Company of Indiana (Amoco)
Standard Oil Company of California (Chevron)
Sun Oil Company
The Superior Oil Company
Tenneco Inc.
Texaco Inc.
Texas Pacific Oil Company, Inc.
Union Oil Company of California

[FR Doc.73-16438 Filed 8-8-73;8:45 am]

[1] Order of June 22, 1973, in Docket No. R-405; Cf. Accardi v. Shaughnessy, 347 U.S. 260 (1954); Service v. Dulles, 354 U.S. 363 (1957).

FEDERAL RESERVE SYSTEM

ATLANTIC BANCORPORATION

Order Approving Merger of Bank Holding Companies

Atlantic Bancorporation, Jacksonville, Florida ("Atlantic"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(5) of the Act (12 U.S.C. 1842(a)(5)) to merge with Citizens Bancshares of Florida, Inc., Hollywood, Florida ("Citizens"), under the charter and title of Atlantic.

Notice of receipt of the application, affording an 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)).

Atlantic controls 23 banks with aggregate deposits of approximately $856 million representing 4.3 per cent of deposits of commercial banks in Florida, and is the sixth largest banking organization and bank holding company in the State.[1] Citizens controls five banks with total deposits of about $114 million representing 0.6 per cent of aggregate deposits in the State, and is Florida's 23rd largest banking organization and bank holding company. Consummation of the proposed merger would result in Atlantic's control of 4.9 per cent of total State deposits, leaving unchanged its ranking as a banking organization or bank holding company in the State.

All of Atlantic's present subsidiary banks (except for its existing West Palm Beach subsidiary) are located in the northern two-thirds of Florida, and it is represented in several of the major banking markets in that portion of the State.

[1] Banking data are as of December 31, 1972, and reflect bank holding company formations and acquisitions approved by the Board through May 31, 1973.

It is dominant in none. Citizens, on the other hand, is concentrated in southern Florida. Four of its subsidiaries are located in the Greater Miami banking market approximated by Dade County and the southern third of Broward County, where it is the eleventh largest banking organization holding approximately 2 per cent of deposits; its remaining subsidiary, a newly-established bank, is located in the nearby Fort Lauderdale area. Since the closest subsidiary banks of the proponents are over 40 miles apart and the remaining subsidiaries are more than 125 miles apart, consummation of the proposal will not eliminate any significant amount of existing competition.

The Board recognizes that consummation of the proposal would foreclose the possibility that Citizens would expand to become a Statewide competitor of Atlantic. However, considering the financial resources and capital position of Citizens, and the nature of Citizens' ownership, we do not believe that the record in this case reflects a probability that, absent this proposal, Citizens would expand to become a Statewide competitor of Atlantic in the reasonably foreseeable future. In a recent action involving a similar proposal between two bank holding companies, the Board noted that a substantial adverse effect on potential competition occurs only where there is a probability rather than a possibility that substantial competition would develop between the banking organizations involved absent the proposed affiliation.[2]

With respect to the Greater Miami banking market, the Board believes that, absent this proposal, it is probable that Atlantic would enter de novo or through the acquisition of an existing bank in that market. However, due to the structure of banking in that market we do not believe that the foreclosure of Atlantic's entry as an independent competitor would have any substantial adverse effects on competition in that market. Banking in the Miami market is becoming more and more competitive. While the largest banking organization in the market—which is also the largest banking organization in Florida—holds approximately 23 per cent of market deposits, the next ten banking organizations hold market shares ranging from approximately 9 per cent to approximately 2 per cent.

While consummation of the present proposal would eliminate Atlantic as another potential entrant, the retail banking customers in the Greater Miami banking market are presently served by 40 banking organizations. Foreclosure of the possibility of a 41st could hardly have adverse effects on competition for retail business. As to the customer in need of wholesale and regional banking services, the proposal, rather than being anticompetitive, should in fact be procompetitive by creating another institution in the Greater Miami market with already established relationships in other parts of the State and with aggregate resources of nearly $1 billion.

The financial conditions and managerial resources of Atlantic, Citizens, and their respective groups of banks are generally satisfactory and their prospects appear favorable. These considerations are consistent with approval of the application. The primary banking needs of the areas served by both holding companies appear to be adequately met at the present time. However, consummation of the proposal would create another regional organization with resources more appropriate to meeting inter-regional needs. In addition, affiliation with Atlantic will enable customers of Citizens' banks to have immediate access to trust department services, credit cards, and international banking. Considerations relating to the convenience and needs of the communities to be served lend some weight toward approval. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

On the basis of the record,[3] 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 Atlanta pursuant to delegated authority.

By order of the Board of Governors,[4] effective August 1, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-16426 Filed 8-8-73;8:45 am]

CITIZENS BANCSHARES CORPORATION

Order Approving Formation of Bank Holding Company

Citizens Bancshares Corporation, Atlanta, Georgia, 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 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Citizens Trust Company, Atlanta, Georgia ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of shares of 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 nonoperating company with no subsidiaries, was organized for the primary purpose of becoming a bank holding company with respect to Bank. Bank, with deposits of $33 million, controls 0.3 per cent of total State deposits and is the tenth largest banking organization in the Atlanta SMSA. Since the purpose of the proposed transaction is essentially a corporate reorganization to effect holding company ownership of Bank, consummation of the proposal would not adversely affect existing or potential competition. Therefore, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant are dependent upon those of Bank. Bank has recently embarked on a program of reorganization and this structural change would add impetus to the program and would enhance future prospects of Bank. In view of the expected future benefits, banking factors are not inconsistent with approval. Although consummation of the transaction would have no immediate effect on area banking needs, considerations relating to the convenience and needs of the community are consistent with approval of the application. 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 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 Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective August 2, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-16423 Filed 8-8-73;8:45 am]

MID-AMERICA FIDELITY CORP.

Order Approving Formation of Bank Holding Company

Mid-America Fidelity Corporation, Ann Arbor, Michigan, has applied for the

[2] See Application of First Florida Bancorporation, 59 Federal Reserve *Bulletin*, 183, at 184.

[3] Dissenting Statement of Governor Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[4] Voting for this action: Chairman Burns and Governors Daane, Sheehan, Bucher, and Holland. Voting against this action: Governor Brimmer. Absent and not voting: Governor Mitchell.

[1] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governors Daane and Holland.

Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)) of formation of a bank holding company through acquisition of 100 per cent of the voting shares of the successor by merger to Ann Arbor Bank, Ann Arbor, Michigan ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of 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 in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a corporation organized in June 1971 at the direction of Bank's management for the purpose of acquiring Bank, which has aggregate deposits of $173.6 million. (All banking data are as of December 31, 1972.) The transaction is merely a reorganization whereby the shareholders who control Bank directly at the present time will control Bank indirectly through Applicant. Since Applicant engages in no business activities and has no subsidiaries, it is concluded that consummation of the proposal would not significantly affect existing or potential competition, increase concentration of banking resources, nor have an adverse effect on other banks, in the relevant area.

The management of Applicant is essentially the same as that of Bank, and the financial condition of Applicant and its future prospects are dependent on those same conditions in Bank. The management of Bank is considered to be satisfactory, and its financial condition is deemed to be generally satisfactory in view of Applicant's commitment to inject additional equity capital into Bank within the near future and to institute a more aggressive earnings policy; therefore, future prospects for Applicant and Bank are favorable. The consummation of this proposed formation is not expected to provide any immediate benefits to the community, but the expanded and improved services which can be offered under the holding company structure would ultimately benefit the public; therefore, considerations relating to the convenience and needs of the community to be served are consistent with, and lend some weight toward, approval of the application. It is the Board's judgment that the 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 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 Chicago pursuant to delegated authority.

By order of the Board of Governors,[2] effective August 2, 1973.

[SEAL] CHESTER B. FELDBERG, *Secretary of the Board.*

[FR Doc.73-16424 Filed 8-8-73;8:45 am]

THIRD NATIONAL CORP.

Order Approving Acquisition of Bank

Third National Corporation, Nashville, Tennessee, 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 all of the voting shares of the successor by merger to The Union Bank, Pulaski, Tennessee ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of 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 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, the fourth largest bank holding company in Tennesee, controls four banks with aggregate deposits of approximately $785 million,[1] representing 7.6 per cent of the total commercial bank deposits in the State. Acquisition of Bank would increase Applicant's share of State deposits by 0.3 per cent and would not result in a significant increase in the concentration of banking resources in the State.

Bank (approximately $26 million in deposits) is the second largest of four banks in the Giles County banking market and controls 40 per cent of the deposits in commercial banks in the market. Consummation of the proposal herein would constitute the initial entry into the Giles County banking market by any bank holding company.

Applicant's subsidiary bank closest to Bank is located 18 miles away, in Lawrence County. There is no meaningful present competition between Applicant's subsidiary banks and Bank. Furthermore, in view of Tennessee's restrictive branching law, there is little likelihood of any significant amount of competition developing in the future between these institutions. De novo entry into the market does not appear attractive due to the decline in county population from 1960 to 1970, as well as the low ratio of population to banking offices in the county. The Board concludes, therefore, that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Bank, and of Applicant and its present subsidiary banks, are regarded as generally satisfactory. Considerations relating to the banking factors are consistent with approval of the application. Affiliation with Applicant is likely to provide Bank with a source of experienced personnel and additional capital, and result in expansion of the range of services presently offered by Bank. Considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. 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 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 Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2] effective August 2, 1973.

[SEAL] CHESTER B. FELDBERG, *Secretary of the Board.*

[FR Doc.73-16425 Filed 8-8-73;8:45 am]

NORTHWEST BANCORPORATION

Order Approving Acquisition of Banks

Northwest Bancorporation, Minneapolis, Minnesota, 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 90 percent or more of the voting shares of Bettendorf Bank and Trust Company, Bettendorf, Iowa ("Bettendorf Bank"), and Security State Bank, Keokuk, Iowa ("Keokuk Bank").

Notice of the applications, 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 all those received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)). Among the comments and objections was a request for a hearing. The Board decided to proceed on the basis of written submissions and denied the request for a hearing.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Sheehan and Bucher. Absent and not voting: Governors Daane and Holland.

[1] All banking data are as of December 31, 1972, and reflect holding company formations and acquisitions approved through June 30, 1973.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Governors Daane and Holland.

Although each of the applications has been separately considered by the Board, because of the facts and circumstances common to these applications, this Order contains the Board's findings and conclusions with respect to both applications.

Applicant controls 79 banks located variously in Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wisconsin. Within Iowa, Northwest controls four banks with aggregate deposits of $480 million, representing 6.3 per cent of the total commercial bank deposits in that State.[1] Applicant is the largest banking organization and bank holding company in Iowa; acquisition of Bettendorf Bank ($26 million in deposits) and Keokuk Bank ($13 million in deposits), would increase its share of Statewide deposits by only one-half of a percentage point. Approval of the proposed acquisitions would not result in any significant increase in the concentration of banking resources in Iowa.

Bettendorf Bank is the fourth largest of six banks competing in the Davenport-Bettendorf urban area, the relevant banking market, with 8.1 per cent of total market deposits.[2] The Davenport-Bettendorf market is dominated by the Davenport Bank and Trust Company, which controls nearly 58 per cent of market deposits, more than four times the share of the next largest bank. Affiliation with Applicant would enable Bettendorf Bank to provide greater competition to Davenport Bank. The acquisition should enable Applicant to challenge effectively the dominant bank much sooner than it could by a de novo entry.

Keokuk Bank is also the fourth largest banking organization in its market[3] where it competes with 14 banking organizations, and holds 8.6 per cent of market deposits. Keokuk Bank and State Central Savings Bank of Keokuk, the latter being the largest bank in the market, are controlled by the same group. Thus, acquisition of Keokuk Bank would tend to have a procompetitive effect in the relevant market by severing the present affiliation between two of the largest banks in Keokuk with the resulting creation, reasonably anticipated, of an additional banking alternative for area residents.

The proposed acquisitions represent Applicant's initial entries into these markets and offer no apparent anticompetitive consequences. In each instance no existing competition would be eliminated as the nearest present banking subsidiary of Applicant (the Iowa-Des Moines National Bank at Des Moines, Iowa) is situated about 160 miles west of Bettendorf and 170 miles northwest of Keokuk.[4]

There is no significant existing competition between Applicant's mortgage banking subsidiary, Iowa Securities Company, and Bettendorf Bank or Keokuk Bank. There appears to be little likelihood for the development of any significant amount of future competition between Applicant and banks in view of the distances separating them from Applicant's present and proposed subsidiaries, the presence of numerous intervening banks, and Iowa's restrictive branching laws. Although Applicant could enter either market *de novo*, or through the acquisition of a smaller bank, in neither instance is Applicant's acquisition regarded as having a substantially adverse effect on potential competition. While the areas do not appear attractive to *de novo* entry, the possibilities of other holding companies entering the market would not be precluded by the acquisitions. Size disparity among the top banks in Keokuk Bank's market is narrow enough so that Applicant's acquisition there would not give Applicant a dominant share of the market's banking resources. With respect to the Bettendorf-Davenport area, Davenport Bank and Trust Company is clearly the dominant institution and entry by Applicant will have a procompetitive effect.

The Board concludes, therefore, that competitive considerations are consistent with approval of the applications.

The financial and managerial resources and prospects of Applicant and its subsidiary banks are satisfactory; and Applicant has entered into a capital improvement program with respect to certain subsidiary banks. It is expected that Bettendorf Bank's affiliation with Applicant will strengthen that bank's financial and managerial resources, in view of Applicant's commitment to provide $600,000 in equity capital to bank within six months following acquisition. In view of the anticipated growth of the Bettendorf area, future prospects are satisfactory. With respect to Keokuk Bank, the managerial resources and financial condition and future prospects are satisfactory. Thus, considerations relating to the banking factors lend some weight to approval with respect to Bettendorf Bank, and are consistent with approval with respect to Keokuk Bank.

There is no evidence in the record that the banking needs of the relevant areas are not being adequately served by existing banking organizations. Affiliation with Applicant should enable Bettendorf Bank to compete more aggressively with the dominant bank in its market in light of the facts that Applicant proposes to open an additional office; renovate an existing office; augment Bettendorf Bank's ability to provide real estate mortgage financing; improve Bettendorf Bank's parking facilities; and provide whatever assistance is required to enable Bettendorf Bank to challenge successfully the dominant bank in the market. Keokuk Bank has low loan to asset and loan to deposit ratios. Also, it directs a considerably lower proportion of its total loans to consumer borrwers than do other Keokuk banks. It is anticipated that affiliation with Applicant will result in a greater emphasis on consumer instalment loans and residential mortgages. Both banks will benefit from access to the full range of services now available to other subsidiary banks of Applicant including, advisory services in the areas of accounting, audit, operations systems, taxes, market analysis, investment portfolio assistance, and credit overline handling. Considerations relating to the convenience and needs of the communities to be served, therefore, lend weight to approval. It is the Board's judgment that the proposed acquisitions would be in the public interest and that the applications should be approved.

The Board is also required to consider, whether either proposal would be prohibited by State law. If the proposal would be so prohibited, the Board may not approve it.[5] Section 3(d) of the Bank Holding Company Act (12 U.S.C. 1842 (d)) prohibits bank holding companies from acquiring banks in States outside their principal State of business unless the statute laws of the State in which such bank is located specifically authorizes such acquisition by language to that effect and not merely by implication. These applications involve the first State statute enacted to allow an out-of-State bank holding company to acquire a controlling interest in a bank in that State. The relevant State statute, section 524.1805 of the Iowa Code, provides that a foreign-based bank holding company could acquire a controlling interest in an Iowa bank if "* * * such bank holding company was on January 1, 1971, registered with the federal reserve board as a bank holding company, and on that date owned at least two banks in this state." Applicant is the only bank holding company capable of qualifying under section 524.1805 of the Iowa Code.

Objectors' principal arguments are: Firstly, as Applicant is the only out-of-State bank holding company able to expand in Iowa, section 524.1805 of the Iowa Code constitutes a denial of the equal protection of the laws and due process provisions of the Fourteenth Amendment to the United States Constitution and also a violation of the Iowa Constitution; secondly, in enacting the Bank Holding Company Act and its Amendments, Congress did not intend to allow State legislatures to choose selectively which out-of-State bank holding

[1] All banking data are as of June 30, 1972, and reflect bank holding company formations and acquisitions approved by the Board through May 31, 1973.

[2] Davenport-Bettendorf area makes up the western half of the Davenport-Moline-Rock Island SMSA.

[3] Approximated by the southern half of Lee County, Iowa, the eastern half of Clark County, Missouri, and most of the western half of Hancock County, Illinois.

[4] Applicant has pending before the Board an application to acquire The First National Bank of Dubuque, Iowa, which is about 80 miles north of Bettendorf and 200 miles northeast of Des Moines.

[5] *Whitney National Bank in Jefferson Parish v. Bank of New Orleans & Trust Co.*, 379 U.S. 411 (1965).

company could enter the State; and finally, the proposed acquisitions would have an adverse effect on Iowa banking structure.

As required by *Whitney*, the Board considers the applicability and effect of State legislation, but the constitutional validity thereof is presumed;[6] and objectors' challenges to the constitutionality of the recently-enacted Iowa legislation in this matter are properly cognizable only by the judiciary. There is no dispute that the State legislature's intent was to enable Northwest Bancorporation to expand in Iowa by the acquisition of additional banks and the provisions of the Iowa statute accomplished that purpose.

With respect to objectors' second principal argument, section 7 of the Act (12 U.S.C. 1846) expressly reserves to the States the authority to adopt legislation in the exercise of their powers and jurisdiction with respect to banks, bank holding companies, and their subsidiaries. The U.S. Supreme Court in Whitney expressly instructed the Board to consider the applicability and effect of any such legislation. Thus, as the Board has previously indicated,[7] "irrespective of any doubt the Board may entertain as to the wisdom or desirability of a particular State enactment, the Board must, and will, respect, and act in the light of, pertinent State legislative judgments."

Finally, objectors contend that the proposed acquisitions would have an adverse effect on Iowa banking. The Board notes that effective July 1, 1972, the Iowa Code was revised to prohibit acquisition of ownership or control of any bank by a bank holding company if as a result the banks owned or controlled by the holding company would have in the aggregate more than 8 per cent of the total time and demand deposits of all banks in the State.[8] The effect of this provision is to preserve the existing deconcentrated nature of Iowa banking. As of June 30, 1972, the four largest banking organizations and bank holding companies in Iowa controlled 17.8 per cent of Statewide deposits; the ten largest banking organizations held 23.9 per cent of deposits. The Board regards section 524.1802 of the Iowa Code as insuring that no bank holding company is able to expand by acquisition to such a degree that it can dominate Iowa banking. The 8 per cent ceiling imposes an effective limitation on future acquisitions by Northwest Bancorporation in Iowa since it would hold 6.84 per cent of Statewide deposits after these acquisitions.

Based upon the record, the applications are approved. The transactions 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 Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[9] effective August 2, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-16427 Filed 8-8-73;8:45 am]

[6] See Statement accompanying the Board's Order of March 9, 1973, approving to the extent permitted by State law, the proposal of NCNB Corporation, Charlotte, North Carolina, to operate a trust company in South Carolina (59 Federal Reserve Bulletin 305); and Board Order of April 26, 1973, denying proposal by Bankers Trust New York Corporation, New York, New York, to engage indirectly de novo in the performance of certain investment advisory activities (59 Federal Reserve Bulletin 364).

[7] Ibid, Bankers Trust Order of April 26, 1973, at 366.

[8] Section 524.1802 of the Iowa Code.

[9] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Daane.

JACOB SCHMIDT CO.

Proposed Acquisition of Lake City Agency, Inc.

Jacob Schmidt Company, St. Paul, Minnesota, 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 indirectly, through its subsidiary, American Bancorporation, Inc., St. Paul, Minnesota, voting shares of Lake City Agency, Inc., Lake City, Minnesota. Notice of the application was published on June 7, 1973 in The Lake City Graphic, a newspaper circulated in Lake City, Minnesota.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency in a community of less than 5,000 persons. Such activities have been specified by the Board in § 225.4(a)(9) 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, 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 Chicago.

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 August 30, 1973.

Board of Governors of the Federal Reserve System, August 3, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-16466 Filed 8-8-73;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

AMHERST COAL CO., ET AL.

Applications for Renewal Permits; Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (2.0 mg/m³) have been received as follows:

(1) ICP Docket No. 20281, AMHERST COAL COMPANY, Lundale No. 2 Mine USBM ID No. 46 01366 0, Lundale, West Virginia,
Section ID No. 008-0 (Road 294),
Section ID No. 009-0 (Road 332),
Section ID No. 010-0 (Road 343).

(2) ICP Docket No. 20355, SMITH-BAKER COAL COMPANY, No. 11 Mine, USBM ID No. 44 00947 0, Hurley, Virginia,
Section ID No. 001 (2 Left off 1 Main).

(3) ICP Docket No. 20449, THE BUCKEYE COAL COMPANY, Nemacolin Mine, USBM ID No. 36 00904 0, Nemacolin, Pennsylvania,
Section ID No. 012 (10 Right),
Section ID No. 017 (2 Road),
Section ID No. 019 (Cumberland Mains—3 Right),
Section ID No. 021 (Cumberland Mains—4 Right),
Section ID No. 020 (844 Road),
Section ID No. 022 (7 South).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

AUGUST 6, 1973.

[FR Doc.73-16492 Filed 8-8-73;8:45 am]

NATIONAL ADVISORY COUNCIL ON SUPPLEMENTARY CENTERS AND SERVICES

NATIONAL ADVISORY COUNCIL ON SUPPLEMENTARY CENTERS AND SERVICES

Notice of Meeting

Notice is hereby given, pursuant to Public Law 92–463, that the next meeting of the National Advisory Council on Supplementary Centers and Services will be held on September 8 and 9, 1973, from 1:00–5:00 p.m. on Saturday and Sunday, at the Far View Lodge in Mesa Verde National Park near Durango, Colorado.

The National Advisory Council on Supplementary Centers and Services is established under section 309 of Public Law 91–230. The Council is directed to:

(1) Review the administration of, general regulations for, and operation of this title, including its effectiveness in meeting the purposes set forth in section 303;
(2) Review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to section 305(a)(2)(E);
(3) Evaluate programs and projects carried out under this title and disseminate the results thereof; and
(4) Make recommendations for the improvement of this title, and its administration and operation.

Agenda items for the meeting will include a review and discussion of:

(1) The national Identification/Validation/Dissemination (IVD) effort being sponsored by the U.S. Office of Education in cooperation with the States. Reports will be given by: Mr. Fred Sughrue, Title III Coordinator, Arizona; Mr. Emory Lockette, Title III Advisory Council Chairman, Nevada; and Dr. Luther Kiser, Project Director, Ames, Iowa.
(2) Legislation affecting Title III of the Elementary and Secondary Education Act and testimony to be presented before the Senate Subcommittee on Education.
(3) The annual report to the U.S. Commissioner of Education, the Congress, and the President.
(4) Topics for future ESEA Title III Quarterlies published by the Council.
(5) Future staff needs of the Council.
(6) Results of a questionnaire on Council publications.

The meeting of the Committee shall be open to the public. Records shall be kept of all Council proceedings (and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 714, 2130 H Street, NW., Washington, D.C.).

Signed at Washington, D.C., on August 1, 1973.

GERALD J. KLUEMPKE,
Executive Director.

[FR Doc.73–16477 Filed 8–8–73;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 73–59]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL

Agenda and Notice of Meeting

The NASA Research and Technology Advisory Council will meet on August 16 and 17, 1973, at Headquarters, National Aeronautics and Space Administration. The meeting will be held in Room 625, Federal Office Building 10B, on August 16, and in Room 7002, Federal Office Building 6, on August 17. The meeting is open to the public with the exception of the closed sessions: (1) August 16, 8:30–10:00 a.m., (2) August 16, 10:00–11:00 a.m., (3) August 16, 11:00–11:30 p.m., (4) August 17, 1:00–2:00 p.m. The seating capacity of the rooms is about 40 persons, including Council members and other participants.

The NASA Research and Technology Advisory Council was established to advise NASA's senior management in the area of aeronautics and space research and technology. The Council studies issues, pinpoints critical problems, determines gaps in needed technology, points out desirable goals and objectives; summarizes the state-of-the-art, assesses on-going work, and makes recommendations to help NASA plan and carry out a program of greatest benefit to the Nation. The current Chairman is Mr. Richard E. Horner. There are 15 members on the Council itself and additional members on 8 committees which report to the Council.

The following list sets forth the approved agenda and schedule for the meeting. For further information, please contact the Executive Secretary, Mr. Fred W. Bowen, Jr., Area Code 202, 755–2494.

August 16, 1973, Room 625, Federal Office Building 10B, 600 Independence Avenue, SW., Washington, DC

TOPIC

Time. 8:30 a.m. OAST Overview and Status (Closed Session)—To brief the Council on personnel changes and resulting implications, technical and funding status of selected technology programs within the Office of Aeronautics and Space Technology, and joint programs with the military. This will include discussions of classified information related to military aeronautics programs and preliminary NASA funding plans based on probable Fiscal Year 1974 Congressional appropriation levels.

10:00 a.m. Discussion of Research and Technology Advisory Council Organizational Structure in View of NASA Needs (Closed Session) — The Council organizational structure will be discussed to further assess its relation to NASA program requirements. Recommendations will be made to make some changes in both organization and personnel.

11:00 a.m. DOD/NASA Aeronautical Research and Development Study (Closed Session)—To review the scope, content, and planned utilization of the in-house classified study which includes fighter aircraft.

11:30 a.m. High Efficiency/Low Pollution Aircraft Engines—To review the NASA program on future aircraft engines as it relates to recent Environmental Protection Agency Aircraft Emission Standards and related low pollution applications.

12:00 Recent Aircraft Emissions Standards and Potential Requirements for Lower Aircraft Noise Levels—To inform the Council of the most recent regulatory actions or potential actions that will affect NASA technology programs.

1:30 p.m. President's Proposed Energy Reorganization—To inform the Council of the President's proposed energy reorganization designed to assure that the United States is able to meet the growing energy requirements.

2:00 p.m. Status Report on Skylab and Space Shuttle—The Council will be briefed on Skylab and the space shuttle to inform them of the latest accomplishments, plans, and activities so that the Council can relate this to space technology needs.

3:00 p.m. Selection of NASA Investigations—The Council will review a recent draft report which pertains to NASA's method of selection of proposals for space flight investigations.

3:30 p.m. Committee Reports—Reports will be made by Committee Chairmen of the Aeronautics Committee; Aeronautical Propulsion Committee; and Materials & Structures Committee for Council's use in guiding Committee activities and topics of study. These will include major accomplishments, problems, and recommendations to the Council.

August 17, 1973, Room 7002, Federal Office Building 6, 400 Maryland Avenue, SW., Washington, D.C.

Time. 8:30 a.m. Committee Reports (continued)—Reports will be made by the Committee Chairmen of the Guidance & Control Committee; Research Committee; Space Vehicles Committee; Space Propulsion & Power Committee; Aeronautical Operating Systems Committee; Ad Hoc Panel on High Power Lasers; and Joint Ad Hoc Panel on Aerospace Vehicle Dynamics and Control. These will include major accomplishments, problems, and recommendations to the Council.

1:00 p.m. Executive Session (Closed to the Public)—To discuss Council recommendations with the NASA Administrator in light of present funding changes and future funding levels, changes in Council structure and personnel, and joint NASA/military programs which include classified and unclassified subjects, especially in the case of fighter aircraft technology.

2:00 p.m. Adjourn.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics & Space Administration.

AUGUST 3, 1973.

[FR Doc.73–16495 Filed 8–8–73;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

NATIONAL CREDIT UNION BOARD

Notice of Meeting and Agenda

Pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 86 Stat. 770, notice is hereby given that the National Credit Union Board will hold its quarterly meeting on September 13–14, 1973, at the offices of the National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456. The meetings will commence at 9 a.m. daily in Room 4210.

The agenda for this meeting will consist of an update briefing regarding the activities of the several offices of the National Credit Union Administration, a briefing on the progress of the Administration's library project, a briefing on share insurance activities, a briefing on two-year insured Federal credit unions, and other aspects of the Administration. Matters for discussion will include

revisions of manuals published by the Administration and legislative activities.

This meeting of the National Credit Union Board will be open to the public. Members of the public may file written statements with the Board either before or after the meeting. To the extent that time permits, interested persons may be permitted to present oral statements to the Board only on items listed in the aforementioned agenda. Requests to present such oral statements must be approved in advance by the Chairman of the Board. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456.

HERMAN NICKERSON, Jr.,
Administrator.

AUGUST 3, 1973.

[FR Doc.73-16441 Filed 8-8-73;8:45 am]

NATIONAL ENDOWMENT FOR THE HUMANITIES

SENIOR FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Senior Fellowships Panel will take place in Washington, D.C. on August 15, 1973.

The purpose of the meeting is to review Senior Fellowship applications submitted to the Endowment for individual fellowship grants.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.73-16436 Filed 8-8-73;8:45 am]

SENIOR FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1973.

Pursuant to Public Law 92-436, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Senior Fellowships Panel will take place in Boston, Massachusetts on August 13, 1973.

The purpose of the meeting is to review Senior Fellowship applications in the field of philosophy and religion submitted to the Endowment for individual fellowship grants.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.73-16435 Filed 8-8-73;8:45 am]

SENIOR FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 2, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Senior Fellowships Panel will take place in Chicago, Illinois on August 13, 1973.

The purpose of the meeting is to review Senior Fellowship applications submitted to the Endowment for individual fellowship grants.

Based on section b(4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.73-16437 Filed 8-8-73;8:45 am]

SENIOR FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Senior Fellowships Panel will take place in Washington, D.C. on August 18, 1973.

The purpose of the meeting is to review Senior Fellowship applications submitted to the Endowment for individual fellowship grants in the field of American literature and drama.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call Area Code 202—382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.73-16434 Filed 8-8-73;8:45 am]

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

BYLAWS

Establishment, Purposes and Procedures

The bylaws of the Pennsylvania Avenue Development Corporation, adopted June 7, 1973, are as follows:

TITLE

1. The name of the Corporation is the Pennsylvania Avenue Development Corporation.

PURPOSE

2. The basic purposes of the Corporation are those defined and promulgated by Congress in the Act of October 27, 1972, Public Law 92-578 (86 Stat. 1266).

OFFICE

3. The principal office of the Corporation shall be in the City of Washington, District of Columbia.

SEAL

4. The Corporate Seal shall be circular in form with the name of the Corporation and the year of incorporation printed upon it. The seal may be used by causing it or a facsimile thereof to be impressed, affixed, or reproduced.

DIRECTORS

5. There shall be fifteen voting members on the Board of Directors. Seven of whom shall be the Government representatives, or their alternates, designated by Public Law 92-578; and eight of whom are appointed by the President of the United States.

6. Each member of the Board appointed by the President shall serve a term of six years from the expiration of his predecessor's term, except that any Director appointed to fill a vacancy shall serve the remainder of such term. The terms of the Directors first taking office shall begin on October 27, 1972, and shall expire as designated at the time of appointment.

7. There shall be a Chairman and a Vice Chairman designated by the President from among the members of the Board.

8. The powers and management of the Corporation shall be vested in the Board of Directors and shall be exercised by the Board except as hereinafter specifically delegated by them to the Officers of the Corporation.

MEETINGS OF THE BOARD

9. Regular meetings of the Board shall be held whenever necessary at the principal office of the Corporation, or at a place designated in the notice thereof. The Board shall meet at the call of the Chairman, who shall require it to meet not less often than once each three months. Notice of the meetings shall be provided in the same manner as is specified for special meetings.

10. Special meetings of the Board may be called at any time by the Chairman or the Vice Chairman, and shall be called by the Chairman or the Vice Chairman at the written request of any five Directors. Notice of special meetings shall be given either personally or by mail, or by telegram, and shall state the time and the place of the meeting. Notice by telephone shall be personal notice. Any Director may waive in writing such notice as to himself, whether before or after the time of the meeting, and the presence of a Director at any meeting shall constitute a waiver of notice of such meeting. Any and all business of the Corporation may be transacted at any special meeting unless otherwise indicated in the notice thereof.

11. The Chairman shall preside at all meetings of the Board, or the Vice Chairman in the absence of the Chairman. In the event of the absence of both the Chairman and the Vice Chairman, the Directors present at the meeting shall designate a Presiding Officer.

12. At any meeting of the Board, a quorum shall consist of eight Directors. The act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board.

13. The Chairman shall invite to serve on the Board of Directors the nonvoting members designated in section 3(g) of Public Law 92-578. The nonvoting members shall be invited to attend all meetings of the Board, but their presence shall not affect the determination of a quorum.

14. The Chairman shall invite the nonvoting Advisory Board of seven tenants and owners from within the development area to meet with the Board at such times as he deems to be desirable, but not less than twice annually during the preparation of the development plan.

OFFICERS

15. The Chairman of the Board shall be the President and chief executive officer of the Corporation and shall have the general powers and duties of supervision and management usually vested in the office of president of a corporation. The President shall see that all orders and resolutions of the Board are carried into effect, and shall have power to execute contracts, leases, agreements, and other documents necessary for the conduct of the Corporation's business.

16. The Board of Directors shall appoint an Executive Director and two Assistant Directors, who may be appointed and compensated without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service and chapter 51 and subchapter 53 of title 5 of the United States Code.

17. The Executive Director shall serve as the chief of the staff of the Corporation. He shall direct and coordinate the design and planning work and maintain liaison with the President and the Board of Directors of the Corporation. He shall direct the preparation and edit the final working draft of the development plan required by Public Law 92-578, and submit it to the President for presentation to the Board; and shall prepare, or cause to be prepared, such additions and changes to the plan as the Board may direct. With the approval of the President, he shall hire the staff of the Corporation; prepare, or cause to be prepared, and execute contracts, agreements, and other documents necessary for the conduct of the Corporation's business; obtain interagency and other support services; and supervise the Corporation's budget. He shall also perform such other duties and exercise such powers as the President and the Board may prescribe.

18. The Assistant Director—Finance and Economics shall, under the direction of the President and the Executive Director, prepare the contracts for and coordinate the work of economic and financial consultants; himself prepare such economic and financial proposals, studies, plans, and agreements as are appropriate; and shall advise the other Officers and the Board of economic and financial matters. He shall act as the Treasurer of the Corporation, and shall have charge of the custody, safekeeping and disbursement of all funds of the Corporation; designate qualified persons to authorize disbursements of corporate funds; be responsible for documents relating to the general financing operations of the Corporation, including borrowings from the United States Treasury, commercial banks and others; have authority to collect all monies due the Corporation, to receipt therefor and to deposit same for the account of the Corporation; and shall perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed by the President or the Board.

19. The Assistant Director—Legal shall transact or supervise the transaction of all legal business of the Corporation. He shall advise the other Officers and the Board with respect to all matters of a legal nature, and shall perform such other duties as the President or the Board prescribes.

20. The President shall designate a member of the staff to act as Secretary. The Secretary shall attend all meetings of the Board and record the minutes of such meetings; give, or cause to be given, notice of all meetings; keep in safe custody the seal of the Corporation, and shall affix the same to any instrument requiring it. When so affixed, the seal shall be attested by the signature of the Secretary. The Secretary shall perform such other duties as may be prescribed by the President or the Board.

CONTRACTS

21. Contracts to which the Corporation is a party shall be subject to the applicable provisions of the Federal Procurement Regulations (Chapter 1, title 41 of the Code of Federal Regulations).

22. Pursuant to an interagency agreement, the General Services Administration Board of Contract Appeals shall hear appeals from the final decisions of the Corporation's contracting officers issued in accordance with the disputes clause to be included in contracts entered into by the Corporation.

ANNUAL REPORT

23. The Executive Director shall prepare annually a comprehensive and detailed report of the Corporation's operations, activities, and accomplishments for the review of the Board of Directors. Upon approval by the Board, the Chairman shall transmit such report in January of each year to the President of the United States and to the Congress.

AMENDMENTS

24. These bylaws may be altered, amended, or repealed by the Board of Directors at any regular or special meeting of the Board, if notice of the proposed alteration, amendment, or repeal is contained in the notice of such special meeting.

By the Board of Directors.

ELWOOD R. QUESADA,
Chairman.

AUGUST 2, 1973.

[FR Doc.73-16446 Filed 8-8-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5369]

AMERICAN NATURAL GAS CO. AND MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Proposed Issue and Sale of Commercial Paper to a Dealer and/or Short-Term Notes to Banks

Notice is hereby given that Michigan Wisconsin Pipe Line Company ("Michigan Wisconsin"), One Woodward Avenue Detroit Michigan 48226 a pipe line subsidiary company of American Natural Gas Company ("American"), 30 Rockefeller Plaza, Suite 4545 New York, New York 10020 a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rules 50(a)(2) and 70(b)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Michigan Wisconsin proposes to issue and sell from time to time to August 30, 1974, up to a maximum of $75,000,000 on its promissory notes ("Notes"). Accordingly, Michigan Wisconsin has arranged lines of credit with eight commercial banks providing for the borrowing of up to $75,000,000 on its Notes maturing August 30, 1974. The banks and their respective commitments are as follows:

Name of Bank	*Amount of Commitment*
First National City Bank, New York, New York	$18,500,000
Manufacturers Hanover Trust Company, New York, New York	18,500,000
National Bank of Detroit, Detroit, Michigan	10,500,000
The Detroit Bank & Trust Company, Detroit, Michigan	9,800,000
Manufacturers National Bank of Detroit, Detroit, Michigan	7,000,000
First Wisconsin National Bank of Milwaukee, Milwaukee, Wisconsin	4,500,000
M & I Marshall & Ilsley Bank, Milwaukee, Wisconsin	4,200,000
Marine National Exchange Bank, Milwaukee, Wisconsin	2,000,000
	$75,000,000

Each Note will be dated as of the date of issuance, will mature August 30, 1974, and will bear interest at the prime rate in effect at the lending bank on the date

of each borrowing, which interest rate will be adjusted to the prime rate effective with any change in said rate. Interest shall be payable at the end of each 90-day period subsequent to the date of borrowing and at maturity. There is no commitment fee, closing or other related charges payable to the banks, and the notes may be prepaid at any time without penalty. In connection with the lines of credit, Michigan Wisconsin is required to maintain compensating balances with the banks, the effect of which is to increase the effective interest cost by approximately one and one half (1½) percent above the prevailing prime rate of 8¾ percent.

Michigan Wisconsin also proposes, in lieu of the issuance and sale of its Notes to the above listed banks, to issue and sell from time to time up to August 30, 1974, commercial paper, to the extent funds are available, up to a maximum of $50,000,000 outstanding at any one time to Goldman, Sachs & Co., New York, New York, a dealer in commercial paper. The commercial paper will have varying maturities of not more than 270 days after the date of issue and will be issued and sold in varying denominations of not less than $50,000 and not more than $2,000,000 directly to Goldman, Sachs & Co. at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and like maturities. Michigan Wisconsin proposes to sell commercial paper only so long as the discount rate or the effective interest cost for such commercial paper does not exceed the equivalent cost of borrowings from commercial banks (after taking into consideration compensating balances) on the date of sale, except for commercial paper of maturity not exceeding 90 days issued to refund outstanding commercial paper, if in the judgment of Michigan Wisconsin, it would be impractical to borrow from commercial banks to refund such outstanding commercial paper.

Goldman, Sachs & Co., as principal, will reoffer such notes at a discount not to exceed ⅛ of 1 percent per annum less than the prevailing discount rate to Michigan Wisconsin. Such notes will be reoffered to not more than 200 identified and designated customers in a list (non-public) prepared in advance by Goldman, Sachs & Co. and no additions will be made to the customer lists without approval of the Securities and Exchange Commission. It is anticipated that the commercial paper will be held by customers to maturity; however, if any commercial paper is repurchased by Goldman, Sachs & Co., such paper will be reoffered to others in the group of 200 customers. No commission or fee will be payable by Michigan Wisconsin in connection with the issue and sale of such commercial paper notes.

Michigan Wisconsin has been authorized to issue and sell $50,000,000 principal amount of first mortgage pipe line bonds and 400,000 shares of its $100 par value per share common stock $40,000,000 pursuant to Commission Order of August 31, 1973, (Holding Company Act Release No. 18046). Funds provided by these sources and by the $75,000,000 of borrowings for which authorization is hereby requested will be used by Michigan Wisconsin for advance payments relating to gas purchases, to finance its 1973 construction program (estimated to cost $100,400,000), and to pay any borrowings incurred for either of these purposes in July and August, 1973 under the Company's existing $75,000,000 line of credit (Holding Company Act Release No. 17679, dated August 28, 1972) or other short-term borrowings. Existing commitments for additional advance payments made in 1973 total $13,400,000; however, these commitments do not include any amounts covered by the negotiations described above. It is anticipated that funds required to retire the Notes and commercial paper will ultimately be obtained from additional long-term financing and funds generated internally.

Applicant-declarant states that the fees and expenses incident to the proposed transactions are estimated to be $3,000, which includes $500 for legal services. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than August 28, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the 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 filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulation promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16459 Filed 8-8-73;8:45 am]

[File No. 500-1]

COASTAL STATES GAS CORP.

Order Suspending Trading

AUGUST 3, 1973.

The common stock, $.33⅓ par value; $1.19 cumulative convertible preferred Series A, $.33⅓ par value; and $1.83 cumulative convertible preferred Series B, $.33⅓ par value of Coastal States Gas Corporation being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Coastal States Gas Corporation being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from August 4, 1973, through August 13, 1973.

By the Commission.

RONALD F. HUNT, *Secretary.*

[FR Doc.73-16455 Filed 8-8-73;8:45 am]

[File No. 500-1]

DIAPULSE CORPORATION OF AMERICA

Order Suspending Trading

AUGUST 3, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value, and all other securities of Diapulse Corporation of America being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11 a.m. (e.d.t.) on August 3, 1973, and continuing through August 12, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16449 Filed 8-8-73;8:45 am]

[812-3411]

DREXEL BOND-DEBENTURE TRADING FUND

Notice of Filing of Application

Notice is hereby given that Drexel Bond-Debenture Trading Fund ("Appli-

cant"), 1500 Walnut Street, Philadelphia, Pennsylvania 19101 has filed an application to amend an order entered by the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") granting a temporary exemption from the provisions of section 15(a) of the Act. Applicant is a closed-end diversified management company which is registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations, which are summarized below.

