FEDERAL REGISTER

VOLUME 35 • NUMBER 136

Wednesday, July 15, 1970 • Washington, D.C.

Pages 11287–11359

Part I

(Part II begins on page 11333)

Agencies in this issue—

Agricultural Research Service
Atomic Energy Commission
Business and Defense Services Administration
Civil Rights Commission
Civil Service Commission
Coast Guard
Consumer and Marketing Service
Emergency Preparedness Office
Federal Aviation Administration
Federal Communications Commission
Federal Home Loan Bank Board
Federal Maritime Commission
Federal Power Commission
Federal Reserve System
Federal Trade Commission
Fish and Wildlife Service
Hazardous Materials Regulations Board
Health, Education, and Welfare Department
Interim Compliance Panel (Coal Mine Health and Safety)
Interstate Commerce Commission
Justice Department
Labor Department
Narcotics and Dangerous Drugs Bureau
National Bureau of Standards
Securities and Exchange Commission
Tariff Commission
Treasury Department
Wage and Hour Division

Detailed list of Contents appears inside.

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended (44 U.S.C. 1510). The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Contents

AGRICULTURAL RESEARCH SERVICE

Rules and Regulations

Hog cholera and other communicable swine diseases; areas quarantined 11292

AGRICULTURE DEPARTMENT

See Agricultural Research Service; Consumer and Marketing Service.

ATOMIC ENERGY COMMISSION

Notices

Wisconsin Electric Power Co. and Wisconsin Michigan Power Co.; proposed issuance of facility operating license 11329

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

Notices

Duke University; decision on application for duty-free entry of scientific article 11304

CIVIL RIGHTS COMMISSION

Notices

Maryland; hearing 11306

CIVIL SERVICE COMMISSION

Rules and Regulations

Excepted service:
- Office of Economic Opportunity .. 11291
- President's Committee on Consumer Interests 11291

Notices

Establishment of prescribed minimum educational requirements:
- Astronomy and space science series 11306
- Land surveying series 11306

COAST GUARD

Rules and Regulations

Drawbridge operation:
- Certain bridges in New Jersey .. 11300
- Choptank River, Md 11301

Proposed Rule Making

Pee Dee River, S.C.; drawbridge operation 11303

COMMERCE DEPARTMENT

See Business and Defense Services Administration; National Bureau of Standards.

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Milk handling in Great Basin marketing area; suspension of certain provisions 11292

Potatoes, Irish, grown in Washington; shipments limitation ... 11291

EMERGENCY PREPAREDNESS OFFICE

Notices

Florida; major disaster and related determinations 11312

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Restricted area; alteration; correction 11295

FEDERAL COMMUNICATIONS COMMISSION

Notices

Standard broadcast applications ready and available for processing (2 documents) 11307

UHF television translators; acceptance of applications 11307

Hearings, etc.:
- Heart of Dixie Broadcasting Co. et al 11307
- Massanutten Broadcasting Co., Inc., and Charlottesville-Albemarle Broadcasters, Inc. 11308
- Radio Jackson, Inc., and Vogel-Ellington Corp. (WHOD) 11309
- Sadow, Jay (WRIP), and Rock City Broadcasting, Inc. 11310
- Seaboard Broadcasting Corp. and SENCLand Broadcasting Systems, Inc 11310

FEDERAL HOME LOAN BANK BOARD

Notices

Bass Financial Corp.; application for approval of acquisition of control of Park Forest Savings and Loan Association 11311

FEDERAL MARITIME COMMISSION

Notices

Associated Latin American Freight Conferences; agreement filed .. 11313

FEDERAL POWER COMMISSION

Notices

Calculation of taxes for certain property of public utilities, licensees, and natural gas pipeline companies; denial of rehearing 11313

Hearings, etc.:
- Ashland Oil, Inc 11314
- Graham-Michaelis Drilling Co. et al 11315
- Hamilton Brothers Oil Co. et al 11315

FEDERAL RESERVE SYSTEM

Notices

Applications for approval of acquisition of shares of banks:
- American Bancorporation 11316
- BancOhio Corp 11316

FEDERAL TRADE COMMISSION

Rules and Regulations

Prohibited trade practices:
- Bendix Corp. and Fram Corp .. 11294
- Siegel Trading Co., Inc., and Joseph E. Siegel 11295

FISH AND WILDLIFE SERVICE

Proposed Rule Making

Sand Lake National Wildlife Refuge, S. Dak.; hunting 11303

Notices

Yellowfin tuna fishing in eastern Pacific by bait boats; adjustment of incidental catch rate .. 11304

HAZARDOUS MATERIALS REGULATIONS BOARD

Notices

Special permits issued 11305

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Rules and Regulations

Control of air pollution from new motor vehicles and engines; sampling and analytical system for exhaust emissions 11334

Proposed Rule Making

Control of air pollution from new motor vehicles and engines 11336

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

Rules and Regulations

Practice and procedure for hearings 11296

INTERIOR DEPARTMENT

See Fish and Wildlife Service.

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

Car service; Burlington Northern, Inc., and certain other railroads authorized to operate over tracks of Peoria and Pekin Union Railway Co 11301

Notices

Fourth section applications for relief 11321

Hilt Truck Lines, Inc.; petition for interpretation of authority and other relief 11322

Motor carriers:
- Alternate route deviation notices (2 documents) 11322
- Applications and certain other proceedings (2 documents) .. 11323–11326
- Intrastate applications 11327
- Temporary authority applications 11327
- Transfer proceedings 11329

(Continued on next page)

JUSTICE DEPARTMENT

See also Narcotics and Dangerous Drugs Bureau.

Rules and Regulations

Standards of conduct; employees required to report outside interests ---------- 11295

LABOR DEPARTMENT

See also Wage and Hour Division.

Notices

Advisory Committee on Construction Safety and Health; description of composition and functions ---------- 11320

NARCOTICS AND DANGEROUS DRUGS BUREAU

Rules and Regulations

Meprobamate; extension of time to conduct inventories---------- 11295

NATIONAL BUREAU OF STANDARDS

Notices

Voluntary product standards; intent to withdraw certain standards ---------- 11304

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:

Columbia Gas System, Inc., et al---------- 11317
Engelhard Hanovia, Inc--------- 11318
Mississippi Power Co---------- 11319

TARIFF COMMISSION

Notices

Workers' petition for determination of eligibility to apply for adjustment assistance; cancellation of hearing---------- 11320

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Hazardous Materials Regulations Board.

TREASURY DEPARTMENT

Notices

Tuners (of the type used in consumer electronic products) from Japan; determination of sales at less than fair value---------- 11304

WAGE AND HOUR DIVISION

Notices

Certificates authorizing employment of learners and student workers at special minimum wages ---------- 11320

List of CFR Parts Affected

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

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, 1970, and specifies how they are affected.

5 CFR

213 (2 documents)---------- 11291

7 CFR

946---------- 11291
1136---------- 11292

9 CFR

76---------- 11292

14 CFR

73---------- 11295

16 CFR

13 (2 documents)--------- 11294, 11295

21 CFR

320---------- 11295

28 CFR

45---------- 11295

30 CFR

505---------- 11296

33 CFR

117 (2 documents)--------- 11300, 11301

PROPOSED RULES:

117---------- 11303

45 CFR

85---------- 11334

PROPOSED RULES:

85---------- 11336

49 CFR

1033---------- 11301

50 CFR

PROPOSED RULES:

32---------- 11303

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

President's Committee on Consumer Interests

Section 213.3371 is amended to show that one position of Secretary to the Director for Legislative Affairs is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (h) is added to § 213.3371 as set out below.

§ 213.3371 President's Committee on Consumer Interests.

* * * * *

(h) One Secretary to the Director for Legislative Affairs.

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

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

[F.R. Doc. 70-8971; Filed, July 14, 1970; 8:46 a.m.]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that one position of Confidential Staff Assistant to the General Counsel is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (18) is added to paragraph (a) of § 213.3373 as set out below.

§ 213.3373 Office of Economic Opportunity.

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

(18) One Confidential Staff Assistant to the General Counsel.

* * * * *

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

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

[F.R. Doc. 70-8972; Filed, July 14, 1970; 8:46 a.m.]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Limitation of Shipments

Notice of rule making with respect to a proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 113 and Order No. 946 (7 CFR Part 946), regulating the handling of Irish potatoes grown in the State of Washington, was published in the FEDERAL REGISTER July 7, 1970 (35 F.R. 10910). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). Interested persons were afforded an opportunity to file written data, views, or arguments pertaining thereto not later than 5 days after its publication. None was filed.

Findings. After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice which was recommended by the State of Washington Potato Committee, established pursuant to said marketing agreement and order, it is hereby found that the limitation of shipments regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

The recommendations of the committee reflect its appraisal of the composition of the 1970 crop of Washington potatoes and of the marketing prospects for this season. Shipments of new crop potatoes from the production area are expected to begin about mid-July. The requirements provided herein are necessary to prevent potatoes of lower quality, undesirable sizes, and immature potatoes from being distributed in fresh market channels, so as to improve returns to producers for the preferred qualities and sizes pursuant to the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the effective period, (3) information regarding the provisions of this regulation, which are identical to those which were in effect during the previous marketing season, has been made available to producers and handlers in the production area, and (4) compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed by such effective date.

§ 946.325 Limitation of shipments.

During the period July 16, 1970, through July 15, 1971, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a) and (b) of this section, or unless such potatoes are handled in accordance with paragraphs (c) through (f) of this section.

(a) *Minimum quality requirements*—(1) *Grade.* All varieties: U.S. No. 2, or better grade.

(2) *Size.* (i) Round varieties: 1⅞ inches minimum diameter.

(ii) Long varieties: 2 inches minimum diameter or 4 ounces minimum weight.

(3) *Cleanliness.* All varieties: At least "fairly clean."

(b) *Minimum maturity requirements*—(1) *Round and long white (White Rose) varieties.* Not more than "moderately skinned."

(2) *Other long varieties (including but not limited to Russet Burbank and Norgold).* Not more than "slightly skinned."

(c) *Special purpose shipments.* The minimum grade, size, cleanliness, and maturity requirements set forth in paragraphs (a) and (b) of this section shall not be applicable to shipments of seed potatoes or to shipments of potatoes for any of the following purposes:

(1) Livestock feed;

(2) Charity;

(3) Export;

(4) Prepeeling; or

(5) Canning, freezing, and "other processing" as hereinafter defined:

Provided, That shipments of potatoes for the purposes specified in subparagraph (5) of this paragraph shall be exempt from inspection requirements specified in § 946.53 and from assessment requirements specified in § 946.41.

(d) *Safeguards.* Each handler making shipments of potatoes for export, prepeeling, canning, freezing, or "other processing" pursuant to paragraph (c) of this section, unless such potatoes are handled in accordance with paragraph (e) of this section, shall:

(1) Notify the committee of intent so to ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipment;

(2) Obtain a Washington State Shipping Permit as issued by the Washington State Department of Agriculture in

lieu of a Federal-State Inspection Certificate, except shipments for export; and

(3) Prepare on forms furnished by the committee a special purpose shipment report on each such shipment. The handler shall forward copies of each such special purpose shipment report to the committee office and to the receiver with instructions to the receiver that he sign and return a copy to the committee office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for cancellation of such handler's certificate applicable to such special purpose shipments and/or the receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of such certificate, the handler may appeal to the committee for reconsideration. Such appeal shall be in writing.

(4) Before diverting any such special purpose shipment from the receiver of record as previously furnished to the committee by the handler, such handler shall submit to the committee a revised special purpose shipment report.

(e) *Special purpose shipments exempt from safeguards.* In the case of shipments of potatoes: (1) To freezers or dehydrators in the counties of Grant, Adams, Franklin, Benton, and Yakima in the State of Washington and (2) for canning, freezing, dehydration, potato chipping, or prepeeling within the district where grown, the handler of such potatoes shall be exempt from safeguard requirements of paragraph (d) of this section whenever the processor of such potatoes has signed an agreement with the committee to meet the reporting and other requirements of this part specified by the committee.

(f) *Minimum quantity exception.* Each handler may ship up to, but not to exceed 5 hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment of over 5 hundredweight of potatoes.

(g) *Definitions.* The terms "U.S. No. 2," "fairly clean," "slightly skinned" and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540–51.1556 of this title), including the tolerances set forth therein. The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in the prepeeling plant by washing, removal of the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 (U.S. Standards for Grades of Peeled Potatoes, §§ 52.2421–52.2433 of this title). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing." Other terms used in this section have the same meaning as when used in the marketing agreement and this part.

(h) *Applicability to imports.* Pursuant to section 608e–1 of the act and § 980.1 "Import regulations" (§ 980.1 of this chapter), Irish potatoes of the red skinned round type imported during the period July 18 through August 31 shall meet the minimum grade, size, quality, and maturity requirements specified for round varieties in paragraphs (a) and (b) of this section.

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

Dated: July 13, 1970, to become effective July 16, 1970.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70–9044; Filed, July 14, 1970; 8:50 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 136]

PART 1136—MILK IN GREAT BASIN MARKETING AREA

Order Suspending Certain Provisions

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Great Basin marketing area.

It is hereby found and determined that for the month of June 1970, the following provisions of the order no longer tend to effectuate the declared policy of the Act:

In § 1136.11(a) the provisions in the first sentence which read "there is disposed of on routes fluid milk products, except filled milk, equal to not less than 50 percent of the receipts during the month at such plant of producer milk, producer milk diverted therefrom by the plant operator and receipts at the plant of fluid milk products, except filled milk, from plants described pursuant to paragraph (b) of this section, and".

The suspension action was requested by Federated Dairy Farms, a cooperative representing a majority of Great Basin order producers. The cooperative, which is primarily responsible for handling the reserve supplies of milk for the market, also operates pool plants regulated under the order. Without the suspension action, the cooperative's distributing plant may not be able to meet the above qualification provisions during June 1970. This is because the reserve supplies of milk for the market handled at such plant may result in increasing its total receipts to the point where less than 50 percent of such receipts is disposed of on routes.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Interested parties were afforded opportunity to file written data, views or arguments concerning this suspension (35 F.R. 10318). None were filed in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the month of June 1970.

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

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 10, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70–8970; Filed, July 14, 1970; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog chlorea and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(13) relating to the State of Texas, a new subdivision (xi) relating to Cameron County and a new subdivision (xii) relating to Tarrant County are added to read:

(13) *Texas.* * * *

(xi) That portion of Cameron County bounded by a line beginning at the junction of U.S. Highway 281 and the Cameron-Hildalgo County line; thence, following the Cameron-Hidalgo County line in a southerly direction to the north bank of the Rio Grande River; thence, following the north bank of the Rio Grande

River in a generally southeasterly direction to the toll bridge on State Highway 4; thence, following State Highway 4 in a northeasterly direction to U.S. Highway 83; (also U.S. Highway 77) thence, following U.S. Highway 83 (also U.S. Highway 77) in a northwesterly direction to Farm-to-Market Road 2520; thence, following Farm-to-Market Road 2520 in a generally southwesterly direction to U.S. Highway 281; thence, following U.S. Highway 281 in a northwesterly direction to its junction with the Cameron-Hidalgo County line.

(xii) That portion of Tarrant County bounded by a line beginning at the junction of State Highway 183 and the Tarrant-Dallas County line; thence, following State Highway 183 in a generally southwesterly direction to Interstate Highway 820; thence, following Interstate Highway 820 in a southerly direction to Fort Worth-Dallas Toll Road; thence, following the Fort Worth-Dallas Toll Road in an easterly direction to the Tarrant-Dallas County line; thence, following the Tarrant-Dallas County line in a northerly direction to its junction with State Highway 183.

2. In § 76.2, in paragraph (e)(5) relating to the State of Massachusetts, subdivision (ii) relating to Plymouth County is amended to read:

(5) *Massachusetts.* * * *

(ii) That portion of Plymouth County comprised of Mattapoisett and Rockland Townships.

3. In § 76.2, in paragraph (e)(9) relating to the State of North Carolina, subdivision (ii) relating to Gates, Perquimans, and Chowan Counties is amended to read:

(9) *North Carolina.* * * *

(ii) The adjacent portions of Gates, Perquimans, and Chowan Counties bounded by a line beginning at the junction of Secondary Roads 1002 and 1428 in Gates County; thence, following Secondary Road 1002 in a southwesterly direction to Secondary Road 1413; thence, following Secondary Road 1413 in a southeasterly direction to Secondary Road 1204; thence, following Secondary Road 1204 in a southeasterly direction to Secondary Road 1001; thence, following Secondary Road 1001 in a generally southerly direction to Secondary Road 1214; thence, following Secondary Road 1214 in a southeasterly direction to Secondary Road 1223; thence, following Secondary Road 1223 in a generally northeasterly direction to Secondary Road 1224; thence, following Secondary Road 1224 in a southeasterly direction to Secondary Road 1225; thence, following Secondary Road 1225 in a southwesterly direction to Secondary Road 1226; thence, following Secondary Road 1226 in a generally southerly direction to U.S. Highway 17; thence, following U.S. Highway 17 in a generally southwesterly direction to Secondary Road 1302; thence, following Secondary Road 1302 in a generally southwesterly direction to Secondary Road 1301; thence, following Secondary Road 1301 in a southeasterly direction to Secondary Road 1363; thence, following Secondary Road 1363 in a southwesterly direction to the Perquimans River; thence, following the north bank of the Perquimans River in a generally northwesterly direction to Secondary Road 1300; thence, following Secondary Road 1300 in a northeasterly direction to U.S. Highway Business 17; thence, following U.S. Highway Business 17 in a generally southwesterly direction to Secondary Road 1110; thence, following Secondary Road 1110 in a northwesterly direction to Secondary Road 1113; thence, following Secondary Road 1113 in a generally southwesterly direction to Secondary Road 1110; thence, following Secondary Road 1110 in a northwesterly direction to Secondary Road 1312; thence, following Secondary Road 1312 in a northwesterly direction to Secondary Road 1002; thence, following Secondary Road 1002 in a westerly direction to Secondary Road 1303; thence, following Secondary Road 1303 in a northwesterly direction to Secondary Road 1304; thence, following Secondary Road 1304 in a northwesterly direction to North Carolina Highway 32; thence, following North Carolina Highway 32 in a northeasterly direction to Secondary Road 1233; thence, following Secondary Road 1233 in a northwesterly direction to Secondary Road 1232; thence, following Secondary Road 1232 in a northwesterly direction to Secondary Road 1102; thence, following Secondary Road 1102 in a northerly direction to Secondary Road 1100; thence, following Secondary Road 1100 in a northwesterly direction to Secondary Road 1104; thence, following Secondary Road 1104 in a northeasterly direction to North Carolina Highway 37; thence, following North Carolina Highway 37 in a southeasterly direction to Secondary Road 1410; thence, following Secondary Road 1410 in a northeasterly direction to Secondary Road 1428; thence, following Secondary Road 1428 in a generally southeasterly direction to its junction with Secondary Road 1002 in Gates County.

4. In § 76.2, in paragraph (e)(14) relating to the State of Virginia, subdivision (vii) relating to Surry, Isle of Wight, Southampton, and Sussex Counties is amended to read:

(14) *Virginia.* * * *

(vii) The adjacent portions of Surry, Isle of Wight, Southampton, and Sussex Counties bounded by a line beginning at the junction of Secondary Highways 611 and 616 in Surry County; thence, following Secondary Highway 616 in a generally easterly direction to Secondary Highway 626; thence, following Secondary Highway 626 in a generally southeasterly direction to Secondary Highway 621; thence, following Secondary Highway 621 in a southwesterly direction to Secondary Highway 680; thence, following Secondary Highway 680 in a southeasterly direction to Secondary Highway 681; thence, following Secondary Highway 681 in a southerly direction to Secondary Highway 652; thence, following Secondary Highway 652 in a southeasterly direction to U.S. Highway 258; thence, following U.S. Highway 258 in a generally southwesterly direction to Secondary Highway 605; thence, following Secondary Highway 605 in a southeasterly direction to the Isle of Wight-Nansemond County line; thence, following the Isle of Wight-Nansemond County line in a southwesterly direction to U.S. Highway 460; thence, following U.S. Highway 460 in a northwesterly direction to Secondary Highway 610; thence, following Secondary Highway 610 in a generally southerly direction to Secondary Highway 687; thence, following Secondary Highway 687 in a southwesterly direction to Secondary Highway 611; thence, following Secondary Highway 611 in a generally westerly direction to Secondary Highway 641; thence, following Secondary Highway 641 in a generally northeasterly direction to Secondary Highway 603; thence, following Secondary Highway 603 in a generally southwesterly direction to Secondary Highway 635; thence, following Secondary Highway 635 in a northeasterly direction to Secondary Highway 600; thence, following Secondary Highway 600 in a northwesterly direction to Secondary Highway 623; thence, following Secondary Highway 623 in a southwesterly direction to Secondary Highway 626; thence, following Secondary Highway 626 in a generally northwesterly direction to Secondary Highway 631; thence, following Secondary Highway 631 in a northerly direction to Secondary Highway 614; thence, following Secondary Highway 614 in a generally northeasterly direction to Secondary Highway 605; thence, following Secondary Highway 605 in a northwesterly direction to Secondary Highway 616; thence, following Secondary Highway 616 in a northeasterly direction to Secondary Highway 600; thence, following Secondary Highway 600 in a northwesterly direction to the Southampton-Sussex County line; thence, following the Southampton-Sussex County line in a northeasterly direction to U.S. Highway 460; thence, following U.S. Highway 460 in a northwesterly direction to Primary State Highway 40; thence, following Primary State Highway 40 in a southwesterly direction to Secondary Highway 651; thence, following Secondary Highway 651 in a generally northwesterly direction to Secondary Highway 626; thence, following Secondary Highway 626 in a generally northwesterly directon to Secondary Highway 602; thence, following Secondary Highway 602 in a generally northeasterly direction to Secondary Highway 601; thence, following Secondary Highway 601 in a generally southeasterly direction to Secondary Highway 607; thence, following Secondary Highway 607 in a northeasterly direction to Secondary Highway 608; thence, following Secondary Highway 608 in a southeasterly direction to Primary State Highway 40; thence, following Primary State Highway 40 in a northeasterly direction to Secondary Highway 611; thence, following Secondary Highway 611 in a southeasterly direction to its junction with Secondary Highway 616.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine portions of Cameron and Tarrant Counties in Texas; a portion of Plymouth County, Mass.; a portion of Southampton County, Va.; and a portion of Perquimans County, N.C., because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas designated herein.

The amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish their purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of July 1970.

F. R. MANGHAM,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-9021; Filed, July 14, 1970; 8:50 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8739 o]

PART 13—PROHIBITED TRADE PRACTICES

Bendix Corp. and Fram Corp.

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets;* 13.5–20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18) [Cease and desist order, The Bendix Corp. et al., Detroit, Mich., Docket No. 8739, June 18, 1970])

Order requiring a major manufacturer of mechanical components and assemblies for the automotive, aerospace, and other industries with headquarters in Detroit, Mich., to divest within 1 year all assets and properties of the Fram Corp., one of the largest manufacturers of automotive and aerospace filters and liquid separators, located in Providence, R.I., any plan of divestiture to be approved in advance by the Federal Trade Commission. It is further ordered that pending divestiture the property acquired from Fram be operated as a separate entity, that no Fram assets be disposed of without Federal Trade Commission consent, that the separate Fram Corp. be operated in a manner to maintain its competitive position in the filter industry, that Bendix hire no Fram employee for 3 years, that Bendix not acquire any filter and water separator manufacturer for 10 years without Federal Trade Commission consent, and that Bendix submit every 90 days a progress report on the steps it has taken toward complete divestiture.

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

It is ordered, That:

I. Respondent, The Bendix Corp., a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors, and assigns, within 1 year from the date this order becomes final, shall divest absolutely and in good faith all assets, properties, rights and privileges, tangible and intangible, including but not limited to all plants, equipment, trade names, trademarks, and goodwill acquired by The Bendix Corp. as a result of its acquisition of the assets and business of Fram Corp., together with all plants, machinery, buildings, improvements, equipment, and other property of whatever description which has been or hereafter shall be added to the property of Fram Corp. since that acquisition.

II. By such divestiture none of the assets, properties, rights or privileges described in paragraph I of this order shall be sold or transferred, directly or indirectly, to any person who is at the time of divestiture an officer, director, employee, or agent of, or under the control or direction of The Bendix Corp. or any of its subsidiary or affiliate corporations, or who owns or controls, directly or indirectly, more than one (1) percent of the outstanding shares of common stock of The Bendix Corp., or to any purchaser who is not approved in advance by the Federal Trade Commission.

III. No method, plan or agreement of divestiture to comply with this order shall be adopted or implemented by The Bendix Corp. save upon such terms and conditions as first shall be approved by the Federal Trade Commission.

IV. Pending divestiture, the assets and business acquired from Fram Corp. shall be operated as a separate corporation, with separate books of account, separate management, separate assets, and separate personnel.

V. Pending divestiture, no substantial property or other assets of the separate corporation referred to in paragraph IV herein shall be sold, leased, otherwise disposed of or encumbered, other than in the normal course of business, without the consent of the Federal Trade Commission, and The Bendix Corp. shall not commingle any assets owned or controlled by such separate corporation with any assets owned or controlled by The Bendix Corp.

VI. For a period of 3 years from the date this order becomes final, no individual employed by Fram Corp. or the separate corporation referred to in paragraph IV herein shall be employed by The Bendix Corp.

VII. Pending divestiture, the merchandising, purchasing, pricing and manufacturing policies of the separate corporation referred to in paragraph IV herein and The Bendix Corp. shall be conducted independently of each other.

VIII. Pending divestiture, The Bendix Corp. shall, by all means consistent with prudent business judgment, maintain the separate corporation referred to in paragraph IV herein as an independent entity and take no steps to impair such corporation's economic and financial position, so as to permit prompt divestiture and reestablishment of such corporation as an independent enterprise of competitive strength comparable to that which Fram Corp. enjoyed at the time of the acquisition.

IX. For ten (10) years from the date this order becomes final, The Bendix Corp. shall cease and desist from acquiring, directly or indirectly, without the prior approval of the Federal Trade Commission any part of the share capital or assets of any corporation engaged in the manufacture and/or sale of automotive filters, aerospace filters, or filter water separators in the United States.

The provisions of this paragraph IX shall include any arrangement pursuant to which The Bendix Corp. acquires the market share, in whole or in part, of any concern, corporate or noncorporate, which is engaged in the manufacture and/or sale of automotive filters, aerospace filters, or filter water separators, (a) through such concern's discontinuing the manufacture, production, marketing, distribution and/or sale of any of said products under its own trade name or labels and thereafter distributing such products under The Bendix Corp.'s trade name or labels, or (b) by reason of such concern's discontinuing the manufacture, production, marketing, distribution, and/or sale of such products and thereafter transferring to The Bendix Corp. customer lists or in any other way making available to The Bendix Corp. access to customers or customer accounts.

X. The Bendix Corp. shall within sixty (60) days after the date of service of this order, and every ninety (90) days thereafter until The Bendix Corp. has fully complied with the provisions of this order, submit in writing to the Federal Trade Commission a report setting forth in detail the manner and form in which The Bendix Corp. intends to comply, is complying, or has complied with this order. All compliance reports shall include, among other things that may from time to time be required, a summary of all contacts and negotiations with potential purchasers of Fram Corp., the identity of all such potential purchasers, and copies of all written communications to and from such potential purchasers.

XI. As used in this order, the word "person" shall include all members of the immediate family of the individuals specified and shall include corporations, partnerships, associations and other legal entities, as well as natural persons.

Issued: June 18, 1970.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 70-9005; Filed, July 14, 1970; 8:49 a.m.]

[Docket No. C-1750]

PART 13—PROHIBITED TRADE PRACTICES

Siegel Trading Co., Inc., and Joseph E. Siegel

Subpart—Advertising falsely or misleadingly: § 13.60 *Earnings and profits.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1889 *Risk of loss.*[1] Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1935 *Earnings and profits.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Siegel Trading Co., Inc., et al., Chicago, Ill., Docket C-1750, June 5, 1970]

Consent order requiring a Chicago, Ill., seller of advisory and managed accounts services in the commodity futures market to cease exaggerating the earnings and profits to be realized by its customers, and failing to disclose the possible losses which may be incurred.

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

It is ordered, That respondents Siegel Trading Co., Inc., a corporation, and its officers, and Joseph E. Siegel, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of advisory and managed accounts services incident to the purchase and sale of commodity futures, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any stated profits or earnings were or are typical, or could be expected, or would be realized in the trading of commodity futures.

2. Representing, directly or by implication, that commodity trading is without risk; or that profits can be generated consistently in the trading of commodity futures.

3. Representing, directly or by implication, that a profit is realized on a majority of commodity trades.

4. Making any representation, directly or by implication, respecting profits or earnings which have been or may be earned from trading in commodity futures without clearly and conspicuously stating in immediate connection therewith that losses can also be incurred.

5. Misrepresenting in any manner, or by any means, the profits or earnings which have been or may be derived or the degree or extent of the risk of loss incurred by persons placing money with the respondents for investment or making use of respondents' advisory service or managed accounts service.

6. Failing to deliver a copy of this order to cease and desist to all present and future salesmen and other persons engaged in the sale of respondents' product or services and failing to secure from each salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

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

Issued: June 5, 1970.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 70-9004; Filed, July 14, 1970; 8:49 a.m.]

Title 21—FOOD AND DRUGS

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

PART 320—DEPRESSANT AND STIMULANT DRUGS; DEFINITIONS, PROCEDURAL AND INTERPRETATIVE REGULATIONS

Notice of Extension of Time in Which To Conduct Meprobamate Inventories

Several firms have commented to the Bureau of Narcotics and Dangerous Drugs that the order of June 6, 1970, placing meprobamate under the control of the Drug Abuse Control Amendments of 1965 within 30 days did not allow sufficient time in which to comply with the inventory requirements of the law. These firms have requested an extension of time in which to conduct such inventories. The Director of the Bureau of Narcotics and Dangerous Drugs has considered these requests and notice is hereby given that the inventory requirements of section 511(d)(1) of the Federal Food, Drug, and Cosmetic Act will not have to be met until October 5, 1970. The Bureau will not initiate routine audits of meprobamate products until that date.

Any inventories conducted by firms in accordance with the June 6, 1970, order will be acceptable and will in no way be affected by this notice.

All other control provisions of the Drug Abuse Control Amendments of 1965 concerning meprobamate took effect on July 6, 1970, and are in no way affected by this notice.

Dated: July 9, 1970.

JOHN E. INGERSOLL, *Director, Bureau of Narcotics and Dangerous Drugs.*

[F.R. Doc. 70-8986; Filed, July 14, 1970; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70-WE-80]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

Correction

In F.R. Doc. 70-8219 appearing on page 10506 in the issue for Saturday, June 27, 1970, under the heading "R-2501S Bullion Mountains South, Calif.," the beginning latitude reading "34°41'15" N." should read "34°33'-20" N."

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order No. 435-70]

PART 45—STANDARDS OF CONDUCT

Employees Required To Report Outside Interests

By virtue of the authority vested in me by sections 509 and 510 of title 28 and section 301 of title 5 of the United States Code, § 45.735-22(c)(2) is revised as follows:

§ 45.735-22 Reporting of outside interests by persons other than special Government employees.

* * * * *

(c) Statements of employment and financial interests are required of the following:

* * * * *

(2) Employees occupying the following positions:

[1] New.

(i) Office of the Attorney General:

Executive Assistant.
Confidential Assistant.
Special Assistants.
Director of Public Information.
Assistant Directors of Public Information.

(ii) Office of the Deputy Attorney General:

Associate Deputy Attorney Generals.
Executive Assistant.
Director, U.S. Marshals Service.
Chief, Legislative and Legal Section.
U.S. Attorneys.
U.S. Marshals.

(iii) Office of the Solicitor General:

Deputy Solicitor Generals.

(iv) Office of Legal Counsel:

Deputy Assistant Attorney Generals.

(v) Community Relations Service:

Deputy Director.
Chief Counsel.
Assistant Directors.
Regional Directors.

(vi) Antitrust Division:

Deputy Assistant Attorney General.
Director of Operations.
Deputy Director of Operations.
Director of Policy Planning.
Deputy Director of Policy Planning.
Section Chiefs.

(vii) Civil Division:

Deputy Assistant Attorney Generals.
Executive Assistant.
Section Chiefs.

(viii) Civil Rights Division:

Deputy Assistant Attorney Generals.
Special Assistants.
Executive Assistant.
Section Chiefs.

(ix) Criminal Division:

Deputy Assistant Attorney Generals.
Section Chiefs.

(x) Internal Security Division:

Deputy Assistant Attorney General.
Chief, Foreign Agents Registration Section.

(xi) Land and Natural Resources Division:

Deputy Assistant Attorney General.
Section Chiefs.

(xii) Tax Division:

Deputy Assistant Attorney Generals.
Executive Assistant.
Deputy for Refund Litigation.
Section Chiefs.

(xiii) Administrative Division:

Deputy Assistant Attorney General.
Director, Office of Personnel and Training.
Director, Office of Budget and Accounts.
Director, Office of Administrative Services.
Chief, Procurement and Material Management Section.
Chief, General Services Section.
Director, Office of Records Administration.
Director, Office of Judicial Examinations.
Director, Office of Internal Audit.
Chief, Headquarters Internal Audit Unit.

(xiv) Federal Bureau of Investigation:

Assistant Director, Administrative Division.

(xv) Bureau of Prisons:

Deputy Director.
Assistant Directors for:
Community Services Division.
Administrative Services Division.
Institutional Services Division.

(xvi) Federal Prison Industries, Inc.:

Associate Commissioner.
Deputy Associate Commissioner (Secretary).
Deputy Associate Commissioner (Education).

(xvii) Bureau of Narcotics and Dangerous Drugs:

Deputy Director.
Chief Counsel.
Chief Inspector.
Assistant Directors.
Division Chiefs.
Regional Directors.

(xviii) Immigration and Naturalization Service:

Associate Commissioner, Management.
Deputy Associate Commissioner, Administrative Services.
Assistant Commissioner, Administration.
Regional Commissioners for Northeast, Southeast, Northwest, and Southwest Regions.
Deputy Regional Commissioners for Northeast, Southeast, Northwest, and Southwest Regions.
Associate Deputy Regional Commissioners, Management, for Northeast, Southeast, Northwest, and Southwest Regions.

(xix) Law Enforcement Assistance Administration:

Special Assistants to the Administrator and Associate Administrators.
General Counsel.
Director, Office of Administrative Management.
Deputy Director, Office of Administrative Management.
Director, Office of Law Enforcement Programs.
Deputy Director, Office of Law Enforcement Programs.
Director, National Institute of Law Enforcement and Criminal Justice.
Deputy Director, National Institute of Law Enforcement and Criminal Justice.
Director, National Criminal Justice Information and Statistics Service.
Deputy Director, National Criminal Justice Information and Statistics Service.
Regional Directors.
Chiefs of Divisions, Centers, Branches or Offices.
Deputy Chiefs of Divisions, Centers, Branches or Offices.
Information Systems Analysis Officers.
Project Managers.
Architects in positions GS–13 and above.
Auditors in positions GS–13 and above.
Computer Systems Analysts in positions GS–13 and above.
Contract Specialists in positions GS–13 and above.
Inspectors in positions GS–13 and above.

(xx) Board of Parole:

All members.

Dated: June 26, 1970.

JOHN N. MITCHELL,
Attorney General.

[F.R. Doc. 70–8967; Filed, July 14, 1970; 8:45 a.m.]

Title 30—MINERAL RESOURCES

Chapter V—Interim Compliance Panel (Coal Mine Health and Safety)

SUBCHAPTER C—GENERAL ADMINISTRATION

PART 505—PRACTICE AND PROCEDURE FOR HEARINGS UNDER SUBCHAPTERS A AND B OF THIS CHAPTER

Pursuant to the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91–173) the Panel is authorized to issue to operators of underground coal mines permits for noncompliance with Interim Mandatory Health and Safety Standards set forth in the Act. Under certain circumstances an applicant, the representative of the miners at the applicant's mine and other persons interested in the application, may request public hearings thereon. This Part 505, reading as set forth below, specifies the manner in which such hearings may be requested, the form and content of such request, and the procedures for the calling and conduct of the public hearing if the request is granted.

No notice of proposed rule making was published because, under 5 U.S.C. 553(b)(A), these rules are exempted as rules of agency procedure or practice.

This Part 505 shall become effective upon its publication in the FEDERAL REGISTER.

[SEAL] CHARLES F. BROWN,
Chairman,
Interim Compliance Panel.

JULY 10, 1970.

Part 505 provides as follows:

Subpart A—General Information

Sec.
505.1 Scope of rules.
505.2 Definitions.
505.3 Records to be public.
505.4 Use of gender and number.
505.5 Suspension of rules.
505.6 Permits pending final agency action.

Subpart B—Request for Public Hearings, Participants

505.10 Persons who may file requests.
505.11 Filing of requests.
505.12 Time for filing of requests.
505.13 Contents of requests.
505.14 Panel action on requests.
505.15 Posting of notice of hearing on mine bulletin board.
505.16 Petitions to intervene or participate in hearings.

Subpart C—Appearance and Practice

505.20 Appearance.
505.21 Authority for representation.
505.22 Exclusion from hearing for misconduct.
505.23 Ex parte communications: separation of functions.
505.24 Filing of ex parte communications.
505.25 Expeditious treatment.
505.26 Matters not prohibited.

Subpart D—Form, Execution, Service, and Filing of Documents: Time

505.30 Form of documents to be filed.
505.31 Signature of documents.
505.32 Filing of documents.
505.33 Service—how made.
505.34 Date of service.
505.35 Certificate of service.
505.36 Computation of time.
505.37 Extension of time or postponement.
505.38 Reduction of time to file documents.

Subpart E—Presiding Officer

505.40 Who presides.
505.41 Designation of presiding officer.
505.42 Authority of presiding officer.

Subpart F—Hearing Procedures

505.50 Motions.
505.51 Responses to motions and petitions.
505.52 Disposition of motions and petitions.
505.53 Order of proceeding: Panel may participate.
505.54 Evidentiary purpose.
505.55 Testimony.
505.56 Exhibits.
505.57 Affidavits.
505.58 Evidence.
505.59 Cross-examination.
505.60 Unsponsored written material.
505.61 Objections.
505.62 Exceptions to rulings of presiding officer unnecessary.
505.63 Official notice.
505.64 Public document items.
505.65 Offer of proof.
505.66 Appeal from ruling of presiding officer.

Subpart G—The Record

505.70 Official transcript.
505.71 Record for decision.

Subpart H—Posthearing Procedures, Decisions

505.80 Posthearing briefs: proposed findings and conclusions.
505.81 Decisions by presiding officer.
505.82 Review: exceptions to initial or recommended decisions.
505.83 Decision on the record or review by the Panel.
505.84 Final decisions.
505.85 Posting of decisions on mine bulletin board.

AUTHORITY: The provisions of this Part 505 issued under sec. 508, Public Law 91-173, 83 Stat. 803.

Subpart A—General Information

§ 505.1 Scope of rules.

The provisions of this part are applicable to public hearings held by the Interim Compliance Panel pursuant to the provisions of the Federal Coal Mine Health and Safety Act of 1969.

§ 505.2 Definitions.

As used in this Part 505:

(a) "Act" means the Federal Coal Mine Health and Safety Act of 1969 (P.L. 91-173);

(b) "Panel" means the Interim Compliance Panel established by section 5 of the Act;

(c) "Applicant" means any operator of an underground coal mine who files an application with the Panel for an initial or renewal permit for noncompliance under the provisions of Title II or Title III of the Act;

(d) "Presiding officer" means the hearing examiner or members of the Panel designated pursuant to § 505.40;

(e) "Permit" means a permit for noncompliance with the Interim Mandatory Health or Safety Standards set forth in Title II or Title III of the Act; and

(f) "Proceeding" means any public hearing or part thereof held or directed to be held by the Panel pursuant to the Act.

§ 505.3 Records to be public.

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006. Inquiries concerning public records may be made to the Correspondence Control Officer.

§ 505.4 Use of gender and number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females or organizations.

§ 505.5 Suspension of rules.

Upon notice to all parties, the Panel or the presiding officer with respect to matters pending before them, may modify or waive any rule in this part upon determination that no party will be unduly prejudiced and the ends of justice will thereby be served.

§ 505.6 Permits pending final agency action.

After granting a request for a public hearing, the Panel, upon petition therefor or upon its own motion, may extend an existing permit within lawful limits for such period as the Panel determines will serve the interests of justice. The Panel may reconsider and alter any action taken pursuant to the provisions of this § 505.6.

Subpart B—Requests for Public Hearings, Participants

§ 505.10 Persons who may file requests.

Requests for public hearings will be considered by the Panel only if such requests are filed with the Panel by the following persons:

(a) An applicant or representative of the miners at the applicant's mine aggrieved by a decision on an application for an initial permit (other than one under section 305(a)(2) of the Act).

(b) In the case of applications for the renewal of any permit issued under title II or title III of the Act or an application for an initial permit under section 305(a)(2) of the Act, any person interested in the application.

(c) An applicant aggrieved by a notice, pursuant to § 501.7 of this chapter, of intention to deny an application for a renewal permit when no public hearing has been held on the application.

§ 505.11 Filing of requests.

Requests for public hearings shall be filed in triplicate with the Panel. If such a request is made by a person other than the applicant, the person making the request shall serve a copy of the request upon the applicant.

§ 505.12 Time for filing of requests.

(a) The Panel will consider a request for a public hearing filed by an applicant or a representative of the miners at the applicant's mine aggrieved by a decision on an application for initial permit (other than one under section 305(a)(2)), if such request is filed within 15 days after the date of mailing by the Panel of notice of such decision.

(b) The Panel will consider a request for a public hearing filed by a person interested in an application for a renewal permit or for an initial permit under section 305(a)(2) of the Act, if such request is filed by such person within 15 days after publication in the FEDERAL REGISTER of a notice that the application has been accepted by the Panel for consideration.

(c) The Panel will consider a request for a public hearing filed by an applicant pursuant to § 501.7 of this chapter if such request is filed within 15 days after the date of mailing by the Panel of the notice of intention to deny the renewal permit.

§ 505.13 Contents of requests.

Requests for hearings shall be in writing, signed by the person making the request, and shall:

(a) State the interest in the application or in the decision or intended decision of the Panel, of the person making the request,

(b) State whether the person making the request seeks the issuance, denial or modification of the permit, and

(c) Allege specific facts which are claimed to raise a substantial issue, and which if established at the hearing, would result in the issuance, denial, or modification of the permit.

§ 505.14 Panel action on requests.

(a) A request for public hearing filed by the applicant or the representative of the miners of the affected coal mine pursuant to §§ 505.10 through 505.13, inclusive, shall be granted when no public hearing has been held on the application.

(b) If the Panel determines that the person (other than the applicant or representative of the miners) requesting the hearing has no interest in the proceeding or that the request does not raise a substantial factual issue, it may deny the request by written notice to the person making the request, which notice shall set forth the specific reasons for the denial.

(c) If the Panel determines to grant the request for a public hearing, it will publish a notice of the hearing in the FEDERAL REGISTER and give written notice to the person making the request and to the applicant.

§ 505.15 Posting of notice of hearing on mine bulletin board.

Upon receipt of a notice of hearing the applicant shall immediately post a copy on the bulletin board of the affected coal mine and shall certify by written notice to the Panel the date of such posting.

§ 505.16 Petitions to intervene or participate in hearings.

Any person desiring to participate as a party or otherwise in a proceeding shall file a petition for leave to intervene at least 10 days prior to the hearing. The petition shall (a) set forth the reasons for the desired participation, (b) indicate how the petitioner's participation will assist the presiding officer in the determination of the issues in question, and (c) be accompanied by an affidavit by a person with personal knowledge verifying the facts set forth in the petition. The presiding officer shall have discretion to grant or deny such petition or to limit the intervention of the petitioner to specific issues or a particular stage of the proceeding.

Subpart C—Appearance and Practice

§ 505.20 Appearance.

A party may appear in person or by counsel and participate fully in any proceeding. A State agency or a corporation may appear by any of its officers or by any employee it authorizes to appear on its behalf. Counsel must be members in good standing of the bar of a State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico.

§ 505.21 Authority for representation.

Any individual acting in a representative capacity in any proceeding may be required to show his authority to act in such capacity.

§ 505.22 Exclusion from hearing for misconduct.

Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions of the presiding officer, or continued use of dilatory tactics by any person at any hearing shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

§ 505.23 Ex parte communications: separation of functions.

(a) There shall be no communication or consultation between any party and the presiding officer or any Panel member concerning the merits of any proceeding pending before the Panel unless, prior thereto, there is notice and opportunity for all parties to participate.

(b) An employee or agent of the Panel engaged in the performance of an investigative function for the Panel in a case may not, in that or a factually related case, participate or advise in the decision or recommended decision except as counsel or witness in public proceedings. This paragraph does not apply to the members of the Panel.

§ 505.24 Filing of ex parte communications.

A prohibited communication in writing received by the Panel or by the presiding officer, shall be made public by placing it in the correspondence file of the docket in the case and will not be considered as part of the record for decision. If the prohibited communication is received orally, a memorandum setting forth its substance shall be made and filed in the correspondence section of the docket in the case. A person referred to in such memorandum may file a comment for inclusion in the docket if he considers the memorandum to be incorrect.

§ 505.25 Expeditious treatment.

Requests for expeditious treatment of matters pending before the Panel or the presiding officer are deemed communications on the merits, and are improper except when served upon each party. Such communications should be in the form of a motion.

§ 505.26 Matters not prohibited.

A request for information which merely inquires about the status of a proceeding without discussing issues or expressing points of view is not deemed as ex parte communication. Such requests should be directed to the Correspondence Control Officer of the Panel. Communications with respect to minor procedural matters or inquiries or emergency requests for extensions of time are not deemed ex parte communications prohibited by § 505.25. Where feasible, however, such communications should be by letter with copies to all parties.

Subpart D—Form, Execution, Service, and Filing of Documents: Time

§ 505.30 Form of documents to be filed.

Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket description and title of the proceeding, and shall show the title, if any, and address of the signatory. Copies need not be signed but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide and 13 inches long.

§ 505.31 Signature of documents.

The signature of a party, authorized officer, employee, or attorney on a document, other than on an affidavit required or authorized hereunder to be filed, constitutes a certification that he has read the document, that to the best of his knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed. Similar action may be taken if scandalous or indecent matter is inserted.

§ 505.32 Filing of documents.

Documents required or permitted to be filed with the Panel shall be filed in triplicate, personally during regular business hours or by first-class mail, addressed to the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006, and where filed by mail shall be considered to be complete upon mailing. Regular business hours are every Monday through Friday (legal holidays in the District of Columbia excepted) from 9 a.m. to 5 p.m., eastern standard or daylight saving time, whichever is effective in the District of Columbia at the time. Originals only of exhibits and transcripts of testimony need be filed.

