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PART I

HIGHLIGHTS OF THIS ISSUE

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

(Continued inside)

March 12, 1975—Pages 11535–11704

HIGHLIGHTS—Continued

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contents

list of cfr parts affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

7 CFR
53 11535
PROPOSED RULES:
908 11587

9 CFR
PROPOSED RULES:
113 11587

12 CFR
309 11547
545 11548

14 CFR
39 (3 documents) 11549, 11550
71 (5 documents) 11550, 11551
PROPOSED RULES:
39 11596
71 (2 documents) 11597
73 11597
Chapter II 11601
221 11602

15 CFR
4 11551

17 CFR
1 11561
18 11562
19 11562
PROPOSED RULES:
270 (2 documents) 11613, 11614
275 (2 documents) 11613, 11614

19 CFR
111 11562

21 CFR
122 11563
128d 11566
135 11570
135a (2 documents) 11570
135b 11570
135c (2 documents) 11570
135d 11571
135e 11570
146a 11571

24 CFR
1914 (4 documents) 11571–11574
1915 11575

33 CFR
PROPOSED RULES:
66 11598
127 11598

39 CFR
233 11579

40 CFR
171 11698

41 CFR
1–7 11580

45 CFR
PROPOSED RULES:
100c 11686
123 11590
134 11686
134a 11686
134b 11686

47 CFR
73 11581
PROPOSED RULES:
2 11612
73 (3 documents) 11603, 11610, 11611
76 11612
91 11612
93 11612
95 11612
97 11612

49 CFR
571 11584
PROPOSED RULES:
571 11598
581 11598

50 CFR
28 11585
33 11586
216 11586

CUMULATIVE LIST OF PARTS AFFECTED—MARCH

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 March.

1 CFR

301 10441
302 10442
304 10442

3 CFR

PROCLAMATIONS:

3279 (Amended by Proc. 4355) 10437
4313 (Amended by Proc. 4353) 8931, 10433
4345 (Amended by Proc. 4353) 8931, 10433
4353 ..... 8931, 10433
4354 10435
4355 10437

EXECUTIVE ORDERS:

10973 (Amended by E.O. 11841) 8933
11803 (Amended by E.O. 11842) 8935
11837 (Amended by E.O. 11842) 8935
11841 8933
11842 8935

5 CFR

213 ..... 8937, 10655
2401 10951

7 CFR

20 11345
53 11535
68 10472
271 ..... 8937, 10165
272 8937
301 8763
401 ..... 8770, 8771
650 10951
905 11345
907 10474
908 8772
910 10655
944 11346
966 10953
971 10165
982 8773
1801 10953
1806 10953

PROPOSED RULES:

25 8824
25A 8824
29 10190
210 10192
271 10481
908 11587
959 10996
1464 10192
1701 ..... 10192, 11357

9 CFR

73 8938
78 8773
97 11346
91 10443
113 ..... 8774, 11587
304 11346
305 11346
317 ..... 11346, 11347
381 11347

PROPOSED RULES:

113 11587
317 10191
381 10191

10 CFR

Ch. I 8774
211 ..... 10165, 10444
212 10444
661 10953
Ch. III 8794

RULINGS:

1975-2 10655

PROPOSED RULES:

2 8832
21 8832
31 8832
35 8832
40 8832
210 ..... 10195, 11363

12 CFR

Ch. II 10660
270 10661
272 10661
309 11547
545 ..... 8795, 11548
564 10449
602 10450
701 8938
708 10167
720 10450

PROPOSED RULES:

11 10602
206 10322
335 10376
531 11363
701 8967
745 8967

13 CFR

114 10661

PROPOSED RULES:

121 10486

14 CFR

39 .. 8795, 8796, 8937, 10450, 10661, 10662, 10951, 11549, 11550
71 .. 8796, 8797, 10169-10172, 10662, 10663, 10951, 11550, 11551
73 ..... 8940, 10663
91 10451
97 10451
121 10173
288 ..... 10174, 10663
302 10967
310 10663
311 10664

PROPOSED RULES:

21 10802
23 10802
25 10802
27 10802
29 10802
31 10802
33 10802
35 10802
37 11002
39 ..... 11003, 11596
71 .. 8830, 8958, 10193, 10194, 10692, 11003, 11597
73 11597
91 10802

14 CFR—Continued

PROPOSED RULES—Continued

121 ..... 8830, 10802, 11004
127 10802
133 10802
135 10802
137 8831
Chapter II 11601
221 11602

15 CFR

4 11551

16 CFR

13 ..... 10452, 10453, 10665, 10993-10994

17 CFR

1 11561
18 11562
19 11562
200 8797

PROPOSED RULES:

250 8968
270 ..... 11613, 11614
275 ..... 11613, 11614

18 CFR

3 8940
35 8946
141 ..... 8803, 11347
154 ..... 8946, 8947
260 8940
301 10668
701 10668

PROPOSED RULES:

141 10196
260 10196

19 CFR

111 11562

PROPOSED RULES:

1 8955

20 CFR

PROPOSED RULES:

405 10687

21 CFR

121 ..... 8804, 10454, 11351
122 11563
128d 11566
135 ..... 10455, 11348, 11570
135a 11570
135b 11570
135c 11570
135d 11348, 11349, 11571
135e 8804, 10455, 11570
146a 11571
149j 11348, 11349
431 11350
436 11349
442 11350
630 8804
701 8924
740 ..... 8917, 8926
1002 10174
1308 10455

22 CFR

201 8947
503 8805

FEDERAL REGISTER PAGES AND DATES—MARCH

Pages	*Date*
8764–8929	Mar. 3
8931–10163	4
10165–10432	5
10433–10654	6
10655–10950	7
10951–11344	10
11345–11534	11
11535–11704	12

reminders

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

Rules Going Into Effect Today

DOT/FAA—Pratt and Whitney aircraft; airworthiness directive 7626; 2-21-75

INT/BLM—California; revocation of Executive Order No. 6844 6342; 2-11-75

Idaho; powersite restoration No. 711; partial revocation of powersite reserve No. 440 6341; 2-11-75

New Mexico; Reservoir Site restoration No. 51; revocation of reservoir site No. 7 6340; 2-11-75

Utah; powersite restoration No. 704; partial revocation of powersite reserves Nos. 42 and 732 6341; 2-11-75

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

Handling of hops of domestic production; salable quantity and allotment procedures for 1975-76; comments by 3-18-75 8566; 2-28-75

Agricultural Stabilization and Conservation Service—

1976 National wheat allotment; proposed determinations; comments by 3-21-75 7099; 2-19-75

COMMERCE DEPARTMENT

Office of the Secretary—

Voluntary labeling program to effect energy conservation; household appliances and equipment; comments by 3-21-75 7099; 2-19-75

CONSUMER PRODUCT SAFETY COMMISSION

Preparations containing iron; child-resistant packaging standards; comments by 3-17-75 2827; 1-16-75

EMERGENCY LOAN GUARANTEE BOARD

Freedom of Information; comments by 2-18-75 6212; 2-10-75

ENVIRONMENTAL PROTECTION AGENCY

Inorganic chemicals manufacturing point source category; comments by 3-21-75 7106; 2-19-75

Tire and synthetic subcategory of the rubber processing point source category; comments by 3-21-75 7109; 2-19-75

FARM CREDIT ADMINISTRATION

Farmbank services, loan policies, etc.; comments by 3-17-75 6980; 2-18-75

FEDERAL COMMUNICATIONS COMMISSION

Bernard A. Balmuth; order extending time for filing reply comments; comments by 3-17-75 8571; 2-28-75

Cable television; duplication and overregulation; extention of time; comments by 3-19-75 and 4-8-75. 5371; 2-5-75

FM broadcast stations; table of assignments, Georgia; comments by 3-21-75; reply comments by 4-10-75. 4939; 2-3-75

FM broadcast stations, table of assignments, Michigan; comments by 3-17-75; reply comments by 4-7-75. 4942; 2-3-75

FM broadcast stations, table of assignments; Tennessee; comments by 3-17-75, reply comments by 4-7-75. 4941; 2-3-75