Applicant was a party to an Investment Advisory Contract (the "Advisory Contract") with Drexel Funds Management Company (the "Adviser") and the Adviser was a party to an Information and Services Agreement (the "Information Agreement") with Drexel Firestone, Incorporated ("Drexel Firestone"), formerly the sole shareholder of the Adviser. On March 16, 1973, Drexel Firestone transferred substantially all of its assets to Burnham & Company Inc. ("Burnham"), whose name was changed to Drexel Burnham & Co. Incorporated ("Drexel Burnham"). Among the assets transferred to Burnham by Drexel Firestone was all of the outstanding stock of the Adviser, which transfer caused the Advisory Contract to terminate immediately pursuant to its terms.

Section 15(a) of the Act prohibits any person from serving as an investment adviser to a registered investment company except pursuant to a contract that has been approved by the vote of a majority of the outstanding voting securities of the investment company. On May 25, 1973 (Act Rel. No. 7831), the Commission granted Applicant an exemption from the provisions of section 15(a) permitting the Adviser to act as investment adviser to Applicant, and be paid a fee by Applicant for such services equal to that payable provided in the terminated contract, for the period from March 16 until the approval of the new advisory contract, if (1) a new advisory contract and any information agreement was submitted to shareholders within 120 days after consummation of the combination of Drexel Firestone and Burnham and (2) shareholders approved the payment of advisory fees to the Adviser for such interim period.

Applicant now applies to amend that order to provide that the condition numbered (1) above be met within 210 days, rather than 120 days, after such combination. Said 120-day period expired on July 13, 1973.

On February 7, 1973, the Board of Directors of Applicant, with the approval of a majority of the directors who are not parties to such agreements or interested persons of such parties at a meeting called for the purpose of voting on an investment advisory contract, approved (a) a new advisory contract with the Adviser identical to the existing Advisory Contract and (b) a New Information Agreement with Drexel Burnham.

Subsequent to the directors' meeting on February 7, 1973 (and subsequent to the filing of the preliminary proxy material with the Securities and Exchange Commission), the directors who are not interested persons of the Adviser determined to re-evaluate the desirability of retaining Drexel Burnham as the investment adviser, and requested the Adviser to provide certain information to facilitate this review. This review has included, in addition to an evaluation of the Adviser, consideration of changes in procedures and in the form of the investment advisory contract intended to increase the profitability of Applicant. Because this evaluation has involved the assembly and study of complex factors affecting the Applicant, including studies of bond market activities and possible changes of rules under the Act, it was not completed in time to submit new contracts to shareholders prior to July 13, 1973. Applicant states that in view of the strong possibility that such studies would result in changes of the investment advisory agreement, the Applicant's Board of Directors decided to postpone the solicitation of proxies and the holding of the annual meeting of shareholders, and, accordingly, wishes to extend the period of exemption from section 15 (a) of the Act. At a meeting on July 13, 1973, a new agreement was approved, and a meeting of the shareholders has been scheduled.

Applicant has submitted that the granting of this application to amend is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act for the following reasons:

(1) The reasons supporting the initial order issued by the Commission remain valid, even though the initial 120-day period has expired. The officers of Applicant and the Adviser remain substantially the same as they were prior to the combination of Drexel Firestone and Burnham. Applicant has available to it not a different investment adviser, but the same investment advisory and administrative services as it received prior to the combination provided by an investment adviser with expanded capabilities and capital.

(2) Had a review of its advisory relationship not been instituted by the non-interested directors, a new advisory contract would have been submitted to shareholders within 120 days of the combination. The delay is not attributable to the Adviser.

(3) Applicant believes that it is proper that such services should be paid for at the rate called for by the terminated contract which was approved by the shareholders in 1972, and that it is unfair to the Adviser to pay only cost for these services.

(4) While the Applicant has no reason to believe that the Adviser will not continue to provide services, Applicant has no assurance that the Adviser will continue to be willing to render services if there is no prospect that it can be paid more than cost because the terms of the original exemption order requiring shareholder approval within 120 days cannot be met.

(5) The directors expect to be able to submit a new advisory contract to the shareholders at a meeting prior to October 10, 1973 (90 days after July 13, when the initial period expired).

Notice is further given that any interested person may, not later than August 28, 1973, 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 Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by 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 thereon 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 notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-16452 Filed 8-8-73;8:45 am]

[File No. 500-1]

ENVIRONMENTAL SERVICES, INC.

Order Suspending Trading

AUGUST 3, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value, and all other securities of Environmental Services, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from

11 a.m. (e.d.t.) on August 3, 1973, and continuing through August 12, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16447 Filed 8-8-73;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORP. OF AMERICA

Order Suspending Trading

AUGUST 3, 1973.

The common stock, $.30 par value, of Equity Funding Cororation of America being traded on the New York Stock Exchange, the Midwest Stock Exchange, the Pacific-Coast Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange; the Boston Stock Exchange; warrants to purchase the $.30 par value common stock being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange; 9½ percent debentures due 1990 being traded on the New York Stock Exchange; and 5½ percent convertible subordinated debentures due 1991 being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from August 5, 1973, through August 14, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16461 Filed 8-8-73;8:45 am]

[File No. 500-1]

FIRST LEISURE CORP.

Order Suspending Trading

AUGUST 3, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value and all other securities of First Leisure Corporation, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from August 4, 1973, through August 13, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16457 Filed 8-8-73;8:45 am]

[File No. 500-1]

GIANT STORES CORP.

Order Suspending Trading

AUGUST 3, 1973.

The common stock, $.10 par value, of Giant Stores Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Giant Stores Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from August 5, 1973, through August 14, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16460 Filed 8-8-73;8:45 am]

[File No. 500-1]

HI-PLAINS ENTERPRISES, INC.

Order Suspending Trading

AUGUST 3, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $1. par value, and all other securities of Hi-Plains Enterprises, Inc. (incorporated in Delaware) being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11 a.m. (e.d.t.) on August 3, 1973, and continuing through August 12, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16448 Filed 8-8-73;8:45 am]

[File No. 500-1]

I M C INTERNATIONAL, INC.

Order Suspending Trading

AUGUST 3, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of I M C International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended. This order to be effective for the period from 11 a.m. (e.d.t.) on August 3, 1973, and continuing through August 12, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16454 Filed 8-8-73;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.

Order Suspending Trading

AUGUST 3, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from August 5, 1973, through August 14, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16462 Filed 8-8-73;8:45 am]

[File No. 500-1]

INTERSTATE COMPUTER SERVICES, INC.

Order Suspending Trading

AUGUST 3, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value, and all other securities of Interstate Computer Services, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is order, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this

order to be effective for the period from 11 a.m. (e.d.t.) on August 3, 1973, and continuing through August 12, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16453 Filed 8-8-73; 8:45 am]

[812-3477]

NEW YORK STAFF TRUST AND NEW YORK WORKERS' TRUST

Notice of Filing of Application for Order Pursuant to Section 6(c) of the Act for Exemptions From All the Provisions of the Act

NOTICE IS HEREBY GIVEN that New York Staff Trust and New York Workers' Trust ("Applicants"), c/o Bankers Trust Company, Trustee 280 Park Avenue New York, New York 10017 trusts organized under the laws of New York, have filed an application for an order of the Commission exempting Applicants from all the provisions of the Investment Company Act of 1940 ("Act") pursuant to section 6(c) thereof. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicants were established on June 14, 1973. The grantor of both Applicants is ICI America Inc., a Delaware corporation ("Grantor"), indirectly a wholly-owned subsidiary of Imperial Chemical Industries Limited, an English company ("ICI"). The initial corpus of each Applicant consists of $1,000 contributed in cash by the Grantor to each Applicant upon its establishment. The beneficiaries of New York Staff Trust are the Trustees of the Imperial Chemicals Staff Pension Fund, and the beneficiaries of New York Workers' Trust are the Trustees of the Imperial Chemicals Workers' Pension Fund, both English pension trusts (collectively "Funds"). The Funds are administered in England for the benefit of present and retired employees of ICI and certain of its affiliates, substantially all of whom reside in the United Kingdom. Of approximately 38,000 pensions being paid by the Funds, only approximately 27 pensions are being paid to residents of the United States. According to the Funds' audited records, no one receiving pension payments is making contributions to the Funds. The Trustee of each of the Applicants is Bankers Trust Company, a New York Corporation ("Trustee").

Applicants contemplate entering into two substantially similar loan transactions. In the first such transaction, General Foods Corporation, a Delaware corporation ("GF"), proposes to lend New York Staff Trust $7,000,000 and New York Workers' Trust $3,000,000 for a period of nine years, 350 days at an interest rate of 6 percent per annum. Simultaneously, the Funds propose to make a parallel loan of the pound sterling equivalent of $10,000,000 (approximately £4,017,000 at the curent rate of exchange) on substantially the same terms to General Foods Limited, an English company, which is wholly-owned by GF.

In a second transaction similar to the foregoing, the Foxboro Company, a Massachusetts corporation ("Foxboro"), proposes to lend New York Staff Trust $3,500,000 and New York Workers' Trust $1,500,000 at an interest rate of 6¾ percent per annum for a period of nine years, 350 days. Simultaneously, the Funds propose to make a parallel loan of the pound sterling equivalent of $5,000,000 (approximately £2,008,000 at the curent rate of exchange) at an interest rate of 7¼ percent per annum, but otherwise on substantially the same terms to Foxboro-Yoxall Limited, an English company, which is wholly-owned by Foxboro.

Applicants state that they presently do not contemplate entering into any additional loan transactions.

Each of the foregoing loan transactions is intended to qualify as a "parallel financing arrangement" under the regulations of the United States Department of Commerce Office of Foreign Direct Investments ("OFDI"). Applications for specific authorization to that effect have been or will be filed on behalf of GF and Foxboro with OFDI.

Applications also have been or will be filed on behalf of GF and Foxboro with the United States Internal Revenue Service with respect to the United States Interest Equalization Tax consequences of the proposed loan transactions.

Applicants represent that the proceeds of the above-described dollar loans, and any reinvestment thereof, will be invested by Applicants in United States securities, including government obligations, with the purpose of diversifying the investment portfolios of the Funds; that all the net income of the Applicants is to be paid annually to their respective beneficiaries; and that the principal and any net income then undistributed are to be paid to the beneficiaries upon termination of the Applicants. Under the terms of the respective trust deeds of Applicants, the Trustee of each may act with respect to investments only in accordance with the written directions of the respective Investment Advisory Committee of each of the Applicants, composed of persons from time to time named as such by the respective beneficiaries.

In carrying out their proposed activities, Applicants might be deemed to fall within either section 3(a)(1) of the Act, as being engaged or proposing to engage primarily in the business of investing, reinvesting or trading in securities, or section 3(a)(3) of the Act, as being engaged or proposing to engage in the business of investing, reinvesting, owning, holding or trading in securities and owning or proposing to acquire investment securities with a value exceeding 40 per cent of total assets. Applicants contend, however, that to the extent the Act is applicable to Applicants, Applicants should be exempted from its provisions under section 6(c) of the Act.

Section 6(c) authorizes the Commission by order upon application, conditionally or unconditionally to exempt any person or any class or classes of persons from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that they each clearly fit within the general intent of the exclusion from the definition of investment company as set forth in section 3(c)(1) of the Act, which excludes from the provisions of the Act any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities. Beneficial ownership by a company is deemed to be beneficial ownership by one person except, where the company owns 10 per cent or more of the outstanding voting securities of the issuer, the beneficial ownership is deemed to be that of the holders of such company's securities. Applicants state that the Funds are the sole beneficiaries of applicants. Applicants represent that they are not making and do not presently propose to make a public offering of their securities and that neither GF, Foxboro nor any future lender will own "voting securities" for purposes of attribution to its shareholders.

Applicants further contend that even if they are not qualified for exemption based on the provisions of section 3(c)(1) of the Act, exemption under section 6(c) is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act because, among other reasons, there is no significant direct or indirect United States investor interest in Applicants or their operations.

Notice is further given that any interested person may, not later than August 29, 1973, 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 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 Trustee of Applicants at the address stated above. Proof of such service (by affidavit, or in case of attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by 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 information stated in said ap-

plication, 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 notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16450 Filed 8-8-73;8:45 am]

[812-3463]

MUTUAL SECURITIES FUND OF BOSTON ET AL.

Notice of Filing of Application Pursuant to Section 6(c) of the Act for Exemption From Section 16(a), 32(a) (1) and (2) of the Act

Notice is hereby given that Mutual Securities Fund of Boston ("Fund"), 53 State Street Boston, Massachusetts 02109 a trust created under the laws of Massachusetts and an open-end, diversified investment company registered under the Investment Company Act of 1940 ("Act"), and all of its trustees, Joseph Leonard and William Priess, hereinafter referred to collectively as "Applicants," have filed an application pursuant to section 6(c) of the Act for an exemption from the provisions of section 16(a) of the Act to the extent necessary to extend to October 31, 1973, the period specified in section 16(a) of the Act within which a meeting of the holders of the outstanding voting securities of Fund ("Beneficiaries") must be held to elect directors (trustees) of Fund as required by section 16(a) where, as here, a majority of the trustees holding office were not elected by Beneficiaries. The Applicants also request an order pursuant to section 6(c) exempting Fund from the provisions of sections 32(a)(1) and (2) insofar as is necessary to permit the filing with the Commission of financial statements for the fiscal year ended March 31, 1973, certified by Arthur Young & Company, provided the Beneficiaries of Fund ratify the selection of said firm at the next meeting of Beneficiaries. The application shows that at the beginning of January 1972, the five persons serving the Fund as trustees had been elected by the Fund's Beneficiaries; that during the period commencing January 6, 1972 and ending November 3, 1972, three of these five trustees resigned; and that on November 24, 1972, one of the two remaining trustees resigned leaving only one trustee serving the Fund, which trustee, as indicated above, had been elected by the Beneficiaries. On December 15, 1972, this sole remaining and elected trustee of Fund appointed two persons as trustees to fill vacancies and, thereafter on the same day such elected trustee resigned.

Since December 15, 1972, these two appointed trustees have been serving as trustees of Fund and have been the only trustees of Fund. The last meeting of Beneficiaries for the purpose of electing trustees was held on November 9, 1971. When the two appointed trustees took office on December 15, 1972, the Fund's audited financial statements for the fiscal year ended March 31, 1973 had not been completed; and audited financial statements of the Fund for such fiscal year have not yet been filed with the Commission.

Section 16(a) of the Act provides, among other things, that in the event that at any time less than a majority of the directors (trustees) of a registered investment company holding office at that time were elected by holders of outstanding voting securities (Beneficiaries), the Board of Directors (the Board of Trustees) of such company shall forthwith cause to be held as promptly as possible and in any event within 60 days a meeting of the holders of the outstanding voting securities of the company for the purpose of electing directors (trustees) unless the Commission shall by order extend such period.

Sections 32(a)(1) and (2) require, generally, that the auditors of a registered investment company be selected by a majority of the independent members of the registered company's board of directors (Board of Trustees) and that such selection be ratified at a meeting of stockholders.

Section 6(c) provides that the Commission may, be order upon application, conditionally or unconditionally exempt any person, security or transaction from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the requested exemption from section 16(a) of the Act, the application indicates that when the two present appointed trustees took their offices on December 15, 1972, they intended to call and hold a meeting of Beneficiaries of Fund within 60 days for the purpose of electing trustees. However, according to the application, the appointed trustees were unable to hold such a meeting because of administrative problems created prior to their appointment and the time required to obtain information from the records as previously maintained in order to properly prepare proxy solicitation material to be used in connection with a meeting of Beneficiaries.

With respect to the requested exemption from paragraphs (1) and (2) of section 32(a), the application indicates that the selection of auditors cannot be effected in the manner required by such provisions due to the way in which the Board of Trustees is presently constituted, a matter which has been beyond the control of the present trustees.

Notice is further given that any interested person may, not later than August 28, 1973, 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 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 case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by 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 notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16451 Filed 8-8-73;8:45 am]

[File No. 500-1]

PELOREX CORP.

Order Suspending Trading

AUGUST 3, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value, and all other securities of Pelorex Corporation, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from August 4, 1973, through August 13, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16456 Filed 8-8-73;8:45 am]

[File No. 500-1]

TRIONICS ENGINEERING CORP.

Order Suspending Trading

AUGUST 3, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Trionics Engineering Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from August 5, 1973, through August 14, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16458 Filed 8-8-73;8:45 am]

[Release No. 34-10316; File No. S7-491]

GUIDELINES ON THE UTILIZATION AND DISSEMINATION OF UNDISCLOSED MATERIAL INFORMATION

Solicitation of Comments

The Securities and Exchange Commission announced today that, with respect to an inquiry already underway by its staff into the circumstances under which material information of a previously undisclosed nature may be utilized in connection with the purchase or sale of securities, it is soliciting the comments and views of all members of the securities industry and the investing public.

The Commission staff's examination includes, among other things, an inquiry into the following major issues:

(1) When information should be considered to have been publicly disseminated.

Among other things, the Commission's staff is seeking to determine whether guidelines can be established concerning appropriate waiting periods to be applied after material information about an issuer has been disclosed in various available ways before any person in possession of such previously undisclosed information may trade in reliance upon that information.

Views are also solicited regarding the efficacy of existing procedures that are followed, both by corporations and financial analysts, concerning information which has been disclosed on a limited basis—for example, information filed with governmental agencies.

(2) Whether appropriate guidelines can be established to determine when information concerning an issuer is material.

Among other things, the Commission's staff is considering under what, if any, circumstances nonpublic information may be disclosed to and utilized by securities professionals in the absence of any general public dissemination of that information, where for example, the information standing alone, is material only to securities professionals closely following a particular issuer or industry.

(3) Whether guidelines can be established to designate categories of individuals and entities which may be considered to have a sufficient nexus to preclude their use of material, undisclosed information concerning the issuer, in the absence of any general public disclosure of that information.

Consideration is being given, for example, to information derived from suppliers or competitors, among others.

(4) Whether and to what extent selected, nonpublic knowledge about the existing or future market in particular securities should be treated as material information which must be disclosed by securities professionals or other persons prior to any transactions in those securities.

In connection with these broad topics, the Commission requests comments concerning:

(1) The procedures presently employed by broker-dealers and financial analysts to insure that they and their employees do not engage in any act or practice which may constitute an improper dissemination or utilization of material nonpublic information;

(2) The procedures presently employed by issuers to insure that material information is not improperly disclosed or utilized on a selective basis;

(3) Any procedures presently employed by issuers to determine whether, when and how material corporate information should be disclosed publicly;

(4) The procedures and methodology utilized by financial analysts to formulate their securities recommendations; and

(5) The appropriateness of utilizing nonpublic material information directly related to the future market for a given security, which does not emanate from or concern the issuer of that security.

In addition to comments relating to existing procedures, the Commission's staff is interested in any facts or information which may reflect upon the appropriate resolution of the issues discussed above and any related matters.

Comments are invited from all interested persons and should be addressed to Harvey L. Pitt, Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should be mailed so that they may be received before August 31, 1973. All comments received will be made publicly available and reference should be made to File No. S7-491.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

AUGUST 1, 1973.

[FR Doc.73-16463 Filed 8-8-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Notice of Disaster Loan Area 973; Amdt. 5]

MISSOURI

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Missouri as a major disaster area following heavy rains and flooding beginning on or about March 6, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following additional counties: Bollinger, Cape Girardeau, Scott, Stoddard, Perry, Scotland, Wayne, Knox, Madison, Ripley and Washington. (See 38 FR 10339, 38 FR 12179, 38 FR 14897, 38 FR 16812, 38 FR 20509)

The purpose of this amendment is only for Knox, Madison, Ripley and Washington Counties for damage during the period March 6, 1973 to April 22, 1973, and only for Bollinger, Cape Girardeau, Scott, Stoddard, Perry, Scotland, Wayne, Knox, Madison, Ripley and Washington Counties for damage during the period May 26-27, 1973.

Applications will be processed under the provisions of Public Law 92-385 where damages occurred prior to April 20, 1973. Applications will be processed under the provisions of Public Law 93-24 where damages occurred April 20, 1973 and thereafter.

Applications may be filed at the:

Small Business Administration
District Office
210 North 12th Street, Room 520
St. Louis, Missouri 63101

and at such temporary offices as are established. Such addresses will be announced locally.

Applications for disaster loans under this announcement must be filed not later than September 18, 1973.

Dated: July 26, 1973.

THOMAS S. KLEPPE, *Administrator.*

[FR Doc.73-16432 Filed 8-8-73;8:45 am]

[Notice of Disaster Loan Area 1005; Amdt. 1]

PENNSYLVANIA

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Pennsylvania as a major disaster area following severe storms and flooding beginning on or about June 27, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following additional counties: Columbia and Northampton. (See 38 FR 20510)

Applications may be filed at the:

Small Business Administration
Regional Office
1 Decker Square—East Lobby Suite 400
Bala Cynwyd, Pennsylvania 19004

and at such temporary offices as are established. Such addresses will be an-

nounced locally. Applications will be processed under the provisions of Public Law 93-24.

Applications for disaster loans under this announcement must be filed not later than September 24, 1973.

Dated: July 26, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-16430 Filed 8-8-73;8:45 am]

[Notice of Disaster Loan Area 976; Amdt. 3]

WISCONSIN

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Wisconsin as a major disaster area following severe storms and flooding beginning on or about March 7, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following additional county: Adams. (See 38 FR 12264, 38 FR 13587, and 38 FR 16813)

Applications may be filed at the:

Small Business Administration
District Office
122 West Washington Avenue, R. 713
Madison, Wisconsin 53703

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of P.L. 92-385.

Applications for disaster loans under this announcement must be filed not later than September 24, 1973.

Dated: July 26, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-16431 Filed 8-8-73;8:45 am]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNERS AND STUDENT WORKERS

Certificates Authorizing the Employment of Learners and Student Workers at Special Minimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 621 (36 FR 12819) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. For each certificate, the effective and expiration dates, number or proportion of learners and principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Aalfs Mfg. Co., Sioux City, IA; 7-23-73 to 7-22-74. (Women's, men's and boys' jeans)

Aalfs Mfg. Co., Storm Lake, IA; 6-25-73 to 6-24-74; 10 learners. (Boys' pants)

Barbizon of Utah, Inc., Provo, UT; 6-11-73 to 6-10-74. (Women's lingerie)

Caraway Apparel Co., Caraway, AR; 6-11-73 to 6-10-74; 10 learners. (Women's dresses)

Chatham Knitting Mills, Inc., Chatham, VA; 7-22-73 to 7-21-74; 8 learners. (Men's jackets)

Covington Industries, Inc., Opp, AL; 7-2-73 to 7-1-74. (Ladies', men's and boys' sportswear and other odd outerwear)

The Fordyce Apparel Co., Fordyce, AR; 7-10-73 to 7-9-74. (Men's and boys' pants)

Giles Mfg. Corp., Narrows, VA; 7-13-73 to 7-12-74. (Children's shirts and creepers)

Hansley Industries, Inc., Hattiesburg, MS; 7-2-73 to 7-1-74. (Men's pajamas)

Imperial Reading Corp., La Follette, TN; 7-9-73 to 7-8-74. (Men's shirts)

Jo-Jac Shirt Co., Inc., Pulaski, TN; 7-3-73 to 7-2-74; 10 learners. (Boys' shirts)

Juniata Garment Co., Inc., Mifflin, PA; 6-25-73 to 6-24-74. (Women's dresses)

Lee Mar Shirt Co., Pulaski, TN; 7-15-73 to 7-14-74. (Boys' shirts)

Manchester Pants Co., Manchester, MD; 6-30-73 to 6-29-74; 10 learners. (Men's pants)

Middleburg Sportswear, Inc., Middleburg, PA; 6-25-73 to 6-24-74. (Women's dresses)

Salant & Salant, Henderson, TN; 6-26-73 to 6-25-74. (Men's pants)

Somerville Mfg. Co., Inc., Vivian, La; 7-24-73 to 7-23-74. (Men's pants)

Spencer California, Tehachapi, CA; 7-14-73 to 7-13-74; 7 learners. (Children's pajamas, gowns, jumpers, dresses and pants)

The following plant expansion certificates were issued authorizing the number of learners indicated.

Franklin Garment Co., Franklin, VA; 7-18-73 to 1-17-74; 20 learners (Children's dresses)

Paxton's Fashions, Mangum, OK; 7-16-73 to 1-15-74; 10 learners. (Women's pants blouses, jackets and body suits)

Wallace Sewing Co., Inc., Wallace, NC; 7-18-73 to 1-17-74; 15 learners (Children's coats)

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended)

Good Luck Glove Co., Metropolis, IL; 7-6-73 to 7-5-74; 10 percent of the total number of machine stitchers for normal labor turnover purposes. (Work gloves)

Lambert Mfg. Co., Chillicothe, MO; 7-18-73 to 7-17-74; 10 learners for normal labor turnover purposes. (Cotton work gloves).

Lambert Mfg. Co., Chillicothe, MO; 7-22-73 to 7-21-74; 10 learners for normal labor turnover purposes. (All leather work gloves)

Wells Lamont Corp., Brownsville, TN; 7-20-73 to 7-19-74; 10 percent of the total number of machine stitchers for normal labor turnover purposes. (Children's and men's fabric gloves)

The following student-worker certificate was issued pursuant to the regulations applicable to the employment of student-workers (29 CFR 527.1 to 527.9). The effective and expiration dates, occupations, wage rates, number of student-workers, and learning periods for the certificate issued under Part 527 are as indicated below.

Garfield Business Institute, Beaver Falls, PA; 7-5-73 to 7-4-74; authorizing the employment of 3 student-workers in the clerical industry in the occupations of secretarial and clerical for a learning period of 1,000 hours at the rates of $1.20 an hour for the first 500 hours and $1.30 an hour for the remaining 500 hours.

The student-worker certificate was issued upon the applicant's representations and supporting materials fullfilling the statutory requirements for the issuance of such certificates, as interpreted and applied by Part 527.

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR, Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before August 24, 1973.

Signed at Washington, D.C. this 2nd day of August 1973.

DONALD T. CRUMBACK,
Authorized Representative of the Administrator.

[FR Doc.73-16486 Filed 8-8-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 315]

ASSIGNMENT OF HEARINGS

AUGUST 6, 1973.

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-130103, Musiker Student Tours, Inc., now assigned September 10, 1973, at New York, N.Y., is postponed indefinitely.

MC 2835 Sub 38, Adirondack Transit Lines, Inc., now assigned September 12, 1973, at New York, N.Y., is postponed indefinitely.

MC 70083 Sub 27, Drake Motor Lines, Inc., now being assigned hearing September 12, 1973 (3 days), at New York, N.Y., in a hearing room to be later designated.

MC 105045 Sub 39, R. L. Jeffries Trucking Co., Inc., MC 112304 Sub 62, Ace Doran

Hauling & Rigging Co., is continued to September 11, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-16480 Filed 8-8-73;8:45 am]

[Ex Parte 241; Rule 19, 6th Rev. Exemption 43]

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO. ET AL.

Exemption Under Mandatory Car Service Rules

To: The Atchison, Topeka and Santa Fe Railway Company, Burlington Northern Inc., Chicago and North Western Transportation Company, Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Chicago, Rock Island and Pacific Railroad Company, Illinois Central Gulf Railroad Company, Missouri Pacific Railroad Company, Norfolk and Western Railway Company, Soo Line Railroad Company, Union Pacific Railroad Company.

It appearing, that there are massive movements of grain in progress in the states of Iowa, Kansas, Minnesota, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, and Wyoming; that present supplies of plain boxcars owned by the railroads serving these states are inadequate to move the newly harvested grain to terminal elevators for safe storage; that use of available plain boxcars owned by other carriers for movements of this grain will substantially augment the car supplies of the railroads named herein.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the railroads named herein, and their short line connections, are hereby authorized to use and to accept from shippers shipments of grain originating at stations located in Iowa, Kansas, Minnesota, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, and Wyoming, when loaded into plain 40-ft. narrow-door boxcars of various ownerships without regard to the requirements of Car Service Rule 2.

Exceptions. This exemption shall not apply to plain boxcars subject to Association of American Railroads' Car Relocation Directive No. 44.

Effective 11:59 p.m., August 2, 1973.

Expires 11:59 p.m., August 15, 1973.

Issued at Washington, D.C., August 2, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.73-16483 Filed 8-8-73;8:45 am]

[Rev. S.O. 994; I.C.C. Order 108, Amdt. 1]

CANADIAN RAILROADS

Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 108 (Canadian Railroads) and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 108 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 15, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., August 2, 1973, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 2, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.73-16484 Filed 8-8-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 6, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 42726—*Joint Water-Rail Container Rates—Sea-Land Service, Inc.* Filed by Sea-Land Service, Inc., (No. 76), for itself and interested rail carriers. Rates on general commodities, from rail carriers terminals at Los Angeles, Oakland (Richmond) and San Francisco, California, Portland, Oregon and Seattle, Washington, to ports in Europe and United Kingdom.

Grounds for relief—Water competition.

Tariff—Sea-Land Service, Inc., tariff No. 193, I.C.C. No. 69.

Rates are published to become effective on September 2, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-16481 Filed 8-8-73;8:45 am]

[Notice 331]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before August 29, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74458. By order of August 2, 1973, the Motor Carrier Board approved the transfer to Murray Van & Storage of Gainesville, Inc., Gainesville, Fla., of Permit No. MC-135175 (Sub No. 2) issued to B. C. Cartage Company, a corporation, Gainesville, Fla., authorizing the transportation of: Telephone equipment, materials, and supplies, between points in specified counties in Florida.

Alan F. Wohlstetter, Attorney, 1700 K St., NW., Wash., D.C. 20006

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-16482 Filed 8-8-73;8:45 am]

[Notice 62]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

AUGUST 3, 1973.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which pro-

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

testant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and on or before Oct. 5, 1973, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 2129 (Sub-No. 4) filed June 28, 1973 Applicant: PIEDMONT FREIGHT COMPANY, INCORPORATED Bumpass, Va. 23024 Applicant's representative: Morton E. Kiel Suite 6193 5 World Trade Center New York, N.Y. 10048 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Louisa County, Va., to points in North Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, West Virginia, Tennessee, Kentucky, Ohio, Indiana, Illinois, Michigan, Connecticut, Rhode Island, Massachusetts and the District of Columbia, under contract with Woolfolk Bros. Lumber Co., Walton Lumber Co., Inc. and Dick Purcell Lumber Corp. Note: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 13569 (Sub-No. 27) filed June 1, 1973 Applicant: THE LAKE SHORE MOTOR FREIGHT COMPANY a Corporation 1200 S. State Street Girard, Ohio 44420 Applicant's representative: A. David Millner Bowes & Millner 744 Broad Street Newark, N.J. 07102 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from Pittsburgh, Clairton, Homestead, Duquesne, McKeesport, Dravosburg, West Mifflin, Ellwood City, and Vandergrift, Pa., to points in Michigan, Indiana and New York; and (2) *iron and steel articles and materials, equipment and supplies* used or useful in the manufacture of iron and steel and iron and steel articles (except liquid commodities and commodities in bulk), from points in Michigan, Indiana, and New York, to points in Ohio, those in Pennsylvania on and west of U.S. Highway 219, and those in West Virginia on and north of U.S. Highway 50. Note: Applicant states that the requested authority can be tacked with its existing authority at origin points in western Pennsylvania. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 15897 (Sub-No. 11) filed June 20, 1973 Applicant: O. K. TRANSFER AND STORAGE CO., a Corporation 207 S. Union Street P.O. Box 1602 Shawnee, Okla. 74801 Applicant's representative: Wilburn L. Williamson 280 National Foundation Life Bldg. 3535 N.W. 58th St. Oklahoma City, Okla. 73112 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated store fixtures and furnishings*, from the facilities of the Plastelite Engineering Company Division of the Tandy Corporation at Fort Worth, Tex., to the warehouse facilities of the Radio Shack Division of the Tandy Corporation at Garden Grove, Calif. and Braintree, Mass. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Oklahoma City, Okla.

No. MC 27356 (Sub-No. 6) filed May 29, 1973. Applicant: M–F EXPRESS, INC. 553 South Broadway, P.O. Box 1181, Greenville, Miss. 38701. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, Miss. 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, classes A and B explosives, household goods as defined by the Commission, and those which because of size, weight or value, require special equipment), (A) REGULAR ROUTE: Between Cleveland and Hattiesburg, Miss.: From Cleveland over U.S. Highway 61 to junction U.S. Highway 80 and Interstate Highway 20 By-Pass north and east of Vicksburg, Miss., thence over U.S. Highway 80 and Interstate Highway 20 By-Pass to junction U.S. Highway 80 and Interstate Highway 20, thence over U.S. Highway 80 and Interstate Highway 20 to junction U.S. Highway 49 near Jackson, Miss., thence over U.S. Highway 49 to Hattiesburg, and return over the same route, serving the intermediate point of Leeland, Miss. and serving Jackson, Miss. for the purpose of joinder only; (B) ALTERNATE ROUTES: (1) Between Hattiesburg, and junction U.S. Highway 98 and Mississippi Highway 26 at or near Lucedale, Miss.: From Hattiesburg over U.S. Highway 49 to junction U.S. Highway 98 south of Hattiesburg, thence over U.S. Highway 98 to junction Mississippi Highway 26 at or near Lucedale, Miss.; and return over the same route, as an alternate route for operating convenience only, serving no intermediate points and serving Lucedale, Miss. for the purpose of joinder only; (2) Between junction U.S. Highway 61 and U.S. Highway 80 and Interstate Highway 20 By-Pass north and east of Vicksburg, Miss. and New Orleans, La.:

From Junction U.S. Highway 61 and U.S. Highway 80 and Interstate Highway 20 By-Pass north and east of Vicksburg, Miss., to junction U.S. Highway 80 and Interstate Highway 20, thence over U.S. Highway 80 and Interstate Highway 20 to junction U.S. Highway 61, thence over U.S. Highway 61 to junction U.S. Highway 61 and Interstate Highway 10 west of New Orleans, La., thence over U.S. Highway 61 and also Interstate Highway 10 to New Orleans, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points and serving Jackson, Miss. for the purpose of joinder only; and (3) Between Jackson, Miss. and New Orleans, La.: From Jackson over U.S. Highway 51 and Interstate Highway 55 to junction U.S. Highway 61 and Interstate Highway 10 west of New Orleans, La., thence over U.S. Highway 61 and also Interstate Highway 10 to New Orleans, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points and serving Jackson, Miss. for the purpose of joinder only. Note: Common control may be involved. Applicant states that the requested authority duplicates its existing authority in its MC 27358 Sub-No. 4 certificate, except for the intermediate point of Leeland, Miss. If the instant application is granted, applicant will submit for revocation that portion of its Sub 4 certificate which duplicates the authority sought herein (excluding the alternate route authority contained in the Sub-4 certificate). If a hearing is deemed necessary, applicant requests it be held at Greenville, or Jackson, Miss.

No. MC 30844 (Sub-No. 469) filed June 28, 1973 Applicant: KROBLIN REFRIGERATED XPRESS, INC. 2125 Commercial Street P.O. Box 5000 Waterloo, Iowa 50702 Applicant's representative: Truman A. Stockton 1650 Grant Street Bldg. Denver, Colo. 80203 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such articles* as are dealt in by retail gift stores, from Laredo, Tex., to points in Illinois (except Chicago and points in the Commercial Zone thereof), Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. Note: Common

control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant request it be held at Minneapolis, Minn., or Washington, D.C.

No. MC 30844 (Sub-No. 470) filed July 2, 1973 Applicant: KROBLIN REFRIGERATED XPRESS, INC. 2125 Commercial Street P.O. Box 5000 Waterloo, Iowa 50702 Applicant's representative: Truman A. Stockton 1650 Grant Street Bldg. Denver, Colo. 80203 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air cleaner filter paper*, from the plant sites and facilities of Knowlton Bros. at Watertown, N.Y., and the plant sites and facilities of Hollingsworth and Vose at Greenwich, N.Y., to Dixon, Ill., restricted to shipments originating at the above named plant sites. Note: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn. or Washington, D.C.

No. MC 35628 (Sub-No. 350) filed July 5, 1973 Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a Corporation 134 Grandville, S.W. Grand Rapids, Mich. 49502 Applicant's representative: Leonard D. Verdier, Jr. 900 Old Kent Bldg. Grand Rapids, Mich. 49502 Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plant site and facilities of Uniroyal, Inc., at or near Maryville, Mo., as an off-route point in connection with applicant's presently authorized regular-route operations. Note: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Detroit, Mich.

No. MC 43867 (Sub-No. 25) (AMENDMENT) filed May 10, 1973, published in the FR issue of July 6, 1973, and republished, as amended, this issue. Applicant: A. LEANDER McALISTER TRUCKING COMPANY, a Corporation P.O. Box 2214 Wichita Falls, Tex. 76307 Applicant's representative: Bernard H. English 6270 Firth Road Fort Worth, Tex. 76116 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Anti-pollution systems, equipment, and parts, liquid cooling and vapor condensing systems, equipment, and parts, environmental control and protective systems, equipment, and parts*, the transportation of which, because of size or weight, requires the use of special equipment, and (2) *equipment, materials, and supplies* used in the construction or installation of anti-pollution and environmental control and protective systems, and liquid cooling and vapor condensing systems, when moving in mixed loads with the articles described in (1) above, between Cisco, and Wichita Falls, Tex., on the one hand, and, on the other, points in the United States, including Alaska (and excluding Hawaii). Note: The purpose of this republication is to expand applicant's territorial request in (2) above to include Alaska. Applicant's name has been changed as reflected herein pursuant to the Commission's Order in MC–FC–74475. Applicant states it has Mercer and earth drilling commodities which could be joined with the requested authority at Wichita Falls, and Cisco, Tex., in the event such commodities qualified under intended use determination. If a hearing is deemed necessary, applicant requests it be held at Dallas, or Fort Worth, Tex.

No. MC 44639 (Sub-No. 72) filed June 22, 1973 Applicant: L. & M. EXPRESS CO., INC. 220 Ridge Road Lyndhurst, N.J. 07071 Applicant's representative: Herman B. J. Weckstein 60 Park Place Newark, N.J. 07102 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, and materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk), between Emporia, Va., on the one hand, and, on the other, New York, N.Y. and points in Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Sussex and Union Counties, N.J. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 52460 (Sub-No. 122) filed June 21, 1973 Applicant: HUGH BREEDING, INC. 1420 West 35th Street P.O. Box 9637 Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal briquettes, and charcoal* from the plant site of Keeter Charcoal Company at or near Branson, Mo., to points in Colorado, Illinois, Iowa, Kansas, Arkansas, Indiana, Kentucky, Tennessee, Louisiana, Nebrasa, Oklahoma, Texas, and Minnesota, (2) *charcoal, charcoal briquettes, wood chips, lighter fluid and fireplace logs*, from the plantsite of Husky Industries at or near Jacksonville and Ocala, Fla., to points in Alabama, Mississippi, Tennessee, Kentucky, Missouri, Arkansas, Louisiana, Texas, and Oklahoma, and (3) *activated carbon*, from the plantsite of Husky Industries, at or near Romeo, Fla., to points in Alabama, Mississippi, Tennessee, Kentucky, Missouri, Arkansas, Louisiana, Texas, and Oklahoma. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Altanta, Ga., or Dallas, Tex., or Oklahoma City, Okla.

No. MC 58104 (Sub-No. 2) filed June 7, 1973 Applicant: GOOD'S TRANSPORTATION SERVICE, INC. 408 Niagara Street Lockport, N.Y. 14094 Applicant's representative: Robert D. Gunderman Suite 710 Statler Hilton Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between points in Erie and Niagara Counties, N.Y.; (2) From points in Niagara County, N.Y., to points in Monroe County, N.Y. and (3) From points in Erie County, N.Y., to points in Orleans County, N.Y., and (B) *paper, paper products and pulp board*, from Lockport, N.Y., to points in Broome, Cattaraugus, Chemung, Chenango, Cortland, Herkimer, Jefferson, Livingston, Madison, Oneida, Onondaga, Ontario, Orleans, Otsego, Steuben and Tompkins Counties, N.Y. Note: Applicant seeks to convert its Certificate of Registration No. MC 58104 (Sub-No. 1) to a Certificate of Public Convenience and Necessity. Applicant presently has General commodities authority as defined in Section 800.1 of Title 16 of the Official Compilation of Codes Rules and Regulations of the State of New York. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 62538 (Sub-No. 18) filed May 31, 1973 Applicant: ASHTON TRUCKING CO., a Corporation P.O. Box 472 Monte Vista, Colo. 81144 Applicant's representative: Edward T. Lyons, Jr. 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured, processed or sold by persons engaged in* the milling of flour or in the sale and distribution of feeds and grains, from Denver, Colo., to points in that part of Texas located on and west of a line beginning at the intersection of U.S. Highway 281 and the Texas-Oklahoma border, thence over U.S. Highway 281 to intersection U.S. Highway 181, thence over U.S. Highway 181 to Corpus Christi, Tex., under contract with the Colorado Milling & Elevator Company. Note: Applicant holds common carrier authority in MC 57880 and Subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 66886 (Sub-No. 40) filed June 25, 1973 Applicant: BELGER CARTAGE SERVICE, INC. 2100 Walnut Street Kansas City, Mo. 64108 Applicant's representative: Frank W. Taylor, Jr. 1221 Baltimore Ave. Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled cranes, power hammers, and material handling equipment;* and (2) *accessories, attachments, and parts*, when moving in mixed loads with the commodities de-

scribed in (1) above, from the facilities of Broderson Manufacturing Company at Lenexa, Kans., to points in the United States including Alaska and Hawaii. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 70172 (Sub-No. 6) filed June 22, 1973 Applicant: B. J. KIRK TRANSPORTATION CO., a Corporation 672 Roosevelt Avenue Pawtucket, R. I. 02860 Applicant's representative: Thomas W. Murrett 342 North Main Street West Hartford, Conn. 06117 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores, and in connection therewith, *materials, supplies, fixtures and equipment* used in the operation of such stores, between East Providence, R.I., and Danvers, Mass. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Providence, R.I.