§ 505.33 Service—how made.

Service shall be made by personal delivery of one copy to each person to be served or by mailing by first-class mail, properly addressed with postage prepaid. When a party has appeared by attorney service upon such attorney will be deemed service upon the party. Documents served by mail shall be air mailed if the addressee is more than 300 miles distant.

§ 505.34 Date of service.

The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person.

§ 505.35 Certificate of service.

The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his attorney or representative, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery, and stating when and how filing was accomplished.

§ 505.36 Computation of time.

In computing any period of time under the rules in this part or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which event it includes the next following business day. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

§ 505.37 Extension of time or postponement.

Requests for extension of time should be served on all parties and should set forth the reasons for the request. Requests may be granted upon a showing of good cause. From the designation of a presiding officer until the issuance of his decision such requests should be addressed to him. Answers to such requests are permitted, if made promptly. If a request for extension of time would result in delaying completion of the hearing beyond the 30th day following the appointment of the presiding officer, or if such request would result in delay in the issuance of an initial or recommended decision by the presiding officer beyond the 30th day following the completion of the hearing, the request must be addressed to the Panel. The mere filing of such a request with the Panel shall not extend either of the aforementioned 30-day periods unless an appropriate order is issued by the Panel.

§ 505.38 Reduction of time to file documents.

For good cause, the Panel or the presiding officer, with respect to matters pending before them, may reduce any time limit prescribed by the rules in this

part, except as provided by law or in the applicable substantive regulations of the Panel under Subchapters A and B of this title.

Subpart E—Presiding Officer

§ 505.40 Who presides.

Hearings shall be conducted before one or more members of the Panel or before a hearing examiner appointed under 5 U.S.C. 3105 or 3344. A presiding officer for the hearing will be designated by the Chairman of the Panel or, in his absence, by the Acting Chairman.

§ 505.41 Designation of presiding officer.

The designation of the presiding officer shall be in writing, and shall specify whether he is to make an initial decision or to certify the entire record including his recommended findings, conclusions and proposed decision to the Panel, and may also fix the time and place of hearing. A copy of such order shall be served on the applicant and every other party to the proceeding. After service of an order designating a presiding officer and until such presiding officer makes his decision, motions and petitions shall be submitted to him. In the case of the death, illness, disqualification or unavailability of the designated presiding officer, another presiding officer may be designated to take his place.

§ 505.42 Authority of presiding officer.

The presiding officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to these ends, including (but not limited to) the power to:

(a) Arrange and issue notice of the date, time, and place of hearings, or, upon due notice to the parties, to change the date, time, and place of hearings previously set: *Provided, however,* That the hearing shall be completed within 30 days from the date of the designation of the presiding officer unless upon good cause shown the Panel extends such period.

(b) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(c) Require parties and interested persons to state their position with respect to the various issues in the proceeding.

(d) Consolidate actions pending for hearing.

(e) Administer oaths and affirmations.

(f) Rule on motions, and other procedural items on matters pending before him.

(g) Regulate the course of the hearing and conduct of counsel and all other persons therein.

(h) Examine witnesses and direct witnesses to testify.

(i) Receive, rule on, exclude or limit evidence.

(j) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(k) Issue initial or recommended decisions within 30 days from the completion of the hearing unless upon good cause shown the Panel extends such period.

(l) Take any action authorized by the rules in this part and in conformance with the provisions of 5 U.S.C. 551–559 (the Administrative Procedure Act).

Subpart F—Hearing Procedures

§ 505.50 Motions.

Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, these matters shall be in writing. If made at the hearing, they may be stated orally, but the presiding officer may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Motions, answers, and replies shall be addressed to the presiding officer, if the case is pending before him. A repetitious motion will not be entertained.

§ 505.51 Responses to motions and petitions.

Within 5 days after a written motion or petition is served, or such other period as the Panel or the presiding officer may fix, any party may file a response thereto. An immediate oral response may be made to an oral motion.

§ 505.52 Disposition of motions and petitions.

The Panel or the presiding officer may not sustain or grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response: *Provided, however,* That prehearing conferences, hearings and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately. Motions and petitions submitted to the Panel or the presiding officer, respectively, and not disposed of in separate rulings or in their respective decisions will be deemed denied. Oral arguments shall not be held on written motions or petitions unless the presiding officer in his discretion expressly so orders.

§ 505.53 Order of proceeding: Panel may participate.

Except as determined otherwise by the presiding officer, the person requesting the public hearing shall have the burden of proof and shall proceed first at the hearing. The Panel may, through a Panel member or an authorized representative, participate at the hearing for the purpose of presenting evidence or examining witnesses.

§ 505.54 Evidentiary purpose.

The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda, or briefs, as determined by the presiding officer. Brief opening statements, which shall be limited to a statement of the party's position and what he intends to prove, may be made at hearings.

§ 505.55 Testimony.

Testimony shall be given orally under oath or affirmation by witnesses at the hearing; but the presiding officer, in his discretion, may require or permit that the direct testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing, and filed as part of the record thereof. Unless authorized by the presiding officer, witnesses will not be permitted to read prepared testimony into the record. Except as provided in § 505.57, witnesses shall be available at the hearing for cross-examination.

§ 505.56 Exhibits.

Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing if the presiding officer so requires. Proposed exhibits not so exchanged may be denied admission as evidence.

§ 505.57 Affidavits.

An affidavit is not inadmissible as such. Unless the presiding officer fixes other time periods affidavits shall be filed and served on the parties not later than 15 days prior to the hearing; and not less than 7 days prior to hearing a party may file and serve written objection to any affidavit on the ground that he believes it necessary to test the truth of assertions therein at the hearing. In such event the assertions objected to will not be received in evidence unless the affiant is made available for cross-examination, or the presiding officer determines that cross-examination is not necessary for the full and true disclosure of facts referred to in such assertions.

§ 505.58 Evidence.

Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded.

§ 505.59 Cross-examination.

A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination.

§ 505.60 Unsponsored written material.

Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket of the proceeding. These data are not deemed part of the evdience on record in the hearing.

§ 505.61 Objections.

Objections to evidence shall be timely and briefly state the ground relied upon.

§ 505.62 Exceptions to rulings of presiding officer unnecessary.

Exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the ruling of the presiding officer is sought, makes known the action which he desires the presiding officer to take, or his objection to an action taken, and his grounds therefor.

§ 505.63 Official notice.

Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded an opportunity to show the contrary.

§ 505.64 Public document items.

Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations), or a similar document issued by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice as a public document item by specifying the document or relevant part thereof.

§ 505.65 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 505.66 Appeal from ruling of presiding officer.

Rulings of the presiding officer may not be appealed to the Panel prior to its consideration of the entire proceeding, except with the consent of the presiding officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any party, or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the Panel within such period that the presiding officer directs. No oral argument will be heard unless the Panel directs otherwise.

Subpart G—The Record

§ 505.70 Official transcript.

Hearings shall be reported verbatim by an official reporter designated by the Panel. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith shall be filed with the Panel. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract with the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

§ 505.71 Record for decision.

The transcript of testimony, exhibits and all papers and requests filed in the proceedings (except the correspondence section of the docket) including rulings and any recommended or initial decision shall constitute the exclusive record for decision.

Subpart H—Posthearing Procedures, Decisions

§ 505.80 Posthearing briefs: proposed findings and conclusions.

(a) The presiding officer shall fix the time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law, and, if permitted, reply briefs.

(b) Briefs should include a summary of the evidence relied upon together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon.

§ 505.81 Decisions by presiding officer.

On or before the 30th day following the completion of the hearing, the presiding officer, if so authorized, shall render an initial decision, or if not so authorized, he shall certify the entire record, including recommended findings, conclusions and decision to the Panel. Such initial decision or recommended decision shall be filed as part of the record of the proceeding, shall be mailed to each party, and shall include findings and conclusions, and the reasons or basis therefor, on all material issues of fact and law presented on the record.

§ 505.82 Review: exceptions to initial or recommended decisions.

(a) Within 15 days after the mailing of an initial or recommended decision, any party may file with the Panel exceptions to the decision, stating fully his reasons therefor. Any exception not included is waived. Any other party may file a response thereto within 25 days after the mailing of the decision. Upon the filing of such exceptions, the Panel shall review the decision and issue its own decision thereon.

(b) In the absence of such exceptions, the Panel may, on its own initiative, by an order adopted and filed within 15 days after the filing of the initial decision, provide that an initial decision shall not become final, but shall be further reviewed or considered by the Panel.

§ 505.83 Decision on the record or review by the Panel.

In any case in which the record is certified to the Panel for a decision or the Panel reviews an initial or recommended decision pursuant to § 505.82, the Panel may, prior to its decision, on its own initiative or upon request of any party, take one or more of the following actions:

(a) Hear oral argument,

(b) Require the filing of briefs, and

(c) Prior to, or after oral argument or briefs, reopen the record and remand the proceedings to the presiding officer to take further testimony or evidence, or to make further findings or conclusions.

§ 505.84 Final decisions.

(a) Where the hearing is conducted by a presiding officer who makes an initial decision, if no exceptions thereto or Panel order for review are filed within the 15-day period specified in § 505.82, such decision shall become the final decision of the Panel, and shall constitute "final agency action" subject to judicial review pursuant to section 106 of the Act.

(b) Where the hearing is conducted by a presiding officer who makes a recommended decision, or upon the filing of exceptions to, or Panel order for, review of a presiding officer's initial decision, the Panel shall review the recommended or initial decision and shall issue its own decision thereon, which shall become the final decision of the Panel, and shall constitute "final agency action" subject to judicial review pursuant to section 106 of the Act. Such decisions by the Panel shall contain findings of fact and conclusions of law, as well as the basis therefor, upon all the material issues of fact or law presented.

(c) All final decisions issued by the Panel shall be promptly served on all parties.

§ 505.85 Posting of decisions on mine bulletin board.

Upon receipt of an initial, recommended or final decision, the applicant shall immediately post a copy thereof on the bulletin board of the affected coal mine and shall certify by written notice to the Panel the date of such posting.

[F.R. Doc. 70-9018; Filed, July 14, 1970; 8:50 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 70-55a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Certain Bridges in New Jersey

1. The New Jersey Department of Transportation, the county of Salem, N.J., and the Pennslyvania-Reading Seashore Lines, requested the Commander, Third Coast Guard District to amend the special operation regulations for their bridges across the Maurice River on Route 49, Oldmans Creek at and near Pedricktown and near Nortonville and the Cooper River at Admiral Wilson

Boulevard at Camden, N.J. Public notices dated December 11, 1969, setting forth the proposed revision of the regulations governing these drawbridges were issued by the Commander, Third Coast Guard District and were made available to all persons known to have an interest in this subject. The Commandant also published these proposals in the FEDERAL REGISTER of April 29, 1970 (35 F.R. 6760).

2. Interested persons were afforded an opportunity to participate in the rule making procedure through the submission of comments. No comments were received and after consideration of all known factors in this case, the proposals are accepted. Accordingly, 33 CFR 117.225(f) (12), (16), and (17-a) are revised to read as follows:

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) The bridges to which this section applies, and the regulations applicable in each case, are as follows:

* * * * *

(12) Maurice River; New Jersey State Highway Department bridge near Millville. The draw need not be opened for the passage of vessels and the special regulations contained in paragraphs (b) through (e) of this section shall not apply to this bridge.

* * * * *

(16) Oldmans Creek; Pennsylvania-Reading Seashore Lines railroad bridge near Pedricktown, Salem County highway bridge at Pedricktown and New Jersey State Highway Department bridge near Nortonville. The draws need not be opened for the passage of vessels and the special regulations contained in paragraph (b) and (e) of this section shall not apply to these bridges. Any or all of these bridges shall be restored to an operable condition within 6 months after notification by the Commandant to take such action.

* * * * *

(17-a) Cooper River:

(i) Penn Central railroad bridge at North River Avenue and Camden County highway bridge at Federal Street at Camden. At least 4 hours' advance notice is required.

(ii) New Jersey State Highway Department bridge at Admiral Wilson Boulevard at Camden. The draw need not be opened for the passage of vessels and the special regulations contained in paragraphs (b) through (e) of this section shall not apply to this bridge. However, it shall be restored to an operable condition within 6 months after notification by the Commandant to take such action.

* * * * *

(Secs. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Effective date. This revision shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

Dated: July 6, 1970.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-9012; Filed, July 14, 1970; 8:49 a.m.]

[CGFR 70-36a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Choptank River, Md.

1. The Maryland State Roads Commission requested the Commander, Fifth Coast Guard District to revise the operation regulations for its drawbridge across the Choptank River at Denton, Md. A public notice dated December 17, 1969, setting forth the proposed revision of the regulations governing this drawbridge was issued by the Commander, Fifth Coast Guard District and was made available to all persons known to have an interest in this subject. The Commandant also published these proposals in the FEDERAL REGISTER of April 15, 1970 (35 F.R. 6148).

2. One general objection to the proposal was received pursuant to the public notice dated December 17, 1969. However, efforts by the office of the Commander, Fifth Coast Guard District to elicit the specific reasons for the objection were unsuccessful. After consideration of all known factors in this case this proposal is accepted. Accordingly, 33 CFR 117.245(f)(11) is added to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) * * *

(11) Choptank River, Denton, Md., highway bridge, State route 404. Three (3) hours' advance notice is required for openings between the hours of 6 p.m. and 6 a.m. At all other times the draw shall be opened promptly on signal.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Effective date. This revision shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

Dated: July 6, 1970.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 70-9011; Filed, July 14, 1970; 8:49 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S.O. 1046]

PART 1033—CAR SERVICE

Burlington Northern, Inc., and Certain Other Railroads Authorized To Operate Over Tracks of Peoria and Pekin Union Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 9th day of July 1970.

It appearing, that because of severe damage to the Toledo, Peoria & Western Railroad Co.'s Illinois River Bridge, the Burlington Northern, Inc., Chicago, Rock Island and Pacific Railroad Co., and Toledo, Peoria & Western Railroad Co. are unable to serve shippers routing traffic over their lines by use of normal routes; that the Peoria and Pekin Union Railway Co. has agreed to permit these railroads to operate over its tracks between P&PU Junction, East Peoria, Tazewell County, Ill., and Iowa Junction, Peoria, Peoria County, Ill., a distance of approximately 4.53 miles; that the Commission is of the opinion that operation by these railroads over these tracks of the Peoria and Pekin Union Railway Co. is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impractical and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice:

It is ordered, That:

§ 1033.1046 Service Order No. 1046.

(a) *Burlington Northern, Inc., Chicago, Rock Island and Pacific Railroad Co., and Toledo, Peoria & Western Railroad Co. authorized to operate over tracks of the Peoria and Pekin Union Railway Co.* The Burlington Northern, Inc., Chicago, Rock Island and Pacific Railroad Co., and the Toledo, Peoria & Western Railroad Co. be, and they are hereby, authorized to operate over tracks of the Peoria and Pekin Union Railway Co. between P&PU Junction, East Peoria, Tazewell County, Ill., and Iowa Junction, Peoria, Peoria County, Ill.

(b) *Application.* The provisions of this order shall apply to intrastate and foreign traffic, as well as to interstate traffic.

(c) *Rates applicable.* Inasmuch as this operation by the Burlington Northern, Inc., Chicago, Rock Island and Pacific Railroad Co., and the Toledo, Peoria & Western Railroad Co. over tracks of the Peoria and Pekin Union Railway Co. is deemed to be due to carriers' disability, the rates applicable to traffic moved by the Burlington Northern, Inc., Chicago, Rock Island and Pacific Railroad Co.,

and the Toledo, Peoria & Western Railroad Co. over these tracks of the Peoria and Pekin Union Railway Co. shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., July 10, 1970.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 31, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70–9001; Filed, July 14, 1970; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

SAND LAKE NATIONAL WILDLIFE REFUGE, S. DAK.

Hunting

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended; 16 U.S.C. 668dd), it is proposed to amend 50 CFR Part 32 by the addition of Sand Lake National Wildlife Refuge, S. Dak., to the list of areas open to the hunting of migratory game birds as legislatively permitted.

It has been determined that regulated hunting of migratory game birds may be permitted as designated on the Sand Lake National Wildlife Refuge without detriment to the objectives for which the area was established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to this proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Section 32.11 is amended by the following addition:

§ 32.11 **List of open areas; migratory game birds.**

* * * * *

SOUTH DAKOTA

Sand Lake National Wildlife Refuge.

* * * * *

A. V. TUNISON,
Acting Director, Bureau of Sport Fisheries and Wildlife.

JULY 9, 1970.

[F.R. Doc. 70-9017; Filed, July 14, 1970; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 70-85]

PEE DEE RIVER, S.C.

Drawbridge Operation

1. The Commandant, U.S. Coast Guard is considering a request by the Seaboard Coastline Railroad to revise the operation regulations for its drawbridge across the Pee Dee River at Pee Dee, S.C. The draw is presently required to open on signal. The proposed regulations would allow the draw to remain closed. Authority for this action is set forth in section 5, 28 Stat. 362, as amended (33 U.S.C. 499), section 6(g)(2) of the Department of Transportation Act (49 U.S.C. 1655(g)(2)) and 49 CFR 1.46(c)(5).

2. Accordingly, it is proposed to revise 33 CFR 117.245(g) by adding (12-a) to read as follows:

§ 117.245 **Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.**

* * * * *

(g) * * *

(12-a) Pee Dee River, S.C.; Seaboard Coastline Railroad bridge at Pee Dee, S.C. The draw need not be opened for the passage of vessels, and paragraphs (b) through (e) of this section shall not apply to this bridge.

* * * * *

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before August 7, 1970. All submissions should be made in writing to the Commander, Seventh Coast Guard District, Federal Building, Miami, Fla. 33130.

4. It is requested that each submission state the subject to which it is directed, the specific wording recommended, the reason for any recommended change, and the name, address and firm or organization, if any, of the person making the submission.

5. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. This proposal may be changed in light of the comments received. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, Seventh Coast Guard District will forward the record, including all written submissions and his recommendations with respect to the proposals and the submissions, to the Commandant, U.S. Coast Guard, Washington, D.C. The Commandant will thereafter make a final determination with respect to these proposals.

Dated: July 2, 1970.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[F.R. Doc. 70-9013; Filed, July 14, 1970; 8:49 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

YELLOWFIN TUNA FISHING IN EASTERN PACIFIC BY BAIT BOATS

Adjustment of Incidental Catch Rate

Notice of adjustments is hereby given pursuant to § 280.6(c), Title 50, Code of Federal Regulations, as follows:

Bait boats at sea on a 15 percent (15%) incidental yellowfin catch limitation and bait boats in port on July 10, 1970, and which leave port prior to 0001 hours, July 21, will be permitted to land in any port or place yellowfin tuna not to exceed 40 percent (40%) by round weight of the vessels carrying capacity in short tons.

Issued at Washington, D.C., and dated July 13, 1970.

PHILIP M. ROEDEL,
Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 70-9043; Filed, July 14, 1970; 8:50 a.m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[ATS 643.3b]

TUNERS (OF THE TYPE USED IN CONSUMER ELECTRONIC PRODUCTS) FROM JAPAN

Determination of Sales at Less Than Fair Value

JULY 10, 1970.

Information was received on March 22, 1968, that Tuners (of the type used in consumer electronic products) from Japan were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" issued by the Commissioner of Customs was published in the FEDERAL REGISTER of April 16, 1970.

I hereby determine that for the reasons stated below, Tuners (of the type used in consumer electronic products) from Japan are being, or likely to be, sold at less than fair value within the meaning of section 201(a) of the Act. Excluded from this determination are stereophonic tuners.

Statement of reasons on which this determination is based. Information currently before the Bureau reveals that the proper basis of comparison is between purchase price and home market price of such or similar merchandise.

Purchase price was calculated by deducting from the f.o.b. price for exportation to the United States the included inland freight charges. Appropriate adjustments were in some instances made for Japanese duties not collected due to the exportation of certain imported components.

Home market price was based on either the delivered price or a weighted average of the delivered prices. Adjustments were made for inland freight charges, credit costs, technical services, an advertising differential, and a cost of production differential. Adjustments were made for differences in packing costs.

Comparison between purchase price and the adjusted home market price revealed the adjusted home market price to be higher than purchase price by an amount that is considered more than minimal in relation to the total volume of sales. An offer of assurances to make no future sales at less than fair value was therefore not accepted.

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-9048; Filed, July 14, 1970; 8:51 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

DUKE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00539-33-46040. Applicant: Duke University Medical School—Department of Anatomy, Box 3011, Duke University Medical Center, Durham, N.C. 27706. Article: Electron microscope, Model EM 801. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom.

Intended use of article: The article will be used in a high resolution study of unit membrane architecture in which it has been found that there are regular dense granules disposed in the dense strata bordering the light central core of certain membranes. Another project concerns the study of replicas of freeze-fracture and freeze-etched surfaces of certain membranes, such as frog retinal rod outer segments and the Mauthner cell club endings in goldfish medulla.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a guaranteed resolving power of 5 angstroms and is equipped with a tilt stage which is guaranteed to operate without loss of resolution. The most closely comparable domestic instrument is the Model EMU-4B electron microscope which was formerly manufactured by the Radio Corp. of America (RCA) and which is currently being supplied by Forgflo Corp. (Forgflo). The Model EMU-4B has a guaranteed resolving power of 5 angstroms and can be equipped with a tilt stage. The tilt stage of the EMU-4B, however, is not guaranteed to operate at 5 angstroms resolution. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated June 10, 1970, that a tilt stage guaranteed to allow 5 angstroms resolution is pertinent to the applicant's research studies. We, therefore, find that the Model EMU-4B electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-8961; Filed, July 14, 1970; 8:45 a.m.]

National Bureau of Standards

VOLUNTARY PRODUCT STANDARDS

Notice of Intent To Withdraw Certain Standards

In accordance with § 10.12 of the Department of Commerce Procedures for the Development of Voluntary Product Standards (15 CFR 10.12; 35 F.R. 8353, May 28, 1970), notice is hereby given of the Department's intent to withdraw the 43 Voluntary Product Standards identified below. Each of these standards has

been tentatively found to be obsolete, technically inadequate, no longer acceptable to and used by the industry, or otherwise not in the public interest.

Copies of this notice are being sent to the companies previously represented on the Standing Committees for these standards and to other interested industry groups.

Any comments or objections concerning the intended withdrawal of any of these standards should be made in writing and directed to the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234, within 30 days of the publication of this notice. Such objections will receive full consideration before a final decision is reached regarding withdrawal. The effective date of withdrawal, where appropriate, will be not less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under Department of Commerce procedures, from the effective date of the withdrawal.

Of the 43 Voluntary Product Standards being noticed for withdrawal, 39 have previously been identified as "Simplified Practice Recommendations" (R), while the remaining four have previously been identified as "Commercial Standards" (CS).

R 20–28..... Steel barrels and drums.
R 27–36..... Cotton duck.
R 28–29..... Sheet steel.
R 30–42..... Roofing ternes.
R 36–34..... Milling cutters.
R 41–42..... Agricultural insecticide and fungicide packages.
R 45–57..... Grinding wheels.
R 48–42..... Shovels, spades, scoops, and telegraph spoons.
R 50–26..... Bank checks, notes, drafts, and similar instruments.
R 57–32..... Wrought-iron and wrought-steel pipe, valves, and fittings.
R 61–61..... Ceramic tile for floors and walls.
R 64–30..... One-pound folding boxes for coffee.
R 79–28..... Malleable foundry refractories.
R 96–28..... Ice cake sizes.
R 98–43..... Photographic paper.
R 103–33..... Industrial truck and trailer solid tires.
R 104–30..... Packaging of flashlight batteries.
R 109–29..... Refrigerator ice compartments.
R 111–30..... Color for school furniture.
R 113–30..... Restaurant guest checks.
R 134–32..... Singletrees, doubletrees, and neckyokes.
R 135–32..... Wooden butter tubs.
R 143–39..... Paper cones and tubes (for textile winding).
R 148–47..... Glass containers for cottage cheese and sour cream.
R 149–33..... Sieve sizes of canned peas.
R 152–34..... Basic dimensions for cones for warp and knitting yarns and hole sizes for bobbins for filling cop winders.
R 153–34..... Hole sizes for paper tubes for filling cop winders.
R 164–36..... Tinned-steel ice-cream cans.
R 165–36..... Photographic film for miniature copies of records.
R 170–38..... Spice containers (tin and fiber).
R 182–41..... Food service equipment.
R 186–44..... Cotton canton flannels for work gloves.
R 191–43..... School tables.
R 193–49..... Packages for shortening, salad oil, and cooking oil.
R 194–48..... Cotton jersey cloth and tubing for work gloves.
R 200–43..... Paper boxes for toiletries and cosmetics.
R 221–46..... Steel rivets.
R 225–56..... Asphalt tile.
R 255–55..... Paperboard cartons for hamburger buns and weiner rolls.
CS 24–43..... Screw threads and tap drill sizes.
CS 37–31..... Steel bone plates and screws.
CS 74–39..... Solid hardwood wall paneling.
CS 127–45..... Self-contained mechanically refrigerated drinking-water coolers.

LAWRENCE M. KUSHNER,
Acting Director.

Approved: July 8, 1970.

MYRON TRIBUS,
Assistant Secretary for Science and Technology.

[F.R. Doc. 70–9014; Filed, July 14, 1970; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

SPECIAL PERMITS ISSUED

JULY 8, 1970.

Pursuant to Docket No. HM–1, Rule-Making Procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 F.R. 8277) 49 CFR Part 170, following is a list of new DOT Special Permits upon which Board action was completed during June 1970:

Special permit No.	Issued to—Subject	Mode or modes of transportation
6240	Shippers upon specific registration with this Board, for the shipment of 7.2" Projector Charges (class A explosive bombs) in a special unit load configuration.	Highway, and Rail.
6242	Shippers upon specific registration with this Board, for the shipment of Type B quantities of radioactive materials, n.o.s. in the United Kingdom Design No. 0924/1248 packaging.	Water, Passenger-carrying aircraft, Cargo-only aircraft, Highway, and Rail.
6247	Shippers upon specific registration with this Board, for the shipment of hydrofluoric acid solutions not exceeding 52% concentration in DOT-34 non-reusable packaging of not over 5 gallons capacity.	Water, Highway, and Rail.
6249	Shippers upon specific registration with this Board, for the shipment of trichloropropene in a DOT-51 portable tank.	Water and Highway.
6253	Shippers upon specific registration with this Board, for the shipment of alcohols, n.o.s., in a German-made 5,040 gallon capacity stainless steel portable tank.	Water, Highway, and Rail.
6260	American Tube and Controls, Incorporated, for the shipment of compressed air or nitrogen in low pressure equipment type cylindrical welded steel tanks of not over 45 gallons water capacity.	Water, Cargo-only aircraft, Highway, and Rail.
6262	Findley Welding Supply, Incorporated, for the shipment of argon, compressed air, nitrogen, oxygen, and mixtures thereof in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Highway, and Rail.
6263	American Tube and Controls, Incorporated, for the shipment of compressed air and nitrogen in low pressure equipment type ASME Code cylindrical or spherical, welded stee. tanks.	Highway, and Rail.
6266	Department of Defense for the shipment of CBU-53/B munitions (class B explosive, special fireworks) packaged in the CNU 126/E twin pack metal containers.	Highway.
6267	Shippers upon specific registration with this Board, for the shipment of dry dichloroisocyanuric acid in small polyethylene pails overpacked in a fiberboard box.	Highway.
6268	Shippers upon specific registration with this Board, for the shipment of fissile radioactive materials, n.o.s. in United Kingdom Design No. 0504A/0277 packaging.	Water, Passenger-carrying aircraft, Cargo-only aircraft, Highway, and Rail.
6269	Welders Supply, Incorporated, for the shipment of oxygen in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Highway, and Rail.
6270	Amarillo Supply Company, for the shipment of oxygen in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Highway, and Rail.
6271	A. H. St. Louis & Son, Incorporated, for the shipment of argon, compressed air, helium, hydrogen, nitrogen, oxygen, and mixtures thereof in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Highway, and Rail.
6274	Shippers upon specific registration with this Board, for the shipment of fissile and large quantities of fissile radioactive materials, n.o.s. in 15-gallon capacity DOT-6M packaging.	Highway, and Rail.
6275	Shippers upon specific registration with this Board, for the shipment of Type B and large quantities of radioactive materials, n.o.s., and in special form, in the Atcor Model LL–28–4 Shipping Cask.	Highway.
6276	Texas City Welding Supply Company, for the shipment of argon, compressed air, helium, hydrogen, nitrogen, oxygen, and oxygen-carbon dioxide mixtures in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Highway, and Rail.
6277	Shippers upon specific registration with this Board, for the shipment of inhibited butadiene in DOT Specification 112A340 tank car tanks which may be designed with a weld efficiency of E=1.0 under 49 CFR 179.100–6, built with a tank shell of AAR–M–128B steel, and equipped with a safety relief valve having a start-to-discharge pressure of 280.5 psig.	Rail.

WILLIAM K. BYRD,
Acting Chairman, Hazardous Materials Regulations Board.

[F.R. Doc. 70–8987; Filed, July 14, 1970; 8:47 a.m.]

CIVIL SERVICE COMMISSION

ASTRONOMY AND SPACE SCIENCE SERIES

Notice of Establishment of Prescribed Minimum Educational Requirements

In accordance with section 3308 of title 5, United States Code, the Civil Service Commission has decided that minimum educational requirements should be established for positions in the Astronomy and Space Science Series, GS–1330. The requirements, the duties of the positions, and the reasons for the Commission's decision that the requirements are necessary are set forth below.

THE ASTRONOMY AND SPACE SCIENCE SERIES, GS–1330 (GRADES GS–5 THROUGH GS–15)

Minimum educational requirements. Candidates must have successfully completed one of the following requirements:

A. A full 4-year course of study in an accredited college or university leading to a bachelor's or higher degree that included 30 semester hours in any combination of astronomy, physics, mathematics, space science, and electronics. The coursework must have included differential and integral calculus and 12 semester hours in astronomy and/or physics.

B. A combination of 4 years of experience and education that included a total of at least 30 semester hours in any combination of astronomy, space science, physics, mathematics, and electronics. The coursework must have included differential and integral calculus and 12 semester hours in astronomy and/or physics. This combination of education and experience must show that the candidate has acquired a mastery of fundamental physical and mathematical sciences comparable in scope and intensity to that which would have been acquired through the successful completion of a 4-year college or university curriculum as in paragraph A.

Duties. Astronomers and Space Scientists perform professional work in a wide range of specialty fields involving research, observation and investigation of the dynamic and physical properties of celestial bodies, fields and particles in the space environment. These objects include the sun, planets, interplanetary and interstellar media, stars, galaxies, quasars, pulsars, neutron stars, and X-ray sources.

Reasons for establishing requirements. The duties of these positions cannot be performed without a sound basic knowledge of the scientific principles, theories, and concepts that have application to the professional scientific field of astronomy and space science, and the mathematical tools that are used in the analysis and treatment of astronomy and space science data. The duties of the positions require the application of highly technical scientific information and skills which can only be acquired through the successful completion of a course of study in an accredited college or university which has scientific libraries, well-equipped laboratories and thoroughly trained instructors, gives expert guidance, and evaluates progress competently.

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

[F.R. Doc. 70–8973; Filed, July 14, 1970; 8:46 a.m.]

LAND SURVEYING SERIES

Notice of Establishment of Prescribed Minimum Educational Requirements

In accordance with section 3308 of title 5, United States Code, the Civil Service Commission has decided that minimum educational requirements should be established for positions in the Land Surveying Series, GS–1373. The requirements, the duties of the positions, and the reasons for the Commission's decision that the requirements are necessary are set forth below.

THE LAND SURVEYING SERIES, GS–1373 (ALL POSITIONS GS–5 THROUGH GS–15)

Minimum educational requirements. Candidates for Land Surveyor positions must have successfully completed one of the following requirements:

A. A full 4-year course of study at an accredited college or university leading to a bachelor's or higher degree including 30 semester hours in any combination of courses in surveying, mathematics, engineering, photogrammetry, land law, and physical sciences. The study must have included 6 semester hours in surveying.

B. Thirty semester hours of course work as described in paragraph A plus additional appropriate experience and education which when combined with the specified course work will total 4 years of experience and education. This education and experience must have demonstrated that the candidate has acquired a mastery of the fundamental sciences underlying professional land surveying work comparable in scope and intensity to that which would have been acquired through the successful completion of a 4-year college or university curriculum.

Duties. Land surveyors establish land and property boundaries by modern optical and electronic survey methods, marking and monumenting the survey lines. They resurvey and restore the original corners of older surveys. On occasion, in connection with their primary function, they execute topographic and other types of field surveys. They make observations on the sun and stars for azimuth and latitude. They employ aerial photographs, photogrammetric techniques, and automatic data processing equipment, as aids in their work. They utilize material from varied sources in preparing final field notes and records. They make decisions as to land boundaries that require searching legal and historical records, and interpreting applicable laws and court decisions. They investigate landownership problems caused by changes in water courses or conflicting data.

Reasons for establishing requirements. The duties of these positions cannot be performed in a professional manner without a sound basic knowledge of the scientific principles, theories, and concepts that have application to the professional, scientific field of land surveying, and the mathematical tools that are used in the analysis and treatment of surveying data. The duties of the positions require the application of highly technical scientific information and skills which can only be acquired through the successful completion of courses of study in an accredited college or university which has scientific libraries, well-equipped laboratories, and thoroughly trained instructors; gives expert guidance; and evaluates progress competently.

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

[F.R. Doc. 70–8974; Filed, July 14, 1970; 8:46 a.m.]

COMMISSION ON CIVIL RIGHTS

MARYLAND

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on August 17, 1970, and that an executive session, if appropriate, will be convened on August 17, 1970, to be held at the Social Security Auditorium, Social Security Administration Headquarters, 6401 Security Boulevard, Baltimore, Md. 21235. The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, or national origin which affect the housing opportunities, or employment opportunities, or economic security of persons residing in Baltimore County and in the State of Maryland; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, or national origin as these affect the housing opportunities, or employment opportunities or economic security of persons in the above areas, and to disseminate information with respect to denials of equal protection of the laws because of race, color, religion, or national origin in the fields of housing, employment, and related areas.

Dated at Washington, D.C., July 14, 1970.

THEODORE M. HESBURGH,
Chairman.

[F.R. Doc. 70–8976; Filed, July 14, 1970; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 70-734]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

JULY 9, 1970.

The following application was tendered May 28, 1970, seeking the identical facilities of former station WKOV, Wellston, Ohio. The application for renewal of license of WKOV was denied March 4, 1970, and the station will cease operation September 2, 1970. Accordingly, we have waived the provisions of Note 2 to § 1.571 of the Commission's rules and accepted this application for filing. Similarly, we will accept any other application for consolidation which proposes essentially the same facilities.

New, Wellston, Ohio.
Jackson County Broadcasting, Inc.
Req: 1330 kc., 500 w., Day.

Pursuant to the provisions of §§ 1.227 (b)(1), 1.591(b), and Note 2 to § 1.571 of the Commission's rules, an application, in order to be considered with this application must be in direct conflict and tendered no later than August 18, 1970.

The attention of any party in interest desiring to file pleadings concerning this application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements related to such pleadings.

Action by the Commission July 8, 1970.[1]

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-8977; Filed, July 14, 1970; 8:46 a.m.]

[FCC 70-748]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

JULY 9, 1970.

The following application was tendered February 12, 1970, seeking the identical facilities of former station KRCK, Ridgecrest, Calif. Accordingly, we have this date waived the provisions of Note 2 to § 1.571 of the Commission's rules and accepted this application for filing. Similarly, we will accept any other application for consolidation which proposes essentially the same facilities:

New, Ridgecrest, Calif.
Space/Time Broadcasting Co.
Req: 1360 kc., 1 kw., Day.

Pursuant to the provisions of §§ 1.227 (b)(1), 1.591(b), and Note 2 to § 1.571 of the Commission's rules, an application, in order to be considered with this application must be in direct conflict and tendered no later than August 18, 1970.

The attention of any party in interest desiring to file pleadings concerning this application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements related to such pleadings.

Action by the Commission July 8, 1970.[1]

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-8978; Filed, July 14, 1970; 8:46 a.m.]

[FCC 70-749]

UHF TELEVISION TRANSLATORS

Acceptance of Applications

JULY 9, 1970.

Commission will now accept applications for UHF television translators on channels 21-69.

The Commission, on May 21, 1970, released a Notice of Proposed Rule Making in Docket No. 18861 which proposed, among other things, to permit UHF television translator stations to operate on channels below channel 70 in lieu of channels 70-83, which have been reallocated for land mobile radio use. The Commission stated that until it made a final decision in the rule making proceeding, it would continue to accept applications for filing which specify operation on channels 70-83. After a final decision is reached in that proceeding, no further such applications will be accepted.

Under the present rules, UHF translators may only be authorized on the upper 14 UHF channels (70-83) except those specifying channels allocated in the Television Table of Assignments. At this time, an applicant specifying one of the upper 14 UHF channels faces the prospect of amending to a lower frequency when a decision is reached in Docket No. 18861; an applicant specifying one of the lower channels would be required to seek a waiver of the present rules. To avoid this dilemma, the Commission has decided to encourage applicants to apply for UHF translators on channels below 70, pending a final decision in Docket No. 18861.

To this end, the Commission has delegated to the Chief, Broadcast Bureau, authority to accept and act upon applications for new UHF translators and applications for changes of frequency of existing translators which specify channels from 21 to 69 (512-806 MHz), inclusive. Such applications, however, must meet all other requirements of the Commission's rules and policies. This procedure is effective immediately and will remain in effect until the Commission makes a final decision in Docket No. 18861.

Action by the Commission July 8, 1970.[1]

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-8979; Filed, July 14, 1970; 8:46 a.m.]

[Dockets Nos. 18898-18900; FCC 70-704]

HEART OF DIXIE BROADCASTING CO. ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Heart of Dixie Broadcasting Co., Sylacauga, Ala., requests: 1090 kc., 10 kw., DA-Day, Docket No. 18898, File No. BP-17649; J. Millard Lecroy, James M. Davis, Will V. Roberson and Thomas J. Roberson, doing business as Jacksonville Broadcasting Co., Jacksonville, Ala., requests: 1090 kc., 250 w., Day, Docket No. 18899, File No. BP-17747; James J. Lessley, George J. Lessley, and James C. Vice, doing business as University Broadcasting Co., Jacksonville, Ala., requests: 1090 kc., 500 w., Day, Docket No. 18900, File No. BP-17756; for construction permits.

1. The Commission has before it for consideration the above-captioned applications which are mutually exclusive in that simultaneous operation would result in mutually destructive interference and prohibited overlap of contours as defined by § 73.37 of the Commission's rules. Also before the Commission is a petition (and supplements) by KAAY, Inc., licensee of station KAAY, Little Rock, Ark., that the application of Heart of Dixie be returned, and Heart of Dixie's opposition thereto.

2. It is contended by KAAY, Inc., that due to antenna array instability, Heart of Dixie may not be able to adjust and maintain the proposed directional antenna system within proposed limits of radiation and, as a result, adequate protection may not be afforded KAAY.

3. Commission studies disclose that the directional antenna array proposed by Heart of Dixie does not exhibit an unreasonable degree of suppression, since calculated values of radiation are in no case less than 60 millivolts per meter, and the maximum expected operating values of radiation proposed in the null areas of the proposed antenna pattern are not less than 100 millivolts per meter. Also, we note that petitioner's studies indicate that a simultaneous variation of 2 percent and 2° in the currents of two of the three antenna towers would be necessary before interference would result to KAAY. On the other hand, it appears that some lesser degree of variation would cause the maximum expected

[1] Commissioners Burch (Chairman), Robert E. Lee, Cox, H. Rex Lee, and Wells, with Commissioner Johnson dissenting.

[1] Commissioners Burch (Chairman), Robert E. Lee, Cox, H. Rex Lee, and Wells, with Commissioner Johnson dissenting.

[1] Commissioners Burch (Chairman), Robert E. Lee, Cox, H. Rex Lee, and Wells, with Commissioner Johnson concurring.

operating values of radiation to be exceeded. Accordingly, and while we do not find that the proposed Heart of Dixie antenna array raises any material question of interference to KAAY, we are including appropriate conditions to any authorization to Heart of Dixie that radiation is maintained within proposed limits.

4. All of the applicants have failed to keep their respective financial data current. Therefore, they will be required to establish their financial qualifications in hearing.

5. In Suburban Broadcasters, 30 FCC 1020, 20 RR 951 (1961); our public notice of August 22, 1968 (FCC 68-847), 13 RR 2d 1903; and City of Camden (WCAM), 18 FCC 2d 412 (1969),[1] we indicated that applicants were expected to provide full information on their awareness of and responsiveness to local community needs and interests. Neither Heart of Dixie nor University Broadcasting has provided the requisite information, since it is not clear that the people contacted represent an adequate cross-section of the people to be served, and adequate comments regarding community needs have not been submitted. Accordingly, a Suburban issue will be specified.

6. Except for the issues specified below, it appears that the applicants are qualified to construct and operate. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues set forth below.

7. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, these applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary aural service from these proposals and the availability of other primary services to such areas and populations (1.0 mv/m in the case of FM).

(2) To determine whether the applicants are financially qualified to construct and operate their proposed stations.

(3) To determine the efforts made by Heart of Dixie Broadcasting Co. and University Broadcasting Co. to ascertain the community needs and interests of the areas to be served and the means by which they propose to meet those needs and interests.

(4) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide an efficient and equitable distribution of radio service.

(5) To determine, in the event it is concluded, pursuant to the foregoing issue, that one of the Jacksonville proposals should be favored, which of the said proposals would better serve the public interest.

(6) To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

8. *It is further ordered,* That, the petition of KAAY, Inc., is hereby granted to the extent indicated above and is denied in all other respects.

9. *It is further ordered,* That, in the event of a grant of the application of Heart of Dixie, the construction permit shall contain the following conditions:

In order to insure maintenance of the radiated fields within the required tolerance, a properly designed phase monitor shall be installed in the transmitter room, and shall be continuously available as a means of correctly indicating the relative phase and magnitude of the currents in the several elements of the directional antenna system. The accuracy, resolution and repeatability of the monitor to be installed shall be adequate to demonstrate that the array is maintained during day-to-day operation within the maximum expected operating values of radiation.

Permittee shall observe daily the variations occurring in the parameters of the individual tower currents, as well as the fields at the monitoring points, over a period of at least 30 days after adjustment of the array, and submit the data to show that the array has been adjusted and will remain essentially within authorized limits of radiation. The data will be plotted in such manner that it will permit a determination of the permissible limits of antenna parameter variations by the Commission for incorporation in the station's license.

10. *It is further ordered,* That, in light of the fact that Myron N. Craddock, secretary, director, and proposed full-time station program director of the Heart of Dixie Broadcasting Co., is, at present, employed by station WFEB, Sylacauga, Ala., a grant of the application of the Heart of Dixie Broadcasting Co. shall be subject to the following condition: Program test authority will not be issued until the permittee has submitted evidence that Myron N. Craddock has severed all connections with the licensee of station WFEB, Sylacauga, Ala.

11. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

12. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: July 1, 1970.

Released: July 9, 1970.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-8980; Filed, July 14, 1970; 8:47 a.m.]

[1] See also Primer on Ascertainment of Community Problems by Broadcast applicants, FCC 69-1402, released Dec. 19, 1969.

[Dockets Nos. 18903; 18904; FCC 70-719]

MASSANUTTEN BROADCASTING CO., INC., AND CHARLOTTESVILLE-ALBEMARLE BROADCASTERS, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Massanutten Broadcasting Co., Inc., Broadway-Timberville, Va., Requests: 1470 kc., 5 kw., Day, Docket No. 18903, File No. BP-17830; and Charlottesville-Albemarle Broadcasters, Inc., Charlottesville, Va., Requests: 1470 kc., 5 kw., Day, Docket No. 18904, File No. BP-18064; for construction permits.

1. The Commission has before it for consideration the above-captioned applications. Since operation as proposed would result in prohibited overlap of contours as defined by § 73.37(a) of the rules, the proposals are mutually exclusive.

2. Since both applicants have failed to keep their financial data current, an issue will be specified and the applicants required to establish their financial qualifications in hearing.

3. The Charlottesville application indicates that 748 people reside within the proposed 1000 mv/m contour. Since this number is greater than 300 and also exceeds 1 percent of the population (52,245) within the 25 mv/m contour, the proposed operation apparently does not comply with § 73.24(g) of our rules. The applicant has requested a waiver but has failed at this juncture to establish why it would be in the public interest for us to grant it. Accordingly, an issue will be included to permit the applicant to submit further data, either indicating compliance with § 73.24(g) or in support of the waiver request, to enable us to consider the matter further.

4. The Charlottesville applicant's site photographs are of insufficient clarity to enable the Commission to determine whether or not conditions exist which may tend to distort the radiation pattern. Accordingly, an appropriate issue will be included.

5. Massanutten Broadcasting requests dual city designation and does not comply with the provisions of § 73.30(b) which requires, inter alia, that studios be located in each town and that a substantial number of programs be originated from each place. Massanutten proposes to locate its studio only in Broadway and requests a waiver of the rule. In support of its waiver request, the applicant points out that the towns have

a combined population of under 1,100; are only a mile and a half apart; use consolidated schools and recreational facilities; are represented by the same legislators; and, have many common business, civic, social, and religious activities. The proximity and small populations of the two communities, as well as the applicant's showing, makes it clear that there is an identity of interests for programing and other purposes sufficient to warrant dual city identification. Saul M. Miller et al., 4 FCC 2d 150, 8 RR 2d 149 (1966). Likewise, since the towns are so close, location of a studio in only one place will not deprive the citizens of the other community of easy access to the station. Therefore, we find that a waiver of § 73.30(b) would serve the public interest.

6. In Suburban Broadcasters, our public notice of August 22, 1963, FCC 68-847, 13 RR 2d 1903, and City of Camden (WCAM), 18 FCC 2d 412 (1969), 16 RR 2d 555, and more recently in its Primer on Ascertainment of Community Problems by Broadcast Applicants, FCC 69-1402, released December 19, 1969, we indicated that applicants were expected to provide full information on their awareness of and responsiveness to local community needs and interests. Charlottesville-Albemarle Broadcasters, Inc., has not submitted sufficient data to enable us to determine whether a representative cross-section of the community leaders has been consulted. Accordingly, a Suburban[1] issue will be included.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the propsals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the proposals and the availability of other primary aural service to such areas and populations (1.0 mv/m or greater in the case of FM).

(2) To determine whether the applicants are financially qualified to construct and operate their proposed stations.