FM Broadcast Stations; Table of Assignments in certain states; comments by 3-21-75 4448; 1-30-75

Telephone or telephone carriers; retention of certain records; comments by 3-14-75 6676; 2-13-75

FEDERAL ENERGY ADMINISTRATION

Review of markup on retail gasoline sales to reflect increased non-product costs; comments by 3-21-75. 8109; 2-25-75

FEDERAL RESERVE SYSTEM

Bank holding companies; nonbanking activities; comments by 3-19-75. 5794; 2-7-75

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

Supplemental Educational Opportunity Grants Program, College Work-Study Program, and National Direct Student Loan Program; comments by 3-21-75 7100; 2-19-75

Food and Drug Administration—

Drug product salvaging; comments by 3-17-75 2822; 1-16-75

Public Health Service—

Public Health Service health services delivery programs; maximum allowable cost for drugs; comments by 3-21-75 3218; 1-20-75

Social Security Administration—

Federal health insurance for the aged and disabled; allowable cost for drugs; comments by 3-21-75. 3219; 1-20-75

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary—

Real estate settlement procedures; comments by 3-20-75 7072; 2-18-75

INTERIOR DEPARTMENT

Office of the Secretary—

Uniform relocation assistance and real property acquisition policies; comments by 3-17-75 6667; 2-13-75

LABOR DEPARTMENT

Manpower Administration—

Unemployment compensation for Federal civilian employees; right to reconsideration and hearing; comments by 3-21-75 6985; 2-18-75

Occupational Safety and Health Administration—

Colorado Plan; supplements for public employee program; comments by 3-17-75 6987; 2-18-75

Inorganic arsenic; standard for exposure; comments by 3-17-75. 3392; 1-21-75

Occupational Noise Exposure; requirements and procedures; comments by 3-21-75 2822; 1-16-75

Office of the Secretary—

Veterans employment emphasis under Federal contracts; comments by 3-20-75 6982; 2-18-75

Wage and Hour Division—

Employment of inexperienced persons at subminimum wages; proposed limited pilot project; comments by 3-21-75 7100; 2-19-75

TRANSPORTATION DEPARTMENT

Coast Guard—

Bulk transportation requirements; unslaked lime; comments by 3-17-75 4319; 1-29-75

Marking of packages; portable tank lettering heights; comments by 3-17-75 4318; 1-29-75

Mooring Barges on the Mississippi River, navigation areas; comments by 3-17-75 5165; 2-4-75

Federal Aviation Administration—

Airworthiness directives, certain Rockwell airplane models; comments by 3-17-75 6675; 2-13-75

Airworthiness directives; comments by 3-18-75 3312; 1-21-75

Control Zone and Transition Area. 5542; 2-6-75

Nationality and Registration Marks on Fixed Wing Aircraft 5542; 2-6-75

Restricted area; Lake Michigan; comments by 3-20-75 6979; 2-18-75

Transition areas; comments by 3-17-75 5373; 2-5-75

Federal Highway Administration—

Relocation assistance; definition of displaced person; comments by 3-14-75 8109; 2-25-75

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau—

Pistols and revolvers; reporting requirements on multiple sales; comments by 3-21-75 7098; 2-19-75

Customs Service—
Air commerce regulations; air travel clubs; comments by 3–20–75. 6988; 2–18–75
Office of the Secretary—
Fiscal assistance to state and local governments; discrimination; compliance procedures; comments by 3–17–75..... 5370; 2–5–75

VETERANS ADMINISTRATION
Veterans benefits, liberalization of pension provisions; comments by 3–17–75..... 6688; 2–13–75

Next Week's Public Hearings

INTERNATIONAL TRADE COMMISSION
President's list of articles which may be affected by international trade negotiations; to be held at Minneapolis, Minn., 3–18–75 3517; 1–22–75
President's list of articles which may be affected by international trade negotiations; to be held at Portland, Oreg., 3–20–75..... 3517; 1–22–75

TRANSPORTATION DEPARTMENT
Federal Aviation Administration—
Fleet noise level and civil subsonic turbojet engine powered airplanes: Noise retrofit requirements; to be held in Washington, D.C. (open) 3–18, 3–19, 4–17 and 4–18–75. 8243; 2–26–75

Next Week's Meetings

AGRICULTURE DEPARTMENT
Forest Service—
Rock Creek Advisory Committee; to be held in Drummond, Mont. (open) 3–18–75.... 8237; 2–26–75

CIVIL RIGHTS COMMISSION
Arkansas State Advisory Committee to be held in Little Rock, Ark. (open) 2–22–75..... 5574; 2–6–75
Montana State Advisory Committee to be held in Great Falls, Mont. (open) 2–22–75..... 5574; 2–6–75
Texas State Advisory Committee to be held in Austin, Tex. (open) 2–23–75. 5575; 2–6–75

DEFENSE DEPARTMENT
Office of the Secretary—
Defense Science Board Task Force on Specifications and Standards Improvement; to be held at El Segundo, Calif. (open) 2–21 and 2–22–75..... 6213; 2–10–75
Defense Science Board Task Force; to be held at Redondo Beach, Calif. (closed 3–19 and 3–20–75. 8970; 3–4–75
Defense Science Board; to be held in Arlington, Va. (closed) 3–17, 3–24 and 3–25–75..... 8234; 2–26–75
Wage Committee; to be held at Washington, D.C. (closed) 2–18–75. 6213; 2–10–75

ENVIRONMENTAL PROTECTION AGENCY
Science Advisory Board/Hazardous Materials; Advisory Committee; to be held at Arlington, Va. (open) 3–19–75. 8851; 3–3–75

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
National Advisory Mental Health Council; to be held in Rockville, Md. (open and closed) 3–17 through 3–19–75. 7111; 2–19–75
Center for Disease Control—
Coal Mine Health Research Advisory Committee; to be held in Rockville, Md. (closed) 3–20–75. 8241; 2–26–75

INTERIOR DEPARTMENT
Office of the Secretary—
National Petroleum Council; to be held at Washington, D.C. (open) 3–18–75..... 8973; 3–4–75

LABOR DEPARTMENT
Occupational Safety and Health Administration—
National Advisory Committee on Occupational Safety and Health to be held in Washington, D.C. (open) 2–20 and 2–21–75. 5574; 2–6–75
Standards Advisory Committee on Hazardous Materials Labeling; to be held in Washington, D.C. (open) 3–18 and 3–19–75. 8264; 2–26–75

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES
Visual Arts Advisory Panel; to be held in Washington, D.C. (closed) 3–14, 3–17, 3–19, 3–22, 4–1–75. 8258; 2–26–75

NATIONAL SCIENCE FOUNDATION
Project directors, representatives and staff members; to be held at Washington, D.C. (open) 2–13 thru 2–15 and 2–20 thru 2–22–75. 6240; 2–10–75

NUCLEAR REGULATORY COMMISSION
Advisory Committee on Reactor Safeguards; to be held in Urbana, Ill. (open) 3–19–75..... 9010; 3–4–75

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION
Owners and Tenants Advisory Board; to be held at Washington, D.C. (open) 3–19–75..... 9014; 3–4–75

Daily List of Public Laws

NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

rules and regulations

Title 7—Agriculture

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

PART 53—LIVESTOCK, MEATS, PREPARED MEATS AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

Subpart B—Standards

GRADES OF CARCASS BEEF; SLAUGHTER CATTLE

This document revises the official standards of the United States for grades of carcass beef and the related standards for grades of slaughter cattle which are based on the carcass grade standards. The revisions are substantially the same as those proposed by the Department in the September 11, 1974, issue of the FEDERAL REGISTER. The principal changes in the carcass beef standards are: (1) Conformation is eliminated as a factor in determining the quality grade. (2) When officially graded, all beef (except bull beef) will be identified for both quality grade and yield grade. (3) For beef from cattle under about 30 months of age (A maturity), the minimum marbling requirements in the Prime, Choice, and Standard grades will be the same as now required for the youngest carcasses in each of these grades. However, for more mature carcasses in each of these grades (B maturity), increases in marbling are required for increases in maturity but the minimum levels of marbling are decreased one degree. (4) In the Good grade, the same principles apply to the marbling requirements as described for Prime, Choice, and Standard. However, the minimum marbling requirements are increased one-half degree for the very youngest carcasses classified as beef. (5) The maximum maturity permitted in the Good and Standard grades is reduced and is the same as that permitted in Prime and Choice.