No. MC 74942 (Sub-No. 5) filed June 25, 1973 Applicant: PARVIN'S TRANSFER, INC. 15 East Harmony St. Penns Grove, N.J. 08069. Applicant's representative: Morton E. Kiel Suite 6193, 5 World Trade Center, New York, N.Y. 10048 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tomato products*, canned or preserved, from points in Salem and Gloucester Counties, N.J., to points in Connecticut. Massachusetts and Rhode Island, and (2) *sugar*, in containers, from Philadelphia, Pa., to points in Salem and Gloucester Counties, N.J., under contract with H. J. Heinz Company. Note: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or New York, N.Y.

No. MC 82841 (Sub-No. 125) filed June 27, 1973 Applicant: HUNT TRANSPORTATION, INC., 10770 I Street Omaha, Nebr. 68127 Applicant's representative: Donald L. Stern 530 Univac Building 7100 West Center Road Omaha, Nebr. 68106 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe*, from Springfield, Ill., to points in Kansas and Nebraska, restricted to the transportation of traffic originating at Springfield, Ill., and restricted against the transportation of commodities which because of size or weight require the use of special equipment and against the transportation of commodities defined in *Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Cincinnati, Ohio, Indianapolis, Ind., or Chicago, Ill.

No. MC 87720 (Sub-No. 145) filed June 21, 1973 Applicant BASS TRANSPORTATION CO., INC. P.O. Box 391 Flemington, N.J. 08822 Applicant's representative: Bert Collins 140 Cedar St. New York, N.Y. 08822 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Resins*, in bulk, from points in the Houston, Tex. Commercial Zone, to points in the United States, in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas, and (2) *materials and supplies*, in bulk, from points in the above described destination territory to points in the Houston, Tex. Commercial Zone, under contract with Tenneco, Inc. Note: Applicant also holds common carrier authority under MC 135684 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 92692 (Sub-No. 6) filed May 21, 1973. Applicant: FREEPORT FAST FREIGHT, INC., 4109 West 52nd Place, Chicago, Ill. 60632. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except in bulk, household goods as defined by the Commission, commodities which because of size or weight require the use of special equipment), (1) Between Chicago, Ill. and East Dubuque, Ill.; From Chicago over U.S. Highway 20 to East Dubuque, and return over the same route, serving all intermediate points and all off-route points between Stockton and Belvidere, Ill.; (2) Between Chicago, and Savanna, Ill.; From Chicago over Illinois Highway 64 to Savanna, and return over the same route, serving all intermediate points; (3) Between Chicago, and Forreston, Ill.; From Chicago over Illinois Highway 72 to Forreston, and return over the same route, serving all intermediate points; (4) Between Freeport, and Rockton, Ill.; From Freeport over Illinois Highway 75 to Rockton, and return over the same route, serving all intermediate points; (5) Bewteen the Illinois-Wisconsin State line and Dixon, Ill.; From the Illinois-Wisconsin State line over Illinois Highway 26, and return over the same route, serving all intermediate points and the off-route points of Penrose, Ill.; (6) Between Dixon and La Salle, Ill.; From Dixon over U.S. Highway 52 to junction U.S. Highway 51, thence over U.S. Highway 51 to La Salle, Ill., and return over the same route, serving all intermediate points; (7) Between South Beloit, and Rock Island, Ill.; From South Beloit over Illinois Highway 2 to Rock Island, and return over the same route, serving all intermediate points and off-route point of Rock Falls, Ill.; (8) Between Durand, and Rockford, Ill.; From Durand, Ill., over Illinois Highway 70 to Rockford, and return over the same route, serving all intermediate points; (9) Between Chicago, and Dixon, Ill.; From Chicago over U.S. Highway 30 to Dixon, Ill., and return over the same route, serving all intermediate points; (10) Between Chicago and Peru, Ill.; From Chicago, over U.S. Highway 66 to junction U.S. Highway 6, thence over U.S. Highway 6 to Peru, Ill, and return over the same route, serving all intermediate points; (11) Between Chicago and Winthrop Harbor, Ill.; From Chicago over Illinois Highway 41 to Winthrop Harbor, and return over the same route, serving all intermediate points; (12) Between Chicago and the Illinois-Wisconsin State line; From Chicago over U.S. Highway 41 to the Illinois-Wisconsin State line; and return over the sae route, serving all intermediate points; (13) Between Waukegan and Marengo, Ill.; From Waukegan over Illinois Highway 120 to junction Illinois Highway 47, thence over Illinois Highway 47 to junction Illinois Highway 176, thence over Illinois Highway 176 to Marengo, and return over the same route, serving all intermediate points; (14) Between Lake Bluff and Elgin, Ill.; From Lake Bluff over Illinois Highway 176 to junction Illinois Highway 63, thence over Illinois Highway 63 to junction Illinois Highway 25, thence over Illinois Highway 25 to Elgin, Ill., and return over the same route, serving all intermediate points; (15) Between Elgin and Oswego, Ill.; From Elgin over Illinois Highway 25 to Oswego, and return over Illinois Highway 31, serving all intermediate points; (16) Between Chicago, and Mendota, Ill.; From Chicago over U.S. Highway 34 to Mendota and return over the same route, serving all intermediate points; (17) Between Joliet, and Fulton, Ill.; From Joliet over U.S. Highway 30 to Fulton, and return over the same route, serving all intermediate points; (18) Between the junction of Illinois Highway 84 and U.S. Highway 20 and Rock Island, Ill.; From the junction of Illinois Highway 84 and U.S. Highway 20 over Illinois Highway 84 to junction Illinois Highway 92, thence over Illinois Highway 92 to junction with U.S. Highway 150, thence over U.S. Highway 150 to Rock Island, Ill., and return over the same route, serving all intermediate points; (19) Between the Illinois-Wisconsin State line and Lanark, Ill.; From the Illinois-Wisconsin state line over Illinois Highway 73 to Lanark, and return over the same route, serving all intermediate points; (20) Between the Illinois-Wisconsin State line and Denrock, Ill. (located in Whiteside County); From the Illinois-Wisconsin State line over Illinois Highway 78 to Denrock, and return over the same route, serving all intermediate points; (21) Between the junction of U.S. Highway 34 and Odgen Road and Aurora, Ill., From the junction of U.S. Highway 34 and Odgen Road over Odgen Road to Aurora, Ill. and return over the same route, serving all intermediate points. RESTRICTION: Restricted against service to the Iowa portions of the Commercial Zones of Rock Island, Moline, East Moline, Fulton, and East Dubuque, Ill. Note: The purpose of the instant application is to convert applicant's Certificate of Registration under its Sub-No. 4 into a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 95540 (Sub-No. 885) filed June 19, 1973 Applicant: WATKINS MOTOR LINES, INC. 1940 Monroe Drive, N.E. P.O. Box 1636 Atlanta, Ga. 30301 Applicant's representative: Jerome F. Marks (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products,* and *articles distributed by meat packinghouses* as described in Sections A & C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Chino, Calif., to points in Massachusetts, Rhode Island, Connecticut, Illinois, New York, New Jersey, Pennsylvania, Maryland, and the District of Columbia, restricted to products originating at the plant site and storage facilities of Swift Fresh Meats Company and destined to points in the above named destination states. Note: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Washington, D.C.

No. MC 103993 (Sub-No. 771) filed June 21, 1973 Applicant: MORGAN DRIVE AWAY, INC. 2800 West Lexington Ave. Elkhart, Ind. 46514 Applicant's representative: Paul D. Borghesani (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Wright County, Iowa, to points in the United States (except Alaska and Hawaii). Note: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa.

No. MC 103993 (Sub-No. 772) filed June 21, 1973 Applicant: MORGAN DRIVE-AWAY, INC. 2800 West Lexington Ave. Elkhart, Ind. 46514 Applicant's representative: Paul D. Borghesani (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Huron County, Ohio to points in the United States (except Alaska and Hawaii). Note: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Toledo, Ohio.

No. MC 105733 (Sub-No. 47) filed June 25, 1973 Applicant: H. R. RITTER TRUCKING CO., INC. 928 E. Hazelwood Avenue Rahway, N.J. 07065 Applicant's representative: Chester A. Zyblut 15222 K Street, N.W. Washington, D.C. 20005 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk in tank vehicles, from Everett, Mass., to points in New York. Note: Applicant states that the requested authority can be tacked with its existing authority at Everett, Mass. to provide a through service from points in Massachusetts, Rhode Island, Connecticut, Maine, New Hampshire and Vermont, to points in New York, but indicates it has no *present* intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 106398 (Sub-No. 670) filed June 14, 1973 Applicant: NATIONAL TRAILER CONVOY, INC. 1925 National Plaza Tulsa, Okla. 74151 Applicant's representative: Irvin Tull (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements, and *Buildings* in sections mounted on wheeled undercarriages, from points in El Paso County, Colo., to points in the United States (except Alaska and Hawaii). Note: Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 106398 (Sub-No. 671) filed June 14, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza Tulsa, Okla. 74151 Applicant's representative: Irvin Tull (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Orangeburg County, S.C., to points in the United States (except Alaska and Hawaii). Note: Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C.

No. MC 106398 (Sub-No. 672) filed June 14, 1973 Applicant: NATIONAL TRAILER CONVOY, INC. 1925 National Plaza Tulsa, Okla. 74151 Applicant's representative: Irvin Tull (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Wright County, Iowa, to points in the United States (except Alaska and Hawaii). Note: Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 106398 (Sub-No. 673) filed June 18, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Undercarriages and frames and related items* used in connection with the transportation of undercarriages and frames, from Boise and Nampa, Idaho, to points in Oregon, Montana, Utah, Nevada, Washington, and Wyoming. Note: Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 106497 (Sub-No. 79) filed June 20, 1973. Applicant: PARKHILL TRUCK COMPANY, a Corporation, P.O. Box 912 (Bus. Rte. I–44 East), Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building panels*, from Oklahoma City, Okla., to points in the United States (except Alaska and Hawaii). Note: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Dallas, Tex.

No. MC 106920 (Sub-No. 51) filed June 11, 1973. Applicant: RIGGS FOOD EXPRESS, INC. P.O. Box 26, West Monroe Street New Bremen, Ohio 45869 Applicant's representative: Carroll V. Lewis P.O. Box 717 Sidney, Ohio 45365. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* from Decatur, Ind., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia, restricted to traffic originating at the plantsite and storage facilities of Central Soya Company, Inc., at Decatur, Ind. Note: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 107002 (Sub-No. 434) filed June 6, 1973 Applicant: MILLER TRANSPORTERS, INC. P.O. Box 1123 (U.S. Highway 80 West) Jackson, Miss. 39205 Applicant's representative: John J. Borth P.O. Box 8573 Battlefield Station Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn starch*, in bulk, in tank vehicles, from Memphis, Tenn., to

to points in Mississippi. Note: Applicant states that the requested authority can be tacked with its existing authority at points in Mississippi and Tennessee to serve points in Alabama, Louisiana, Tennessee and Arkansas, but indicates that it has no *present* intention to tack. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn. or Jackson, Miss.

No. MC 107295 (Sub-No. 647) filed May 31, 1973 Applicant: PRE-FAB TRANSIT CO., a Corporation 100 South Main Street Farmer City, Ill. 61842 Applicant's representative: Mack Stephenson (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials* (except iron or steel and further restricted against the transportation of commodities which by reason of size or weight require the use of special equipment for their loading, unloading or transportation) from Hartsville, S.C., to points in the United States in and east of Texas, Oklahoma, Missouri, Iowa, and Minnesota. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 107456 (Sub-No. 21) filed June 4, 1973. Applicant: HARRY L. YOUNG AND SONS, INC., 542 West Sixth South, Salt Lake City, Utah 84104. Applicant's representative: Lon Rodney Kump, 720 Newhouse Bldg., Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* the transportation of which because of size or weight require the use of special equipment, and *related machinery parts and related contractors materials and supplies* when moving with those commodities which by reason of size or weight require the use of special equipment, (2) *general commodities* (except motor vehicles, motor vehicle cabs and bodies, and Classes A and B explosives) moving in the same vehicle and at the same time in mixed loads with commodities the transportation of which, because of size or weight require the use of special equipment, on a single bill of lading from a single consignor, (3) *self-propelled vehicles* each weighing 15,000 pounds or more (except motor vehicles as defined in Section 203(a)(13) of the Interstate Commerce Act, and vehicles moving in driveaway service), and *related machinery, tools, parts, and supplies* moving in connection therewith, (4) *iron and steel* articles as described in *Descriptions in Motor Carrier Certificates*, ex parte No. MC-45, and (5) *pipe* (other than iron and steel), together with *fittings*, between points in Idaho, on the one hand, and, on the other, points in Oregon and Washington. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho, or Portland, Oreg.

No. MC 107515 (Sub-No. 862), filed June 28, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy and/or confectionery and related products* (except in bulk), and (2) *advertising matter, premium and display materials* when shipped in the same vehicle with commodities described in (1) above, in vehicles equipped with mechanical refrigeration, from the plant sites and warehouse facilities of M&M/-Mars, Division of Mars, Incorporated, located at Doraville, Decatur, Atlanta, and Albany, Ga., to points in Alabama, Arizona, Arkansas, California, Pennsylvania, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Oregon, Texas, Utah, and Washington, restricted to the transportation of traffic originating at the plant site and warehouse facilities of M&M/Mars, Division of Mars, Incorporated. Note: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 107743 (Sub-No. 23) filed June 15, 1973 Applicant: SYSTEM TRANSPORT, INC. 6523 Broadway Spokane, Wash. 99206 Applicant's representative: Gordon Roberts Kearns Building Salt Lake City, Utah 84101 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel and iron and steel articles*, from Chicago Heights, Ill.; points in Porter County, Ind.; and points in Michigan and Ohio, to points in Idaho, Montana, Oregon, Washington, and California; (2) *iron and steel; and iron and steel articles*, when transported together with nonferrous articles, from Chicago, Ill., to points in Washington and California. Note: Applicant states that the requested authority can be tacked at points in California with its exising authority in Sub 20, but has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 108207 (Sub-No. 371) filed June 27, 1973 Applicant: FROZEN FOOD EXPRESS, INC. 318 Cadiz Street P.O. Box 5888 Dallas, Tex. 75222 Applicant's representative: J. B. Ham (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Human blood plasma*, from Phoenix, Ariz., to Berkeley, Calif. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Dallas, Tex.

No. MC 108937 (Sub-No. 39) filed June 15, 1973 Applicant: MURPHY MOTOR FREIGHT LINES, INC. 2323 Terminal Road St. Paul, Minn. 55113 Applicant's representative: R. L. Stevens (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Milwaukee, Wis. and St. Paul, Minn., serving all points in the Milwaukee, Wis., and the Minneapolis-St. Paul, Minn. commercial Zones, as defined by the Commission, as intermediate or off-route points: (1) From Milwaukee over Interstate Highway 94 to St. Paul; and (2) From Milwaukee over Interstate Highway 94 to junction U.S. Highway 12 at or near Hudson, Wis., thence over U.S. Highway 12 to St. Paul, and return over the same routes. Note: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn., or Milwaukee, Wis.

No. MC 109533 (Sub-No. 53) filed June 12, 1973 Applicant: OVERNITE TRANSPORTATION COMPANY, a Corporation 1100 Commerce Road Richmond, Va. 23224 Applicant's representative: Eugene T. Liipfert Suite 1100, 1660 L Street, N.W. Washington, D.C. 20036 Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Charleston, W. Va., and Lexington, Ky., over U.S. Highway 60 and also Interstate Highway 64, serving all intermediate points and the off-route points of Campton, Clay City and Stanton, Ky. Note: If a hearing is deemed necessary, applicant requests it be held at either Lexington, Ky., Charleston, W. Va., or Washington, D.C.

No. MC 111812 (Sub-No. 494) filed June 15, 1973 Applicant: MIDWEST COAST TRANSPORT, INC. 900 West Delaware P.O. Box 1233 Sioux Falls, S. Dak. 57104 Applicant's representative: Ralph H. Jinks (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 & 766 (except hides and commodities in bulk), from the plantsite and storage facilities of John Morrell & Co., at Humboldt, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachu-

setts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the above named plantsite and storage facilities. Note: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111812 (Sub-No. 495) filed June 15, 1973 Applicant: MIDWEST COAST TRANSPORT, INC. 900 West Delaware P.O. Box 1233 Sioux Falls, S. Dak. 57101. Applicant's representative: Ralph H. Jinks (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, fresh, frozen and cooked, *sauces, soups, and entree items*, between Minneapolis-St. Paul, Minn., on the one hand, and, on the other, Norfolk, Va. Note: Common control may be involved. Applicant states that the requested authority can be tacked at Minneapolis-St. Paul, Minn., with its existing authority and provide a through service to Sioux Falls and Mitchell, S. Dak., California, Idaho, Montana, Nevada, Oregon, Utah, and Washington, but indicates that it has no *present* intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 112713 (Sub-No. 152) filed June 19, 1973 Applicant: YELLOW FREIGHT SYSTEM, INC. P.O. Box 7270 10990 Roe Avenue Shawnee Mission, Kans. 66207 Applicant's representative: John M. Records (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, those of unusual value, and those requiring special equipment), serving the plantsite of F. I. Industries, Inc., located at or near Accokeek (Prince Georges County), Md., as an off-route point in connection with carrier's regular-route operations. Note: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112822 (Sub-No. 277) filed June 11, 1973 Applicant: BRAY LINES INCORPORATED P.O. Box 1191 (1401 N. Little) Cushing, Okla. 74023 Applicant's representative: Marion F. Jones Suite 1600 Lincoln Center 1660 Lincoln Street Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pizza pies*, frozen, from Minneapolis, Minn., to points in Florida, Georgia, Kansas, Louisiana, Oklahoma, North Carolina, South Carolina, Texas, and Tennessee. Note: Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn. or Chicago, Ill.

No. MC 114552 (Sub-No. 84) filed June 11, 1973 Applicant: SENN TRUCKING COMPANY a Corporation P.O. Drawer 220 Newberry, S.C. 29108 Applicant's representative: William P. Jackson, Jr. 919 18th Street, N.W. Washington, D.C. 20006 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, gypsum and gypsum products, composition boards, insulation materials, urethan and urethane products and related materials, supplies and accessories*, incidental thereto (except commodities in bulk), from the facilities of the Celotex Corporation at or near Elizabethtown, Ky., to points in Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee and Mississippi. Note: Applicant states that the requested authority can be tacked with its existing authority in MC–114552 and Subs thereunder, but indicates that it has no *present intention* to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., Tampa, Fla. or Columbia, S.C.

No. MC 115311 (Sub-No. 153) filed June 11, 1973 Applicant: J & M TRANSPORTATION CO., INC. P.O. Box 488 Milledgeville, Ga. 31061 Applicant's representative: Bruce E. Mitchell (Watkins & Daniell) Suite 1600 First Federal Building Atlanta, Ga. 30303 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except in bulk), from the plant site and facilities of United States Gypsum Company at or near Chamblee and Morrow, Ga., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia, restricted to traffic originating at the above described facilities and destined to points in the above-named territory. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115594 (Sub-No. 17) filed June 11, 1973 Applicant: HOLLOWAY MOTOR EXPRESS, INC. P.O. Box 2337 East Gadsden, Ala. 35903 Applicant's representative: W. Randall Tye 1500 Candler Building Atlanta, Ga. 30303 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tire molds, machines and machine parts*, used in the manufacturing of rubber tires and tubes, between Gadsden, Ala. and Topeka, Kans. Note: Applicant states that the requested authority can be joined with its regular-route operations under its lead certificate to transport the involved commodities between Gadsden, Ala. and Cedartown, Ga., however it has no present intention of so joining these authorities. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham or Montgomery, Ala.

No. MC 115876 (Sub-No. 27) filed June 15, 1973 Applicant: ERWIN HURNER 2605 South Rivershore Drive Moorhead, Minn. 56560 Applicant's representative: Thomas J. Van Osdel 502 First National Bank Bldg. Fargo, N. Dak. 58102 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Preformed milk and dairy product cartons*, and *materials and supplies* used in the manufacture and processing of the above named commodities (except commodities in bulk), from Clinton, Iowa, to Minneapolis, Minn., under contract with Fairmount Foods Company. Note: Applicant also holds common carrier authority under MC 117148, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak. or St. Paul, Minn.

No. MC 116073 (Sub-No. 274) filed July 5, 1973 Applicant: BARRETT MOBILE HOME TRANSPORT, INC 1825 Main Avenue Moorhead, Minn. 56560 Applicant's representative: Robert G. Tessar 1819 4th Avenue South Moorhead, Minn. 56560 Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, and *buildings* complete or in sections, transported on wheeled undercarriages, from points in Sumter County, Fla., to points in Louisiana, Mississippi, Alabama, Georgia, South Carolina, Tennessee, and North Carolina. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tallahassee or Miami, Fla.

No. MC 116073 (Sub-No. 275) filed July 5, 1973 Applicant: BARRETT MOBILE HOME TRANSPORT, INC. 1825 Main Avenue P.O. Box 919 Moorhead, Minn. 56560 Applicant's representative: Robert G. Tessar 1819 4th Avenue South Moorhead, Minn. 56560 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in secondary movements, from points in Pennsylvania, to points in the United States (except Alaska and Hawaii). Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 116073 (Sub-No. 276) filed July 5, 1973 Applicant: BARRETT MO-

BILE HOME TRANSPORT, INC., 1825 Main Avenue P.O. Box 919 Moorhead, Minn. 56560 Applicant's representative: Robert G. Tessar 1819 4th Avenue South Moorhead, Minn. 56560 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, and *buildings*, complete or in sections, transported on wheeled undercarriages, from points in Weakley County, Tenn., to points in the United States (except Alaska and Hawaii). Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Chicago, Ill.

No. MC 116073 (Sub-No. 277) filed July 5, 1973 Applicant: BARRETT MOBILE HOME TRANSPORT, INC. 1825 Main Avenue P.O. Box 919 Moorhead, Minn. 56560 Applicant's representative: Robert G. Tessar 1819 4th Avenue South Moorhead, Minn. 56560 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, and *buildings* complete or in sections, transported on wheeled undercarriages, from points in Indiana, to points in the United States (except Alaska and Hawaii). Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 116073 (Sub-No. 278) filed July 5, 1973 Applicant: BARRETT MOBILE HOME TRANSPORT, INC. 1825 Main Avenue, P.O. Box 919 Moorhead, Minn. 56560 Applicant's representative: Robert G. Tessar 1819 4th Avenue South Moorhead, Minn. 56560 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, and *buildings*, complete or in sections, transported on wheeled undercarriages, from points in Fannin, Hunt, Leon and Van Zandt Counties, Tex., to points in Arkansas, Arizona, Colorado, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma and Utah. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 116073 (Sub-No. 279) filed July 5, 1973. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar, 1819 4th Avenue South Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete or in sections, transported on wheeled undercarriages, from points in Clark, Crawford and Marathon Counties, Wis., to points in Illinois, Iowa, Minnesota, Michigan, North Dakota, and South Dakota. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 116763 (Sub-No. 261) filed June 22, 1973. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruits and vegetables, fruit and vegetable products, concentrates, beverages, and beverage preparations*, from points in Florida, to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, the Lower Peninsula of Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia. Note: Applicant states that the requested authority cannot be tacked. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117165 (Sub-No. 36) filed June 28, 1973 Applicant: C. J. DAVIS, doing business as ST. LOUIS FREIGHT LINES 1000 Michigan Avenue St. Louis, Mich. 48880. Applicant's representative: Martin J. Leavitt 1800 Buhl Bldg. Detroit, Mich. 48226 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Composition board, particle board and plywood, and accessories, materials and supplies* used in the sale and installation thereof from the plant and warehouse site of Abitibi Corporation located in Calhoun County, Fla., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, including the District of Columbia, and (2) *materials, supplies and accessories* used in the manufacture and installation of the commodities described in (1) above, from the points in the destination territory specified in part (1) above, to the plant and warehouse sites of Abitibi Corporation located in Calhoun County, Fla., restricted against the transportation of commodities in bulk. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 118159 (Sub-No. 135) filed June 22, 1973 Applicant: NATIONAL REFRIGERATED TRANSPORT, INC. 1925 National Plaza Tulsa, Okla. 74151 Applicant's representative: Jack B. Anderson (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and plastic containers, glassware, plastic caps, covers and tops, and corrugated boxes and containers*, from Muskogee, Okla., to points in Colorado. Note: Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla. or Kansas City, Mo.

No. MC 118806 (Sub-No. 28) filed June 6, 1973 Applicant: ARNOLD BROS. TRANSPORT, LTD. 739 Lagimodiere Boulevard Winnipeg, Manitoba, Canada Applicant's representative: Daniel C. Sullivan 327 South La Salle St. Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Self-propelled vehicles*, (b) *equipment, materials, and supplies* designed for use in conjunction with self-propelled vehicles (except tank semi-trailers), and (c) *Parts and attachments* for the commodities in (a) and (b) above, from points in Genesee County, N.Y., to ports of entry on the International Boundary Line between the United States and Canada; and (2) *materials, equipment and supplies* used in the manufacture, sale or distribution of the commodities described in (1) above (except commodities in bulk), from ports of entry on the International Boundary Line between the United States and Canada, to points in Genesee County, N.Y., restricted in parts (1) and (2) above to the transportation of traffic moving in foreign commerce. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 118989 (Sub-No. 98) filed June 25, 1973 Applicant: CONTAINER TRANSIT, INC. 5223 South 9th Street Milwaukee, Wis. 53221 Applicant's representative: Robert H. Levy 29 South LaSalle Street Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass bottles*, not exceeding one gallon in capacity, from Marion, Ind., to Milwaukee, Wis. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119639 (Sub-No. 10) filed June 18, 1973 Applicant: INCO EXPRESS, INC. 3600 South 124th Seattle, Wash. 98168 Applicant's representative: Joseph O. Earp 411 Lyon Building 607 Third Avenue Seattle, Wash. 98104 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cloth or fabric coated with plastic*, and *liquid plastic*, in containers, from points in Orange County, Calif., to ports of entry on the International Boundary line between the United States and Canada at or near Blaine and Sumas, Wash. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 119777 (Sub-No. 261) filed July 2, 1973 Applicant: LIGON SPECIALIZED

HAULER, INC. P.O. Box L Madisonville, Ky. 42431 Applicant's representative: Ronald E. Butler (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, and lumber products*, between the plant sites of T.M.A. Forest Products at or near Jasper and Double Springs, Ala., on the one hand, and, on the other, points in the United States, (except Alaska and Hawaii), restricted to shipments originating at the above named plant sites. Note: Applicant holds contract carrier authority in MC-126970 and subs thereunder, therefore, dual operations may be involved. Common control may also be involved. Applicant states that the requested authority cannot be tacked with its present authority. If a hearing is deemed necessary, applicant does not specify location.

No. MC 121281 (Sub-No. 7) filed June 18, 1973. Applicant: BIG MAC TRUCKING CO., a Corporation, 1335 Boyles Street, P.O. Box 15069, Houston, Tex. 77020. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between Laredo, Tex., on the one hand, and, on the other, points in Texas. Note: By instant application, applicant seeks to convert a portion of its Certificate of Registration in MC 121281 to a certificate of public convenience and necessity. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston or San Antonio, Tex.

No. MC 121060 (Sub-No. 26) filed July 11, 1973. Applicant: ARROW TRUCK LINES, INC., P.O. Box 5568, Birmingham, Ala. 35207. Applicant's representative: William P. Jackson, Jr., 919 18th Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, hydrants, valves, and parts and accessories* for the aforenamed items (except commodities in bulk), from the facilities of United States Pipe and Foundry Company at or near Birmingham and Bessemer, Ala., to points in Tennessee, Georgia, Florida, North Carolina, and South Carolina, restricted to the transportation of traffic originating at the facilities of United States Pipe and Foundry Company at or near Birmingham and Bessemer, Ala. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Washington, D.C.

No. MC 123048 (Sub-No. 261) filed June 4, 1973 Applicant: DIAMOND TRANSPORTATION SYSTEM, INC. 1919 Hamilton Avenue Racine, Wis. 53401 Applicant's representative: Paul C. Gartzke 121 West Doty Street Madison, Wis. 53703 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Excavating, construction, roadmaking, road maintenance, material handling, industrial and agricultural machinery and equipment, trailers, snow blowers and self-propelled vehicles* (except motor vehicles as defined in Section 203(a)(13) of the Interstate Commerce Act and commodities moving in driveaway service); (b) *attachments, accessories and equipment* designed for use in conjunction with the commodities described in (a) above, and (c) *cabs, canopies and parts* for the commodities described in (a) and (b) above, between the Ports of Entry on the International Boundary line between the United States and Canada located in Michigan and New York, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to traffic moving in foreign commerce; (2) *Steel Balls*, from Washington, Ind., to the Ports of Entry on the International Boundary line between the United States and Canada located in Michigan, restricted to traffic moving in foreign commerce; (3) *mineral wool, insulation, cement, metal fastening bands, canvas lap, binding strips, asphalt, asphaltum, coal tar paint, bearings, iron hooks, adhesives, staples and wire* (except commodities in bulk), from Alliance, Ohio; Aurora, Ill., and Huntington, Mich., to the Ports of Entry on the International Boundary line between the United States and Canada located in Michigan, restricted to traffic moving in foreign commerce. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123048 (Sub-No. 270) filed July 5, 1973 Applicant: DIAMOND TRANSPORTATION SYSTEM, INC. 1919 Hamilton Avenue Racine, Wis. 53401 Applicant's representative: Paul C. Gartzke 121 W. Doty Street Madison, Wis. 53703 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air conditioning, heat transfer and refrigeration equipment and blowers* and *attachments and parts* thereof, from Buffalo, N.Y., to Ports of Entry on the International Boundary line between the United States and Canada, at Buffalo and Niagara Falls, N.Y. and to points in Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Buffalo, N.Y.

No. 123407 (Sub-No. 130) filed July 2, 1973 Applicant: SAWYER TRANSPORT, INC. South Haven Square U.S. Highway 6 Valparaiso, Ind. 46383 Applicant's representative: Richard L. Loftus (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, couplings, connections, valves and materials and supplies* for the installation thereof, from the plant sites of the Clow Corporation located at or near Coshocton, Ohio, to points in Minnesota, Wisconsin, North Dakota, South Dakota, Iowa, Missouri, Nebraska, and the upper peninsula of Michigan. Note: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 123476 (Sub-No. 17) filed July 11, 1973 Applicant: CURTIS TRANSPORT, INC. 1334 Lonedell Road Arnold, Mo. 63010 Applicant's representative: O. E. Mueller (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ceramic foam, plastics and expanded plastic products*, laminated or other than laminated, with or without accessories, from the plant sites and warehouse facilities of Dow Chemical Company at Cape Girardeau and Pevely, Mo., Magnolia, Ark., Hanging Rock and Findlay, Ohio, Midland, Mich., Gales Ferry, Conn., Carteret, N.J., and Royersford, Pa., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the foregoing commodities, from the named destination states to the plant sites and warehouse facilities of the Dow Chemical Company at Cape Girardeau, and Pevely, Mo., Magnolia, Ark., Hanging Rock and Findlay, Ohio, Midland, Mich., Gales Ferry, Conn., Carteret, N.J., and Royersford, Pa., restricted in (1) and (2) against the transportation of commodities in bulk. Note: Applicant states that the requested authority duplicates in part its existing authority. If the instant application is granted, applicant will submit for revocation that portion of its existing authority which is duplicative of the authority sought herein. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo. or Washington, D.C.

No. MC 123778 (Sub-No. 19) filed July 11, 1973 Applicant: JALT CORP., doing business as UNITED NEWSPAPER DELIVERY SERVICE 75 Cutters Lane Woodbridge, N.J. 07095 Applicant's representative: Morton E. Kiel Suite 6193,

5 World Trade Center New York, N.Y. 10048 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Newspapers* (otherwise exempt from economic regulations under Section 203(b)(7) of the Act) when transported in the same vehicle with a regulated commodity, from Woodbridge, N.J., to Wilmington, Del., and points in New Jersey and Connecticut, those in that part of Pennsylvania on and east of U.S. Highway 15, and those in New York on and east of New York Highway 14, under contract with Midnight Publishing Corp. Note: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 123965 (Sub-No. 6) filed July 2, 1973 Applicant: KEAL DRIVEAWAY COMPANY, a Corporation 852 East 73rd Street Cleveland, Ohio 44103 Applicant's representative: Donald B. Anderson (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles and motor vehicle chassis*, in initial movements, in driveaway and truckaway service and *bodies, cabs, parts of and accessories for such motor vehicles*, from the plant site of White Truck Division of White Motor Corporation located in Pulaski County, Va., to points in the United States including Alaska (but excluding Hawaii). Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio or Washington, D.C.

No. MC 124078 (Sub-No. 552) filed June 8, 1973 Applicant: SCHWERMAN TRUCKING CO. a Corporation 611 South 28 Street Milwaukee, Wis. 53246 Applicant's representative: James R. Ziperski (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Manganese ore*, in bulk, from Wilmington, Del., to La Salle, Ill.; (2) *fly ash*, from Richmond, Ind., to points in Illinois, Indiana, Kentucky, and Ohio, and *returned shipments* of fly ash, from the above-mentioned destination states to Richmond, Ind., (3) *hydroquinone*, in bulk, from La Salle, Ill., to Houston, Tex.; and (4) *amapa ore*, in bulk, from Brownsville, Tex., to La Salle, Ill. Note: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority at points in Vigo County, Ind., and Indianapolis, Ind., Chicago, Ill., Dayton, Ohio, Paradise, and Louisville, Ky., to serve points in Wisconsin, Michigan, Missouri, Alabama, Tennessee, West Virginia, and Pennsylvania, but indicates that it has no *present* intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Columbus, Ohio.

No. MC 125785 (Sub-No. 20) filed May 30, 1973. Applicant: SATURN EXPRESS INC., 8716 L St., Omaha, Nebr. 68127. Applicant's representative: Robert C. McCandless, 700 Federal Bar Bldg. West, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal buildings and related parts and equipment*, (a) between the plantsites of Stran-Steel Corp., at or near Houston, Tex., and at or near Terre Haute, Ind., and (b) from the plantsite of Stran-Steel Corp. at or near Houston, Tex., to points in Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, Nevada, Oregon, Washington, and California, under contract with Stran-Steel Corp. Note: If a hearing is deemed necessary, applicant requests it be held at Houston, Tex. or Omaha, Nebr.

No. MC 126154 (Sub-No. 10) filed June 6, 1973. Applicant: HERMAN SCHOMER doing business as: SCHOMER TRUCKING, P.O. Box 111, Iron Mountain, Mich. 49801. Applicant's representative: Robert W. Hansley, 120 North Sixth Street, Escanaba, Mich. 49829. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, Wis., to points in Alger County, Mich. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Lansing, or Detroit, Mich.; or Chicago, Ill.; or Milwaukee, Wis.

No. MC 126154 (Sub-No. 12) filed June 6, 1973. Applicant: HERMAN SCHOMER doing business as: SCHOMER TRUCKING, P.O. Box 111, Iron Mountain, Mich. 49801. Applicant's representative: Robert W. Hansley, 120 North Sixth Street, Escanaba, Mich. 49829. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Minneapolis, and St. Paul, Minn., to points in Marquette County, Mich. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Lansing, or Detroit, Mich.; or Chicago, Ill.; or Milwaukee, Wis.

No. MC 126276 (Sub-No. 82) filed June 25, 1973. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, Ill. 60463. Applicant's representative: Robert H. Levy, 29 South LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends and accessories*, from the plant and warehouse sites of Heekin Can Division, Diamond International Corp. at Cincinnati, Ohio and Anderson Township (Hamilton County), Ohio, to points in Illinois, and Indiana, Michigan and Kenosha, Racine, Milwaukee and Waukesha Counties, Wis., under contract with Heekin Can Division, Diamond International Corporation. Note: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126305 (Sub-No. 53) filed June 27, 1973 Applicant: BOYD BROTHERS TRANSPORTATION CO., INC. R.D. 1 Clayton, Ala. 36016 Applicant's representative: George A. Olsen 69 Tonnele Avenue Jersey City, N.J. 07306 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet tacking strips and supplies and equipment* used in the installation of carpets, between the facilities of Continental Tackless Sales Corp., at Croydon, Pa., on the one hand, and, on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 126428 (Sub-No. 7) filed June 25, 1973 Applicant: ZIBERT TRANSPORT CO. a Corporation 2828 Market Street Peru, Ill. 61354 Applicant's representative: Robert H. Levy 29 South La Salle Street Chicago, Ill. 60603 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastics*, in bulk, in tank, and/or hopper type vehicles, (a) from the plantsite of Foster Grant Co., Inc. at Peru, Ill., to points in New York, Virginia, New Jersey, Maryland, North Carolina, South Carolina, and West Virginia, and (b) from points in New York, Virginia, New Jersey, Maryland, North Carolina, South Carolina, West Virginia, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Wisconsin, Arkansas, Kansas, Kentucky, Nebraska, Pennsylvania and Tennessee, to the plantsite of Foster Grant Co., Inc., at Peru, Ill. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127242 (Sub-No. 4) filed May 29, 1973 Applicant: HOUSTON TRUCK LINES, INC. 602 Service Street P.O. Box 8847 Houston, Tex. 77009 Applicant's representative: Joe G. Fender 802 Houston First Savings Building Houston, Tex. 77002 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Tulsa, Tulsa Port of Catossa, and Muskogee, Okla., to points in Arkansas, Kansas, Louisiana, Oklahoma, Texas, New Mexico and Kansas City, Mo., restricted against transportation of Mercer commodities as authorized *T. E. Mercer Extention*, 74 M.C.C. 459. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 127284 (Sub-No. 3) filed March 7, 1973 Applicant: DOMINION-CONSOLIDATED TRUCK LINES LIM-

ITED 775 The Queensway Toronto 18, Ontario, Canada Applicant's representative: William J. Hirsch Suite 444, 35 Court Street Buffalo, N.Y. 14202 Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), (1) serving the plant site and facilities of Ford Motor Company at or near Romeo, Mich., as an off-route point in connection with carrier's regular-route operations from and to Detroit, Mich; and (2) Between the plant site and facilities of Ford Motor Company at or near Romeo, Mich., and the port of entry on the International Boundary line between the United States and Canada located at Port Huron, Mich. Note: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 127818 (Sub-No. 1) filed June 22, 1973 Applicant: FREEDMAN CONTRACT HAULING CORP. 726 W. Clinton Street Ithaca, N.Y. 14850 Applicant's representative: Norman M. Pinsky 345 South Warren Street Syracuse, N.Y. 13202 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Scrap and waste products and materials* and (2) *iron and steel articles* as described in Appendix V to the Commission's report in *Descriptions in Motor Carrier Certificates*, Ex Parte MC–45, 61 M.C.C. 209, between points in New York, Pennsylvania, Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont, New Jersey, Maryland, Delaware, Virginia, North Carolina, West Virginia, Indiana, Ohio, Michigan, Maine, and the District of Columbia, under continuing contracts with Wallace Steel Corporation, and Triangle Steel, Inc., at Ithaca, N.Y. Note: If a hearing is deemed necessary, applicant requests it be held at Syracuse, N.Y. or Washington, D.C.

No. MC 128220 (Sub-No. 9) filed May 29, 1973 Applicant: RALPH LATHAM, doing business as, LATHAM TRUCKING COMPANY P.O. Box 508 Burnside, Ky. 42519 Applicant's representative: John M. Nader P.O. Box E Bowling Green, Ky. 42101 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquettes, wood chips, vermiculite, charcoal lighter fluid, and spices and sauces* used in outdoor cooking from Dothan, Ala., to points in Florida, Georgia, South Carolina, and Mississippi. Note: Applicant states that the requested authority can be tacked with its existing authority at Dothan, Ala. with its lead certificate from Burnside, Ky., and its Sub 7 from Cookeville, Tenn., to serve points in Alabama, but has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky. or Nashville, Tenn.

No. MC 128256 (Sub-No. 21) filed June 27, 1973 Applicant: O. W. BLOSSER, doing business as BLOSSER TRUCKING 215 N. Maine Street Middlebury, Ind. 46540 Applicant's representative: Alki E. Scopelitis 815 Merchants Bank Building Indianapolis, Ind. 46204 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, plywood and accesssories and supplies* used in the installation thereof, from the plant site of the Abitibi Corporation at Chicago, Ill., to points in Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Detroit, Mich.

No. MC 128381 (Sub-No. 7) filed June 28, 1973 Applicant: BLUE EAGLE TRUCK LINES, INC. P. O. Box 446 Highland Park, Ill. 60035 Applicant's representative: Patrick H. Smyth Suite 1000, 327 South LaSalle Street Chicago, Ill. 60604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fire fighting equipment* and *parts*, and *equipment, materials and supplies* used in the manufacture, installation, distribution, and repair thereof, between Northbrook, Ill., on the one hand, and, on the other, points in the United States, (except Alaska and Hawaii), under continuing contract with General Fire Extinguisher Corporation. Note: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129325 (Sub-No. 6) filed June 11, 1973 Applicant: DIAZ MOTOR FREIGHT, INC. 2829 Frenchmen Street New Orleans, La. 70122 Applicant's representative: Edward A. Winter 235 Rosewood Drive Metairie, La. 70005 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in containers, from the plant site of International Tank Terminals, Ltd., located at or near St. Rose, La., to the New Orleans, La. docks. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans or Baton Rouge, La.

No. MC 129350 (Sub-No. 26) filed June 25, 1973 Applicant: CHARLES E. WOLFE, doing business as EVERGREEN EXPRESS Box 212 Billings, Mont. 59103 Applicant's representative: Clayton Brown (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tires and tubes*, from Dayton, Ohio, to Butte, Missoula and Helena, Mont. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Billings or Missoula, Mont.