(3) To determine whether the proposal of Charlottesville-Albemarle Broadcasters, Inc., is in compliance with § 73.24(g) of the Commission's rules concerning population within the 1000 mv/m contour, and, if not, whether circumstances exist which would warrant a waiver of said section.

(4) To determine whether the transmitter site proposed by Charlottesville-Albermarle Broadcasters, Inc., is satisfactory with particular regard to any conditions that may exist in the vicinity of the antenna system which would distort the proposed antenna radiation pattern.

(5) To determine the efforts made by Charlottesville-Albermarle Broadcasters, Inc., to ascertain the community needs and interests of the area to be served and the means by which it proposes to meet those needs and interests.

(6) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

(7) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

10. *It is further ordered,* That the request for waiver of § 73.30(b) by Massanutten Broadcasting Co., Inc., is granted.

11. *It is further ordered,* That, in the event of a grant of the application of Massanutten Broadcasting Co., Inc., the construction permit shall contain the following condition: Permittee shall install an approved type frequency monitor.

12. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

13. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually, or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: July 1, 1970.

Released: July 9, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70-8982; Filed, July 14, 1970; 8:47 a.m.]

[Dockets Nos. 18896, 18897; FCC 70-703]

RADIO JACKSON, INC., AND VOGEL-ELLINGTON CORP. (WHOD)

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Radio Jackson, Inc., Jackson, Ala., Requests: 1230 kc., 250 w., 1 kw.-LS, U; Docket No. 18896, File No. BP-17597; and Vogel-Ellington Corp. (WHOD), Jackson, Ala., Has: 1290 kc., 1 kw., Day; Requests: 1230 kc., 250 w., 1 kw.-LS, U; Docket No. 18897, File No. BP-17867; for construction permits.

1. The Commission has before it for consideration the above-captioned mutually exclusive applications for standard broadcast construction permits.

2. In Suburban Broadcasters, 30 FCC 1020, 20 RR 951 (1961); our public notice of August 22, 1968 (FCC 68-847, 13 RR 2d 1902); and City of Camden (WCAM), 18 FCC 2d 412 (1969)[1], we indicated that applicants are expected to provide full information on their awareness of and responsiveness to local community needs and interests. A Suburban[2] issue will be included since Radio Jackson has not submitted sufficient information to enable us to conclude that a representative cross-section of community leaders and the general public has been consulted.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, in view of the foregoing, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the Radio Jackson, Inc., proposal and the availability of other primary aural service (1 mv/m or greater in the case of FM) to such areas and populations.

(2) To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of station WHOD and the availability of other primary aural service (1 mv/m or greater in the case of FM) to such areas and populations.

(3) To determine the efforts made by Radio Jackson, Inc., to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(4) To determine which of the proposals would better serve the public interest.

(5) To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

5. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing

[1] Suburban Broadcasters, 30 F.C.C. 1020, 20 R.R. 951 (1961).

[2] Commissioner Robert E. Lee concurring in the result.

[1] See also Primer on Ascertainment of Community Problems by Broadcast Applicants, FCC 69-1402, released Dec. 19, 1969.

[2] Suburban Broadcasters, 30 FCC 1020, 20 RR 951 (1961).

and present evidence on the issues specified in this order.

6. *It is further ordered,* That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: July 1, 1970.

Released: July 9, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[3]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70-8983; Filed, July 14, 1970; 8:47 a.m.]

[Dockets Nos. 18901, 18902; FCC 70-705]

JAY SADOW (WRIP) AND ROCK CITY BROADCASTING, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Jay Sadow (WRIP) Chattanooga Tenn., has: 980 kc., 500 w., DA, Day (Rossville, Ga.), requests: 1190 kc., 50 kw., DA, Day (Chattanooga, Tenn.), Docket No. 18901, File No. BP-17792; and Rock City Broadcasting, Inc., Chattanooga, Tenn., requests: 1190 kc., 10 kw., DA, Day, Docket No. 18902, File No. BP-17993; for construction permits.

1. The Commission has before it the above-captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. In Suburban Broadcasters, 30 FCC 1020, 20 RR 951 (1961), our public notice of August 22, 1968, FCC 68-847, 13 RR 2d 1903, and City of Camden (WCAM), 18 FCC 2d 412 (1969), 16 RR 2d 555, and more recently in its Primer on Ascertainment of Community Problems by Broadcast Applicants, FCC 69-1402, released December 19, 1969, we indicated that applicants were expected to provide full information on their awareness of and responsiveness to local community needs and interests. Jay Sadow stated that he had coordinated extensive surveys, but failed to list the persons consulted or the suggestions received. Accordingly, a Suburban issue is required.

3. Examination of the applications also indicates that both applicants have failed to keep their financial showings current. Accordingly, it will be necessary for them to establish their qualifications in hearing.

4. The radiation values shown on the directional antenna pattern specified by Rock City during critical hours of operation do not appear to be in complete agreement with radiation values which would be determined from the proposed directional antenna parameters. Thus, an appropriate issue will be included.

5. Neither the proposed operation of WRIP nor Rock City meets the coverage requirements of § 73.188(b)(2) of the rules for their respective communities. Both applicants have requested a waiver. Instead of ruling on these requests at this stage, however, an issue will be specified and both applicants will be given the opportunity of establishing in hearing that waivers would serve the public interest.

6. At the present time there are seven standard broadcast stations licensed to Chattanooga, population 130,009, but only one licensed to serve Rossville, population 4,665. As a result, a grant of WRIP's proposal to move its location from the smaller to the larger community would deprive Rossville of its only station. Under these circumstances, we believe a substantial question is raised as to whether a grant would result in a fair, efficient, and equitable distribution of facilities within the meaning of section 307(b) of the Act. WKYR, Inc., 24 RR 1097; Radio San Juan, Incorporated, FCC 67-790, released July 18, 1967. Thus, an appropriate issue will be included.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. *Accordingly, It is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the efforts made by Jay Sadow to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(2) To determine whether the applicants are financially qualified to construct and operate their proposed stations.

(3) To determine whether the proposed directional antenna parameters accurately depict the proposed radiation pattern of Rock City Broadcasting, Inc., during critical hours of operation.

(4) To determine whether the above proposals would meet the city coverage requirements of § 73.188(b)(2) of the Commission's rules, and, if not, whether circumstances exist which would warrant a waiver of said section.

(5) To determine the areas and populations which would receive primary service from Rock City Broadcasting, Inc., and the availability of other primary aural service (1 mv/m or greater in the case of FM) to such areas and populations.

(6) To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of station WRIP and the availability of other primary aural service to such areas and populations.

(7) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, whether the proposed operation of station WRIP would provide a fair, efficient, and equitable distribution of radio service.

(8) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(9) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

9. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

10. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: July 1, 1970.

Released: July 9, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70-8981; Filed, July 14, 1970; 8:47 a.m.]

[Docket No. 18549 etc.; FCC 70R-240]

SEABOARD BROADCASTING CORP. AND SENCLAND BROADCASTING SYSTEMS, INC.

Memorandum Opinion and Order Enlarging Issues

In the matter of revocation of license of Seaboard Broadcasting Corp. for standard broadcast station WLAS, Jacksonville, N.C., Docket No. 18549; SENCLand Broadcasting Systems, Inc., Jacksonville, N.C., Docket No. 18813, File No. BP-18649, for construction permit; Seaboard Broadcasting Corp., Jacksonville, N.C., Docket No. 18814, File No. BR-2961, for renewal of license of station WLAS.

1. The above-captioned applications were consolidated and designated for hearing by order, FCC 70-272, released March 27, 1970. Presently before the Review Board is a petition to enlarge issues, filed April 27, 1970, by Seaboard Broadcasting Corp. (Seaboard) seeking the addition of a Rule 73.35 duopoly issue, a financial issue, a misrepresentation issue,

[3] Commissioner Robert E. Lee concurring in the result.

[1] Commissioner Robert E. Lee concurring in the result.

and a Rule 1.598 issue against SENCLand Broadcasting Systems, Inc. (SENCLand).[1]

The Rule 73.35 issue. 2. Initially, Seaboard points out that it has filed a petition for reconsideration of the designation order, on the grounds that a grant of a license to SENCLand would violate the newly adopted multiple ownership provisions of Rule 73.35 because of the ownership by SENCLand's principals of L & S Broadcasting Co. (L & S), permittee of a UHF television broadcast station in Jacksonville. The request for a Rule 73.35 issue is addressed to the Board, Seaboard asserts, "out of an abundance of caution." In its opposition, SENCLand restates the arguments made in its opposition to the petition for reconsideration, noting that it has requested waiver and has alternatively indicated its willingness to comply with the new rule on whatever terms the Commission may impose; it asserts that Seaboard's double filing is thus but a "lame excuse for a second shot at the same factual mirage." The Broadcast Bureau opposes this requested issue on the ground that the new rule is dispositive: so long as SENCLand remains a UHF permittee in Jacksonville, its AM application for that community cannot be granted. In the Board's view, disposition of the request while Seaboard's petition for reconsideration and SENCLand's solicitation for a ruling on the new multiple ownership policy are pending before the Commission would be premature. Action by the Commission in either disqualifying SENCLand from this proceeding or in adopting any of SENCLand's alternate proposals will effectively moot the request, which will therefore be denied.

The financial issue. 3. Seaboard next questions SENCLand's ability to finance its estimated construction and first year operation costs, especially in light of its principals' financial commitments to L & S. It points out that these principals, Julius J. Segerman and Leon and Morris Leder are each to provide cash subscriptions and loans in the amount of $12,000 and $43,000 to SENCLand and L & S, respectively,[2] and are also to endorse bank loans to both applicants totalling $450,000. Petitioner notes that as of June 30, 1969, the balance sheet of Segerman shows cash-on-hand of $2,175 and current liabilities of $4,885; Leon Leder's balance sheet of December 31, 1968 reflects current assets of $107,000 and current liabilities of $32,000 but fails to reflect an obligation of $270,000 which is secured by the L & S Motel Corp.; and the balance sheet of Morris Leder, dated November 30, 1968, reflects only $1,510 in cash. Seaboard insists that the balance sheets of the three individuals show little other liquid assets. Much of the stock held by the three is, according to Seaboard, that of the Financial Corp., owner of the First National Bank of Eastern North Carolina. This stock, according to the "pink sheet" of April 10, 1970, has an asking price of $31, but has "no bid"; and thus is "non-liquidable." The remainder of the stock listed on the balance sheets, Seaboard claims, is substantially depressed or is held in closely held corporations and cannot therefore be relied upon. The only other assets held by the three principals are real estate.[3] Seaboard concludes that the insufficient liquid assets shown by SENCLand's principals raise serious questions as to their abilities to fulfill their commitments, and therefore urges the addition of a general financial issue.

4. In opposition, SENCLand reviews the current assets and liabilities of its principals. As SENCLand reads the balance sheets, the liquid assets of Segerman are $2,715 in cash, $15,102 in cash value of a life insurance policy, at least one-third the value of his real estate holdings or approximately $35,000, and $135,385 in marketable securities consisting of 2,958 shares of the First National Bank of Eastern North Carolina. Attached to SENCLand's opposition is a statement from Gary J. Casey, vice-president of the Bank, stating the common stock of Financial Corp. has a market value of at least $40 per share. Thus, SENCLand insists, Segerman's liquid assets total $171,137. As SENCLand reads the other two balance sheets, Leon and Maurice Leder have net liquid assets in cash, notes receivable, stocks and unencumbered realty of at least $98,000 and $65,000, respectively.[4] Thus, concludes SENCLand, Seaboard's conclusions are drawn from unsupported facts and, in light of the current liquid assets of its principals, petitioner's request for a financial issue should be denied. In reply, Seaboard points out that SENCLand still has not provided current financial information, but instead has relied on balance sheets submitted with its application over 1 year ago. Insisting that SENCLand's financial showing is defective, Seaboard asserts that: SENCLand has failed to show the current value of its principals' stock; it lists land values which are not proven nor is the land shown to be free of encumbrance; it has not indicated whether the $19,276.49 listed as "deferred liabilities" on Segerman's balance sheet are, at this stage, current liabilities; and it has not made a specific showing that the "notes receivable" disclosed by the Leders can be relied upon to provide funds. Seaboard thus concludes that SENCLand's failure to show sufficient liquid assets of its principals raises a substantial and material question as to their ability to meet their commitments.

5. The Review Board is of the opinion an appropriate issue is warranted. Whether the principals ultimately must finance only the AM proposal, or both the AM and UHF proposals,[5] does not matter. In either case, the showing made is insufficient to establish the financial qualifications of the SENCLand principals; furthermore, the Examiner should try the issue on the basis of the status of the two applications at the time of hearing. Segerman's balance sheet shows cash and life insurance of $17,812.24. However, the $41,500 stock interest in the Jacksonville department store cannot be considered as liquid; the other $135,385.00 in stock is not itemized to indicate its present liquidity (if any); and the claimed reliance on real estate must be rejected because SENCLand has not shown whether, or the extent to which, any encumbrances or other interests exist against it. Furthermore, Segerman has not detailed his "deferred liabilities" and we have no way of knowing if some, or all, have become due. Leon Leder's balance sheet shows only $2,400.75 in cash; his other assets consists of notes receivable which are not detailed, securities whose marketability is questionable and land which is not identified. The balance sheet of Morris Leder shows basically the same assets, with the same deficiencies. All three balance sheets are out-of-date. It is well established that receivables, stocks and bonds, and fixed assets, in the absence of proof of marketability or liquidity, afford no reasonable assurance that funds will, in fact, be available to meet commitments to an applicant for a radio station. Vista Broadcasting Co., 18 FCC 2d 636, 16 RR 2d 19 (1969). In view of the deficiencies noted, the balance sheets of Segerman and the Leders show only cash and life insurance surrender values, and together reflect only $43,794.76 in current assets; this sum is patently insufficient to meet the commitments undertaken by the three and Seaboard's request for an availability of funds issue will be granted.[6]

---

[1] Other related pleadings before the Board for consideration are: (a) Opposition, filed May 12, 1970, by the Broadcast Bureau; (b) opposition, filed May 15, 1970, by SENCLand; and (c) reply, filed May 27, 1970, by Seaboard. Also before the Board are a petition for acceptance of late filed petition, filed Apr. 27, 1970, by Seaboard, and a motion for acceptance of late filed opposition, filed May 15, 1970, by SENCLand. Good cause has been shown for both the late-filed petition to enlarge and the late-filed opposition by SENCLand. Both pleadings will be accepted, and have been considered on their merits.

[2] SENCLand estimates construction costs of $181,200 and first year operating expenses of $65,000; to meet these obligations SENCLand proposes to borrow $150,000 from the First National Bank of Eastern North Carolina, to be personally endorsed by Segerman and the Leders, and stockholder contributions of $50,000, $36,000 of which is to come from the three major principals.

[3] Seaboard also contends that the proposed security for SENCLand's $150,000 loan from the First National Bank of Eastern North Carolina will contravene 12 U.S.C. sec. 83 which prohibits a bank from making loans on security of the shares of its own capital stock.

[4] SENCLand states that Leon Leder has no primary liability for the debts of the L & S Motel Corp.

[5] It is not necessarily, as the Bureau suggests, a foregone conclusion that SENCLand's principals will be precluded from this proceeding or will be financing only one station because of the operation of the new duopoly rules.

[6] We have no indication that Segerman and the Leders will secure their loan with First National Bank of Eastern North Carolina stock; therefore no violation of 12 U.S.C. sec. 83 is apparent.

The misrepresentation and Rule 1.598 issues. 6. Seaboard alleges that SENC Land is guilty of misrepresenting its intention to the Commission to promptly construct and build WLNS–TV. Petitioner points out that in its request for a rule-making proceeding to assign a channel to Jacksonville, and in its application for that channel, L & S disclosed no intention of building the station only if it were able to secure a CBS affiliation. However, in a newspaper interview and in a statement to a third party (both attached as affidavits to Seaboard's petition), Segerman indicated that L & S did not intend to build WLNS–TV after having been turned down by CBS. Furthermore, points out Seaboard, in L & S's application for an extension of time to construct, which is still pending before the Commission, no showing was made of any effort to order equipment or to clear the site. Thus, concludes Seaboard, this lack of candor displayed by SENCLand warrants the addition of a character qualifications issue. Seaboard's related request is for an issue based on § 1.598 of the Commission's rules which requires that an applicant commence construction within 2 months after the receipt of a construction permit. L & S's failure to do anything in almost 2 years warrants an issue, argues petitioner. In addition Seaboard asserts because of the identity of principals, and because L & S's noncompliance with Rule 1.598 is indicative of its hesitancy to build a broadcast facility unless it is absolutely assured of profitability, a further issue is warranted to determine whether the principals of SENCLand would construct the AM facility if they receive a permit.

7. The Broadcast Bureau urges that the misrepresentation issue be denied because Seaboard has failed to plead sufficient and specific facts to support its requests; nothing has been submitted to show that SENCLand's principals had no intention of building the UHF station at the time they initiated the rule-making proceeding; and, the hearsay newspaper article and reference to a hearsay conversation fail to comply with Rule 1.229(c) affidavit requirements. The Bureau also opposes the addition of an issue based on Rule 1.598 on the grounds that SENCLand's request for an extension of time to complete construction is presently pending before the Commission, and that petitioner has failed to cite any case where the Commission held an applicant disqualified because it failed to undertake construction within 2 months of the grant. SENCLand, in opposition, adopts the Bureau's position. In reply, Seaboard insists, the "unrebutted evidence" warrants the addition of a misrepresentation issue. It also charges that the arguments advanced by the Bureau and SENCLand as to the Rule 1.598 issue confuse a comparative proceeding "with 307(b) proceeding": In a comparative case, such as this, any failure of an applicant to comply with Commission's rules must be considered, argues Seaboard; and, therefore, the complete lack of any construction relating to the UHF station in a period of 1 year does raise a comparative issue.

8. The requested issues will be denied. The claim of lack of candor is no more than an attempt to wrest inferences from hearsay evidence, which evidence not only fails to satisfy the requirement of Rule 1.229(c) but indeed fails to support the innuendoes which are sought to be drawn. The "unrefuted" hearsay, viewed most favorably to Seaboard's position, does no more than indicate L & S's present intention to seek affiliation; it assuredly does not, of itself, indicate that L & S has been less than candid in its earlier dealing with the Commission. Furthermore, in light of the pending application for additional time, addition of a lack of candor issue in this proceeding is not warranted; similarly, the addition of a disqualification issue for noncompliance with Rule 1.598 is not warranted.[7] Finally, the allegations advanced are not, in our view, sufficient to warrant comparative consideration of the failure to undertake construction, and, indeed, the request is something of a non sequitur—the fact that L & S may or may not complete construction of a UHF television station, does not, of itself, raise a question whether its principals will carry through on the instant proposal. See Media, Inc., FCC 70R–164, —— FCC 2d ——, released May 5, 1970.

9. *Accordingly, it is ordered,* That the petition for acceptance of late-filed petition to enlarge, filed April 27, 1970, by Seaboard Broadcasting Corp., and the motion for acceptance of late-filed pleading, filed May 15, 1970, by SENCLand Broadcasting Systems, Inc., are granted, and the pleadings filed therewith are accepted; and

10. *It is further ordered,* That the petition to enlarge issues, filed April 27, 1970, by Seaboard Broadcasting Corp., is granted to the extent herein indicated; and is denied in all other respects; and

11. *It is further ordered,* That the issues are enlarged to include the following issue: To determine whether Julius J. Segerman, Leon Leder, and Morris Leder, the principals of SENCLand Broadcasting Systems, Inc., have sufficient funds to meet their financial commitments to the applicant.

12. *It is further ordered,* That under the above issue, the burdens of proceeding with the introduction of evidence and of proof shall be upon SENCLand Broadcasting Systems, Inc.

Adopted: July 6, 1970.

Released: July 8, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[8]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70–8984; Filed, July 14, 1970; 8:47 a.m.]

[7] We also note that Rule 1.598 has been liberalized. Report and Order, FCC 70–592, 19 RR 2d 1578.

[8] Review Board Members Nelson and Pincock absent.

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 70]

BASS FINANCIAL CORP.

Notice of Receipt of Application for Approval of Acquisition of Control of Park Forest Savings and Loan Association

JULY 10, 1970.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Bass Financial Corp., Norridge, Ill., for approval of acquisition of control of the Park Forest Savings and Loan Association, Park Forest, Ill., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected by the purchase for cash of stock of Park Forest Savings and Loan Association by Bass Financial Corp. Bass Financial Corp. currently has an application before the Federal Savings and Loan Insurance Corporation to acquire control of the Unity Savings and Loan Association, Norridge, Ill. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, Jr., *Assistant Secretary, Federal Home Loan Bank Board.*

[F.R. Doc. 70–8985; Filed, July 14, 1970; 8:47 a.m.]

OFFICE OF EMERGENCY PREPAREDNESS

FLORIDA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, and Executive Order 11051 of September 27, 1962 (18 F.R. 407, 22 F.R. 8799, 27 F.R. 9683); and by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855–1855g); notice is hereby given that on July 3, 1970, the President declared a major disaster as follows:

I have determined that the damages in those areas of the State of Florida adversely affected by heavy rains and flooding beginning on or about June 1, 1970, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 81–875. I therefore declare that such a major disaster exists in the State of Florida. Areas

eligible for Federal assistance will be determined by the Director of the Office of Emergency Preparedness.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11495, November 18, 1969 (34 F.R. 18447, Nov. 20, 1969) to administer the Disaster Relief Act of 1969 (Public Law 91–79, 83 Stat. 125), I hereby appoint Mr. Ronard B. Van Dame, Disaster Assistance Coordinator, OEP Region 3, to act as the Federal Coordinating Officer to perform the duties specified by section 9 of that act for this disaster.

I do hereby determine the following areas in the State of Florida to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 3, 1970:

The counties of:
Escambia. Okaloosa.
Santa Rosa.

Dated: July 9, 1970.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 70-8969; Filed, July 14, 1970; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

ASSOCIATED LATIN AMERICAN FREIGHT CONFERENCES

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

C. D. Marshall, Chairman, Associated Latin American Freight Conferences, 11 Broadway, New York, N.Y. 10004.

Agreement No. 9876, between ten (10) Latin American Freight Conferences operating in trades between the United States and Latin America, establishes a cooperative working arrangement whereby the member conferences and their respective member lines from time to time can confer together jointly or with one another to discuss and make recommendations on nonrate-making matters of common concern to the signatories and relevant to the trades in which they operate in accordance with the terms and conditions set forth in the agreement.

Dated: July 9, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-8990; Filed, July 14, 1970; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. R-387; Order 404-A]

CALCULATION OF TAXES FOR CERTAIN PROPERTY OF PUBLIC UTILITIES, LICENSEES, AND NATURAL GAS PIPELINE COMPANIES

Order Denying Rehearing

JULY 9, 1970.

On June 12, 1970, applications or petitions for rehearing of the Commission's Order No. 404 (35 F.R. 7963), issued May 15, 1970, were filed by American Public Gas Association (APGA); Memphis Light, Gas & Water Division (Memphis); and Tennessee Valley Municipal Gas Association (Tennessee Valley). In that order we announced the general policy that electric and natural gas pipeline companies will be permitted to employ normalization accounting for liberalized depreciation for property constructed or acquired after January 1, 1970, to the extent to which such property increases the productive or operational capacity of the utility and is not a replacement of existing capacity, if the election permitted by section 441(a)(4)(A) of the Tax Reform Act of 1969 has been exercised. Such normalization will, we said, also be permitted for ratemaking purposes to the extent such rates are subject to the Commission's ratemaking authority.

The specifications of errors of Memphis and Tennessee Valley are identical and will be referred to herein as Tennessee Valley.

The petition of Tennessee Valley contends that Order No. 404 is unlawful because:

(1) It was adopted without notice or opportunity for hearing and is a denial of due process of law;

(2) It lacks essential and adequate findings of fact;

(3) It requires customers to contribute capital to the pipeline; and

(4) The conclusion that normalization results in a sharing of benefits of liberalized tax depreciation by regulated companies and consumers is erroneous.

In section 441(a)(4)(A) of the Tax Reform Act of 1969, Congress gave natural gas pipeline companies, among others, the absolute right to change from accelerated tax depreciation with flow-through to straight-line tax depreciation with respect to specific properties. Regulatory agencies, including this Commission, are powerless to vitiate that right by imputing the use of liberalized depreciation with flow-through and flowing the benefits thereof through to customers. The only other option open to a natural gas pipeline company making the election under section 441(a)(4)(A) is liberalized depreciation with normalization if such normalization is permitted by the appropriate regulatory authority. Under these circumstances the Commission was faced squarely with the question of whether it should require companies, which exercised the right, to remain on straight-line or whether it should, in the public interest, permit such companies to revert back to liberalized depreciation with normalization. Any argument, under these conditions comparing the merits of flow-through and normalization tax accounting methods is irrelevant since the only available choice is between normalization and straight-line. Order No. 404 recognizes the election provisions available under the Tax Reform Act of 1969 and reaffirms the essence of our previous finding that liberalized depreciation with normalization is preferable to straight-line. Northern Natural Gas Co., 25 FPC 431 (1961).

Rates will, when a company initially uses liberalized depreciation with normalization, be the same as they would have been if straight-line tax depreciation had been employed. Additionally, we announced in Order No. 404 that we would continue our present policy of deducting the amounts in accrued tax deferral accounts from rate base. Hence, rather than a deprivation of property, Order No. 404 reaffirms our resolve to extend to ratepayers, to the extent permitted by law, the benefits of the use of liberalized tax depreciation with normalization.

The only factual findings necessary to Order No. 404 are that Congress included in the Tax Reform Act of 1969 a provision granting natural gas pipeline companies, among others, the absolute right to change from liberalized depreciation with flow-through to straight-line and prohibited companies which exercised that right from returning to liberalized tax depreciation with flow-through. We are satisfied that Congress did include such provisions in the Tax Reform Act of 1969.

The use of straight-line depreciation eliminates the possibility of tax deferrals to natural gas pipeline companies. On the other hand, liberalized depreciation with normalization may generate substantial tax deferrals. The benefits of

these tax deferrals are shared, although admittedly not necessarily in equal proportions, by the company and its customers by treating such amounts as rate base deductions.

APGA cites alleged errors in Order No. 404 similar, in substance, to those advanced by Tennessee Valley and, in addition, asserts that Order No. 404 was not warranted by the Tax Reform Act of 1969. In addition to seeking rehearing, APGA petitions us to stay the effectiveness of that order pending final determination of this case.

With respect to APGA's assertion that Order No. 404 was not warranted by the Tax Reform Act of 1969, APGA apparently reads more into the order than is there. APGA criticizes our abandonment of flow-through with regard to post-1969 expansion property as being not required by the Act. APGA is, in our opinion, quite right in stating that the abandonment of flow-through is not required by the Act, but APGA errs when it concludes that we abandoned flow-through for such property. Our first finding in Order No. 404 is:

> It is appropriate and necessary for carrying out the provisions of the Federal Power Act and the Natural Gas Act that electric and natural gas pipeline companies be permitted to employ normalization accounting for liberalized depreciation for property constructed or acquired after January 1, 1970, to the extent to which such property increases the productive or operational capacity of the utility and is not a replacement of existing capacity, "if the election permitted by section 441(a)(4)(A) of the Tax Reform Act of 1969 has been exercised."

The language in quotation marks clearly indicates that Order No. 404 is limited in its application to situations in which the company has exercised its statutory right to revert to straight-line for post-1969 expansion property. As to all other property, Order No. 404 in no way affects flow-through.

APGA asserts further that our permission to use normalization will induce the industry to switch from flow-through at the direct expense of consumers. This is, of course, nothing more than unsupported conjecture and speculation. We do, however, summarily reject the implied suggestion that this Commission should refuse to inform companies, over whom we have been given regulatory jurisdiction, of our general policy in respect to any matter of concern to them.

The Commission finds:

(1) Order No. 404 is a statement of general policy interpreting the mandate of Congress; it does not independently create any rights, duties or obligations of natural gas pipeline companies or their customers; and therefore, notice and opportunity for hearing thereon is unnecessary.

(2) Substantial and adequate grounds for the adoption of Order No. 404 exist in Commission precedents and in the Tax Reform Act of 1969, and further hearings in this case would serve no useful purpose.

(3) To stay the effectiveness of Order No. 404 is not in the public interest.

The Commission orders: The applications for rehearing of Memphis and Tennessee Valley, and the petition for rehearing and stay of APGA are denied.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-8964; Filed, July 14, 1970; 8:45 a.m.].

[Docket No. G-3912 etc.]

ASHLAND OIL, INC.

Order Amending Orders Issuing Certificates of Public Convenience and Necessity, Redesignating FPC Gas Rate Schedules, and Redesignating Proceedings

JULY 7, 1970.

On April 27, 1970, Ashland Oil, Inc., filed in Docket No. G-3912 et al., a petition to amend the orders issuing certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said dockets by changing the name of the certificate holder from Ashland Oil & Refining Co. to reflect a change in corporate name with no succession in interest, effective as of February 2, 1970, all as more fully set forth in the petition to amend and in the appendix hereto. After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention, or protest to the granting of the petition to amend has been filed.

The Commission orders: The orders issuing certificates of public convenience and necessity to Ashland Oil & Refining Co., in Docket No. G-3912 et al., are amended by changing the name of the certificate holder to Ashland Oil, Inc.; the related FPC gas rate schedules are redesignated and shall retain the same numerical designations; and the related rate proceedings are redesignated accordingly. In all other respects the orders issuing certificates shall remain in full force and effect.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX

FPC gas rate schedule No.	Certificate docket No.	Rate docket No.
4	G-7663	RI60-288, RI70-43.
44	G-7663	RI69-94, RI70-66.
59	G-12309	RI62-219, RI67-219.
60	G-12808	
61	G-12809	
62	G-12810	
63	G-12811	
64	G-12812	
65	G-12813	
66	G-13243	
68	G-7663	RI70-43.
69	G-18117	RI65-177, RI70-41.
70	G-7663	RI60-288, RI70-43.
71	G-7663	RI70-44.
72	CI62-419	RI67-240.
73	CI61-749	
74	CI62-191	RI67-122.
75	CI62-494	RI67-240.
77	CI62-908	RI67-225.
78	CI60-738	RI67-187, RI68-76, RI68-538, RI70-1106.
79	CI63-159	RI67-226.
80	CI63-401	RI67-39, RI70-365.
81	CI63-489	RI67-335, RI69-102, RI69-420, RI70-41, RI70-1136.
82	G-3913	
83	G-3913	
84	G-3913	
85	G-3913	
87	G-3913	
88	G-3913	
89	G-3913	
90	G-3913	G-9572, RI61-269.
91	G-3913	
94	G-3913	
95	G-3913	
96	G-3913	
99	G-3913	
103	G-3913	RI70-1405.
104	G-3913	
105	G-3913	
106	G-3913	
108	G-4309	RI60-230, RI65-623, RI70-916.
109	G-4316	RI60-230.
	G-14785	RI65-623, RI70-916.
110	G-8447	G-17724.
	G-10416	RI64-372.
	G-13599	RI68-42, RI69-339.
111	G-3912	RI61-469, RI67-377.
112	G-3912	G-15454, RI68-260.
113	G-3912	RI66-211.
115	G-3912	RI68-577.
116	G-3912	
117	G-3912	RI66-335.
118	G-3912	RI66-335.
120	G-4328	RI60-229, RI65-623, RI70-916.
121	G-4314	RI60-229, RI65-623, RI70-916.
122	G-7230	RI64-761, RI68-117, RI69-808.
123	G-8446	G-17723, RI64-372, RI68-42, RI69-339.
124	G-9047	G-15353, G-18465, RI60-358, RI61-494, RI62-441, RI63-417, RI64-760, RI65-631, RI67-5, RI67-397, RI68-639, RI69-745.
125	G-10478	RI61-517, RI67-26.
126	G-10523	G-17732, RI67-219, RI69-339.
127	G-10546	RI62-426.
	G-14162	RI67-398.
128	G-10606	RI61-409, RI66-286.
129	G-10803	RI62-425, RI67-397.
130	G-11402	RI62-255, RI67-219.
132	G-12788	RI62-42, RI63-54, RI64-127, RI65-199, RI66-286, RI67-62, RI68-98, RI69-64, RI70-161.
133	G-12802	RI62-490, RI67-448.
134	G-13929	RI63-243, RI68-296.
135	G-16584	RI64-161, RI67-376, RI69-194.
136	G-17911	RI68-296.
137	G-18916	RI65-365, RI66-371, RI70-365.
138	G-20308	RI64-372.
139	CI60-350	RI67-124, RI70-365.
140	CI60-493	RI66-350.
141	CI61-16	RI64-552, RI70-365.
142	CI61-24	RI66-284, RI67-376.
143	CI61-73	
144	CI61-1182	RI68-502.
145	CI61-1361	RI67-23, RI68-128.
147	CI62-477	
148	CI62-540	RI67-448.
149	CI62-821	RI67-245.
150	G-3912	RI63-274, RI67-376, RI68-296.
151	G-3913	
152	G-3913	
153	CI64-159	RI67-39, RI69-85.
154	CI64-423	RI66-284, RI67-286, RI70-147.
155	CI64-446	RI68-116, RI68-504, RI68-313.
156	CI64-980	
157	CI64-638	
158	CI64-644	RI68-128, RI69-638, RI70-898.
159	CI64-681	RI62-178, RI67-240, RI68-116.
160	CI64-686	RI69-39.
161	CI64-1175	RI70-43.
162	CI64-1381	RI67-39, RI68-497.
163	CI64-1422	RI66-362, RI67-292, RI70-30.
164	CI64-1440	RI66-263.
165	CI65-123	RI68-116, RI70-271.
169	CI65-441	RI67-141, RI70-916
170	CI65-545	

APPENDIX—Continued

FPC gas rate schedule No.	Certificate docket No.	Rate docket No.
171	CI65-660	
172	CI65-828	RI67-53.
176	CI66-639	RI70-922.
177	CI67-269	
178	CI67-228	RI67-224, RI69-339.
179	CI67-341	RI68-296.
180	CI67-507	RI65-599, RI67-397.
181	CI67-633	
182	CI67-751	RI68-314, RI70-162.
183	CI62-1359	
184	CI67-1098	RI68-106, RI70-365.
185	CI67-1631	RI68-328, RI70-916.
186	CI68-542	
187	CI68-746	RI68-514, RI69-339, R170-916.
188	CI68-809	
189	CI68-983	RI69-56, RI69-339.
190	CI68-982	RI66-316, RI69-254.
191	CI68-986	RI63-278, RI68-631.
192	CI68-1237	RI69-56, RI70-1136.
193	CI69-197	
194	CI69-405	
195	CI69-864	RI70-43.
196	CI70-101	
197	CI70-736	

Pending rate preceedings for which the related rate schedule has been canceled or redesignated: RI62-332 and RI64-576.

AREA RATE PROCEEDINGS

AR61-1, AR61-2, AR64-1, AR64-2, AR67-1, AR69-1, and AR70-1.

[F.R. Doc. 70-8963; Filed, July 14, 1970; 8:45 a.m.]

[Docket No. RI71-1]

GRAHAM-MICHAELIS DRILLING CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Change in Rate

JULY 7, 1970.

On June 9, 1970,[1] Graham-Michaelis Drilling Co. (Operator) et al. (Graham-Michaelis),[2] tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is designated as follows:

Description: Notice of change.
Purchaser and producing area: Panhandle Eastern Pipe Line Co. (Hansford Field, Hansford County, Tex.) (RR. District No. 10).
Rate schedule designation: Supplement No. 3 to Graham-Michaelis' FPC Gas Rate Schedule No. 22.
Effective date: July 10, 1970.[3]
Amount of annual increase: $2,994.
Effective rate: 17.0425 cents per Mcf.[4]
Proposed rate: 18.045 cents per Mcf.[5]
Pressure base: 14.65 p.s.i.a.

The proposed periodic rate increase filed by Graham-Michaelis for a sale of gas to Panhandle Eastern Pipe Line Co. from the Hansford Field, Hansford County, Tex., exceeds the area increased rate ceiling of 11 cents per Mcf for Texas Railroad District No. 10 as announced in the Commission's statement of general policy No. 61-1, as amended, and should be suspended for 5 months from July 10, 1970, the expiration date of the statutory notice period.

The proposed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 3 to Graham-Michaelis' FPC Gas Rate Schedule No. 22 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 3 to Graham-Michaelis' FPC Gas Rate Schedule No. 22.

(B) Pending such hearing and decision thereon, Supplement No. 3 to Graham-Michaelis' FPC Gas Rate Schedule No. 22 is hereby suspended and the use thereof deferred until December 10, 1970, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before August 24, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-8965; Filed, July 14, 1970; 8:45 a.m.]

[Docket No. RI71-2 etc.]

HAMILTON BROTHERS OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

JULY 7, 1970.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribde by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before August 26, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Date of submittal of corrective filing.

[2] Address is: 211 North Broadway, Wichita, Kans. 67202.

[3] The stated effective date is the first day after expiration of the statutory notice period.

[4] Rate in effect subject to refund in Docket No. RI65-618.

[5] Periodic rate increase.

[1] Does not consolidate for hearing or dispose of the several matters herein.

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-2	Hamilton Brothers Oil Co	1	[3] 3	Michigan Wisconsin Pipe Line Co. (Blocks 204 and 207, Ship Shoal Area, Offshore Louisiana) (Federal Domain).	$4,421	6-15-70	[3] 7-16-70	[4] 7-17-70	[7] 19.5	[5] [6] 20.0	
RI71-3	Pan American Petroleum Corp.	509	[8] [9] 9	Trunkline Gas Co. (South Timbalier Block 176 Field, Offshore Louisiana) (Federal Domain).	98,550	6-15-70	[3] 7-16-70	[4] 7-17-70	[10] [11] 19.5	[5] [6] 20.0	

[3] The stated effective date is the first day after expiration of the statutory notice period.
[4] The suspension period is limited to 1 day.
[5] Filed pursuant to Opinion No. 546-A based on the rate levels established in Opinion No. 567.
[6] Pressure base is 15.025 p.s.i.a.
[7] Initial rate as conditioned by temporary certificate issued May 3, 1968, in CI68-958 (Opinion No. 546 area rate is 18 cents).
[8] Applies only to gas well gas produced from the newly discovered reservoirs.
[9] Supporting documents previously filed and accepted (Supp. No. 4-8) established an area rate of 18.5 cents for the gas involved herein.
[10] Rate reduction to 18 cents and 17 cents per Opinion No. 546 filed but the effectiveness has been stayed.
[11] Initial rate as conditioned by temporary certificate issued May 16, 1968, in Docket No. CI68-1233.

Hamilton Brothers Oil Co. (Hamilton) requests that its proposed rate increase be permitted to become effective as of November 1, 1969. Pan American Petroleum Corp. (Pan American) requests an effective date of June 15, 1970, for its proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Hamilton and Pan American's rate filings and such requests are denied.

Hamilton and Pan American are proposing increases pursuant to paragraph (A) of Opinion No. 546-A with respect to gas well gas determined in accordance with Opinion No. 567 to qualify for third vintage prices. Opinion No. 546-A lifted the moratorium imposed in Opinion No. 546 as to sales of offshore gas well gas under contracts entitled to third vintage prices and permitted such producers to file for contractually authorized increases up to the 20-cent area base rate established in Opinion No. 546 for onshore gas. Waiver of the notice requirements are requested by Hamilton and Pan American to permit retroactive effective dates for the subject increases. The increases are from initial rates under temporary certificates which contain Condition (2) provisions prohibiting changes in such rates. Waiver of such condition is requested by Hamilton. Consistent with prior Commission action on similar filings, we conclude that Condition (2) be waived and that Hamilton and Pan American's proposed increases be suspended for one day upon expiration of the statutory notice periods. Thereafter, the proposed rates may be placed in effect subject to refund under the provisions of section 4(e) of the Natural Gas Act pending the outcome of the area rate proceeding instituted in Docket No. AR69-1.

[F.R. Doc. 70-8966; Filed, July 14, 1970; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

AMERICAN BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by American Bancorporation, which is a bank holding company located in Columbus, Ohio, for prior approval by the Board of Governors of the acquisition by applicant of 51.77 percent or more of the voting shares of The Huntsville State Bank, Huntsville, Ohio.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Cleveland.

By order of the Board of Governors, July 8, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-9003; Filed, July 14, 1970; 8:48 a.m.]

BANCOHIO CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Banc-Ohio Corp., which is a bank holding company located in Columbus, Ohio, for prior approval by the Board of Governors of the acquisition by applicant of more than 80 percent of the voting shares of Akron National Bank and Trust Co., Akron, Ohio.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Cleveland.

By order of the Board of Governors, July 8, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-9002; Filed, July 14, 1970; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70-4897]

COLUMBIA GAS SYSTEM, INC., ET AL.

Notice of Proposed Intrasystem Transactions in Furtherance of System's Realignment Program

JULY 9, 1970.

Notice is hereby given that The Columbia Gas System, Inc. (Columbia), 120 East 41st Street, New York, N.Y. 10017, a registered holding company, United Fuel Gas. Co. (United), The Manufacturers Light and Heat Co. (Manufacturers), and Cumberland and Allegheny Gas Co. (C&A), gas utility subsidiary companies of Columbia, and Columbia Gas of West Virginia, Inc. (Columbia of West Virginia), a West Virginia corporation recently organized by Columbia, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, 9, 10, and 12 of the Act and Rules 42, 43, 44, and 45 thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

The proposed transactions are part of an overall program previously initiated by Columbia and certain of its subsidiary companies for the purpose of simplifying corporate structure and regulation of the system's gas rates by realigning the system's natural gas properties in such a manner that all natural gas production, storage, and transmission properties will, to the extent possible, be owned and operated by one corporation subject to the jurisdiction of the Federal Power Commission, and the retail gas distribution facilities owned and operated in each State will be owned by a single company subject to the jurisdiction of the appropriate State commission.

United is engaged in the production, purchase, storage, transmission, distribution, and sale of natural gas at retail in West Virginia. It is also engaged in the production, purchase, and transmission of gas in Kentucky; the purchase of gas in Louisiana; the production and purchase of gas in Virginia; and the sale of natural gas at wholesale in West Virginia, Kentucky, and Ohio. C&A is engaged in the production, purchase, and transmission of natural gas in West Virginia and Maryland, and the sale of natural gas at retail in West Virginia and at wholesale in Maryland. Manufacturers is engaged in the production, purchase, storage, transmission, and sale of natural gas at wholesale in Pennsylvania, Ohio, and West Virginia and the sale of natural gas at retail in West Virginia. It also is engaged in the purchase of small volumes of natural gas in Texas which are transported for Manufacturers by Tennessee Gas Pipeline Co., a nonaffiliate.

At the present time, Columbia of West Virginia has no securities outstanding, has no paid-in capital, and has transacted no business. Pursuant to an Agreement dated May 8, 1964, United, C&A, and Manufacturers propose to transfer to Columbia of West Virginia their assets used for the retail distribution of natural gas in West Virginia. Upon the consummation of the proposed transactions, Columbia of West Virginia will become a wholly owned subsidiary company of Columbia, engaged in the purchase, distribution, and sale of natural gas at retail in the State of West Virginia, and United, C&A, and Manufacturers will commence the sale of natural gas to Columbia of West Virginia at wholesale and will cease to distribute and sell natural gas at retail in the State of West Virginia. In addition, United will assign contracts with three of its wholesale customers in West Virginia to Columbia of West Virginia. The sale by Columbia of West Virginia or natural gas will be within the exclusive jurisdiction of the Public Service Commission of West Virginia.

United, C&A, and Manufacturers will transfer to Columbia of West Virginia accounts receivable, prepaid and deferred items, and other assets which are attributable to the retail distribution operations of United, C&A, and Manufacturers in West Virginia, and the three companies will pay to Columbia of West Virginia for its initial working capital requirements an estimated aggregate amount of $1,030,000. Columbia of West Virginia will assume obligations attributable or primarily attributable to the assets to be transferred, excluding accounts payable and accrued taxes thereon. Columbia of West Virginia will not, however, assume any of the outstanding 6 percent demand notes of United, C&A, or Manufacturers. In payment for the assets acquired, Columbia of West Virginia will assume outstanding promissory notes (notes) of United, C&A, and Manufacturers, and issue to United, C&A, and Manufacturers shares of its common stock, $25 par value.

The notes to be assumed by Columbia of West Virginia will be in an aggregate principal amount equal to 55 percent of the amount of the excess of (1) the aggregate book value of the assets transferred, less related reserves and less the amount to be paid in cash by Columbia of West Virginia for the utility service accounts receivable, over (2) the aggregate amount of the liabilities and obligations (other than notes) of United, C&A, and Manufacturers assumed by Columbia of West Virginia at the closing date. The notes to be assumed by Columbia of West Virginia will have, to the extent practicable, the same terms and will bear interest at the same rates per annum as the notes of United, C&A, and Manufacturers owned by Columbia.

The number of shares of its common stock which Columbia of West Virginia will issue to United, C&A, and Manufacturers will be determined by dividing $25 into the difference between (a) the net amount of the assets to be transferred to Columbia of West Virginia, less the liabilities and obligations assumed and the amount of the utility service accounts receivable and (b) the sum of the aggregate principal amount of notes of United, C&A, and Manufacturers assumed by Columbia of West Virginia. If the proposed transactions had been consummated on October 31, 1969, Columbia of West Virginia would have issued notes in the amount of $26,052,000 and 914,400 shares of its common stock, having an aggregate par value of $22,860,000.

Columbia of West Virginia will record on its books the assets acquired, the related reserves, and the liabilities and obligations assumed by it in the amounts at which they have been carried, as of the closing date, on the books of the other companies. As of October 31, 1969, the book value of the utility plant (at original cost), less related reserves, to be acquired by Columbia of West Virginia was $49,159,000, the total assets to be acquired amounted to $55,752,000, and such total assets less current and other miscellaneous liabilities and deferred credits was $48,912,000.

United, C&A, and Manufacturers will deliver to Columbia the common stock received from Columbia of West Virginia, in exchange for which Columbia will deliver to the three companies, respectively, shares of their respective common stock having an equal aggregate par value, which common stock will then be retired by the three companies.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $33,500 for United, $10,500 for C&A, $20,175 for Manufacturers (including legal fees of $4,675), and $3,200 for Columbia of West Virginia. Included above are charges for services of the system service company, at cost, of $21,500 for United, $8,000 for C&A, and $8,500 for Manufacturers.

The Public Service Commission of West Virginia has authorized the proposed transfer by United, C&A, and Manufacturers to Columbia of West Virginia of certain of their assets which are used in connection with their retail and wholesale distribution operations in the State of West Virginia. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions; however, the Federal Power Commission has jurisdiction over the initiation of wholesale service by United, C&A, and Manufacturers to Columbia of West Virginia.

Notice is further given that any interested person may, not later than July 28, 1970, 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 (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants 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 regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-9010; Filed, July 14, 1970; 8:49 a.m.]