A few other minor changes also are made in the standards to improve clarity and facilitate uniform interpretation.

The standards for grades of slaughter cattle also are revised to coordinate them with the changes in standards for grades of carcass beef.

A change from the proposed standards was made to clarify the fact that under some circumstances retention of the yield grade stamp would not be required on some graded cuts of beef. Such a clarification has been included in § 53.102(a) of the standards.

On September 11, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 32743) regarding a revision of the standards for grades of carcass beef (7 CFR 53.100 et. seq.), and the standards for grades of slaughter cattle (7 CFR 53.201 et. seq.) pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, 60 Stats. 1087 and 1090, as amended (7 U.S.C. 1622 and 1624).

A 90-day period was provided within which interested persons could submit written data, views, or arguments concerning the proposal. In addition, regional briefings on the proposal were held in Washington, New York, Chicago, Dallas, Atlanta, and San Francisco. These briefings, were designed to give consumers, media representatives, members of the trade, and others information about the changes proposed and the reasons for proposing them. Members of the Department also appeared at several industry meetings to explain the proposal.

The comments and other information available to the Department relative to the proposal have been carefully summarized and evaluated. Based on that evaluation, the Department has concluded that, with one addition, adoption of the standards as proposed is in the public interest.

Statement of Considerations. Under the Agricultural Marketing Act of 1946, as amended, the Department of Agriculture is responsible for providing meaningful and useful grade standards to facilitate the marketing of livestock and meat. The Act directs the Secretary of Agriculture to develop and improve standards for quality, condition, quantity, and grade, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practice, 7 U.S.C. 1622(c). The Act also directs the Secretary to inspect, certify, and identify the class, quality, and condition of agricultural products so that they may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product they desire, but no person is required to use the service, 7 U.S.C. 1622(h).

In the grade standards for beef as originally promulgated in 1926, separate standards were provided for beef from steers, heifers, and cows. In these standards, marbling was recognized as a major factor in evaluating quality of the lean. The first major revision of these grades in 1939 combined the standards for steer, heifer, and cow beef and also established maturity as an important additional factor in evaluating quality. These two considerations—marbling and maturity—have been continued as the principal factors referenced in the standards to evaluate differences in lean quality and reflect the premises (1) that increases in marbling have a beneficial effect on palatability and (2) that advancing maturity has a deleterious effect on palatability. Since these factors have opposite effects on quality, in the specifications for each of the grades, increased marbling has been required as maturity increases. And, in the revision of the standards in 1965, these relationships were shown in graphic form. Eight grades are currently used to identify these quality differences—Prime, Choice, Good, Standard, Commercial, Utility, Cutter, and Canner.

In 1965, after more than ten years of extensive studies, a new dimension was added to beef grading—yield grades. Five numerical grades, 1 through 5, identify carcasses and some wholesale cuts for their relative yields of retail cuts or "cutability". Quality and yield grades, which have been available for use separately or jointly, identify beef for the two most important factors that affect its acceptance and value, namely (1) eating quality—tenderness, juiciness, and flavor—and (2) yields of salable meat.

Prior to developing the proposed changes announced on September 11, 1974, the Department received specific recommendations for changes in the beef grade standards from groups representing several major segments of the cattle and beef industry. One of the recommendations—suggested by three of these groups—was that conformation be eliminated as a factor in determining the quality grade. The Department proposed this change in 1962 but it failed to receive sufficient support to justify its adoption at that time. However, as was the case in 1962, there is still no information which indicates that variations in conformation are related to differences in beef's palatability. Therefore, one of the important changes proposed was the elimination of conformation as a factor in determining the quality grade. Under the present standards, because of the manner in which variations in conformation affect the quality grade, beef included in most of these grades can be quite variable in quality. For example, the Good grade can include beef with Prime, Choice, Good, and Standard grade quality. Under the proposed standards, this variation would be eliminated—each quality grade would include only beef of that quality. This increased uniformity of quality within each grade would make the grades more useful and reliable guides to aid consumers in purchasing the kind of beef they prefer.

The Department acknowledges, however, that variations in conformation

which reflect differences in muscling do affect yields of lean—and carcass value. At the same time, though, the Department has determined that this contribution is more accurately measured and reflected by the yield grades than by subjective evaluations of conformation. Therefore, when carcasses are federally graded, to insure that the grade reflects the contribution of conformation and other factors affecting cut-out value, it was proposed that the official grade identify both the quality grade and the yield grade. This change in the standards was very strongly recommended by some producer organizations. The quality and yield grades identify the major factors that affect beef's value and acceptance but which are not otherwise readily identifiable by the marketing system. Therefore, these producer spokesmen pointed out that requiring officially graded carcasses to be identified for both quality and yield would increase the effectiveness of the grades as a tool for reflecting consumer preferences back through marketing channels to producers. The Department concurs with that view and also maintains that, if the market for beef and cattle reflected the full retail sales value differences associated with differences in both quality and cutability, producers would respond by increasing the production of high-quality, high-cutability beef. This would be advantageous to all segments of the industry and to consumers by providing leaner beef with less waste in keeping with consumer tastes. The significance of yield grades becomes evident when tests reveal that carcasses of the same quality grade—Choice for example—can vary in value by $75 or more due to differences in cutability.

This proposed change also would affect the grading of some wholesale cuts—only loins, short loins, and ribs could be graded as individual cuts. These are the only cuts which contain a cross section of the ribeye muscle at the 12th rib—a requirement in determining the yield grade. However, rounds, chucks, and other wholesale cuts could be graded as cuts if they remain attached to a rib, short loin, or loin.

Each segment of the cattle and beef industry that suggested changes in the standards recommended that the relative emphasis placed on marbling and maturity in determining the quality grade be changed. However, these recommendations were quite diverse. In recognition of the need for a more factual basis for the standards, the Department has continually encouraged and otherwise supported research designed to identify and evaluate the factors that affect beef palatability and a considerable amount of such research has been conducted. This research has confirmed that marbling and maturity are the two most important factors that can be used in grading to identify differences in palatability. However, most of the recent research indicates that as beef increases in maturity within the youngest maturity group referenced in the standards, an increase in marbling is not necessary to insure a comparable degree of palatability. Therefore, for such young beef, another of the major changes proposed was the elimination of the requirements in the Prime, Choice, Good, and Standard grades for increased marbling with increased maturity within this maturity group. However, for the more mature beef in each of these grades, increased marbling requirements with increased maturity were retained but the marbling levels were reduced to coordinate them with the marbling requirements proposed for the younger beef. These proposed requirements—and changes from the present standards—are shown graphically in Figure A. For example, in the Choice grade, this Figure shows that for all beef in the youngest (A) maturity group, the proposal required the same minimum level of marbling—a minimum "small" amount. This also is the same amount of marbling now permitted in Choice for the youngest carcasses classified as beef. The same is true for the Prime and Standard grades. However, for the Good grade it was proposed to increase the minimum marbling requirement so that its "width"—with respect to marbling—was 1 degree of marbling instead of 1½ degrees as at present. It also should be noted that the maximum maturity for beef in the Good and Standard grades was decreased to coincide with that permitted for Prime and Choice. These proposed changes would make the "new" Good grade very uniform and restrictive and one that could become very useful to retailers and others whose trade prefers beef with less internal and external fat than currently associated with Choice grade beef. These changes should reduce the general fatness of beef in each of these grades and also make the palatability of beef in each grade more uniform—factors which are particularly important to consumer acceptability.