No. MC 129974 (Sub-No. 9) filed June 25, 1973 Applicant: THOMPSON BROS., INC. P.O. Box 457 Toronto, S. Dak. 57268 Applicant's representative: F. H. Kroeger 2288 University Avenue St. Paul, Minn. 55114 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, conduit, cement containing asbestos fibre, and accessories* for the installation thereof, from the plantsite and storage facilities of Certain-teed Products Corporation at or near Bellefontaine Neighbors and Riverview, Mo., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Montana, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin and Wyoming, under contract with Certain-teed Products Corporation. Note: Applicant also holds common carrier authority under MC 124408 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 133106 (Sub-No. 30), filed June 14, 1973. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Frederick J. Coffman, 521 South 14th St., P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fire prevention sprinkler systems and fire prevention sprinkler systems parts, accessories, and attachments, and tools, devices and apparatus* used in the installation and erection thereof, (2) *pipe fittings, pipe connections, pipe hangers, castings and valves*, from the plantsite and warehouse facilities of ITT-Grinnell Corp., located at or near Clito, Ga., to points in the United States (except Alaska and Hawaii), and (3) *materials, tools, devices and apparatus* used in the fabrication, assembly, and installation of the commodities described in (1) and (2) above, from points in the United States (except Alaska and Hawaii), to the plantsite and warehouse facilities of ITT–Grinnell Corp., located at or near Clito, Ga., under continuing contract with ITT–Grinnell Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Atlanta, Ga.

No. MC 133562 (Sub-No. 14) filed June 15, 1973 Applicant: HOLIDAY EXPRESS CORPORATION P.O. Box 115 Estherville, Iowa 51334 Applicant's representative: Basil Roberts, Jr. (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 & 766 (except hides and commodities in bulk), from the plantsite and storage facilities of John Morrell & Co., at Humboldt, Iowa, to

points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the above named plantsite and storage facility. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 133689 (Sub-No. 30) filed May 24, 1973 Applicant: OVERLAND EXPRESS, INC. 651 First Street, S.W. P.O. Box 2667 New Brighton, Minn. 55112 Applicant's representative: Daniel C. Sullivan 327 South Lasalle Street Chicago, Ill. 60604 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potatoes, potato products and potato byproducts* (except commodities in bulk), from Caribou and Presque Isle, Maine, to points in North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Kentucky, Indiana, Michigan, Ohio, West Virginia, Tennessee, New York (except points east of I-81) and Pennsylvania (except points east of U.S. Highway 219). Note: Applicant holds contract carrier authority under MC 76025 and subs thereunder, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 133937 (Sub-No. 14) filed June 25, 1973 Applicant: CAROLINA CARTAGE COMPANY, INC. P.O. Box 6726, Sta. B Greenville, S.C. 29606 Applicant's representative: Steven L. Weiman 1730 M St., N.W. Suite 501 Washington, D.C. 20036 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk), between Atlanta, Ga., and Charlotte, N.C., restricted to traffic having a prior or subsequent movement by air. Note: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Columbia, S.C., Atlanta, Ga., or Charlotte, N.C.

No. MC 134323 (Sub-No. 54) filed June 25, 1973 Applicant: JAY LINES, INC. 720 N. Grand Street Amarillo, Tex. 79105 Applicant's representative: Gailyn Larson P.O. Box 80806 Lincoln, Nebr. 68501 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Section A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Missouri Beef Packers, Inc., at or near Boise, Idaho, to points in Arizona, California, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Jersey, New Hampshire, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and the District of Columbia, under contract with Missouri Beef Packers, Inc. Note: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Amarillo, Tex.

No. MC 134370 (Sub-No. 10) filed June 6, 1973 Applicant: OSBORNE TRUCKING CO., INC 1008 Sierra Dr. Riverton, Wyo. 82501. Applicant's representative: Robert S. Stauffer 3539 Boston Road Cheyenne, Wyo. 82001 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials* (except in bulk, in tank vehicles) from Denver, Colo., to points in Wyoming, and those in that part of Nebraska located on and west of U.S. Highway 83. Note: Applicant also holds contract authority in MC 133741 and subs thereunder, therefore, dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Casper, Wyo., or Denver, Colo.

No. MC 134599 (Sub-No. 83) filed June 25, 1973 Applicant: INTERSTATE CONTRACT CARRIER CORPORATION P.O. Box 748 Salt Lake City, Utah 84110 Applicant's representative: Richard A. Peterson P.O. Box 80806 Lincoln, Nebr. 68501 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products, tires and equipment*, and *materials and supplies* used in the manufacture and production thereof, between Eau Claire, Wis., Peoria, Ill., Minneapolis-St. Paul, Minn., and Lenexa, Kans., on the one hand, and on the other, points in the United States (except Alaska and Hawaii), under continuing contract with Uniroyal, Inc. Note: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 134783 (Sub-No. 7) filed June 21, 1973 Applicant: DIRECT SERVICE, INC. P.O. Box 786 Plainview, Tex. 79072 Applicant's representative: Charles J. Kimball 2310 Colorado State Bank Bldg. 1600 Broadway Denver, Colo. 80202 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen bakery products and snack foods*, from the plantsites of Midwest Biscuit Company at or near Burlington, Iowa, to points in Oklahoma, Texas, Arizona, New Mexico, Colorado, Kansas, Arkansas, Louisiana, Tennessee, Minnesota, Kentucky, Missouri, Nebraska, Michigan, Ohio, Pennsylvania, New York, New Jersey, California, and Indiana. Note: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or St. Louis, Mo.

No. MC 134824 (Sub-No. 3) filed July 2, 1973 Applicant: FOREST PRODUCTS TRANSPORTS, INC. 216 Newsom Building Columbia, Miss. 39429 Applicant's representative: Harold D. Miller, Jr. 700 Petroleum Building P.O. Box 22567 Jackson, Miss. 39205 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood chips*, from the plant sites of Georgia-Pacific Corporation located at or near Columbia, Roxie, and Bay Springs, Miss., to the plant site or facilities of Georgia-Pacific Corporation at or near Port Hudson, La., (2) *lumber*, from the plant site of Georgia-Pacific Corporation located approximately 8 miles north of Columbia, Miss. (near Goss Community, Miss.), to points in Missouri, Illinois, Iowa, Indiana, Kentucky, Arkansas, and Texas, and (3) *lumber*, from the plant sites of Georgia-Pacific Corporation at or near Roxie and Bay Springs, Miss., to points in Alabama, Louisiana, Tennessee, Georgia, Florida, Missouri, Illinois, Iowa, Indiana, Kentucky, Arkansas, and Texas, under a continuing contract or contracts with Georgia-Pacific Corporation. Note: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss. or New Orleans, La.

No. MC 134872 (Sub-No. 7) filed May 14, 1973 Applicant: GOSSELIN EXPRESS LTD. 141 Smith Blvd. Thetford Mines Quebec, Canada Applicant's representative: John J. Brady, Jr. 75 State Street Albany, N.Y. 12207 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos*, in bags, from the ports of entry on the International Boundary line between the United States and Canada, located at Champlain, N.Y. and Derby Line, Vt., to points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Maryland, Delaware, Ohio, Pennsylvania and Michigan. Note: Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a haring is deemed necessary, applicant requests it be held at Albany, N.Y.

No. MC 135609 (Sub-No. 4), filed June 20, 1973 Applicant: FRED W. MOHOLLAND Box 98 Princeton, Maine 04668 Applicant's representative: Frederick T. McGonagle 36 Main St. Gorham, Maine 04038 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cardboard corrugating medium*, from the port of entry on the International Boundary line between the United States and Canada, located at or near Calais, Maine, to points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts (except Winchendon and Fall River), Rhode Island (except Pawtucket), New York (except West Hemp-

stead, Ridgewood and Corning) and New Jersey (except Newark), and to Jefferson, Ohio and Richmond, Va., and (2) *waste cardboard*, from points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts (except Worcester, Salem and Chelsea), Rhode Island, New York and New Jersey, to the port of entry on the International Boundary line between the United States and Canada located at or near Calais, Maine, under contract with Lake Utopia Paper, Ltd., of St. George, New Brunswick, Canada. Note: If a hearing is deemed necessary, applicant requests it be held at Augusta or Portland, Maine.

No. MC 136121 (Sub-No. 3) filed June 4, 1973 Applicant: BRISCOE TRUCKING COMPANY, INC. P.O. Box 45388 Tulsa, Okla. 74145 Applicant's representative: Wilburn L. Williamson 280 National Foundation Life Bldg. 3535 N.W. 58th Street Oklahoma City, Okla. 73112 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bed springs, bedstead rails, cots and cot frames, unupholstered daybeds, bed frames, springs and spring assemblies, metal sleeper fixtures and materials used in the manufacture of the foregoing commodities*, (1) from Springfield, Mo., and Hominy, Okla., to Winchester, Ky., Los Angeles, Calif., and points in and Arizona; and (2) from Carthage, Mo., to Winchester, Ky., and Los Angeles, Calif. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa or Oklahoma City, Okla.

No. MC 136176 (Sub-No. 3) filed July 5, 1973. Applicant: INDEPENDENT TRANSPORTATION, INC., Kanopolis, Kans. 67454. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt, salt products and materials and supplies* used in salt, agricultural, water treatment, food processing, wholesale grocery and institutional supply industries when shipped in mixed loads with salt and/or salt products, between points in Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Wisconsin, and Illinois, and (2) *products and commodities* used in the manufacture, production, and distribution of salt and salt products, from points in Montana, Wyoming, North Dakota, South Dakota, Kansas, and Oklahoma to the plantsite and warehouse facilities utilized by Independent Salt Company at or near Kanopolis, Kans., restricted in (1) and (2) above against the transportation of liquid commodities in bulk, in tank vehicles, under a continuing contract or contracts with Independent Salt Company. Note: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Topeka, Kans.

No. MC 136312 (Sub-No. 2) filed June 25, 1973. Applicant: HASKELL FOODS COMPANY OF OKLAHOMA, INC. P.O. Box 277 Haskell, Okla. 74436 Applicant's representative: James B. Blair, 111 Holcomb Street, Springdale, Ark. 72764. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (a) from Haskell, Okla., to points in Illinois and Tennessee, and (b) from points in Arkansas, Illinois, Kansas, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas, to Haskell, Okla., under contract with RJR Foods, Inc. Note: If a hearing is deemed necessary, applicant requests it be held at either Oklahoma City, Okla., Kansas City, Mo., or Dallas, Tex.

No. MC 136407 (Sub-No. 3) filed June 21, 1973. Applicant: COORS TRANSPORTATION COMPANY, a Corporation, 5101 York Street, Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, 1600 Lincoln Center, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese and cheese products, pizza materials and supplies*, (a) from points in California to Denver, Colo., and Chappell and Superior, Nebr., and (b) between Denver, Colo., and Chappell and Superior, Nebr., and (2) *standardized milk* in mixed loads with cheese, from Lemoore and Stockton, Calif., to Denver, Colo., and Chappell and Superior, Nebr., under a continuing contract or contracts with Leprino Cheese Co., restricted traffic originating at or destined to facilities of Leprino Cheese Co., and further restricted to traffic moving in vehicles equipped with mechanical refrigeration. Note: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 136530 (Sub-No. 2) filed June 12, 1973 Applicant: NORBET TRUCKING CORP. 100 Nassau Terminal Road New Hyde Park, N.Y. 11040 Applicant's representative: E. Stephen Heisley 666 Eleventh Street, N.W. Washington, D.C. 20001 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and materials, equipment, and supplies* (except commodities in bulk) used in the manufacture, distribution, and production of iron and steel articles, between Baltimore, Md., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Ohio, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, the District of Columbia, North Carolina, South Carolina, Tennessee and Kentucky. RESTRICTIONS: (1) The above authority is restricted to traffic originating at or destined to the facilities of American Strip Steel, Incorporated at Baltimore, Md.; and (2) restricted to the transportation of traffic moving under continuing contractor contracts with American Strip Steel, Incorporated, New Hyde Park, N.Y. Note: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 136640 (Sub-No. 4) filed June 19, 1973 Applicant: ROBERT L. ALLEN/doing business as R. ALLEN TRANSPORT P.O. Box 321 Pocomoke City, Md. 21851 Applicant's representative: S. Michael Richards 44 North Avenue Webster, N.Y. 14580 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen onion rings* from diced, fresh onions, when moving in mixed shipments with agricultural commodities otherwise exempt from economic regulations under Section 203(B)(6) of the Act, from Boston, Mass., to points in Alabama, Arkansas, Florida, Louisiana, and Tennessee, and (2) *canned foods*, from Hallwood, Va., to points in California, Montana, Oregon and Washington, under contract with Boston Bonnie, Inc. and John W. Taylor Packing Co., Inc. Note: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass. or Washington, D.C.

No. MC 136946 (Sub-No. 1) filed May 29, 1973 Applicant: GLEN MAR, INC. 2606 N.E. 102nd Street Vancouver, Wash. 98665 Applicant's representative: Nick I. Goyak 404 Oregon National Building 610 S.W. Alder Portland, Oreg. 97205 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned seafoods* when transported with commodities partially exempt pursuant to the provisions of Section 203(b)(6) of the Interstate Commerce Act, (1) from South Bend and Ocean Park, Wash., to Denver, Colo., Hutchison, Wichita, and Kansas City, Kans., Minneapolis, Minn., Chicago, Ill., Indianapolis, Ind., Detroit, Mich., Cleveland, Ohio, Grand Rapids, Mich., and Buffalo and Syracuse, N.Y., and (2) from South Bend and Ocean Park, Wash., to points on the International Boundary line between the United States and Canada, at or near Blaine, Wash., under contract with East Point Seafood Company. Note: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg. or Seattle, Wash.

No. MC 138175 (Sub-No. 1) filed June 8, 1973 Applicant: JOSEPH E. McCARTNEY 185 Commercial Street Portland, Maine 04111 Applicant's representative: Frederick T. McGonagle 36 Main Street Gorham, Maine 04038 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen fruits, frozen berries and frozen vegetables*, from the ports of entry located on the International Boundary line between the United States and Canada at or near Calis and Houlton, Maine, and the International port of entry at Portland, Maine, to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Florida, West Virginia, and Michigan; and Albany and Buffalo, N.Y.; Pottstown, Morgantown, Philadelphia, Peach Glen, and Scranton, Pa.;

Portsmouth, Va.; St. Louis and Kansas City, Mo.; and Mankado and Minneapolis, Minn.; and (2) *corrugated containers, plastic and metal pails, tubs, cans, and cartons* used for the packaging of frozen foods, from Pottstown, Pa.; Putnam, Conn.; Somerville, Mass.; and Portland, Maine, to the ports of entry located on the International Boundary line between the United States and Canada located at or near Calais and Houlton, Maine, and to the International Port of Entry at Portland, Maine, under contract with Christy Corps, Inc., Bedford, Mass. If a hearing is deemed necessary, applicant requests it be held at Portland, Maine, or Boston, Mass.

No. MC 138184 (Sub-No. 1) filed May 22, 1973 Applicant: WALLACE TRUCKING COMPANY a Corporation Route 4 Box A71 Laurinburg, N.C. 28352 Applicant's representative: John Arch Wallace (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and equipment* used in planting, detasseling and harvesting corn and other grains, between points in Florida, North Carolina, Indiana, Illinois, Iowa and Michigan. Note: If a hearing is deemed necessary, applicant requests it be held at Laurinburg or Raleigh, N.C.

No. MC 138218 (Sub-No. 1) filed June 25, 1973 Applicant: MID-CITY FREIGHT LINES, INC. Route 1 Sibley, Mo. 64088 Applicant's representative: Frank W. Taylor, Jr. 1221 Baltimore Avenue Kansas City, Mo. 64105 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zinc and aluminum castings*, from the plantsite of Lyons Diecasting Company at or near Buckner, Mo., to points in Iowa, Nebraska, Illinois, Missouri, Kansas, Ohio, Indiana, Wisconsin, Oklahoma, Georgia, Kentucky, Tennessee and West Virginia. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 138258 (Sub-No. 1) filed May 24, 1973 Applicant: JAMES D. WILCOX 201 Depot Street Boone, N.C. 28607 Applicant's representative: Douglas W. Greene 102 East King Street P.O. Box 629 Boone, N.C. 28607 Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Electrical parts and components*, having a prior or subsequent movement by air between Lansing, N.C. and Tri-City Airport, near Blountville, Tenn.; from Lansing over North Carolina Highway 194 to junction U.S. Highway 221 at West Jefferson, N.C.; thence south over U.S. Highway 221 to junction U.S. Highway 421 at Deep Gap, N.C.; thence over U.S. Highway 421 to junction U.S. Highway 321 via Boone, N.C., thence westward over U.S. Highway 321 to Hampton, Tenn., to junction U.S. Highway 19E; thence north-westward over U.S. Highway 19E to junction U.S. Highway 11E near Bluff City, Tenn.; thence westward over Tennessee Highway 37 to Blountville, Tenn., to junction Tennessee Highway 75; thence southward over Tennessee Highway 75 to Tri-City Airport, and return over the same route. Note: If a hearing is deemed necessary, applicant requests it be held at either Boone; Winston-Salem or Charlotte, N.C.

No. MC 138393 (Sub-No. 2) filed June 24, 1973 Applicant: CUSTOM SAND & GRAVEL HAULING, INC. Rt. 1, Box 716 Rapid City, S.D. 57701 Applicant's representative: James W. Olson 506 West Boulevard Rapid City, S.D. 57701 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel and aggregate*, in end dump trucks only, from points in Pennington and Fall River Counties, S.D., to points in Sioux, Dawes, Box Butte, Sheridan, and Cherry Counties, Nebr. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Rapid City, S.D.

No. MC 138569 (Sub-No. 2) filed June 22, 1973 Applicant: DAVID BRAITHWAITE AND DENNIS BRAITHWAITE, a Partnership, doing business as BRAITHWAITE TRUCKING 3819 Sunset Drive Rapid City, S. Dak. 57701 Applicant's representative: Ronald Clabaugh 818 St. Joseph St. Rapid City, S. Dak. 57701 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed rock, sand and gravel products*, (except hydrated lime, limestone mineral filler (limestone dust), or similar lime and limestone products which must be transported in covered or closed trailers), from points in Pennington and Fall River Counties, S. Dak., to points in Dawes, Sioux, Box Butte, Sheridan and Cherry Counties, Nebr. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Rapid City, Pierre, or Sioux Falls, S. Dak.

No. MC 138618 (Sub-No. 1) filed June 5, 1973 Applicant: FRANKLIN LUMBER COMPANY, INC. P.O. Box 416 Russellville, Ala. 35613 Applicant's representative: D. H. Markstein, Jr. 512 Massey Building Birmingham, Ala. 35203 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, resawn, from Jasper, Double Springs and Russellville, Ala., to points in Florida, Tennessee, Kentucky, Ohio, Indiana, Michigan, Illinois, Georgia, Wisconsin, Missouri, Iowa, Mississippi, Minnesota, New York and Pennsylvania, under a continuing contract with TMA Forest Products Division of Tennessee River Pulp & Paper Company. Note: If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala. or Washington, D.C.

No. 138683 filed April 27, 1973 Applicant: SERV-ALL MOTOR FREIGHT, INC. 34 Union Avenue Clifton, N.J. 07011 Applicant's representative: George A. Olsen 69 Tonnele Avenue Jersey City, N.J. 07036 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, and materials, equipment and supplies* used or useful in the manufacture and sale of plastic articles (except commodities in bulk), between the warehouse of the Pantasote Co. at Passaic and Newark, N.J., on the one hand, and, on the other, points in Connecticut, Pennsylvania and New York (except New York, N.Y.), under a continuing contract with Pantasote Co. Note: Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. or Newark, N.J.

No. MC 138696 (Sub-No. 2) filed July 11, 1973 Applicant: LESTER GRAY Box 372 Bemidji, Minn. 56601 Applicant's representative: F. H. Kroeger 2288 University Avenue St. Paul, Minn. 55114 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fence pickets*, from Redby, Minn. to Bay City and Gladstone, Mich., Dallas and Fort Worth, Tex., Fowler, Ohio, Oklahoma City, Okla., West Des Moines, Iowa and points in Maryland, under contract with Red Lake Chippewa Fence Company. Note: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 138725 filed May 9, 1973 Applicant: BOB'S WINDOW CLEANING SERVICE, INC. 14 Park Avenue Salem, N.H. 03079 Applicant's representative: Robert E. Tomes (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-negotiable checks and sealed envelopes, data process papers and computer tapes*, between points in Maine, Massachusetts, New Hampshire and Vermont. Note: If a hearing is deemed necessary, applicant requests it be held at Concord, N.H.

No. MC 138812 filed June 8, 1973 Applicant: RONALD DeBOER (unnumbered) Sherry, Wis. 54478 Applicant's representative: Edward Solie Executive Bldg.—Suite 100 4513 Vernon Blvd. Madison, Wis. 53705 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Sherry (Wood County), Wis., to points in the United States (except Alaska and Hawaii), limited to a transportation service performed under a continuing contract, or contracts, with Sherry Dairy, Ltd., of Sherry, Wis. Note: If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 138815 (Sub-No. 1) filed June 13, 1973 Applicant: MERCHANTS DELIVERY, INC. 411 Monroe St. Nashville, Tenn. Applicant's representative: Frank D. Hall Suite 713 3384 Peachtree Rd., N.E. Atlanta, Ga. 30326 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, equipment*

and supplies, sold, used or distributed by a manufacturer of cosmetics, from Nashville, Tenn., to points in Stewart, Montgomery, Robertson, Sumner, Macon, Trousdale, Smith, Wilson, Humphreys, Dickson, Cheatham, Davidson, Cannon, Rutherford, Williamson, Hickman, Perry, Decatur, Wayne, Lawrence, Gile, Maury, Marshall, Lincoln, Bedford, Coffee, Franklin, Lewis, Moore and Houston Counties, Tenn., under contract with Avon Products, Inc. Note: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Washington, D.C.

No. MC 138817 filed June 1, 1973 Applicant: STEPHEN W. KETCHUM doing business as KETCHUM TRUCKING COMPANY, P.O. Box 464 Pontiac, Mich. 48056. Applicant's representative: William B. Elmer 21635 East Nine Mile Road St. Clair Shores, Mich. 48080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motorcycles, snowmobiles, and all-terrain vehicles and parts and accessories*, for the foregoing, when moving with motorcycles, snowmobiles and all-terrain vehicles, from the International Ports of Entry located in Texas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, New Jersey, Delaware, Pennsylvania, New York, Massachusetts, Ohio, Michigan, Indiana, Illinois and Wisconsin, to Pontiac, Mich., under contract with Anderson Sales & Service, Inc., restricted to traffic having a prior movement by water in foreign commerce. Note: If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 138822 (CORRECTION) filed May 14, 1973, and published in the FR issue of July 12, 1973, and republished, as corrected, this issue. Applicant: ROY GERNER & SONS, INC. R. D. # 1 Cabot, Pa. 16023 Applicant's representative: Kenneth R. Davis 999 Union Street Taylor, Pa. 18517 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meats*, from Denison, Cedar Rapids, Ottumwa, and Estherville, Iowa, points in Kentucky and points in the New York, New York Commercial Zone as defined in the fifth supplemental report in the *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted under the exemptions provided as Section 203(b)(8) of the Act I (exempt zone), to the facilities of Kress-Dobkin Co., Inc., located at or near Pittsburgh, Pa., subject to the condition that the transportation of traffic originating in the New York, New York Commercial Zone shall be restricted to that having an immediately prior movement by water. RESTRICTION: Restricted to the transportation of traffic originating at the points set forth in the above-described authority and destined to the facilities of Kress-Dobkin Co., Inc., located at or near Pittsburgh, Pa. Note: Applicant states that the purpose of this application is to convert its Permit in MC 129970 into a Certificate of Public Convenience and Necessity. Further, the purpose of this republication is to clearly and correctly set forth the restriction that the transportation of the above-named commodities originating in the New York, New York Commercial Zone shall be restricted to that having an immediately prior movement by water, which was inadvertently omitted in the previous FR notice. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 138849 filed June 11, 1973 Applicant: WILLIAMS MACHINERY MOVERS INC. 248-47 Jamaica Avenue Bellerose (Queens), N.Y. 11426 Applicant's representative: Arthur J. Piken One Lefrak City Plaza Flushing, N.Y. 11368 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printing, bindery and box making machinery, equipment and parts*, (1) between points in the New York, N.Y. Commercial Zone as defined in the fifth supplemental report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451 within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone) and points in Hudson and Essex Counties, N.J., on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Connecticut, Massachusetts, Rhode Island, Ohio, and the District of Columbia, and (2) between points in New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Connecticut, Massachusetts, Rhode Island, Ohio, and the District of Columbia, under a continuing contract with Heidelberg Eastern Inc. Note: Applicant has currently filed a Motion for Dismissal. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 138871 (Sub-No. 1) filed June 25, 1973 Applicant: PADELFORD TRUCKING CORP. 1370 County Road 8 Canandaigua, N.Y. 14424 Applicant's representative: S. Michael Richards 44 North Ave. Webster, N.Y. 14580 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk, in tank vehicle, and foodstuffs), between points in New York on the one hand, and, on the other hand, points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia under contract with Nero Equipment at Canandaigua, N.Y.; Cicero Sports Equipment, Inc. at Brewerton, N.Y.; Galens Mfg. Corp. at Clyde, N.Y.; O. G. Schwarz Corp., and Radiant Electric Inc. at Rochester, N.Y. Note: If a hearing is deemed necessary, applicant requests it be held at Syracuse, N.Y.

No. MC 138897 filed June 25, 1973 Applicant: JOSEPH D. BLACKBURN, doing business as BLACKBURN TRANSPORTATION P.O. Box 2250 Bowling Green, Ky. 42101 Applicant's representative: John M. Nader P.O. Box E Bowling Green, Ky. 42101 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building brick, and concrete block*, unloaded by mechanical devices furnished by the carrier, from Nashville and Franklin, Tenn., to points in Warren, Barren, Simpson, Logan, Butler, Edmonson, Allen, Hart, and Muhlenberg Counties, Ky. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

MOTOR CARRIER OF PASSENGERS

No. MC 3647 (Sub-No. 444) filed June 3, 1973 Applicant: TRANSPORT OF NEW JERSEY a Corporation 180 Boyden Avenue Maplewood, N.J. 07040 Applicant's representative: John F. Ward (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Essex and Passaic Counties, N.J., Fort Lee, Englewood, Teaneck and Hackensack, N.J., and those in that part of Paramus, N.J. on and south of New Jersey Highway 4, and extending to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Tennessee, Vermont and Virginia. Note: Applicant also holds a broker license in MC 12668. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 138525 (Sub-No. 1) filed June 15, 1973 Applicant: PRINCETON MESSENGER SERVICE, INC. U.S. Route 1 Princeton, N.J. 08540 Applicant's representative: Harold G. Hernly, Jr. 118 North St. Asaph St. Alexandria, Va. 22314 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, between the site of the Mobil Technical Center located near Pennington (Mercer County), N.J., on the one hand, and, on the other, New York, N.Y., under a continuing contract or contracts with Mobil Research and Development Corporation (an affiliate of Mobil Oil Corporation). Note: Applicant also holds common carrier authority under MC 136446 (Sub-No. 1), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 138798 filed May 10, 1973 Applicant: KEN L. POLLOCK Route 11 Hunlock Creek, Pa. 18621 Applicant's representative: Edward Schmeltzer 1140 Connecticut Avenue, N.W. Suite 1100 Washington, D.C. 20036 Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers*, in buses, who also tender their automobiles to the applicant for transportation on separate auto transporters; but the transportation of any passenger will not be provided unless the passenger arrives at the applicant's terminal in an automobile which is tendered to the applicant for transportation to the passenger's destination: (1) From applicant's terminal located in the Metropolitan Washington, D.C. area to applicant's terminal located at St. Augustine, Fla., over Interstate Highway 95; and return over the same route; (2) From applicant's terminal located in the Boston Metropolitan area to applicant's terminal located at St. Augustine, Fla., commencing over Interstate Highway 95 to the entrance to the New Jersey Turnpike, thence over the New Jersey Turnpike to its Exit No. 1, located near Pennsville, N.J., thence over Interstate Highway 295 to its intersection with Interstate Highway 95 near Wilmington, Del., thence over Interstate Highway 95; and return over the same route; and (3) From applicant's terminal located in the Chicago Metropolitan area to applicant's terminal located at St. Augustine, Fla., commencing over Interstate Highway 80 to its intersection with Interstate Highway 65 in the vicinity of Gary, Ind. thence over Interstate Highway 65 to its intersection with Interstate Highway 24 located at or near Nashville, Tenn., thence over Interstate Highway 24 to its intersection with Interstate Highway 75 located at or near Chattanooga, Tenn., thence over Interstate Highway 75 to its intersection with Interstate Highway 10 in the vicinity of Lake City, Fla., thence over Interstate Highway 10 to its intersection with Interstate Highway 95 at Jacksonville, Fla., thence over Interstate Highway 95; and return over the same route. Note: If a hearing is deemed necessary, applicant requests it be held at Wilkes Barre or Harrisburg, Pa.

No. MC 138707 (Sub-No. 1) filed June 1, 1973 Applicant: W. L. WILLCOXON doing business as: YELLOW CAB CO. OF JUNCTION Box 2065 Grand Junction, Colo. 81501 Applicant's representative: Stockton and Lewis The 1650 Grant St. Bldg. Denver, Colo. 80203 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, between Grand Junction, Colo., on the one hand, and, on the other, points on the Colorado River in Grand County, Utah and Mesa County, Colo. West of Grand Junction, Colo. Note: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Salt Lake City, Utah.

No. MC 138829 filed June 4, 1973 Applicant: ALLAN J. McDONALD, LIMITED 1602 Jane Street Cornwall, Ontario, Canada Applicant's representative: Morton E. Kiel 5 World Trade Center, Suite 6193 New York, N.Y. 10048 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, between points on the International Boundary line between the United States and Canada located at points in New York and Michigan, on the one hand, and, on the other, points in and east of Wisconsin, Illinois, Kentucky, Tennessee, and Mississippi, restricted to traffic originating at Cornwall, Ontario, Canada and its environs. Note: If a hearing is deemed necessary, applicant requests it be held at Plattsburgh or Syracuse, N.Y.

No. MC 138856 filed June 18, 1973 Applicant: CONTINENTAL FRONTIERS, INC. 1 Sherman Square New York, N.Y. 10023 Applicant's representative: John P. Tyan 65-12 69th Place Middle Village, N.Y. 11379 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special or charter operations from points in the New York, N.Y. Commercial Zone and Barre, Vt., to points in the United States, including Alaska (but excluding Hawaii), and return. Note: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-16392 Filed 8-8-73;8:45 am]

CUMULATIVE LISTS OF PARTS AFFECTED—AUGUST

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

FEDERAL REGISTER PAGES AND DATES—AUGUST

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20423–20601	Aug. 1
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THURSDAY, AUGUST 9, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 153

PART II

EXPORT-IMPORT BANK

■

STANDARDS OF CONDUCT

Title 12—Banks and Banking

CHAPTER IV—EXPORT-IMPORT BANK OF THE U.S.

PART 400—STANDARDS OF CONDUCT

Part 400 has been revised and updated in order to insure consistency with current Federal statutes and Civil Service Commission and other regulations. Part 400 as it appears below replaces the corresponding Part which appears in Chapter IV of Title 12 of the Code of Federal Regulations.

Sec.

AUTHORITY: E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR E.O. 11222; 5 CFR 735.104.

§ 400.735–1 General.

(a) Subparts A through C of this Part 400 are issued to direct attention of Bank employees to certain important provisions of statute, in particular Public Law 87–849 effective January 21, 1963, relating to bribery, graft, and conflicts of interest, and to Executive Order 11222, dated May 8, 1965—Prescribing Standards of Ethical Conduct for Government Officers and Employees, and to set forth additional rules which each Bank employee must observe. The references to statutes appearing in Subparts A through C are not intended to be complete and the comments are not intended to be exhaustive. Therefore, even though Bank employees shall be expected to conduct themselves in accordance with Subparts A through C, they shall not regard these requirements as the entire expression of the highest standards of conduct and integrity.

(b) Subpart D of this part prescribes procedures governing the appointment and utilization of other than regular full-time Bank employees, and standards of conduct for persons appearing before the Bank other than as officers or employees of the Bank and standards of conduct applicable to special Government employees.

(c) Subpart E of this part prescribes procedures for the submission of statements of employment and financial interests.

Subpart A—Regular Full-Time Bank Employees—Standards of Conduct

§ 400.735–5 Gifts, gratuities, entertainment, and favors.

(a) *Constitutional and Statutory.* (1) Criminal statutes prohibit a Bank employee from soliciting or receiving anything of value for himself or another in return for being influenced in the performance of an official act (18 U.S.C. 201).

(2) Criminal statutes prohibit a Bank employee from soliciting or receiving for himself anything of value for or because of any official act performed or to be performed by the Bank employee (18 U.S.C. 201).

(3) Criminal statutes forbid outside pay for Government work (18 U.S.C. 209).

(4) Statutes prohibit a Bank employee from soliciting contributions from another Bank employee for a gift to a Bank employee in a superior official position, prohibit a Bank employee from accepting a gift presented as a contribution from a Bank employee receiving less salary than himself, and prohibit a Bank employee from making a donation as a gift to a Bank employee in a superior official position (5 U.S.C. 7351). However, Civil Service Regulations provide that the foregoing does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(5) A Bank employee shall not request or otherwise encourage the tender of a gift or decoration from a foreign government, and a Bank employee shall not accept a gift, present, decoration, or other thing from a foreign government unless the employee has complied with apppropriate regulations issued by the Department of State (Article I, section 9, U.S. Constitution; 5 U.S.C. 7342; 22 CFR Part 3).

(b) *Rules and comment.* (1) Except as provided in paragraph (b) (2) of this section, a Bank employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(i) Has, or is seeking to obtain, contractual or other business or financial relations with the Bank; or

(ii) Has interests that may be substantially affected by the performance or nonperformance of the Bank employee's official duty.

In those cases in which the tender of any such gift, gratuity, or other thing of monetary value occurs under circumstances making the return thereof to the donor either impractical or impossible, or where it is considered that the return thereof would occasion embarrassment to the Bank, the Bank employee shall promptly deliver the item involved to the Vice President-Administration of the Bank. All such items delivered to the Vice President-Administration shall be disposed of by him in accordance with instructions of the Ethics Committee (see Subpart B of this part).

(2) Notwithstanding the foregoing, a Bank employee may:

(i) Accept gifts, entertainment, or favors given as a result of obvious family or personal relationships (such as those between parents, children, or spouse of the Bank employee and the Bank employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(ii) Accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting (including functions sponsored by a government or an embassy and ceremonial functions), or on an inspection tour where such Bank employee is authorized by the Bank to be in attendance;

(iii) Accept loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans;

(iv) Accept unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value; and

(v) Accept table favors, mementos, remembrances, or other tokens bestowed at official functions and other gifts of minimal value received as souvenirs or marks of courtesy from a foreign government, the burden of proof being upon the recipient to establish that the gift is of minimal value (5 U.S.C. 7342; 22 CFR Part 3).

§ 400.735–6 Outside employment and other activities.

(a) *Statutory.* With certain exceptions, criminal statutes forbid a Bank employee, except in discharge of official duty, from representing anyone else before a court or a Government agency in a matter in which the United States Government is a party or has a direct

and substantial interest, (18 U.S.C. 203 and 205).

(b) *Rules and comment.* (1) A Bank employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Bank employment. Incompatible activities include but are not limited to:

(i) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(ii) Outside employment which tends to impair his mental or physical capacity to perform his Bank duties and responsibilities in an acceptable manner.

(2) Bank employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or regulations. However, a Bank employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Commission or Board of Examiners for the Foreign Service, that depends on information obtained as a result of his Bank employment, except when that information has been made available to the general public or will be made available on request, or when the President of the Bank gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(3) To assure that no possible conflict with Bank duties and interest shall arise, a Bank employee shall disclose the nature of all outside employment to the Ethics Committee and not undertake such employment unless the Ethics Committee shall approve.

(4) This § 400.735–6 shall not preclude a Bank employee from:

(i) Participating in discussions and meetings of a professional nature held outside of Washington to which such Bank employee has been invited and from receiving from outside sources bona fide reimbursement for actual expenses of travel and subsistence incurred in connection with his participation if such Bank employee's participation is not a part of his official duties at the Bank.

(ii) Accepting (unless prohibited by law) the unsolicited provision by others of transportation, lodging, or meals or the unsolicited reimbursement by others for the cost thereof, provided acceptance by the Bank employee was made while the Bank employee was on official travel status and was engaged in Bank business, provided the transportation, lodging, or meals which were provided or subject to reimbursement by others were not excessive in value and provided the Bank employee does not accept reimbursement from the Bank for such transportation, lodging, or meals. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967.

(iii) Participating in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, non-profit educational and recreational, public service, or civic organization.

§ 400.735–7 Financial interest of Bank employee or connected person or entity.

(a) *Statutory.* Criminal statues prohibit a Bank employee from participating in any Bank matter in which, to his knowledge, he, his spouse, his minor child, his partner, or any organization in which he is employed or negotiating to be employed has a financial interest (18 U.S.C. 208).

(b) *Rules and comment.* (1) The law does not specify the minimum financial interest which gives rise to a conflict of interest. If a Bank employee has occasion to act upon a matter in which to his knowledge he (or a person or an organization with whom he is closely connected) has any financial interest (whether in the form of securities or otherwise) he shall disqualify himself from acting. However, the statute authorizes a waiver under certain circumstances. If a Bank employee believes that the circumstances warrant the issuance of a waiver, he shall, before proceeding to act, disclose fully such interest to the official responsible for his appointment. He shall then act upon the matter only after he has received a written determination by the appointing official that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Bank may expect from the Bank employee. The power of exemption shall be exercised by the appointing official after consultation with the Ethics Committee.

(2) A Bank employee shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his duties or responsibilities at the Bank.

§ 400.735–8 Confidential information.

(a) *Statutory.* Criminal statutes prohibit a Bank employee from disclosing, other than as provided by law, business information obtained through his employment, (18 U.S.C. 1905).

(b) *Rules and comment.* (1) A Bank employee shall not make available to anyone outside the Bank information or documents in the possession of the Bank and held by the Bank on a confidential basis.

(2) A Bank employee shall not engage in, directly or indirectly, financial transactions or further his personal interests, as a result of, or primarily relying upon, information obtained through his employment at the Bank.

(3) A Bank employee shall not make use or give the appearance of making use, or permit others to make use or give the appearance of making use, of official information not made available to the general public for the purpose of furthering a private interest.

(4) As a result of their official duties, Bank employees will frequently have access to business information of a confidential nature. Typically, this might involve expansion plans by companies seeking the Bank's financial assistance. Such information is disclosed for official use within the Bank and is made available for no other purpose than consideration of the loan application or other matters involved. Where such confidential business information might be compromised in responding to outside inquiries from apparently authorized or legitimate sources, such as other Government agencies, staff members should refer these inquiries to the Ethics Committee to determine whether the nature and circumstances of such inquiries justify disclosure of the particular information sought. Such information should be disclosed to part-time employees and consultants of the Bank only to the extent authorized by the officer responsible for the appointment of such part-time employee or consultant.

§ 400.735–9 Former employees.

(a) *Statutory.* Criminal statutes prohibit a former Bank employee from acting as agent or attorney, at any time, for anyone in connection with a particular matter in which the United States Government has an interest and in which he participated personally and substantially while at the Bank, or appearing personally as agent or attorney for anyone, within one year after leaving the Bank, in connection with a particular matter in which the United States Government has an interest and which was under his official responsibility during his last year at the Bank (18 U.S.C. 207).

(b) *Rules and comment.* When former Bank employees or former part-time or unpair officer or employees of the Bank are acting as representatives of firms or organizations dealing with the Bank, their representation must be disclosed to the Ethics Committee, and if the Ethics Committee determines that such representation would create a conflict of interest, it shall so notify the applicant.

§ 400.735–10 Preferential treatment.

A Bank employee shall not indicate to anyone with whom the Bank has dealings any preference among suppliers, attorneys, engineers, or consultants as regards goods, equipment, or services to be provided in connection with any Bank assistance. It is established Bank policy to avoid placing any person or firm in a preferential position with respect to obtaining orders or contracts for materials or services. It is recognized that borrowers, particularly foreign governments and firms, may in good faith seek the assistance of the Bank in selecting com-

petent firms or consultants in connection with such matters as engineering surveys which might later form the basis for a loan application. If the interests of the Bank justify some guidance by the Bank itself in these situations, a list of qualified firms may be furnished upon determination by the Ethics Committee.

§ 400.735–11 Use of Government property.

A Bank employee shall not, directly or indirectly, use, or allow the use of, Bank property of any kind, including property leased to the Bank, for other than officially approved activities. An employee has a positive duty to protect and conserve Bank property, including equipment, supplies, and other property entrusted or issued to him.

§ 400.735–12 Personal financial integrity.

A Bank employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the Bank employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the Bank determines does not, under the circumstances, reflect adversely on the Bank as his employer.

§ 400.735–13 Gambling, betting, and lotteries.

A Bank employee shall not participate, while on Bank-owned or leased property, or while on duty for the Bank, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 400.735–14 General conduct prejudicial to the Bank.

A Bank employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Bank. A Bank employee shall avoid any action, whether or not specifically prohibited in this Subpart A, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Bank efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Bank decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Bank.

§ 400.735–15 Courtesy.

A Bank employee shall conduct himself in a manner that will assure effective accomplishment of his responsibilities and must observe the requirements of courtesy, consideration, and promptness in dealing with those seeking the Bank's assistance.

§ 400.735–16 Miscellaneous Statutory provisions.

Attention of each Bank employee is directed to the following statutory provisions:

(a) The prohibition against a Bank employee participating in any manner in the deliberation or determination of any matter affecting his personal interests or the interests of any corporation, partnership, or association in which he is directly or indirectly interested, (12 U.S.C. 635a(e)).

(b) House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B 12, the "Code of Ethics for Government Service".

(c) Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest.

(d) The prohibition against lobbying with appropriated funds, (18 U.S.C. 1913).

(e) The prohibitions against disloyalty and striking, (5 U.S.C. 7311, 18 U.S.C. 1918).

(f) The prohibition against the employment of a member of a Communist organization, (50 U.S.C. 784).