[812-2752]

ENGELHARD HANOVIA, INC.

Notice of Filing of Application for Order Declaring Applicant Not To Be an Investment Company and for Order Granting Temporary Exemption Subject to Conditions

JULY 9, 1970.

Notice is hereby given that Engelhard Hanovia, Inc. (Applicant), 280 Park Avenue, New York, N.Y. 10017, a Delaware corporation, has filed an application pursuant to section 3(b)(2) of the Investment Company Act of 1940 ("Act") for an order pursuant to section 3(b)(2) of the Act finding and declaring that Applicant is primarily engaged, through a controlled company, in a business other than that of investing, reinvesting, owning, holding, or trading in securities, and for an order pursuant to section 6(c) of the Act exempting Applicant, until entry of a final order with respect to the application under section 3(b)(2), from the provisions of section 7 of the Act, subject to certain conditions set forth below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant owns 11,260,006 shares (approximately 44 percent) of the outstanding common stock of Engelhard Minerals & Chemicals Corp. ("EM&C"), and 176,773 shares (approximately 23 percent) of EM&C's outstanding $4.25 Cumulative Convertible Preferred Stock, or approximately 44 percent of EM&C's outstanding voting securities. As of December 31, 1969, Applicant's holdings of EM&C common and preferred stock had a value, determined in accordance with section 2(a)(39) of the Act, of $289,895,000, while Applicant's total assets had an aggregate value of $398,140,000, on the same basis.

At all times prior to December 23, 1969, the Applicant was a closely-held corporation having substantially less than 100 stockholders. Throughout its history, the Applicant has engaged in various manufacturing, marketing, and real estate operations both directly and through subsidiaries. Since 1960, its principal asset has been its shareholdings in EM&C and the predecessor companies of EM&C.

EM&C is principally engaged in the refining and marketing of precious metals, in mining and marketing kaolin and other clays, in marketing a wide variety of ferrous and nonferrous ores, and in mining, processing and marketing nonmetallic minerals.

Prior to December 23, 1969, the Applicant was controlled by Charles W. Engelhard (the Chairman of the Applicant), members of his family, family trusts and related interests, including Hanovia Developments, Inc., a Delaware corporation controlled by Mr. Engelhard. On December 23, 1969, HD Development, Ltd., a Luxembourg corporation ("HDD"), acquired a total of 1,866,130 common shares (approximately 70.06 percent of the presently outstanding common shares) of the Applicant. Mr. Charles W. Engelhard, The Charles Engelhard Foundation and trusts for members of Mr. Engelhard's family own approximately 29.94 percent of the common shares and approximately 83.22 percent of the nonvoting preferred shares of the Applicant. HDD is a holding company, approximately 56 percent of the capital stock of which is controlled by Anglo American Corporation of South Africa, Ltd., a publicly-held mining and finance company incorporated in South Africa (AAC). The remaining 44 percent of the capital stock of HDD is owned by Central Holdings International, Ltd., a privately owned holding company incorporated in Liberia, a majority of whose shares are controlled by Mr. Harry F. Oppenheimer, Chairman of AAC, and by his family.

The management of the Applicant is actively engaged in reorganizing its business so that substantially all of the assets of the Applicant will consist of its holdings of capital stock of EM&C and certain real estate holdings. The management is presently in the process of evaluating various alternatives for reorganizing Applicant's foreign operations, including the liquidation of its foreign subsidiaries or the sale of their assets. The scheduling of such reorganization is uncertain and, by reason of various exchange control, tax and marketing considerations, its consummation may require a considerable amount of time. The management intends to use the proceeds from the disposition of the assets of the Applicant and its subsidiaries pursuant to the Applicant's domestic and foreign reorganization programs principally to reduce or eliminate the Applicant's outstanding short-term indebtedness.

Charles W. Engelhard, the chairman of the Applicant, is also the chairman and Chief Executive Officer of EM&C. A majority of the directors of the Applicant are also directors or officers of EM&C. During the last few years a substantial majority of the time of Applicant's management was concerned with the affairs of EM&C. The remainder of management's time has been devoted primarily to the manufacturing, marketing and real estate operations of Applicant's divisions, subsidiaries and other controlled corporations. Applicant contends that it controls EM&C and that it is primarily engaged, through EM&C, in a business other than that of investing, reinvesting, owning, holding or trading in securities.

Section 3(a)(3) of the Act defines an investment company as, among other things, any company which is engaged in the business of owning or holding securities and owns investment securities having a value exceeding 40 percent of the value of the company's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. The term "investment securities", as used in this definition, includes all securities except, among other things, Government securities and securities issued by majority-owned subsidiaries of the owner which are not investment companies.

Section 3(b)(2) of the Act, among other things, excepts, from the definition of an investment company in section 3(a)(3), any issuer which the Commission finds and by order declares to be primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities, either directly or through controlled companies conducting similar types of businesses.

Section 3(b)(2) also provides that the filing of an application pursuant to section 3(b)(2) by an issuer other than a registered investment company exempts the applicant for a period of 60 days from all provisions of the Act applicable to an investment company as such. The application herein, under section 3(b)(2), was filed April 13, 1970.

Applicant has requested, pursuant to section 6(c) of the Act, an exemption from the prohibitions of section 7 of the Act from the end of such 60-day period until the entry of a final order with respect to its application under section 3(b)(2). Applicant has agreed that the granting of such exemption from section 7 may be made subject to the condition that, during the period of such exemption from section 7, all provisions of the Act, and the rules and regulations of the Commission thereunder, shall apply to Applicant, and to other persons in their transactions and relations with Applicant, pursuant to section 6(e) of the Act, as though Applicant were a registered investment company, with the exception of the following: Sections 7, 8, 10(a), 17(f) and (g), 18, 20(a) and (d), 23, 30, and 31.

Notice is further given that, with respect to Applicant's request for a conditional exemption from Section 7 of the Act, any interested person may, not later

than July 20, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter, accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. In addition, with respect to Applicant's request for an order under section 3(b)(2) of the Act, any interested person may, not later than July 29, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter, accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of any such request shall be served personally or by mail (airmail 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 July 20, 1970, an order disposing of the request for a conditional exemption from section 7 may be issued, and at any time after July 29, 1970, an order disposing of the request for an order under section 3(b)(2) may be issued, in each case, as provided by Rule 0-5 of the rules and regulations under the Act, upon the basis of the information stated in the application, unless a hearing upon the request involved shall be ordered upon the filing of a request for a hearing with respect thereto 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 the 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] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-9008; Filed, July 14, 1970; 8:49 a.m.]

[70-4873]

MISSISSIPPI POWER CO.

Notice of Proposed Lease of Electric Generating Plant Facilities by Electric Utility Subsidiary of Registered Holding Company to Non-Associate Company and Related Transactions

JULY 9, 1970.

Notice is hereby given that Mississippi Power Co. (Mississippi), 2992 West Beach Boulevard, Gulfport, Miss. 39501, an electric utility subsidiary company of The Southern Co., a registered holding company, has filed with this Commission a declaration and certain amendments thereto, designating sections 12(d) and 27(a) of the Public Utility Holding Company Act of 1935 (Act) and Rule 44(a) promulgated thereunder as being applicable to the proposed transactions. All interested persons are referred to the said amended declaration, which is summarized below, for a complete statement of the proposed transactions.

Mississippi was organized under the laws of Maine, and it is engaged in the generation, transmission, and distribution of electricity in the southeastern section of Mississippi, including, among others, the community of Pascagoula in Jackson County. The company's net electric utility plant totaled $186,497,000 as of September 30, 1969, and its operating revenues amounted to $59,853,000 for the 12 months ended that date.

In 1963 Standard Oil Co. (Kyso), formerly Standard Oil Company of Kentucky and now a division of Chevron Oil Co., commenced operation of a petroleum refinery in Pascagoula, requiring reliable supplies of large amounts of electric power and steam. At that time Mississippi supplied Kyso's power requirements of approximately 30,000 kw., and steam needed for the refinery was produced in boilers owned and operated by Kyso. The latter company is Mississippi's largest industrial customer.

In 1966 Kyso enlarged its refinery and, in order to obtain the additional electric power and steam it required, it contracted with General Electric Co. for the installation at its refinery of two gas turbine sets equipped with electric power generators and waste-heat recovery boilers for steam production (Units 1 and 2). The turbines were to be fueled with natural gas supplied by Kyso's two affiliated companies, Chandeleur Pipeline Co. (Chandeleur) and The California Co. (CALCO), and the exhaust gases from the turbines were to be used to produce steam in the waste-heat boilers. Units 1 and 2 had aggregate rated electrical capacity of 27,500 kilowatts.

Pursuant to an agreement dated February 15, 1967, Mississippi took over from Kyso the contracts for installation of Units 1 and 2 at an aggregate cost of approximately $4 million, and now owns and operates these units. Natural gas required to operate these units is purchased by Mississippi from CALCO and Chandeleur. The electric power and steam produced by these units are sold by Mississippi to Kyso and Mississippi is obligated to supply Kyso approximately 22,500 kw. of additional power from its transmission lines plus necessary backup power. Mississippi's total power obligation to Kyso, including the capacity of Units 1 and 2, is 50,000 kw., and the 1967 contract gives Mississippi an option to negotiate with Kyso for installation and operation of any additional gas turbine units at the refinery which Kyso may desire.

In 1970, Kyso determined to install two additional turbine-generator-boiler sets at its refinery with aggregate rated electrical capacity of 32,200 kw. (Units 3 and 4). However, since the terms of the certificate issued by the Federal Power Commission to Chandeleur for the additional gas supply required for these units directed that such gas be delivered solely to Kyso for its own use at the refinery, it would not be possible for Mississippi to acquire these two units and sell the power and steam output thereof to Kyso pursuant to the option in the February 15, 1967, contract.

Accordingly, Mississippi proposes to amend the 1967 contract with Kyso so as to provide that Mississippi will (1) acquire and install Units 3 and 4 in the refinery at an aggregate cost of approximately $5,500,000, (2) lease these units to Kyso at a monthly rental of $39,300 per Unit, and (3) operate them for Kyso at a charge of $7.25 per turbine per hour. Kyso will supply, at no expense to Mississippi, all fuel, water, and other utility services needed for operation of Units of 3 and 4 and Kyso will own the entire electric and steam output of these units. These contractual arrangements are designed to recoup Mississippi's investment and expenses over a period of 20 years and provide a reasonable return on its investment. Following installation of Units 3 and 4, Mississippi's total power supply obligation to Kyso will be reduced from 50,000 kw. to 27,800 kw., plus backup power in each instance.

For the calendar year 1969, Mississippi received from Kyso's refinery electrical revenues of $2,616,303 and steam revenues of $299,209. Mississippi estimates that, in the first year following commencement of commercial operation of Units 3 and 4, it will receive electric power revenues of $1,795,500 and steam revenues of $288,610; and lease payments of $955,130 from rental of Units 3 and 4 to Kyso and fees of $123,340 for operation of these units.

It is estimated that legal fees and other expenses to be paid or incurred by Mississippi in connection with the proposed transactions will not exceed $5,000. The declaration further states that the Mississippi Public Service Commission has authorized the proposed transactions.

Notice is further given that any interested person may, not later than July 23, 1970, 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 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 (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the

Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-9009; Filed, July 14, 1970; 8:49 a.m.]

TARIFF COMMISSION

[TEA-W-27]

WORKERS' PETITION FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Cancellation of Hearing

Notice is hereby given that the public hearing to have been held on July 14, 1970, by the Tariff Commission in connection with investigation TEA-W-27, instituted under section 301(c)(2) of the Trade Expansion Act of 1962 upon petition filed on behalf of the automotive soft trim workers of the American Motors Corp., Wyoming, Mich., has been canceled upon request of the petitioner.

Issued: July 10, 1970.

[SEAL] KENNETH R. MASON, *Secretary.*

[F.R. Doc. 70-8975; Filed, July 14, 1970; 8:46 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary of Labor's Order 14-70]

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Description of Composition and Functions

1. *Purpose.* To describe the composition and the functions of the Advisory Committee on Construction Safety and Health, and to regulate its operations in conformity with the Contract Work Hours and Safety Standards Act, and, to the extent appropriate, in a manner consistent with Secretary's Order No. 38-69.

2. *Authority.* This order is issued pursuant to 5 U.S.C. 301, and section 107(e) of the Contract Work Hours and Safety Standards Act, hereinafter referred to as the Act.

3. *Background.* Public Law 91-54 has amended the Contract Work Hours Standards Act by adding thereto section 107 which requires health and safety protection for laborers and mechanics employed in construction under legislation subject to Reorganization Plan No. 14 of 1950. Section 107 also requires the establishment of an Advisory Committee on Construction Safety and Health to advise the Secretary of Labor in the formulation of construction safety and health standards and other regulations, and with respect to policy matters arising in the administration of the section. An Advisory Committee on Construction Safety and Health (hereinafter referred to as the Advisory Committee) was established in the Department of Labor on December 23, 1969.

4. *Advisory Committee on Construction Safety and Health*—a. *Membership.* The Advisory Committee is a continuing advisory body consisting of nine members appointed by the Secretary of Labor, one of whom is appointed by him as chairman. Three members are persons representative of contractors to whom section 107 of the Act applies; three members are persons representative of employees primarily in the building trades and construction industry engaged in carrying out contracts to which section 107 applies; and three members are public representatives selected on the basis of their professional and technical competence and experience in the construction health and safety field.

b. *Term of membership.* (1) Each member of the Advisory Committee shall serve for a period of 2 years, unless he becomes unable to serve, or resigns, or ceases to be qualified to serve on the committee because he no longer meets the representational requirements of section 107(e) of the Act, or is removed by the Secretary of Labor in the interests of the administration of the Act. In such cases the Secretary may appoint a new member to serve for the remainder of the unexpired term, who shall be representative of the same interest.

(2) To provide for continuity in the membership of the committee the terms of the present members of the committee shall extend to June 30, 1972, and thereafter the Secretary may appoint two public members, one contractor member and one employee member for a 1-year term commencing July 1, 1972, and one public member, two employee members and two contractor members for a 2-year term commencing on such date. Thereafter, at the expiration of such terms, members shall be appointed or reappointed for a regular term of 2 years. Any vacancies shall be filled as soon as practicable.

c. *Functions.* In accordance with such rules as may be prescribed under the Act, the Advisory Committee shall advise the Secretary of Labor, the Assistant Secretary for Wage and Labor Standards, and any duly authorized representative of either in the formulation of construction safety and health standards and other regulations, and with respect to policy matters arising in the administration of section 107 of the Act.

d. *Meetings.* (1) Meetings shall be held by the Advisory Committee at the call of, or with the advance approval of, the Secretary of Labor, the Assistant Secretary for Wage and Labor Standards, or a duly authorized representative of either, and with agenda formulated or approved in advance by the person calling or approving the meeting. No particular form for the agenda is prescribed.

(2) Every meeting shall be conducted in the presence of a duly authorized full-time salaried officer or employee of the Department of Labor.

(3) The Advisory Committee shall maintain minutes of each meeting which shall contain, as a minimum, a record of persons present, a description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the committee. The accuracy of all minutes shall be certified to by a full-time salaried officer or employee of the Department of Labor present during the proceedings recorded.

(4) The Advisory Committee shall perform its functions in a manner consistent with the antitrust laws.

(5) A copy of the agenda, minutes and pertinent papers and reports shall be forwarded to the Office of the Deputy Under Secretary of Labor for his committee files.

e. *Quorum.* A majority of the members of the Advisory Committee shall constitute a quorum, provided that at least one public member, one member representative of contractors, and one member representative of employees are present.

5. *Assistance to the Advisory Committee.* a. The Assistant Secretary for Wage and Labor Standards or his duly authorized representative shall provide to the Advisory Committee all assistance other than that provided by the Solicitor of Labor under paragraph (b) of this section, and may appoint such special advisory and technical experts or consultants as may be necessary to carry out the functions of the Advisory Committee.

b. The Solicitor of Labor shall be responsible for providing legal assistance to the Advisory Committee in connection with its authorized activities.

6. *Relation of officers and employees of the Department of Labor to the Advisory Committee.* Except as otherwise provided in this order, officers and employees of the Department of Labor shall have such powers and duties in connection with the operation of the Advisory Committee as are entrusted to them by Secretary's Order No. 38-69.

7. *Effective date.* This order is effective immediately.

Signed at Washington, D.C., this 7th day of July 1970.

J. D. HODGSON, *Secretary of Labor.*

[F.R. Doc. 70-9006; Filed, July 14, 1970; 8:49 a.m.]

Wage and Hour Division

CERTIFICATES AUTHORIZING 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. 595 (31 F.R. 12981) 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 the 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 Manufacturing Co., Spencer, Iowa; 5-18-70 to 5-17-71; 10 learners (men's jeans).

Aynor Manufacturing Co., Inc., Aynor, S.C.; 5-11-70 to 5-10-71 (ladies' and children's capris, knee knockers, jamaicas, bermudas, and shorts).

Bee & Gee Pants Co., Inc., Dickson City, Pa.; 5-15-70 to 5-14-71 (men's and boys' trousers).

Michael Berkowitz Co., Inc., Confluence, Pa.; 5-29-70 to 5-28-71 (surgeon's caps).

Blackwelder Manufacturing Co., Inc., Mocksville, N.C.; 5-25-70 to 5-24-71 (men's and boys' shirts).

Blue Bell, Inc., Seminole, Okla.; 5-17-70 to 5-16-71 (men's and boys' jeans).

Brunswick Manufacturing Co., Brunswick, Ga.; 5-20-70 to 5-19-71 (ladies' and children's car coats and jackets).

Decaturville Sportswear Co., Decaturville, Tenn.; 5-30-70 to 5-29-71 (ladies' capris, jamaicas, and culottes).

Fair Play Manufacturing Co., Fair Play, S.C.; 5-21-70 to 5-20-71; 10 learners (ladies' dresses and blouses).

Freeland Sportswear Co., Inc., Freeland, Pa.; 5-27-70 to 5-26-71 (men's jackets).

G-B Manufacturers, Inc., Crane, Mo.; 6-1-70 to 5-31-71 (men's trousers).

Hamburg Shirt Corp., Hamburg, Ark.; 5-26-70 to 5-25-71 (boys' shirts).

Imperial Reading Corp., La Follette, Tenn.; 5-26-70 to 5-25-71 (men's shirts).

Jimmy-Richard Co., Hawkinsville, Ga.; 6-1-70 to 5-31-71; 10 learners (men's and boys' jackets).

Kellwood Co., Oxford, Miss.; 5-18-70 to 5-17-71 (boys' semidress pants and walking shorts).

Lavonia Industries, Inc., Lavonia, Ga.; 5-18-70 to 5-17-71 (women's dresses).

Lyons Manufacturing Co., Inc., Lyons, Ga.; 5-22-70 to 5-21-71 (men's and boys' shirts and ladies' blouses).

Martin Manufacturing Co., Inc., Ramer, Tenn.; 5-19-70 to 5-18-71 (men's shirts).

The Newton Co., Newton, Miss.; 5-17-70 to 5-16-71 (men's and ladies' slacks).

Pelham Industrial Garment Manufacturing Co., Pelham, Ga.; 5-26-70 to 5-25-71; 10 learners (men's work clothing).

Putnam Manufacturing Co., Cookeville, Tenn.; 5-16-70 to 5-15-71 (men's work pants).

Raritan Sportswear Co., Perth Amboy, N.J.; 5-17-70 to 5-16-71; 5 learners (boys' and men's jackets).

Reed Manufacturing Co., Tupelo, Miss.; 5-22-70 to 5-21-71 (boys' dungarees and men's shirts and pants).

Fred Ronald Manufacturing Co., Inc., Parsons, Kans.; 5-20-70 to 5-19-71 (boys' slacks).

Saf-T-Bak, Inc., Altoona, Pa.; 5-11-70 to 5-10-71 (men's, women's, and children's hunting and fishing clothing).

Scranton Pants Manufacturing Co., Scranton, Pa.; 5-23-70 to 5-22-71 (men's pants).

Spartans Industries, Inc., Spencer, Tenn.; 5-11-70 to 5-10-71 (men's pants and shirts).

Sweet-Orr & Co., Inc., Dawsonville, Ga.; 5-28-70 to 5-27-71 (boys' shirts).

J. M. Wood Manufacturing Co., Inc., Waco, Tex.; 5-18-70 to 5-17-71 (men's and boys' jeans and men's work pants and shirts).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

N. Churchill Manufacturing Co., Inc., Centralia, Wash.; 5-25-70 to 5-24-71; 10 learners (work gloves).

Indianapolis Glove Co., Inc., Glenwood, Ark.; 5-11-70 to 5-10-71 (work gloves).

Jasper Glove Co., Inc., Jasper, Ind.; 5-28-70 to 5-27-71; 10 learners (leather and cotton work gloves).

Wells Lamont Corp., Philadelphia, Miss.; 5-24-70 to 5-23-71 (work gloves).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Casa Grande Mills, Casa Grande, Ariz.; 5-18-70 to 5-17-71; 5 percent of the total number of factory production workers for normal labor turnover purposes (infants' and girls' knitted underwear).

Louis Gallet, Inc., Uniontown, Pa.; 4-27-70 to 4-26-71; 5 learners for normal labor turnover purposes (men's shirts and sweaters).

Honaker Mills, Honaker, Va.; 5-18-70 to 5-17-71; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' sleepwear).

Indiana Fabrics, Inc., Knox, Ind.; 6-1-70 to 5-31-71; 5 learners for normal labor turnover purposes (knitted terry cloth).

The following learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiration date, learner rates, occupation, learning periods and the number of learners authorized to be employed, are indicated.

Carlita Corp., Hormigueros, P.R.; 4-8-70 to 4-7-71; 12 learners for normal labor turnover purposes in the occupation of machine stitching, for a learning period of 480 hours at the rates of $1.17 an hour for the first 240 hours and $1.30 an hour for the remaining 240 hours (ladies' and men's sport and dress gloves).

The following student-worker certificates were 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 certificates issued under Part 527 are as indicated below.

Garfield Business Institute, Beaver Falls, Pa.; 5-29-70 to 5-28-71; authorizing the employment of three student-workers in the clerical industry in the occupations of secretary, stenographer, and general clerk 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.

New Castle Business College, New Castle, Pa.; 5-29-70 to 5-28-71; authorizing the employment of 30 student-workers in the clerical industry in the occupations of secretary, stenographer, and general clerk 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 certificates were issued upon the applicant's representations and supporting materials fulfilling 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. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 1st day of July 1970.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 70-9007; Filed, July 14, 1970; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 10, 1970.

Protests to the granting of an application must be prepared in accordance with § 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.

LONG-AND-SHORT HAUL

FSA No. 41994—*Cement and related articles to Dickinson and Mandan, N. Dak.* Filed by Burlington Northern, Inc. (No. 1), for itself and interested rail carriers. Rates on cement, hydraulic, masonry, mortar, natural or Portland, in bulk, in carloads, as described in the application, from Montana City and Trident, Mont., to Dickinson and Mandan, N. Dak.

Grounds for relief—Market competition.

FSA No. 41995—*Cement and related articles to Dickinson, N. Dak.* Filed by Burlington Northern, Inc. (No. 2), for itself and interested rail carriers. Rates on cement, hydraulic, masonry, mortar, natural, Portland or tile grout, in bulk, in

carloads, as described in the application, from Steelton (Duluth), Minn., to Dickinson, N. Dak.

Grounds for relief—Market competition.

FSA No. 41996—*Alloys or metals from East Liverpool, Ohio.* Filed by Southwestern Freight Bureau, agent (No. B–159), for interested rail carriers. Rates on alloys or metals, in carloads, as described in the application, from East Liverpool, Ohio, to Cypress, Tex.

Grounds for relief—Market competition.

Tariff—Supplement 35 to Southwestern Freight Bureau, agent, tariff ICC 4875.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70–8998; Filed, July 14, 1970; 8:48 a.m.]

[No. MC–124211 (Sub-No. 119)]

HILT TRUCK LINES, INC.

Petition for Interpretation of Authority and Other Relief

JULY 10, 1970.

Petitioner: Hilt Truck Lines, Inc., Lincoln, Nebr. Petitioner's representatives: Duane W. Acklie, and Frederick J. Coffman, 521 South 14th Street, Post Office Box 806, Lincoln, Nebr. 68501. Hilt Truck Lines, Inc., holds certificate No. MC–124211 (Sub-No. 119) which authorizes the transportation of (1) junk and scrap materials, except in bulk, between points in Nebraska, on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Florida, Georgia, Louisiana, Maine, Mississippi, Nebraska, New Hampshire, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Vermont, and (2) food products, grain products, and flour, except frozen food and commodities in bulk, between Lincoln, Nebr., on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas.

By petition filed April 16, 1969, petitioner seeks an interpretation that the commodity description "food products", as contained in the above described authority includes "fresh and processed meats". On May 22, 1969, Division 1 denied the petition and subsequently, on September 25, 1969, Appellate Division 1 denied reconsideration.

Upon consideration of the record in the above-entitled proceeding and the filing of a complaint in Civil Action No. 3–836–W in the U.S. District Court for the Southern District of Iowa, Western Division, entitled Hilt Truck Lines, Inc. v. United States et al., Division 1, acting as an Appellate Division, (a) vacated and set aside the orders of May 22 and September 25, 1969, (b) accepted the petition for interpretation and other relief filed on April 16, 1969, for filing, and (c) invited petitioner and all interested persons to file statements expressing their views on or before August 28, 1970, with respect to the following questions: (1) Whether the commodity description "food products," as contained in the certificate issued in No. MC–124211 (Sub-No. 119) on September 9, 1968, should be interpreted as embracing and authorizing the transportation of "fresh and processed meats," and (2) if not so interpreted, whether said certificate should be amended to include such commodities.

Any interested person desiring to participate in this proceeding shall file an original and seven copies of his written representations, views, and arguments in support of, or against the heretofore discussed petition of April 16, 1969, on or before August 28, 1970.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70–9000; Filed, July 14, 1970; 8:48 a.m.]

[Notice 12]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 10, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 551) (cancels Deviation No. 129), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed June 29, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Grand Rapids, Mich., over Interstate Highway 196 to junction Interstate Highway 96, thence over Interstate Highway 96 to junction Interstate Highway 696, thence over Interstate Highway 696 to Detroit, Mich.; (2) from Lansing, Mich., over Interstate Highway 496 in a westerly direction to junction Interstate Highway 96; (3) from Lansing, Mich., over Interstate Highway 496 in a southeasterly direction to junction Interstate Highway 96, just north of Holt, Mich.; (4) from Brighton, Mich., over unnumbered highway (formerly U.S. Highway 16) in a westerly direction to junction Interstate Highway 96; and (5) from Brighton, Mich., over unnumbered highway (formerly U.S. Highway 16) in an easterly direction to junction Interstate Highway 96, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Grand Rapids, Mich., over unnumbered highway to junction Business Route Interstate Highway 96, thence over Business Route Interstate Highway 96 to Lansing, Mich., thence over Michigan Highway 43 via Williamston and Fowlerville, Mich., to junction Business Route Interstate Highway 96, thence over Business Route Interstate Highway 96 via Howell to junction unnumbered highway, thence over unnumbered highway, thence over unnumbered highway via Brighton and Novi, to junction Business Route Interstate Highway 96, thence over Business Route Interstate Highway 96 to Detroit, Mich., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70–8993; Filed, July 14, 1970; 8:48 a.m.]

[Notice 24]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 10, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 29120 (Deviation No. 10), ALL AMERICAN TRANSPORT INC., 1500 Industrial Avenue, Post Office Box 769, Sioux Falls, S. Dak. 57104, filed July 2, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows:

From junction U.S. Highway 31E and U.S. Highway 150, at or near Louisville, Ky., over U.S. Highway 150 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction Interstate Highway 29, thence over Interstate Highway 29 to junction U.S. Highway 59, thence over U.S. Highway 59 to junction U.S. Highway 136, thence over U.S. Highway 136 to junction U.S. Highway 75, thence over U.S. Highway 75 to junction U.S. Highway 73 at or near Omaha, Nebr., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Chicago, Ill., over U.S. Highway 41 to Kentland, Ind., thence over U.S. Highway 52 to Indianapolis, Ind., thence over U.S. Highway 31 to junction Alternate U.S. Highway 31 via Seymour, Ind., to junction U.S. Highway 31, thence over U.S. Highway 31 to Sellersburg, Ind., thence over U.S. Highway 31E to Louisville, Ky.; (2) from Chicago, Ill., over Alternate U.S. Highway 30 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction unnumbered highway, thence over unnumbered highway via Montour, Iowa, to junction U.S. Highway 30, thence over U.S. Highway 30 to junction U.S. unnumbered highway southeast of Marshalltown, Iowa, thence over unnumbered highway to Marshalltown, Iowa, thence over Iowa Highway 330 to junction U.S. Highway 30, thence over U.S. Highway 30 to Denison, Iowa; (3) from Missouri Valley, Iowa, over U.S. Highway 30 to Denison, Iowa; and (4) from Missouri Valley, Iowa, over U.S. Highway 75 to Omaha, Nebr., and return over the same routes.

No. MC 65580 (Deviation No. 11), MUSHROOM TRANSPORTATION COMPANY, INC., 845 East Hunting Park Avenue, Philadelphia, Pa. 19124, filed June 30, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between junction New York Highway 17 and U.S. Highway 219 west of Olean, N.Y., and Bradford, Pa., over U.S. Highway 219, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Olean, N.Y., over New York Highway 17 to junction U.S. Highway 62, thence over U.S. Highway 62 to Warren, Pa., thence over Pennsylvania Highway 59 to Marshburg, Pa., thence over Pennsylvania Highway 770 (formerly an unnumbered highway and Pennsylvania Highway 59), to Custer City, Pa., thence over U.S. Highway 219 to Bradford, Pa., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-8994; Filed, July 14, 1970; 8:48 a.m.]

[Notice 64]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 10, 1970.

The following publications are governed by the new § 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 134082 (Sub-No. 2), filed June 29, 1970. Applicant: K. H. TRANSPORT, INC., 3330 Rosemary Lane, Ellicott City, Md. 21043. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Suite 634, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (excluding commodities in bulk), from the plantsite and warehouse facilities of Stouffer Foods Corp., located at Cleveland and Solon, Ohio, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Vermont, Rhode Island, those points in Pennsylvania east of U.S. Highway 15 and Washington, D.C., restricted to traffic originating at the plantsites and warehouse facilities of Stouffer Foods Corp. at Cleveland and Solon, Ohio, and destined to the above-named destinations. NOTE: Applicant now holds contract carrier authority under its permit No. MC 128763 and subs, therefore dual operations may be involved.

HEARING: July 28, 1970, at the Offices of the Interstate Commerce Commission, Washington, D.C., before an examiner to be later designated.

No. MC 102616 (Sub-No. 853) (Republication), filed January 9, 1970, published in the FEDERAL REGISTER issue of February 19, 1970, and republished, this issue. Applicant: COASTAL TANK LINES, INC., Post Office Box 7211, 215 East Waterloo Road, Akron, Ohio 44306. Applicant's representative: Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated June 19, 1970, and served July 6, 1970, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of lubricating oils (except animal and vegetable oils), in bulk, in tank vehicles, from Cleveland and Lima, Ohio, to points in Knox, Gibson, Pike, Warrick, Vanderburgh, Spencer, Dubois, and Posey Counties, Ind.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief, setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 113170 (Sub-No. 5) (Republication), filed December 20, 1970, published in the FEDERAL REGISTER issues of January 11, 1968, and September 26, 1968, and republished this issue. Applicant: PEET FRATE LINE, INC., 1315 South Route 47, Woodstock, Ill. 60098. Applicant's representative: Beverley S. Sims, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006. A decision and order of the Commission, Review Board Number 1, dated June 26, 1970, and served July 6, 1970, upon consideration of the application, as amended, and the record in the above-entitled proceeding, including the report and recommended order of the examiner, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of 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) between points in Illinois within 50 miles of Marengo, Ill., including Marengo; (2) between points in Illinois within 50 miles of Marengo, Ill., including Marengo, on the one hand, and, on the other, Chicago, Ill.; and (3) between Chicago, Ill., and points in Illinois within 50 miles of Marengo, Ill., including Marengo, on the one hand, and, on the other, Palmyra, Wis., points in Walworth County, Wis., and points in those portions of Racine and Kenosha Counties, Wis., on and west of U.S. Highway 45. That because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the appendix to this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate of public convenience and necessity in this proceeding will be withheld for a period of 30 days

from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 118959 (Sub-No. 49) (Republication), filed August 1, 1969, published in the FEDERAL REGISTER issue of August 28, 1969, and republished this issue. Applicant: JERRY LIPPS, INC., 130 South Frederick, Cape Girardeau, Mo. 63701. Applicant's representative: David Axelrod, 39 South La Salle Street, Chicago, Ill. 60603. The modified procedure has been followed in this proceeding and a corrected order of the Commission, Operating Rights Board, dated May 28, 1970, and served July 7, 1970, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of cellulose materials and products, paper and paper products, and materials, equipment, and supplies used in the production and distribution of the above described commodities (except in each instance, commodities in bulk), between the plantsite of Charmin Paper Products Co., near Neeley's Landing, Mo., on the one hand, and, on the other, points in Kansas, Iowa, Illinois (except East St. Louis and points in its commercial zone and points south of U.S. Highway 460), Indiana, Kentucky, Tennessee (except Memphis, Tenn., and points in its commercial zone), Georgia, Florida, Alabama, Mississippi, Arkansas (except Blytheville, Ark., and points in its commercial zone, and points in Arkansas within the Memphis, Tenn. commercial zone), Louisiana, Texas, Oklahoma, New Mexico, Arizona, and California. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief, setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 105045 (Sub-No. 13) (Notice of Filing of Petition for Waiver of Rule 1.101(e), for Reconsideration, and for Modification of Certificate), filed June 22, 1970. Petitioner: R. L. JEFFRIES TRUCKING CO., INC., Evansville, Ind. Petitioner's representative: Paul F. Sullivan, Suite 701, Washington Building, 15th and New York Avenue NW., Washington, D.C. 20005. Petitioner is authorized in No. MC 105045 (Sub-No. 13), to transport: *Heavy machinery and contractors' equipment,* between points in West Virginia. *Machinery, materials, supplies, and equipment* incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in West Virginia, Kentucky, Pennsylvania, Ohio, and Virginia. *Heavy machinery and equipment,* which because of size or weight requires special handling and use of special equipment, between points in Kanawha, Boone, Lincoln, Putnam, Jackson, Roane, Fayette, Greenbrier, and Clay Counties, W. Va., on the one hand, and, on the other, points in West Virginia, Indiana, Kentucky, Maryland, Ohio, Pennsylvania, Tennessee, Virginia, and the District of Columbia. Between points in West Virginia, on the one hand, and, on the other, points in that part of Ohio on or east of a line beginning at the Michigan-Ohio State line and extending along U.S. Highway 25 to junction unnumbered highway (formerly portion U.S. Highway 25), near North Baltimore, Ohio;

Thence along unnumbered highway through Van Buren, North Findlay, Bluffton, Beaverdam, Lima, Cridersville, Wapakoneta, Botkins, Anna, Sidney, Piqua, and Troy, Ohio, to junction U.S. Highway 25, thence along U.S. Highway 25 to junction unnumbered highway (formerly portion U.S. Highway 25), near West Carrollton, Ohio, thence along unnumbered highway through Miamisburg, Franklin, Monroe, and Maud, Ohio, to junction U.S. Highway 42 (formerly portion U.S. Highway 25), at or near Sharonville, Ohio, thence along U.S. Highway 42 to the Ohio-Kentucky State line; those in that part of Kentucky on or east of a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 25 to junction U.S. Highway 421 (formerly portion U.S. Highway 25), thence along U.S. Highway 421 to junction unnumbered highway (formerly portion U.S. Highway 25), south of Kingston, Ky., thence along unnumbered highway to junction U.S. Highway 25, at or near Berea, Ky., thence along U.S. Highway 25 to junction Kentucky Highway 490 (formerly portion U.S. Highway 25), thence along Kentucky Highway 490 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 25W, thence along U.S. Highway 25W to the Kentucky-Tennessee State line; and those in those parts of Pennsylvania, Maryland, and Virginia on or west of U.S. Highway 11. By the instant petition, petitioner respectfully requests that the descriptions *"heavy machinery"* and *"heavy machinery and equipment,* which because of size or weight requires special handling and use of special equipment" be revised to read in both instances as follows: "Commodities the transportation of which because of size or weight require special handling or special equipment and related contractors' materials, supplies, and equipment when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special handling or special equipment." Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 99276 (Sub-No. 2), filed June 23, 1970. Applicant: W. F. BUCKLEY COMPANY, INC., 50 Midway Street, Boston, Mass. 02210. Applicant's representative: John F. Curley, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, between points in Massachusetts. NOTE: Applicant states that it holds a certificate of registration which authorizes the operation sought herein in MC 99276 (Sub-No. 1). It further states it intends to join sought after authority at Cambridge, Somerville, and Boston, Mass., if Commission approves the applicant's purchase of authority of Active Trucking, Inc., a multiple state authority. This is a matter directly related to MC-F-10870, published in the FEDERAL REGISTER issue of July 1, 1970. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-10875. Authority sought for control and merger by LYNDEN TRANSFER, INC., Post Office Box 433, Lynden, Wash. 98264, of the operating rights and property of MILKY WAY, INC., Post Office Box 433, Lynden, Wash. 98264, and for acquisition by HENRY JANSEN, 620 Main Street, Lynden, Wash. 98264, of control of such rights and property through the transaction. Applicants' attorney: Edward G. Lowry, III, Bogle, Gates, Dobrin, Wakefield & Long, 14th Floor Norton Building, Seattle, Wash. 98104. Operating rights sought to be controlled and merged: *Milk, and milk products,* as a *common carrier,* over irregular routes, between points in Washington, on the one hand, and, on the other, points in Oregon. LYNDEN TRANSFER, INC., is authorized to operate as a *common carrier* in Washington, Alaska, Idaho, and Oregon. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10877. Authority sought for purchase by GRAY MOVING & STORAGE, INC., 1290 South Pearl Street, Denver, Colo. 80210, of a portion of the operating rights of THOMAS C. WARNER, doing business as COLE TRANSFER AND STORAGE, 1478 Marilyn Drive, Ogden, Utah 84403, and for acquisition by David R. Gray also of Denver, Colo., of control of such rights through the purchase. Applicants' attorney and representative: Marion F. Jones, 420 Denver Club Building, Denver, Colo. 80202, and Blaine V. Glasmann, Jr., First Security Bank Building, Ogden, Utah 84401. Operating rights sought to be transferred: *Household goods,* as a *common carrier,* over irregular routes, between points in a defined area of Utah, on the one hand and on the other, points in California, Colorado, Wyoming, Montana, Utah, and portions of Nevada and Idaho. Vendee is authorized to operate as a *common carrier* in Colorado, Missouri, Nebraska, Kansas, Iowa, Oklahoma, South Dakota, Wyoming, Wisconsin, Illinois, Minnesota, Michigan, Texas, Arkansas, Kentucky, Tennessee, Pennsylvania, New York, New Jersey, Connecticut, Massachusetts, Virginia, West Virginia, Maryland, Delaware, District of Columbia, New Mexico, and Utah. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10878. Authority sought for control by SMITH'S TRANSFER CORPORATION, Post Office Box 1000, Staunton, Va. 24401, of BELL LINES, INC., 6414 McCorkle Avenue SE., Charleston, W. Va. 25304, and for acquisition by R. R. SMITH and R. P. HARRISON, also of Staunton, Va., of control of such rights and property through the transaction. Applicants' attorney: David G. Macdonald, 1000 16th Street NW., Washington, D.C. 20036. Operating rights sought to be controlled: *General commodities,* excepting, among others, dangerous explosives, commodities in bulk, but not excepting, household goods, over regular routes, as a *common carrier,* between West Virginia, Virginia, North Carolina, South Carolina, Tennessee, Pennsylvania, Ohio, Indiana, and Michigan, radiating from Charleston, W. Va., to Bristol and Knoxville, Tenn., Winston-Salem and Charlotte, N.C., and Columbia, S.C., Cincinnati, Ohio, and Indianapolis, Ind., Columbus, Toledo, Ohio, and Detroit, Mich., Wheeling and Fairmont, W. Va., and Pittsburgh, Pa., and Parkersburg, W. Va., and Akron, and Cleveland, Ohio, also holds irregular route authority to transport general commodities from, to and between points in the same States, and authority to transport, *steel armor plate,* from Lexington, Va., to Dahlgren, Va., *malt beverages,* from Huntington, W. Va., to Bluefield, Va., *empty malt beverage containers,* from Bluefield, Va., to Huntington, W. Va., *agricultural commodities and mine supplies,* between points in Mercer and McDowell Counties, W. Va., and Tazewell, Bland, and Buchanan Counties, Va., on the one hand, and, on the other, points in the described area of West Virginia, and Virginia. SMITH'S TRANSFER CORPORATION, is authorized to operate as a *common carrier* in Virginia, Kentucky, West Virginia, South Carolina, North Carolina, New York, Pennsylvania, New Jersey, Maryland, District of Columbia, Massachusetts, Rhode Island, Connecticut, Delaware, Maine, New Hampshire, Vermont, Indiana, Tennessee, Georgia, Illinois, Ohio, Missouri, Minnesota, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10879. Authority sought for control and merger by HOLLAND MOTOR EXPRESS, INC., 1 West Fifth Street, Holland, Mich. 49423, of the operating rights and property of CHICAGO TRI-CITIES MOTOR FREIGHT, INC., Sixth and River, Rock Island, Ill. 61201, and for acquisition by CHARLES, ROBERT, GERALD, LORETTA, ELAINE, and SALLY COOPER all of Holland, Mich., of control of such rights and property through the transaction. Applicants' representative: One Vandenberg Center, Grand Rapids, Mich. 49502. Operating rights sought to be controlled and merged: *General commodities,* excepting, among others, dangerous explosives, household goods and commodities in bulk, as a *common carrier:* (1) Over regular routes, between Chicago, Ill., and Davenport, Iowa, via Mendota and Walnut, Ill. (also via Dover, Geneseo as an alternate route for operating convenience) serving various intermediate and off-route points; and (2) over irregular routes, between Davenport and Bettendorf, Iowa, and Rock Island, Moline, East Moline, Silvis, Carbon Cliff, and Milan, Ill. HOLLAND MOTOR EXPRESS, INC., is authorized to operate in Michigan, Indiana, Illinois, Kentucky, and Ohio. Application has not been filed for temporary authority under section 210a(b). NOTE: Finance Docket No. 26248 is a matter directly related.

No. MC–F–10880. Authority sought for purchase by RELIABLE TRUCK LINES, INC., 402 Maplewood Avenue, Nashville, Tenn. 37210, of the operating rights of ROBERT F. COATES, doing business as COATES MOTOR EXPRESS, 2118 Holmes Avenue, Huntsville, Ala. 35805, and for acquisition by GARLAND PARSLEY, 4201 Jackson Highway, Sheffield, Ala. 35660, of control of such rights through the purchase. Applicant's attorney: Clarence Evans, Third National Bank Building, Nashville, Tenn. 37219. Operating rights sought to be transferred: Under a certificate of registration, in No. MC–96951 Sub–1, covering the transportation of commodities generally, as a common carrier, in interstate commerce, solely within the State of Alabama. Vendee is authorized to operate as a *common carrier* in Alabama and Tennessee. Application has been filed for temporary authority under section 210a(b). NOTE: No. MC–128944 Sub-7, is a matter directly related.

No. MC–F–10881. Authority sought for purchase by BRINGWALD TRANSFER, INC., Post Office Box 685, Vincennes, Ind. 47591, of the operating rights of DUMES TRUCKING COMPANY, INC., American National Bank Building, Post Office Box 323, Vincennes, Ind. 47591, and for acquisition by LEO W. BRINGWALD and MILDRED M. BRINGWALD, both also of 1622 Ritterskamp, Vincennes, Ind. 47591, of control of such rights through the purchase. Applicants' attorney: Robert W. Loser, 1001 Chamber of Commerce Building, Indianapolis, Ind. 46204. Operating rights sought to be transferred: *Such commodities* as are dealt in by junk and salvage companies, as a *contract carrier* over irregular routes, from Vincennes, Ind., to Chicago and East St. Louis, Ill., Louisville, Ky., and St. Louis, Mo.; *strawboard,* from Miamisburg, Ohio, and Chicago and Mount Carmel, Ill., to Vincennes, Ind.; *scrap paper,* from St. Louis, Mo., Miamisburg, Ohio, Louisville, Ky., Chicago, Ill., and Memphis and Nashville, Tenn., to Vincennes, Ind., from Murray, Ky., to Vincennes, Ind., from Evansville, Ind., to Mount Carmel, Ill., from the described territory to Vincennes; from points in Missouri, to the plantsite of Packaging Corporation of America at Vincennes, Ind., with restriction; *lumber,* from Memphis, Tenn., to Vincennes, Ind., from Grayville and Karnak, Ill., to Vincennes;

Sulphate of aluminum, from East St. Louis, Ill., to Vincennes, Ind.; *rosin and rosin sizing,* in drums, from Kalamazoo, Mich., to Vincennes, Ind., *strawboard, corrugated paper, chipboard, and fillers,* from Vincennes, Ind., to St. Louis, Mo., certain specified points in Ohio, Kentucky, Michigan, Illinois, and Tennessee; *paper* (new, old, scrap, and waste,) and *such commodities as are dealt in by junk and salvage dealers,* from Cincinnati, Ohio, to Vincennes, Ind.; *fiberboard and materials and supplies* used in packaging eggs, from Vincennes, Ind., to St. Louis, Mo., certain specified points in Ohio, Kentucky, Michigan, Illinois and Tennessee; *empty rosin drums,* from Vincennes, Ind., to Kalamazoo, Mich.; *fiberboard,* from Quincy, Ill., to Vincennes; *sizing,* from East St. Louis, Ill., St. Louis and Maplewood, Mo., to Vincennes; *skids,* from St. Louis, Mo., certain specified points in Ohio, Kentucky, Illinois, Michigan, and Tennessee to Vincennes, Ind.; and paper and paper products, from the plantsite of Packaging Corporation of America at Vincennes, Ind., to points in Missouri, with restriction. Vendee is authorized to operate as a *common carrier* in Indiana, Ohio, Kentucky, Missouri, and Illinois. Application has been filed for temporary authority under section 210a(b). NOTE: No. MC–15945 Sub-10 is a matter directly related.