PROPOSED CHANGES IN THE RELATIONSHIP BETWEEN MARBLING, MATURITY, AND QUALITY GRADE

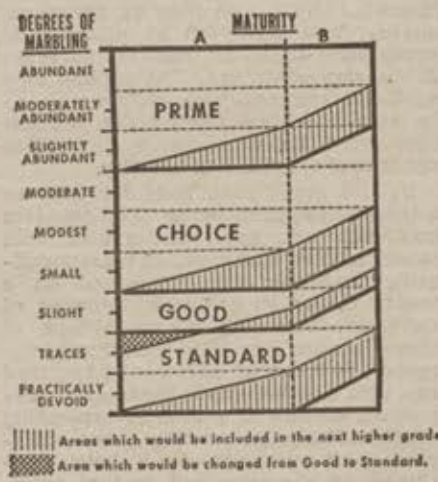


Figure A

The proposed reduction in the maximum maturity limits for Good and Standard would make a corresponding decrease in the minimum maturity limit for the youngest beef included in Commercial. This change would cause some carcasses now graded Good or Standard to be graded Commercial or Utility. However, the numbers of such carcasses would be minimal since relatively few animals are marketed which have carcasses in this very restricted range of maturity. Other than the elimination of conformation as a factor in determining the quality grade, no other changes were proposed for the Commercial, Utility, Cutter, and Canner grades. Also, no changes were proposed in the yield grades.

Most of the recent research applicable to the marbling-maturity relationships supports the concept that, for beef from cattle up to about 30 months of age, changes in maturity do not have a sufficiently significant effect on palatability to justify an increase in marbling—Berry *et al.* (J. Animal Science 38:507); Romans *et al.*, (J. Animal Science 24: 681); Breidenstein (J. Animal Science 27:1532); McBee and Wiles, (J. Animal Science 26:701); Covington *et al.*, (J. Animal Science 30:191); and Norris *et al.*, (J. Food Science 36:440). The Agricultural Marketing Service will continue to encourage and otherwise support further research to evaluate the effects of marbling and maturity on beef palatability and to determine if there are other factors that could be used in grading to better identify these differences.

The number of comments received on the proposal—4,549—was a record for a Department proposal to adopt new or revised standards for grades of livestock or meat. Comments were received from all segments of the livestock and meat industry—producers, feeders, packers, purveyors, retailers, hotels, restaurants, institutions, university personnel, and consumers. The 4,549 comments included 122 from organizations and 4,427 from individuals and companies. In addition, there were four petitions which contained a total of 7,618 signatures.

Reactions to various aspects of the proposal varied widely. For the most part, comments reiterated positions and recommendations which the Department had considered in developing the proposal. Many of those commenting on the proposal made reference to only part of the changes proposed. Even so, nearly half (43 percent) of all the comments received favored adoption of all the changes proposed. And, when separate tabulations were made of the comments on the three parts of the proposal on which the most comments were received, adoption of each was favored by a clear majority. These comments, by (1) organizations and (2) individuals and companies, are summarized in the following tabulation:

Change proposed	Comments for adoption		Comments against adoption	
	Number	Percent	Number	Percent
Marbling-maturity requirements:				
Organizations	80	67	39	33
Individuals and companies	2,387	54	2,043	46
Require both yield and quality grades on all graded carcasses:				
Organizations	80	71	33	29
Individuals and companies	2,335	82	498	18
More restrictive good grade:				
Organizations	73	74	25	26
Individuals and companies	2,033	80	495	20

Similar tabulations were not made for the other two parts of the proposal—to eliminate conformation as a factor in determining the quality grade and to make the maximum maturity for beef in the Good and Standard grades the same as for Prime and Choice. There was an obvious favorable concensus on these changes.

There were 2,610 comments received which were opposed to a part or all of the changes proposed or which suggested changes in the standards not included in the proposal. These objections and suggestions fell generally into the following categories:

A. Marbling-maturity relationships.
B. Requiring all graded beef to be identified for both quality grade and yield grade.
C. Making the Good grade more restrictive.
D. Eliminating conformation as a factor in determining the quality grade.
E. Reducing the maximum maturity for beef in the Good and Standard grades to the same as now permitted for Prime and Choice.
F. A suggested new grade "between Choice and Good."

The Department has considered each objection and suggestion carefully but, as hereinafter discussed, has concluded that they are not sufficiently substantiated to warrant revisions from the standards as proposed. However, some of the comments which related to the proposed requirement that all officially graded beef be identified for both quality grade and yield grade did raise considerations which warrant an addition in one section of the proposed standards and, for the reasons discussed hereinafter, such an addition has been made.

Marbling - maturity requirement changes were strongly supported by producers, meat packers, and university meat scientists. Opposition was voiced by most consumers, by some feeders and feeder organizations, and by practically all representatives of hotels, restaurants, institutions and their suppliers and trade associations. Opposition was based largely on (1) the fear of a significant reduction in the eating characteristics of Prime and Choice beef, and (2) the belief by consumers that they would have to pay "Choice grade prices for Good grade beef."

The changes in marbling-maturity relationships will not significantly change the eating characteristics of Prime and Choice grade beef. The changes are based on the latest available research relative to the effects of marbling and maturity on the palatability of beef. These studies indicate that in beef from cattle up to about 30 months of age (A maturity), changes in maturity have no significant effect on beef palatability. As a result, the increases in marbling with increases in maturity provided in the present standards for such beef are not necessary to insure a comparable degree of palatability. Therefore, the changed marbling-maturity relationships should provide greater uniformity of eating quality within each of the grades and thereby enhance consumer satisfaction and confidence in grades.

The proposed changes should not result in consumers paying "Choice grade prices for Good grade beef." Many of the consumer comments expressed concern on this point. Three of the four consumer petitions, with 7321 signatures, related primarily to such price implications and one of these three, with 5670 signatures, inaccurately stated the changes involved.

The Federal grades are designed to identify the two most important value-determining characteristics of beef—its palatability and its yield of retail cuts. Consequently, there is a relationship between grades and prices. However, the price of any grade is determined by the normal market forces of supply and demand. The slight change in marbling requirements should decrease the costs of producing Choice and Prime grade beef and should encourage their increased production. And, since the quality of beef in each of these grades is not significantly changed, the demand for these grades should not be affected. Thus, an increased supply coupled with an unchanged demand should result in lower prices for Choice and Prime grade beef. A study by USDA's Economic Research Service, "A Comparison of Present and Proposed Beef Grades," published as a supplement to the Livestock and Meat Situation, December 1974 concluded that: "The consumer could be indirectly affected by a lower relative price of Choice if the supply of Choice should increase dramatically due to the change, and by lower prices in general if efficiency of the industry is improved."

In addition to the foregoing, a national feeders group recommended that increased marbling be required for increased maturity beyond 22—instead of 30—months of age. Also, some university personnel, one breed group, and several individual breeders suggested that marbling requirements, primarily for the Choice grade, be reduced below the level proposed. In contrast, some restaurant and institutional interests, one breed association, and several individual breeders recommended increased marbling requirements. Research results do not substantiate these positions. The marbling-maturity relationships adopted are in accord with the research information currently available.

Requiring that all graded beef be identified for both its quality grade and yield grade was generally favored by producers, by hotels, resturants, and institutional users of beef, and by meat scientists. It was strongly opposed by packers and others who indicated that it would (1) increase the cost of grading, (2) decrease packers' opportunity to "merchandise" lower yielding carcasses, (3) preclude the grading of carcasses that were trimmed to such an extent that the yield grade of a carcass is not an accurate reflection of its yield of retail cuts, (4) preclude the grading of rounds and chucks for which yield grade standards have not been developed, and (5) require the use of yield grades which are not sufficiently accurate indicators of cutability.

The requirement that all beef graded be graded for both quality and yield should not result in any material increase in the cost of grading. This conclusion is based on the following: (a) At the present time, 70 percent as much beef is yield graded as is quality graded, and (b) It is likely that the time saved in quality grading by eliminating conformation as a factor in determining the quality grade and by eliminating consideration of changes in maturity for much of the beef graded, would offset any additional time required to identify all graded carcasses for both quality grade and yield grade. In this connection, it should be noted that grading costs normally represent only a very small fraction of a cent per pound of beef graded.