(g) The prohibitions against the disclosure of classified information, (18 U.S.C. 798; 50 U.S.C. 783).

(h) The provision relating to the habitual use of intoxicants to excess, (5 U.S.C. 7352).

(i) The prohibition against the misuse of a Government vehicle, (31 U.S.C. 638a(c)).

(j) The prohibition against the misuse of the franking privilege, (18 U.S.C. 1719).

(k) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment, (18 U.S.C. 1917).

(l) The prohibition against fraud or false statements in a Government matter, (18 U.S.C. 1001).

(m) The prohibition against mutilating or destroying a public record, (18 U.S.C. 2071).

(n) The prohibition against counterfeiting and forging transportation requests, (18 U.S.C. 508).

(o) The prohibitions against:

(1) Embezzlement of Government money or property, (18 U.S.C. 641);

(2) Failing to account for public money, (18 U.S.C. 643); and

(3) Embezzlement of the money or property of another person in the possession of an employee by reason of his employment, (18 U.S.C. 654).

(p) The prohibition against unauthorized use of documents relating to claims from or by the Government, (18 U.S.C. 285).

(q) The prohibitions against political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, and 607.

(r) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act, (18 U.S.C. 219).

Subpart B—Implementation

§ 400.735–20 Dissemination.

The Vice President-Administration will cause all Bank employees to read Subparts A through C of this part at the time of their employment and at least annually thereafter. All Bank employees shall have read Subparts A through C not later than 60 days after the effective date of issuance.

§ 400.735–21 Ethics Committee.

A committee on ethics (the Ethics Committee) is hereby established. It shall consist of the First Vice President, as Chairman, the General Counsel, the Deputy General Counsel, and the Vice President-Administration of the Bank. All notices to the Ethics Committee shall be given to its Chairman, and only its Chairman or a person designated by him shall speak for the Ethics Committee. The Ethics Committee is authorized and directed to take the actions referred to in §§ 400.735–5(b)(1), 400.735–6(b)(3), 400.735–7(b)(1), 400.735–8(b)(4), 400.735–10, and 400.735–30(c). The Ethics Committee shall have the duty to assure that no appointment of a regular Bank employee is made if such appointment would create a conflict under § 400.735–6(b)(1) or § 400.735–7(b)(2).

§ 400.735–22 Counselor on Ethics.

The Chairman of the Ethics Committee shall serve as Counselor to the Bank and as the Bank's designee to the Civil Service Commission on matters covered by Subparts A through C of this part.

§ 400.735–23 Deputy Counselor on Ethics.

The General Counsel shall be Deputy Counselor on Ethics and shall be available to give authoritative advice and guidance to each Bank employee on matters covered by Subparts A through C of this part, including any matter arising under § 400.735–7(b)(2).

§ 400.735–24 Availability of counseling.

Each Bank employee may consult the General Counsel at any time during normal Bank hours for counseling on problems raised by Subparts A through C of this part.

§ 400.735–25 Complaints.

Complaints from any source concerning the subject matter of Subparts A through C of this part, whether emanating from within or outside the Bank, are to be submitted to the Chairman of the Ethics Committee.

§ 400.735–26 Disciplinary and other remedial action.

If a Bank employee violates any of the provisions of Subparts A through C of this part he shall be subject to the penalties provided by law, and to such additional disciplinary and other remedial action, including, among others, dismissal, suspension, or reduction in rank,

as is appropriate. Disciplinary and other remedial action shall be effected in accordance with any applicable laws, Executive orders, and regulations.

Subpart C—Special Categories

§ 400.735–30 Bank employees who are required to submit statements of employment and financial interests.

(a) Statements of employment and financial interests shall be submitted by the following Bank employees:

(1) Every Bank employee paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code, but not including the Bank employees who are subject to section 401(a) of Executive Order 11222, May 8, 1965;

(2) Those Bank employees in grades GS–13 and above under section 5332 of title 5, United States Code, who occupy positions the basic duties and responsibilities of which require the incumbent to be responsible for making a Bank decision or taking Bank action where the decision or action has an economic impact on the interest of any non-Federal enterprise;

(3) Those Bank employees in grades GS–13 and above under section 5332 of title 5, United States Code, who occupy positions which the Bank has determined have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflicts-of-interest situation and carry out the purpose of law, Executive Order 11222 of May 8, 1965, 5 CFR Part 735 and this part; and

(4) Those Bank employees classified below GS–13 under section 5332 of title 5, United States Code, who are in positions which otherwise meet the criteria in paragraph (a)(2) or (3) of this section, on the basis that the inclusion has been specifically justified in writing to the Civil Service Commission as an exception that is essential to protect the integrity of the Government and avoid employee involvement in a possible conflicts-of-interest situation.

(b) The time and manner of submission of statements, and the procedures with respect thereto, are specified in Subpart E of this part.

(c) Any Bank employee who considers that his position has been improperly included among those requiring the submission of statements of employment and financial interests may submit the matter for review by the Ethics Committee created pursuant to § 400.735–21 of Subpart B of this part, or in accordance with the Bank's established procedures governing grievances and complaints as prescribed in Staff Memorandum No. 12, as revised, dated May 4, 1971.

(d) Employees in positions that meet the criteria in paragraph (a)(2) of this section may be excluded from the reporting requirements of this section when the Bank determines that:

(1) The duties of a position are such that the likelihood of the incumbent's involvement in a conflicts-of-interest situation is remote; or

(2) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

§ 400.735–31 Bank employees other than regular full-time.

Most of the statutes on employees' conduct are applicable to all directors, officers, and employees of the Bank, whether full-time or part-time, whether employed or retained in a consulting capacity, and whether compensated or not. However, there are special provisions applicable to part-time officers and employees of the Bank with regard to their activities before Government agencies, and the prohibition against outside compensation does not apply to officers and employees who serve without pay or to certain officers and employees who serve part time. Administrative actions and rules applicable to other than full-time officers or employees of the Bank are covered by Subpart D of this part.

§ 400.735–32 Presidential appointees.

The rules set forth in Subpart A of this part are applicable to all Bank employees who were appointed to their positions by the President of the United States, except that for purposes of the determination by the official responsible for the Bank employee's appointment referred to in § 400.735–7(b)(1), members of the Board of Directors other than the President of the Bank shall have such determination made by the President of the Bank. In addition, such Bank employees are subject to the provisions of Part IV of Executive Order 11222 of May 8, 1965, relating to submission of statements by Presidential appointees and to the requirement that they not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Bank, or which draws substantially on official data or ideas which have not become part of the body of public information.

Subpart D—Procedures Applicable to Other Than Regular Full-Time Bank Employees and Certain Related Standards of Conduct

§ 400.735–40 Procedures governing appointment and utilization.

Pursuant to Executive Order 11222, dated May 8, 1965, and Part 735 of Civil Service Commission regulations (5 CFR Part 735), this section sets forth the procedures which shall be observed in appointing and utilizing advisors, consultants and part-time employees.

(a) No private person shall be requested to appear before the Bank to give advice, comment, or service to the Bank except upon initiative of the Bank.

(b) Whenever a private person is requested to appear before the Bank to give advice, comment, or service to the Bank, it shall be determined whether he will appear on his own behalf or in a representative capacity for some party outside the U.S. Government or whether his appearance is under circumstances making him an officer or employee of the Bank.

(c) If he is to appear other than as an officer or employee of the Bank, he shall be caused to read the "Standards of conduct for persons appearing before the Bank other than as officers or employees of the Bank" (§ 400.735–41).

(d) If he is to appear under circumstances making him an officer or employee of the Bank, he shall, prior to appointment, make disclosure, to the extent and in accordance with procedures specified by the Chairman of the Ethics Committee, of his private employment and financial interests. Such disclosure shall show, at least, all other employment (including the names of all corporations, companies, firms, State or local government organizations, research organizations, and educational or other institutions in which the prospective officer or employee is serving as employee, officer, member, owner, director, trustee, advisor, or consultant) and all financial interests which relate either directly or indirectly to the duties and responsibilities of the prospective officer or employee. The Chairman of the Ethics Committee shall inquire as to the duties of the prospective officer or employee and as to confidential information which in the execution of his duties must necessarily be made available to the prospective officer or employee. The Chairman of the Ethics Committee shall determine whether or not the proposed appointment is free from probable conflicts of interest, taking into consideration the likelihood that the appointee may have to act in his official capacity on a matter in which he or someone connected with him has a financial interest, the likelihood that he may have to act in his private capacity with respect to a matter on which he will act in his official capacity or which may be pending before the Bank during the term of his appointment, and the likelihood that the appointee in his official capacity will acquire information which would be significant to him and not otherwise available to him in his private capacity. The Chairman of the Ethics Committee shall consult with the other members of the Ethics Committee on any of the foregoing matters to the extent he deems appropriate.

(e) If the proposed appointment is free from probable conflicts of interest, the candidate shall be given an appointment in writing. This appointment shall not extend for more than 365 days. It shall be determined at the time he is appointed to serve whether or not the appointee is a "special Government employee" for purposes of Public Law 87–849. This determination shall be made upon consideration of these factors:

(1) Whether or not he held at any time during the 365 days preceding appointment another appointment for temporary duties as an officer or employee

of the U.S. Government (including in that term the executive and legislative branches of the U.S. Government, any independent agency of the United States, and the District of Columbia). The Chairman of the Ethics Committee shall coordinate with the respective agency or agencies of the U.S. Government the classification of persons who hold or have held such other appointment or appointments.

(2) If he has held no other appointment, an estimate shall be made of the number of days on which he is expected to work for the Bank during the next 365 days. For this computation, parts of days on which duty is performed shall be counted as full working days and Saturdays, Sundays and holidays on which duty is performed shall be included.

(3) If he has held one or more other appointments: (i) An estimate shall be made for each 365-day period following the date of his other appointment or appointments of the number of days which the appointee is expected to work for the Bank during the remaining days of each such period; (ii) an estimate shall be obtained from each other agency where he has an appointment as to the number of days the appointee is expected to work for such other agency during the remaining days of the 365-day period following the date of his appointment at such agency; and (iii) the number of days shall be obtained which the appointee has actually worked for each other agency subsequent to his appointment at such agency.

(4) If he has held no other appointment and he is estimated to work for the Bank more than 130 days during the next 365, he shall be designated on the Bank's records as "part-time employee (other than special Government employee)." If he is estimated to work for the Bank 130 days or less during the next 365, he shall be designated on the Bank's records as a special Government employee.

(5) If he has held one or more other appointments and if the sum of the number of days worked or estimated to be worked on all such appointments and the Bank's appointment during any of the 365-day periods after any of these appointments is more than 130 days, he shall be designated on the Bank's records as "part-time employee (other than special Government employee)." If such sum is less than 130 days, he shall be designated on the Bank's records as a special Government employee.

(f) If he is designated as "part-time employee (other than special Government employee)," he shall be informed to that effect, shall be caused to read subparts A through C of this part, with the instruction that the statements therein (except, if he is serving without compensation, § 400.735-5(a)(3)) applicable to regular full-time Bank employees are equally applicable to him.

(g) If he is a special Government employee, he shall be informed to that effect and shall be caused to read the "Standards of conduct applicable to special Government employees," (§ 400.735-42).

(h) Each person who is retained or employed by the Bank and who is a special Government employee shall be advised of his obligation to keep the Bank informed of any additional appointments which he accepts to perform temporary duties as an officer or employee of the U.S. Government, and promptly after each such advice it shall be determined, pursuant to the procedures of paragraph (e) of this section, whether or not such person continues as a special Government employee. Each person who is retained or employed by the Bank and who is a special Government employee shall also be advised of his obligation to keep his statement of employment and financial interests current throughout his employment by the Bank by the submission of supplementary statements.

(i) Immediately after appointment of a person as an officer or employee of the Bank other than as a regular, full-time officer or employee of the Bank or after designation of a person who is to act as consultant to the Bank or who is to give advice, opinion, or service to the Bank in a capacity other than as a regular full-time director, officer, or employee, the appointing officer, in the case of an appointment, or the Chairman of the Ethics Committee, in the case of any such designation, shall advise all directors, officers, or employees of the Bank with whom the appointee or designee will deal as to the extent of confidential information to be made available to him with a view to avoiding as much as possible the disclosure of confidential information not needed for his functions or not available to his competitors in his private capacity or concerning the financial interest of himself or with which he is charged in his private capacity. The appointing officer shall instruct the appointee that information made available to him at the Bank must remain confidential in his hands and the Chairman of the Ethics Committee shall cause similar direction to be given to those utilizing the designee.

(j) Unless expressly provided otherwise, the determination required under the foregoing paragraphs shall be made by the officer who appoints or designates the individual in question upon consultation with the Chairman of the Ethics Committee.

(k) The Chairman of the Ethics Committee shall monitor the obligations of all advisors and consultants who do not hold appointments as officers or employees of the Bank. He shall advise those authorizing the services of such advisors and consultants of the requirements of this Subpart D with respect to such persons. Each appointing officer shall observe the requirements of this Subpart D in issuing each appointment as officer or employee of the Bank other than regular full-time employees of the Bank. After each such appointment the appointing officer shall be responsible for giving necessary advice and directions to permit fulfillment of the requirements of this Subpart D with respect to such appointment.

(l) If any officer or employee of the Bank, whether part-time or full-time, violates any of the rules set forth in this Subpart D, or in Subparts A through C of this part, to the extent such rules are applicable to such officer or employee, he shall be subject to the penalties provided by law and to such additional disciplinary action and other remedial action, including, among others, dismissal, suspension, or reduction in rank, as is appropriate. Disciplinary action and other remedial action shall be effected in accordance with any applicable laws, Executive orders, and regulations.

§ 400.735-41 Standards of conduct for persons appearing before the Bank other than as officers or employees of the Bank.

The following is intended for the guidance of persons who are requested to appear before the Export-Import Bank of the United States to give advice, comment, or service to the Bank but who are not appearing in the status of an officer or employee of the Bank:

(a) *Inside information.* (1) The first principle of ethical behavior for the temporary or intermittent consultant or advisor is that he must refrain from any use of his public office which is motivated by, or gives the appearance of being motivated by, the desire for private gain for himself or other persons, including particularly those with whom he has family, business, or financial ties. The fact that the desired gain, if it materializes, will not take place at the expense of the Bank makes this action no less improper.

(2) An advisor or consultant must conduct himself in a manner devoid of the slightest suggestion that he is exploiting his Bank connection for private advantage. Thus, a consultant or advisor must not, on the basis of any inside information, enter into speculation, or recommend speculation to members of his family or business associates, in commodities, land, or the securities of any private company. He must obey this injunction even though his duties have no connection whatever with the Bank programs or activities which may affect the value of such commodities, land, or securities. And, he should be careful in his personal financial activities to avoid any appearance of acting on the basis of information obtained in the course of his activities with the Bank.

(3) It is important for consultants and advisors to have access to Bank data pertinent to their duties and to maintain familiarity with the Bank's plans and programs and the requirements thereof, within the area of their competence. Since it is frequently in the Bank's interest that information of this nature be made generally available to an affected industry, there is generally no impropriety in a consultant's or advisor's utilizing such information in the course of his non-Bank activities after it has become so available. However, a consultant or advisor may, in addition, acquire in-

formation which is not generally available to those outside the Bank. In that event, he may not use such information for the special benefit of a business or other entity by which he is employed or retained or in which he has a financial interest.

(4) Consultants and advisors are encouraged to confer with appropriate persons at the Bank to assist them in the identification of information not generally available and in the resolution of any actual or potential conflict between duties to the Bank and to private employers or clients.

(5) Occasionally an individual who becomes a consultant or advisor to the Bank is, subsequent to his designation as such, requested by a private enterprise to act in a similar capacity. In some cases the request may give the appearance of being motivated by the desire of the private employer to secure inside information. Where the consultant or advisor has reason to believe that the request for his services is so motivated, he should make a choice between acceptance of the tendered private employment and continuation of his Bank consultancy. In such circumstances he may not engage in both.

(b) *Abuse of position.* An advisor or consultant shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or persons with whom he has family, business, or financial ties.

(c) *Gifts.* An advisor or consultant shall not receive or solicit anything of value as a gift, gratuity, or favor for himself or persons with whom he has family, business, or financial ties, if the acceptance thereof would result in his loss of complete independence or impartiality in serving the Bank.

§ 400.735–42 Standards of conduct applicable to special Government employees.

The following is intended for the guidance of special Government employees who are working for the Bank:

(a) *Use of Government employment.* A special Government employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) *Use of inside information.* (1) A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this paragraph, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(2) A special Government employee is encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or regulations. However, a special Government employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or the Board of Examiners for the Foreign Service, that is dependent on information obtained as a result of his Bank employment, except when that information has been made available to the general public or will be available on request, or when the President of the Bank gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(c) *Coercion.* A special Government employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

(d) *Gifts, entertainment, and favors.* (1) Except as provided in paragraph (d) (2) of this section, a special Government employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other think of monetary value, from a person who:

(i) Has, or is seeking to obtain, contractual or other business or financial relations with the Bank; or

(ii) Has interests that may be substantially affected by the performance or nonperformance of the special Government employee's official duty.

In those cases in which the tender of any such gift, gratuity, or other thing of monetary value occurs under circumstances making the return thereof to the donor either impractical or impossible, or where it is considered that the return thereof would occasion embarrassment to the Bank, the special Government employee shall promptly deliver the item involved to the Vice President-Administration of the Bank. All such items delivered to the Vice President-Administration shall be disposed of by him in accordance with instructions of the Ethics Committee.

(2) Notwithstanding the foregoing, a special Government employee may:

(i) Accept gifts, entertainments, or favors given as a result of obvious family or personal relationships (such as those between parents, children, or spouse of the special Government employee and the special Government employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(ii) Accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting (including functions sponsored by a government or an embassy and ceremonial functions), or on an inspection tour where such special Government employee is authorized by the Bank to be in attendance;

(iii) Accept loans from banks or other financial institutions on customary terms to finance proper and normal activities of employees, such as home mortgage loans; and

(iv) Accept unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(e) *Further disclosure.* If a special Government employee submitted to the Bank information as to his private employment and financial interests, he shall advise the Bank of any major change in such information promptly after such change has occurred. A special Government employee shall promptly advise the Bank of any additional employment with other Government agencies which he may have accepted after his appointment by the Bank.

(f) *Representation on certain matters.* No person, while carried on the Bank's records as a special Government employee, shall be permitted to act as agent or attorney for anyone in connection with a particular matter involving a specific party or parties.

(1) In which the United States is a party or has a direct and substantial interest and in which he has at any time participated personally and substantially as a Government employee or a special Government employee, or

(2) Which is pending before the Bank unless he has worked for the Bank, as of the day he acts, less than 61 days of the preceding 365 days (such exception not being applicable if such person has been disqualified with respect to the same matter at any previous time). For this computation, parts of days on which duty is performed shall be counted as full working days and Saturdays, Sundays, and holidays on which duty is performed shall be included.

(g) *Representation on matter worked on.* No person who is or once was carried on the Bank's records as a special Government employee shall be permitted to act as agent or attorney for anyone in connection with any matter which relates to the subject on which he is or was working at the Bank unless his thus acting as agent or attorney occurs with the knowledge and express written approval of the appointing officer responsible for his appointment.

(h) *Statements of employment and financial interest.* The President of the Bank may waive the requirement in § 400.735–40(d) for the submission of a statement of employment and financial interests in the case of a special Government employee who is not a consultant or an expert when the Bank finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of paragraph (h) of this sections, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual, but do not include:

(1) A physician, dentist, or allied medical specialist whose services are pro-

cured to provide care and service to patients;

(2) A veterinarian whose services are procured to provide care and service to animals; or

(3) A specialist appointed for intermittent confidential intelligence consultation of brief duration.

The rules set forth in §§ 400.735–52, 400.735–53, 400.735–54, and 400.735–55 shall apply in connection with the submission of statements of employment and financial interests by special Government employees.

(i) *Statutory provisions.* Attention is directed to the following statutory provisions:

(1) The prohibition against a Bank employee participating, in any manner, in the deliberation or determination of any matter affecting his personal interest or the interests of any corporation, partnership, or association in which he is directly or indirectly interested, (12 U.S.C. 635a(e)).

(2) The prohibition against bribes and related offenses, (18 U.S.C. 201).

(3) The prohibition against gifts among Government employees who are in the position of superior-subordinate to each other, (5 U.S.C. 7351).

(4) The prohibition against gifts and so forth from a foreign government unless authorized by State Department regulations, (Article I, section 9, U.S. Constitution; 5 U.S.C. 7342; 22 CFR Part 3).

(5) The prohibitions relating to conflicts of interests and related offenses, (18 U.S.C. 203, 205, 207, and 208).

(6) The prohibition against lobbying with appropriated funds, (18 U.S.C. 1913).

(7) The prohibitions against disloyalty and striking, (5 U.S.C. 7311, 18 U.S.C. 1918).

(8) The prohibition against the employment of a member of a Communist organization, (50 U.S.C. 784).

(9) The prohibitions against: (i) The disclosure of classified information, (18 U.S.C. 798, 50 U.S.C. 783); and (ii) the disclosure of confidential information, (18 U.S.C. 1905).

(10) The prohibition against the misuse of a Government vehicle, (31 U.S.C. 638a(c)).

(11) The prohibition against the misuse of the franking privilege, (18 U.S.C. 1719).

(12) The prohibition against fraud or false statements in a Government matter, (18 U.S.C. 1001).

(13) The prohibition against mutilating or destroying a public record, (18 U.S.C. 2071).

(14) The prohibition against counterfeiting and forging transportation requests, (18 U.S.C. 508).

(15) The prohibition against: (i) Embezzlement of Government money or property, (18 U.S.C. 641); (ii) failing to account for public money, (18 U.S.C. 643); and (iii) embezzlement of the money or property of another person in the possession of an employee by reason of his employment, (18 U.S.C. 654).

(16) The prohibition against unauthorized use of documents relating to claims from or by the Government, (18 U.S.C. 285).

(17) The prohibitions against political activities in subchapter III of chapter 73 of title 5, United States Code, and 18 U.S.C. 602, 603, and 607.

(18) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act, (18 U.S.C. 219).

Subpart E—Procedures for Submission of Statements of Employment and Financial Interests

§ 400.735–50 Applicability.

Pursuant to Executive Order 11222 dated May 8, 1965, and Part 735 of Civil Service Commission regulations (5 CFR Part 735), this Subpart E sets forth the rules which shall apply in connection with the submission of statements of employment and financial interests.

§ 400.735–51 Time and place for submission.

Statements referred to shall be submitted by all employees of the Bank (whether full-time or part-time) who are required to submit such statements on June 30 of each year. Employees who, after June 30, 1973, are appointed to a position requiring submission of such statements, shall submit such statements within 30 days after appointment. All statements shall be submitted to the Chairman of the Ethics Committee. Each employee who previously submitted any such statement shall submit a supplementary statement each June 30, regardless of whether or not there were occurrences which would require changes in, or additions to, information previously submitted, and shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or of this part.

§ 400.735–52 Form of statements.

Statements of employment and financial interests shall be submitted on standard forms provided by the Civil Service Commission, copies of which are available in the Personnel Office of the Bank. The following rules shall be observed in preparing the statements:

(a) The interest of a spouse, minor child, or other member of the employee's immediate household is considered to be an interest of the employee. For the purpose of paragraph (a) of this section, "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

(b) If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

(c) An employee is not required to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society of a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of paragraph (c) of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

§ 400.735–53 Confidentiality of employees' statements.

The Bank shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality, the Chairman of the Ethics Committee is designated to review and retain the statements, and shall be responsible for the maintenance of the statements in confidence, and he shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. The Bank may not disclose information from a statement except as the Civil Service Commission or the President of the Bank may determine for good cause shown.

§ 400.735–54 Effect of employees' statements on other requirements.

The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similiar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

§ 400.735–55 Review of statements and remedial action.

All statements submitted to the Chairman of the Ethics Committee shall be reviewed by him in consultation with the other members of the Ethics Committee as he deems appropriate. If any statement or information from other sources discloses a conflict of interest, or an apparent conflict of interest, between the interests of an employee and the performance of such employee's duties at the Bank, the Chairman of the Ethics Committee shall give such employee an opportunity to explain such conflict, or apparent conflict, and if such explanation is not satisfactory, the Chairman of the Ethics Committee shall take such action as he deems appropriate to re-

solve such conflict, or apparent conflict. If the Chairman of the Ethics Committee is unable to resolve such conflict, or apparent conflict, he shall report the matter to the President of the Bank who shall then take appropriate remedial action to end such conflict, or apparent conflict. Remedial action may include, but is not limited to:

(a) Changes in assigned duties;

(b) Divestment by the employee of his conflicting interest;

(c) Disciplinary action; or

(d) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

These regulations (Part 400) were approved by the U.S. Civil Service Commission on July 30, 1973, and are effective August 9, 1973.

HENRY KEARNS,
President and Chairman.

[FR Doc.73-16499 Filed 8-8-73;8:45 am]

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THURSDAY, AUGUST 9, 1973
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PART III

COST OF LIVING COUNCIL

■

ECONOMIC STABILIZATION PHASE IV

■

Final Price Regulations

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 140—COST OF LIVING COUNCIL FREEZE REGULATIONS

Copper Scrap

Subpart D of the Cost of Living Council freeze regulations is amended by adding a new § 147.37 to exempt the price of copper scrap and copper based alloys scrap. The exempted items include: copper scrap, No. 1 wire; heavy yellow brass scrap; No. 1 composition (red brass) scrap; and all other grades of copper scrap. The Cost of Living Council has determined that this exemption is necessary to permit a continued supply of raw material to firms using the scrap for refining, smelting, casting, and extruding copper and its alloy.

Copper scrap and copper based alloy scrap is a raw material for a large number of firms. The scrap is essential to the production of these firms and, in many instances, the only suitable raw material.

The world price for copper, which follows the world price for gold and silver, has recently increased thereby causing an increase in the price of copper scrap and copper based alloy scrap as well. The one product which is an adequate substitute for copper scrap, refined copper, is currently in short supply because of disruptions in producing countries.

Export restrictions in other nations have, moreover, left the U.S. as the sole free market source of copper scrap and copper based alloy scrap. Due to the freeze and world market conditions an increased volume of exports of these scraps from U.S. sources has been generated, reducing the amount of raw material available to domestic users of the product.

The Cost of Living Council has therefore determined that the exemption of copper scrap and copper based alloy scrap is necessary to prevent further plant closures and curtailment of production by U.S. firms using the scrap in their production processes.

Because the purpose of these regulations is to provide immediate guidance as to a Cost of Living Council decision, I find that publication in accordance with normal rulemaking procedure is impracticable and that good cause exists for making these regulations effective in less than 30 days. Interested persons may submit communications regarding these regulations. Communications should be addressed to the Office of General Counsel, Cost of Living Council, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489; Cost of Living Council Order No. 30, 38 FR 16267)

In consideration of the foregoing, Chapter I of Title 6 of the Code of Federal Regulations is amended as follows, effective immediately.

Section 140.37 is added to 6 CFR Part 140 to read as follows:

§ 140.37 Copper scrap.

Prices for copper scrap and copper based alloy scrap are exempt.

Issued in Washington, D.C., on August 6, 1973.

JAMES W. MCLANE,
Director,
Special Freeze Group.

[FR Doc.73-16478 Filed 8-6-73;3:42 pm]

PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

Final Phase IV Regulations

The purpose of this amendment to Part 150 of the Cost of Living Council Regulations is to add Subparts A through K, and P.

On July 19, 1973, the Cost of Living Council established Part 150 and issued Subpart N in final form, 38 FR 19462 (July 20, 1973). On the same day the Council issued a notice of proposed rulemaking, 38 FR 19464 (July 20, 1973) setting out proposed Phase IV regulations, and inviting interested persons to submit written data, views or arguments.

The Council stated in the notice of proposed rulemaking that all comments received before July 31, 1973, would be considered by the Council before taking action on the proposed regulations. Six hundred and seventy-one comments were received before July 31, 1973.

Copies of each comment went to the attorney and the operations specialist or economic analyst who was responsible for the subpart with which the comment dealt. Many comments dealt with several subparts and thus were divided among Council personnel with responsibility for the different subparts. In addition, numerous consultations were held with affected groups of businessmen, consumers, attorneys, accountants, and others in Washington, D.C., Atlanta, New York City, San Francisco, Detroit and Chicago. Staff officials of the Council conducted an intensive reexamination of the regulations, independently as well as in light of the comments, in order to assure the maximum degree of clarity and consistency of the policy decisions that were made and of the regulations written to reflect these decisions. As a result of these efforts the final regulations contained numerous changes from the proposals that were published in proposed form on July 19, 1973.

Subpart A—General. Subpart A provides the scope and general rules of Part 150. It specifies which of the prior regulations are superseded and which temporarily remain in effect.

Subpart A provides that reports due under the Phase III regulations continue to be required for any reporting period ending before August 13, 1973, even though Phase III has ended for most firms.

Subpart A also reiterates the Phase III rule that contract renegotiation provisions which depend for their operation upon the modification or termination of the Economic Stabilization Program are rendered inoperative as inconsistent with the goals of that program.

Subpart A differs from the proposed version primarily in that it now contains general rules formerly set out in Subpart E. This change in location is designed to provide a clearer and more logical grouping of Phase IV provisions. The general price rule is added to subpart A and clarified by the addition of the concept of an "adjusted freeze price" which is defined in §§ 150.72, and 150.302.

A new section on profit margin limitation is added which explains that a single profit margin is used for all manufacturing, service, retailing and wholesaling activities of a firm except where particular regulations under this part (such as Subpart N—Construction) require separate computation of a profit margin. The profit margin rules which were formerly located in subparts E (for manufacturing and service activities) and K (for retailing and wholesaling activities) are continued in general but modified in several important respects. A firm which does not charge a price in excess of an adjusted freeze price is not subject to a profit margin limitation with respect to the first fiscal year ending after August 12, 1973. Also, charging a price pursuant to a contract entered into before the freeze does not subject a firm to a profit margin limitation. Finally, charging a price for a custom product or service will not subject that firm to a profit margin test if the revenues derived from the sale of the custom product or service amount to less than $10 million or less than 1 percent of its annual sales or revenues for the fiscal year, whichever is greater.

A new exclusion is provided which relieves from the profit margin test for a firm which, during its most recent fiscal year, derived both (1) 90 percent or more of its annual sales or revenues from the sales of exempt items or from exempt sales, and (2) less than $50 million of its annual sales or revenues from the sales of nonexempt items. Also, a profit margin overage will be excused by the Council to the extent that it can be demonstrated as being attributable to the sale of exempt items.

Subpart A adds two other new sections. The first permits a firm which has been authorized to adjust its base period profit margin pursuant to an exception granted before Phase IV to continue to calculate its base period profit margin pursuant to that exception. The second section explicitly retains the right of the Council to challenge Phase III price increases and to impose sanctions under the freeze regulations.

Finally, subpart A is changed by the addition of three sections, providing for criminal fines, civil penalties and injunctions. These sections continue the same general sanctions which were in force during the Phase III freeze.

Subpart B—Definitions. Subpart B contains the definitions of general applicability to this part. Definitions which are applicable only to one subpart are placed at the beginning of that subpart.

Subpart B differs from the proposed version primarily in that it includes definitions of "Base period profit margin", "Parent", "Price adjustment", and "Unconsolidated entity"; deletes definitions of "Controlled group", "Mass transportation system" (which is defined in Subpart P), "Pooling of interests", "Regulatory agency", "Spin-off", and "Split-off"; and makes substantial changes in the definitions of "Base period", "Firm", "Product line", "Profit margin", "Service line", and "Transactions".

The definition of "Base period" has been amended to separate the computation of base period profit margin from the definition of base period. A definition of "Base period profit margin" has been added. The base period profit margin must be computed in accordance with the firm's financial statement for the years used, but adjustments to those financial statements may be required to reflect changes in the firm's activities in accordance with the provisions of Subpart I. In addition, if in computing its base period profit margin, a firm uses a year ending during Phase II, in which the firm exceeded the applicable Phase II profit margin restrictions, the firm must reduce the operating income used in the computation to a level that would have been permitted had it been in compliance with the Phase II profit margin limitation. Consistent with Form CLC-22, a firm must deduct interest expenses on long and short-term debt in computing its operating income. Also, the phrase "cost of sales" has been changed to "cost of goods sold".

The definition of "profit margin" has been changed to reflect the changes in the definition of base period profit margin. Both definitions explicitly provide that for purposes of computing base period profit margin, a firm excludes revenues and costs attributable to items exempt under §§ 150.52, 150.53(b), 150.54(d)(3), 150.54(d)(4), and 150.56, and revenues and costs of insurance transactions subject to Subpart M.

The definition of "Firm" has been changed, and is designed to achieve the same results reached in Phase II. The language is also changed to reflect the fact that the Council uses different aggregations for purposes of applying the term "firm" in differing contexts in the forms and regulations. For example, for profit margin purposes, a "firm" is a parent and consolidated entities, while for determining price categories, the Council uses "firm" to mean parent and consolidated and unconsolidated entities.

"Item" has been changed to include not only sale but lease, and not only something offered for sale but something sold. The term "Manufacturer" has been changed to "Manufacturing" with no change in the definition, to be consistent with the change in usage from Phase III. Similar changes in terminology occur with "service activities," "retailing" and "wholesaling."

The definitions of "Pooling of interests," "Spin-off" and "Split-off" have been deleted since these terms are no longer used in the new provisions of subpart I relating to comparability of financial data.

Because of the change in the definition of firm, there are now definitions of "Parent," "Parent and consolidated entities" and "Unconsolidated entities."

Definitions of "Product line" and "Service line" are added which are consistent with the CLC-22, definition of product line.

"Retail firm" was deleted and incorporated into the subpart D exemption for small retail firms.

"Transaction" was changed to mean date of shipment in the case of products and date of performance in the case of service. This is consistent with the freeze rules.

This change reflects the fact that for purposes of calculating actual prices as of January 11, 1973, for the first CLC-2 required under Phase III rules, firms generally made their calculations on the basis of shipment prices as reflected on invoices. The change enables firms to use these calculations for determining base prices in Phase IV, and relieves them of the burden of performing new calculations. In addition, prices specified in contracts entered into prior to the freeze are declared allowable under § 150.76 of the final regulations.

Subpart C—Classifications. Subpart C classifies all firms as price category I, II or III, based upon the firm's annual sales or revenues. Specifically, a price category I firm is a firm with annual sales or revenues of $100 million or more. A price category II firm is one with annual sales or revenues of at least $50 million but less than $100 million. All others are price category III firms.

Subpart C has been changed to specify that, for determining price category, a firm includes a parent and the consolidated and unconsolidated entities which are directly or indirectly controlled by the firm.

Subpart D—Exemptions. Subpart D sets forth a list of the items, transactions, and firms which are exempt from various provisions of the Economic Stabilization Program. Certain clarifying and substantive changes have been made in the proposed regulations as follows:

In § 150.52(a), raw peanuts, shelled or unshelled, have been added to the list of those agricultural products the sale of which is exempt until processing occurs. The Council during the course of the Economic Stabilization Program has treated raw peanuts as subject to the general rule of § 150.52(a) since virtually all peanut products in the United States are processed in some form before being consumed. The omission of raw peanuts from the list of exempt products contained in the proposed regulation was inadvertent.

In § 150.52(a) milled lumber has been deleted from the listing of nonexempt items to remove any confusion which might arise as to the scope of the exemption for lumber under § 150.54(o). Millwork has been added as an example of a nonexempt lumber item.

Section 150.54(n) concerning long-term coal contracts has been broadened to apply to any contract to provide coal over a period of at least five years to a public utility. The proposed provision required that a coal contract be entered into after August 1, 1973, have a term of at least eight years, and be for the provision of coal to a public utility under the jurisdiction of a regulatory agency.

Section 150.54(o) concerning lumber has been amended to include tempered or untempered hardboard.

A new § 150.54(p) has been added to continue the exemption for prices charged for copper scrap and copper based alloy scrap which became effective during the latter part of the Phase III freeze.

With regard to the small business exemption in § 150.60, it should be noted that as a consequence of the shift forward in the time period for determining applicability, a firm which qualified for the exemption in Phases II and III may not qualify for the exemption as now formulated as a result of a change in its circumstances, such as growth in employment or sales.

Certain technical changes, e.g., to correct erroneous cross references, have also been made.

Subpart E—Manufacturing and service activities. Subpart E has been modified in several respects. Since the rules of general applicability have been removed to subpart A, subpart E now applies only to manufacturing and service activities. A "Scope" section has been added that makes clear that subpart E does not apply to those activities governed by particular regulations under this part (such as Subpart M—Insurance. However, a firm which is subject to Subpart E and which is also engaged in wholesaling and retailing activities governed by subpart K may treat those activities as manufacturing and service activities, if the firm's revenues from wholesaling and retailing amounted to both (1) less than $50 million, and (2) less than 10 percent of that part the firm's total revenues which were subject to subpart E in its most recently ended fiscal year.

A definition of "adjusted freeze price" has been included specifying those Phase III prices which may be charged in Phase IV without application of the Phase IV rules. This is a modification of the notion embodied in § 150.76(d) of the proposed regulations. The "adjusted freeze price" is, essentially, the maximum price permitted under the freeze regulations, modified to exclude from the freeze price temporary special sales, deals, and allowances which were required to be included under the freeze regulations. The "adjusted freeze price" takes into account exceptions granted during the freeze and the special freeze rules which allowed for seasonal pricing and higher prices on imported items. The general rule for price increases under subpart E, as now stated, is that any price may be charged for an item which does not exceed the adjusted

freeze price of that item or the base price of that item, whichever is higher.

Where the base price is higher than the adjusted freeze price, a price above the base price may be charged only to recover on a dollar-for-dollar basis those net increases in allowable costs that have been incurred with respect to the product line or service line concerned since the base cost period and which the firm concerned continues to incur, subject to the productivity offset, the price reduction rule, and the profit margin limitation.

Where the adjusted freeze price is in excess of the base price, a price increase may be placed in effect only if the full extent of all price increases above the base price is cost-justified and is otherwise permissible under the Phase IV rules. This rule permits firms both to increase prices up to the adjusted freeze price level and to continue to charge prices at the adjusted freeze price level without application of the Phase IV rules.

A price category 1 firm which prenotifies its intent to apply a percentage price increase to a product line or service line, and any other firm which qualifies, by virtue of cost justification, to charge a percentage price increase to a product line or service line, must apply the percentage price increase on a weighted average basis so that, for any fiscal quarter, the weighted average of all price increases and price decreases in that product line or service line does not exceed the percentage price increase prenotified or otherwise permissible.

A new rule has been formulated for limiting the maximum price increase for any one item in applying the percentage price increase to the product line or service line on a weighted average basis. The item maximum is 110 percent of the adjusted freeze price or 110 percent of the base price of the item, whichever is greater, plus the percentage of cost justification times the adjusted freeze price or the base price, whichever is greater.

The price reduction rule, which requires price reductions when and to the extent that Phase IV price increases are no longer supported by increased costs (i.e., when costs decrease), remains essentially unchanged.

The rule in the proposed regulations concerning contracts entered into during the freeze has been altered with respect to the periods of time applied under that rule and has been moved to subpart H (Prenotification and Reporting) since that rule provided a temporary waiver of the prenotification requirement. The new contracts rule in subpart E applies to the price specified in a contract for the sale of an item entered into before 9:00 p.m., e.s.t., June 13, 1973, with respect to delivery or performance occurring after the beginning of Phase IV and before January 1, 1974. The new rule states that that contract price is allowable without regard to the Phase IV rules and without regard to profit margin limitation.

Subpart E concludes with the rule requiring that increases in allowable costs be reduced to reflect productivity gains. This rule remains essentially unchanged from Phase II.

The profit margin rule, previously set forth in subpart E, has been expanded and restated in subpart A.

Subpart F—Base price. Subpart F provides the rules for calculating base prices, including base prices for new items and custom products and custom services. These rules remain essentially unchanged. In general, the base price with respect to an item is the average price at which the item was lawfully priced in transactions with the class of purchaser concerned during the base price period. The average price is determined by dividing the net sales of that item by the quantity of the item sold or leased to the class of purchaser concerned during the base price period. The base price period is the last fiscal quarter which ended before January 11, 1973, in which transactions occurred with respect to the item and class of purchaser concerned. A provision has been added for using an accepted sampling method for calculating the base price of an item in certain circumstances.

Temporary special deals or temporary special allowances may now be excluded in computing the base price of an item. Along with this change, "temporary" has been defined to mean in effect for 31 days or less.

With respect to determining a base price for a new item, the rule as applied to firms engaged in wholesaling and retailing has been modified to provide that the product shall be priced within the merchandise or customer category into which the new product falls in accordance with subpart K.

The prenotification requirement provided in the proposed Phase IV rules with respect to new items has been eliminated. Subpart F now provides for quarterly reporting of new items when projected sales for all new items in the current fiscal year amount to $10 million or more. The requirement applies with respect to each new item with projected annual sales of $1 million or more. This regulation is designed to permit the Council to review whether items qualify as "new items" and whether the base price of new items has been determined in accordance with Subpart F.

Subpart G—Base cost and current cost. Subpart G establishes the rules for determining base costs and current costs.

Previously, the base cost of direct material and labor was the rate at which these costs were incurred on the last full day of business in the base cost period. The base cost period remains unchanged (the last fiscal quarter which ended before January 11, 1973, in which costs were incurred with respect to the product line or service line concerned). However, the base cost of labor is now the rate at which those costs were incurred on the first full day of business in the base cost period. With respect to all costs (including cost of direct labor) other than labor costs, the base cost now is also the rate at which those costs were incurred on the first full day of business in the base cost period. Unchanged is the rule that if base cost for all costs other than labor costs cannot reasonably be determined as stated above, the base cost is the average cost incurred throughout the base cost period.

Under the Phase IV rules as proposed, the current cost period was the fiscal quarter for which a quarterly report is required. For prenotification purposes, the current cost period was any representative period in which normal, recurring costs were incurred prior to the date of the prenotification document.