No. MC–F–10882. Authority sought for purchase by ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502, of the operating rights of CANAL MOTOR SERVICE, INC., 384 West 15th Place, Chicago, Ill. 60411. Applicants' attorneys: Carl Steiner, 39 South La Salle Street, Chicago, Ill. 60603 and Rex Eames, 900 Guardian Building, Detroit, Mich. 48226. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC–12411 Sub-1, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Illinois. Vendee is authorized to operate

as a *common carrier* in Michigan, Illinois, Ohio, Indiana, and Kentucky. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10883. Authority sought for purchase by R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville, Ind., of a portion of the operating rights of SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., Atlanta, Ga. 30301, and for acquisition by C. R. JEFFRIES and JEAN M. JEFFRIES, both also of Evansville, Ind., of control of such rights through the purchase. Applicants' attorneys: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101; Guy H. Postell, 3384 Peachtree Road NE., Atlanta, Ga. 30326; and K. Edward Wolcott, Post Office Box 916, Atlanta, Ga. 30301. Operating rights sought to be transferred: *Commodities,* the transportation of which, because of their size and weight require the use of special equipment, as a *common carrier* over irregular routes, between points in Indiana, on the one hand, and, on the other, points in Ohio; and *self-propelled articles* each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Indiana, on the one hand, and, on the other, points in Ohio, with restriction. Vendee is authorized to operate as a *common carrier* in Indiana, Illinois, Kentucky, Alabama, Arkansas, Florida, Georgia, Iowa, Kansas, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, West Virginia, Wisconsin, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Minnesota, Montana, New Mexico, North Carolina, South Carolina, North Dakota, Wyoming, Colorado, South Dakota, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10884. Authority sought for control by A & B GARMENT DELIVERY, 2645 Nevin Avenue, Los Angeles, Calif. 90011, of TRI-STATE TRANSPORTATION CO., INC., West and Railroad Avenues, Vineland, N.J. 08360, and for acquisition by NELSON RESOURCE CORP., 441 Ninth Avenue, New York, N.Y. 10001, of control of TRI-STATE TRANSPORTATION CO., INC., through the acquisition by A & B GARMENT DELIVERY. Applicants' attorney and representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102 and Donald Kaplan, Post Office Box 160, Vineland, N.J. 08360. Operating rights sought to be controlled: General commodities, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Woodbine, N.J., and Philadelphia, Pa., serving all intermediate points, and certain off-route points in New Jersey, between Philadelphia, Pa., and Egg Harbor City, N.J., serving all intermediate and certain off-route points in New Jersey; *men's and women's garments, and materials, supplies, equipment, and machinery* used in the manufacture of such garments, between Philadelphia, Pa., and New York, N.Y., and Bordentown, N.J., serving certain intermediate and off-route points; *general commodities,* excepting among others, classes A and B explosives, household goods and commodities in bulk, over irregular routes, between Egg Harbor City, N.J., and points within 20 miles thereof, on the one hand, and, on the other, New York, N.Y., between Egg Harbor City, N.J., and points within 20 miles thereof, on the one hand, and, on the other, Philadelphia, Pa.;

Men's clothing, in containers and on hangers, from Vineland, N.J., to Baltimore, Md., and Washington, D.C.; *materials and supplies* used in the manufacture of men's pants, in containers, from Baltimore, Md., to Hammonton, N.J.; *men's pants,* in containers, from Hammonton, N.J., to Baltimore, Md., with restriction; *men's garments,* on hangers, *pants and vests,* and *materials and supplies* used in the manufacture of men's garments, between Boston, Mass., and Woodbine, N.J., with restriction; *clothing and hatters' supplies,* from Woodbine, N.J., to New York, N.Y.; *materials and supplies* used in the manufacture of clothing, from New York, N.Y., to Woodbine, N.J.; *rubber heels,* from Woodbine, N.J., to New York, N.Y.; and Marlboro, Mass.; *rubber cement,* from Woodbine, N.J., to New York, N.Y.; *materials and supplies* used in the manufacture of shoes, and *rejected shipments* thereof, between Woodbine, N.J., on the one hand, and, on the other, New York, N.Y., and Marlboro, Mass.; *clothing and wearing apparel,* on hangers, and component parts used in the manufacture of such garments, as described in appendix X to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, between points in Cumberland and Atlantic Counties, N.J., on the one hand, and, on the other, Martinsburg, W. Va.; and *wearing apparel, and materials, and supplies, and equipment* used in the manufacture of wearing apparel, between certain specified points in New Jersey, on the one hand, and, on the other, certain specified points with restriction. A & B GARMENT DELIVERY is authorized to operate as a *common carrier* in California. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70–8995; Filed, July 14, 1970; 8:48 a.m.]

[Notice 66]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 10, 1970.

The following publications are governed by the new § 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

The applications immediately following are assigned for hearing at the time and place designated in the notice of filing as here published in each proceeding. All of the proceedings are subject to the Special Rules of Procedure for Hearing outlined below:

Special rules of procedure for hearing. (1) All of the testimony to be adduced by applicant's company witnesses shall be in the form of written statements which shall be submitted at the hearing at the time and place indicated.

(2) All of the written statements by applicant's company witnesses shall be offered in evidence at the hearing in the same manner as any other type of evidence. The witnesses submitting the written statements shall be made available at the hearing for cross-examination, if such becomes necessary.

(3) The written statements by applicant's company witnesses, if received in evidence, will be accepted as exhibits. To the extent the written statements refer to attached documents such as copies of operating authority, etc., they should be referred to in written statement as numbered appendices thereto.

(4) The admissibility of the evidence contained in the written statements and the appendices thereto, will be at the time of offer, subject to the same rules as if the evidence were produced in the usual manner.

(5) Supplemental testimony by a witness to correct errors or to supply inadvertent omissions in his written statement is permissible.

No. MC 115826 (Sub-No. 206), filed June 30, 1970. Applicant: W. J. DIGBY, INC., 1960 31st Street, Post Office Box 5088 T.A., Denver, Colo. 80217. Applicant's representative: James F. Digby (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, and articles,* distributed by meat packinghouses, from the plantsite of Sioux-Preme Packing Co. and storage facilities used by Sioux-Preme Packing Co., at or near Sioux Center, Iowa, to points in Arizona, California, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Colorado, restricted to traffic originating at the named origins. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

HEARING: July 22, 1970, in Room 2404, New Federal Building, 215 North 17th Street, Omaha, Nebr., before Examiner Francis A. Welch.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-8996; Filed, July 14, 1970; 8:48 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JULY 10, 1970.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by § 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. MC 4725 (Sub-No. 6) (Clarification), filed April 28, 1970, published in the FEDERAL REGISTER issue of June 17, 1970, clarified June 19, 1970, and republished as clarified, this issue. Applicant: CHICKASAW MOTOR LINE, INC., 531 Woodycrest Avenue, Nashville, Tenn. Applicant's representative: Clarence Evans, 1800 Third National Bank Building, Nashville, Tenn. 37219. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities,* except household goods and commodities in bulk; (a) from Nashville via Interstate 40 to Jackson, and return over the same route, serving all points within 10 miles of Jackson; (b) from the junction of Interstate Highway 40 and Tennessee Highway 22 to the intersection of Tennessee Highways 22 and 20 at Lexington, and thence via Tennessee Highway 20 to Jackson, Tenn., and return over the same route, serving all intermediate points; (c) from Jackson, Tenn., via U.S. Highway 45 to its junction with Tennessee Highway 18 south of Jackson, thence via Tennessee Highway 18 to its junction with Tennessee Highway 100 and return over the same route, serving all intermediate points. Each of the foregoing routes is to be used in conjunction with the others, and also in conjuction with all of applicant's existing authority. Both intrastate and interstate authority sought. NOTE: The purpose of this republication is to show in (c) above the correct Tennessee Highway as 100, in lieu of 10.

HEARING: Wednesday, July 15, 1970 at 9:30 a.m., C-1-110 Cordell Hull Building, Nashville, Tenn. Requests for procedural information, including the time for filing protests concerning this application should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Nashville, Tenn. 37219, and should not be directed to the Interstate Commerce Commission.

State Docket No. 15007, filed June 23, 1970. Applicant: SMITH & WATERS, INC., Johnston, S.C. Applicant's representative: Howard L. Burns, Post Office Drawer 1207, Greenwood, S.C. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *commodities in general* (except petroleum products in bulk in tank trucks, high explosives and other dangerous commodities an household goods as defined in Motor Freight Tariff 8-A, S.C.P.S.C. MF 26, and revision thereof); between points and places in Abbeville, Aiken, Edgefield, Greenwood, McCormick, and Saluda Counties, S.C., and between points and places in these counties and points and places in South Carolina; *cotton in bales, cotton waste, cotton bagging, and cotton ties; and, fertilizer and fertilizer materials;* between points and places in South Carolina; *fruits and vegetables;* between points and places in Edgefield and Saluda Counties, S.C., and between points and places in Edgefield and Saluda Counties and points and places in South Carolina; *brick, tile, terra cotta pipe, concrete blocks, pipe, and slabs;* between points and places in Aiken, Fairfield, Greenwood, Lexington, and Richland Counties, S.C., and from points and places in these counties to points and places in South Carolina; *grain,* between points and places in Aiken, Edgefield, and Saluda Counties, S.C., and between points and places in these counties and points and places in South Carolina; *petroleum products,* in drums and packages, from Charleston, S.C., to points and places in Edgefield County, S.C. Both intrastate and interstate authority sought. NOTE: Applicant states that it presently holds the above sought authority, except it contained a "Restriction to Truckload Movements Only". The purpose of this application is to delete the restriction.

HEARING: Not determined at this date. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the South Carolina Public Service Commission, Motor Transport Division, 815 Owen Building, Post Office Drawer 11649, Columbia, S.C. 29211, and should not be directed to the Interstate Commerce Commission.

State Docket No. 36555 (Amendment) filed May 18, 1970, published in the FEDERAL REGISTER issue of June 17, 1970, and republished as amended, this issue. Applicant: BRYAN TRUCK LINE, INC., 610 East Wilson, Bryan, Ohio. Applicant's representatives: Sanborn, Brandon, and Duvall, 79 East State Street, Columbus, Ohio. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities,* except commodities in bulk, household goods, those contaminating to other lading, those requiring special equipment to load, unload, and transport, buildings, mobile homes, and livestock, from Edon, Ohio, to Hicksville, Ohio, over Ohio Highway 49; from Hicksville, Ohio, to Archbold, Ohio, over Ohio Highway 2; from Hicksville, Ohio, to Defiance, Ohio, over Ohio Highway 18; from Defiance, Ohio, to Fayette, Ohio, over Ohio Highway 66; from Fayette, Ohio, to Pioneer, Ohio, over U.S. Highway 20; from Pioneer, Ohio, to Bryan, Ohio, over Ohio Highway 15; from Bryan, Ohio, to junction U.S. Highway 127 and Ohio Highway 18 over U.S. Highway 127; from Edgerton, Ohio, to junction U.S. Highway 6 and Ohio Highway 66 over U.S. Highway 6; from Edon, Ohio, to Bryan, Ohio, over Ohio Highway 34; from Montpelier, Ohio, to junction Ohio Highway 576 and Ohio Highway 34 over Ohio Highway 576, from Bryan, Ohio, to junction U.S. Highway 127 and U.S. Highway 20 over U.S. Highway 127; from junction Ohio Highway 15 and Ohio Highway 107 to junction Ohio Highway 107 and Ohio Highway 49 over Ohio Highway 107, from Stryker, Ohio, to West Unity, Ohio, over Ohio Highway 191, from Bryan, Ohio, to Toledo, Ohio, over Ohio Highway 2; from Bryan, Ohio, to Toledo, Ohio, over Ohio Highway 34 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction U.S. Highway 24, thence over U.S. Highway 24, return over the same routes, serving all intermediate points. Restrictions: No shipments shall be transported from or to (1) Pettisville; (2) Wauseon; (3) Delta; (4) Swanton; (5) Crissy; (6) points on Ohio Highway 2 intermediate to Archbold and Toledo, Ohio; and (7) points on U.S. Highway 24 intermediate to Napoleon and Toledo, Ohio. Both intrastate and interstate authority sought. NOTE: The purpose of this republication is to amend the restriction paragraph.

HEARING: Not given. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Ohio Public Utilities Commission, 111 North High Street, Columbus, Ohio 43215, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-8992; Filed, July 14, 1970; 8:48 a.m.]

[Notice 112]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 9, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field

official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 27817 (Sub-No. 86 TA) (Correction), filed May 28, 1970, published in the FEDERAL REGISTER issue of June 10, 1970, and republished as part corrected, this issue. Applicant: H. C. GABLER, INC., Rural Delivery No. 3, Post Office Box 220, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. NOTE: The purpose of this partial republication is to correct a typographical error in the No. MC 27817 (Sub 86), in lieu of No. MC 27817 (Sub 26). The rest of this application remains as previously published.

No. MC 119777 (Sub-No. 186 TA), filed July 2, 1970. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, Ky. 42431. Applicant's representative: Louis J. Amato, Central Building, 1033 State Street, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets, skids, bases, boxes, crating, veneer, baskets, oak treads, oak risers, oak sills, oak molding, cardboard cartons, nails, and lumber*, from the plantsite and facilities of Valmont Enterprises, Tracy City, Tenn., to points in Minnesota, Iowa, Missouri, Arkansas, Louisiana, and all States east of the Mississippi River, for 180 days. Supporting shipper: Charles Kildgore, President, Valmont Enterprises, Inc., Post Office Box 593, Tracy City, Tenn. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 124796 (Sub-No. 64 TA), filed July 2, 1970. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, Post Office Box 1257, City of Industry, Calif. 91747. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned and packaged foodstuffs* (except frozen and in bulk), from Carol Stream, Chicago, and Melrose Park, Ill., to Atlanta, Ga.; Dallas, Tex.; Jackonsville, Fla.; Piscataway, N.J.; and Sparks, Nev.; (2) *toilet preparations, toilet articles, germicides, buffing and polishing compounds, cleaning, scouring and washing compounds, solvents, starch, sponges, sweetening compounds, drugs, janitorial supplies, and advertising materials*, from Carol Stream, Carpentersville, Chicago, and Melrose Park, Ill., to Piscataway, N.J.; (3) returned shipments of the commodities described in (1) and (2) above in the reverse direction, for 150 days. Supporting shipper: Alberto-Culver Co., 2525 Armitage Avenue, Melrose Park, Ill. 60160. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 127689 (Sub-No. 40 TA), filed July 2, 1970. Applicant: PASCAGOULA DRAYAGE COMPANY, INC., 701 East Pine Street, Hattiesburg, Miss. 39401. Applicant's representative: Harvey E. West (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refrigeration equipment, walk-in-type refrigeration units, and parts, accessories, and assemblies for walk-in-type refrigeration units*, from Laurel, Miss., to points in Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Idaho, Iowa, Maine, Maryland, Massachusetts, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, for 180 days. Supporting shipper: Mid-South Industries, Post Office Box 946, Laurel, Miss. 39440. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 127746 (Sub-No. 2 TA), filed July 2, 1970. Applicant: LOUIS VENEZIA, Post Office Box 284, Bearmore Trailer Park, Belmar, N.J. 07719. Applicant's representative: Robert B. Pepper, 297 Academy Street, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bags, plastic tubing and sheeting, and new burlap* in compressed rolls, from plantsite of Packaging Products & Design Corp., Newark, N.J., to points in Alabama, Florida, Georgia, Illinois, Indiana, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Packaging Products & Design Corp., 574 Ferry Street, Newark, N.J. 07105. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

No. MC 134198 (Sub-No. 1 TA), filed July 2, 1970. Applicant: HARDEE'S TRANSPORTATION SYSTEM, INC., 1233 North Church Street, Rocky Mount, N.C. 27801. Applicant's representative: Leslie R. Kehl, Suite 420, Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs and restaurant supplies*, between Cedartown, Ga., and Rocky Mount, N.C., on the one hand, and, on the other, points in Connecticut, Illinois, Indiana, Kansas, Kentucky, Maine, Massachusetts, Michigan, Missouri, North Carolina, Ohio, Tennessee, and Wisconsin, under a continuing contract with Fast Foodmakers, Inc., and restricted to movements from or to the facilities of Fast Foodmakers, Inc.; (2) *Restaurant equipment*, between Cedartown, Ga., on the one hand, and, on the other, points in Connecticut, Illinois, Indiana, Kansas, Kentucky, Maine, Massachusetts, Michigan, Missouri, North Carolina, Ohio, Tennessee, and Wisconsin, under a continuing contract with H. G. C. Construction & Equipment Co., Inc. Restricted to movements from or to the facilities of H. G. C. Construction & Equipment Co., Inc.; (3) *Seafood and seafood products*, the transportation of which is partially exempt pursuant to the provisions of section 203(b)(6) of the Interstate Commerce Act when moving in mixed loads with commodities, the transportation of which is not exempt from regulation, between New Orleans, La., and Brunswick, Ga., on the one hand, and, on the other, points in Connecticut, Illinois, Indiana, Kansas, Kentucky, Maine, Massachusetts, Michigan, Missouri, North Carolina, Ohio, Tennessee, and Wisconsin, under continuing contracts with Golden Shore Seafoods, Inc., or New Orleans Shrimp Co., Inc. Restricted to movements from or to the facilities of Golden Shore Seafoods, Inc., or New Orleans Shrimp Co., Inc., for 180 days. Supporting shippers: New Orleans Shrimp Co., Inc., 1405 Jefferson Highway, New Orleans, La.; H. G. C. Construction & Equipment Co., 1233 North Church, Rocky Mount, N.C.; Fast Foodmakers, Inc., 1233 North Church, Rocky Mount, N.C.; Golden Shore Seafoods, Inc., Brunswick, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 134719 (Sub-No. 1 TA), filed July 2, 1970. Applicant: RAYMOND C. DRYDEN AND GRACE D. VENABLE, a partnership, doing business as EAGLE MILLS, Post Office Box 395, Pocomoke City, Md. 21851. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prepared animal and poultry feed*, in bulk, in blower type equipment; and (2) *Health products such as germicides, fungicides, vermifuges, disinfectants, and weed killing compounds and specialty feeds* in sacks in quantities not to exceed 1,000 pounds in the same vehicle with (1) above, from plantsite of Ralston-Purina Co. in or near Delmar, Del., to points in Queen Anne, Dorchester, Talbot, Caroline, Wicomico, Worcester, and Somerset Counties, Md.; Accomack and Northampton Counties, Va.; and Kent and Sussex Counties, Del., for 180 days. Supporting shipper: Ralston-Purina Co., Wilmington, Del. 19802, C. R. Huhn, Jr., Traffic Manager. Send protests to: Paul J. Lowry, District Supervisor,

Interstate Commerce Commission, Bureau of Operations, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 134739 TA, filed July 1, 1970. Applicant: FRANK SINNOTT, 358 West Putnam Avenue, Greenwich, Conn. 06830. Applicant's representative: Reubin Kaminsky, Society Plaza, Suite 211, 342 North Main Street, West Hartford, Conn. 06117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed matter, trade letters, nonnegotiable commercial documents, financial records, letters of authorization, and transmittal letters*, between Darien and Greenwich, Conn., on the one hand, and, on the other, the Borough of Manhattan, New York, N.Y.; (2) *Supplies and materials* used in the preparation of printed matter, from the Borough of Manhattan, New York, N.Y., to Darien and Greenwich, Conn.; (3) *Printed matter*, from Greenwich, Conn., to La Guardia Airport, Long Island, N.Y., restricted to traffic having an immediately subsequent movement by air. Restriction: All of the above traffic shall be limited to packages or parcels not exceeding one hundred (100) pounds in weight each package or parcel, for 150 days. Supporting shippers: American Contract Bridge League, 125 Greenwich Avenue, Greenwich, Conn. 06830; Chestnut Corp., 88 Field Point Road, Greenwich, Conn. 06830; CCM Professional Magazines, Inc., 22 West Putnam Avenue, Greenwich, Conn. 06830; Fawcett Publications, Inc., Fawcett Building, Greenwich, Conn. 06830. Send protests to: District Supervisor David J. Kiernan, Interstate Commerce Commission, Bureau of Operations, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

No. MC 134741 TA, filed July 2, 1970. Applicant: CHARLES DE MARIA, JR., doing business as LAMBERT & CO., 23–49 64th Street, Brooklyn, N.Y. 11204. Applicant's representative: Blanton P. Bergen, 137 East 36th Street, New York, N.Y. 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lead pencils, wooden*, other than mechanical or ball point, *pencils*, paper wrapped, *crayons*, school or marking, *mechanical crayon markers, pens*, ball points, *ball point pen cartridges, marking pens, ink*, writing, *mechanical pencils or markers, pencil lead holders, hand drafting equipment*, such as plastic or metal templates, *materials, supplies and equipment used in manufacturing the above items*, in packages, in straight or mixed shipments, for 180 days. Supporting shipper: Eagle Pencil Co., Division of Berol Corp., Eagle Road, Danbury, Conn. 06810. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 134742 TA, filed July 2, 1970. Applicant: MAINI DISTRIBUTING INC., 924 South Commerce Street, Las Vegas, Nev. 89106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except used household goods, explosives and items of unusual value or commodities in bulk), in LTL shipments having an immediately prior interstate movement by rail or truck, from Las Vegas, Nev., to points in Clark County, Nev., and *refused or rejected shipments* on return, for 180 days. Supporting shippers: Acme Fast Freight, Inc., 2100 Alhambra Avenue, Los Angeles, Calif. 90031; Economics Laboratory, Inc., Guardina Building, St. Paul, Minn. 55101. Send protests to: District Supervisor Daniel Augustine, Interstate Commerce Commission, Bureau of Operations, Room 24, 222 East Washington Street, Carson City, Nev. 89701.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-8997; Filed, July 14, 1970; 8:48 a.m.]

[Notice 558]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 10, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. 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–72113. By order of July 8, 1970, the Motor Carrier Board approved the transfer to Pendleton-Heppner Freight Line, Inc., Lexington, Oreg., of a portion of the operating rights in certificate No. MC–80883, issued March 3, 1969, to Flatt's Truck Service, Inc., Moro, Oreg., authorizing the transportation of: General commodities, with the usual exceptions, between Heppner, Oreg., and Arlington, Oreg., over a regular route serving all intermediate points. John G. McLaughlin, 726 Blue Cross Building, 100 Southwest Market Street, Portland, Oreg. 97201, attorney for applicants.

No. MC–FC–72112. By order of July 7, 1970, the Motor Carrier Board approved the transfer to East Central Motor Freight, Inc., of the operating rights in certificates Nos. MC–123393 (Sub-No. 5) issued March 28, 1962; MC–123393 (Sub-No. 16) issued July 9, 1969; MC–123393 (Sub-No. 22) issued April 30, 1964; MC–123393 (Sub-No. 32) issued January 16, 1969; MC–123393 (Sub-No. 33) (portion) issued April 16, 1965; MC–123393 (Sub-No. 34) issued September 23, 1964; MC–123393 (Sub-No. 44) issued August 1, 1966; MC–123393 (Sub-No. 48) issued June 7, 1966; MC–123393 (Sub-No. 53) issued April 1, 1966, as modified by order of June 2, 1970, in No. MC–FC–72027; MC–123393 (Sub-No. 65) issued November 6, 1967; MC–133393 (Sub-No. 71) issued April 6, 1966; MC–123393 (Sub-No. 104) issued November 27, 1968; MC–123393 (Sub-No. 106) issued June 9, 1967; MC–123393 (Sub-No. 111) issued March 14, 1967; MC–123393 (Sub-No. 118) issued November 23, 1966; MC–123393 (Sub-No. 127) issued June 17, 1970; MC–123393 (Sub-No. 132) issued October 25, 1968; MC–123393 (Sub-No. 144) issued February 5, 1969; MC–123393 (Sub-No. 145) issued February 29, 1968, as modified by order of June 2, 1970, in No. MC–FC–72027; MC–123393 (Sub-No. 146) issued July 27, 1967; MC–123393 (Sub-No. 151) issued February 23, 1967; MC–123393 (Sub-No. 153) issued August 1, 1967; MC–123393 (Sub-No. 156) issued June 4, 1968; MC–123393 (Sub-No. 158) issued May 3, 1967; MC–123393 (Sub-No. 172) issued June 4, 1968; MC–123393 (Sub-No. 173) issued February 29, 1968; MC–123393 (Sub-No. 185) issued July 5, 1968; MC–123393 (Sub-No. 186) issued December 2, 1968; MC–123393 (Sub-No. 197) issued January 10, 1969; MC–123393 (Sub-No. 198) issued August 7, 1969, as modified by order of June 2, 1970, in No. MC–FC–72027; and MC–123393 (Sub-No. 199) issued May 29, 1969, to Bilyeu Refrigerated Transport Corp., Marshall, Mo., authorizing the transportation, over irregular routes, of meats, meat products, and meat byproducts, and articles distributed by meat packinghouses, and other specified commodities, generally from and to, or between, specified points in most of the United States; and, over regular routes, of meats, meat products and meat byproducts, between Wichita, Kans., and Springfield, Mo. David D. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-8999; Filed, July 14, 1970; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-266]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Notice of Proposed Issuance of Facility Operating License

The Atomic Energy Commission (the Commission) is considering the issuance of an operating license to Wisconsin Electric Power Co. and Wisconsin Michigan Power Co. (the applicants) which would authorize the licensees to possess, use, and operate the Point Beach Nuclear Plant Unit No. 1 (Unit No. 1), a pressurized water nuclear reactor, on the applicants' site in the town of Two Creeks, Manitowoc County, Wisc., at steady state power levels not to exceed 1518 megawatts (thermal), in accordance with the provisions of the license and

the Technical Specifications appended thereto. Construction of Unit No. 1 was authorized by Provisional Construction Permit No. CPPR–32 issued by the Commission on July 19, 1967.

The Commission has found that the application for the facility license (as amended) complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations published in 10 CFR Chapter I.

Prior to the issuance of the facility operating license, the facility will be inspected by the Commission to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Provisional Construction Permit No. CPPR–32. The license will be issued after the Commission makes the findings, reflecting its review of the application, which are set forth in the proposed license, and concludes that the issuance of this license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicants will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

In the event that construction has not been sufficiently completed to permit full power operation, the Commission may issue an operating license consistent with the level of construction completed to permit initial fuel loading and low power testing prior to the issuance of the full power license.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicants may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of a hearing or appropriate order.

For further details with respect to this proposed facility operating license, see (1) the applicants' application for a facility license dated March 12, 1969, as amended (Amendments Nos. 1 through 9), (2) the report of the Advisory Committee on Reactor Safeguards on the application for Unit No. 1, dated April 16, 1970. (3) the proposed facility operating license, including Technical Specifications attached as Appendix A, and (4) a related safety evaluation prepared by the Division of Reactor Licensing, all of which will be available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of items (2) and (4) above may be obtained at the Commission's Public Document Room or upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 14th day of July 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 70–9175; Filed, July 14, 1970; 11:39 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—JULY

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 July.

3 CFR

Page

PROCLAMATIONS:

3991 ... 10643
3992 ... 10729
3993 ... 10731
3994 ... 10941
3995 ... 11007
3996 ... 11217

EXECUTIVE ORDERS:

Feb. 11, 1918 (revoked in part by PLO 4860) ... 11023
April 17, 1926 (revoked in part by PLO 4860) ... 11023
1623 (revoked in part by PLC 4850) ... 10900
6583 (revoked in part by PLO 4862) ... 11237
11248:
Amended by EO 11540 ... 10735
Amended by EO 11542 ... 10943
11330 (amended by EO 11547) ... 11221
11452 (see EO 11541) ... 10737
11472 (see EO 11541) ... 10737
11493 (see EO 11541) ... 10737
11514 (see EO 11541) ... 10737
11538 ... 10645
11539 ... 10733
11540 ... 10735
11541 ... 10737
11542 ... 10943
11543 ... 11009
11544 ... 11115
11545 ... 11161
11546 ... 11219
11547 ... 11221

5 CFR

213 ... 11024, 11025, 11163, 11291
532 ... 11025

7 CFR

7 ... 10831
20 ... 10837
28 ... 10739
220 ... 10739
725 ... 10838
811 ... 11163
908 ... 10739, 10890, 11013, 11164, 11223
910 ... 10840, 11165
911 ... 10662
915 ... 10840
916 ... 11165
917 ... 10663, 11119
921 ... 10891
922 ... 10664, 11223
924 ... 11223
944 ... 10740
945 ... 10840
946 ... 11291
947 ... 10740, 11013
948 ... 11224
958 ... 11165
980 ... 11225
987 ... 11226
991 ... 10743
1032 ... 10744
1050 ... 10744
1063 ... 11119
1094 ... 10665
1103 ... 10675
1136 ... 11292
1421 ... 10745, 10747, 10842, 11166, 11168

7 CFR—Continued

Page

1464 ... 11014
1813 ... 11120
1822 ... 10687, 11014, 11226

PROPOSED RULES:

301 ... 11027
909 ... 11027
910 ... 11030
911 ... 11030
915 ... 11030
922 ... 10962
946 ... 10910
947 ... 11245
1001 ... 11129
1002 ... 11129
1003 ... 11129
1004 ... 11129
1015 ... 11129
1016 ... 11129
1030 ... 10692
1032 ... 10692
1036 ... 10774
1046 ... 10692
1049 ... 10692
1050 ... 10692
1062 ... 10692
1098 ... 11133
1099 ... 10692, 10695
1134 ... 11033
1136 ... 10774

9 CFR

76 ... 10652, 10751, 10891, 10945, 10946, 11123, 11173, 11230, 11292

10 CFR

14 ... 10750

12 CFR

204 ... 10846
217 ... 10846
531 ... 10751
545 ... 10751
556 ... 10751

PROPOSED RULES.

329 ... 10868

13 CFR

101 ... 10753
121 ... 10753, 11016

PROPOSED RULES:

121 ... 11049

14 CFR

21 ... 10653
37 ... 10653
39 ... 10754, 10855, 11016, 11174–11176
71 ... 10653–10655, 10754, 10755, 10947, 11016, 11017, 11176, 11177, 11231
73 ... 11295
75 ... 10653, 10655
93 ... 10856, 11177
95 ... 10947
97 ... 10896, 11123
121 ... 10653
127 ... 10653
135 ... 10653

14 CFR—Continued

Page

145 ... 10653
288 ... 11017

PROPOSED RULES:

23 ... 10911
71 ... 10776, 11034, 11184
73 ... 10963
121 ... 11035
159 ... 10695

15 CFR

373 ... 10897, 11124
379 ... 10897
386 ... 11124

16 CFR

2 ... 10897
3 ... 10655
13 ... 10755, 11294, 11295
15 ... 10949–10951

PROPOSED RULES:

254 ... 10911
426 ... 11270

17 CFR

1 ... 11018

PROPOSED RULES:

240 ... 10916

18 CFR

410 ... 11018
601 ... 10756

PROPOSED RULES:

2 ... 11190
104 ... 11246
105 ... 11246
141 ... 11246
204 ... 11246
205 ... 11246
260 ... 11246

19 CFR

1 ... 11231
4 ... 11119

PROPOSED RULES:

4 ... 10692, 10962
5 ... 10962
6 ... 10962
8 ... 10962
11 ... 11033
15 ... 10962
18 ... 10962
22 ... 10692

20 CFR

25 ... 11124

21 CFR

8 ... 10898
27 ... 11177
29 ... 11177
120 ... 10898, 11018
121 ... 10898, 10952, 11019
135b ... 10856, 11232
135e ... 10898, 11232
135g ... 10898, 11232
144 ... 11019
147 ... 10857

21 CFR—Continued

Page

148i ... 10656
320 ... 10857, 11125, 11295

PROPOSED RULES:

120 ... 10962

22 CFR

51 ... 10656

24 CFR

0 ... 10953
203 ... 10648
207 ... 10648
220 ... 10648
1914 ... 10649, 11181
1915 ... 10651, 11182

26 CFR

1 ... 11020
13 ... 11232

PROPOSED RULES:

1 ... 11184
20 ... 10862
25 ... 10862
31 ... 10962

28 CFR

45 ... 11295

29 CFR

102 ... 10657
531 ... 10757

PROPOSED RULES:

103 ... 11270

30 CFR

505 ... 11296

PROPOSED RULES:

75 ... 10867

31 CFR

100 ... 11020
505 ... 10759

32 CFR

103 ... 10889
237a ... 10889
561 ... 10847
1499 ... 11234
1811 ... 11125

33 CFR

52 ... 10899
117 ... 10758, 11020, 11021, 11300, 11301
207 ... 11235

33 CFR—Continued

Page

PROPOSED RULES:

82 ... 10696
117 ... 10774, 10775, 11034, 11303

36 CFR

6 ... 10658
7 ... 10658, 10951
261 ... 11021

38 CFR

2 ... 10759
3 ... 10648
18a ... 10759
18b ... 10760
21 ... 10765, 11236

39 CFR

137 ... 11021
138 ... 10952
144 ... 11022
153 ... 11022

41 CFR

3–3 ... 10899
60–1 ... 10660
101–17 ... 10954
101–32 ... 10773
101–40 ... 10955

42 CFR

78 ... 10855

PROPOSED RULES:

81 ... 10774

43 CFR

23 ... 11236
Ch. II ... 10660

PUBLIC LAND ORDERS:

1230 (modified by PLO 4852) ... 10955
3342 (revoked in part by PLO 4859) ... 11022
3735 (see PLO 4857) ... 10956
3736 (see PLO 4857) ... 10956
4348 (see PLO 4852) ... 10955
4850 ... 10900
4851 ... 10900
4852 ... 10955
4853 ... 10955
4854 ... 10956
4855 ... 10956
4856 ... 10956
4857 ... 10956
4858 ... 11022
4859 ... 11022
4860 ... 11023
4861 ... 11023

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued

4862 ... 11237
4863 ... 11237

PROPOSED RULES:

1810 ... 11244

45 CFR

85 ... 11334
177 ... 10652

PROPOSED RULES:

85 ... 11336

46 CFR

221 ... 10957
531 ... 10957
541 ... 10858

PROPOSED RULES:

542 ... 11187

47 CFR

1 ... 10988, 11126
2 ... 11178
15 ... 10766
31 ... 11237
33 ... 11237
73 ... 11178
74 ... 10901–10903
87 ... 11179

PROPOSED RULES:

15 ... 11036
43 ... 11185
63 ... 11133
73 ... 10963, 11040, 11136, 11185
74 ... 11036, 11040, 11042, 11044, 11045, 11244

49 CFR

172 ... 10858
173 ... 10858
392 ... 10859
393 ... 10859, 10906
501 ... 11126
571 ... 11241, 11242
1033 ... 10661, 10907, 11023, 11183, 11301
1048 ... 10662

PROPOSED RULES:

571 ... 10911
575 ... 11245
Ch. X ... 10959

50 CFR

32 ... 11024
33 ... 10773, 11237
80 ... 10647

PROPOSED RULES:

32 ... 11244, 11303

FEDERAL REGISTER

VOLUME 35 • NUMBER 136

Wednesday, July 15, 1970 • Washington, D.C.

PART II

Department of Health, Education, and Welfare

Office of the Secretary

•

Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Subpart H—Test Procedures for Vehicle and Engine Exhaust and Fuel Evaporative Emissions (Gasoline Engines) (Light Duty Vehicles)

SAMPLING AND ANALYTICAL SYSTEM (EXHAUST EMISSIONS)

On March 30, 1966, 45 CFR Part 85 was adopted establishing regulations for the control of air pollution from new motor vehicles and new motor vehicle engines. The standards so promulgated were applicable to the model years beginning with 1968 and dealt with crankcase emissions and exhaust emissions from gasoline-powered vehicles. Motor vehicles with an engine displacement of less than 50 cubic inches, commercial vehicles over one-half ton or equivalent, and motorcycles were excepted from compliance with the exhaust emission standards; motorcycles subsequently were excepted from the crankcase emission standards.

On June 4, 1968, 45 CFR Part 85 was amended to establish new regulations for the control of exhaust emissions from gasoline-powered vehicles and engines, exhaust smoke from diesel engines designed for use in commercial vehicles having a gross vehicle weight rating of more than 6,000 pounds, and for the control of fuel evaporative emissions from light-duty vehicles. Standards applicable to exhaust emissions from light-duty vehicles were revised. The standards so promulgated are applicable to the model years beginning with 1970 (1971 for fuel evaporative emissions). Motorcycles are excepted.

The standards now applicable to exhaust emissions from light-duty vehicles are expressed on a mass basis. Current test procedures provide for measurements of emission concentrations during specified portions of test vehicle dynamometer operation. A calculated exhaust volume, theoretically relating exhaust flow to vehicle weight, together with average measured pollutant concentrations, are used to compute emissions on a mass basis for comparison with the mass standards.

The Department has for some time recognized that mass-based standards dependent upon calculated exhaust volumes do not provide equitable treatment for all light-duty vehicles. Accordingly, in 1968 it was announced to domestic and foreign automobile manufacturers that a true mass-measurement procedure for determining exhaust emissions would be developed for application to 1972 model year light-duty vehicles. This announcement was reiterated by the Department in a presentation to the California Air Resources Board in November 1968. A preliminary draft of such a procedure was forwarded by letter of June 25, 1969, to all manufacturers and to the California Air Resources Board.

On February 10, 1970, advance notice of proposed rule-making to provide for true mass measurement of exhaust emissions applicable to 1972 and subsequent model year light-duty vehicles and engines was published.

Development of the previously announced sampling and analytical system has now been completed, and is set forth in the revision below. The system is essentially unchanged from that forwarded to all manufacturers by letter of June 25, 1969, following the consideration of their comments to a draft forwarded on April 3, 1969. No controversy exists concerning the suitability of the system for obtaining samples of exhaust gases and for measuring those samples. The manufacturers have maintained that because of the limited commercial availability of some of the instrumentation and other equipment employed in this system, the Department must prescribe the system at the earliest date possible in order to provide them sufficient time for acquisition of and familiarization with the equipment. Since the issue is the adequacy of lead time and not the merits of the sampling and analytical system, the Department finds that notice and comment are unnecessary and that good cause exists for the adoption of this revision effective upon publication in the FEDERAL REGISTER.

Development of the previously announced dynamometer driving schedule which is representative of urban driving practices and which is closed and self-weighting has been completed and is separately proposed in this Part II section of the FEDERAL REGISTER.

Accordingly, the revision of 45 CFR Part 85 as set forth below is hereby adopted, effective on publication in the FEDERAL REGISTER, and is applicable to 1972 and subsequent model year light-duty vehicles and engines. The current regulations which appear at 45 CFR Part 85 will remain in effect for the purpose of their applicability to 1970 and 1971 model year vehicles and engines.

(Sec. 2, Public Law 90-148, 81 Stat. 504; 42 U.S.C. 1857g(a))

Dated: July 6, 1970.

ELLIOT L. RICHARDSON,
Secretary.

In Title 45 of the Code of Federal Regulations, § 85.81 is revised to read as follows:

§ 85.81 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Figures 1a and 1b) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Additional components such as instruments, valves, solenoids, and switches may be used to coordinate the functions of the component systems.

(b) *Component description (exhaust gas sampling system).* The following components will be used in the exhaust gas sampling system for testing under the regulations in this part. See Figure 1a.

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; a second particulate filter to remove charcoal particles from the air stream. The dilution air filter assembly is not required when the dilution air hydrocarbon level is below 15 p.p.m. carbon equivalent.

(2) A flexible, leak-tight connector tube to the vehicle tailpipe.

(3) A heating system to preheat the heat exchanger to within ±10° F. of its operating temperature before the test begins.

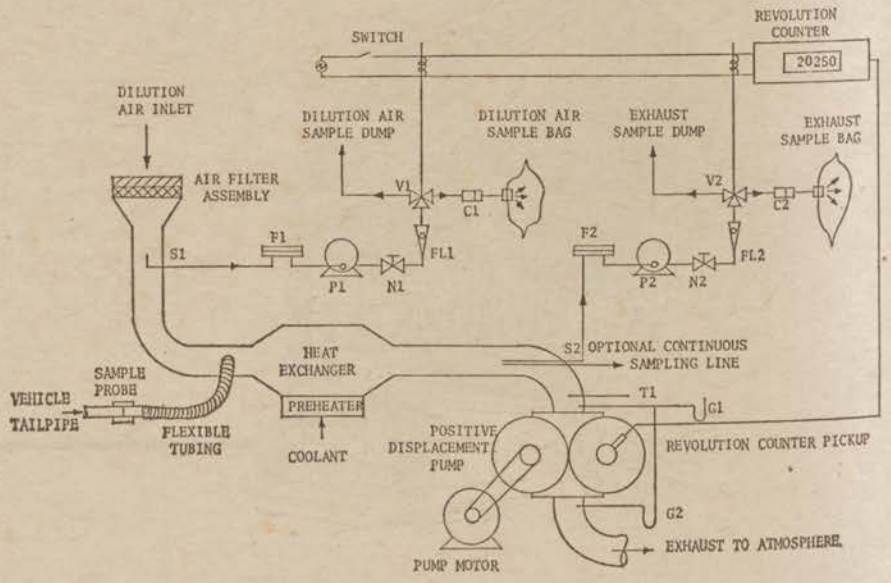


Figure 1a. Exhaust Gas Sampling System

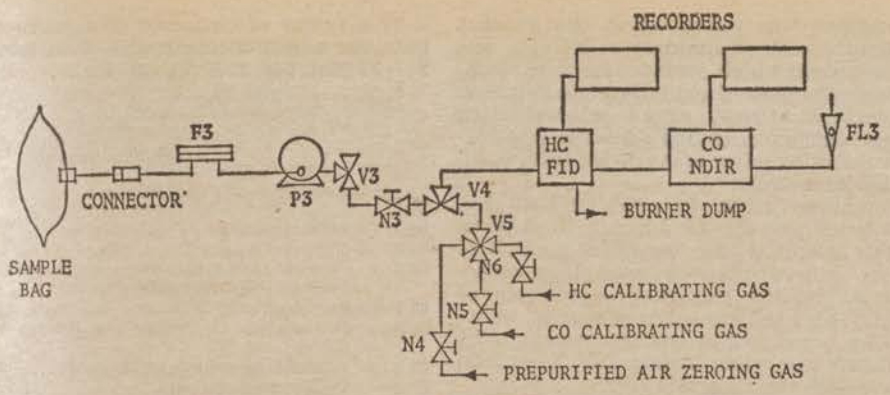


Figure 1b. Exhaust Gas Analytical System

(4) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10° F. as measured at a point immediately ahead of the positive displacement pump.

(5) A 300 to 350 c.f.m. positive displacement pump to pump the dilute exhaust mixture. A smaller pump or a multispeed (not continuously variable) drive motor may be substituted for testing smaller vehicles. The overall dilution ratio must be a minimum of 8:1 to minimize the possibility of water condensation in the system.

(6) Temperature sensor (T1) with an accuracy of ±2° F. to allow continuous recording of the temperature of the dilute exhaust mixture entering the positive displacement pump.

(7) Gauge (G1) with an accuracy of ±1 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(8) Gauge (G2) with a accuracy of ±1 mm. Hg to measure the pressure increase across the positive displacement pump.

(9) Sample probes (S1 and S2) to collect samples from the dilution air stream and the dilute exhaust mixture. The probes shall be pointed upstream and sized so that the gas velocity in the probe inlet is within ±25 percent of the bulk stream velocity. Additional sample probes may be used, for example, to obtain continuous concentration traces of the dilute exhaust stream. In such case the sample flow rate, in standard cubic feet per test, must be added to the calculated dilute exhaust volume.

(10) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples prior to entering sample collection bags.

(11) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(12) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow shall be 5 c.f.h.

(13) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(14) Three-way solenoid valves (V1 and V2) to direct sample streams to either their respective bags or overboard.

(15) Quick-connect leak-tight fittings (C1 and C2) to attach sample bags to sample system.

(16) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(17) A revolution counter to count the revolutions of the positive displacement pump while the test is in progress and samples are being collected.

(c) *Component description (exhaust gas analytical system).* The following components will be used in the exhaust gas analytical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis and the determination of carbon monoxide concentrations by nondispersive infrared (NDIR) analysis in dilute exhaust samples. See Figure 1b.

(1) Filter (F3) to remove any residual particulate matter from the collected samples.

(2) Pump (P3) to transfer samples from the sample bag to the analyzers.

(3) Selector valves (V3, V4, and V5) for directing sample and calibrating gases or zeroing gas to the analyzers.

(4) Flow control valves (N3, N4, N5, and N6) to regulate flows to a constant rate of 5 c.f.h.

(5) A flame-ionization-detector type analyzer to measure HC concentrations.

(6) A carbon monoxide sensitized nondispersive infrared analyzer to measure CO concentrations.

(7) Flowmeter (F3) to indicate sample flow rate.

(8) Recorders to provide permanent records of calibration, spanning and sample measurements.

[F.R. Doc. 70-8933; Filed, July 14, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 85]

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Notice of Proposed Rule Making

On March 30, 1966, 45 CFR Part 85 was adopted establishing regulations for the control of air pollution from new motor vehicles and new motor vehicle engines. The standards so promulgated were applicable to the model years beginning with 1968 and dealt with crankcase emissions and exhaust emissions from gasoline-powered vehicles. Motor vehicles with an engine displacement of less than 50 cubic inches, commercial vehicles over one-half ton or equivalent, and motorcycles were excepted from compliance with the exhaust emission standards; motorcycles subsequently were excepted from the crankcase emission standards.

On June 4, 1968, 45 CFR Part 85 was amended to establish new regulations for the control of exhaust emissions from gasoline-powered vehicles and engines, exhaust smoke from diesel engines designed for use in commercial vehicles having a gross vehicle weight rating of more than 6,000 pounds, and for the control of fuel evaporative emissions from light-duty vehicles. Standards applicable to exhaust emissions from light-duty vehicles were revised. The standards so promulgated are applicable to the model years beginning with 1970 (1971 for fuel evaporative emissions). Motorcycles are excepted.

The standards now applicable to exhaust emissions from light-duty vehicles are expressed on a mass basis. Current test procedures provide for measurements of emission concentrations during specified portions of test vehicle dynamometer operation. A calculated exhaust volume, theoretically relating exhaust flow to vehicle weight, together with average measured pollutant concentrations, are used to compute emissions on a mass basis for comparison with the mass standards.

The Department has for some time recognized that mass-based standards dependent upon calculated exhaust volumes do not provide equitable treatment for all light-duty vehicles. Accordingly, in 1968 it was announced to domestic and foreign automobile manufacturers that a true mass-measurement procedure for determining exhaust emissions would be developed for application to 1972 model year light-duty vehicles. A preliminary draft of such a procedure was forwarded by letter of June 25, 1969, to all manufacturers.

On February 10, 1970, advance notice of proposed rulemaking to provide for true mass-measurement of exhaust emissions applicable to 1972 and subsequent model year light-duty vehicles and engines was published in the FEDERAL REGISTER. A preliminary draft of a test procedure which provides for true mass-measurement of exhaust emissions and employs a new, closed self-weighting dynamometer driving schedule was forwarded, by letter of April 22, 1970, to all manufacturers.