Requiring that all beef graded be identified for both quality and yield grade may limit packers' ability to "merchandise" some kinds of carcasses. However, in conducting its meat grading program, the Department has a responsibility to assure that the grade identification provides as accurate an identification as possible of the important value-determining characteristics for which other measures are not readily available. It is only in this manner that Federal grades can be of maximum benefit in facilitating marketing and conveying consumers' preferences for the different kinds of beef back through marketing channels to producers. Such information is vital to producers since they make the decisions which result in the kinds of beef produced.

Objections also were made to precluding the grading of carcasses that have been trimmed of lean to an extent that the yield grade is not an accurate reflection of its yield of retail cuts. However, very few such carcasses are now offered for grading. Therefore, this limitation will not have a significant effect on the overall efficiency of the marketing of beef and is necessary to the proper functioning of the revised standards. Also, it should be noted that some parts of such

carcasses not affected by the trimming would be eligible for grading.

Similarly, objections were made to precluding the grading of rounds and chucks when offered for grading as wholesale cuts. However, at the present time, less than one percent of the federally graded beef is graded as quarters or wholesale cuts—including forequarters, hindquarters, loins, and ribs as well as rounds and chucks. Also, graded rounds and chucks still can be obtained from graded quarters or carcasses. It is obvious, therefore, that at this time, this limitation will not have a significant effect on the overall efficiency of the marketing of beef and is necessary to the proper functioning of the revised standards.

A number of research studies have shown that the current yield grade equation measures differences in cutability with a higher degree of accuracy than any other available system that would be practical for use in a grading program. Recent research studies conducted by the USDA Meat Animal Research Center also show that the present yield grades are highly correlated with yields of closely trimmed retail cuts. However, these latter studies do indicate that the presently used standards may tend to minimize the differences in cutability which actually exist among different kinds of carcasses. Based on these results, together with its policy of continually reviewing the adequacy of standards, the Department recently completed the data collection phase of an extensive beef cutability study. If the results of that study should indicate a need to revise the yield grade standards, such a revision will be proposed.

The more restrictive Good grade was supported by most producers, some cattle feeders, and many meat scientists. Principal opposition came from packers, primarily in the South and Southwest, where young, lightweight beef which qualifies for the Good grade is graded to a greater extent than in other areas. Some cattlemen and university personnel from the same areas also expressed opposition to this part of the proposal. Those objecting to this change contended that it would discriminate against much of this young, lightweight, Good grade beef—that its production would require cattle to be fed longer with increased fatness and cost of production.

Adoption of this part of the proposal may have some of the effects indicated—particularly in the South and Southwest. However, overall, only a small percentage of the beef that qualifies for Good is federally graded. This limited use likely is due to retailers' belief that the beef in the present Good grade is more variable than is acceptable to their customers. Some of the beef now eligible for the Good grade is produced from cattle fed and managed to produce Choice grade beef. At the other extreme, it also includes beef which actually has only Standard grade quality and qualifies for Good only because it has a relatively superior development of conformation. The Department has a responsibility to modify the "width" of a grade when experience indicates such is needed to make it more acceptable and useful and it believes there is adequate justification for making the Good grade more restrictive than it is at present. This change will make Good grade beef very uniform and should encourage its greater acceptance and use by retailers and consumers. The revised Good grade could be especially useful if the trend continues, as some expect, of shorter feeding periods for cattle to reduce fatness and costs.

Eliminating conformation as a factor in determining the quality grade was strongly favored by producers, packers, and university personnel. Almost the only opposition to this change was from meat purveyors who gave as their reason that this change would dilute the various grades by permitting beef with a relatively inferior development of conformation to qualify for a higher quality grade under the proposal than is possible under the present standards. While this is the case, the amount of beef that qualifies for a grade is not the primary consideration in establishing standards. Of much more importance in developing the quality grade standards is assuring that the beef included in each grade has a similar development of the characteristics which identify differences in palatability. Since variations in conformation do not affect palatability, eliminating it as a factor in determining the quality grade will improve the accuracy of the grades for identifying beef for differences in eating quality and increase the uniformity of eating quality in each grade. A feeders' group suggested that a minimum conformation requirement be established for each quality grade. That suggestion was not considered advisable for much the same reasoning as discussed above. Some restaurants also opposed this proposed change but gave no reasons.

There were practically no comments which expressed opposition to the slightly more restrictive maturity limits for the Good and Standard grades. There are relatively few cattle marketed in this affected range of maturity. Therefore, this change will have very little effect on the use of the standards by industry. However, its adoption will facilitate a more uniform interpretation and application of the standards.

Some of the comments received on the proposal recommended the creation of a new grade of beef "between Choice and Good." Many of these did not make specific recommendations, but several comments suggested forming such a new grade from portions of the present Choice and Good grades. At this time, the Department does not believe that such an approach would be desirable. Such a grade could include a substantial portion of the present supply of Choice beef. This beef would be moved from a grade with nationwide trade and consumer acceptance into a new grade with an unknown potential. Thus, without substantiating evidence to support the need to decrease the range of quality in the Choice grade, such a change would increase the requirements for Choice and thereby increase its cost of production. In the long run, such increased costs of production would be reflected in increased prices to consumers.

Accordingly, pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, the revisions in the standards for grades of slaughter cattle and the standards for grades of carcass beef are adopted as proposed (39 FR 32743–32752, FR Doc. 74-20718) subject to the following change:

An addition to paragraph (a) of § 53.102 was made to clarify the Department's intent that each of the quality and yield designations must remain on officially grade-identified carcasses, sides, quarters, and untrimmed wholesale cuts unless both such designations are removed. However, for (1) sub-primal and retail cuts and (2) wholesale cuts which have been substantially trimmed of external fat, it is the Department's intent to permit the yield grade designation to be removed. And, for labeling and other related purposes, the grade of such items may consist of the quality designation only. This change was made because the yield grade loses some of its significance as cuts are trimmed of external fat. In addition, this change will clarify the Department's intentions concerning the use of these grade designations.

Accordingly, the Official U.S. Standards for Grades of Carcass Beef and the Official U.S. Standards for Grades of Slaughter Cattle are revised by changing §§ 53.102, 53.104, 53.105, 53.203, 53.204, 53.205, and 53.206 to read as follows:

§ 53.102 Application of Standards for Grades of Carcass Beef.

(a) The grade of a steer, heifer, cow, or bullock carcass consists of separate evaluations of two general considerations: (1) The indicated percent of trimmed, boneless, major retail cuts to be derived from the carcass, herein referred to as the "yield grade," and (2) the palatability-indicating characteristics of the lean herein referred to as the "quality grade." When officially graded, the grade of a steer, heifer, cow, or bullock carcass consists of both the quality grade and the yield grade. Each of the quality and yield grade designations must remain on grade-identified carcasses, sides, quarters, and untrimmed wholesale cuts unless both such designations are removed. However, for subprimal and retail cuts, and for wholesale cuts which have been substantially trimmed of external fat, the yield grade designation may be removed. For labeling and other related purposes, the grade of such items may consist of the quality designation only. The grade of a bull carcass consists of the yield grade only.

(b) The carcass beef grade standards are written so that the quality grade and yield grade standards are contained in separate sections. The quality grade section is divided further into two separate sections applicable to carcasses from (1)

steers, heifers, and cows, and (2) bullocks. Eight quality grade designations—Prime, Choice, Good, Standard, Commercial, Utility, Cutter, and Canner—are applicable to steer and heifer carcasses. Except for Prime, the same designations apply to cow carcasses. The quality grade designations for bullock carcasses are Prime, Choice, Good, Standard, and Utility. There are five yield grades applicable to all classes of beef, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(c) When officially graded, bullock and bull beef will be further identified for its sex condition; steer, heifer, and cow beef will not be so identified. The designated grades of bullock beef are not necessarily comparable in quality or cutability with a similarly designated grade of beef from steers, heifers, or cows. Neither is the cutability of a designated yield grade of bull beef necessarily comparable with a similarly designated yield grade of steer, heifer, cow, or bullock beef.