The current cost period for quarterly reporting purposes is now the last accounting month in the current fiscal quarter for which a quarterly report is required. The current cost period for price category III firms is the last accounting month in the current fiscal quarter for which compliance is being measured. The current cost period for prenotification firms is the last accounting month preceding the date of signature of the prenotification document except that with respect to labor and other costs which may be calculated as of a date certain, the rate at which these costs are incurred on the day which is the date of signature of the prenotification document may be considered as the rate on the last full day of the current cost period.

Except as indicated above, the rules for current costs for labor and all other costs continue unchanged. The rate on the last full day of business in the current cost period is used, except that, with respect to all costs other than labor costs, the average cost incurred throughout the current cost period may be used if current costs cannot reasonably be determined by the method prescribed.

Subpart H—Prenotification and reporting. The general prenotification rule, found in § 150.51(a), has been modified to require that a price category I firm may not increase the price for any item above the adjusted freeze price for that item or above its base price for that item, whichever is higher, until it has filed a notice of the proposed price increase with the Council and 30 days have elapsed since the filing of that notice. The section, as proposed, made reference only to increases above base price and a waiver of prenotification was provided for prices established pursuant to § 150.76(d) of the proposed regulations. The change is designed to eliminate ambiguity. It recognizes that for many firms, the adjusted freeze price will be higher than the base price and it is intended to make clear that the prenotification requirement applies only to increases above the higher of those two prices. In addition, § 150.151(a) has been amended to make clear that a notice of proposed price increase may be filed not only with respect to an item as to which a price increase is sought but also with respect to a product line which includes that item. This provision had been inadvertently omitted from the proposed regulations.

Section 150.151(b) has been modified in three major respects. First, § 150.151

(b) (2) (ii) as published in the notice of proposed rulemaking has been deleted. The purpose of that section has been accomplished in the first change of § 150.151(a) referred to above. A new section has been substituted which provides for waiver of prenotification with respect to prices specified in contracts which were entered into before the freeze began and which call for delivery or performance after the beginning of Phase IV and before January 1, 1974. Section 150.76 establishes the validity of these contract prices, and amended § 150.151 (b) (2) (ii) makes clear that they are not subject to prenotification.

Second, a new § 150.151(b) (2) (iii) has been inserted which is similar in its basic purpose to § 150.92 of the proposed regulations but which has been modified in several respects. This provision is designed to waive prenotification with respect to the charging of a price specified in a contract entered into after the freeze began and before publication of these final regulations. Prices charged under these contracts must comply with Phase IV rules, but this provision waives the requirement of prenotification with respect to price increases charged for delivery or performance occurring after August 12 and prior to October 12, 1973. This establishes a 60 day period in which performance under these contracts may take place without prenotification.

Third, a new § 150.151(b) (2) (iv) has been added which is virtually identical to the PC–5 procedure or the so-called "multi-industry firm waiver" which was available during Phase II. The provision waives prenotification requirement for any price category I firm which had annual sales or revenues of less than $100 million within any industrial group in its most recently completed fiscal year, when the Council grants approval for such a procedure. The provision defines industrial groups as two-digit standard industrial classification (SIC) codes and specifies that a firm whose prenotification requirements are modified by operation of this provision remains subject to all the other rules of this part. To qualify, the firm must also show that each activity for which waiver is sought does not account for more than 5% of the market covered by the 4-digit SIC code applicable to that activity. Subsection 150.151(b) (2) (iv) (B) provides that, for a period of 60 days or until October 12, 1973, a firm which had received approval from the Price Commission under the predecessor rule and which has reason to believe it still qualifies for such treatment may avail itself of this procedure. Thereafter it may use the provision only if it has received authorization from the Council to do so.

Section 150.152 has been modified to make clear that a notice of price increase is considered to be filed with the Cost of Living Council when it is stamped and dated by the Council. Use of the term "accepted" in the proposed regulation caused concern among many persons commenting on the proposal that the Council would delay the start of the 30 day waiting period until it had reviewed the filing and determined that it was acceptable in a substantive sense. The amendment is intended to make it clear that this is not the case and that the ministerial act of date-stamping starts the running of the 30 day period.

Section 150.156 dealing with volatility is modified to provide in subsection (d), that preexisting volatility authorizations will be valid for a period of 60 days until October 12, 1973 rather than the 30 day period that was provided for in the notice of proposed rulemaking.

Section 150.161 has been changed in two respects. First, §150.161(a) has been modified to make reference to the forms and instructions issued by the Council which will set out more detail as to those matters which will be required to be filed in connection with the quarterly report. Second, a new §150.161(b) (4) has been added to provide that a firm which has not charged a price for any item above the base price of that item or above the adjusted freeze price for that item whichever is higher, may file a "certificate of no price increase" in lieu of a quarterly report.

Section 150.162 of the proposed regulations requiring an annual report to be filed by each price category III firm has been deleted. The Council concluded that the burden of compliance posed by such a requirement would significantly outweigh the benefits to be achieved. Moreover, price category III firms continue to be subject to all the rules of the Economic Stabilization Program and are required to maintain such records as may be necessary to demonstrate to a representative of the Economic Stabilization Program that they are in compliance with these rules.

Subpart I—Accounting and financial reporting requirements. Subpart I provides information on accounting and financial reporting requirements. It has been wholly changed from the proposed version. On the basis of comments received and its own experience, the council concluded that a restriction on a firm's profit margin that is tied to its profit margin in an earlier period, gives rise to distortions and unintended results when the firm's present operations are not comparable to its past operations because of intervening acquisitions, divestitures, liquidations or new operations.

The Council determined that if profit margin computations are to provide a meaningful comparison between the current period and the base period, it is necessary to restate the financial data on which the computations are based, whenever there is a pooling of interests, or other acquisition, divestiture, or discontinuation of operation. To reflect these decisions, subpart I now provides, in essence, that a firm must adjust its financial data to reflect acquisitions of divestitures of separate accounting entities whenever these changes require restatement of disclosure in a filing with the SEC. Adjustments must also be made when the changes would require restatement or disclosure in a filing with the SEC were it not for the fact that the firm does not file reports with the SEC, or that there is a lack of materiality.

Subpart I also provides that when a firm's operations have substantially changed in nature, in ways other than acquisitions or divestitures, the firm may request an exception to allow it to adjust its profit margins.

Finally, the requirement in proposed § 150.172 that certain firms must obtain the services of an independent public accountant to perform certain procedures set out in Part 105, has been deleted as unnecessary.

Subpart J—Special rules. The former provision governing loss and low profit relief has been divided into two sections. Section 150.201 deals with exemptions from the requirements of prenotification and cost justification, while § 150.202 provides relief from firms with a loss, or a low base period profit margin.

Section 150.201 sets forth a special pricing rule for any firm which, in its current fiscal year, projects that its profit margin will be less than a minimum profit margin. This represents a change from the proposed regulations which allowed only those firms which had 90% or more of their revenues derived from manufacturing, retail or wholesale activities or 90% derived from service activities to qualify for the low profit rule.

The minimum profit margin allowed is similar to that set forth in the proposed regulations. A firm with at least 90% service activity has a minimum profit margin allowed of 1%. All other firms, including any firm with less than 90% in service activities have a minimum profit margin allowed which is between 3 percent and .2 percent depending upon the firm's capital turnover ratio.

To qualify for this section, a Price Category I or Price Category II firm must submit to the Council sufficient financial data to support its position as a loss-low profit firm. Thirty days after the Council has received such data, the firm may price pursuant to this section. During the 30-day time period, the Council may suspend, modify or disapprove a firm's submission for such reasons as insufficient or inaccurate financial data. A Price Category III firm must prepare sufficient financial data to support its position as a loss and low profit firm and must maintain the data at its principal place of business. However, a Price Category III firm need not submit this information to the Council nor wait the 30 days prior to pricing under this section. This waiver of the 30-day time period for Price Category III firms reflects a change from the proposed regulations.

A firm which qualifies for this rule may price without respect to the cost justification requirements in subparts E and K and without respect to the prenotification requirements of subpart H. However, if the firm increases the wages or salaries of any of its officers or employees or owners or relatives of an owner in excess of general wage and salary standard as computed in accordance with economic stabilization regulations, authority to use this section terminates.

Authority to price pursuant to this section ends at the close of the fiscal year or sooner, if the firm has achieved its maximum profit margin allowed or approaches it within .01% at an annual rate.

Section 150.202 provides relief to firms with a loss or low base period profit margin. It allows a firm to calculate and use as its base period profit margin a minimum profit margin. Calculations of the minimum profit margin allowed is similar to the calculations made for the loss and low profit rule. However, the firm must use financial data from its two best base period years in making these calculations. The adjustment to base period profit margin that is provided in this section was included in the proposed low profit rules. It has been placed in a separate section for purposes of clarification.

Section 150.203 is amended to make clear that a person may price pursuant to the seasonality rule without prenotifying price increases pursuant to the provisions of subpart H. The special rules for marketing cooperatives and purchasing cooperatives have not been changed from the proposed rules.

Subpart K—Retailers and wholesalers. Subpart K sets forth rules applicable to retailing and wholesaling activities. These regulations contain several changes, some of them substantive and others merely editorial in nature, from the proposed regulations published by the Cost of Living Council on July 18, 1973.

Section 150.301 has been amended by deleting as surplusage the reference to subpart L and by deleting proposed paragraph (b) to avoid any suggestion that no other provisions in Part 150 applies to retailers or wholesalers.

Proposed § 150.302 has been deleted. Regulations pertaining to the retailing or wholesaling of meat and other food products will be issued by the Council at a later date.

The definitions section has been renumbered as § 150.302 and contains a new term, "adjusted freeze price" which is defined in § 140.2. In addition for an item sold in a catalogue, the adjusted freeze price is the price specified in a catalogue printed prior to July 18, 1973. The definitions of "customer category" and "merchandise category" have been merged into the one term "category". The definition of "pricing entity" has been amended to clarify the intent of the Council that the appropriate pricing entity is the lowest level of organization at which the initial pricing decisions are made, regardless of whether these decisions may later be modified at a lower organizational level with the firm.

The major substantive change in this subpart is the inclusion of customary initial percentage markups (CIPMs) as a means of control. The Council received numerous comments suggesting that the CIPM method be allowed, in addition to the gross margin method, because so many firms traditionally use the former system. Accordingly, this subpart has been amended, where appropriate, to pertain to CIPMs as well as gross margins.

The new § 150.303 sets out the methods to be used in computing CIPMs and gross margins. The formulae are self-explanatory.

The general rule of § 150.304 has been amended in several respects. First, it has been changed to provide that no price may be increased above the adjusted freeze price (rather than above the base price, as provided in the proposed rules) until, in the case of a Tier I or Tier II firm, the retailer or wholesaler has submitted the merchandise pricing plan or, in the case of a Tier III firm, it has completed its merchandise pricing plan.

The second change contained in this section, as discussed above, is the inclusion of CIPMs as an acceptable control mechanism under this subpart. Whether a retailer or wholesaler chooses to be controlled by either the CIPM system or the gross margin system, he must still exercise control on a category basis.

However, the provisions of this subpart do not require a retailer or wholesaler who has traditionally priced his goods on an item-by-item basis to change that practice. He may continue to price in that manner, but his compliance with this subpart will be controlled on the basis of categories in accordance with the rules set forth herein.

In sum, the general rule now provides that a retailer or wholesaler must control his prices so that for any fiscal quarter his CIPM or gross margin for each category does not exceed the higher of (1) his CIPM or gross margin for each category during the same quarter of the base period or (2) his base period CIPM or gross margin. Further, his CIPM or gross margin for any fiscal year may not exceed his base period CIPM or gross margin. Also, the firm may not exceed, both food products and non-food prod-during any year, its base period profit margin.

A new provision has been added to the general rule stating that if a retailer or wholesaler does not increase the price for any item within a category above the adjusted freeze price, the CIPM or gross margin limitations for that category do not apply.

Finally, a new provision has been added to the general rule which makes clear that the retailer or wholesaler of both food products and non-food products remains subject to the requirements of subpart M of Part 130 or subpart I of Part 140, with respect to the sale of the food products.

The rules for the establishment of categories are now contained in § 150.305. This section is very similar to the corresponding section in the proposed rules. A change has been made in paragraph (b) to clarify the Council's intent that if, because of a retailer's or wholesaler's normal accounting and management practices, it could not group its items into the categories listed in Appendix A, it may form merchandise categories of all related items sold within the same general description and include those categories in its merchandise pricing plan. A sentence has been added to paragraph (d) of this section setting forth the rule for computing CIPM's or gross margins for manufacturing or service activities. In the case of manufacturing activities, CIPM's or gross margins shall be computed on the basis of direct material costs, and in the case of service activities they shall be computed on the basis of direct material and labor costs.

Section 150.306 specifies what must be put into a merchandise pricing plan for price category I and price category II firms. This section, too, is very similar to the corresponding section in the proposed rules, with the added recognition of CIPM's as an allowable basis for control. Paragraph (a) (4) has been amended to make clear that a retailer or wholesaler selling many different products need not include a list of all of those products in its merchandise pricing plan, but rather may list them by product line.

A new § 150.307 has been added pertaining to the merchandise pricing plans of firms selling both food and non-food products. As stated above, this subpart does not apply to the retailing or wholesaling of food products subject to subpart M of part 130 or subpart I of part 140. Therefore, to the extent possible a retailer's or wholesaler's categories should not include meat or other food products, but rather should be limited to nonfood items. If, however, because of the firm's customary pricing practices, it is impossible to separate the food and non-food items, the food products may be included in the firm's merchandise pricing plan. However, notwithstanding their inclusion in a merchandise pricing plan, food products remain subject to the pricing rules of subpart M of part 130 and subpart I of part 140.

Section 150.308 pertaining to incomplete and nonconforming plans has been modified in two ways. The corresponding proposed regulations implied that immediately upon receipt of notification by the Council that a firm's merchandising pricing plan is not acceptable a firm could no longer increase any prices. This provision has been clarified to state that the Council shall determine on a case-by-case basis whether a retailer or wholesaler shall be prohibited from making price increases pending the submission of an acceptable merchandise plan, and shall notify the firm of its determination.

Paragraph (b) of this section allows the Council, in certain situations, to order a reduction of prices to adjusted freeze prices (rather than to base prices as stated in the proposed regulations).

Proposed regulation 150.308 has been renumbered 150.309 and retitled. As proposed, this section provided that once a firm's merchandise pricing plan has been approved by the Council, the firm must use the specified CIPMs or gross margins in controlling its prices and in filing the reports required by the Council. As restated, this section provides that the firm must begin controlling its prices according to the plan as soon as it is submitted.

Proposed regulation 150.309 has been renumbered 150.310. This section is substantively the same as the proposed section, with the appropriate amendment to reflect the use of CIPMs.

§ 150.311 contains the reporting requirements and is different from the proposed regulation. Under this section, quarterly reports for price category I and price category II firms must be filed within 45 days after the end of each fiscal quarter and the year-end report must be filed within 90 days after the end of each fiscal year. The annual reporting requirement for price category III firms has been deleted.

§ 150.312 is a new provision. This section addresses three problems that may be experienced by retailers and wholesalers in complying with the provisions of this subpart. The first problem is one which may arise if a firm is unable to exclude exempt items from its merchandise categories. In such a case, if a retailer or wholesaler exceeds his allowable CIPMs or gross margins for a category, the Council shall excuse the overage to the extent that the firm can demonstrate that the overage is attributable to the sale of exempt items. The second problem involves prices specified in contracts entered into prior to 9:00 p.m., e.s.t., June 13, 1973, under which performance occurs after August 12, 1973 and before January 1, 1973. This section provides that to the extent that a retailer or wholesaler can demonstrate that an overage in his allowable CIPMs or gross margins is attributable to the charging of such prices, the Council will excuse that overage. The third problem is one created by temporary unforeseen changes in product mix. In this case, the Council may take into account such temporary unforeseen changes in product mix in determining whether a retailer or wholesaler is in violation of the limitations prescribed in § 150.304(c) (1) or (2).

Finally, § 150.313 provides for the repurification of quarterly violations. A new paragraph has been added providing for the repurification of fiscal year and fourth quarter violations. This section has also been modified to reflect CIPMs in addition to gross margins.

Subpart P—Mass transportation systems. Subpart P has not been changed from the version found in the Notice of Proposed Rulemaking except for minor technical changes.

In consideration of the foregoing, Part 150 of Title 6 of the Code of Federal Regulations is amended by adding the subparts which are set forth below, effective August 13, 1973.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473, E.O. 11730, 38 FR 19345, Cost of Living Council Order No. 14, 38 FR 1489)

Issued in Washington, D.C. on August 6, 1973.

JOHN T. DUNLOP,
Director, Cost of Living Council.

PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

Subpart A—General

Subpart B—Definitions

Subpart C—Classifications

Subpart D—Exemptions

Subpart E—Manufacturing and Service Activities

Subpart F—Base Price

Subpart G—Base Cost and Current Cost

Subpart H—Prenotification and Reporting

Subpart I—Accounting and Financial Reporting Requirements

Subpart J—Special Rules

Subpart K—Retailers and Wholesalers

SUBPARTS L-O—[RESERVED]

Subpart P—Mass Transportation Systems

AUTHORITY: Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.

Subpart A—General

§ 150.1 Scope.

(a) Except as provided in paragraph (b) of this section and in § 150.2, this part supersedes the price rules in Parts 130 and 140 of this chapter, effective 11:59 p.m., e.s.t., August 12, 1973.

(b) The price rules of Part 130 of this chapter remain effective until 11:59 p.m. e.s.t. September 12, 1973, with respect to sales of food subject to Subpart F of that part and with respect to sales of meat subject to Subpart M of that part. Part 140 of this chapter also remains effective with respect to sales of food and meat subject to Subpart I of that part until 11:59 p.m., e.s.t., September 12, 1973.

(c) Any report required to be filed with the Council under Part 130 or any rule, order or regulation of the Council in effect on August 12, 1973 for any reporting period which ended on or before that date and which was not filed by that date, shall be filed with the Council in the form and within the time in which it would have been filed pursuant to Part 130 of this chapter. Forms required to be completed and placed among the records of a firm on a quarterly basis pursuant to Part 130 for any quarter which ended prior to August 13, 1973, shall be completed and filed among the firm's records in the form and within the time in which

it would have been required to be so filed pursuant to Part 130 of this chapter.

(d) Price renegotiation provisions in price or rent contracts which depend for their operation upon the modification or termination of the Economic Stabilization Program, were previously declared to be inoperative as unreasonably inconsistent with the goals of the Economic Stabilization Program. Such renegotiation provisions continue to be inoperative on the same ground. This part shall not operate to permit:

(1) A retroactive increase in prices or rents for goods or services sold or leased while those prices or rents were subject to past or present provisions of this title, or

(2) A prospective increase in prices or rents under the terms of a contract subject to a decision and order issued at any time pursuant to this title, except to the extent consistent with such decision and order.

(e) This part does not apply to economic transactions which are not prices within the meaning of the Act. Examples of transactions not within the meaning of the Act are:

(1) State or local income, sales and real estate taxes;

(2) Workmen's compensation payments;

(3) Welfare payments;

(4) Child support payments; and

(5) Alimony payments.

(f) The Council may permit any exceptions, exemptions or reclassification that it considers appropriate with respect to the requirements prescribed in this part. Requests for exceptions or exemptions from the requirements of this part shall be submitted in accordance with the provisions of Part 105 of this chapter.

(g) This part applies to:

(1) Economic units and transactions in the several States and the District of Columbia; and

(2) Sales of goods and services by firms in the several States and the District of Columbia to firms in the Commonwealth of Puerto Rico.

§ 150.2 Procedures and remedies applicable to certain Phase II and Phase III matters.

(a) Paragraphs (a) and (b) of § 130.7 of this chapter remain effective with respect to Phase II matters.

(b) The procedures and remedies under Part 130 of this chapter remain in effect with respect to all matters which were subject to that part before August 13, 1973, and with respect to all matters referred to in § 150.1(c).

(c) The procedures and remedies specified in Subparts E through H of Part 140 of this chapter remain in effect with respect to all matters which were subject to that part before August 13, 1973.

§ 150.3 Adjusted base period profit margins.

Any firm which has been authorized to adjust its base period profit margin pursuant to an exception granted under the authority of the Economic Stabilization Program prior to August 13, 1973 may continue to calculate its base period profit margin pursuant to that exception notwithstanding any other provision of this part.

§ 150.10 General rules.

(a) No firm (including an individual) may charge a price with respect to any sale or lease of an item after August 12, 1973, which exceeds the base price, adjusted freeze price or other price authorized under this part for that item.

(b) No firm (including an individual) may knowingly pay a price with respect to any sale or lease of an item which exceeds the base price, adjusted freeze price or other price authorized under this part for that item. However this paragraph does not apply to the sale or lease of an item to any firm (including an individual) under circumstances of economic or other coercion in which the buyer or lessee, because of his need for that property or service, had no reasonable alternative but to pay the illegal price, and he reports the sale or lease to the International Revenue Service for investigation promptly.

(c) No firm (including an individual) may take retaliatory action against any other firm (including an individual) that files or manifests an intent to file a complaint of alleged violation of, or that otherwise exercises any rights conferred by, the Economic Stabilization Act of 1970, as amended, any provision of this part, or any order issued under this Act. For the purposes of this paragraph, "retaliatory action" means any action contrary to the purpose or intent of the Economic Stabilization Program and may include a refusal to continue to sell or lease, any reduction in quality, any reduction in quantity of services or products customarily available for sale or lease, any violation of privacy, any form of harassment, or any inducement of others to retaliate.

§ 150.11 Profit margin limitation.

(a) *Scope.* A firm shall compute a single profit margin for all of its manufacturing, service, retailing and wholesaling activities except where particular regulations under this part (such as Subpart N, Construction) require separate computation of a profit margin. For the purposes of this section, a firm is either (1) a parent and its consolidated entities or (2) an unconsolidated entity.

(b) *Applicability.* This section applies to all activities of a firm, including manufacturing, service, retailing and wholesaling, except those activities subject to particular regulations under this part (such as Subpart N, Construction) which require computation of a separate profit margin.

(c) *General rule.* Except as otherwise provided by this section, a firm which, with respect to its manufacturing or service activities, charges a price for any item in excess of the base price for that item in any fiscal year, or with respect to its retailing or wholesaling activities, charges a price for any item in excess of the adjusted freeze price for that item in any fiscal year, may not for the fiscal year in which the price increase is charged, exceed its base period profit margin.

(d) *Special rules.* (1) A firm which does not charge a price for any item in excess of the adjusted freeze price for that item is not subject to a profit margin limitation with respect to the first fiscal year ending after August 12, 1973.

(2) The charging of an allowable price or prices pursuant to § 150.76 and § 150.312(b) does not subject the firm which charges that price or those prices to a profit margin limitation.

(3) The charging of a price for a custom product or custom service pursuant to § 150.104 of this part does not subject the firm which charges that price to a profit margin limitation with respect to the first fiscal year ending after August 12, 1973, if its sales or revenues derived from the sale or lease of custom products and custom services amount to less than $10 million or less than 1 percent of its annual sales or revenues for that fiscal year, whichever is greater.

(e) *Exclusion.* A firm which during its most recent fiscal year derived both (1) 90 percent or more of its annual sales or revenues from the sales of exempt items or from exempt sales and (2) less than $50 million of its annual sales and revenues from the sale or lease of nonexempt items, is not subject to a profit margin limitation for the next ensuing fiscal year.

(f) *Relief from profit margin overages.* If a firm's activities subject to the profit margin limitations of this section include both items exempt under Subpart D and nonexempt items and the firm exceeds the profit margin limitations of this section, the Cost of Living Council shall for purposes of determining compliance with this section, excuse the overage to the extent the firm can demonstrate that the overage is attributable to the sale of exempt items.

§ 150.15 Phase III price levels.

Nothing in this part shall be construed as waiving or foreclosing the right of the Council pursuant to Subpart J of Part 130 of this Chapter to challenge Phase III price increases, whether charged or contracted for; or the right to seek or impose sanctions, remedial orders, or other relief pursuant to Subparts E, F, or G of Part 140 of this Chapter with respect to Phase III freeze matters.

§ 150.20 Violations.

Any practice which constitutes a means to obtain a price higher than is permitted by the regulations in this part is a violation of the regulations in this part. Such practices include, but are not limited to, devices making use of inducements, commissions, kickbacks, retroactive increases, transportation arrangements, premiums, discounts, special privileges, tie-in agreements, trade understandings, falsification of records, substitution of inferior commodities or failure to provide the same services and equipment previously sold.

§ 150.21 Sanctions.

(a) Whoever willfully violates any order or regulation under this part shall be subject to a fine of not more than $5,000 for each violation.

(b) Whoever violates any order or regulation under this part shall be subject to a civil penalty of not more than $2,500 for each violation.

§ 150.22 Injunctions and other relief.

Whenever it appears to the Council that any person has engaged, is engaged, or is about to engage in any acts or practices which constitute particularly flagrant violations of any order or regulation issued under this part, the Council may immediately request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices. The relief sought may include a mandatory injunction commanding any person to comply with any such order or regulation and restitution of moneys received in violation of any such order or regulation.

Subpart B—Definitions

§ 150.31 Definitions.

"Act" means the Economic Stabilization Act of 1970, as amended.

"Adjusted freeze price" means with respect to manufacturing and service activities the adjusted freeze price as defined in § 150.72 and with respect to wholesaling and retailing activities the adjusted freeze price as defined in § 150.302.

"Allowable cost" means any cost direct or indirect, unless disallowed by the Cost of Living Council.

"Annual sales or revenues" means the total gross receipts of a firm during its most recently completed fiscal year, from whatever source derived, except that it does not include gross receipts of or from a foreign branch or division of such a firm, or the gross receipts of or from a wholly or partially owned foreign entity such as a corporation, partnership, joint venture, association, trust, or subsidiary, if the gross receipts of such foreign entity, branch, or division are derived primarily from transactions with other foreign firms. A foreign entity, branch, or division is one located outside the several States and the District of Columbia. However, gross receipts of domestic entities from U.S. export sales and from sales to firms in the Commonwealth of Puerto Rico are included in the determination of annual sales or revenue.

"Base cost" means the base cost as determined pursuant to Subpart G.

"Base cost period" means the base cost period as determined pursuant to Subpart G.

"Base period" means any two, at the option of the firm concerned, of that firm's fiscal years ending after August 15, 1968 except a fiscal year for which compliance is being measured.

"Base period profit margin" means the ratio that the base period operating income (net sales less cost of goods sold and less normal and generally recurring costs of business operations including interest expense on long and short term debt determined before nonoperating items, extraordinary items, and income taxes) bears to the base period net sales as those net sales were reported on the firm's financial statement, or its financial statement as restated pursuant to Subpart I prepared in accordance with generally accepted accounting principles consistently applied. For purposes of computing a base period profit margin, revenues and costs of items and sales exempt pursuant to §§ 150.52, 150.53 (b), 150.54(d) (3) and (4) and 150.56 and revenues and costs attributable to insurance transactions subject to Subpart M shall be excluded. If a firm uses for its base period, a fiscal year ending after August 15, 1971 and prior to January 11, 1973, for which the firm exceeded a profit margin limitation imposed pursuant to the provisions of Part 300 of this title, in effect on January 10, 1973, it shall reduce its operating income for that fiscal year to the level of operating income it would have obtained for that fiscal year had it been in compliance with that Part 300 profit margin restraints.

"Base price" means the base price as determined pursuant to Subpart F.

"Base price period" means the base price period as determined pursuant to Subpart F.

"Class of purchasers" means purchasers or lessees to whom a person has charged a comparable price for comparable property or service during the base price period pursuant to customary price differentials between those purchasers or lessees and other purchasers or lessees.

"Council" means the Chairman of the Cost of Living Council established by Executive Order 11615 (3 CFR, 1971 Comp., P. 199) and continued under the provisions of Executive Order 11695, or his delegate.

"Current cost" means the current cost as determined pursuant to Subpart G.

"Current cost period" means the current cost period determined pursuant to Subpart G.

"Customary price differential" includes a price distinction based on a discount, allowance, add-on, premium, and an extra based on a difference in volume, grade, quality, or location or type of purchaser, or a term or condition of sale or delivery.

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The Council may, in regulations and forms issued in this part, treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm.

"Fiscal quarter" means the fiscal quarter of the firm to which a regulation containing the term applies.

"Fiscal year" means the fiscal year of the firm to which a regulation containing the term applies. It is a consecutive 12-month period constituting an accounting year.

"Item" means a product or service unit sold, leased or offered for sale or lease to a class of purchaser.

"Lease" means a contract whereby a person having a legal estate in any personal property conveys a part of his interest to another person in consideration of rent or other compensation, but does not include a license.

"Manufacturing" means the trade or business of making, fabricating, or assembling a product or commodity by manual labor or machinery for sale and also includes the mining of natural deposits, the production or refining of oil from wells, and the refining of ores.

"Nonprofit organization" or one which is "not operated for profit" is a firm which is defined as a nonprofit organization in section 501(c) and is exempt under section 501(a) of the Internal Revenue Code of 1954, as amended.

"Parent" means a firm which is not directly or indirectly controlled by another firm.

"Parent and its consolidated entities" means a parent and those firms, if any, directly or indirectly controlled by the parent which are consolidated with the parent for purposes of financial statements prepared in accordance with generally accepted accounting principles. An individual shall be deemed to control a firm which is directly or indirectly controlled by him or by his father, mother, spouse, children or grandchildren.

"Prenotification" means notice submitted to the Cost of Living Council pursuant to the provisions of Subpart H.

"Price" means any consideration for the sale or lease of any property or services and includes rent, commissions, dues, fees, margins, rates, charges, tariffs, fares, or premiums, regardless of form.

"Price adjustment" means the weighted average of all price increases and price decreases within a product line or service line.

"Price increase" means an increase in the unit price of an item or a decrease in the quality of substantially the same item.

"Product" means a unit of personal property offered for sale to another person.

"Product line" means (a) a product or (b) an aggregation of products categorized by a four-digit Standard Industrial

Classification (SIC) code if that is the customary pricing unit (e.g., cost or profit center) with respect to that aggregation of products. An aggregation of products which includes more than one four-digit SIC code or an aggregation of products of less than one four-digit SIC code may be used provided the level of aggregation reflects the entity's customary pricing unit (e.g., cost or profit center) with respect to that level of aggregation chosen.

"Profit margin" means the ratio that operating income (net sales less cost of goods sold and less normal and generally recurring costs of business operations, interest expense on long and short term debt determined before non-operating items, extraordinary items, and income taxes) bears to net sales as reported on the firm's financial statement or its financial statement as restated pursuant to Subpart I prepared in accordance with generally accepted accounting principles consistently applied. For purposes of computing a profit margin, revenues and costs of items and sales exempt pursuant to §§ 150.52, 150.53(b), 150.54(d)(3) and (4) and 150.56 and revenues and costs attributable to insurance transactions subject to the provisions of Subpart M, shall be excluded.

"Public utility" means a firm or that part of a firm which regularly furnishes the public or a recognized segment of the public with a commodity or service which is of public consequence and need whether or not that firm is under the jurisdiction of a regulatory agency, including gas, electric, telephone, telegraph, public transportation by vehicle or pipeline, water, and sewage disposal services.

"Real estate with improvements" means land upon which there is a structure, dwelling, or other building. It does not mean land on which roads, water, sewer, or drainage facilities have been constructed.

"Rent" means any price for the use of personal property of any description, including any charge no matter how identified in a lease or other agreement, for the use of any property or for any service in connection with the use of leased property.

"Retailing" means the trade or business of purchasing property and, without substantially changing the form of that property, reselling it to ultimate consumers.

"Sale" includes exchange, transfer, or other disposition in return for valuable consideration.

"Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights or any financial or net leases as defined in § 163(d)(4)(A) of the Internal Revenue Code of 1954, as amended, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"Service" includes any work or activities performed by a firm for a person, other than in an employment relationship, and also includes professional work or activities of any kind and work or activities performed by membership organizations for which dues are charged, and the leasing or licensing of property to another person.

"Service line" means (a) a service, or (b) an aggregation of services categorized by a four-digit Standard Industrial Classification (SIC) code if that is the customary pricing unit (e.g., cost or profit center) with respect to that aggregation of services. An aggregation of services which includes more than one four-digit SIC code or an aggregation of services of less than one four-digit SIC code may be used provided the level of aggregation reflects the entity's customary pricing unit (e.g., cost or profit center) with respect to that level of aggregation chosen.

"Service activities" means the trade or business of selling or making available services, including professional service organizations, nonprofit organizations, governments, and government agencies or instrumentalities which carry on those activities.

"State and local governments" means the several States and the District of Columbia, a municipality or other political subdivision, authority, commission, board, district, public corporation or other agency or instrumentality of the several States and the District of Columbia and any board, commission, agency, or other instrumentality of a local government.

"Transaction" means an arms-length sale or lease between unrelated persons and is considered to occur at the time of shipment in the case of products and the time of performance in the case of services.

"Unconsolidated entity" means a firm directly or indirectly controlled by a parent but not consolidated with the parent for purposes of financial statements prepared in accordance with generally accepted accounting principles. An unconsolidated entity includes any firm consolidated with the unconsolidated entity for purposes of financial statements prepared in accordance with generally accepted accounting principles. An individual shall be deemed to control a firm which is directly or indirectly controlled by him or by his father, mother, spouse, children or grandchildren.

"United States" means the several States and the District of Columbia.

"Unrelated person" means a person other than a person described in section 267(b) of the Internal Revenue Code of 1954, as amended.

"Wholesaling" means the trade or business of purchasing property and, without substantially changing the form of that property, reselling it to retailers for resale or to industrial, commercial, institutional, or professional business users.

Subpart C—Classifications

§ 150.41 Price category I firms.

A price category I firm is a firm with annual sales or revenues of $100 million or more.

§ 150.42 Price category II firms.

A price category II firm is a firm with annual sales or revenues of at least $50 million but less than $100 million.

§ 150.43 Price category II firms.

A price category III firm is a firm with annual sales or revenues of less than $50 million.

§ 150.44 Applicability.

For purposes of this subpart, a firm includes a parent and the consolidated and unconsolidated entities which it directly or indirectly controls.

Subpart D—Exemptions

§ 150.51 General.

(a) Price adjustments with regard to the items and sales described in this subpart are exempt from the price adjustment requirements prescribed in this part. However, revenues received from the sale of exempt items or from exempt sales are included in a firm's annual sales or revenues, as defined in § 150.31, for all purposes including determinations of price category classification and except as provided in Subpart B for purposes of computing profit margin.

(b) Small business firms which meet the qualifications prescribed in § 150.60 are exempt from and not included in the coverage of this part.

§ 150.52 Agricultural products, seafood products, and raw sugar price adjustments.

(a) *General.* Subject to paragraph (b) of this section, the sale of agricultural products which retain their original physical form and have not been processed is exempt. Processed agricultural products are products which have been canned, frozen, slaughtered, milled, or otherwise changed in their physical form. Packaging is not considered a processing activity. Examples:

Exempt	*Nonexempt*
Live cattle, calves, hogs, sheep, and lambs	Carcasses and meat cuts.
Live poultry.	
Sheared or pulled wool	Wool products.
	Processed and blended honeybutter product.
Mohair.	
Hay: Bulk, pelleted, cubed, or baled	Dehydrated alfalfa meal or alfalfa meal pellets.
Wheat	Flour.
Sugar beets and sugar cane	Refined sugar.
Maple sap.	
All seeds for planting	Seeds processed for other uses.
Raw coffee bean	Roasted coffee bean.
	Canned and frozen vegetables.
	Dill pickles.
	Packaged slaw.
	Popped popcorn.
Feed grains including:	
Corn	Mixed feed.
Sorghum	Cracked corn.
Barley	Rolled barley.
Oats	Rolled oats.
Raw milk	Pasteurized milk and processed products, such as butter, cheese, ice cream.
	Frozen, dried, or liquid eggs.
Soybean	Soybean meal and oil.
Leaf tobacco	Cigarettes and cigars.
Baled cotton, cotton seed, cotton lint	Cotton yarn, cottonseed oil, cottonseed meal.
	Frozen french fries, dehydrated potatoes.
Unmilled rice	Milled rice.
Raw peanuts: shelled and unshelled	Roasted, salted, or otherwise processed peanuts.
	Canned or freeze dried mushrooms.
Fresh hops.	
Stumpage or trees cut from the stump	Millwork.
	Canned fruit or juices.
	Glazed citrus peel.
	Canned grapes, wine.
	Applesauce.
	Canned prunes and prune juice.
	Canned olives.
Garden plants	Floral wreaths.

(b) *Exempt first sales.* (1) Only the first sale by the producer or grower of those agricultural products which are of a type sold for ultimate consumption in their original physical form is exempt. Examples of these products are:

Shell eggs, packaged or loose.
Raw honeycomb honey.
Fresh potatoes, packaged or not.
All raw nuts—shelled and unshelled.
Fresh mushrooms.
Fresh mint.
Dried beans, peas, and lentils.
Unpopped popcorn.
All fresh vegetables and mellons including:
Tomatoes.
Lettuce.
Sweet corn.
Onions.
Green beans.
Cantaloupe.
Cucumbers.
Cabbage.
Carrots.
Watermelons.
Green peas.
Asparagus.
Pepper.
Broccoli.
Cauliflower.
Spinach.
Green lima beans.
Honeydews.
Escarole.
Garlic.
Artichokes.
Eggplant.
Brussels sprouts.
Beets.
All fresh or naturally dried fruits, packaged or not, including:
Fresh oranges.
Grapes and raisins.
Apples.
Peaches.
Strawberries.
Grapefruit.
Pears.
Lemons.
Plums and prunes.
Cherries.
Cranberries.
Avocados.
Blueberries.
Apricots.
Tangerines.
Olives, uncured.
Nectarines.
Raspberries.
Blackberries.
Figs.
Tangelos.
Limes.
Dates.
Papayas.
Bananas.
Pomegranates.
Currants.
Persimmons.
Cut flowers.

(2) The first sale by (i) a producer of broilers or turkeys or (ii) a producer or fisherman of raw seafood or fresh water products including those which have been shelled, shucked, iced, skinned, scaled, eviscerated, or decapitated is exempt.

(3) The first sale of the following items are exempt:

(i) mint oil,

(ii) maple syrup or sugar,

(iii) dehydrated fruits.

(c) *Raw sugar prices.* Raw sugar price adjustments which are controlled under the Sugar Act of 1948, as amended, are exempt.

§ 150.53 Real estate and insurance premiums.

(a) *Real estate.*—(1) *Sales.* The sales price of the following sales of real estate are exempt.

(i) Unimproved real estate.

(ii) Real estate with improvements completed prior to August 15, 1971.

(iii) Real estate with improvements completed on or after August 15, 1971, if—

(A) The sales price is determined after the completion of construction; or

(B) The sales price is determined before the completion of construction and the wage rates estimated by the builder at the time the price is determined are not subsequently reduced by any action under the Economic Stabilization Program.

(2) *Rentals.* All rent charged for the rental of real property, except for rent charged by a gasoline manufacturer for the rental of a retail gasoline station to a retailer of gasoline, are exempt.

(b) *Insurance premiums.* (1) Premiums charged for the following lines of insurance purchased or renewed after November 13, 1971, are exempt.

(i) Reinsurance of all kinds.

(ii) Ocean marine insurance.

(iii) Inland marine insurance on a bid basis applicable to facilities of transportation and communication.

(iv) Life insurance, annuities, and endowments (including individual and group contracts of: Ordinary and term life insurance, fixed and variable annuities, and endowments of all kinds); but excluding credit life insurance of any kind.

(v) Individually negotiated and rated insurance contracts written in excess of a self-insured retention of at least $100,000.

(2) Premiums charged for the following sublines of aviation insurance purchased or renewed after September 1, 1972, are exempt.

(i) Hull insurance.

(ii) Liability insurance for bodily injury (excluding passenger hazard) caused by an aircraft.

(iii) Liability insurance for property damage caused by an aircraft.

§ 150.54 Certain price adjustments.

(a) *Federal and State and local governments.* (1) Prices charged for any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility, (other than postal rates) performed, furnished, provided, granted, prepared, issued, or transferred by any Federal department, agency, or other instrumentality including any wholly owned Government corporations as defined in the Government Corporation Control Act of 1945, as amended, but not including the U.S. Postal Service and the Postal Rate Commission are exempt.

(2) Prices and fees charged by State and local governments for any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, facilities, materials, or similar thing of value or utility, performed, furnished, provided, granted, prepared, issued, or transferred including tuition and other charges for schools, colleges, and universities owned or operated by a State and local government, are exempt, except, however, that fees or charges for health services (but not health service fees levied on all students as a condition of enrollment) are not exempt under the provisions of this section.

(b) *Tuition fees of private nonprofit educational organizations.* Tuition fees and other charges by private schools, colleges, and universities not operated for profit, are exempt, except that: (1) Fees and charges resulting in income which is subject to tax under Part III of Subchapter F of the Internal Revenue Code of 1954, as amended, as unrelated business taxable income and (2) medical fees and charges, other than a health

service fee levied on all students as a condition of enrollment, are not exempt under the provisions of this section.

(c) *Custom products and services.* (1) The prices charged for the following products when custom made to individual order are exempt.

(i) Leather goods.

(ii) Wigs and toupees.

(iii) Fur apparel.

(iv) Jewelry.

(2) The prices charged for the following custom services when provided to individual order are exempt.

(i) Tailoring of clothing.

(ii) Framing of pictures and mirrors.

(iii) Taxidermy.

(d) *Exports, imports, ocean shipping rates, and foreign air transportation.* (1) The prices charged for export sales including the sale of products to a domestic purchaser who certifies that the product is for export are exempt.

(2) The prices charged for imports, but only the first sale into U.S. commerce are exempt.

(3) The rates charged for international ocean shipping are exempt.

(4) All rates, fares, and charges for foreign air transportation (as defined by the Federal Aviation Act, 49 USC 1301 (21)) which are set forth in tariffs filed with the Civil Aeronautics Board or which are established or approved by the Civil Aeronautics Board are exempt.

(e) *Damaged or used products.* The prices charged for damaged or used products other than products which have been rebuilt, repackaged, baled, reassembled, or otherwise processed are exempt.