Section 85.81, 45 CFR Part 85 has been revised for the purpose of adopting the sampling and analytical portion of the previously announced true mass-measurement procedure, applicable to 1972 and subsequent model year light-duty vehicles and engines, and is published separately in this Part II section of the FEDERAL REGISTER.

Notice is hereby given that: It is now proposed to amend the regulations in 45 CFR Part 85 in order to:

(a) Establish a true mass-measurement procedure applicable to light-duty vehicles which employs a closed self-weighting dynamometer driving schedule representative of urban driving practices.

(b) Establish revised exhaust emission standards for light-duty vehicles to correspond with the new mass-measurement procedure.

(c) Establish revised fuel evaporative emission standards for light-duty vehicles.

(d) Require that each vehicle or engine subject to testing comply with the applicable standard before any vehicle or engine in its class is certified.

(e) Establish new criteria for selection of vehicles and engines required to be tested.

(f) Require new, more realistic, mileage accumulation procedures for light-duty vehicles subject to testing.

(g) Establish minimum deterioration factors for computing emissions for vehicles and engines for which there are applicable standards.

(h) Provide for inspection of the manufacturer's testing facilities and observation of vehicle tests and maintenance.

(i) Implement the recordkeeping and reporting provisions of section 207 of the Act.

(j) Require the manufacturer to make available test vehicles to be under the control of the Secretary in accumulating the requisite mileage.

45 CFR Part 85 as revised by the proposed amendments will become effective on republication and will be applicable to 1972 and subsequent model year motor vehicles and engines. The current regulations which appear at 45 CFR Part 85 will remain in effect for the purpose of their applicability to 1970 and 1971 model year vehicles and engines.

Interested persons may submit written data, views, or arguments (in quadruplicate) in regard to the proposed regulations to the Secretary of Health, Education, and Welfare, Washington, D.C. 20201. All relevant material received not later than 60 days after the publication of this notice will be considered. Comments are particularly invited with respect to any substantial problems of technological feasibility and/or economic cost related to the proposed 1972 hydrocarbon and carbon monoxide emission standards for light duty vehicles.

This notice of proposed rule making is issued under the authority of section 301, 81 Stat. 504, 42 U.S.C. 1857g(a).

Dated: June 29, 1970.

JOHN T. MIDDLETON,
Commissioner.

Subpart A—General Provisions

Sec.
85.1 Definitions.
85.2 Abbreviations.
85.3 General standards: increase in emissions; unsafe conditions.
85.4 Labeling.
85.5 Submission of vehicle identification numbers.
85.6 Production vehicles and engines.
85.7 Test conditions.
85.8 Special test procedures.
85.9 Maintenance of records; submittal of informaiton; right of entry.

Subpart B—Crankcase Emissions (Gasoline Fueled Vehicles and Engines)

85.10 Applicability.
85.11 Standard for crankcase emissions.
85.12 Test procedures.

Subpart C—Exhaust Emissions and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)

85.20 Applicability.
85.21 Standards for exhaust emissions.
85.22 Standard for fuel evaporative emisssions.
85.23 Test procedures.

Subpart D—Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)

85.30 Applicability.
85.31 Standards for exhaust emissions.
85.32 Test procedures.

Subpart E—Exhaust Emissions (Heavy Duty Diesel Engines)

85.40 Applicability.
85.41 Standards for exhaust smoke.
85.42 Test procedures.

Subpart F—Certification of Motor Vehicles and Motor Vehicle Engines

85.50 Applicability.
85.51 Application for certification.
85.52 Approval of procedure and equipment; test fleet selections.
85.53 Required data.
85.54 Testing by the Secretary.
85.55 Certification.
85.56 Separate certification.
85.57 Addition of a vehicle after certification.
85.58 Changes to a vehicle covered by certification.

Subpart G—Hearings on Certification

85.60 Hearing.
85.61 Hearing file.
85.62 Representation.
85.63 Prehearing conference.
85.64 Conduct of hearings.
85.65 Initial and final decisions.

Subpart H—Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)

85.70 Introduction.
85.71 Gasoline fuel specifications.
85.72 Vehicle and engine preparation (fuel evaporative emissions).
85.73 Vehicle preconditioning (fuel evaporative emissions).
85.74 Evaporative emission collection procedure.
85.75 Dynamometer driving schedule.
85.76 Dynamometer procedure.
85.77 Three-speed manual transmissions.

Sec.
85.78 Four-speed and five-speed manual transmissions.
85.79 Automatic transmissions.
85.80 Engine starting and restarting.
85.81 Sampling and analytical system (exhaust emissions).
85.82 Sampling and analytical system (fuel evaporative emissions).
85.83 Information to be recorded.
85.84 Analytical system calibration and sample handling.
85.85 Dynamometer test runs.
85.86 Chart reading.
85.87 Calculations (exhaust emissions).
85.88 Calculations (fuel evaporative emissions).
85.89 Test vehicles.
85.90 Maintenance.
85.91 Mileage accumulation and emission measurements.
85.92 Compliance with emission standards.

Subpart I—Test Procedures for Engine Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)

85.100 Introduction.
85.101 Gasoline fuel specifications.
85.102 Dynamometer operation cycle and equipment.
85.103 Dynamometer procedures.
85.104 Sampling and analytical system for measuring exhaust emissions.
85.105 Information to be recorded on charts.
85.106 Calibration and instrument checks.
85.107 Dynamometer test run.
85.108 Chart reading.
85.109 Calculations.
85.110 Test engines.
85.111 Maintenance.
85.112 Service accumulation and emission measurements.
85.113 Compliance with emission standards.

Subpart J—Test Procedures for Engine Exhaust Emissions (Heavy Duty Diesel Engines)

85.120 Introduction.
85.121 Diesel fuel specifications.
85.122 Dynamometer operation cycle for smoke emission tests.
85.123 Dynamometer and engine equipment.
85.124 Smoke measurement system.
85.125 Information to be recorded.
85.126 Instrument checks.
85.127 Test run.
85.128 Chart reading.
85.129 Calculations.
85.130 Test engines.
85.131 Maintenance.
85.132 Service accumulation and emission measurements.
85.133 Compliance with emission standards.

Appendix A—DHEW Urban Dynamometer Driving Schedule.

Appendix B—Procedure for Dynamometer Road Horsepower Calibration.

Appendix C—Durability Driving Schedule.

AUTHORITY: The provisions of this Part 85 issued under sec. 301, 81 Stat. 504, 42 U.S.C. 1857g(a).

Subpart A—General Provisions

§ 85.1 Definitions.

(a) As used in this part, all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means the National Emission Standards Act (Title II of the Clean Air Act as amended), 42 U.S.C. 1857f–1 et seq.

(2) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(3) "Model year" means the production period of new motor vehicles or new motor vehicle engines designated by the calendar year in which such period ends: *Provided,* That if the manufacturer does not designate a production period the model year with respect to such vehicles or engines shall mean the 12-month period beginning January 1 of the year in which production begins.

(4) "Gross vehicle weight" means the manufacturer's gross weight rating.

(5) "Light duty vehicle" means any motor vehicle either designed primarily for transportation of property and weighing 6,000 pounds GVW or less or designed primarily for transportation of persons and having a capacity of 12 persons or less.

(6) "Heavy duty vehicle" means any motor vehicle not meeting the definition of a light duty vehicle.

(7) "Heavy duty engine" means any engine which the engine manufacturer could reasonably expect to be used in a heavy duty vehicle.

(8) "Off-road utility vehicle" means a light duty vehicle which incorporates special features for off-road operation such as four-wheel drive.

(9) "Motorcycle" means any light duty vehicle designed primarily for operation on two wheels.

(10) "Vehicle curb weight" means the actual or the manufacturer's estimated weight of the vehicle in operational status with all standard equipment, and weight of fuel at nominal tank capacity, and the weight of optional equipment computed in accordance with § 85.89(g).

(11) "Loaded vehicle weight" means the vehicle curb weight of a light duty vehicle plus 300 pounds.

(12) "System" includes any motor vehicle engine modification which controls or causes the reduction of substances emitted from motor vehicles or motor vehicle engines.

(13) "Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 85.89(a).

(14) "Engine-system combination" means an engine family-exhaust emission control system-fuel evaporative emission control system (where applicable) combination.

(15) "Fuel system" means the combination of fuel tank, fuel pump, fuel lines, and carburetor, or fuel injection components, and includes all fuel system vents and fuel evaporative emission control systems.

(16) "Crankcase emissions" means substances emitted to the atmosphere from any portion of the engine crankcase ventilation or lubrication systems.

(17) "Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(18) "Fuel evaporative emissions" means vaporized fuel emitted into the atmosphere from the fuel system of a motor vehicle.

(19) "Smoke" means the matter in exhaust emissions which obscures the transmission of light.

(20) "Hot soak loss" means fuel evaporative emissions during the 1-hour hot soak period which begins immediately after the engine is turned off.

(21) "Diurnal breathing loss" means fuel evaporative emissions as a result of the daily range in temperature to which the fuel system is exposed.

(22) "Running loss" means fuel evaporative emissions resulting from an average trip in an urban area or the simulation of such a trip.

(23) "Tank fuel volume" means the volume of fuel in the fuel tank, prescribed to be 40 percent of nominal tank capacity rounded to the nearest whole U.S. gallon.

(24) "Maximum rated horsepower" means the maximum brake S.A.E. horsepower output of an engine as stated by the manufacturer in his sales and service literature and his application for certification under § 85.51.

(25) "Rated speed" means the speed at which the manufacturer specifies the maximum rated horsepower of an engine.

(26) "Maximum rated torque" means the maximum torque produced by an engine as stated by the manufacturer in his sales and service literature and his application for certification under §85.51.

(27) "Opacity" means the fraction of a beam of light, expressed in percent, which fails to penetrate a plume of smoke.

§ 85.2 Abbreviations.

The abbreviations used in this part have the following meanings in both capital and lower case:

Accel.—Acceleration.
ASTM—American Society for Testing and Materials.
BHP—Brake Horsepower.
C.f.h.—Cubic feet per hour.
CO_2—Carbon Dioxide.
CO—Carbon Monoxide.
Conc.—Concentration.
CT—Closed Throttle.
C.f.m.—Cubic feet per minute.
Cu.in.—Cubic inch(es).
Decel.—Deceleration.
EP—End Point.
Evap.—Evaporated.
F.—Fahrenheit.
FL—Full Load.
Gal.—U.S. Gallon(s).
Gm.—Gram(s).
GVW—Gross Vehicle Weight.
HC—Hydrocarbon(s).
Hg—Mercury.
Hi.—High.
HP.—Horsepower.
IBP—Initial Boiling Point.
ID—Internal Diameter.
Lb.—Pound(s).
Lb.-ft.—Pound-feet.
Max.—Maximum.
Min.—Minimum; also minute(s).
Ml.—Milliliter(s).
M.p.h.—Miles per hour.
Mm.—Millimeter(s).
Mv.—Millivolt(s).
N_2—Nitrogen.
No.—Number.
Pb—Lead.
P.p.m.—Parts per million by volume.
P.s.i.—Pounds per square inch.
P.s.i.g.—Pounds per square inch gauge.
PTA—Part Throttle Accel.
PTD—Part Throttle Decel.
R—Rankine.
R.p.m.—Revolutions per minute.
RS—Rated Speed.

RVP—Reid Vapor Pressure.
S.A.E.—Society of Automotive Engineers.
Sec.—Second(s).
Sp.—Speed.
SS—Stainless Steel.
T—Torque.
TEL—Tetraethyl Lead.
TML—Tetramethyl Lead.
V.—Volts.
Vs.—Versus.
WOT—Wide Open Throttle.
Wt.—Weight.
'—Feet.
''—Inches.
°—Degrees.
%—Percent.

§ 85.3 General standards: increase in emissions; unsafe conditions.

(a) (1) Every new motor vehicle or new motor vehicle engine manufactured for sale, sold, offered for sale, introduced or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this part shall be covered by a certificate of conformity issued pursuant to Subpart F of this part.

(2) No manufacturer shall take any of the actions specified in section 203(a)(1) of the Act with respect to any gasoline fueled or diesel powered heavy duty vehicle which uses an engine which has not been certified as meeting applicable standards. Such manufacturer shall provide to the Secretary prior to the beginning of each model year a statement signed by an authorized representative which includes the following information:

(i) A description of the vehicles which will be produced subject to this section;

(ii) Identification of the engines used in the vehicles;

(iii) Projected sales data on each vehicle-engine combination;

(iv) A statement that the engines have not been modified by the vehicle manufacturer or a detailed specification of any changes which may have been made.

(b) (1) Any system installed on or incorporated in a new motor vehicle or new motor vehicle engine to enable such vehicle to conform to standards imposed by this part:

(i) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such vehicle or engine without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) Every manufacturer of new motor vehicles or new motor vehicle engines subject to any of the standards imposed by this part shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles or motor vehicle engines in accordance with good engineering practice to ascertain that such test vehicles or engines will meet the requirements of this section for the lifetime of the vehicle or engine as defined in § 85.92, § 85.113, or § 85.133, as appropriate.

§ 85.4 Labeling.

(a) (1) The manufacturer of any light duty motor vehicle subject to any of the standards prescribed in this part shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles available for sale to the public and covered by a certificate of conformity under § 85.55(a).

(2) A plastic or metal label shall be welded, riveted, or otherwise permanently attached in a readily visible position in the engine compartment.

(3) The label shall be affixed by the vehicle manufacturer, who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any equipment which is easily detached from such vehicle.

(4) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading: Vehicle Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine displacement (in cubic inches) and engine family identification;

(iv) Engine tuneup specifications and adjustments, as recommended by the manufacturer, including idle speed, ignition timing, and idle air-fuel mixture setting and/or idle carbon monoxide setting. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air-conditioner), if any, should be in operation;

(v) The statement: "This Vehicle Conforms to U.S. Dept. of H.E.W. Regulations Applicable to (insert current year) Model Year New Motor Vehicles."

(b) The manufacturer of any heavy duty gasoline fueled engine shall, at the time of manufacture, affix a permanent, legible plastic or metal label, containing the information hereinafter provided to all production models of such engines available for sale to the public, and covered by a certificate of conformity under § 85.55(a). The label shall be affixed at such a location that it will be readily accessible for inspection after the engine is installed in a vehicle and shall read as follows:

ENGINE EMISSION CERTIFICATION

This engine is, in all material respects, of substantially the same construction as test engines certified by the U.S. Department of Health, Education, and Welfare as conforming to Federal regulations pertaining to crankcase and exhaust emissions.

Engine family identification and engine displacement (in cubic inches) _____.
Date of manufacture _____.
(Month and year)
Name of manufacturer _____.

(The information applicable to each engine is to be inserted on the appropriate line.)

(c) The manufacturer of any heavy duty diesel engine shall, at the time of manufacture, affix a permanent, legible plastic or metal label containing the information hereinafter provided to all production models of such engines available for sale to the public, and covered by a certificate of conformity under § 85.55(a). The label shall be affixed at such a location that it will be readily accessible for inspection after the engine is installed in a vehicle and shall read as follows:

ENGINE SMOKE EMISSION CERTIFICATION

This engine is, in all material respects, of substantially the same construction as test engines certified by the U.S. Department of Health, Education, and Welfare as conforming to Federal regulations pertaining to exhaust smoke emission.

Engine family identification and model _____.
Date of manufacture _____.
(Month and year)
Name of manufacturer _____.

(The information applicable to each engine is to be inserted on the appropriate line.)

(d) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle or engine conforms to any applicable State emission standards for new motor vehicles or new motor vehicle engines or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle or engine.

§ 85.5 Submission of vehicle identification numbers.

(a) The manufacturer of any light duty motor vehicle covered by a certificate of conformity under § 85.55(a) shall, not later than 60 days after its manufacture, submit to the Secretary the vehicle identification number of such vehicle.

(b) The manufacturer of any heavy duty engine covered by a certificate of conformity under § 85.55(a) shall furnish to the Secretary, within 90 days after the close of any period covered by a certificate of conformity, a list of serial numbers of production engines manufactured in the period covered by the certificate of conformity.

(c) The requirements of this section may be waived with respect to any manufacturer who provides information satisfactory to the Secretary which will enable the Secretary to identify those vehicles or engines which are covered by a certificate of conformity.

§ 85.6 Production vehicles and engines.

(a) Any manufacturer obtaining certification under this part shall supply to the Secretary, upon his request, a reasonable number of production vehicles or engines selected by the Secretary which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles or engines shall be supplied for testing at such time and place and for such reasonable periods as the Secretary may require. Engines supplied under this paragraph may be

required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

(b) Any manufacturer obtaining certification under this part shall notify the Secretary, on a quarterly basis, of the number of vehicles of each engine family - engine displacement - exhaust emission control system-fuel system-transmission type-inertia weight class combination or the number of engines of each engine family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding quarter. This notification may be combined, as appropriate, with the notification required under § 85.5.

(c) All light duty vehicles covered by a certificate of conformity under § 85.55 (a) shall be adjusted by the manufacturer to the specifications detailed in § 85.4(a)(4)(iv).

§ 85.7 Test conditions.

All emission control systems installed on or incorporated in a new motor vehicle or new motor vehicle engine shall be functioning during all test procedures in this part.

§ 85.8 Special test procedures.

The Secretary may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this part, for any motor vehicle or motor vehicle engine which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.9 Maintenance of records; submittal of information; right of entry.

(a) The manufacturer of any new motor vehicle or new motor vehicle engine subject to any of the standards prescribed in this part shall establish and maintain the following adequately organized and indexed records:

(1) Identification and description of all vehicles or engines for which testing is required under this part.

(2) A description of all emission control systems which are installed on or incorporated in each vehicle or engine.

(3) A description of the procedures used to test such vehicles or engines.

(4) Test data on each emission data vehicle or engine which will show its emissions at 0 and 4,000 miles or 0 and 125 hours, respectively.

(5) Test data on each durability vehicle or engine which will show the performance of the systems installed on or incorporated in the vehicle or engine during extended mileage or operation, as well as a record of all pertinent maintenance performed on the vehicle or engine.

(b) The manufacturer of any new motor vehicle or new motor vehicle engine subject to any of the standards prescribed in this part shall submit the following information to the Secretary:

(1) Copies of all communications with other manufacturers, assembly plants, distributors, dealers, and ultimate purchasers which include instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such vehicle or engine relevant to the control of crankcase, exhaust, or evaporative emissions.

(2) Warranty experience relevant to crankcase, exhaust, or evaporative emissions from such vehicle or engine.

(c) The manufacturer of any new motor vehicle or new motor vehicle engine subject to any of the standards prescribed in this part shall permit officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the manufacturer:

(1) To enter, at reasonable times, any premises used during the certification procedure for purposes of monitoring tests and mileage accumulation procedures, observing maintenance procedures, and verifiying correlation of measuring equipment, or

(2) To inspect, at reasonable times, records, files, and papers compiled by such manufacturer in accordance with paragraph (a) of this section.

A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

Subpart B—Crankcase Emissions (Gasoline Fueled Vehicles and Engines)

§ 85.10 Applicability.

The provisions of this subpart are applicable to all new gasoline fueled light duty vehicles, except motorcycles, and heavy duty engines beginning with the 1972 model year for such vehicles and engines.

§ 85.11 Standard for crankcase emissions.

No crankcase emissions shall be discharged into the ambient atmosphere from any new motor vehicle or new motor vehicle engine subject to this subpart.

§ 85.12 Test procedures.

Every manufacturer of new motor vehicles or new motor vehicle engines subject to the standard prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles or motor vehicle engines in accordance with good engineering practice to ascertain that such test vehicles or engines, with proper maintenance, will meet the requirements of § 85.11 for a period not less than 100,000 miles or 3,000 hours, respectively. If, pursuant to § 85.55 (a), the Secretary issues a certificate of conformity for the class or classes of motor vehicles or motor vehicle engines represented by such test vehicles or engines, any new motor vehicle or motor vehicle engine which is in all material respects of substantially the same construction as such test vehicle or engine shall be deemed to be in conformity with the requirement of § 85.11.

Subpart C—Exhaust Emissions and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)

§ 85.20 Applicability.

The provisions of this subpart are applicable to new gasoline fueled light duty motor vehicles, except motorcycles, beginning with the model year specified therein.

§ 85.21 Standards for exhaust emissions.

(a) (1) Exhaust emissions from 1972, 1973, and 1974 model year vehicles shall not exceed:

(i) Hydrocarbons—2.9 grams per vehicle mile.

(ii) Carbon monoxide—37.0 grams per vehicle mile.

(2) Exhaust emissions from vehicles beginning with the 1975 model year shall not exceed:

(i) Hydrocarbons—0.5 gram per vehicle mile.

(ii) Carbon monoxide—11.0 grams per vehicle mile.

(b) The standards set forth in paragraph (a) of this section refer to the exhaust emitted over a driving schedule as set forth in the applicable sections of "Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)" of this part and measured and calculated in accordance with those procedures.

§ 85.22 Standard for fuel evaporative emissions.

(a) Fuel evaporative emissions from vehicles beginning with the 1972 model year shall not exceed:

(1) Hydrocarbons—2 grams per test.

(b) The standard set forth in paragraph (a) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in the "Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)" of this part and measured in accordance with those procedures.

§ 85.23 Test procedures.

Every manufacturer of new motor vehicles subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles in accordance with test procedures in Subpart H of this part to ascertain that such test vehicles meet the requirements of §§ 85.21 and 85.22, as applicable. If, pursuant to § 85.55(a), the Secretary issues a certificate of conformity for the class or classes of vehicles represented by such test vehicles, any new motor vehicle which is in all material respects of substantially the same construction as such test vehicles shall be deemed to be in conformity with the requirements of §§ 85.21 and 85.22, as applicable.

Subpart D—Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)

§ 85.30 Applicability.

The provisions of this subpart are applicable to new gasoline fueled heavy

duty engines beginning with the 1972 model year.

§ 85.31 Standards for exhaust emissions.

(a) Exhaust emissions from new gasoline fueled heavy duty engines shall not exceed:

(1) Hydrocarbons—275 p.p.m.

(2) Carbon monoxide—1.5 percent by volume.

(b) The standards set forth in paragraph (a) of this section refer to a composite sample representing the operating cycles set forth in the applicable sections of "Test Procedures for Engine Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)" of this part and measured in accordance with those procedures.

§ 85.32 Test procedures.

Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in Subpart I of this part to ascertain that such test engines meet the requirements of § 85.31. If, pursuant to § 85.55(a), the Secretary issues a certificate of conformity for the class or classes of motor vehicle engines represented by such test engines, any new motor vehicle engine which is in all material respects of substantially the same construction as such test engines shall be deemed to be in conformity with the requirements of § 85.31.

Subpart E—Exhaust Emissions (Heavy Duty Diesel Engines)

§ 85.40 Applicability.

The provisions of this subpart are applicable to new heavy duty diesel engines beginning with the 1972 model year.

§ 85.41 Standards for exhaust smoke.

(a) The opacity of smoke emissions from new diesel engines subject to this subpart shall not exceed:

(1) 40 percent during the engine acceleration mode.

(2) 20 percent during the engine lugging mode.

(b) The standards set forth in paragraph (a) of this section refer to exhaust smoke emissions generated under the conditions set forth in the "Test Procedures for Engine Exhaust Emissions (Heavy Duty Diesel Engines)" of this part and measured and calculated in accordance with those procedures.

§ 85.42 Test procedures.

Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in Subpart J of this part, to ascertain that such test engines meet the requirements of §85.41. If, pursuant to §85.55(a), the Secretary issues a certificate of conformity for the class or classes of motor vehicle engines represented by such test engines, any motor vehicle engine which is in all material respects of substantially the same construction as such test engines shall be deemed to be in conformity with the requirements of § 85.41.

Subpart F—Certification of Motor Vehicles and Motor Vehicle Engines

§ 85.50 Applicability.

The provisions of this subpart are applicable to new motor vehicles and new motor vehicle engines subject to the standards prescribed in this part. As used in this subpart, the term "vehicle" and "test vehicle" shall include engines and test engines, respectively.

§ 85.51 Application for certification.

(a) An application for a certificate of conformity to the regulations applicable to any new motor vehicle shall be made to the Secretary by the manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicles covered by the application and a description of their emission control systems.

(2) Projected U.S. sales data sufficient to enable the Secretary to select a test fleet representative of the vehicles for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed mileage accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles covered by a certificate of conformity, in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

§ 85.52 Approval of procedure and equipment; test fleet selections.

Based upon the information provided in the application for certification, and any other information the Secretary may require, the Secretary will approve or disapprove in whole or in part the mileage accumulation procedure and equipment and fuel proposed by the manufacturer, and notify him in writing of such determination. Where any part of a proposal is disapproved, such notification will specify the reasons for disapproval. The Secretary will select a test fleet in accordance with § 85.89, § 89.110, or § 85.130, as appropriate.

§ 85.53 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Secretary the following information:

(a) Durability data on such vehicles tested in accordance with the applicable test procedures of this part, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage or operation, as well as a record of all pertinent maintenance performed on the test vehicles.

(b) Emission data on such vehicles tested in accordance with the applicable emission test procedures of this part and in such numbers as therein specified, which will show their emissions after 4,000 miles or 125 hours of operation (as appropriate).

(c) A description of tests performed to ascertain compliance with the general standards in § 85.3 and the data derived from such tests.

(d) A statement that the test vehicles with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirement of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this part. If such statements cannot be made with respect to any vehicle tested, the vehicle shall be identified, and all pertinent test data relating thereto shall be supplied.

§ 85.54 Testing by the Secretary.

(a) The Secretary may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Secretary may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Secretary shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b) (1) Whenever the Secretary conducts a test on a test vehicle, the results of that test shall comprise the official data for the vehicle at that prescribed test point.

(2) Whenever the Secretary does not conduct a test on a test vehicle at a test point, the manufacturer's test date will be accepted as the official data for that test point: *Provided*, That if the Secretary makes a determination, based on testing under paragraph (a) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Secretary, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(3) If the Secretary determines that the test data developed under paragraph (a) of this section would cause a vehicle to fail due to excessive 4,000-mile or 125-hour emissions or excessive deterioration, then the following procedure shall be observed:

(i) The manufacturer may request a retest. Before the retest, the vehicle may be adjusted to manufacturer's specifications, and parts may be replaced in ac-

cordance with § 85.90, § 85.111, or § 85.131, as appropriate. All work on the vehicle shall be done at such location and under such conditions as the Secretary may prescribe.

(ii) The vehicle will be retested by the Secretary and the results of this test shall comprise the official data for that prescribed test point.

(4) If sufficient durability data is not available, at the time of any emission test conducted under paragraph (a) of this section, to enable the Secretary to determine whether a test vehicle would fail, the manufacturer may request a retest in accordance with the provisions of subparagraph (3) (i) and (ii) of this paragraph. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

§ 85.55 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.54, the Secretary determines that a test vehicle(s) conforms to the regulations of this part, he will issue a certificate of conformity with respect to such vehicle(s).

(2) Such certificate will be issued for such period not less than 1 year as the Secretary may determine and upon such terms as he may deem necessary to assure that any new motor vehicle covered by the certificate will meet the requirements of these regulations relating to durability and performance.

(b) (1) The Secretary will determine whether a vehicle covered by the application complies with applicable standards by observing the following relationships:

(i) A test vehicle selected under § 85.89 (b) (2), § 85.110(b) (2), or § 85.130(b) (2), as appropriate, shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-evaporative emission control system combination.

(ii) A test vehicle selected under § 85.89(b) (3) or § 85.110(b) (3), as appropriate, shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-transmission type-fuel system combination.

(iii) A test vehicle selected under § 85.89(c) (1), § 85.110(c) (1), or § 85.130 (c) (1), as appropriate, shall represent all vehicles of the same engine-system combination.

(2) The Secretary will proceed as in paragraph (a) of this section with respect to the vehicles belonging to an engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.54, the Secretary determines that one or more test vehicles of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 15 days following receipt of the notification, the manufacturer may request a hearing on the Secretary's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Secretary's determination, and data in support of such objections. If, after a review of the request and supporting data, the Secretary finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with subpart G with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test vehicle(s) determined not in compliance with applicable standards:

(i) Request a hearing under subpart G, or

(ii) Delete from the application for certification the vehicles represented by the failing test vehicle. (Vehicles so deleted may be included in a later request for certification under § 85.57.) The Secretary will then select in place of each failing vehicle an alternate vehicle chosen in accordance with selection criteria employed in selecting the vehicle that failed, or

(iii) Modify the test vehicle and demonstrate by testing that it meets applicable standards. Another vehicle which is in all material respects the same as the first vehicle, as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Secretary will deny certification.

§ 85.56 Separate certification.

Where possible a manufacturer should include in a single application for certification all vehicles for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles and the computation of test results will be determined separately for each application.

§ 85.57 Addition of a vehicle after certification.

(a) If a manufacturer proposes to add to his product line a vehicle of the same engine-system combination as vehicles previously certified but which was not described in the application for certification when the test vehicle(s) representing other vehicles of that combination was certified, he shall notify the Secretary in advance of this addition. This notification shall include a full description of the vehicle proposed to be added.

(b) The Secretary may require the manufacturer to perform such tests on the test vehicle(s) representing the vehicle proposed to be added which would have been required if the vehicle had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 85.54, the Secretary determines that the test vehicle(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Secretary determines that the test vehicle(s) does not meet applicable standards, he will proceed under § 85.55(b).

§ 85.58 Changes to a vehicle covered by certification.

(a) The manufacturer shall notify the Secretary in advance of any intended change in production vehicles in respect to any of the parameters listed in § 85.89 (a) (3), § 85.89(b) (3), or § 85.110(b) (3). Such notification shall contain a full description of the change intended to be made.

(b) Based upon the description of the intended change, and data derived from such testing as the Secretary may require or conduct, the Secretary will determine whether the vehicle, as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Secretary determines that the outstanding certificate would cover the modified vehicles, he will notify the manufacturer in writing and the manufacturer may proceed with the intended change. If the Secretary determines that the modified vehicles would not be covered by the certificate then in effect, then the modified vehicles shall be treated as additions to the product line subject to § 85.57.

Subpart G—Hearings on Certification

§ 85.60 Hearing.

(a) After granting a request for a hearing under § 85.55, the Secretary will designate a Presiding Officer for the hearing.

(b) The General Counsel will represent the Department of Health, Education, and Welfare in any hearing under this subpart.

(c) If a time and place for the hearing have not been fixed by the Secretary under § 85.55, the hearing shall be held as soon as practicable at a time and place fixed by the Secretary or by the Presiding Officer.

§ 85.61 Hearing file.

(a) Upon his appointment pursuant to § 85.60, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Secretary under § 85.55, together with any accompanying material, the request for a hearing and the supporting data submitted therewith and all documents relating to the request for certification, including the application for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(b) The appeal file will be available for inspection by the applicant at the office of the Presiding Officer.

§ 85.62 Representation.

An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

§ 85.63 Prehearing conference.

(a) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(1) Simplification of the issues;

(2) Stipulations, admissions of fact, and the introduction of documents;

(3) Limitation of the number of expert witnesses;

(4) Possibility of agreement disposing of all or any of the issues in dispute;

(5) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(b) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

§ 85.64 Conduct of hearings.

(a) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial, and repetitious evidence.

(b) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(c) Any witnesses may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(d) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(e) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing statisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(f) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

§ 85.65 Initial and final decisions.

(a) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Secretary without further proceedings unless there is an appeal to the Secretary or motion for review by the Secretary within 20 days of the date the initial decision was filed.

(b) On appeal from or review of the initial decision the Secretary shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Secretary shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

Subpart H—Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)

§ 85.70 Introduction.

The procedures described in this subpart will be the test program to determine the conformity of gasoline fueled light duty vehicles with the applicable standards set forth in this part.

(a) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sample continuously for subsequent analysis of specific components by prescribed analytical techniques. The fuel evaporative emissions are collected for subsequent weighing during both vehicle parking and operating events. The test applies to vehicles equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems or to uncontrolled vehicles and engines.

(b) The exhaust emission test is designed to determine hydrocarbon and carbon monoxide mass emissions while simulating an average trip in an urban area of 7.5 miles from a cold start. The test consists of engine startup and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in appendix A to this part. A proportional part of the diluted exhaust emissions is collected continuously, for subsequent analysis, using a constant volume (variable dilution) sampler.

(c) The fuel evaporative emission test is designed to determine fuel hydrocarbon evaporative emissions to the atmosphere as a consequence of urban driving, and diurnal temperature fluctuations during parking. It is associated with a series of events representative of a motor vehicle's operation, which results in fuel vapor losses directly from the fuel tank and carburetor. The test procedure is specifically aimed at collecting and weighing:

(1) Diurnal breathing losses from the fuel tank and other parts of the fuel system when the fuel tank is subjected to a temperature increase representative of the diurnal range;

(2) Running losses from the fuel tank and carburetor resulting from a simulated trip from a cold start;

(3) Hot soak losses from the fuel tank and carburetor which result when the vehicle is parked and the hot engine is turned off. The average trip is simulated by operating the vehicle on a chassis dynomometer. Activated carbon traps are employed in collecting the vaporized fuel.

§ 85.71 Gasoline fuel specifications.

(a) Fuel having the following specifications, or substantially equivalent specifications approved by the Secretary, shall be used in exhaust and evaporative emission testing.

Item	ASTM designation	Specifications
Octane, Research, min	D 1656	100
Pb. (organic), gm./U.S. gal	D 526	3.1–3.3
Distillation range	D 86	
IBP, ° F		75–95
10 percent point, °F		120–135
50 percent point, °F		200–230
90 percent point, °F		300–325
EP, °F. (max.)		415
Sulfur, wt. percent, max	D 1266	0.10
Phosphorus, theory		0.0
RVP,[1] lb	D 323	8.7–9.2
Hydrocarbon composition	D 1319	
Olefins, percent, max		10
Aromatics, percent, max		35
Saturates		Remainder

[1] For testing which is unrelated to fuel evaporative emission control, the specified range is: 8.0–9.2.

(b) Fuel having the following specifications, or substantially equivalent specifications approved by the Secretary, shall be used in mileage accumulation. The octane rating of the fuel used shall be in the range recommended by the vehicle or engine manufacturer. The Reid Vapor Pressure of the fuel used shall be characteristic of the seasonal motor fuel.

Item	ASTM Designation	Regular	Premium
Pb. (organic), gm./U.S. gal	D 526	2.1–3.2	2.1–3.2
Sulfur, wt. percent	D 1266	0.02–0.10	0.2–0.10
Hydrocarbon composition	D 1319		
Olefins, percent, max		30	15
Aromatics, percent, max		40	40
Saturates		Remainder	Remainder

(c) The specifications of the fuel to be used under paragraph (b) of this section shall be reported in accordance with § 85.51(b)(3).

§ 85.72 Vehicle and engine preparation (fuel evaporative emissions).

(a) (1) Apply appropriate leak-proof fittings to all fuel system external vents to permit collection of effluent vapors from these vents during the course of the prescribed tests. Since the prescribed test requires the temporary plugging of the inlet pipe to the air cleaner, it will be necessary to install a probe for collecting the normal effluents from this source. Where antisurge/vent filler caps are employed on the fuel tank, plug off the normal vent if it does not conveniently lend itself to the collection of

vapors which emanate from it, and introduce a separate vent, with appropriate fitting, on the cap. Where the fuel tank vent line terminus is inaccessible, sever the line at a convenient point near the fuel tank and install the collection system in a closed circuit assembly with the severed ends. All fittings shall terminate in 5/16-inch ID tube sections for ready connection to the collection systems and shall be designed for minimum dead space.

(2) The design and installation of the necessary fittings shall not disturb the normal function of the fuel system components or the normal pressure relationships in the system.

(b) (1) Inspect the fuel system carefully to insure the absence of any leaks to the atmosphere of either liquid or vapor which might affect the accuracy of the test or the performance of the control system. Corrective action, if any, shall be reported with the test results under § 85.53.

(2) Care should be exercised, in the application of any pressure tests, neither to purge nor load the evaporative emission control system.

(c) Prepare fuel tank for recording the temperature of the prescribed test fuel at its approximate midvolume.

(d) Provide additional fittings and adapters, as required to accommodate a fuel drain at the lowest point possible in the tank as installed on the vehicle.

§ 85.73 Vehicle preconditioning (fuel evaporative emissions).

Vehicle to be tested for compliance with the fuel evaporative emissions standard of this part shall be preconditioned as follows:

(a) The test vehicle shall be operated under the conditions prescribed for mileage accumulation, § 85.91, for 1 hour immediately prior to the operations prescribed below.

(b) The fuel tank shall be drained and specified test fuel (§ 85.71(a)) added. The evaporative emission control system or device shall not be abnormally purged or loaded as a result of draining or fueling the tank.

(c) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the applicable requirements and procedures of §§ 85.75–85.80 except that the engine need not be cold when starting the run on the dynamometer operation. During the run the ambient temperature shall be between 68° F. and 86° F.

(d) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand at an ambient temperature between 76° F. and 86° F. for a period of not less than 1 hour prior to the soak period prescribed in § 85.74 (a)(1).

§ 85.74 Evaporative emission collection procedure.

The standard test procedure consists of three parts described below which shall be performed in sequence and without any interruption in the test conditions prescribed.

(a) *Diurnal breathing loss test.* (1) The test vehicle shall be allowed to "soak" in an area where the ambient temperature is maintained between 60° F. and 86° F. for a period of not less than 10 hours. (The vehicle preparation requirements of § 85.72 may be performed during this period.) It shall than be transferred to a soak area where the ambient temperature is maintained between 76° F. and 86° F. Upon admittance to the 76° F–86° F. soak area, the prescribed fuel tank thermocouple shall be connected to the recorder and the fuel and ambient temperatures recorded at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) The fuel tank of the prepared test vehicle, preconditioned according to §85.73, shall be drained and recharged with the specified test fuel, §85.71(a) to the prescribed "tank fuel volume," defined in § 85.1. The temperature of the fuel following the charge to the tank shall be 60° F.±2° F. Care should be exercised against abnormal loading of the evaporative emission control system or device as a result of fueling the tank.

(3) Immediately following the fuel charge to the tank, the exhaust pipe(s) and inlet pipe to the air cleaner shall be plugged and the prescribed vapor collection systems installed on all fuel stystem external vents. Multiple vents may be connected to a single collection trap provided that, where there is more than one external vent on a fuel system distinguishing between carburetor and tank vapors, separate collection systems shall be employed to trap the vapors from the separate sources. Every precaution shall be taken to minimize the lengths of the collection tubing employed and to avoid sharp bends across the entire system.

(4) Artificial means shall be employed to heat the fuel in the tank to 84° F. ±2° F. The prescribed temperature of the fuel shall be achieved over a period of 60 minutes±10 minutes using a constant rate of heat input. After a minimum of 1 hour, following admittance to the 76° F.–86° F. soak area, the vehicle shall be moved onto the dynamometer stand for the subsequent part of the test. The fuel tank thermocouple may be temporarily disconnected to permit moving the test vehicle. Plugs shall be removed from the exhaust pipe(s) and inlet pipe to the air cleaner.

(b) *Running loss test.* (1) The test vehicle shall be placed on the dynamometer with the hood up and the cooling fan positioned between 8" and 12" from the grill and directed squarely at the radiator. (Exception: air cooled engines.) The ambient air temperature shall be maintained between 68° F.–86° F. and recorded, together with the fuel temperature, at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) Where the only external vent(s) is located in the immediate vicinity of the carburetor air horn, such that any "running loss" emissions would be inducted into the engine, there is no requirement to collect any vapor losses during this part of the test and the vapor-loss measurement system shall be temporarily disconnected and clamped.

(3) The vehicle shall be operated on the dynamometer according to the requirements and procedures of §§ 85.75–85.85. The engine and fan shall be turned off upon completion of the dynamometer run and the exhaust and air cleaner inlet pipes shall be replugged.

(4) Any vapor collection systems employed during this part of the test shall be left intact for their continued use during the following part. Any part of the vapor collection system disconnected during this phase of the test shall be reconnected for the following phase.

(c) *Hot soak test.* Upon completion of the dynamometer run, the test vehicle shall be permitted to soak with hood down for a period of 1 hour at an ambient temperature between 76° F. and 86° F. This operation completes the test. The traps are disconnected and weighed according to § 85.82.

§ 85.75 Dynamometer driving schedule.

(a) The dynamometer driving schedule to be followed consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates. The driving schedule is defined by a smooth transition through the speed vs. time relationships listed in appendix A. The time sequence begins upon starting the vehicle according to the startup procedure described in § 85.80.

(b) The following equipment shall be used for dynamometer tests:

(1) Chassis dynamometer-equipped with power absorption unit and flywheels.

(2) Cooling fan—a fixed-speed fan shall be used. It shall have sufficient capacity to maintain engine cooling during sustained operation on the dynamometer and its air moving capacity shall not exceed 5,300 c.f.m.

§ 85.76 Dynamometer procedure.

(a) The vehicle shall be tested from a cold start. Engine startup and operation over the driving schedule make a complete test run. Exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during the entire test run. The composite sample, collected in a bag, is analyzed for hydrocarbon and carbon monoxide. A parallel sample of the dilution air is similarly analyzed.

(b) Special considerations:

(1) On rolls less than 20 inches in diameter, the drive wheel tires shall be inflated to 45 p.s.i.g. in order to prevent tire damage.

(2) The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

(3) The cooling fan shall be positioned between 8 and 12 inches from the grill and directed squarely at the radiator (exception: air-cooled engines) and the dynamometer operation shall be carried out with the hood up.

(4) Flywheels giving equivalent inertia as shown in the following table shall be used. Flywheels giving heavier inertia may be used.

Loaded vehicle weight, lbs.:	Equivalent inertia weight, lbs.
Up to 1,625	1,500
1,626 to 1,875	1,750
1,876 to 2,125	2,000
2,126 to 2,375	2,250
2,376 to 2,625	2,500
2,626 to 2,875	2,750
2,876 to 3,250	3,000
3,251 to 3,750	3,500
3,751 to 4,250	4,000
4,251 to 4,750	4,500
4,751 to 5,250	5,000
5,251 to 6,000	5,500

(c) The power absorption unit shall be adjusted to reproduce road load at 50 m.p.h. true speed.

(1) The proper horsepower setting for a particular vehicle dynamometer combination is predetermined by:

(i) Measuring the absolute manifold vacuum of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(ii) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold vacuum, when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h.

(iii) The actual road load horsepower shall be determined according to the procedure outlined in appendix B and reported with the test results.

(2) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, an additional 10 percent of the actual road load horsepower shall be added to the indicated horsepower for testing all test vehicles representing such engine family.

(d) Practice runs over the prescribed driving schedule may be performed to find the minimum throttle action to maintain the proper speed-time relationship.

(e) The vehicle speed (m.p.h.) as measured from the dynamometer rolls shall be used for all conditions. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Secretary.

§ 85.77 Three-speed manual transmissions.

(a) All test conditions except as noted shall be run in highest gear.

(b) Cars equipped with free wheeling or overdrive units shall be tested with this unit (free wheeling or overdrive) locked out of operation.

(c) Idle shall be run with transmission in gear and with clutch disengaged (except first idle; see § 85.80).

(d) The vehicle shall be driven with minimum throttle movement to maintain the desired speed.

(e) Acceleration modes shall be driven smoothly with the shift speeds as recommended by the manufacturer in the owner's operating manual. If the owner's manual does not recommend shift speeds, the vehicle shall be shifted from first to second gear at 15 m.p.h. and from second to third gear at 25 m.p.h. Each shift should be accomplished rapidly to minimize closed-throttle time. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at WOT until the vehicle speed reaches the speed at which it should be at that time during the test.

(f) The deceleration modes shall be run with clutch engaged and without shifting gears from the previous mode, using brakes or throttle as necessary to maintain the desired speed. For those modes which decelerate to zero, the clutch shall be depressed when the speed drops below 10 m.p.h. or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode if recommended by the manufacturer in the owner's operating manual or if the engine obviously is lugging.

§ 85.78 Four-speed and five-speed manual transmissions.

(a) Use the same procedure as for three-speed manual transmissions for shifting from first to second gear and from second to third gear. If the owner's operating manual does not recommend shift speeds, the vehicle shall be shifted from third to fourth gear at 40 m.p.h. Do not use fifth gear.

(b) If transmission ratio in first gear exceeds 5 : 1, follow the procedure for three- or four-speed manual transmission vehicles as if the first gear did not exist.

§ 85.79 Automatic transmissions.

(a) All test conditions shall be run with the transmission in "Drive" (highest gear).

(b) Idle modes shall be run with the transmission in "Drive" and the wheels braked (except first idle; see § 85.80).

(c) The vehicle shall be driven with minimum throttle movement to maintain the desired speed.

(d) Acceleration modes shall be driven smoothly allowing the transmission to shift automatically through the normal sequence of gears. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at WOT until the vehicle speed reaches the speed at which it should be at that time during the driving schedule.

(e) The deceleration modes shall be run in gear using brakes or throttle as necessary to maintain the desired speed.

§ 85.80 Engine starting and restarting.

(a) The engine shall be started according to the manufacturer's recommended starting procedures including choke setting. The initial 20-second idle period shall begin when the engine starts.

(b) Choke operation:

(1) Vehicles equipped with automatic chokes shall be operated according to the manufacturer's operating or owner's manual including "kick-down" from cold fast idle. If choke "kick-down" time is not specified, it shall be performed immediately before the transmission is placed in gear. If necessary, braking may be employed to keep the drive wheels from turning.

(2) Vehicles equipped with manual chokes shall be operated according to the manufacturer's operating or owner's manual. If not specified, the choke shall be operated to maintain engine idle at 1,100±50 r.p.m. during the initial idle period and used where necessary during the remainder of the test to keep the engine running.

(c) The operator may use more choke, more throttle, etc., where necessary to keep the engine running.

(d) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start determined. The revolution counter on the constant volume sampler (see § 85.85, Dynamometer test runs) shall be turned off and the sample solenoid valves placed in the "dump" position during this diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken and the test continued. If corrective action is unsuccessful in 30 minutes, the test shall be aborted. If the test is continued, the sampling system shall be reactivated at the same time cranking is started. When the engine is operating satisfactorily the driving schedule timing sequence shall begin. In all cases in which failure to start is caused by vehicle malfunction and the vehicle cannot be restarted the test shall be considered a valid failed test. The reason for the malfunction (if determined) and the corrective action taken shall be reported with the test results.

(e) If the engine "false starts", the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.).

(f) Stalling:

(1) If the engine stalls during an idle period, the engine shall be restarted and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle restarted, accelerated to the speed required at that point in the driving schedule and the test continued.

(3) If the vehicle will not restart within 1 minute, the test shall be aborted and considered a valid failed test.

* * * * *

§ 85.82 Sampling and analytical system (fuel evaporative emissions).

(a) *Schematic drawings.* (1) The following figures (Figures 2, 3, and 4) are flow diagrams of typical evaporative loss collection applications.