(d) The Department uses photographs and other objective aids in the correct interpretation and application of the standards.

(e) To determine the grade of a carcass, it must be split down the back into two sides and one or both sides must be partially separated into a hindquarter and forequarter by cutting it with a saw and knife insofar as practicable, as follows: A saw cut perpendicular to both the long axis and split surface of the vertebral column is made across the 12th thoracic vertebra at a point which leaves not more than one-half of this vertebra on the hindquarters. The knife cut across the ribeye muscle starts—or terminates—opposite the above-described saw cut. From that point it extends across the ribeye muscle perpendicular to the outside skin surface of the carcass at an angle toward the hindquarter which is slightly greater (more nearly horizontal) than the angle made by the 13th rib with the vertebral column of the hindquarter posterior to that point. As a result of this cut, the outer end of the cut surface of the ribeye muscle is closer to the 12th rib than is the end next to the chine bone. Beyond the ribeye, the knife cut shall continue between the 12th and 13th ribs to a point which will adequately expose the distribution of fat and lean in this area. The knife cut may be made prior to or following the saw cut but must be smooth and even, such as would result from a single stroke of a very sharp knife.

(f) Other methods of ribbing may prevent an accurate evaluation of the grade determining characteristics. Therefore, carcasses ribbed by other methods will be eligible for grading only if an accurate grade determination can be made by the official grader under the standards.

(g) Beveling of the fat over the ribeye, application of pressure, or any other influences which alter the characteristics of the ribeye or the thickness of fat over the ribeye may prevent an accurate grade determination. Therefore, carcasses subjected to such influences may not be eligible for a grade determination. Also, carcasses with more than minor amounts of lean removed from the major sections of the round, loin, rib, or chuck will not be eligible for a grade determination.

(h) When both sides of a carcass have been ribbed prior to presentation for grading and the characteristics of the two ribeyes (area, marbling, color, texture, and firmness) would justify different quality and/or yield grades, the final grade of the carcass shall reflect the "highest" of each of these grades as determined from either side.

(i) The quality grade and yield grade descriptions are defined primarily in terms of beef carcasses. However, they also apply to the grading of hindquarters, forequarters, and certain individual primal cuts—loins, short loins, and ribs. A portion of these or other primal cuts as well as plates, flanks, shanks, and briskets likewise can be graded if attached by their natural attachments to a rib, loin, or short loin. Since bull carcasses are eligible for yield grade only, they may be graded only as carcasses, sides, or hindquarters. This is because yield grades for forequarters and forequarter cuts and for trimmed hindquarters and trimmed hindquarter cuts include consideration of standard percentages of kidney, pelvic, and heart fat based on the quality grade. Other special major cuts or carcasses ribbed other than between the 12th and 13th ribs may be approved for grading by the Agricultural Marketing Service provided such deviations are necessary to meet either the demand of export trade or changing trade practices. In such cases, grading shall be based on the requirements specified in these standards and shall be consistent with the normal development of grade characteristics in various parts of a carcass of the quality level involved.

(j) Carcasses qualifying for any particular grade may vary with respect to their relative development of the various grade factors. There will be carcasses which qualify for a particular grade, some of whose characteristics may be more nearly typical of another grade. For example, in comparison with the descriptions of maturity contained in the standards, a particular carcass might have a greater relative degree of ossification of the cartilages on the ends of its lumbar vertebrae than its other evidences of maturity. In such instances, the maturity of the carcass is not determined solely by the ossification of the lumbar vertebrae but neither is this ignored. All of the maturity-indicating factors are considered. In making any composite evaluation of two or more factors, it must be remembered that they seldom are developed to the same degree. Because it is impractical to describe the nearly limitless number of recognizable combinations of characteristics, the standards for each quality grade and yield grade describe only beef which has a relatively similar degree of development of the various factors affecting its quality and yield. Also, the quality grade and yield grade standards each describe beef which is representative of the lower limits of each quality grade and yield grade.

(k) For steer, heifer, and cow beef, quality of the lean is evaluated by considering its marbling and firmness as observed in a cut surface in relation to carcass evidences of maturity. The maturity of the carcass is determined by evaluating the size, shape, and ossification of the bones and cartilages—especially the split chine bones—and the color and texture of the lean flesh. In the split chine bones, ossification changes occur at an earlier stage of maturity in the posterior portion of the vertebral column (sacral vertebrae) and at progressively later stages of maturity in the lumbar and thoracic vertebrae. The ossification changes that occur in the cartilages on the ends of the split thoracic vertebrae are especially useful in evaluating maturity and these vertebrae are referred to frequently in the standards. Unless otherwise specified in the standards, whenever reference is made to the ossification of cartilages on the thoracic vertebrae, this shall be construed to refer to the cartilages attached to the thoracic vertebrae at the posterior end of the forequarter. The size and shape of the rib bones also are important considerations in evaluating differences in maturity. In the very youngest carcasses considered as "beef," the cartilages on the ends of the chine bones show no ossification, cartilage is evident on all of the vertebrae of the spinal column, and the sacral vertebrae show distinct separation. In addition, the split vertebrae usually are soft and porous and very red in color. In such carcasses, the rib bones have only a slight tendency toward flatness. In progressively more mature carcasses, ossification changes become evident first in the bones and cartilages of the sacral vertebrae, then in the lumbar vertebrae, and still later in the thoracic vertebrae. In beef which is very advanced in maturity, all the split vertebrae will be devoid of red color, very hard and flinty, and the cartilages on the ends of all the vertebrae will be entirely ossified. Likewise, with advancing maturity, the rib bones will become progressively wider and flatter until in very mature beef the ribs will be very wide and flat.

(l) In steer, heifer, and cow beef, the color and texture of the lean flesh also undergo progressive changes with advancing maturity. In the very youngest carcasses considered as "beef," the lean flesh will be very fine in texture and light grayish red in color. In progressively more mature carcasses, the texture of the lean will become progressively coarser and the color of the lean will become progressively darker red. In very mature beef, the lean flesh will be very coarse in texture and very dark red in color. Since color of lean also is affected by variations in quality, references to color of lean in the standards for a given degree of maturity vary slightly with different levels of quality. In determining

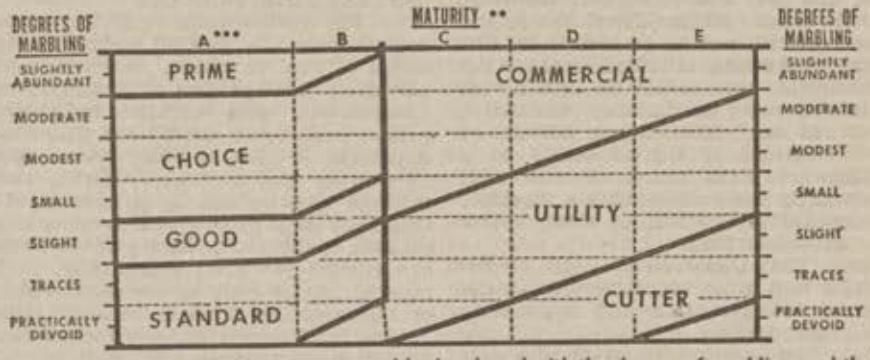
the maturity of a carcass in which the skeletal evidences of maturity are different from those indicated by the color and texture of the lean, slightly more emphasis is placed on the characteristics of the bones and cartilages than on the characteristics of the lean. In no case can the overall maturity of the carcass be considered more than one full maturity group different from that indicated by its bones and cartilages.

(m) The preceding two paragraphs also are applicable to the determination of quality in bullock beef except for carcasses having darker colors of lean than specified in the standards for the quality level for which they would otherwise qualify. In such carcasses, maturity will be evaluated on the basis of skeletal characteristics only, and the final grade will be determined in accordance with the procedures specified in the standards for grading "dark-cutting beef."