(f) *Government property.* (1) The prices charged for abandoned or confiscated property sold by any Federal agency or State and local government pursuant to authorization of a court are exempt.

(2) Prices charged for property sold by the United States, including lease-sales are exempt.

(g) *Transactions in gold.* Prices charged for transactions in gold on the domestic market under license from the Secretary of the Treasury pursuant to the Gold Reserve Act of 1934 as amended, and regulations issued pursuant thereto are exempt.

(h) *Securities and financial instruments.* (1) Securities as defined in § 150.31 are exempt.

(2) Commercial paper is exempt.

(3) Commodity futures sold on an organized commodities exchange but not including the commodity (unless otherwise exempt) are exempt.

(i) *Brokerage fees.* Brokerage fees, charged for the purchase or sale of securities or commodity futures are exempt.

(j) *Fees and charges imposed by Indian Tribal Councils.* Prices charged for any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, commodity, or similar thing of value or utility, performed, furnished, sold, leased, provided, granted, prepared, issued, or transferred by any Indian Tribal Council which is formally recognized by a State or the Federal Government are exempt whether or not all or part of a particular transaction takes place on or off Indian Tribal lands.

(k) *U.S. tanker rates.* Rates for transportation by tank vessels in the coastwise trade are exempt.

(l) *Small retailing or restaurant activities.* Price adjustments of firms with annual sales or revenues of less than $100,000 which are primarily engaged in retailing or restaurant activities are exempt.

(m) *Silver.* Prices charged for (1) commercial grade silver in refining shapes, (2) silver content in ores and dore, (3) silver coins, and (4) other forms of silver sold for manufacturing or professional uses are exempt.

(n) *Long-term coal contracts.* Prices charged for coal under any contract to provide coal over a period of at least five years to a public utility are exempt.

(o) *Lumber.* Prices charged for lumber or wood products described in the Standard Industrial Classification Manual, 1972 edition, under Industry Code 2411, 2421, 2426, 2429, 2435, 2436, 2439 or 2492 and hardboard tempered or untempered are exempt.

(p) *Copper scrap.* Prices charged for copper scrap and copper based alloy scrap are exempt.

§ 150.55 Miscellaneous.

(a) Royalties and other payments from the sale of copyrights, manuscripts, and like materials prepared for publication are exempt.

(b) Dues paid to a nonprofit organization are exempt.

(c) The prices charged for the following items are exempt:

(1) Antiques and art objects including paintings, etchings, and sculptures.

(2) Collectors coins and stamps.

(3) Rocks and stone specimens including precious stones and mountings into which precious stones are set.

(4) Handicraft objects.

(d) Price adjustments made by producers or distributors of motion pictures and television productions for motion pictures and television productions are exempt.

§ 150.56 Public utilities.

Rate increases for commodities or services provided by a public utility are exempt.

§ 150.60 Small Businesses: Exemption of firms with 60 or fewer employees.

(a) *Applicability to firms existing on or before March 31, 1973.* (1) *General.* Subject to the provisions of paragraphs (a) (2) and (3) of this section, any firm, existing on or before March 31, 1973, including a local government, with an average of 60 or fewer employees (determined as provided in paragraph (a) (3) of this section) is exempt from and not included in the coverage of this part.

(2) *Exemption not applicable.* The exemption provided for in paragraph (a) (1) of this section shall not be applicable to:

(i) A firm which in its fiscal year ending prior to August 13, 1973, had annual sales or revenues of $50 million or more;

(ii) A firm which on August 12, 1973, was an institutional or noninstitutional provider of health services as defined in Subpart O;

(iii) A firm which on August 12, 1973, was engaged in construction operations as defined in Subpart N;

(iv) A firm, if the pay adjustments immediately preceding August 13, 1973, applicable to or affecting 50 percent or more of its employees, were set by a master employment or other employment contract which was negotiated on a joint or association basis or on an industry, area, group, or other similar basis and which covered more than 60 employees;

(v) A firm which is engaged in the business of selling "covered products" as defined in Subpart L.

(3) *Determination of average number of employees.* The average number of employees for firms in existence on or before March 31, 1973, shall be computed by dividing the sum of the number of employees employed in the pay periods which included September 30, and December 31, 1972, and March 31, and June 30, 1973, by the number of such pay periods for which any such firm was in existence.

(b) *Applicability to firms coming into existence on or after April 1, 1973.*—(1) *General.* Subject to the provisions of paragraphs (b) (2) and (3) of this section, price adjustments of any firm coming into existence on or after April 1, 1973, including a local government, with an average of 60 or fewer employees (determined as provided in paragraph (b) (3) of this section) are exempt from and not included in the coverage of this title.

(2) *Exemption not applicable.* The exemption provided for in paragraph (b) (1) of this section shall not be applicable to:

(i) A firm which at any time during its first four calendar quarters after June 30, 1973, had annual sales or revenues of $50 million or more;

(ii) A firm which at any time during its first four calendar quarters after June 30, 1973, was an institutional or noninstitutional provider of health services as defined in Subpart O;

(iii) A firm which at any time during its first four calendar quarters after June 30, 1973, was engaged in construction operations as defined in Subpart N;

(iv) A firm, if the pay adjustment at any time during its first four calendar quarters after June 30, 1973, applicable to or affecting 50 percent or more of its employees, were set by a master employment or other employment contract which was negotiated on a joint or association basis or on an industry, area, group or other similar basis and which covered more than 60 employees;

(v) A firm which is deemed to have an average of more than 60 employees in any calendar quarter in its first four calendar quarters, including its fourth calendar quarter, after June 30, 1973;

(vi) A firm which is engaged in the business of selling "covered products" as defined in Subpart L.

(3) *Determination of average number of employees.* The average number of employees for firms coming into existence on or after April 1, 1973, shall be computed as follows:

(i) For its first calendar quarter after June 30, 1973, the average number of employees shall be deemed to be 60 or fewer until such time as the number of employees in that first calendar quarter after June 30, 1973, exceeds 60;

(ii) If the firm was deemed to have an average of 60 or fewer employees in the pay period which included the last day of its first calendar quarter after June 30, 1973, it shall be deemed to have 60 or fewer employees during its second calendar quarter after June 30, 1973;

(iii) A firm shall compute its average number of employees for its third calendar quarter after June 30, 1973, by dividing by two the sum of the number of employees employed in the pay period which included the last day of its first two calendar quarters after June 30, 1973;

(iv) A firm shall compute its average number of employees for its fourth calendar quarter after June 30, 1973, by dividing by three the sum of the number of employees employed in the pay period which included the last day of its first three calendar quarters after June 30, 1973; and

(v) If the firm's average number of employees was deemed to be 60 or fewer for its first four calendar quarters after June 30, 1973, its average number of employees shall be permanently established for the purpose of this paragraph by dividing by four the sum of the number of employees employed in the pay period which included the last day of its first four calendar year quarters after June 30, 1973.

(c) *Definitions.* As used in this section—

"Employee" means any person residing in and employed in the several States or the District of Columbia for whom an employer is required to pay taxes imposed pursuant to the Federal Insurance Contributions Act, 1939, as amended, 26 USC 3101 (FICA), and any person otherwise excluded from FICA coverage, who (1) performs services for any firm as an agent-driver, or commission-driver engaged in the distribution of milk for his principals; or (2) is defined as an "employee" in 26 USC 3121(d).

"Local government" includes any town, village, city, or similar entity which was incorporated by authority of the State and which has and exercises local legislative powers, and any county, town, township, or similar entity which is a subdivision of the State or county and which possesses and exercises some powers of local self-government; any school district which is an independent governmental unit and any special district classified as an independent governmental unit created for the sole purpose of performing one or more municipal functions. An "independent governmental unit" is one which meets the criteria for classifying governmental units used by the Department of Commerce, U.S. Bureau of the Census, in the 1967 Census of Governments, "Governmental Organizations," beginning at p. 13.

Subpart E—Manufacturing and Service Activities

§ 150.71 Scope.

(a) Except as otherwise provided in this part, this subpart applies to all firms engaged in manufacturing or service activities, or both.

(b) A firm which is subject to this subpart and which is also engaged in wholesaling or retailing, or both, is subject to the requirements of Subpart K of this part with respect to its wholesaling and retailing operations. However, if the sales or revenues derived from wholesaling and retailing activities amounted to both less than $50 million and less than 10 percent of the firm's total manufacturing or service revenues subject to this section in the most recently ended fiscal year, the firm may, at its option, treat its wholesale and retail operations for pricing and reporting purposes as manufacturing or service activities.

§ 150.72 Definitions.

For purposes of this subpart, "Adjusted Freeze Price" of an item means—

(a) the freeze price of that item as defined in § 140.2 of this chapter, except that temporary special sales, deals and allowances in effect during the freeze base period may be excluded in computing the freeze price;

(b) in the case of a seasonal item priced in accordance with § 140.13(d)(2) of this chapter, the highest price lawfully charged for that item before August 13, 1973, except that when that price is reduced to the nonseasonal price as required by § 140.13(e) of this chapter that reduced price becomes the adjusted freeze price for that item;

(c) in the case of an imported item priced in accordance with § 140.14 of this chapter, the highest price lawfully charged for that item before August 13, 1973; and

(d) in the case of an item priced pursuant to an exception granted pursuant to Subpart H of Part 140 of this chapter, the highest price lawfully charged for that item before August 13, 1973.

§ 150.73 Price increases.

(a) Any price may be charged for an item which does not exceed the adjusted freeze price of that item or the base price of that item, whichever is higher.

(b) In cases where the adjusted freeze price is in excess of the base price, a price in excess of the adjusted freeze price of an item may be charged only if the full extent of the price charged above the base price, including all incremental price increases charged after the last day of the base price period, is cost-justified in accordance with paragraph (c) of this section and the requirements of §§ 150.74, 150.75, 150.77 and 150.11 have been met.

(c) In cases where the base price is in excess of the adjusted freeze price, a price in excess of the base price of an item in a product line or service line may be charged only to recover on a dollar-for-dollar basis those net increases in allowable costs that have been incurred with respect to that product line or service since the base cost period and which the firm concerned continues to incur, subject to §§ 150.74, 150.75, 150.77 and 150.11.

(d) For the purpose of determining whether net allowable costs have been incurred which permit the charging of a price in excess of the base price, base costs shall be compared with current costs. Current costs which exceed base costs may be used to justify a price in excess of the base price.

§ 150.74 Application of price increases.

(a) A price category I firm which is subject to the prenotification requirements of Subpart H of this part may not increase prices pursuant to this subpart until it complies with those requirements.

(b) A firm which is authorized to charge a prenotified percentage price increase pursuant to Subpart H of this part, and any other firm which qualifies to charge a percentage price increase with respect to a product line or service line by virtue of cost justification determined in accordance with this part, shall apply that percentage price increase on a weighted average basis (in accordance with instructions which accompany forms issued pursuant to Subpart H of this part) so that, for any fiscal quarter, the weighted average of all price increases and price decreases in that line does not exceed that percentage price increase. However, the maximum price which may be charged for any one item in that line may not exceed 110 percent of the base price or 110 percent of the adjusted freeze price of that item (whichever is greater) plus the amount which results from multiplying the base price or the adjusted freeze price of that item (whichever is greater) by the percentage of cost justification determined in accordance with this part with respect to that product line or service line.

§ 150.75 Price reductions.

A price charged in excess of the highest price authorized by § 150.73(a) may continue to be charged only as long as the net increases in allowable costs which support that price in excess of the highest price authorized by § 150.73(a) continue to be incurred. Price reductions shall be made whenever and to the extent necessary to assure that, for any fiscal quarter, the weighted average of all price increases and price decreases in a product line or service line does not exceed the percentage of cost justification for that line.

§ 150.76 Certain contracts.

The price or prices specified in a contract for the sale of an item entered into before 9 p.m., e.s.t., June 13, 1973, with respect to any delivery or performance

occurring after August 12, 1973, and before January 1, 1974, shall be allowable notwithstanding § 150.73.

§ 150.77 Productivity gains.

(a) *Calculation of productivity gains: Manufacturing activities*—(1) *General.* Increases in allowable costs shall be reduced to reflect productivity gains. For the purposes of determining whether a price may be increased under any provision of this part with respect to manufacturing activities, productivity gains shall be calculated on the basis of the average percentage gain in the applicable industrial category, as set forth in the table in Appendix A to this subpart. To the extent provided in the table in Appendix A, productivity gains shall be taken into account in the calculation of all price increases during any fiscal year but only until the full productivity offset, derived from Appendix A and calculated under paragraph (a)(2) of this section, has been used within that fiscal year.

(2) *Calculation.* (i) For the purposes of determining the extent to which a price increase is justified, each firm engaged in manufacturing shall calculate the sum of all of its labor costs (of the type required to be included as costs in reporting and prenotification forms issued pursuant to Subpart H of this part, whether or not such forms are required to be filed) as a percentage of sales for the product line concerned, and shall multiply that percentage by the average annual rate of productivity gain for the applicable industrial category, as set forth in the table in Appendix A to this subpart. The result is the productivity gain, stated as a percentage, by which the total cost increase must be reduced in order to be an allowable cost for the purposes of a price increase under this part.

(ii) If the product line concerned extends to more than one industrial category, the average percentage gain in productivity in each category must be weighted in proportion to the ratio which its estimated sales in each industrial category for the most recently completed fiscal quarter bears to the total sales of that product line for that quarter.

(3) *Subsidiaries, etc., not included.* This paragraph does not apply to a wholesale, retail or service subsidiary, division, affiliate, or similar entity that is a part of, or is directly or indirectly controlled by, a firm engaged in manufacturing.

(b) *Calculation of productivity gains: service activities.* For the purpose of determining the extent to which a price increase is justified, each firm engaged in service activities shall reduce increases in costs to reflect productivity gains in accordance with instructions which accompany forms issued pursuant to Subpart H of this part.

APPENDIX TO SUBPART E

AVERAGE ANNUAL RATE OF PRODUCTIVITY GAIN BY STANDARD INDUSTRIAL CLASSIFICATION (SIC)

	SIC (1967*)	Rate (%)**
Iron ores	101	3.9
Copper ores	102	2.4
Lead and zinc ores	103	2.4
Gold and silver ores	104	2.4
Bauxite and other aluminum ores	105	2.4
Ferroalloy ores, except vanadium	106	2.4
Metal mining services	108	2.4
Miscellaneous metal ores	109	2.4
Anthracite mining	11	3.2
Bituminous coal and lignite mining	12	4.9
Oil and gas extraction	13	3.8
Nonmetallic minerals, except fuels	14	3.9
Contract construction	15, 16, 17	
Residential structures (public and private)		2.0
Nonresidential (except highways and sewers)		1.5
Highways		1.0
Sewers		1.5
Ordnance and accessories (except 1925, 1931, 1941)	19	2.4
Complete guided missiles	1925	2.9
Tank and tank components	1931	4.2
Sighting and fire control equipment	1941	4.4
Meat packing plants	2011	4.7
Sausages and other prepared meats	2013	2.1
Poultry dressing plants	2015	2.1
Creamery butter	2021	5.6
Cheese, natural and processed	2022	2.4
Condensed and evaporated milk	2023	2.5
Ice cream and frozen desserts	2024	4.2
Fluid milk	2026	3.2
Canned and cured sea foods	2031	2.8
Canned specialties	2032	3.5
Canned fruits and vegetables	2033	3.0
Dehydrated food products	2034	1.8
Pickles, sauces, salad dressings	2035	3.0
Fresh or frozen packaged fish	2036	2.9
Frozen fruits and vegetables	2037	2.6
Flour and other grain mill products	2041	4.7
Prepared feeds for animals and fowls	2042	4.6
Cereal preparations	2043	2.8
Rice milling	2044	5.9
Blended and prepared flour	2045	1.1
Wet corn milling	2046	4.6
Bread, cake and related products	2051	3.2
Cookies and crackers	2052	3.2
Raw cane sugar	2061	4.4
Cane sugar refining	2062	5.2
Beet sugar	2063	2.9
Confectionery products	2071	3.4
Chocolate and cocoa products	2072	2.5
Chewing gum	2073	3.8
Malt liquors	2082	6.2
Malt	2083	2.0
Wines, brandy, and brandy spirits	2084	2.2
Distilled liquor, except brandy	2085	6.2
Bottled and canned soft drinks	2086	4.2
Flavoring extracts and syrups, nec	2087	4.4
Cottonseed oil mills	2091	4.3
Soybean oil mills	2092	5.9
Vegetable oil mills, nec	2093	0.0
Animal and marine fats and oils	2094	6.7
Roasted coffee	2095	1.6
Shortening and cooking oils	2096	1.5
Manufactured ice	2097	1.6
Macaroni and spaghetti	2098	0.7
Food preparations, nec	2099	1.6
Cigarettes	2111	1.9
Cigars	2121	5.0
Chewing and smoking tobacco	2131	0.0
Tobacco stemming and redrying	2141	0.0
Weaving mills, cotton	2211	3.0
Weaving mills, synthetics	2221	3.5
Weaving and finishing mills, wool	2231	2.9
Narrow fabric mills	2241	2.6
Women's hosiery, except socks	2251	6.0
Hosiery, nec	2252	6.0
Knit outerwear mills	2253	2.0
Knit underwear mills	2254	2.7
Knit fabric mills	2256	6.2
Knitting mills, nec	2259	3.3
Finishing plants, cotton	2261	3.8
Finishing plants, synthetic	2262	2.6
Finishing plants, nec	2269	2.9
Woven carpets and rugs	2271	4.1
Tufted carpets and rugs	2272	6.7
Carpets and rugs, nec	2279	8.8
Yarn mills, except wool	2281	4.2
Throwing and winding mills	2282	8.6
Wool yarn mills	2283	3.5
Thread mills	2284	2.6
Felt goods, nec	2291	2.5
Lace goods	2292	3.4
Padding and upholstery filling	2293	2.6
Processed textile waste	2294	1.1
Coated fabrics, not rubberized	2295	3.0
Tire cord and fabric	2296	5.0
Scouring and combing plants	2297	2.2
Cordage and twine	2298	1.9
Textile goods, nec	2299	3.6
Men's and boys' suits and coats	2311	0.4
Men's and boy's shirts and nightwear	2321	1.8
Men's and boys' underwear	2322	3.4
Men's and boys' neckwear	2323	3.2
Men's and boys' separate trousers	2327	3.3
Men's and boys' work clothing	2328	2.1
Men's and boys' clothing, nec	2329	2.5
Women's and misses' blouses and walsts	2331	2.2
Women's and misses' dresses	2335	2.9
Women's and misses' suits and coats	2337	2.1
Womens and misses' outerwear, nec	2339	2.6
Women's and children's underwear	2341	2.0
Corsets and allied garments	2342	3.5
Millinery	2351	3.1
Hats and caps, except millinery	2352	2.3
Children's dresses and blouses	2361	1.6
Children's coats and suits	2363	2.2
Children's outerwear, nec	2369	2.1
Fur goods	2371	3.3
Fabric dress and work gloves	2381	2.2
Robes and dressing gowns	2384	4.5
Waterproof outer garments	2385	4.1
Leather and sheep lined clothing	2386	1.9
Apparel belts	2387	4.8
Apparel and accessories, nec	2389	3.7
Curtains and draperies	2391	3.2
Housefurnishings, nec	2392	1.9
Textile bags	2393	1.8
Canvas products	2394	2.0
Pleating and stitching	2395	4.4
Automotive and apparel trimmings	2396	4.4
Schiffli machine embroideries	2397	4.0
Fabricated textile products, nec	2399	3.0
Logging camps, and logging contractors	2411	3.5
Sawmills and planing mills, general	2421	3.7
Hardwood dimension and flooring	2426	0.5
Special products sawmills, nec	2429	3.2
Millwork	2431	1.6
Veneer and plywood	2432	5.2
Prefabricated wood structures	2433	1.5
Nailed wooden boxes and shook	2441	3.9
Wirebound boxes and crates	2442	5.9
Veneer and plywood containers	2443	5.3
Cooperage	2445	2.7
Wood preserving	2491	3.0
Wood products, nec	2499	3.2
Wood household furniture	2511	2.0
Upholstered household furniture	2512	1.5
Metal household furniture	2514	2.5
Mattresses and bedsprings	2515	2.6
Household furniture, nec	2519	1.9
Wood office furniture	2521	3.2
Metal office furniture	2522	2.5
Public building furniture	2531	2.7
Wood partitions and fixtures	2541	2.9
Metal partitions and fixtures	2542	2.9
Venetian blinds and shades	2591	2.7
Furniture and fixtures, nec	2599	2.2
Pulp mills	2611	4.5
Paper mills, except building paper	2621	4.5
Paperboard mills	2631	4.5
Paper coating and glazing	2641	2.7
Envelopes	2642	3.1
Bags, except textile bags	2643	2.2
Wallpaper	2644	3.1
Die cut paper and board	2645	4.0
Pressed and molded pulp goods	2646	1.9
Sanitary paper products	2647	2.5
Converted paper products, nec	2649	2.5
Folding paper boxes	2651	3.4
Set-up paperboard boxes	2652	1.5
Corrugated and solid fiber boxes	2653	3.2
Sanitary food containers	2654	3.3
Fiber cans, drums, and related material	2655	5.3
Building paper and board mills	2661	4.5
Newspapers	2711	2.0
Periodicals	2721	3.1
Book publishing	2731	2.9
Book printing	2732	1.8
Miscellaneous publishing	2741	0.0
Commercial printing, excluding lithographic	2751	2.6
Commercial printing, lithographic	2752	2.6
Engraving and plate printing	2753	4.4
Manifold business forms	2761	4.1
Greeting card publishing	2771	2.9
Blankbooks and looseleaf binders	2782	1.4
Bookbinding and related work	2789	1.7
Typesetting	2791	1.7

APPENDIX TO SUBPART E—Continued

	SIC (1967*)	Rate (%)**
Photoengraving	2793	2.3
Electrotyping and stereotyping	2794	2.2
Alkalies and chlorine	2812	4.2
Industrial gases	2813	6.4
Cyclic intermediates and crudes	2815	6.9
Inorganic pigments	2816	1.9
Industrial organic chemicals, nec	2818	6.9
Industrial inorganic chemicals, nec	2819	4.5
Plastics materials and resins	2821	6.6
Synthetic rubber	2822	2.7
Cellulosic man-made fibers	2823	5.7
Organic fibers, noncellulosic	2824	2.9
Biological products	2831	4.5
Medicinals and botanicals	2833	10.0
Pharmaceutical preparations	2834	5.8
Soap and other detergents	2841	4.8
Polishes and sanitation goods	2842	4.4
Surface active agents	2843	4.4
Toilet preparations	2844	4.9
Paints and allied products	2851	2.6
Gum and wood chemicals	2861	3.4
Fertilizers	2871	5.3
Fertilizers, mixing only	2872	5.3
Agricultural chemicals, nec	2879	6.4
Adhesives and gelatin	2891	5.8
Explosives	2892	0.3
Printing ink	2893	3.5
Carbon black	2895	6.6
Chemical preparations, nec	2899	0.9
Petroleum refining	2911	6.6
Paving mixtures and blocks	2951	4.4
Asphalt felts and coatings	2952	3.4
Lubricating oils and greases	2992	5.1
Petroleum and coal products, nec	2999	5.8
Tires and inner tubes	3011	4.8
Rubber footwear	3021	2.1
Reclaimed rubber	3031	3.9
Fabricated rubber products, nec	3069	3.2
Miscellaneous plastics products	3079	5.6
Leather tanning and finishing	3111	1.5
Industrial leather belting	3121	1.1
Footwear cut stock	3131	1.4
Shoes, except rubber	3141	0.5
House slippers	3142	0.5
Leather gloves and mittens	3151	2.3
Luggage	3161	3.0
Women's handbags and purses	3171	1.7
Personal leather goods	3172	4.2
Leather goods, nec	3199	2.7
Flat glass	3211	3.9
Glass containers	3221	2.9
Pressed and blown glass, nec	3229	2.9
Products of purchased glass	3231	2.6
Cement, hydraulic	3241	4.8
Brick and structural clay tile	3251	2.3
Ceramic wall and floor tile	3253	3.6
Clay refractories	3255	3.2
Structural clay products, nec	3259	3.7
Vitreous plumbing fixtures	3261	4.2
Vitreous china food utensils	3262	1.5
Fine earthenware food utensils	3263	0.2
Porcelain electrical supplies	3264	3.8
Pottery products, nec	3269	3.3
Concrete block and brick	3271	4.1
Concrete products, nec	3272	4.1
Ready-mixed concrete	3273	2.5
Lime	3274	2.7
Gypsum products	3275	1.9
Cut stone and stone products	3281	2.6
Abrasive products	3291	2.8
Asbestos products	3292	1.3
Gaskets and insulations	3293	3.0
Minerals, ground or treated	3295	1.4
Mineral wool	3296	4.4
Nonclay refractories	3297	4.0
Nonmetallic mineral products, nec	3299	2.5
Blast furnaces and steel mills	3312	2.7
Electrometallurgical products	3313	2.7
Steel wire and related products	3315	2.7
Cold finishing of steel shapes	3316	2.7
Steel pipe and tubes	3317	2.7
Gray iron foundries	3321	2.6
Malleable iron foundries	3322	3.3
Steel foundries	3323	2.3
Primary copper	3331	2.3
Primary lead	3332	2.3
Primary zinc	3333	2.3
Primary aluminum	3334	3.3
Primary nonferrous metals, nec	3339	0.0
Secondary nonferrous metals	3341	3.9
Copper rolling and drawing	3351	3.6
Aluminum rolling and drawing	3352	5.4
Nonferrous rolling and drawing, nec	3356	4.0
Nonferrous wire drawing and insulating	3357	3.2
Aluminum castings	3361	2.1
Brass, bronze, and copper castings	3362	2.1
Nonferrous castings, nec	3369	2.1
Iron and steel forgings	3391	4.0
Nonferrous forgings	3392	2.6
Primary metal products, nec	3399	2.9
Metal cans	3411	2.0
Cutlery	3421	4.5
Hand and edge tools, nec	3423	3.0
Hand saws and saw blades	3425	3.3
Hardware, nec	3429	3.5
Metal sanitary ware	3431	4.5
Plumbing fittings, brass goods	3432	1.3

APPENDIX TO SUBPART E—Continued

	SIC (1967*)	Rate (%)**
Heating equipment except electric	3433	3.5
Fabricated structural steel	3441	2.2
Metal doors, sash and trim	3442	2.8
Fabricated plate work (boiler shops)	3443	3.3
Sheet metal work	3444	4.1
Architectural metal work	3446	4.5
Miscellaneous metal work	3449	4.5
Screw machine products	3451	0.3
Bolts, nuts, rivets and washers	3452	0.3
Metal stampings	3461	1.6
Plating and polishing	3471	1.0
Metal coating and allied services	3479	1.0
Misc. fabricated wire products	3481	2.7
Metal barrels, drums and pails	3491	0.8
Safes and vaults	3492	2.6
Steel springs	3493	2.7
Valves and pipe fittings	3494	2.1
Collapsible tubes	3496	3.8
Metal foil and leaf	3497	3.2
Fabricated pipe and fittings	3498	1.4
Fabricated metal products, nec	3499	2.4
Steam engines and turbines	3511	4.5
Internal combustion engines, nec	3519	3.1
Farm machinery	3522	2.4
Construction machinery	3531	2.4
Mining machinery	3532	2.0
Oil field machinery	3533	1.7
Elevators and moving stairways	3534	0.0
Conveyors and conveying equipment	3535	2.4
Hoists, cranes and monorails	3536	2.8
Industrial trucks and tractors	3537	3.6
Metal-cutting machine tools	3541	3.0
Metal-forming machine tools	3542	2.0
Special dies, tools, jigs, and fixtures	3544	2.3
Machine tool accessories	3545	2.6
Metal working machinery nec	3548	1.4
Food products machinery	3551	2.3
Textile machinery	3552	3.6
Woodworking machinery	3553	2.7
Paper industries machinery	3554	2.7
Printing trades machinery	3555	2.8
Special industry machinery, nec	3559	2.7
Pumps and compressors	3561	2.6
Ball and roller bearings	3562	3.7
Blowers and fans	3564	3.6
Industrial patterns	3565	4.2
Power transmission equipment	3566	1.8
Industrial furnaces and ovens	3567	1.6
General industrial machinery, nec	3569	1.7
Typewriters	3572	7.5
Electronic computing equipment	3573	5.7
Calculating and accounting machines	3574	5.7
Scales and balances	3576	3.7
Office machines, nec	3579	2.2
Automatic merchandising machines	3581	2.2
Commercial laundry equipment	3582	3.7
Refrigeration machinery	3585	6.3
Measuring and dispensing pumps	3586	0.4
Service industry machines, nec	3589	4.8
Misc. machinery, except electrical	3599	1.5
Electric measuring instruments	3611	2.0
Transformers	3612	5.4
Switchgear and switchboard apparatus	3613	2.7
Motors and generators	3621	4.4
Industrial controls	3622	2.3
Welding apparatus	3623	3.4
Carbon and graphite products	3624	3.5
Electrical industrial apparatus, nec	3629	3.9
Household cooking equipment	3631	5.9
Household refrigerators and freezers	3632	5.9
Household laundry equipment	3633	5.9
Electric housewares and fans	3634	4.4
Household vacuum cleaners	3635	5.9
Sewing machines	3636	6.3
Household appliances, nec	3639	5.2
Electric lamps	3641	2.8
Lighting fixtures	3642	3.5
Current-carrying wiring devices	3643	3.0
Noncurrent-carrying wiring devices	3644	2.6
Radio and TV receiving sets	3651	6.2
Phonograph records	3652	0.1
Telephone and telegraph apparatus	3661	3.7
Radio and TV communication equipment	3662	3.7
Electron tubes, receiving type	3671	2.7
Cathode ray picture tubes	3672	11.7
Electron tubes, transmitting	3673	7.3
Semiconductors	3674	7.5
Electronic components, nec	3679	7.5
Storage batteries	3691	2.7
Primary batteries, dry and wet	3692	4.6
X-ray apparatus and tubes	3693	3.8
Engine electrical equipment	3694	2.9
Electrical equipment, nec	3699	2.9
Motor vehicles	3711	4.2
Passenger car bodies	3712	4.2
Truck and bus bodies	3713	4.2
Motor vehicle parts and accessories	3714	4.2
Truck trailers	3715	4.2
Aircraft	3721	4.5
Aircraft engines and engine parts	3722	2.3
Aircraft propellers and parts	3723	2.8
Aircraft equipment, nec	3729	2.8
Ship building and repairing	3731	1.3
Boat building and repairing	3732	3.0
Locomotives and parts	3741	4.3
Railroad and street cars	3742	4.3
Motorcycles, bicycles, and parts	3751	5.1

APPENDIX TO SUBPART E—Continued

	SIC (1967*)	Rate (%)**
Trailer coaches	3791	2.6
Transportation equipment, nec	3799	2.4
Engineering and scientific instruments	3811	2.8
Mechanical measuring devices	3821	2.2
Automatic temperature controls	3822	1.9
Optical instruments and lenses	3831	3.8
Surgical and medical instruments	3841	3.7
Surgical appliances and supplies	3842	1.9
Dental equipment and supplies	3843	3.7
Ophthalmic goods	3851	4.9
Photographic equipment and supplies	3861	6.4
Watches and clocks	3871	4.9
Watchcases	3872	3.8
Jewelry, precious metal	3911	4.5
Jewelers' findings and materials	3912	3.9
Lapidary work	3913	3.9
Silverware and plated ware	3914	0.7
Musical instruments and parts	3931	1.5
Games and toys	3941	4.7
Dolls	3942	2.3
Children's vehicles, exc. bicycles	3943	3.7
Sporting and athletic goods, nec	3949	0.3
Pens and mechanical pencils	3951	2.9
Lead pencils and art goods	3952	2.9
Marking devices	3953	4.5
Carbon paper and inked ribbons	3955	4.3
Costume jewelry	3961	4.6
Artificial flowers	3962	5.0
Buttons	3963	3.9
Needles, pins, and fasteners	3964	4.5
Brooms and brushes	3991	2.1
Signs and advertising displays	3993	3.4
Morticians' goods	3994	3.4
Hard surface floor coverings	3996	6.2
Manufactures, nec	3999	2.8

FOOTNOTES

*The Standard Industrial Classification Codes (SIC) shown in this Appendix were taken from the Standard Industrial Classification Manual, 1967, which now is out of print. Copies of the 1972 manual are available from the U.S. Government Printing Office, Washington, D.C. 20402 (at a cost of $6.75 per copy). Appendix C of the 1972 manual contains the tables to convert 1972 SIC Codes to 1967 SIC Codes.

**Log-linear trend calculation of annual rate of productivity change over twelve years, 1958-1969.

NOTE: NEC means "Not Elsewhere Classified."

Subpart F—Base Price

§ 150.101 Scope.

This subpart sets forth the general rules which apply for determining base prices except as otherwise provided by this part.

§ 150.102 Sales and leases of products and services.

(a) *General rule.* The base price with respect to the sale or lease of an item is the average price at which the item was lawfully priced in transactions with the class of purchaser concerned during the base price period. The base price shall be determined in accordance with this subpart notwithstanding the fact that the base price so determined may be lower than the price prevailing on May 25, 1970.

(b) *Average price.* The average price is determined by dividing the net sales of that item to that class of purchaser by the quantity of the item sold or leased to that class of purchaser during the base price period. If the base price for an item cannot reasonably be calculated because of substantial price differentials with respect to that item, any accepted sampling method, consistently applied, may be used to calculate the base price of that item as long as the firm can demonstrate that the sampling method chosen does not result in a base price which is significantly higher than the base price determined in accordance with the preceding sentence.

(c) *Base price period.* The base price period is the last fiscal quarter which

ended before January 11, 1973. If no transaction occurred during that quarter with respect to the item and class of purchaser concerned, the base price period is the next preceding fiscal quarter in which a transaction occurred with respect to that item and class of purchaser.

(d) *Temporary specials.* Prices charged pursuant to temporary special deals or temporary special allowances may be excluded in computing the base price of an item. For the purposes of this paragraph, "temporary" means in effect for a period of 31 days or less; "temporary special deal" includes an offer of free goods, a combination sale, increased quantities, an introductory offer, and a "cents-off" or "price-pack" offer; and "temporary special allowance" includes early shipping, advertising, display buying, and promotional or other similar arrangements.

(e) *Class of purchasers for vending machine sales.* For the purpose of determining the base price with respect to a sale of an item through a vending machine, the term "class of purchaser" with respect to a firm using vending machines includes those purchasers within a marketing pricing area customarily utilized by that firm.

§ 150.103 Sales and leases of new property and new services.

(a) *General—New item.* (1) An item is a new item if: (i) The firm concerned did not sell or lease it in the same or substantially similar form at any time during the 1-year period immediately preceding the first date on which the firm offers it for sale or lease. (A change in appearance, arrangement, or combination does not create a new item. Ordinarily, a change in fashion, style, form or packaging does not create a new item. In the case of a product for lease, a permanent improvement or betterment made to the products, as a part thereof, to increase value or to restore it makes it a new property for purposes of a lease if the cost of the improvement or betterment is greater than $100 and at least as much as three month's rent for the property); and

(ii) It is substantially different in purpose, function, quality, or technology, or its use or service effects a substantially different result from any other item which the firm concerned currently sells or leases or sold or leased at any time during the 1-year period immediately preceding the first date on which the firm offers it for sale or lease.

(2) *New market.* An item which the firm concerned has previously sold or leased is a new item with respect to its offer or sale to any market to which he did not sell or lease it at any time during the 1-year period immediately preceding the first date on which he offers it for sale or lease. For the purposes of this section, a "market" is one or more members of any one of the following groups: wholesalers; retailers; consumers; manufacturers; or service organizations.

(b) *Base price determination.* A firm offering a new item shall determine its base price as follows:

(1) *Firms engaged in manufacturing and service activities.*—(i) *Net operating profit markup.* A firm engaged in manufacturing or service activities, or both, shall apply the average net operating profit markup it lawfully received on the most nearly similar item it sold or leased to the same market during the base price period to the total allowable unit costs of the new item. For the purposes of this subparagraph, "net operating profit markup" means the ratio which the selling price bears to the total allowable unit costs of the item.

(ii) *Average price of comparable property or services.* If the firm concerned did not offer a similar item for sale or lease to a particular market during the base price period, the base price for sales or leases to that market shall be the average price received in a substantial number of current transactions in that market by other firms selling or leasing comparable items in the same marketing area.

(iii) *Customary pricing practice.* If the firm concerned did not offer a similar item for sale or lease to a particular market during the base price period, and if the new item is not comparable to any items being sold or leased by any firm in current transactions in the same market, the firm may determine the base price by using any customary pricing practice it used during the base period, or, if it did not sell or lease any property or service during that time, it may use any other pricing practice commonly used by other firms engaging in comparable business with the same market.

(2) *Firms engaged in wholesaling and retailing*—(i) *Gross margin markup.* A firm engaged in wholesaling or retailing, or both, shall price the product within the category into which the new product falls, in accordance with Subpart K.

(c) *Base prices upon acquisition.* If a legal entity or a component of a legal entity determines a base price pursuant to this subpart for an item which it sells or leases to a particular market and the entity or component is subsequently acquired by another firm, that item does not become a new item with respect to the same market. The base price of the item with respect to that market remains the base price determined for it by the acquired entity or component unless the acquiring firm sells or leases the same item to the same market. If the acquiring firm sells or leases the same item to the same market, the acquiring firm's base price with respect to the sale or lease of that item to that market shall be the base price.

(d) *Quarterly reporting of new items.* A firm subject to the quarterly reporting requirements of Subpart H of this part and which has projected sales and revenues for its current fiscal year of $10 million or more derived from the sale or lease of new items shall, in accordance with instructions which accompany forms issued pursuant to Subpart H of this part, provide information which demonstrates that, with respect to each new item with projected annual sales of $1 million or more which is offered for sale or lease for the first time during the quarter concerned, the item qualifies as a new item as defined in this section and the base price of that item has been determined in accordance with this section.

§ 150.104 Custom products and custom services.

(a) *Definitions.* The following definitions apply in this section:

"Custom product" means a product (other than one specified in § 150.54(c)(1)) specifically produced by a manufacturer to the buyer's or buyers' specifications and not reasonably comparable to any product manufactured at any previous time by the same manufacturer or its predecessors in interest, including any buyer-specified changes or additions to a non-custom product to the extent that they are not reasonably comparable to any charges or additions manufactured, with respect to that non-custom product, at any previous time by the same manufacturer or its predecessors in interest.

"Custom service" means a service (other than one specified in § 150.54(c)(2)) specifically produced by a service organization to the buyer's or buyers' specifications and not reasonably comparable to any service provided at any previous time by the same service organization or its predecessors in interest, including any buyer-specified changes or additions to a non-custom service, at any previous time by the same service organization or its predecessors in interest.

(b) *Base price.* A firm engaged in manufacturing or service activities, or both, may charge a base price for a custom product or service in conformity with its customary pricing practices, if any, which reflect only costs incurred or to be incurred in the manufacture of the product or the furnishing of the service which are allowable as determined under the regulations or decisions issued pursuant to the Economic Stabilization Program. However, a firm which charges a base price for a custom product or custom service may not, for the fiscal year in which that base price is charged, exceed its base period profit margin except as provided in § 150.11(d)(iii).

Example. Labor costs to be incurred in the making of a custom product were estimated to be $2,000,000. However, $200,000 of this estimated cost was found to be nonallowable under regulations or decisions issued pursuant to the Economic Stabilization Program. Therefore, the highest amount of allowable costs for labor that may be included in determining the base price chargeable for the product is $1,800,000.

Subpart G—Base Cost and Current Cost

§ 150.131 Scope.

This subpart sets forth the general rules for determining base cost and current cost except as otherwise provided in this part.

§ 150.132 Base cost.

(a) *Base costs.* Base costs are the net allowable costs incurred during the base

cost period with respect to the product line or service line concerned.

(b) *Labor costs.* The base cost with respect to costs of labor is the rate at which those costs were being incurred on the first full day of business in the base cost period.

(c) *All other costs.* The base cost with respect to all costs other than labor costs is the rate at which those costs were being incurred on the first full day of businesss in the base cost period. However, if the base cost with respect to all costs other than labor costs cannot reasonably be determined by the method prescribed in the preceding sentence, that base cost is the average cost incurred throughout the base cost period with respect to those costs as calculated in accordance with instructions which accompany forms issued pursuant to Subpart H of this part.

(d) *Base cost period.* The base cost period is the last fiscal quarter which ended before January 11, 1973, in which costs were incurred with respect to the product line or service line concerned. The base cost period for each new item, as defined in accordance with § 150.103, is the fiscal quarter in which the new item concerned was first sold or leased in arms-length trading between unrelated persons.

§ 150.133 Current cost.

(a) *Current costs.* Current costs are the net allowable costs incurred during the current cost period with respect to the product line or service line concerned.

(b) *Labor costs.* The current cost with respect to costs of labor is the rate at which those costs were being incurred on the last full day of business in the current cost period.

(c) *All other costs.* The current cost with respect to all costs other than labor costs is the rate at which those costs were being incurred on the last full day of business in the current cost period.

(c) *All other costs.* The current cost with respect to all costs other than labor costs is the rate at which those costs were being incurred on the last full day of business in the current cost period. However, if the current cost with respect to all costs other than labor costs cannot reasonably be determined by the method prescribed in the preceding sentence, that current cost is the average cost incurred throughout the current cost period with respect to those costs as calculated in accordance with instructions which accompany forms issued pursuant to Subpart H of this part.

(d) *Current cost period.* For quarterly reporting purposes, the current cost period is the last accounting month in the current fiscal quarter for which a quarterly report is required to be filed pursuant to Subpart H of this part. The current cost period for price category III firms is the last accounting month in the current fiscal quarter for which compliance is being measured. For prenotification purposes, the current cost period is the last accounting month preceding the date of signature of the prenotification document submitted in accordance with Subpart H of this part except that with respect to labor and other costs which may be calculated as of a date certain, the rate at which these costs are incurred on the day which is the date of signature of the prenotification document may be considered the rate of the last full day of the current cost period.