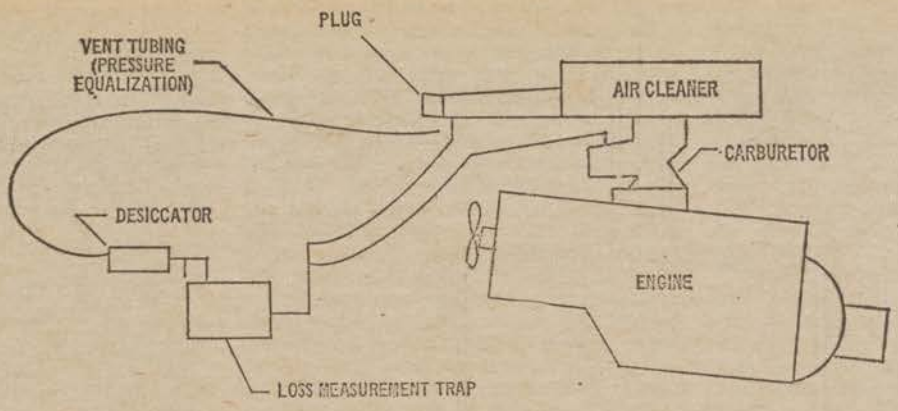


Figure 2. Typical carburetor evaporative loss collection arrangement (schematic).

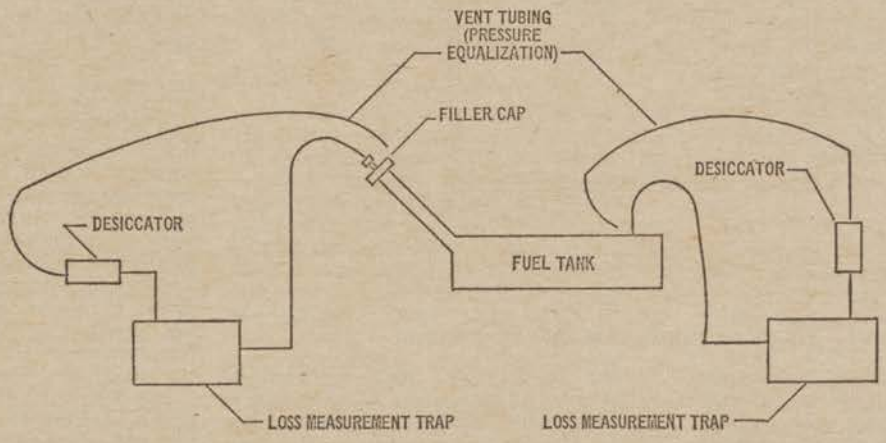


Figure 3. Typical fuel tank evaporative loss collection arrangement (schematic).

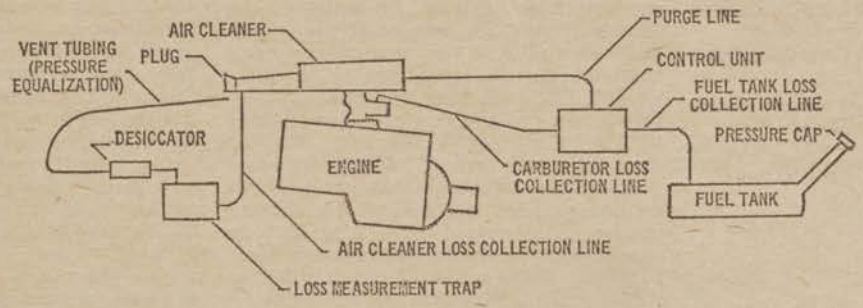


Figure 4. Typical fuel evaporative loss collection arrangement for vehicle equipped with evaporative emission control system (schematic).

(2) Figure 2 represents an arrangement for collecting losses which emanate from the carburetor. Figure 3 depicts the means for separately collecting the vapors which emanate from the fuel tank vent line and filler cap. Figure 4 shows an arrangement for collecting the losses from a closed fuel system, vented to the atmosphere solely through the air cleaner, as might be the case with certain fuel evaporative emission control devices.

(3) Schematic drawings of arrangements to be employed shall be submitted in accordance with § 85.51(b)(3).

(b) *Collection equipment.* The following equipment shall be used for this collection of fuel evaporative emissions. (Item quantities are determined by individual test needs.)

(1) *Activated carbon trap.* See Figure 5 for specifications of one design; other configurations may be used: *Provided,* That they give demonstrably equivalent results.

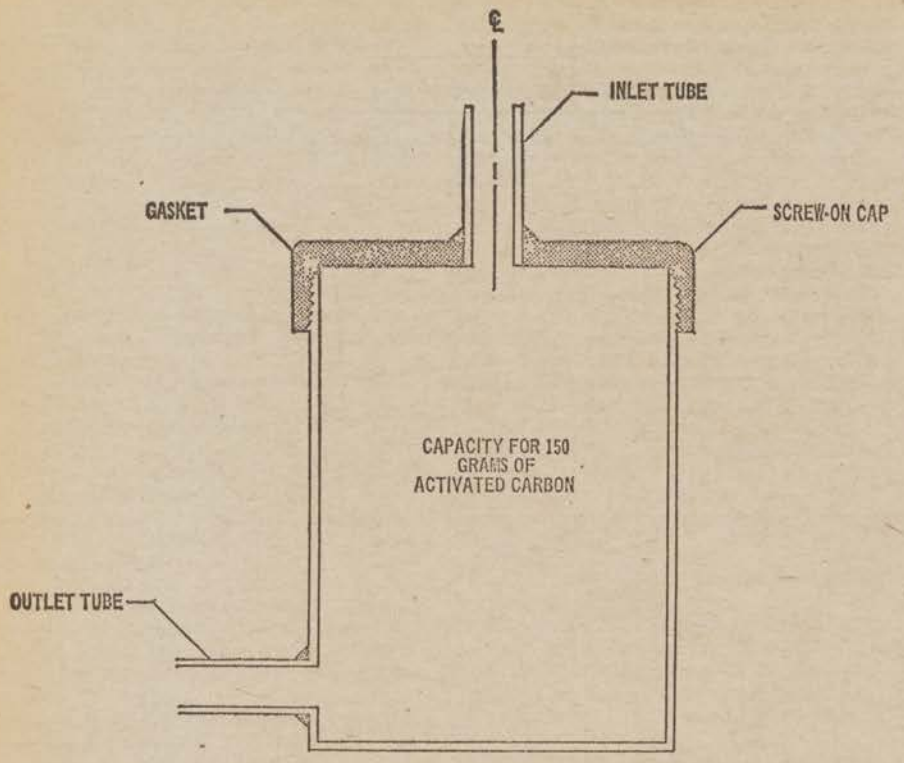


Figure 5. Typical activated carbon trap (schematic).

(i) Canister—300±25 ml., cylindrical container having a length to diameter ratio of 1.4±0.1. An inlet tube, $\frac{5}{16}$ inch ID and 1 inch long is sealed into the top of the canister, at its geometric center. A similar outlet tube is sealed into the wall ¼ inch from the bottom of the canister. The canister is designed to withstand an air pressure of 2 p.s.i., when sealed, without evidence of leaking when immersed in water for 30 seconds.

(ii) Activated carbon—meeting the following specifications:

Surface area, min. (N_2 BET method).[1]	1,000 square meters per gram.
Adsorption capacity, min. (carbon tetrachloride).	60 percent, by weight.
Volatile material including adsorbed water vapor.	None.

Screen analysis size:	*Percent*
Less than 1.4 mm	0
1.7–2.4 mm	90–100
More than 3.0 mm	0

[1] Brunauer, Emmett & Teller; Journal of the American Chemical Society, Vol. 60, p. 309, 1938.

The activated carbon trap is prepared for the test by attaching clamped sections of vinyl tubing to the inlet and outlet tubes of the canister. The canister is then filled with 150±10 gm. hot activated carbon which had previously been oven-dried for 3 hours at 300° F. Loss of carbon through the inlet and outlet tubes is prevented through the use of wire screens of 0.7 mm. mesh or wads of loosely packed glass wool. The canister is closed immediately after filling and the carbon is allowed to cool while the trap is vented through a drying tube via the unclamped outlet arm.

(iii) The trap is sealed and weighed after cooling and the weight, to the nearest 0.1 gram, is inscribed on the canister body. Within 12 hours of the scheduled test, the weight of the trap is checked and if it has changed by more than 0.5 gm., it is redried to constant weight. This redrying operation is performed by passing dry nitrogen, heated to 275° F., through the trap, via the inlet tube, at a rate of 1 liter per minute until checks made at 30-minute intervals do not vary by more than 0.1 percent of the gross weight. The trap and its contents are allowed to cool to room temperature, while vented through a drying tube via the outlet arm, before use.

(2) *Auxilliary collection equipment.* (i) Drying tube—transparent, tubular body ¾ inch ID, 6 inches long, with serrated tips and removable caps.

(ii) Desiccant—indicating variety, 8 mesh. The drying tube is attached to the outlet tube of the collection traps to prevent ambient moisture from entering the trap. It is prepared by filling the empty drying tube with fresh desiccant using loose wad of glass wool to hold the desiccant in place. The desiccant is renewed when three-quarters spent, as indicated by color change.

(iii) Collection tubing—stainless steel or aluminum, $\frac{5}{16}$ inch ID, for connecting the collection traps to the fuel system vents.

(iv) Polyvinyl chloride (vinyl) tubing—flexible tubing, $\frac{5}{16}$ inch ID, for sealing butt-to-butt joints.

(v) Laboratory tubing—air tight flexible tubing $\frac{5}{16}$ inch ID, attached to the outlet end of the drying tubes to equalize collection system pressure.

(vi) Clamps—hosecock, open side, for pinching off flexible tubing.

(c) *Weighing equipment.* The balance and weights used shall be capable of determining the net weight of the activated carbon trap within an accuracy of ±75 mg.

(d) *Temperature measuring equipment.* (1) Temperature recorder—multichannel, variable speed, potentiometric, or substantially equivalent, recorder with a temperature range of 50° F. to 100° F. and capable of either simultaneous or sequential recording of the ambient air and fuel temperatures within an accuracy of ±1° F.

(2) Fuel tank thermocouples—iron-constantan (type J) construction.

(e) *Assembly and use of the activated carbon vapor collection system.* (1) The prepared activated carbon trap, dried to constant weight, cooled to the ambient temperature and sealed with clamped sections of vinyl tubing is carefully weighed to the nearest 20 milligrams and the weight recorded as the "tare weight."

(2) A drying tube is attached to the outlet tube and the clamp released, but not removed. A length of flexible tubing, for pressure equalization, is connected to the other end of the drying tube.

(3) The inlet tube of the adsorption trap and external vent(s) of the fuel system will be connected by minimal lengths of stainless steel or aluminum tubing and short sections of vinyl tubing. Butt-to-butt joints shall be made wherever possible and precautions taken against sharp bends in the connection lines, including any manifold systems employed to connect multiple vents to a single trap.

(4) The clamp on the inlet tube of the trap shall be released but not removed. Care shall be exercised to prevent heating the vapor collection trap by radiant or conductive heat from the engine.

(5) Upon completion of the collection sequence, the vinyl tubing sections on each arm of the collection trap shall be clamped tight and the collection system dismantled.

(6) The sealed vapor collection trap shall be weighed carefully to the nearest 20 milligrams. This constitutes the "gross weight," which is appropriately recorded. The difference between the "gross weight" and "tare weight" represents the "net weight" for purposes of calculating the fuel vapor losses.

§ 85.83 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.
(e) Driver or operator.
(f) Vehicle: Make—Vehicle identification number—Model year—Transmission type—Odometer reading—Engine displacement—Engine family—Idle r.p.m.—Nominal fuel tank capacity and location on vehicle—Number of carburetors—Number of carburetor barrels—Inertia loading—Actual road load HP. at 50 m.p.h.
(g) Dynamometer serial number and indicated road load power absorption at 50 m.p.h.
(h) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.
(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.
(j) Barometric pressure, ambient temperature and humidity and the temperature of the air in front of the radiator, if any, during the test.
(k) Fuel temperatures, as prescribed.
(l) The temperature of the mixture of exhaust and dilution air entering the positive displacement pump is to be recorded continuously.
(m) The number of revolutions of the positive displacement pump accumulated while the test is in progress and exhaust flow samples are being collected.

§ 85.84 Analytical system calibration and sample handling.

(a) Calibrate HC and CO instrument assembly at least once every 30 days. Use the same flow rate as when analyzing samples.
(1) Adjust analyzers to optimize performance.
(2) Zero on prepurified air, i.e., less than 6 p.p.m. carbon equivalent of hydrocarbon and 10 p.p.m. of carbon monoxide. Check each cylinder of prepurified air for contamination with hydrocarbons and carbon monoxide.
(3) Set the CO analyzer gain to give the desired range. Select the desired attenuation scale of the HC analyzer and set the sample flow rate to give the desired range. The operating range of the analyzers shall be such that the analyzer deflection which indicates an emission level equivalent to the respective standards is in the upper half of the scale.
(4) Calibrate the HC analyzer with propane gases having nominal concentrations equivalent to 50 and 100 percent of scale. Calibrate the CO analyzer with carbon monoxide gases which are equivalent to 10, 25, 40, 50, 60, 70, 85, and 100 percent of scale. The actual concentrations should be known to within ±2 percent of the true values.
(5) Compare values obtained on the CO analyzer with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curve for data reduction.
(b) HC and CO measurements: Allow a minimum of 20 minutes warmup for the HC analyzer and 2 hours for the CO analyzer. (Power is normally left on infrared analyzers continuously; but when not in use, the chopper motor is turned off.) The following sequence of operations should be performed in conjunction with each series of measurements:
(1) Zero on prepurified air. Obtain a stable zero on the amplifier meter and recorder. Recheck after test.
(2) Introduce span gas and set the CO analyzer gain and HC analyzer sample flow rate to match calibration curves. In order to avoid correction for sample-cell pressure, span and calibrate at the same flow rates used to analyze the test samples. Span gases should have concentrations equivalent to approximately 80 percent of full scale. If gain has shifted significantly on the CO analyzer, check tuning. If necessary, check calibration. Recheck after test. Show actual concentrations on chart.
(3) Check zero, using prepurified air; repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.
(4) Check flow rates and pressures.
(5) Measure HC and CO concentration of samples. Care should be exercised to prevent moisture from condensing in the sample collection bag.
(6) Check zero and span points.

§ 85.85 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with engine turned off for a period of not less than 12 hours before the exhaust emission test, at an ambient temperature as specified in §§ 85.73 and 85.74. The vehicle shall be stored prior to the emission tests in such a manner that precipitation (e.g., rain or dew) does not occur on the vehicle. During the run the ambient temperature shall be between 68° F. and 86° F. For exhaust emission testing which is unrelated to fuel evaporative emission control, the ambient temperature requirement during storage shall be between 60° F. and 86° F.
(b) The following steps shall be taken for each test:
(1) Place drive wheels of vehicle on dynamometer without starting engine.
(2) Attach the flexible exhaust tube to the vehicle tailpipe(s).
(3) Start the cooling fan with the vehicle hood open (for fan specifications refer to § 85.75).
(4) Connect evacuated sample collection bags to the dilute exhaust sample and the dilution air sample line connectors.
(5) With the sample solenoid valves in the "dump" position, start the positive displacement pump, the sample pumps, and the temperature recorder. (The heat exchanger of the constant volume sampler should be preheated to its operating temperature before the test begins.)
(6) Adjust the sample flow rates to the desired flow rate (minimum of 5 c.f.h.).
(7) Simultaneously start the revolution counter for the positive displacement pump, position the sample solenoid valves to direct the sample flows into the bags, and start cranking the engine.
(8) Fifteen seconds after the engine starts, place the transmission in gear.
(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.
(10) Operate the vehicle according to the dynamometer driving schedule. (§ 85.75.)
(11) Five seconds after the last deceleration, simultaneously turn off the revolution counter and position the sample solenoid valve to the "dump" position.
(12) Immediately disconnect sample bags, transfer to analytical system and process samples according to § 85.84 as soon as practicable, and in no case longer than 10 minutes after the dynamometer run.
(13) Disconnect the exhaust tube from the vehicle tailpipe(s) and remove vehicle from dynamometer.
(14) Turn off the positive displacement pump.

§ 85.86 Chart reading.

(a) Determine the HC and CO concentrations of the dilution air and dilute exhaust sample bags from the instrument deflections or recordings making use of appropriate calibration charts.
(b) Determine the average dilute exhaust mixture temperature from the temperature recorder trace.

§ 85.87 Calculations (exhaust emissions).

The final reported test results shall be computed by use of the following formulae:

(a) For light duty vehicles, excluding off-road utility vehicles:
(1) Hydrocarbon Mass:

$$HC_{mass} = V_{mix} \times Density_{HC} \times \frac{HC_{conc}}{1{,}000{,}000}$$

(2) Carbon Monoxide Mass:

$$CO_{mass} = V_{mix} \times Density_{CO} \times \frac{CO_{conc}}{100}$$

(b) For off-road utility vehicles:

(1) $$HC_{mass} = V_{mix} \times Density_{HC} \times \frac{HC_{conc} \times 0.85}{1{,}000{,}000}$$

(2) $$CO_{mass} = V_{mix} \times Density_{CO} \times \frac{CO_{conc} \times 0.85}{100}$$

(c) Meaning of symbols:

V_{mix} = Total dilute exhaust volume in cubic feet per mile, corrected to standard conditions (528° R and 760 mm. Hg).

$$V_{mix} = K_1 \times V_e \times N \times \frac{P_P}{T_P}$$

where:

$$K_1 = \frac{528° R}{760 \text{ mm. Hg} \times 7.5 \text{ miles}} = 0.09263$$

V_o=Volume of gas pumped by the positive displacement exhaust dilution pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N=Number of revolutions of the positive displacement pump during the test while samples are being collected.

P_P=Absolute pressure of the dilute exhaust entering the positive displacement pump, i.e., barometric pressure minus the pressure depression below atmospheric of the mixture entering the positive displacement pump.

T_P=Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

HC_{mass}=Hydrocarbon emissions, in grams per vehicle mile.

$Density_{HC}$=Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (16.33 gm./cu. ft.).

HC_{conc}=Hydrocarbon concentration of the exhaust mixture sample minus hydrocarbon concentration of the dilution air sample, in p.p.m. carbon equivalent (p.p.m. C.), i.e., equivalent propane×3.

CO_{mass}=Carbon monoxide emissions, in grams per vehicle mile.

$Density_{CO}$=Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

CO_{conc}=Carbon monoxide concentration of the dilute exhaust sample minus the carbon monoxide concentration of the dilution air sample, in volume percent.

(d) Example calculation of mass emission values:

Assume V_o=0.265 cu. ft. per revolution; N=20,250; P_P=730 mm. Hg; T_P=550° R; HC_{conc}=160 p.p.m. C; and CO_{conc}=0.09%. V_{mix}=(0.09263) (0.265) (20,250) (730/550)=659.8 cu. ft. per mile.

(1) *For a 1972 light-duty vehicle.*

$$HC_{mass}=659.8\times16.33\times\frac{160}{1{,}000{,}000}=1.72$$

(2) *For a 1972 off-road utility vehicle.*

$$CO_{mass}=659.8\times32.97\times\frac{0.09\times0.85}{100}=16.6$$

§ 85.88 Calculations (fuel evaporative emissions).

The net weights of the individual collection traps employed in § 85.74 shall be added together to determine compliance with the fuel evaporative emission standard.

§ 85.89 Test vehicles.

(a) (1) The vehicles covered by the application for certification will be divided into groupings of vehicles whose engines are expected to have similar emission characteristics. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center to center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air-cooled or water-cooled; L-6, 90° V-8, etc.).

(v) The location of intake and exhaust valves and the valve sizes (within a ⅛-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(3) Engines identical in all the respects listed in subparagraph (2) of this paragraph may be further divided into different engine families if the Secretary determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The bore and stroke.

(ii) The surface to volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in subparagraph (2) and (3) of this paragraph, the Secretary will establish families for those engines based upon the features most related to their emission characteristics.

(b) Emission data vehicles:

(1) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system-evaporative emission control system combinations. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination will be selected. The vehicle selected for each combination will be specified by the Secretary as to transmission type, fuel system and inertia weight class.

(3) The Secretary may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Secretary will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options and axle ratios.

(4) If the vehicles selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Secretary. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Secretary as to transmission type, fuel system and inertia weight class.

(c) Durability data vehicles:

(1) A durability data vehicle will be selected by the Secretary to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control system combination in that engine family and will be designated by the Secretary as to transmission type, fuel system and inertia weight class.

(2) If an exhaust emission control system-fuel evaporative emission control system combination is used in only one engine family, an additional vehicle using that combination in that family will be selected so that the durability data fleet shall contain at least two vehicles with each combination. The additional vehicle will be selected in the same manner as vehicles selected under subparagraph (1) of this paragraph.

(3) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of subpargraph (1) of this paragraph. Notice of an intent to operate and test additional vehicles shall be given to the Secretary not later than 30 days following notification of the test fleet selection.

(d) For purposes of testing under § 85.91(g), the Secretary may require additional emission data vehicles and durability data vehicles identical in all material respects to vehicles selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales of new motor vehicles subject to this subpart for the model year for

which certification is sought is less than 2,000 vehicles may request a reduction in the number of test vehicles determined in accordance with the foregoing provisions of this section. The Secretary may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission data or durability data vehicle selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Secretary, submit data on a similar vehicle for which certification has previously been obtained.

(g) (1) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included in the curb weight computation for the entire engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(2) Where it is expected that more than 33 percent of an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence exhaust or evaporative emissions, then such items of optional equipment shall actually be installed on all emission data and durability data vehicles for such engine family.

§ 85.90 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability vehicles may be performed only under the following provisions:

(i) One major engine tuneup to manufacturer's specifications may be performed at 25,000 miles (±250 miles) of scheduled driving with the following exception: On a vehicle with an engine displacement of 150 cubic inches or less (or a rating of at least 1.20 S.A.E. horsepower per cubic inch of displacement) major engine tuneups may be performed at 12,000, 24,000, and 36,000 miles (±250 miles) of scheduled driving. A major engine tuneup shall be restricted to the following:

(*a*) Replace spark plugs.

(*b*) Inspect ignition wiring and replace as required.

(*c*) Replace distributor breaker points and condensor as required.

(*d*) Lubricate distributor cam.

(*e*) Check distributor advance and breaker point dwell angle and adjust as required.

(*f*) Check automatic choke for free operation and correct as required.

(*g*) Adjust carburetor idle speed and mixture.

(*h*) Adjust drive belt tension on engine accessories.

(*i*) Adjust valve lash if required.

(*j*) Check exhaust heat control valve for free operation.

(*k*) Check engine bolt torque and tighten as required.

(ii) Spark plugs may be changed if a persistent misfire is detected.

(iii) Normal vehicle lubrication services (engine and transmission oil change and oil filter, fuel filter, and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) The crankcase emission control system may be serviced at 12,000-mile intervals (±250 miles) of scheduled driving.

(v) The fuel evaporative emission control system may be serviced at 12,000-mile intervals (±250 miles) of schedule driving.

(vi) Readjustment of the engine choke mechanism or idle settings may be performed only if there is a problem of stalling at stops.

(vii) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(viii) Any other engine or fuel system maintenance or repairs will be allowed only with the advance approval of the Secretary.

(2) Repairs to vehicle components of the durability data vehicle, other than the engine or fuel system, shall be performed only as a result of part failure or vehicle system malfunction.

(3) Allowable maintenance on emission data vehicles shall be limited to the adjustment of engine idle speed at the 4,000-mile test point.

(4) Where the Secretary agrees under § 85.91 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirements of this paragraph.

(b) Complete emission tests (see §§ 85.71–85.88) shall be run before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Secretary immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Secretary in accordance with § 85.53.

(c) If the Secretary determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the vehicle shall not be used as a durability data vehicle.

§ 85.91 Mileage accumulation and emission measurements.

The procedure for mileage accumulation will be the Durability Driving Schedule as specified in appendix C to this part. A modified procedure may also be used if approved in advance by the Secretary.

(a) Emission data vehicles: Each emission data vehicle shall be driven 4,000 miles with all emission control systems installed and operating. Emission tests shall be conducted at zero miles and 4,000 miles.

(b) Durability data vehicles: Each durability data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Secretary may agree to as meeting the objectives of this procedure. Emission measurements from a cold start shall be made at zero miles and at each 4,000-mile interval.

(c) All tests required by this subpart to be conducted after 4,000 miles of driving or at any multiple of 4,000 miles may be conducted at any accumulated mileage within 250 miles of 4,000 miles or the appropriate multiple of 4,000 miles, respectively.

(d) The results of each emission test shall be supplied to the Secretary immediately after the test. In addition, all test data shall be compiled and provided to the Secretary in accordance with § 85.53.

(e) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero mile test data to the Secretary and make the vehicle available for such testing under § 85.54 as the Secretary may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(f) Once a manufacturer begins to operate an emission data or durability data vehicle, as indicated by compliance with paragraph (e) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 85.92. Discontinuation of a vehicle shall be allowed only with the written consent of the Secretary.

(g) (1) The Secretary may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Secretary with all information necessary to conduct this testing.

(2) The test procedures (§§ 85.71–85.88) will be followed by the Secretary. The Secretary will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Secretary may prescribe.

(3) The data developed by the Secretary for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Secretary and that submitted by the manufacturer, the Secretary's data shall be used in the determination of deterioration factors.

§ 85.92 Compliance with emission standards.

(a) The exhaust and fuel evaporative emission standards in the regulations in this part apply to the average lifetime emissions of vehicles in public use. Prior to certification, lifetime emissions can be obtained by projection of test data to lifetime normal service. Normal service in an urban area or its equivalent for 100,000 miles is taken as the basis for "lifetime emissions."

(b) It is expected that emission control efficiency will change with mileage accumulation on the vehicle. It is assumed that the emission level of a vehicle which has accumulated 50,000 miles in normal service is the average emission level of that vehicle over its lifetime.

(c) The procedure for determining compliance of a new light-duty motor vehicle with exhaust and fuel evaporative emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability data vehicles for each engine-system combination. A separate factor shall be established for the combination for exhaust HC, exhaust CO, and fuel evaporative HC.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*a*) All emission data from the tests required under § 85.91(b), except the zero mile tests. This shall include the official test results, as determined in § 85.54, for all tests conducted on all durability vehicles of the combination selected under § 85.89(c) (including all vehicles elected to be operated by the manufacturer under § 85.89(c)(3)).

(*b*) All emission data from the tests conducted before and after the maintenance provided in § 85.90(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the standards provided in §§ 85.21 and 85.22 or the data will not be acceptable for use in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

$$\text{factor} = \frac{\text{exhaust emissions interpolated to 50,000 miles}}{\text{exhaust emissions interpolated to 4,000 miles}}$$

(iv) An evaporative emission deterioration factor shall be calculated for each combination by substracting the evaporative emissions interpolated to 4,000 miles from the evaporative emissions interpolated to 50,000 miles.

(2) (i) The exhaust emission test results for each emission data vehicle shall be multiplied by the appropriate deterioration factor: *Provided,* That if a deterioration factor as computed in subparagraph (1)(iii) of this paragraph is less than one, that deterioration factor shall be one for the purposes of this subparagraph.

(ii) The evaporative emission test results for each combination shall be adjusted by addition of the appropriate deterioration factor: *Provided,* That if a deterioration factor as computed in subparagraph (1)(iv) of this paragraph is less than zero, that deterioration factor shall be zero for the purposes of this subparagraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) (i) and (ii) of this paragraph for each emission data vehicle.

(4) Every test vehicle of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any vehicle in that family may be certified.

Subpart I—Test Procedures for Engine Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)

§ 85.100 Introduction.

The procedures described in this subpart will be the test program to determine the conformity of new gasoline fueled heavy duty engines with the applicable standards set forth in this part.

(a) The test consists of prescribed sequences of engine operating conditions to be conducted on an engine dynamometer. The exhaust gases generated during engine operation are sampled continuously for specific component analysis through the analytical train. The tests are applicable to engines equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems, or to uncontrolled engines.

(b) The exhaust emission test is designed to determine hydrocarbon and carbon monoxide concentrations during a truck driving pattern in a metropolitan area as simulated on an engine dynamometer. The test consists of two warmup cycles and two hot cycles. The average concentrations for the warmup cycles and the hot cycles are combined to yield the reported values.

(c) When an engine is tested for exhaust emissions or is operated for durability testing on an engine dynamometer the complete engine shall be used with all accessories which might reasonably be expected to influence emissions to the atmosphere installed and functioning.

§ 85.101 Gasoline fuel specifications.

(a) For exhaust emission testing, fuel having specifications as shown in the table in § 85.71(a), or substantially equivalent specifications approved by the Secretary, shall be used.

(b) For durability testing, fuel having specifications as shown in the table in § 85.71(b), or substantially equivalent specifications approved by the Secretary, shall be used. The octane rating of the fuel used shall be in the range recommended by the engine manufacturer. The specifications of the fuel to be used shall be reported in accordance with § 85.51(b)(3).

§ 85.102 Dynamometer operation cycle and equipment.

(a) (1) The following nine-mode cycle shall be followed in dynamometer operation tests of gasoline fueled heavy duty engines.

Sequence No.	Mode	Manifold vacuum	Time in Mode-Secs.	Cumulative Time-Secs.	Weighting factors
1	Idle		70	70	0.036
2	Cruise	16″ Hg	23	93	.089
3	PTA	10″ Hg	44	137	.257
4	Cruise	16″ Hg	23	160	.089
5	PTD	19″Hg	17	177	.047
6	Cruise	16″ Hg	23	200	.089
7	FL	3″ Hg	34	234	.283
8	Cruise	16″ Hg	23	257	.089
9	CT		43	300	.021

(2) The engine dynamometer shall be operated at a constant speed of 2,000 r.p.m.±100 r.p.m. (exception: representative engine speed for a given displacement engine as determined by its application, but not less than 1,800 r.p.m. nor greater than 2,500 r.p.m.).

(3) The idle operating mode shall be carried out at the manufacturer's recommended engine speed. The CT operating mode shall be carried out at the same engine speed as in subparagraph (2) of this paragraph.

(b) The following equipment shall be used for dynamometer tests.

(1) An engine dynamometer capable of maintaining constant speed±100 r.p.m. from full throttle to closed throttle motoring.

(2) A chassis-type exhaust system or substantially equivalent exhaust system, shall be used.

(3) A radiator typical of that used with the engine in a vehicle, or other means of engine cooling which will maintain the engine operating temperatures at approximately the same temperature as would the radiator, shall be used. An auxiliary fixed speed fan may be used to maintain engine cooling during sustained operation on the dynamometer.

§ 85.103 Dynamometer procedures.

An initial 5-minute idle, two warmup cycles, and two hot cycles constitute a a complete dynamometer run. Idle modes may be run at the beginning and end of each test, thus eliminating the need to change speed between cycles. One idle mode preceding the first cycle and one following the fourth cycle is sufficient. The results of the first idle shall be used for calculation of the second cycle emissions and the fourth idle results shall be used for calculation of the third cycle emissions.

§ 85.104 Sampling and analytical system for measuring exhaust emissions.

(a) *Schematic drawing.* The following (fig. 6) is a schematic drawing of the exhaust gas sampling and analytical system which shall be used for testing under the regulations in this subpart.

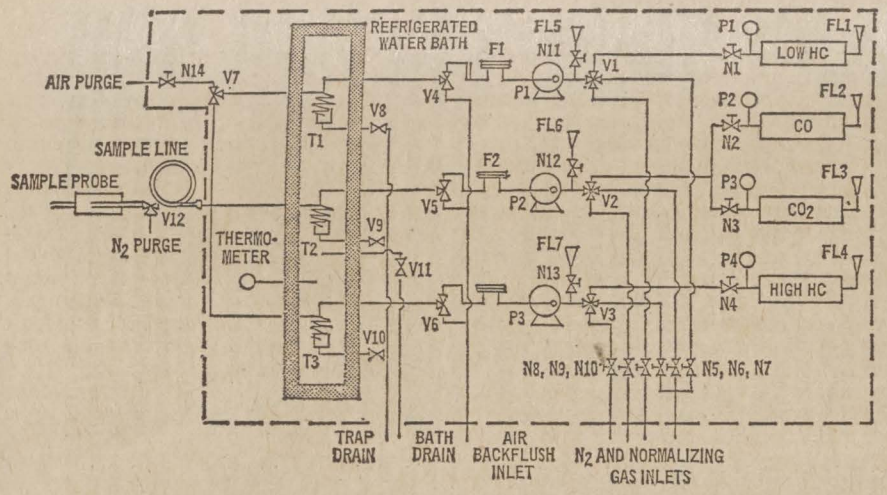


Figure 6. Flow schematic of exhaust gas analysis system employed in Federal facilities.

(b) *Component description.* The following components shall be used in sampling and analytical systems for testing under the regulations in this part.

(1) Flowmeters FL1, FL2, FL3, and FL4 indicate the sample flow rate through the analyzers.

(2) Low range hydrocarbon analyzer.

(3) Carbon monoxide analyzer.

(4) Carbon dioxide analyzer.

(5) High range hydrocarbon analyzer.

(6) Pressure gauges P1, P2, and P3 indicate the analyzer sample pressure.

(7) Needle valves N1, N2, N3, and N4 regulate sample flow rate to the analyzers.

(8) Needle valves N5, N6, N7, N8, N9, and N10 regulate the flow rates of N_2 and normalizing gases to the analyzers.

(9) Ball valves V1, V2, and V3 for directing either sample or calibration gases to the analyzers.

(10) Needle valves N11, N12, and N13 regulate the sample flow rate through the bypass network.

(11) Flowmeters FL5, FL6, and FL7 indicate the flow rate through the bypass system.

(12) Pumps P1, P2, and P3 for pulling sample from source.

(13) Filters F1, F2, and F3 remove contaminants from sample prior to analysis.

(14) Ball valves V4, V5, and V6 for directing sample to the analyzer or directing air in the reverse direction as a backflush.

(15) Toggle valves V8, V9, V10, and V11 for draining condensate traps and refrigerated bath.

(16) Traps T1, T2, and T3 for condensing water vapor and cooling exhaust sample.

(17) Ball valve V7 for diverting air to low HC analyzer during periods of high hydrocarbon response.

(18) Needle valve N14 for regulating air flow to low hydrocarbon analyzer during purge conditions.

(19) Thermometer for indicating bath temperature.

(20) Refrigerated water bath for condensing water vapor and cooling exhaust sample.

(21) Sample line from vehicle to analysis system.

(22) Sample probe to extract exhaust gas sample from terminus of vehicle exhaust system.

(23) Ball valve V12 for directing N_2 to hydrocarbon analyzers.

(c) *Hang up reduction.* Stringent methods to reduce hang up may be employed. All methods must be approved in advance by the Secretary.

§ 85.105 Information to be recorder on charts.

The following informatioin shall be recorded with respect to each test:

(a) Test number.

(b) System tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument Operator.

(e) Driver or Operator.

(f) Engine Make—identification number—date of manufacture—number of hours — engine displacement — engine family—idle r.p.m.—number carburetors—number of carburetor venturis.

(g) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

(h) Recorder Charts: Identify zero, span, exhaust gas sample traces.

(i) Barometric pressure, intake air temperature and humidity and, as applicable, the temperature of the air in front of the radiator during the test.

(j) A continuous trace of intake manifold vacuum and engine r.p.m., recorded on the same chart with an automatic marker indicating one second intervals.

§ 85.106 Calibration and instrument checks.

(a) The instrument assembly shall be calibrated at least once every 30 days, using the same flow rate as when sampling exhaust and proceeding as follows:

(1) Tune analyzers.

(2) Zero on nitrogen: Check each cylinder of N_2 for contamination with hydrocarbons. Set the instrument gain to give the desired range. Normal operating ranges are as follows:

Low-Range Hydrocarbon Analyzer.	0–1,000 p.p.m. hexane equivalent.
High-Range Hydrocarbon Analyzer.	0–10,000 p.p.m. hexane equivalent.
CO Analyzer	0–10% CO.
CO_2 Analyzer	0–16% CO_2.

(3) Calibrate with the following normalizing gases. Flow rates should be set at 10 c.f.h. on the hydrocarbon analyzers and 5 c.f.h. on the carbon monoxide and carbon dioxide analyzers. The concentrations given indicate nominal concentrations, and actual concentrations should be known to within ±2 percent of true value. Prepurified N_2 is used as the diluent.

Low range HC analyzer	High range HC analyzer	CO and CO_2 analyzers		
		Blend of CO and CO_2 containing:		
Hexane equivalent [1]	*Hexane equivalent*	*Mole percent CO*	Plus	*Mole percent CO_2*
100 p.p.m	600 p.p.m	0.5		16.0
200 p.p.m	1,000 p.p.m	1.0		15.0
300 p.p.m	1,500 p.p.m	2.0		14.0
400 p.p.m	2,500 p.p.m	3.0		13.0
600 p.p.m	4,000 p.p.m	4.0		12.0
800 p.p.m	6,000 p.p.m	6.0		10.0
1,000 p.p.m	8,000 p.p.m	8.0		8.0
	10,000 p.p.m	10.0		6.0

[1] The hexane equivalent of propane, when used as the normalizing gas for calibrating nondispersive infrared analyzers, is prescribed to be 0.52 (Propane Concentration×0.52=Hexane Equivalent Concentration).

Minimum storage temperature of the cylinders shall be 60° F.; minimum use temperature shall be 68° F.

(4) Compare values with previous curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curve for data reduction.

(5) Check response of hydrocarbon analyzer to 100 percent CO_2. If response is greater than 0.5 percent full scale, refill filter cells with 100 percent CO_2 and recheck. Note any remaining response on chart. If response still exceeds 0.5 percent, replace detector.

(6) Check response of hydrocarbon analyzers to nitrogen saturated with water at ambient temperature. Record ambient temperature. If the low-range instrument response exceeds 5 percent of full scale with saturated nitrogen at 75° F., replace the detector. If the high-range response exceeds 0.5 percent of full scale, check detector on low-range instrument, then reject if response exceeds 5 percent of full scale at 75° F.

(b) The following daily instrument check shall be performed, allowing a minimum of 2 hours warmup for infrared analyzers. (Power is normally left on continuously; but, when instruments are not in use, chopper motor is turned off.):

(1) Zero on clean nitrogen introduced at analyzer inlet. Obtain a stable zero on the amplifier meter and recorder. Recheck after test.

(2) Introduce normalizing gas and set gain to match calibration curve. In order to avoid a correction for sample cell pressure, normalize and calibrate at the same flow rates used for exhaust sampling. Normalizing or span gases: (See paragraph (a)(3) of this section for allowable variation.)

Low-Range Hydrocarbon Analyzer.	1,000 p.p.m. hexane equivalent in prepurified N_2.
High-Range Hydrocarbon Analyzer.	10,000 p.p.m. hexane equivalent in prepurified N_2.
CO Analyzer	10% CO in prepurified N_2.
CO_2 Analyzer	12 to 16% CO_2 in prepurified N_2.

If gain has shifted significantly, check tuning. If necessary, check calibration. Recheck after test. Record actual concentrations on chart.

(3) Check nitrogen zero, repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

§ 85.107 Dynamometer test run.

(a) The engine shall be allowed to stand with engine turned off for at least 1 hour before the exhaust emission test at an ambient temperature of 60° F. to 86° F. The engine shall be stored prior to the emission tests in such a manner that it is not exposed to precipitation or condensation. During the dynamometer run, the ambient temperature shall be between 68° F. and 86° F.

(b) The following steps shall be taken for each test:

(1) Mount test engine on the engine dynamometer.

(2) Calibrate exhaust emission analyzer assembly.

(3) Start cooling system, if it is to be used.

(4) Start engine and idle at 1,000–1,200 r.p.m. for 5 minutes.

(5) Obtain normal idle speed, record it, and start exhaust sampling.

(6) Run four 9-mode cycles.

(c) Upon completion of the test, purge the sample line with nitrogen to establish a constant hydrocarbon "hangup" level. The hydrocarbon concentration shall drop to 5 percent of scale in 10 seconds, and 3 percent of scale in 3 minutes, or the test is invalid. Check calibration of exhaust emission instruments. A drift in excess of ±2 percent of scale in the calibration of any one of the exhaust emission analyzers will invalidate the test results.

§ 85.108 Chart reading.

The recorder response for measuring exhaust gas concentrations always lags the engine's operation because of a variable exhaust system delay and a fixed sample system delay. Therefore, the concentrations for each mode will not be located on the charts at a point corresponding to the exact time of the mode. For each warmup or hot cycle to be evaluated, proceed as follows:

(a) Determine whether the cycle was run in accordance with the specified cycle timing by observing either chart pips, speed trace, manifold vacuum trace, or concentration traces. Deviation by more than 2 seconds from the specified time for the closed throttle mode (sequence 9) or deviation of more than ±0.2" Hg from the specified mode vacuums during the last 10 seconds of a mode will invalidate the data.

(b) Time correlate the hydrocarbon, carbon monoxide, and carbon dioxide charts. Determine the location on the chart of concentrations corresponding to each mode. Determine and compensate for trace abnormalities.

(c) For all open throttle (3", 10", 16", and 19" Hg) and idle modes, integrate the last 3 seconds of the HC, CO and CO_2 traces.

(d) The values recorded for the initial idle mode are used for both warmup cycles 1 and 2. The final idle mode values are applied to hot cycles 3 and 4.

(e) Intergrate the complete HC, CO, and CO_2 traces during this 43-second closed throttle mode of each cycle.

(f) Direct computer analysis of analyzer output may be utilized provided that the analysis is sufficiently similar to the above procedures to result in comparable data results.

§ 85.109 Calculations.

The final reported test results shall be derived through the following steps:

(a) Determine composite hydrocarbon and carbon monoxide concentrations for the first and second cycles. Average the results of these two cycles.

(b) Determine composite hydrocarbon and carbon monoxide concentrations for the third and fourth cycles. Average the results of these two cycles.

(c) Combine the results of paragraphs (a) and (b) of this section according to the formula: 0.35(a) plus 0.65(b). Since hydrocarbon, carbon monoxide, and carbon dioxide are all measured with essentially the same moisture content, no moisture correction is required to convert the results to a dry basis. The correction factor:

$$\frac{14.5}{\%\,CO_2 + (0.5)\,\%\,CO + (1.8 \times 6)\,\%\,HC}$$

shall be applied to the measured concentrations of hydrocarbon and carbon monoxide to correct these observed values for dilution of the exhaust.

§ 85.110 Test engines.

(a) The engines covered by the application for certification will be divided into engine families based upon the criteria outlined in § 85.89(a).

(b) Emission data engines:

(1) Engines will be chosen to be run for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the model year for which certification is sought. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Secretary as to fuel system.

(3) The Secretary may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Secretary will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(4) If the engines selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one engine of each engine-system combination not represented shall be selected by the Secretary. The engine selected shall be of the displacement with the largest projected sales volume of engines with the exhaust emission control system in the family and will be designated by the Secretary as to fuel system.

(c) Durability data engines:

(1) A durability data engine will be selected by the Secretary to represent each engine-system combination. The engine selected shall be of the displacement with the largest projected sales volume of engines with that exhaust emission control system in that engine family and will be designated by the Secretary as to fuel system.

(2) If an exhaust emission control system is used in only one engine family, an additional engine using that control system in that family will be selected so that the durability data fleet shall contain at least two engines with each control system. The additional engine will be selected in the same manner as engines selected under subparagraph (1) of this paragraph.

(3) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel system as the engine selected for that combination in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to run additional engines shall be given to the Secretary not later than 30 days following notification of the test fleet selection.

(d) Any manufacturer whose projected sales of new motor vehicle engines subject to this subpart for the model year for which certification is sought is less than 700 engines may request a reduction in the number of test engines determined

in accordance with the foregoing provisions of this section. The Secretary may agree to such lesser number as he determines will meet the objectives of this procedure.

(e) In lieu of testing an emission data or durability data vehicle selected under paragraph (b) or (c) of this section and submitting data therefor, a manufacturer may, with the prior written approval of the Secretary, submit data on a similar vehicle for which certification has previously been obtained.

§ 85.111 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability engines may be performed only under the following provisions:

(i) Two major engine tuneups to manufacturer's specifications may be performed at 500 and 1,000 hours (±8 hours) of scheduled dynamometer operation with the following exception: On engines with a displacement of 200 cubic inches or less, a major engine tuneup may be performed at 375, 750, and 1,125 hours (±8 hours) of scheduled dynamometer operation. A major engine tuneup shall be restricted to the following:

(*a*) Replace spark plugs.

(*b*) Inspect ignition wiring and replace as required.

(*c*) Replace distributor breaker points and condensor as required.

(*d*) Lubricate distributor cam.

(*e*) Check distributor advance and breaker point dwell angle and adjust as required.

(*f*) Check automatic choke for free operation and correct as required.

(*g*) Adjust carburetor idle speed and mixture.

(*h*) Adjust drive belt tension on engine accessories.

(*i*) Adjust valve lash if required.

(*j*) Check exhaust heat control valve for free operation.

(*k*) Check engine bolt torque and tighten as required.

(ii) Spark plugs may be changed if a persistent misfire is detected.

(iii) Normal services (engine oil change, and oil filter, fuel filter and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) The crankcase emission control system may be serviced at 375-hour intervals (±8 hours) of dynamometer operation.

(v) Readjustment of the engine choke mechanism or idle settings may be performed only if there is a problem of stalling at idle.

(vi) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(vii) Any other engine or fuel system maintenance or repairs will be allowed only with the advance approval of the Secretary.

(2) Allowable maintenance on emission data engines shall be limited to the adjustment of engine idle speed at the 125-hour test point.

(b) Complete emission tests (see §§ 85.101–85.109) shall be run before and after any engine maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Secretary immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Secretary in accordance with §85.53.

(c) If the Secretary determines that maintenance or repairs have resulted in a substantial change to the engine-system combination, the engine shall not be used as a durability data engine.

§ 85.112 Service accumulation and emission measurements.

The engine dynamometer service accumulation schedule will consist of several operating conditions which give the same percentage of time at various manifold vacuums and the modes as specified in the emission test cycle. The average speed shall be between 1,650 and 1,700 r.p.m. with some operation at 3,200 r.p.m. or governed speed, whichever is lower. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Secretary shall be used.

(a) Emission data engines: Each emission data engine shall be operated for 125 hours with all emission contol systems installed and operating. Emission tests shall be conducted at zero and 125 hours.

(b) Durability data engines: Each durability data engine shall be operated, with all emission control systems installed and operating, for 1,500 hours. Emission measurements, as prescribed, shall be made at zero hours and at each 125-hour interval.

(c) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(d) The results of each emission test shall be supplied to the Secretary immediately after the test. In addition, all test data shall be compiled and provided to the Secretary in accordance with § 85.53.