(n) In determining compliance with the maximum maturity limits for the Prime, Choice, Good, and Standard grades for steer, heifer, and cow carcasses, color and texture of the lean are considered only when the maturity-indicating factors other than color and texture of the lean indicate only a slightly more advanced degree of maturity than that specified as maximum for these grades, and provided further that the lean is considerably finer in texture and lighter in color than normal for the grade and maturity involved. The same principle, in reverse, is likewise applicable to determining compliance with the minimum maturity limits of the Commercial grade.

(o) These standards are applicable to the grading of beef throughout the full range of maturity within which cattle are marketed. However, in steer, heifer, and cow carcasses, the range of maturity permitted within each of the grades varies considerably. The Prime, Choice, Good, and Standard grades are restricted to beef from young cattle; the Commercial grade is restricted to beef from cattle too mature for Prime, Choice, Good, and Standard, and the Utility, Cutter, and Canner grades may include beef from animals of all ages. By definition, bullock carcasses are restricted to those whose evidences of maturity do not exceed those specified for the juncture of the two youngest maturity groups referenced in the standards for steer, heifer, and cow carcasses. Except for the youngest maturity group, within any specified grade, the requirements for marbling increase progressively with evidences of advancing maturity. In the youngest maturity group, the marbling requirements do not increase progressively with evidences of advancing maturity. For each grade, the firmness requirements are different for each maturity group, but, within each maturity group, the firmness requirements do not increase progressively with evidences of advancing maturity. Also, regardless of the extent to which marbling may exceed the minimum of a grade, a carcass must meet the minimum firmness requirements for its maturity to qualify for that grade. To facilitate the application of these principles, the standards recognize five different maturity groups and seven different degrees of marbling. The five maturity groups are identified in Figure 1 as A, B, C, D, and E in order of increasing maturity. The limits of these five maturity groups are specified in the grade descriptions for steer, heifer, and cow carcasses. The A maturity portion of the figure is the only portion applicable to bullock carcasses. The degrees of marbling referenced in the specifications, in order of descending quantity are: Slightly abundant, moderate, modest, small, slight, traces, and practically devoid. However, for carcass evaluation programs and other purposes, three higher degrees are recognized—moderately abundant, abundant, and very abundant. Illustrations of the lower limits of nine of these ten degrees of marbling are available from the Department of Agriculture.

RELATIONSHIP BETWEEN MARBLING, MATURITY, AND CARCASS QUALITY GRADE *



*Assumes that firmness of lean is comparably developed with the degree of marbling and that the carcass is not a "dark cutter."
**Maturity increases from left to right (A through E).
***The A maturity portion of the Figure is the only portion applicable to bullock carcasses.

Figure 1

(p) The relationship between marbling, maturity, and quality grade is shown in Figure 1. This figure assumes that the firmness of lean is comparably developed with the degree of marbling and that the carcass is not a "dark cutter." From this figure it can be seen, for instance, that the minimum marbling requirement for Choice varies from a minimum small amount for carcasses throughout the youngest maturity group to a maximum small amount for carcasses having the maximum maturity permitted in Choice. Likewise, in the Commercial grade the minimum marbling requirement varies from a minimum small amount in beef with the minimum maturity permitted to a maximum moderate amount in beef from very mature animals. The marbling and other lean flesh characteristics specified for the various grades are based on their appearance in the ribeye muscle of properly chilled carcasses that are ribbed between the 12th and 13th ribs. For carcass evaluation programs and other purposes, in the Prime and Commercial grades, each additional degree of marbling (up to three) greater than specified as minimum for each of these grades is equal to one-third of a grade of higher quality.

(q) References to color of lean in the standards for steer, heifer, and cow beef involve only colors associated with changes in maturity. They are not intended to apply to colors of lean associated with so-called "dark-cutting beef." Dark-cutting beef is believed to be the result of a reduced sugar content of the lean at the time of slaughter. As a result, this condition does not have the same significance in grading as do the darker shades of red associated with advancing maturity. The dark color of the lean associated with "dark-cutting beef" is present in varying degrees from that which is barely evident to so-called "black cutters" in which the lean is actually nearly black in color and usually has a "gummy" texture. Although there is little or no evidence which indicates that the "dark cutting" condition has any adverse effect on palatability, it is considered in grading because of its effect on acceptability and value. Depending on the degree to which this characteristic is developed, the final grade of carcasses which otherwise would qualify for the Prime, Choice, or Good grades may be reduced as much as one full grade. In beef otherwise eligible for the Standard or Commercial grade, the final grade may be reduced as much as one-half of a grade. In the Utility, Cutter, and Canner grades, this condition is not considered.

(r) The yield grade of a beef carcass is determined by considering four characteristics: (1) The amount of external fat, (2) the amount of kidney, pelvic, and heart fat, (3) the area of the ribeye muscle, and (4) the carcass weight.

(s) The amount of external fat on a carcass is evaluated in terms of the thickness of this fat over the ribeye muscle, measured perpendicular to the outside surface at a point three-fourths of the length of the ribeye from its chine bone end. This measurement may be adjusted, as necessary, to reflect unusual

amounts of fat on other parts of the carcass. In determining the amount of this adjustment, if any, particular attention is given to the amount of fat in such areas as the brisket, plate, flank, cod or udder, inside round, rump, and hips in relation to the actual thickness of fat over the ribeye. Thus, in a carcass which is fatter over other areas than is indicated by the fat measurement over the ribeye, the measurement is adjusted upward. Conversely, in a carcass which has less fat over the other areas than is indicated by the fat measurement over the ribeye, the measurement is adjusted downward. In many carcasses no such adjustment is necessary; however, an adjustment in the thickness of fat measurement of one-tenth or two-tenths of an inch is not uncommon. In some carcasses a greater adjustment may be necessary. As the amount of external fat increases, the percent of retail cuts decreases—each one-tenth inch change in adjusted fat thickness over the ribeye changes the yield grade by 25 percent of a yield grade.

(t) The amount of kidney, pelvic, and heart fat considered in determining the yield grade includes the kidney knob (kidney and surrounding fat), the lumbar and pelvic fat in the loin and round, and the heart fat in the chuck and brisket area which are removed in making closely trimmed retail cuts. The amount of these fats is evaluated subjectively and expressed as a percent of the carcass weight. As the amount of kidney, pelvic, and heart fat increases, the percent of retail cuts decreases—a change of 1 percent of the carcass weight in these fats changes the yield grade by 20 percent of a yield grade.

(u) The area of the ribeye is determined where this muscle is exposed by ribbing. This area usually is estimated subjectively; however, it may be measured. Area of ribeye measurements may be made by means of a grid calibrated in tenths of a square inch or by other devices designated by the Agricultural Marketing Service of the U.S. Department of Agriculture.[1] An increase in the area of ribeye increases the percent of retail cuts—a change of 1 square inch in area of ribeye changes the yield grade by approximately 30 percent of a yield grade.

(v) Hot carcass weight (or chilled carcass weight x 102 percent) is used in determining the yield grade. As carcass weight increases, the percent of retail cuts decreases—a change of 100 pounds in hot carcass weight changes the yield grade by approximately 40 percent of a yield grade.

(w) The standards include a mathematical equation for determining yield grade. This grade is expressed as a whole number; any fractional part of a designation is always dropped. For example, if the computation results in a designation of 3.9, the final grade is 3—it is not rounded to 4.

(x) The yield grade standards for each of the first four yield grades list characteristics of two carcasses of two different weights together with descriptions of the usual fat deposition pattern on various areas of the carcass. These descriptions are not specific requirements—they are included only as illustrations of carcasses which are near the borderlines between groups. For example, the characteristics listed for Yield Grade 1 represent carcasses which are near the borderline of Yield Grades 1 and 2.

These descriptions facilitate the subjective determination of the yield grade without making detailed measurements and computations. The yield grade for most beef carcasses can be determined accurately on the basis of a visual appraisal.

§ 53.104 Specifications for Official United States Standards for Grades of Carcass Beef (Quality—Steer, Heifer, Cow).

(a) *Prime.* (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Prime grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups which cover the entire range of maturity permitted in the Prime grade.