Subpart H—Prenotification and Reporting

§ 150.151 Prenotification.

(a) *General Rule.* Except as provided in paragraph (b) of this section, a price category I firm may not charge a price for any item above the base price or the adjusted freeze price, which ever is higher, with respect to an item it sells as a manufacturer or service organization until the firm has filed, pursuant to this subpart, a notice of proposed price increase with respect to that item or a product line which includes that item with the Council and 30 days have elapsed since the filing of the notice.

(b) *Waiver of prenotification.* (1) The following price increases by a price category I firm need not be prenotified—

(i) Any price increases for items which are exempt under Subpart D or otherwise excluded from coverage of this title.

(ii) Any price increases by a nonprofit organization with less than $100 million in annual sales or revenues derived from transactions in items which are not exempt under Subpart D of this part or otherwise excluded from coverage of this title.

(iii) Any price increase for an item to the extent it reflects solely an increase in excise taxes (including sales and use taxes) or in duties on imports.

(2) The following prices charged by a price category I firm need not be prenotified:

(i) A price in a contract for the purchase of a product or service by an agency of the Federal government, and a price stated in a subcontract under a contract for the purchase of a product of service by an agency of the Federal government.

(ii) A price specified in a contract subject to the provisions of § 150.76.

(iii) A price specified in a contract for the sale of an item entered into after 9:00 p.m. e.s.t., June 13, 1973 and before August 6, 1973, with respect to any delivery or performance occurring after August 12, 1973, and prior to October 12, 1973.

(iv) (A) A price charged by a price category I firm with annual sales or revenues of less than $100 million within any industrial group in its most recently completed fiscal year which has applied for and received from the Council a modification of prenotification requirements with respect to price increases relating to sales within the industrial group. For the purposes of this paragraph, industrial groups are identified by a two-digit Standard Industrial Classification (SIC) Code as published by the Office of Management and Budget in the 1972 Standard Industrial Classification Manual, except as otherwise provided in the instructions for preparation of Form CLC-55, "Request for Modification of Prenotification Requirements". Each application under this paragraph shall be made on a properly completed Form CLC-55 and shall contain the information required by that form and its instructions. If the Council does not act upon a request submitted under this paragraph within 30 days after receiving a Form CLC-55, the firm may take the action requested. A firm whose prenotification requirements are modified in accordance with this paragraph remains subject to the reporting requirements of this subpart and to all other requirements of this part including the profit margin limitation. The following are the criteria to be applied in considering application under this paragraph (b):

(*1*) The firm's annual sales or revenues within the industrial group for which modification of prenotification requirements is requested must be under $100 million.

(2) Annual sales or revenues of the entity for which modification of prenotification requirements is requested must be under $100 million.

(3) Annual sales or revenues within a four-digit Standard Industrial Classification Code which is included within the industrial group for which modification of prenotification requirements is requested may not be more than 5 percent of the market covered by that four-digit classification.

(B) Until October 12, 1973, a firm which pursuant to the provisions of 6 CFR 300.51(c) in effect on January 10, 1973, applied for and received from the Price Commission a modification of the prenotification requirements with respect to price increases relating to sales within a particular two-digit SIC code and which has reason to believe that it continues to qualify under this paragraph, shall be deemed to have received authority from the Cost of Living Council to put price increases into effect in accordance with the provisions of paragraph (b) (2) (iv) (A) of this section. Effective October 12, 1973, a firm may adjust a price pursuant to paragraph (b) (2) (iv) (A) of this section only if it has received authorization issued by the Council pursuant to the provisions of paragraph (b) (2) (iv) (A) of this section.

§ 150.152 Manner of prenotification.

The notice of the proposed price increase must be filed in the form and manner prescribed by the Cost of Living Council, and will be considered to be filed on the date when it is stamped and dated by the Council. The Council will notify the firm, in writing, of the date of filing. If the information submitted is incomplete or inadequate, the Council will not accept the filing, and will so notify the firm.

§ 150.153 Measure of the prenotification period.

The 30-day prenotification period will commence on the date of filing of the notice of the proposed price increase with

the Council. In any case in which the 30-day period would otherwise end on a Saturday, Sunday or Federal holiday, it will end at the close of the next succeeding workday.

§ 150.154 Council action.

During the 30-day prenotification period, the Council may issue an order disapproving, modifying, suspending or deferring a proposed price increase in whole or in part.

(a) The Council may issue an order disapproving or modifying a proposed price increase in whole or in part, if it finds that the proposed price increase does not conform to the rules of this part.

(b) The Council may issue an order temporarily suspending the running of the 30-day prenotification period of a proposed price increase if it finds additional information is necessary or that the form was improperly filed. The order will remain in effect until the Council notifies the firm in writing that the additional information has been received and accepted.

(c) The Council may issue an order deferring a price increase, in whole or in part, if it finds that the proposed price increase is of such magnitude and would have such an impact upon the economy as to be unreasonably inconsistent with the goals of the Economic Stabilization Program.

§ 150.155 Implementation of price increases.

If the Council does not act upon the proposed price increase within the 30-day prenotification period, pursuant to § 150.154; the proposed price increase may be charged immediately upon expiration of the 30-day prenotification period. Failure of the Council to act upon the proposed price increase within the 30-day period does not constitute approval of the price increase and nothing in this part shall be construed to limit the authority of the Council to modify, suspend, disapprove, or defer any such price increase in whole or in part placed into effect after the expiration of the 30-day period if the Council finds that:

(a) The price increase does not conform to the rules of this part; or

(b) The price increase is of such magnitude and would have such an impact upon the economy as to be unreasonably inconsistent with the goals of the Economic Stabilization Program.

§ 150.156 Volatility.

(a) Subject to paragraphs (b) through (d) of this section, a firm that has customarily priced an item in a manner immediately responsive to frequent and customary market price fluctuations of the raw materials or partially processed products which it uses in that item may, when and to the extent authorized by the Cost of Living Council increase the price of that item to the extent of any significant market price increase of those raw materials or partially processed products, without regard to the prenotification requirements of this subpart. However, in the case of a price increase based on an increase in the price of a partially processed product, only that part of the increased cost of the partially processed product that is due to an increase in the market price of the raw materials in that product may be used in computing any allowable increase under this paragraph. For the purposes of this paragraph and paragraph (c) of this section "raw materials" include raw agricultural products, raw seafood, and other raw materials used by the firm in preparing an item for which an authorization is sought under this section.

(b) *Limitation.* A firm which increases a price pursuant to an authorization granted under this section shall reduce that price to the extent of any later decrease in cost in accordance with the general rules of this part.

(c) *Notice on invoice.* A firm which increases a price on any partially processed product pursuant to authorization under this section shall indicate on each invoice to its manufacturing and processing customers that part of any cost increase that is due to an iincrease in the cost of the raw materials used in making the partially processed product.

(d) Until October 12, 1973, a firm which received a volatile pricing authorization from the Price Commission which was in effect on January 10, 1973, with respect to an item shall be deemed to have received authority from the Council to put price adjustments for that item into effect in accordance with the provisions of this section. Effective October 12, 1973, a firm may adjust the price of an item pursuant to this section only if it has received a volatile pricing authorization issued by the Council pursuant to paragraph (a) of this section.

§ 150.161 Quarterly reports.

(a) *General.* Except as provided in paragraph (b), each price category I and II firm shall submit quarterly reports to the Cost of Living Council on prices, costs and profits in accordance with forms and instructions issued by the Council.

(b) *Waiver of quarterly reports.* Quarterly reports need not be submitted to the Council by the following firms:

(1) A firm whose total annual sales or revenues are derived from transactions involving goods and services which are exempt under Subpart D, or otherwise excluded from coverage of this title

(2) A firm which is a nonprofit organization with less than $50 million derived from transactions in property or services which are not exempt under Subpart D of this part, or otherwise excluded from coverage of this part.

(3) State and local governments.

(4) A firm which has not charged a price for any item above the base price or above the adjusted freeze price, whichever is higher, provided the firm files, for the fiscal quarter, a "Certificate of no price increase" in accordance with the forms and instruction issued by the Cost of Living Council.

(c) *Manner of reporting.* Each quarterly report required under paragraph (a) of this section shall be made in accordance with forms and instructions issued by the Cost of Living Council.

§ 150.162 Additional reports and information.

Whenever the Cost of Living Council considers it necessary for the effective administration of the Economic Stabilization Program, it may order any firm to file special or separate reports, setting forth information relating to the Economic Stabilization Program, in addition to any other reports required by this part.

§ 150.163 Effect of failure to file or maintain reports or other documents required by or under certain sections of this part.

(a) If a firm which is required to file a report or other document with the Cost of Living Council pursuant to the provisions of this part or an order issued by the Council does not, within the time limits prescribed, file the report or other document—

(1) The firm may not implement any further price increases including price increases which could otherwise be implemented pursuant to § 150.155 until it has complied with that reporting requirement and has obtained the special approval of the Council;

(2) Except to the extent specifically authorized otherwise by the Council in any case, based upon a written request of the firm concerned citing hardship or inequity, action is suspended on all requests for exception filed by that firm until it has complied with the reporting requirement; and

(3) The Council may, whenever it considers it appropriate under the circumstances, order the firm to reduce any of its prices.

(b) Each day that a firm fails to comply with a reporting requirement pursuant to this part pertaining to reports, or with an order under this part, is considered to constitute a separate violation of this part or that order.

§ 150.164 Records.

(a) *General.* Each firm subject to this part shall maintain such records as are sufficient to demonstrate that the prices charged by the firm are in compliance with the rules in this part.

(b) *Inspection.* Records required to be maintained under paragraph (a) of this section shall be made available for inspection at any time upon the request of an officer or employee of the Internal Revenue Service or the Council.

(c) *Justification.* Upon the request of an officer or employee of the Internal Revenue Service or the Council any firm which has filed a notice of a proposed price increase or increases a price pursuant to this part, shall:

(1) Specify the records that comply with paragraph (a) of this section; and

(2) Justify that proposed price increase or increased price.

(d) *Period for maintaining records.* Each firm required to maintain a record under this section shall preserve that record for at least 4 years after the last day of the calendar year in which the

transactions or other events recorded in that record occurred or the property was acquired by that firm whichever is later.

Subpart I—Accounting and Financial Reporting Requirements

§ 150.171 Comparabiliy of financial data.

(a) *General.* When filing a report or other document under this part, financial data shall be restated in accordance with the provisions of this section in order that profit margins reflect comparable units.

(b) *Acquisitions.* An acquisition including the purchase of a separate accounting entity, such as a company or division, requires adjustments to financial data for purposes of this part if such an acquisition would require restatement or disclosure in a filing with the SEC, or if the acquisition is of a similar type but such restatement or disclosure is not required because the firm does not file reports with the SEC.

(c) *Divestments and discontinuations.* A divestment of a separate accounting entity such as a company or division or a discontinued operation requires adjustment to financial data for purposes of this part if such a divestment or discontinued operation would require restatement or disclosure in a filing with the SEC, or if the divestment or discontinued operation is of a similar type but such restatement or disclosure is not required because the firm does not file reports with the SEC.

(d) *Other changes.* If the nature of operations of a firm has changed so that the business being conducted currently is of a significantly different nature than the business previously conducted for a reason other than those discussed above, the firm may request an exception to adjust profit margins appropriately for all pertinent periods.

Subpart J—Special Rules

§ 150.201 Loss and low profit firms.

(a) *Applicability.* This section applies to any firm which—

(1) Has estimated and has prepared supporting documentation in accordance with the provisions of paragraph (g) of this section that for its current fiscal year it will have a profit margin less than the minimum profit margin allowed as computed in accordance with paragraph (c) of this section; and

(2) For each control year (as determined pursuant to § 201.52 of this title) included in whole or in part in the current fiscal year has not increased the wages or salaries of any of its officers or employees who are owners or relatives of an owner in excess of the general wage and salary standard as computed in accordance with Economic Stabilization Regulations, unless the Council or its delegate has by order permitted greater increases to be paid with respect to the appropriate employee unit including such employees, in which case the firm may grant increases to the extent allowed by such order without losing its loss or low profit firm qualification.

(b) *Definitions.* For purposes of this paragraph—

"Minimum profit margin allowed" means the profit margin calculated pursuant to the provisions of paragraph (c).

"Owner" means an officer or employee who owns (or is considered to own within the meaning of 26 U.S.C. 318(a)(1)) on any day of the fiscal year concerned, more than 5 percent of the outstanding stock of the firm.

"Relatives of an owner" shall include only those members of the family specified in 26 U.S.C. § 318(a)(1).

(c) *Calculation of minimum profit margin allowed.*—(1) *Service activities.* For any firm which during its most recently completed fiscal year, derived at least 90 percent of its annual sales or revenues from the furnishing of services, the minimum profit margin allowed is 1 percent.

(2) *Other activities.* For any other firm, the minimum profit margin allowed is that corresponding to the firm's capital turnover ratio and is set forth in Column B of Table I. The capital turnover ratio is computed by dividing the net sales for the most recently completed fiscal year or the alternative fiscal period by average total capital (long-term debt plus owner's equity, less investments, the income from which is included in nonoperating income) for that fiscal year or alternative fiscal period. Calculations made pursuant to this section must be consistent with instructions to the CLC–22 except that in computing the profit margin, the firm may not include interest expense on long term debt. The average total capital for a fiscal year or alternative fiscal period is computed by adding the outstanding total capital at the beginning of the fiscal year or alternative fiscal period to the outstanding total capital at the end of that fiscal year or alternative fiscal period, and dividing the sum by two:

TABLE I

Column A *Capital Turnover Ratio*	*Column B* *Minimum Profit Margin Allowed* *(percent)*
Less than 3.4	3.0
3.4 or more, but less than 3.6	2.9
3.6 or more, but less than 3.7	2.8
3.7 or more, but less than 3.8	2.7
3.8 or more, but less than 4.0	2.6
4.0 or more, but less than 4.2	2.5
4.2 or more, but less than 4.3	2.4
4.3 or more, but less than 4.5	2.3
4.5 or more, but less than 4.8	2.2
4.8 or more, but less than 5.0	2.1
5.0 or more, but less than 5.3	2.0
5.3 or more, but less than 5.6	1.9
5.6 or more, but less than 5.9	1.8
5.9 or more, but less than 6.3	1.7
6.3 or more, but less than 6.7	1.6
6.7 or more, but less than 7.1	1.5
7.1 or more, but less than 7.7	1.4
7.7 or more, but less than 8.3	1.3
8.3 or more, but less than 9.1	1.2
9.1 or more, but less than 10.0	1.1
10.0 or more, but less than 11.1	1.0
11.1 or more, but less than 12.5	0.0
12.5 or more, but less than 14.3	0.8
14.3 or more, but less than 16.7	0.7
16.7 or more, but less than 20.0	0.6
20.0 or more, but less than 25.0	0.5
25.0 or more, but less than 33.3	0.4
33.3 or more, but less than 50.0	0.3
50.0 or more	0.2

(d) *Alternative fiscal period.* The alternative fiscal period is the best two of the firm's base period years. For purposes of computing the alternative fiscal period capital turnover ratio of paragraph (c)(2) of this section, the firm shall add the net sales and average total capital, for the firm's two best base period years and divide the sum by two.

(e) *Pricing.* Notwithstanding Subparts A, E or K, or the prenotification requirements of Subpart H of this part, but subject to paragraphs (f) through (h) of this section, a loss or low profit firm may after August 12, 1973 increase any of its prices by an amount reasonably calculated to result by the end of its third fiscal quarter in a profit margin that does not exceed the minimum profit margin allowed under this section.

(f) *Wage and salary limitations.* If a firm which prices pursuant to this section increases during any control year included in whole or in part in the current fiscal year the wages and salaries of any of its officers or employees who are owners or relatives of an owner in excess of the general wage and salary standard as computed in accordance with Economic Stabilization Regulations or in excess of any greater increase permitted to be paid by order of the Council, authority to price pursuant to this section terminates.

(g) *Reporting.* (1) Each price category I or price category II firm, before utilizing this section for any fiscal year or part thereof, in addition to complying with the reporting requirements of Subpart H, and before charging any price under this section, shall furnish to the Council sufficient financial data to support its loss or low profit position. The data submitted must include a Schedule R to Form CLC–22 completed in Parts I through V for the current fiscal year on a projected basis and for the alternative fiscal period and Form PB–3 or PB–3A (if appropriate) for each appropriate employee unit which includes employees referred to in paragraph (f) of this section, for each control year covered in whole or in part by any fiscal year used to calculate the minimum profit margin allowed and for the current fiscal year in which prices are to be increased under this section. Such a firm may increase prices under this section after 30 days following the date of the receipt of that financial data by the Council unless, during that 30-day period, the Council suspends, modifies or disapproves that action. The Council may disapprove such action for a firm whose profit margin is at or above the average profit margin of other firms engaged in the same industry.

(2) Each price category III firm, before charging any price under this section in any fiscal year shall prepare and maintain at its principal place of business sufficient financial data to support its loss or low profit position for that fiscal year. The data prepared must include a Schedule R to Form CLC–22 completed for the current fiscal year on a projected basis and for the alternative fiscal period and Form PB–3 or PB–3A (if appro-

priate) for each appropriate employee unit which includes employees referred to in paragraph (f) of this section, for each control year covered in whole or in part by any fiscal year used to calculate the minimum profit margin allowed and for the current fiscal year in which prices are to be increased under this section.

(h) *Termination of use of low profit rule.* At the end of the current fiscal year, or within 45 days after the end of a fiscal quarter in the current fiscal year in which a loss or low profit firm which has increased prices pursuant to this section achieves its minimum profit margin allowed or approaches it within .01 percent at an annual rate, authority to use this section terminates. Thereafter, the firm must conform to the price rules of this part which would be applicable to it if it had not been a loss or low profit firm. However, for purposes of this part, the base period profit margin of the firm is the profit margin allowed as calculated pursuant to the provisions of this section.

§ 150.202 Loss or low base period profit margins.

(a) *General.* Notwithstanding the provisions of subpart A and the definition of base period profit margin in subpart B, a firm may calculate and use as its base period profit margin the minimum profit margin allowed as calculated pursuant to this section.

(b) *Calculation of profit margin allowed.*—(1) *Service activities.* For any firm which in its most recently completed fiscal year, derived at least 90% of its annual sales or revenues from the furnishing of services, the minimum profit margin allowed is 1 percent.

(2) *Other activities.* For any other firm, the profit margin allowed is that corresponding to the firm's capital turnover ratio and is set forth in Column B of Table II. The capital turnover ratio is computed by dividing the sum of the net sales for the firm's two best base period years by the average total capital (long-term debt plus owner's equity, less investments, the income of which is included in nonoperating income of those two years). Calculations made pursuant to this section must be consistent with instructions on Form CLC–22 except that in computing the profit margin, the firm may not include interest expense on long term debt. The average total capital for a fiscal year is computed by adding the outstanding total capital at the beginning of the fiscal year to the outstanding total capital at the end of that fiscal year, and dividing the sum by two:

TABLE II

Column A Capital Turnover Ratio	*Column B Minimum Profit Margin Allowed (percent)*
Less than 3.4	3.0
3.4 or more, but less than 3.6	2.9
3.6 or more, but less than 3.7	2.8
3.7 or more, but less than 3.8	2.7
3.8 or more, but less than 4.0	2.6
4.0 or more, but less than 4.2	2.5
4.2 or more, but less than 4.3	2.4
4.3 or more, but less than 4.5	2.3

TABLE II—Continued

Column A Capital Turnover Ratio	*Column B Minimum Profit Margin Allowed (percent)*
4.5 or more, but less than 4.8	2.2
4.8 or more, but less than 5.0	2.1
5.0 or more, but less than 5.3	2.0
5.3 or more, but less than 5.6	1.9
5.6 or more, but less than 5.9	1.8
5.9 or more, but less than 6.3	1.7
6.3 or more, but less than 6.7	1.6
6.7 or more, but less than 7.1	1.5
7.1 or more, but less than 7.7	1.4
7.7 or more, but less than 8.3	1.3
8.3 or more, but less than 9.1	1.2
9.1 or more, but less than 10.0	1.1
10.0 or more, but less than 11.1	1.0
11.1 or more, but less than 12.5	0.9
12.5 or more, but less than 14.3	0.8
14.3 or more, but less than 16.7	0.7
16.7 or more, but less than 20.0	0.6
20.0 or more, but less than 25.0	0.5
25.0 or more, but less than 33.3	0.4
33.3 or more, but less than 50.0	0.3
50.0 or more	0.2

(c) *Reports.* A firm which calculates and uses a minimum profit margin allowed in lieu of its base period profit margin as calculated pursuant to subpart B, shall prepare and submit in accordance with the forms and instructions issued by the Council, the financial data used to compute the minimum profit margin allowed.

§ 150.203 Seasonal patterns.

(a) *General.* Notwithstanding any other provisions of this part including the prenotification requirements of Subpart H, prices which normally fluctuate in distinct seasonal patterns may be adjusted as prescribed in this section.

(b) *Distinct fluctuation.* Prices must show a large or otherwise distinct fluctuation at a specific, identifiable point in time. The distinct fluctuation must be an established practice that has taken place in each of the 3 years before the date of the contemplated change. New firms may determine their qualifications from those generally prevailing with respect to firms similarly situated, selling or leasing in the same marketing area. If there are not similar firms in the immediate area, qualification may be established by reference to the nearest similar marketing area.

(c) *Time of price fluctuation.* The price fluctuation referred to in paragraph (b) of this section may not take place at a time other than the time at which that fluctuation took place in the preceding year unless the date of the price fluctuation is tied to a specific event such as a previously planned introduction of new models.

(d) *Allowable price.* Subject to paragraph (e) of this section, if the requirements of paragraphs (b) and (c) of this section are met, the maximum price which may be charged by the person concerned is the greater of the following:

(1) The base price determined under Subpart F of this part;

(2) The price authorized pursuant to the provisions of Subpart E or K; or

(3) The price charged by that firm during the first 30 days of the period following the current seasonal price adjustment, or if the season was less than 30 days, during the period of that season.

For purposes of paragraph (a) of this section, the price charged during that 30-day period, or the period of the season if less than 30 days, is the weighted average of the prices charged on all transactions during that period.

(e) *Limitation.* Notwithstanding paragraph (d) of this section, a firm which charges a price pursuant to this section, may not exceed its base period profit margin.

(f) *Return to nonseasonal prices.* Each firm that increases a price under this section shall decrease that price at the same date or identifiable point in time as the price was decreased in the previous season. The price shall be decreased to the allowable price for the applicable season, pursuant to paragraph (d) of this section.

§ 150.204 Marketing cooperatives and market risk-sharing transactions.

(a) *Applicability.* This section applies to—

(1) Sales of products or services by a marketing cooperative, as defined in paragraph (b) of this section, for its members and for other persons; and

(2) transactions for the sale of products or services by a seller to a buyer in which the price is set in whole or in substantial part by reference to the buyer's proceeds from the later resale of the product or service, or the sale by that buyer of another product or service into which the initial product or service is processed or made.

(b) *Definitions.* For the purposes of this section "marketing co-operative" means a firm that is organized or operated on a cooperative basis for the purpose of marketing the products or services of its members and other persons, and turning back to them the proceeds of sales, less expenses, on the basis of either the quantity or the value of the products or services furnished by them, or that does not make a profit on the sales for its members, either.

(1) Because the market price obtained is only enough to cover costs and expenses and payment for their products or services, or

(2) Because a later additional payment adjusts the payment for this purpose may be cash or other item of value which qualifies as a "patronage dividend" under Section 1388 of the Internal Revenue Code of 1954, as amended. A firm is not disqualified from being a marketing co-operative by conducting a portion of its transactions with nonmembers. Each transaction of the kind described in paragraph (a)(2) of this section is a "market risk-sharing transaction" and is considered to bind the buyer and seller of that transaction to a "market risk-sharing agreement". The price which is charged in a market risk-sharing transaction is a "market risk-sharing price". The total proceeds which a firm receives from a marketing co-operative for a product or service which

the co-operative markets for that firm is also a "market risk-sharing price".

(c) *General.* A market risk-sharing price, as defined in paragraph (b) of this section, may not exceed the price authorized to be charged under any other provision of this part if the kind of product or service and the kind of transaction concerned are not exempt from the Economic Stabilization Program under Subpart D. If a market risk-sharing price is exempt thereunder, and if that price is one of the costs of another product or service which is not exempt thereunder, the manufacturer, service organization, wholesaler, or retailer for whom such a market risk-sharing price is a cost may charge a price in excess of the base price, adjusted freeze price or other authorized price for that other product or service under the same conditions and subject to the same restrictions as would otherwise apply to that person under this part, except that—

(1) If that firm is also a marketing co-operative and charges a price pursuant to this section, the ratio of its operating income to its net sales in the current fiscal year may not exceed the ratio which prevailed during the base period (in computing this ratio the firm may elect to reduce operating income by patronage dividends in both the base period and the current period); and

(2) The costs which are determined by the market risk-sharing plan shall, for the purposes of this part, be considered to be imputed allowable costs.

(d) *Imputed allowable costs.* The imputed allowable cost shall be:

(1) Any price that is published or otherwise documented as prevailing in the trade and which the firm has customarily used in establishing a payment at the time of delivery of the product or service, or in determining pool interest in deliveries of the product or service; or if none,

(2) The average documented price paid by competitors for the same product or service in transactions that are not by the marketing co-operative or are not market risk-sharing transactions in the same marketing area, or, if no significant number of those transactions are occurring in the same marketing area, in the closest substantially similar marketing area; or if none,

(3) The published price of the same product or service under Federal Government support programs, State or Federal marketing orders, commodity market quotations, or Department of Agricultural Market News Service Reports, whichever is most commonly used in the trade as an indicator of current commercial market prices; or if none,

(4) The published price or average documented price paid by competitors for a related product or service that has a similar price pattern in the same marketing area, or in the closest substantially similar marketing area.

§ 150.205 Purchasing co-operatives.

(a) *Applicability.* This section applies to sales of products or services by a purchasing co-operative, as defined in paragraph (b) of this section, to its members and to other persons.

(b) *Definitions.* For the purposes of this section "purchasing cooperative" means a firm that is organized or operated on a co-operative basis for the purpose of purchasing or manufacturing products or services for its members and other persons at cost, plus expenses, or that does not make a profit on sales to its members, either because the initial price charged is only enough to cover costs and expenses or because a later refund reduces the net price to such an amount. A refund for this purpose may be cash or other item of value which qualifies as a "patronage dividend" under Section 1388 of the Internal Revenue Code of 1954, as amended. A firm is not disqualified from being a purchasing co-operative by conducting a portion of its transactions with nonmembers.

(c) *General.* A purchasing co-operative may charge any price for a product or service it sells to its members or other persons, except that a firm which prices pursuant to this section, the ratio of its operating income to its net sales in the current fiscal year, may not exceed the ratio that prevailed during the base period (in computing this ratio the firm may elect to reduce operating income by patronage dividend in both the base period and the current period).

(d) *Exceptions.* A purchasing co-operative that sells a product to its members or other persons primarily for their resale and not for their use or consumption shall charge a price in accordance with its allowable costs or gross margins for the item's merchandise category. In computing its ratio or operating income to net sales a purchasing co-operative may not use the election authorized in paragraph (c) of this section for patronage dividends. The provisions of this paragraph do not apply to a sale made by a purchasing co-operative operating under the Agricultural Marketing Act of 1929, as amended (12 USC 1141(j)), to a member or other person of that co-operative who is also a co-operative and only resells to its members or other persons for their use or consumption.

§ 150.220 Stabilization of particular industries and sectors.

(a) Whenever the Council finds it necessary to achieve the goals of the Economic Stabilization Program, it may issue regulations providing for the stabilization of prices in a particular industry, sector of the economy or part thereof.

(b) The Council may order public hearings with respect to the regulations issued or to be issued pursuant to paragraph (a) of this section if the Council determines that public hearings would aid in achieving the goals of the Economic Stabilization Program.

Subpart K—Retailers and Wholesalers

§ 150.301 Applicability.

Except as otherwise provided in this part, this subpart applies to all firms engaged in retailing or wholesaling or both.

§ 150.302 Definitions.

As used in this subpart:

"Adjusted freeze price" means (a) adjusted freeze price as defined in § 150.72, and (b) with respect to an item sold in a catalogue, any price specified for that item in a catalogue printed by a firm engaged in retailing or wholesaling prior to July 18, 1973, and which was in conformance with § 130.13 of this chapter.

"Category" means (a) a group of related customers distinguished from other customers because of customary price differentials between those customers and other customers, which is treated as a single pricing unit irrespective of the products they purchase, for the purposes of this subpart, or (b) a group of related products which is treated as a single pricing unit for the purposes of this subpart.

"Pricing base period" means, at the option of the firm, either the last fiscal year ending prior to February 5, 1973 or the most recent four fiscal quarters ending prior to February 5, 1973.

"Pricing entity" means the lowest level of organization within a firm at which the initial pricing decisions are made, irrespective of whether these decisions may be modified at a lower level.

§ 150.303 Computing customary initial percentage markups and gross margins.

For the purposes of this subpart—

(a) Customary initial percentage

$$\text{markup} = \frac{\text{Initial price} - \text{Cost}}{\text{Cost}} \times 100$$

Where:

Initial price = Total sales prices of all merchandise within a category when first offered for sale; and

Cost = Total invoice costs of all merchandise within a category plus transportation allocated to that merchandise.

(b) Gross margin $= \frac{\text{Revenues} - \text{Cost}}{\text{Cost}} \times 100$

Where:

Revenues = Total revenues realized from the sales of merchandise within a category less returns and credits; and

Cost = Total invoice costs of all merchandise within a category plus transportation allocated to that merchandise.

§ 150.304 General price control rules.

(a) A price category I or price category II firm may not increase the price of any item above the adjusted freeze price for that item, until it submits the merchandise pricing plan required by § 150.306(a). Thereafter it may increase prices in accordance with the provisions of this subpart. A price category III firm may not increase the price of any item above the adjusted freeze price for that item until it completes the merchandise pricing plan required by § 150.310. Thereafter it may increase prices in accordance with the provision of this subpart.

(b) A firm engaged in retailing or wholesaling must elect to be controlled under this subpart on the basis of either

(1) customary initial percentage markups applied to categories or (2) gross margins realized for categories. A firm which elects to be controlled on the customary initial percentage markups and which customarily prices on an item-by-item basis may continue to price on that basis; however, for purposes of this subpart the firm must comply with the customary initial percentage markup rules applied on a category basis.

(c) Except as provided in paragraph (e) of this section, a firm which increases the price for any item above the adjusted freeze price for that item must control the prices it charges for the category in which the item falls so that—

(1) For any fiscal quarter the customary initial percentage markup or the gross margin for that category does not exceed the higher of—

(i) The customary initial percentage markup applied to that category or the gross margin realized for that category during the corresponding fiscal quarter of the pricing base period; or

(ii) The customary initial percentage markup applied to that category or the gross margin realized for that category during the pricing base period;

(2) For any fiscal year the customary initial percentage markup applied to that category or the gross margin for that category does not exceed the customary initial percentage markup or the gross margin realized for that category during the pricing base period; and

(3) The firm's profit margin for any fiscal year in which the increased price is charged does not exceed its base period profit margin except as provided in § 150.11.

(d) So long as a firm engaging in retailing or wholesaling does not increase the price of any item within a particular category in excess of the adjusted freeze price for that item, the limitations prescribed in paragraph (c) (1) and (2) of this section do not apply to that category.

(e) In the case of a firm which engages in retailing or wholesaling of both food products and non-food products, the requirements of Subpart M of Part 130 and Subpart I of Part 140 of this title remain applicable to the sale of food products.

§ 150.305 Establishment of categories.

(a) Except as otherwise provided in this section, a firm engaging in retailing or wholesaling shall use the merchandise categories set forth in the Appendix to this subpart.

(b) If the firm sells items which do not fall within any of the categories listed in Appendix A or which because of the nature of its business could not, in accordance with its normal accounting and management practices, be so grouped, it may form merchandise categories of all related items falling within the same general description and include those categories in its merchandise pricing plan. For all such categories included in a plan required to be submitted to the Cost of Living Council pursuant to § 150.307, the firm shall submit with the plan a statement demonstrating that those categories are consistent with the requirements of this subpart.

(c) If the firm's customary business relies on customer categories rather than merchandise categories, it may substitute customer categories in its merchandise pricing plan. When such a substitution is made in a plan required to be submitted to the Cost of Living Council pursuant to § 150.306, the firm shall also submit a statement demonstrating that the categories are consistent with the requirements of this subpart.

(d) A firm which is subject to this subpart and which also engages in manufacturing or service activities, or both, is subject to the requirements of subpart E of this part with respect to its manufacturing and service activities. However, if the sales or revenues derived from manufacturing and service activities were less than $50 million and less than 10 percent of the firm's total retailing or wholesaling revenues for the most recently completed fiscal year, the firm may include its manufacturing and service activities in its merchandising pricing plan. When manufacturing or service activities are so included, customary initial percentage markups and gross margins shall be computed, in the case of manufacturing activities, on the basis of direct material costs and, in the case of service activities, on the basis of direct material and labor costs.

§ 150.306 Merchandise pricing plans; firms with annual revenues of $50 million or more.

(a) Each price category I firm and each price category II firm to which this subpart applies, shall prepare and submit to the Cost of Living Council a merchandise pricing plan. The plan must include—

(1) A description of the internal organization as it relates to pricing in the firm's retailing or wholesaling activities;

(2) A list of the firm's retailing or wholesaling pricing entities;

(3) A completed form as specified by the Council on each pricing entity stating its selection of either the customary initial percentage markup or gross margin basis for control and its selection of pricing base period and setting forth its categories, the pricing base period customary initial percentage markup applied to or the gross margin realized for each category, and the customary initial percentage markup applied to or the gross margin realized for each category during each fiscal quarter of the pricing base period;

(4) A list of products or product lines carried by the firm and

(5) A description of the manner in which the firm makes its pricing decisions.

(b) Within 60 days after it receives a firm's merchandise pricing plan, the Council will review the plan and (1) approve it or (2) take the action provided for in § 150.308.

§ 150.307 Merchandise pricing plans; firms selling both food and non-food products.

In the case of a merchandise pricing plan for a firm which engages in retailing or wholesaling both meat or other food products which are subject to Subpart M of Part 130 or Subpart I of Part 140 of this title and non-food products, the firm shall, to the extent consistent with its customary pricing practices exclude all meat and other food items from the categories submitted. Insofar as meat and other food products are not so excluded they may be included in the firm's merchandise pricing plan. However, as provided in § 150.304(e), pricing of those food products remains subject to the requirements of Subpart M of Part 130 and Subpart I of Part 140 of this title.

§ 150.308 Incomplete and noncomforming plans.

(a) If after reviewing a merchandise pricing plan submitted pursuant to § 150.306, the Cost of Living Council determines that the information submitted is incomplete or inaccurate or that the plan does not conform to the requirements of this subpart, it will notify the submitting firm of its determination and the basis for that determination and whether or not the firm may implement any further price increases. The firm shall, within the time prescribed by the Council, submit to the Council such additional data or information as the Council may require or such modifications to its plan as may be necessary to bring it into conformance with the requirements of this subpart. Effective upon receipt of the notice, if so provided, the firm may not implement any further price increases until the Council approves the plan or otherwise advises the firm.

(b) In addition, if the firm fails to submit the required additional data, information, or modifications, within the time prescribed by the Council or, if after submission thereof, the Council determines that the merchandise pricing plan still does not conform to the requirements of this subpart, it may order the firm to reduce its prices to adjusted freeze prices or such other level above adjusted freeze prices as the Council may determine to be appropriate and to submit a new plan.

§ 150.309 Merchandise pricing plans; use and modification.

(a) Effective upon a firm's submission of its merchandise pricing plan to the Cost of Living Council and subject to any modifications that may result from the Council's review, the firm will be controlled on the basis of the categories and the pricing base period customary initial percentage markups or gross margins specified in the plan as submitted or as modified, as the case may be.

(b) Once a firm has submitted its merchandise pricing plan it may not modify the plan unless (1) required to do so as a result of the Council's review or (2) the

modification is first approved by the Council.

§ 150.310 Merchandise pricing plans; firms with annual revenues of less than $50 million.

Each price category III firm to which this subpart applies, shall prepare and maintain at its principal place of business, a merchandise pricing plan. The firm may group all of its retail or wholesale products into a single merchandise category, in which case its merchandise pricing plan need only consist of a completed form prescribed by the Council stating its selection of either the customary initial percentage markup or gross margin basis and its selection of pricing base period and setting forth the base period customary initial percentage markup or gross margin information for that single category. However, if the firm elects to use more than one category, its plan must include to the extent applicable, each of its items specified in § 150.307(a) for plans required to be submitted to the Cost of Living Council.

§ 150.311 Reporting.

Each price category I firm and each price category II firm to which this subpart applies shall prepare and submit pricing and profit margin reports to the Cost of Living Council within 45 days after the end of each fiscal quarter or within 90 days after the end of each fiscal year on forms prescribed by the Council.

§ 150.312 Relief from certain category overages.

(a) If a firm's customary initial percentage markup or gross margin for a category containing both items exempt pursuant to Subpart D of this part and nonexempt items, exceeds the limitations prescribed in § 150.304(c)(1) or (2), the Cost of Living Council shall for purposes of determining compliance with this subpart, excuse the overage to the extent the firm can demonstrate that the overage is attributable to the sale of exempt items.

(b) If a firm's customary initial percentage markup or gross margin for a category exceeds the limitations prescribed in § 150.304(c)(1) or (2), the Cost of Living Council shall for purposes of determining compliance with this subpart, excuse the overage to the extent the firm can demonstrate that the overage is attributable to prices specified in contracts entered into before 9:00 p.m. e.s.t., June 13, 1973, under which delivery or performance occurs after August 12, 1973, and before January 1, 1974.

(c) In determining whether a retailer or wholesaler is in violation of the limitations prescribed in § 150.304(c)(1) or (2), the Council may take into account temporary unforeseen changes in product mix.

§ 150.313 Repurification of a quarterly category violation.

(a) If a firm's customary initial percentage markup or gross margin for a particular category for any fiscal quarter other than the fourth fiscal quarter, exceeds the limitations prescribed in § 150.304(c)(1), the Cost of Living Council will excuse the violation to the extent that the firm offsets the overage in the succeeding fiscal quarter.

(b) If a firm's customary initial percentage markup or gross margin for a particular category has not exceeded the limitations prescribed in § 150.304(c)(1) during any of the first three fiscal quarters but exceeds those limits for the fourth fiscal quarter, the Cost of Living Council will excuse the violation if the customary initial percentage markup or the gross margin for the category for the fiscal year is within the limitation prescribed in § 150.304(c)(2).

(c) If a firm's customary initial percentage markup or gross margin for a particular category has not exceeded the limitations prescribed in § 150.304(c)(1) during any of the first three fiscal quarters but exceeds those limits for the fourth fiscal quarter and for the fiscal year, the Cost of Living Council will reduce any sanctions it may impose for the violations to the extent that the firm offsets the lesser of those two overages in the succeeding fiscal quarter.

(d) A firm is entitled to the quarterly customary initial percentage markup or gross margin overage relief provided by this section only once per category within any fiscal year.

APPENDIX TO SUBPART K MERCHANDISE CATEGORIES APPLICABLE TO RETAILING AND WHOLESALING

101. Men's Clothing
102. Men's Accessories
103. Women's Clothing
104. Women's Accessories
105. Boy's Clothing & Accessories
106. Girl's Clothing & Accessories
107. Infants Wear
108. Men's Shoes
109. Women's Shoes
110. Children's Shoes
111. Jewelry
112. Watches
113. Luggage and Related Items
114. Sporting Goods
115. Hobbies, Crafts & Educational Materials
116. Musical Instruments
117. Stationery and Greeting cards
118. Books, Magazines and Newspapers
121. Major Appliances
122. Housewares—small appliances, kitchenware, etc.
123. Domestics—yard goods, linens, etc.
124. Giftware
125. Notions—sewing supplies, closet accessories, etc.
126. Living Room Furniture
127. Bedroom Furniture
128. Dining Furniture
129. Outdoor Furniture
130. Lamps and Other Lighting Fixtures
131. Rugs, Carpets and Other Floor Coverings
132. Wallpaper and Other Wall Coverings
133. China and Crystal Ware
134. Silver Pieces & Silverware
135. Glassware
141. Building Supplies
142. Power Tools
143. Hand Tools
144. Paints
145. Garden Supplies
151. Automobiles, by make
152. Auto Parts and Accessories
153. Trucks & Buses
154. Recreational Vehicles
155. Mobile Homes
156. Boats
157. Aircraft
161. Ophthalmic Equipment
162. Eyewear
165. Medical & Dental Equipment and Supplies
166. Photographic Equipment & Supplies
171. Office Supplies
172. Office Equipment
181. Beer, Wine, Liquor
182. Tobacco Products
183. Cosmetics, Beauty Aids, and Toiletries
184. Non-prescription Drugs
195. Prescription Drugs
196. Cafeterias & Restaurants

Subparts L-O—[Reserved]

Subpart P—Mass Transportation Systems

§ 150.551 Purpose and scope.

This subpart applies to all firms which operate or control a mass transportation system, the fares of which are not otherwise regulated.

§ 150.552 Definition.

As used in this Subpart—

"Mass transportation system" means a public benefit corporation, with annual sales or revenues in excess of $10 million, which is charged by law or contract with the responsibility of operating a mass transportation facility or facilities which:

(a) Serves a Standard Metropolitan Statistical Area (SMSA); and

(b) Constitutes the sole or a principal means of public transportation for that area.

A facility or facilities includes a rapid rail transit, subway, elevated, bus system but does not include school buses or other conveyances used for sight-seeing or chartered for private use.

§ 150.553 General rule.

A public benefit corporation (within the meaning of § 215 of the Economic Stabilization Act Amendments of 1971 (Public Law 92-210)), charged by law or contract with the responsibility to operate a mass transportation facility or facilities, the fares of which are not otherwise regulated, may not charge a price above base price until the proposed price increase has been prenotified to the Cost of Living Council using the prenotification procedure specified in Subpart H for price category I firms.

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