(e) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero-hour test data to the Secretary and make the engine available for such testing under § 85.54 as the Secretary may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

(f) Once a manufacturer begins to operate an emission data or durability data engine, as indicated by compliance with paragraph (e) of this section, he shall continue to run the engine to 125 hours or 1,500 hours, respectively, and the data from the engine will be used in the calculations under § 85.113. Discontinuation of an engine shall be allowed only with the prior written consent of the Secretary.

§ 85.113 Compliance with emission standards.

(a) The exhaust emission standards in the regulations in this part apply to the average lifetime emissions of engines in public use. Prior to certification, lifetime emissions can be obtained by projection of test data to lifetime normal service. Normal service in an urban area or its equivalent for 100,000 miles is taken as the basis for "lifetime emissions." Operation on an engine dynamometer in the prescribed manner for 3,000 hours is taken to be equivalent to such service.

(b) It is expected that emission control efficiency will change with the accumulation of hours on the engine. It is assumed that the emission level of an engine which has accumlated 1,500 hours of dynamometer operation is the average emission level of that engine over its lifetime.

(c) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability data engines for each engine-system combination. Separate factors shall be established for HC and CO for each combination.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*a*) All emission data from the tests required under § 85.112(b), except the zero-hour tests. This shall include the official test results, as determined in § 85.54, for all tests conducted on all durability engines of the combination selected under § 85.110(c) (including all engines elected to be operated by the manufacturer under § 85.110(c)(4)).

(*b*) All emission data from the tests conducted before and after the maintenance provided in § 85.111(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125- and 1,500-hour points on this line must be within the standard provided in § 85.31 or the data shall not be used in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

$$\text{factor} = \frac{\text{exhaust emissions interpolated to 1,500 hours}}{\text{exhaust emissions interpolated to 125 hours}}$$

(2) The exhaust emission test results for each emission data engine shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is less than one, that deterioration factor shall be one for the purposes of this subparagraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) of this paragraph for each emission data engine.

(4) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any engine in that family will be certified.

Subpart J—Test Procedures for Engine Exhaust Emissions (Heavy Duty Diesel Engines)

§ 85.120 Introduction.

(a) The procedures described in this subpart will be the test program to determine the conformity of heavy duty diesel engines with the applicable standards set forth in this part:

(b) The test consists of a prescribed sequence of engine operating conditions on an engine dynamometer with continuous examination of the exhaust gases. The test is applicable equally to controlled engines equipped with means for preventing, controlling, or eliminating smoke emissions and to uncontrolled engines.

(c) The test is designed to determine the opacity of smoke in exhaust emissions during those engine operating conditions which tend to promote smoke from diesel-powered vehicles.

(d) The test procedure begins with a warm engine which is then run through preloading and preconditioning operations. After an idling period, the engine is operated through acceleration and lugging modes during which smoke emission measurements are made to compare with the standards. The engine is then returned to the idle condition and the acceleration and lugging modes are repeated. Three sequences of acceleration and lugging constitute the full set of operating conditions for smoke emission measurement.

§ 85.121 Diesel fuel specifications.

(a) The diesel fuels employed shall be clean and bright, with pour and cloud points adequate for operability. The fuels may contain nonmetallic additives as follows: cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(b) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Secretary, shall be used in exhaust emission testing. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–50
Distillation range	D 86		
IBP, °F		330–390	340–400
10 percent point, °F		370–430	400–460
50 percent point, °F		410–480	470–540
90 percent point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, ° API	D 287	40–44	33–37
Total sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Hydrocarbon composition	D 1319		
Aromatics, percent		8–15	27 (Min.)
Paraffins, Naphthenes, Olefins		Remainder	Remainder
Flash point, °F (Min.)	D 93	120	130
Viscosity, centistokes	D 445	1.6–2.0	2.0–3.2

(c) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Secretary, shall be used in service accumulation. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–55
Distillation range	D 86		
IBP, °F		303–390	340–410
10 percent point, °F		370–430	400–470
50 percent point, °F		410–480	470–540
90 percent point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, °API	D 287	40–44	33–40
Total sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Flash point, °F (Min.)	D 93	120	130
Viscosity, centistokes	D 445	1.6–2.0	2.0–3.2

(d) The type fuel, including additive and other specifications, used under paragraphs (b) and (c) of this section shall be reported in accordance with § 85.51(b)(3).

§ 85.122 Dynamometer operation cycle for smoke emission tests.

(a) The following sequence of operations shall be performed during engine dynamometer testing of smoke emissions, starting with the dynamometer preloading determined and the engine preconditioned (§ 85.127(c)).

(1) *Idle mode.* The engine is caused to idle for 5 minutes at the manufacturer's recommended low idle speed. The dynamometer controls shall be set to provide minimum load by turning the load switch to the "off" position or by adjusting the controls to the minimum load position.

(2) *Acceleration mode.* (i) The engine speed shall be increased to 200±50 r.p.m. above the manufacturer's recommended low idle speed.

(ii) The engine shall be accelerated at full-throttle against the inertia of the engine and dynamometer or alternately against a preselected dynamometer load such that the engine speed reaches 85 to 90 percent of rated speed in 5±1.5 seconds.

(iii) When the engine reaches the speed required in subdivision (ii) of this subparagraph, the throttle shall be moved rapidly to the closed position and the dynamometer load, if any, shall be removed. The engine speed shall be reduced to the speed of maximum rated torque or 60 percent of rated speed (whichever is higher), within ±50 r.p.m. Smoke emissions during this transitional mode are not used in determining smoke emissions to compare with the standard.

(iv) The throttle shall be moved rapidly to the full-throttle position while simultaneously applying a preselected dynamometer load such that the engine speed reaches 95 to 100 percent of rated speed in 10±2 seconds.

(3) *Lugging mode.* (i) Proceeding from the acceleration mode, the dynamometer controls shall be adjusted to permit the engine to develop maximum horsepower at rated speed. Smoke emissions during this transitional mode are not used in determining smoke emissions to compare with the standard.

(ii) Without changing the throttle position, the dynamometer controls shall be adjusted gradually to slow the engine to the speed of maximum torque or to 60 percent of rated speed, whichever is higher. This engine lugging operation shall be performed smoothly over a period of 35±5 seconds. The rate of slowing of the engine shall be linear, within ±100 r.p.m.

(4) *Engine unloading.* After completion of the lugging mode in subparagraph (3)(ii) of this paragraph, the dynamometer and engine shall be returned to the idle condition described in subparagraph (1) of this paragraph.

(b) The procedures described in paragraph (a) (1) through (4) of this section shall be repeated until the entire cycle has been run three times.

§ 85.123 Dynamometer and engine equipment.

The following equipment shall be used for smoke emission testing of engines on engine dynamometers.

(a) An engine dynamometer with adequate characteristics to perform the test cycle described in § 85.122.

(b) An engine cooling system having sufficient capacity to maintain the engine at normal operating temperatures during conduct of the prescribed engine tests.

(c) A noninsulated exhaust system extending 12±2 feet from the exhaust manifold of the engine and presenting an exhaust back pressure within ±0.2 inches Hg of the upper limit at maximum rated horsepower, as established by the engine manufacturer in his sales and service literature for vehicle application. A conventional automotive muffler of a size and

type commonly used with the engine being tested shall be employed in the exhaust system during smoke emission testing. The terminal 2 feet of the exhaust pipe shall be of circular cross section and be free of elbows and bends. The end of the pipe shall be cut off squarely. The terminal 2 feet of the exhaust pipe shall have a diameter in accordance with the engine being tested, as specified below:

Maximum rated horsepower	*Exhaust pipe size*
Less than 101	2"
101–200	3"
201–300	4"
301 or more	5"

(d) An engine air inlet system presenting an air inlet restriction within ±1-inch of water of the upper limit for the engine operating condition which results in maximum air flow, as established by the engine manufacturer in his sales and service literature, for the engine being tested.

§ 85.124 Smoke measurements system.

(a) *Schematic drawing.* The following figure (fig. 7) is a schematic drawing of the optical system of the light extinction meter.

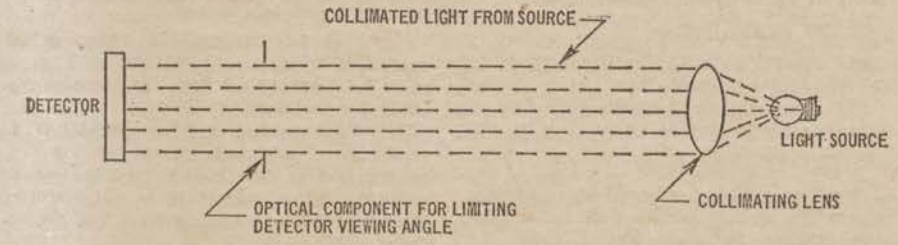


Figure 7. Typical smokemeter optical system (schematic).

(b) *Equipment.* The following equipment shall be used in the system:

(1) Adapter—the smokemeter optical unit may be mounted on a fixed or movable frame. The normal unrestricted shape of the exhaust plume shall not be modified by the adapter, the meter, or any ventilation system used to remove the exhaust from the test site.

(2) Smokemeter (light extinction meter)—continuous recording, full-flow light obscuration meter. It shall be positioned near the end of the exhaust pipe so that a built-in light beam traverses the exhaust smoke plume which issues from the pipe at right angles to the axis of the plume. The light source is an incandescent lamp operated at a constant voltage of not less than 15 percent of the manufacturer's specified voltage. The lamp output is collimated to a beam with a diameter which does not exceed 0.4 exhaust pipe diameters. The angle of divergence of the collimated beam shall be within 4° included angle. A light detector, directly opposed to the light source, measures the amount of light blocked by the smoke in the exhaust. The detector sensitivity is restricted to the visual range and comparable to that of the human eye. A collimating tube with apertures equal to the beam diameter is attached to the detector. It restricts the viewing angle of the detector to within 16° included angle. An amplified signal corresponding to the amount of light blocked is recorded continuously on a remote recorder. An air curtain across the light source and detector window assemblies may be used to minimize deposition of smoke particles on those surfaces provided that it does not measurably affect the opacity of the plume. The meter consists of two units, an optical unit and a remote control unit. Light extinction meters employing substantially identical measurement principles and producing substantially equivalent results but which employ other electronic and optical techniques may be used only after having been approved in advance by the Secretary.

(3) Recorder—a continuous recorder, with variable chart speed over a minimal range of 0.5 to 8.0 inches per minute (or equivalent) and an automatic marker indicating 1-second intervals shall be used for continuously recording the transient conditions of exhaust gas opacity, engine r.p.m. and torque. The recorder scale for opacity shall be linear and calibrated to read from 0 to 100 percent opacity full scale. The opacity trace shall have a resolution within 1 percent opacity. The recorder scale for engine r.p.m. and the recorder scale for observed engine torque shall be linear and shall have full scale calibration such as to facilitate chart reading. The r.p.m. trace shall have a resolution within 30 r.p.m. The torque trace shall have a resolution within 10 lb.-ft. Any means other than strip chart recorder may be used provided it produces a permanent visual data record of quality equal to or better than that described above.

(4) The recorder used with the smokemeter shall be capable of full-scale deflection in 0.5 second or less. The smokemeter-recorder combination may be damped so that signals with a frequency higher than 10 cycles per second are attenuated. A separate low-pass electronic filter with the following performance characteristics may be installed between the smokemeter and the recorder to achieve the high-frequency attenuation.

(i) 3 decibel point—10 cycles per second.

(ii) Insertion loss-zero ±0.5 decibels.

(iii) Selectivity—12 decibels per octave above 10 cycles per second.

(iv) Attenuation—27 decibles down at 40 cycles per second minimum.

(c) *Assembling equipment.* (1) The optical unit of the smokemeter shall be mounted radially to the exhaust pipe so that the measurement will be made at right angles to the axis of the exhaust plume. The distance from the optical unit to the exhaust pipe outlet shall be 1.0 to 1.5 pipe diameters but never less than 4 inches. The full flow of the exhaust stream shall be contained within and be centered about the light path of the unit.

(2) Power shall be supplied to the control unit of the smokemeter in time at least 15 minutes prior to testing to allow for stabilization.

§ 85.125 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) Date and time of day.

(c) Instrument operator.

(d) Engine operator.

(e) Engine Identification numbers—Date of manufacture—Number of hours of operation accumulated on engine—Engine Family—Exhaust pipe diameter—Fuel injector type—Maximum measured fuel rate at maximum measured torque and horsepower—Air aspiration system—Low idle r.p.m.—Maximum governed r.p.m.—Maximum measured horsepower at r.p.m.—Maximum measured torque at r.p.m.—Exhaust system back pressure—Air inlet restriction.

(f) Smokemeter. Number—Zero control setting—Calibration control setting—Gain.

(g) Recorder chart. Identify zero traces—Calibration traces—Idle traces—Acceleration test traces—Start and finish of each test.

(h) Ambient temperature in dynamometer testing room.

(i) Engine intake air temperature and humidity.

(j) Barometric pressure.

(k) Observed engine torque.

§ 85.126 Instrument checks.

(a) The smokemeter shall be checked according to the following procedure prior to each test:

(1) The optical surfaces of the optical section shall be checked to verify that they are clean and free of foreign material and fingerprints.

(2) The zero control shall be adjusted under conditions of "no smoke" to give a recorder trace of zero.

(3) Calibrated neutral density filters having approximately 20 percent and 40 percent opacity shall be employed to check the linearity of the instrument. The filter(s) shall be inserted in the light path perpendicular to the axis of the beam and adjacent to the opening from which the beam of light from the light source emanates, and the recorder response shall be noted. Deviations in excess of 1 percent of the nominal opacity value of the filter as established by the Secretary shall be corrected.

(b) The instruments for measuring and recording engine r.p.m., engine torque, air inlet restrictions, exhaust system back pressure, etc., which are used in the tests prescribed herein shall be calibrated from time to time in accordance with good technical practice.

§ 85.127 Test run.

(a) The temperature of the air supplied to the engine shall be between 68° F. and 86° F. The observed barometric pressure shall be between 28.5 inches and 31 inches Hg. Higher air temperature or lower barometric pressure may be used, if desired, but no allowance will be made for possible increased smoke emissions because of such conditions.

(b) The governor and fuel system shall have been adjusted to provide engine performance at the levels specified by the engine manufacturer for maximum rated horsepower and maximum rated torque. These specifications shall be reported in accordance with § 85.51 (b)(3).

(c) The following steps shall be taken for each test:

(1) Start cooling system.

(2) Starting with a warmed engine, determine by experimentation the dynamometer inertia and dynamometer load required to perform the acceleration in the dynamometer cycle for smoke emission tests (§ 85.122(a)(2)). In a manner appropriate for the dynamometer and controls being used, arrange to conduct the acceleration mode.

(3) Install smokemeter optical unit and connect it to the recorder. Connect the engine r.p.m. and torque sensing devices to the recorder.

(4) Turn on purge air to the optical unit of the smokemeter, if purge air is used.

(5) Check and record zero and span settings of the smokemeter recorder at a chart speed of approximately 1 inch per minute. (The optical unit shall be retracted from its position about the exhaust stream if the engine is left running.)

(6) Precondition the engine by operating it for 10 minutes at maximum rated horsepower.

(7) Proceed with the sequence of smoke emission measurements on the engine dynamometer as prescribed in § 85.122.

(8) During the test sequence of § 85.122, continuously record smoke measurements, engine r.p.m. and torque at a chart speed of approximately 1 inch per minute minimum during the idle mode and transitional modes and 8 inches per minute minimum during the acceleration and lugging modes.

(9) Turn off engine.

(10) Check zero and reset if necessary and check span of the smokemeter recorder by inserting neutral density filters. If either zero or span drift is in excess of 2 percent opacity, the test results shall be invalidated.

§ 85.128 Chart reading.

(a) The following procedure shall be employed in reading the smokemeter recorder chart.

(1) Locate the acceleration mode (§ 85.122(a)(2)) and the lugging mode (§ 85.122(a)(3)) on the chart. Divide each mode into ½-second intervals beginning at the start of each mode. Determine the average smoke reading during each ½-second interval except those recorded during the transitional portions of the acceleration mode (§ 85.122(a)(2)(iii)) and the lugging mode (§ 85.122(a)(3)(i)).

(2) Locate and record the 15 highest ½-second readings during the acceleration mode of each dynamometer cycle.

(3) Locate and record the five highest ½-second readings during the lugging mode of each dynamometer cycle.

§ 85.129 Calculations.

(a) Average the 45 readings in § 85.128 (a)(2) and designate the value as "a".

(b) Average the 15 readings in § 85.128 (a)(3) and designate the value as "b".

§ 85.130 Test engines.

(a) The engines covered by the application for certification will be divided into engine families based upon the criteria outlined in § 85.89(a).

(b) Emission data engines:

(1) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Engines of each engine family will be divided into groups based upon exhaust emission control system. Two engines of each engine-system combination shall be run for smoke emission data as prescribed in § 85.132(b). Within each combination, the engines that feature the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will be selected. In the case where more than one engine in an engine-system combination have the highest fuel feed per stroke, the engine with the highest maximum rated torque will be selected.

(c) Durability data engines:

(1) One engine from each engine-system combination shall be tested for lifetime smoke emission data as prescribed in § 85.132(c). Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will be selected for durability testing.

(2) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to test additional engines shall be given to the Secretary not later than 30 days following notification of the test fleet selection.

(d) Any manufacturer whose projected sales of new motor vehicle engines subject to this subpart for the model year for which certification is sought is less than 200 engines may request a reduction in the number of test engines determined in accordance with the foregoing provisions of this section. The Secretary may agree to such lesser number as he determines would meet the objectives of this procedure.

(e) In lieu of testing an emission data or durability data vehicles elected under paragraph (b) or (c) of this section and submitting data therefor, a manufacturer may, with the prior written approval of the Secretary, submit data on a similar vehicle for which certification has previously been obtained.

§ 85.131 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability engines may be performed only under the following provisions:

(i) One major engine servicing to manufacturer's specifications may be performed at 500 hours (±8 hours) of dynamometer operation. A major engine servicing shall be restricted to the following:

(*a*) Adjust drive belt tension.
(*b*) Adjust low idle speed.
(*c*) Adjust valve lash if required.
(*d*) Adjust injector timing.
(*e*) Adjust governor.
(*f*) Check engine bolt torque and tighten as required.
(*g*) Clean injector tips.

(ii) Injectors may be changed if a persistent misfire is detected.

(iii) Normal engine lubrication services (engine oil change and oil filter, fuel filter, and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) Readjustment of the engine fuel rates may be performed only if there is a problem of dropping below 95 percent of maximum rated horsepower at 95–100 percent rated speed.

(v) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(vi) Any other engine or fuel system maintenance or repairs will be allowed only with the advanced approval of the Secretary.

(2) Allowable maintenance on emission data engines shall be limited to the adjustment of engine low idle speed at the 125-hour test point.

(b) Complete emission tests (see §§ 85.121–85.129) shall be run before and after any engine maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Secretary immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Secretary in accordance with § 85.53.

(c) If the Secretary determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the engine shall not be used as a durability data engine.

§ 85.132 Service accumulation and emission measurements.

Service accumulation shall be accomplished by operation of an engine on a dynamometer.

(a) Emission data engines: Each engine shall be operated on a dynamometer for 125 hours with the dynamometer and engine adjusted so that the engine is operating at 95–100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.123(c) and the air inlet restriction specified in § 85.123(d). Exhaust smoke tests shall be conducted at zero and 125 hours of operation.

(b) Durability data engines: Each engine shall be operated on a dynamometer for 1,000 hours with the dynamometer and engine adjusted so that the engine is operating at 95–100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.123(c) and the air inlet restriction specified in § 85.123(d). Exhaust smoke measurements shall be made at zero hours and at each 125 hours of operation. All results except the zero hour results shall be used to establish the deterioration factors (see § 85.133).

(c) All tests required by this subpart to be conducted after 125 hours of dynamometer operation or at any multiple of 125 hours may be conducted at any accumulated hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(d) The results of each emission test shall be supplied to the Secretary immediately after the test. In addition, all test data shall be compiled and provided to the Secretary in accordance with § 85.53.

(e) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero hour test data to the Secretary and make the engine available for such testing under § 85.54 as the Secretary may require before beginning to accumulate hours on the engine. Failure to comply with this requirement shall invalidate all test data submitted for this engine.

(f) Once a manufacturer begins to operate an emission data or durability data engine, as indicated by compliance with paragraph (e) of this section, he shall continue to run the engine to 125 hours or 1,000 hours, respectively, and the data from the engine shall be used in the calculations under § 85.133. Discontinuation of an engine shall be allowed only with the prior written consent of the Secretary.

§ 85.133 Compliance with emission standards.

(a) The emission standards in the regulations in this part apply to the lifetime emission of engines in public use. Prior to certification, lifetime emissions can be obtained by projection of test data to lifetime normal service. Lifetime normal service or its equivalent is taken to be 2,000 hours of prescribed dynamometer operation.

(b) It is expected that the opacity of exhaust emissions will change with use of the engine. It is assumed that the emission level corresponding to 1,000 hours of prescribed dynamometer operation is the average emission of an engine over its lifetime.

(c) The procedure for determining compliance with exhaust smoke emission standards in heavy duty diesel engines is as follows:

(1) Emission deterioration factors for the acceleration mode (designated as "A") and the lugging mode (designated as "B") shall be established separately for each engine-system combination.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*a*) All emission data from the tests required under § 85.132(b), except the zero hour tests. This shall include the official test results, as determined in § 85.54, for all tests conducted on all durability engines of the combination selected under § 85.130(c) (including all engines elected to be operated by the manufacturer under § 85.130(c)(3)).

(*b*) All emission data from the tests conducted before and after the maintenance provided in § 85.131(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125 and 1,000 hour points on this line must be within the standard provided in § 85.41 or the data shall not be used in calculation of a deterioration factor.

(iii) The deterioration factors will be calculated as follows:

A-percent opacity "a", interpolated to 1,000 hours, minus percent opacity "a," interpolated to 125 hours.

B-percent opacity "b", interpolated to 1,000 hours, minus percent opacity "b", interpolated to 125 hours.

(2) The "percent opacity" values to compare with the standards shall be the opacity values "a" and "b" for each emission data engine within an engine-system combination to which are added the respective factors "A" and "B" of subparagraph (1) of this paragraph for that engine-system combination: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is less than zero, that deterioration factor shall be zero for the purposes of this subparagraph.

(3) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (2) of this paragraph, before any engine in that family will be certified.

APPENDIX A

DHEW URBAN DYNAMOMETER DRIVING SCHEDULE

(Speed versus Time Sequence)[1]

Time (sec.)	*Speed (m.p.h.)*	*Time (sec.)*	*Speed (m.p.h.)*	*Time (sec.)*	*Speed (m.p.h.)*
0	0.0	94	30.2	205	47.2
20	0.0	95	30.3	206	47.2
21	2.7	96	30.5	207	47.1
22	5.1	97	30.1	208	47.1
23	7.5	98	29.7	209	47.0
24	10.4	99	29.7	214	47.0
25	14.4	100	29.9	215	47.2
26	16.6	101	30.2	216	47.8
27	18.3	102	30.6	217	48.2
28	19.0	103	30.8	218	48.7
29	20.2	104	30.8	219	49.2
30	21.8	105	30.3	220	49.7
31	22.1	106	29.9	221	50.2
32	22.3	107	29.8	222	50.6
33	22.0	108	29.9	223	51.1
34	21.5	109	30.3	224	52.2
35	21.1	110	30.9	225	53.2
36	20.7	111	31.3	226	53.9
37	19.9	112	32.0	227	54.3
38	17.5	114	32.0	228	54.5
39	15.2	115	31.9	229	54.8
40	15.0	116	31.0	230	54.8
41	15.1	117	28.7	231	54.4
42	15.2	118	24.6	232	54.4
43	15.7	119	20.0	233	54.6
44	16.6	120	15.3	234	54.9
45	18.6	121	11.7	235	55.2
46	20.5	122	6.5	236	55.4
47	22.2	123	2.8	237	55.8
48	22.8	124	0.0	238	55.9
49	22.6	163	0.0	239	56.0
50	22.5	164	0.2	240	56.1
51	21.5	165	4.0	241	56.2
52	19.3	166	9.6	242	56.2
53	17.7	167	14.3	243	56.3
54	16.1	168	16.5	244	56.3
55	15.5	169	20.0	245	56.2
56	16.8	170	22.4	247	56.2
57	18.5	171	24.2	248	56.1
58	20.5	172	25.7	249	56.0
59	22.4	173	26.5	250	55.7
60	23.8	174	25.9	251	55.1
61	24.2	175	25.5	252	54.8
62	24.6	176	25.0	253	54.3
63	24.8	177	25.1	254	54.1
64	24.6	178	25.5	255	53.8
65	24.4	179	25.7	256	53.7
66	24.5	180	26.0	257	53.7
69	24.5	181	27.0	258	53.8
70	24.6	182	26.4	259	53.9
71	24.8	183	24.8	260	54.0
72	25.1	184	22.2	261	53.8
73	25.4	185	19.5	262	53.4
74	25.4	186	18.0	263	53.1
75	25.2	187	17.6	264	52.8
76	25.1	188	18.5	265	52.2
77	25.2	189	18.8	266	52.1
78	25.7	190	20.3	267	52.0
79	26.0	191	22.5	268	51.8
81	26.0	192	24.9	269	51.6
82	26.2	193	27.8	270	51.5
83	27.0	194	31.0	271	51.4
84	28.0	195	34.3	272	51.5
85	29.0	196	36.4	273	51.8
86	29.3	197	37.8	274	52.0
87	29.7	198	39.4	275	52.6
88	30.0	199	40.8	276	53.2
89	30.4	200	42.0	277	53.8
90	30.5	201	43.7	278	54.2
91	30.4	202	44.9	279	54.9
92	30.3	203	45.8	280	55.2
93	30.3	204	46.5	281	55.5

[1] Where time and speed are omitted from the sequence, the time and speed immediately preceding and following the omission(s) apply.

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
282	55.7	379	36.2	493	31.5
283	55.5	380	36.2	494	29.5
284	55.2	381	36.1	495	27.5
285	54.7	382	36.0	496	25.0
286	53.9	383	35.3	497	22.0
287	53.0	384	34.5	498	18.9
288	51.8	385	33.6	499	15.5
289	51.4	386	31.5	500	12.5
290	51.2	387	28.0	501	10.0
291	51.2	388	25.3	502	6.2
292	50.4	389	23.0	503	2.5
293	49.8	390	20.2	504	0.0
294	49.8	391	17.0	505	1.0
295	49.9	392	14.3	506	3.2
296	49.7	393	11.2	507	5.0
297	49.5	394	7.5	508	6.1
298	49.4	395	4.0	509	7.8
299	49.3	396	0.8	510	9.0
300	49.2	397	0.0	511	10.0
301	48.9	402	0.0	512	11.0
302	48.0	403	2.1	513	13.2
303	47.6	404	6.0	514	15.3
304	46.8	405	10.6	515	16.9
305	45.4	406	14.0	516	18.0
306	44.3	407	16.9	517	19.1
307	43.1	408	20.0	518	20.3
308	42.0	409	23.0	519	21.2
309	40.7	410	24.7	520	22.2
310	39.5	411	25.8	521	23.3
311	38.0	412	27.6	522	23.9
312	36.4	413	29.2	523	24.5
313	34.6	414	29.8	524	25.1
314	33.2	415	30.0	529	25.1
315	32.1	416	29.8	530	25.5
316	31.1	417	29.5	531	26.0
317	30.8	418	29.2	532	26.0
318	30.8	419	28.7	533	25.9
319	30.0	420	27.5	534	25.8
320	28.5	421	24.8	535	25.5
321	26.0	422	21.0	536	25.2
322	23.5	423	17.0	537	25.2
323	21.1	424	13.4	538	25.0
324	20.0	425	10.0	539	24.8
325	18.9	426	5.3	540	24.5
326	17.7	427	1.5	541	23.5
327	16.2	428	0.0	542	17.5
328	13.8	445	0.0	543	12.0
329	11.5	446	0.3	544	7.5
330	8.6	447	3.0	545	1.8
331	6.0	448	8.0	546	0.0
332	1.5	449	13.0	567	0.0
333	0.2	450	14.5	568	2.5
334	0.0	451	17.0	569	5.3
347	0.0	452	20.1	570	8.5
348	2.0	453	22.5	571	12.2
349	7.2	454	25.2	572	14.9
350	10.7	455	27.1	573	15.7
351	13.5	456	28.1	574	16.9
352	16.5	457	30.3	575	17.1
353	18.9	458	32.1	576	17.0
354	21.0	459	33.0	577	17.5
355	23.2	460	34.1	578	18.0
356	24.6	461	35.0	579	18.0
357	26.1	462	35.3	580	17.9
358	28.0	463	35.8	581	17.9
359	29.1	464	35.9	582	17.2
360	30.7	465	36.0	583	17.1
361	31.1	466	36.0	584	17.1
362	31.8	467	35.9	585	17.2
363	32.5	468	35.8	586	17.1
364	33.2	469	35.8	587	17.0
365	33.9	470	35.9	591	17.0
366	34.2	471	35.8	592	17.2
367	34.7	472	35.7	593	18.2
368	34.3	473	35.5	594	18.8
369	34.1	474	35.4	595	20.0
370	34.5	475	35.2	596	20.9
371	35.2	479	35.2	597	21.0
372	35.8	480	35.1	598	21.1
373	35.7	481	35.0	599	21.5
374	35.8	487	35.0	600	21.9
375	35.9	488	34.9	601	22.2
376	36.0	490	34.9	602	22.4
377	36.1	491	34.0	603	22.5
378	36.1	492	33.2	604	22.4

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
605	22.4	724	3.9	813	33.9
606	23.5	725	3.0	814	33.5
607	25.0	726	1.3	815	33.2
608	26.0	727	0.2	816	32.9
609	26.5	728	2.0	817	32.4
610	27.0	729	5.6	818	32.0
611	27.4	730	9.2	819	31.9
612	27.8	731	12.0	820	31.8
613	24.8	732	13.7	821	31.2
614	19.5	733	15.6	822	30.3
615	16.0	734	17.5	823	30.0
616	11.0	735	19.3	826	30.0
617	3.0	736	21.0	827	29.9
618	0.2	737	22.5	828	29.8
619	0.0	738	24.2	829	29.7
644	0.0	739	25.4	830	29.5
645	2.0	740	26.2	831	29.2
646	3.9	741	27.0	832	28.9
647	6.6	742	27.5	833	28.3
648	9.3	743	27.9	834	27.5
649	11.3	744	28.1	835	26.3
650	13.5	745	28.6	836	24.5
651	14.3	746	28.4	837	22.8
652	16.3	747	28.3	838	21.2
653	18.2	748	28.1	839	19.8
654	20.2	749	28.0	840	19.2
655	21.6	750	27.8	841	20.2
656	22.9	751	27.2	842	21.1
657	24.2	752	26.2	843	21.7
658	25.1	753	24.0	844	22.2
659	25.4	754	21.5	845	23.0
660	25.8	755	19.6	846	23.6
661	26.0	756	18.0	847	24.6
663	26.0	757	15.6	848	25.2
664	25.9	758	13.8	849	26.2
665	26.2	759	10.5	850	26.8
666	26.6	760	7.5	851	26.8
667	26.3	761	3.5	852	26.7
668	26.1	762	1.5	853	26.7
669	25.0	763	1.5	854	27.3
670	22.9	764	1.0	855	27.8
671	20.3	765	0.0	856	28.2
672	18.0	766	2.0	857	28.7
673	15.5	767	5.2	858	28.9
674	13.6	768	8.8	859	29.0
675	10.4	769	12.5	860	29.2
676	7.8	770	15.4	861	28.9
677	4.5	771	17.5	862	28.4
678	2.9	772	18.3	863	28.0
679	1.5	773	19.0	864	27.5
680	0.1	774	20.5	865	26.2
681	0.0	775	21.9	866	25.3
691	0.0	776	23.2	867	25.0
692	0.1	777	24.8	868	25.1
693	0.5	778	26.2	869	25.3
694	2.1	779	27.2	870	25.5
695	3.7	780	28.0	871	25.7
696	5.1	781	28.2	872	26.2
697	8.0	782	28.8	873	26.8
698	10.7	783	29.1	874	27.4
699	12.8	784	29.0	875	28.0
700	14.3	785	29.0	876	29.0
701	15.6	786	28.9	877	29.3
702	16.8	787	28.7	878	29.2
703	16.7	788	28.6	879	29.1
704	16.5	789	28.5	880	29.0
705	17.5	790	28.3	881	28.9
706	18.8	791	27.9	882	28.9
707	20.0	792	27.9	883	28.8
708	20.7	793	28.0	884	28.4
709	22.2	794	27.7	885	28.3
710	22.5	795	27.8	886	28.0
711	22.1	798	27.8	887	27.9
712	22.2	799	28.0	888	27.4
713	22.8	800	28.7	889	27.1
714	23.5	801	29.7	890	27.5
715	23.0	802	30.8	891	27.8
716	22.1	803	32.0	892	28.0
717	21.5	804	32.8	893	27.9
718	19.8	805	33.0	894	28.0
719	17.5	806	33.3	895	28.0
720	13.5	807	33.8	896	28.1
721	9.8	808	34.1	897	28.0
722	6.9	809	34.0	898	27.8
723	5.0	812	34.0	899	27.3

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
900	26.9	986	24.0	1,102	2.0
901	26.8	987	22.7	1,103	4.4
902	26.7	988	21.7	1,104	7.3
903	26.6	989	21.8	1,105	10.5
904	26.6	990	22.0	1,106	13.1
905	26.5	991	22.5	1,107	13.9
906	26.4	992	22.9	1,108	14.4
907	25.9	993	23.0	1,109	16.0
908	25.8	996	23.0	1,110	18.1
909	25.8	997	22.9	1,111	19.8
910	25.8	998	23.0	1,112	20.9
911	26.0	999	23.5	1,113	21.0
912	26.1	1,000	24.2	1,114	21.1
913	25.5	1,001	24.9	1,115	21.2
914	24.2	1,002	25.1	1,116	21.6
915	22.6	1,003	25.3	1,117	22.0
916	22.0	1,004	25.9	1,118	22.7
917	21.8	1,005	26.0	1,119	23.3
918	22.0	1,006	25.6	1,120	24.3
919	22.5	1,007	25.0	1,121	24.9
920	23.0	1,008	24.5	1,122	24.9
921	23.8	1,009	23.9	1,123	25.0
922	24.3	1,010	23.7	1,124	25.1
923	24.5	1,011	23.0	1,125	25.2
924	24.9	1,012	22.7	1,126	25.7
925	25.1	1,013	22.2	1,127	26.0
926	25.2	1,014	21.8	1,128	26.3
927	25.2	1,015	21.0	1,129	26.7
928	25.3	1,016	18.8	1,130	27.0
929	25.2	1,017	15.0	1,132	27.0
930	25.0	1,018	11.2	1,133	26.9
932	25.0	1,019	7.2	1,134	26.9
933	24.9	1,020	3.0	1,135	26.9
934	24.8	1,021	0.0	1,136	26.8
935	24.7	1,051	0.0	1,137	26.7
936	24.5	1,052	1.5	1,138	26.5
937	24.5	1,053	4.6	1,139	26.1
938	24.9	1,054	8.0	1,140	25.6
939	25.0	1,055	11.2	1,141	25.1
940	24.9	1,056	14.2	1,142	23.8
941	24.9	1,057	17.0	1,143	22.1
942	24.2	1,058	18.2	1,144	20.1
943	24.3	1,059	19.9	1,145	18.2
944	25.1	1,060	21.8	1,146	16.3
945	25.8	1,061	22.8	1,147	14.5
946	25.5	1,062	23.8	1,148	12.5
947	24.0	1,063	24.9	1,149	8.7
948	22.0	1,064	25.6	1,150	4.8
949	20.0	1,065	26.5	1,151	0.6
950	18.9	1,066	26.8	1,152	0.0
951	16.6	1,067	27.2	1,167	0.0
952	12.6	1,068	28.0	1,168	0.1
953	7.6	1,069	28.1	1,169	4.3
954	5.0	1,070	28.0	1,170	9.7
955	1.2	1,071	27.7	1,171	13.5
956	0.1	1,072	27.0	1,172	16.2
957	0.0	1,073	26.9	1,173	19.3
958	0.0	1,074	26.4	1,174	21.2
959	0.8	1,075	24.8	1,175	23.0
960	4.4	1,076	22.5	1,176	23.6
961	9.0	1,077	21.8	1,177	23.0
962	13.9	1,078	21.1	1,178	22.0
963	15.9	1,079	18.8	1,179	19.5
964	17.2	1,080	15.0	1,180	16.6
965	18.5	1,081	12.9	1,181	11.6
966	20.0	1,082	11.1	1,182	7.5
967	21.3	1,083	10.8	1,183	3.5
968	22.2	1,084	10.2	1,184	0.2
969	23.0	1,085	9.7	1,185	0.0
970	24.8	1,086	9.3	1,195	0.0
971	26.2	1,087	9.0	1,196	1.0
972	27.1	1,088	8.9	1,197	2.5
973	27.8	1,089	9.0	1,198	4.8
974	28.2	1,090	9.0	1,199	8.0
975	28.3	1,091	8.9	1,200	10.9
976	28.3	1,092	8.7	1,201	12.5
977	28.2	1,093	8.3	1,202	12.8
978	28.0	1,094	7.2	1,203	13.1
979	27.7	1,095	5.5	1,204	12.9
980	27.3	1,096	4.6	1,205	13.0
981	27.0	1,097	3.3	1,206	13.1
982	26.8	1,098	1.8	1,207	13.5
983	26.2	1,099	0.0	1,208	14.2
984	26.0	1,100	0.3	1,209	15.4
985	25.3	1,101	0.8	1,210	17.0

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
1,211	19.0	1,260	7.2	1,303	28.2
1,212	20.2	1,261	9.0	1,304	26.5
1,213	21.7	1,262	10.9	1,305	23.1
1,214	21.8	1,263	10.5	1,306	19.6
1,215	21.8	1,264	9.5	1,307	15.0
1,216	21.9	1,265	8.4	1,308	9.3
1,217	21.4	1,266	8.1	1,309	4.0
1,218	21.2	1,267	9.7	1,310	0.3
1,219	21.3	1,268	12.5	1,311	0.0
1,220	21.9	1,269	15.0	1,336	0.0
1,221	21.9	1,270	18.0	1,337	1.8
1,222	21.8	1,271	20.3	1,338	5.6
1,223	21.7	1,272	21.3	1,339	9.7
1,224	21.6	1,273	22.0	1,340	12.0
1,225	21.5	1,274	22.5	1,341	14.0
1,226	21.2	1,275	23.5	1,342	15.8
1,227	20.5	1,276	24.0	1,343	17.5
1,228	19.8	1,277	24.3	1,344	19.0
1,229	19.4	1,278	24.6	1,345	19.9
1,230	19.8	1,279	24.2	1,346	20.5
1,231	20.0	1,280	24.0	1,347	21.6
1,232	20.0	1,281	23.7	1,348	22.0
1,233	18.9	1,282	23.5	1,349	22.4
1,234	17.0	1,284	23.5	1,350	22.4
1,235	14.9	1,285	23.6	1,351	22.0
1,236	12.0	1,286	23.7	1,352	21.6
1,237	9.5	1,287	24.0	1,353	21.2
1,238	7.4	1,288	24.5	1,354	21.0
1,239	5.6	1,289	24.8	1,355	20.0
1,240	3.2	1,290	25.0	1,356	19.7
1,241	2.1	1,291	25.2	1,357	18.3
1,242	0.1	1,292	25.5	1,358	17.2
1,243	0.0	1,293	25.8	1,359	16.2
1,249	0.0	1,294	26.0	1,360	15.2
1,250	0.7	1,295	26.1	1,361	13.5
1,251	1.1	1,296	26.3	1,361	11.0
1,254	1.1	1,297	27.2	1,363	7.8
1,255	1.2	1,298	28.0	1,364	5.0
1,256	2.5	1,299	28.5	1,365	1.5
1,257	3.8	1,300	28.8	1,366	0.0
1,258	4.8	1,301	29.0	1,370	0.0
1,259	6.0	1,302	28.8		

APPENDIX B

PROCEDURE FOR DYNAMOMETER ROAD HORSEPOWER CALIBRATION

This appendix describes the method for determining the road horsepower absorbed by a chassis dynamometer. The measured absorbed road horsepower includes the dynamometer friction as well as the power absorbed by the power absorption unit. The dynamometer is driven above the test speed range. The device used to drive the dynamometer is then disengaged from the dynamometer and the roll(s) is allowed to coast down. The kinetic energy of the system is dissipated by the dynamometer friction and absorption unit. This method neglects the variations in roll bearing friction due to the drive axle weight of the vehicle. The difference in coast down time of the free (rear) roll relative to the drive (front) roll may be neglected in the case of Clayton or similar type dynamometers.

This procedure shall be followed:

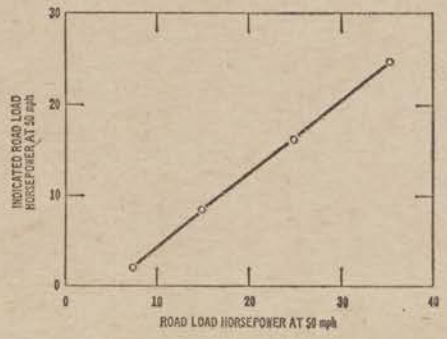
1. Devise a method to determine the speed of the drive roll if not already measured. A fifth wheel, revolution pickup or other suitable means may be used.
2. Place a vehicle on the dynamometer or devise another method of driving the dynamometer.
3. Engage inertia flywheel for the most common vehicle weight class for which the dynamometer is used.
4. Drive dynamometer up to 50 m.p.h.
5. Record indicated road horsepower.
6. Drive dynamometer up to 60 m.p.h.
7. Disengage the device used to drive the dynamometer.
8. Record the time for the dynamometer drive roll to coast down from 55 m.p.h. to 45 m.p.h.
9. Adjust the power absorption unit to a different level.
10. Repeat steps 4 to 9 above sufficient times to cover the range of road horsepower used.
11. Calculate absorbed road horsepower from:

$$HP_d = (1/2)\ (W_I/32.2)\ (V_1^2 - V_2^2)/(550t)$$
$$HP_d = 0.06073\ (W_I/t)$$

Where:

W_I = Equivalent inertia in lb.
V_1 = Initial velocity in ft./sec. (55 m.p.h. = 80.67 ft./sec.).
V_2 = Final velocity in ft./sec. (45 m.p.h. = 66 ft./sec.).
t = Elapsed time for rolls to coast from 55 m.p.h. to 45 m.p.h.

12. Plot indicated road load horsepower at 50 m.p.h. versus road load horsepower at 50 m.p.h.



EXAMPLE: Dynamometer calibration curve (Ser. No. CN-256-R) 6-24-69

13. The road load horsepower reported in § 85.76 is obtained by entering the plot at the indicated road load horsepower determined in § 85.76, (c), (1), (ii).

14. Once the road load horsepower at 50 m.p.h. is known for a vehicle, it may be tested on other dynamometers using a similar calibration.

APPENDIX C

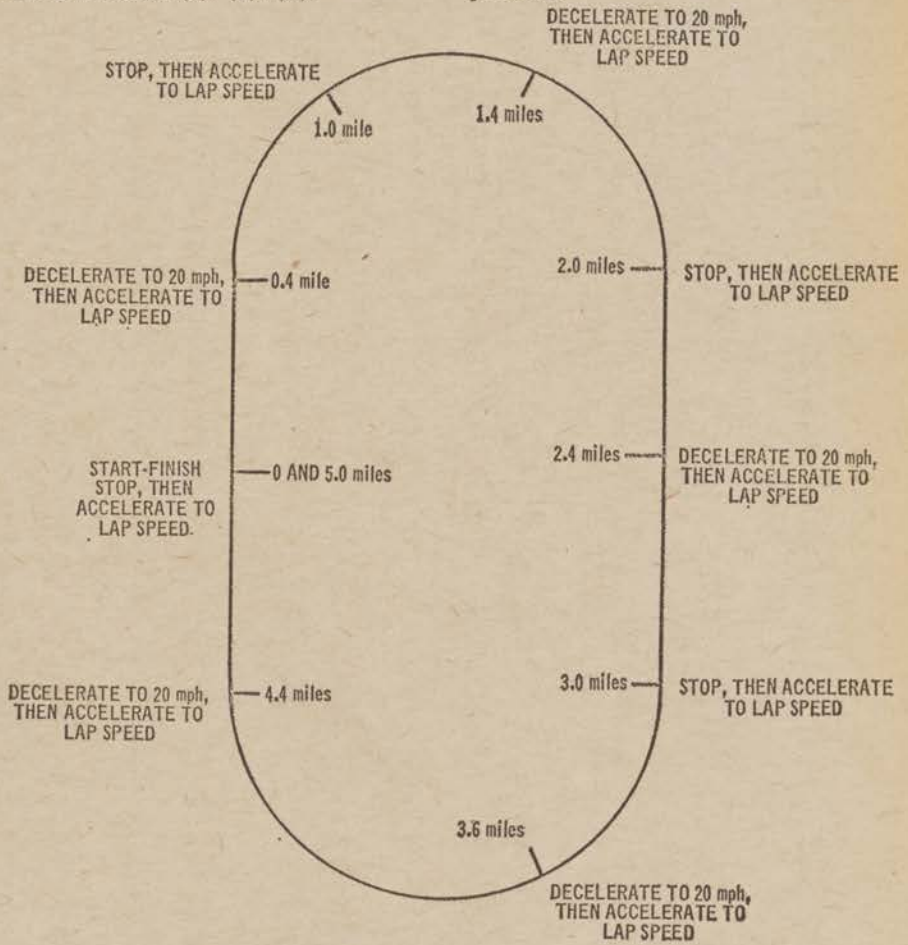
DURABILITY DRIVING SCHEDULE

The schedule consists of 10 laps of a 5-mile course. The vehicle speed for each lap is as follows:

Lap	Speed m.p.h.
1	40
2	30
3	55
4	40
5	30
6	55
7	35
8	55
9	45
10	35

The third, sixth, and eighth laps are run at a constant speed of 55 m.p.h. All other laps are run as described in the following diagram with all accelerations at a rate of 2.2 m.p.h./sec.^{2} and all decelerations at a rate of 2.0 m.p.h./sec.^{2}.

This 10 lap procedure shall be followed for 4 hour intervals, with cool down periods between intervals. During each cool down, the vehicle shall be parked and shall soak at ambient temperature for no less than 4 hours. An accelerated cool down technique may be used if approved in advance by the Secretary as meeting the objectives of this provision.



NOTE: All stops are for 15 seconds.

[F.R. Doc. 70-8932; Filed, July 14, 1970; 8:45 a.m.]