(2) Carcasses in the younger group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidences of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is light red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum slightly abundant amount of marbling is required (see Figure 1) and the ribeye muscle is moderately firm.

(3) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Prime grade, which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae that are partially ossified. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean tends to be fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum slightly abundant to maximum slightly abundant (see Figure 1) and the ribeye muscle is firm.

(4) Beef produced from cows is not eligible for the Prime grade.

(b) *Choice.* (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Choice grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups which cover the entire range of maturity permitted in the Choice grade.

(2) Carcasses in the younger group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is moderately light red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum small amount of marbling is required (see Figure 1) and the ribeye muscle may be slightly soft.

(3) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Choice grade, which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae are partially ossified. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean tends to be fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum small amount to a maximum small amount (see Figure 1) and the ribeye muscle is slightly firm.

(c) *Good.* (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Good grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups which cover the entire range of maturity permitted in the Good grade.

(2) Carcasses in the younger group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is slightly light red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum slight amount of marbling is required (see Figure 1) and the ribeye may be moderately soft.

(3) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Good grade which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae that are partially ossified. In

[1] Information concerning such devices may be obtained from the Agricultural Marketing Service, Livestock Division.

addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean tends to be fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum slight amount to a maximum slight amount (see Figure 1) and the ribeye muscle may be slightly soft.

(d) *Standard.* (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Standard grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups which cover the entire range of maturity permitted in the Standard grade.

(2) Carcasses in the younger group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is slightly dark red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum practically devoid amount of marbling is required (see Figure 1) and the ribeye muscle may be soft.

(3) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Standard grade, which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae that are partially ossified. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean is moderately fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1) and the ribeye muscle may be moderately soft.

(e) *Commercial.* (1) Commercial grade beef carcasses and wholesale cuts are restricted to those with evidences of more advanced maturity than permitted in the Standard grade. Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Commercial grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for the youngest and the most mature of these groups. The requirements for the intermediate group are determined by interpolation between the requirements indicated for the two groups described.

(2) Carcasses in the youngest group permitted in the Commercial grade range from those with indications of maturity barely more advanced than described as maximum for the Standard grade to those with moderately hard, rather white chine bones and with cartilages on the ends of the thoracic vertebrae that show considerable ossification but the outlines of the cartilages are still plainly visible. In addition, the rib bones are moderately wide and flat and the ribeye muscle is moderately dark red and slightly coarse in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum small amount to a maximum small amount (see Figure 1) and the ribeye muscle is slightly firm.

(3) The youngest carcasses in the most mature group included in the Commercial grade have hard white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae are barely visible, the rib bones are wide and flat, and the ribeye muscle is dark red and coarse in texture. The range in maturity in this group extends to include carcasses from the oldest animals marketed. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum moderate amount to a maximum moderate amount (see Figure 1) and the ribeye muscle is firm.

(f) *Utility.* (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Utility grade vary in their other indications of quality as evidenced in the ribeye muscle. Carcasses within the full range of maturity classified as beef are included in the Utility grade. Thus, five maturity groups are recognized. Minimum quality requirements are described for three of these groups—the first or youngest, the third or intermediate, and the fifth or the most mature. The requirements for the second and fourth maturity groups are determined by interpolation between the requirements described for their adjoining groups.

(2) Carcasses in the first or youngest maturity group range from the youngest that are eligible for the beef class to those at the juncture of the first two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly flat and the ribeye muscle is slightly dark red in color and fine in texture. In carcasses throughout the range of maturity included in this group, the ribeye muscle is devoid of marbling and may be soft and slightly watery.

(3) Carcasses in the third or intermediate maturity group range from those with indications of maturity barely more advanced than described as maximum for the Standard grade to those with moderately hard, rather white chine bones and with cartilages on the ends of the thoracic vertebrae that show considerable ossification but the outlines of the cartilages are still plainly visible. In addition, the rib bones are moderately wide and flat and the ribeye muscle is dark red in color and slightly coarse in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1) and the ribeye muscle may be moderately soft.

(4) The youngest carcasses in the fifth or oldest maturity group have hard, white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae are barely visible, the rib bones are wide and flat, and the ribeye muscle is very dark red in color and coarse in texture. The range in maturity in this group extends to include carcasses from the oldest animals produced. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum slight amount to a maximum slight amount (see Figure 1) and the ribeye muscle is slightly firm.

(g) *Cutter.* (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Cutter grade vary in their other indications of quality as evidenced in the ribeye muscle. Carcasses within the full range of maturity classified as beef are included in the Cutter grade. Thus, five maturity groups are recognized. Minimum quality requirements are described for three of these groups—the first or youngest, the third or intermediate, and the fifth or the most mature. The requirements for the second and fourth maturity groups are determined by interpolation between the requirements described for their adjoining groups.

(2) Carcasses in the first or youngest maturity group range from the youngest that are eligible for the beef class to those at the juncture of the first two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is slightly dark red in color and fine in texture. In carcasses throughout the range of maturity included in this group, the ribeye muscle is devoid of marbling and may be very soft and watery.

(3) Carcasses in the third or intermediate maturity group range from those with indications of maturity barely more advanced than described as maximum for the Standard grade to those with moderately hard, rather white chine bones and with cartilages on the ends of the thoracic vertebrae that show considerable ossification but the outlines of the cartilages are still plainly visible. In addition, the rib bones are moderately wide and flat and the ribeye muscle is dark red in color and slightly coarse in texture. In carcasses throughout the range of maturity included in this group, the ribeye muscle is devoid of marbling and may be soft and watery.

(4) Carcasses in the fifth or oldest maturity group have hard white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae are barely visible, the rib bones are wide and flat, and the ribeye muscle is very dark red in color and coarse in texture. The range in maturity in this group extends to include carcasses from the oldest animals produced. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1) and the ribeye muscle is soft and slightly watery.

(h) *Canner.* The Canner grade includes only those carcasses that are inferior to the minimum requirements specified for the Cutter grade.

§ 53.105 Specifications for Official United States Standards for Grades of Carcass Beef (Quality—Bullock).

(a) *Prime.* For the Prime grade, the minimum degree of marbling required is a minimum slightly abundant amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle is moderately firm and, in carcasses having the maximum maturity for this class, the ribeye is light red in color.

(b) *Choice.* For the Choice grade, the minimum degree of marbling required is a minimum small amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle may be slightly soft and, in carcasses having the maximum maturity for this class, the ribeye is moderately light red in color.

(c) *Good.* For the Good grade, the minimum degree of marbling required is a minimum slight amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle may be moderately soft and, in carcasses having the maximum maturity for this class, the ribeye is slightly light red in color.

(d) *Standard.* For the Standard grade, the minimum degree of marbling required is a minimum practically devoid amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle may be soft and, in carcasses having the maximum maturity for this class, the ribeye is slightly dark red in color.

(e) *Utility.* The Utility grade includes only those carcasses that do not meet the minimum requirements specified for the Standard grade.

§ 53.203 Application of Standards for Grades of Slaughter Cattle.

(a) *General.* Grades of slaughter cattle are intended to be directly related to the grades of the carcasses they produce. To accomplish this, these slaughter cattle grade standards are based on factors which are related to the grades of beef carcasses. The quality and yield grade standards are contained in separate sections of the standards. The quality grade standards are further divided into two sections applicable to (1) steers, heifers, and cows and (2) bullocks. Eight quality designations--Prime, Choice, Good, Standard, Commercial, Utility, Cutter, and Canner—are applicable to steers and heifers. Except for Prime, the same designations also apply to cows. The quality designations for bullocks are Prime, Choice, Good, Standard, and Utility. There are five yield grades, which are applicable to all classes of slaughter cattle and are designated by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability. The grades of slaughter cattle shall be a combination of both their quality and yield grades, except that slaughter bulls are yield graded only.

(b) (1) *Quality Grades.* Slaughter cattle quality grades are based on an evaluation of factors related to the palatability of the lean, herein referred to as "quality." Quality in slaughter cattle is evaluated primarily by the amount and distribution of finish, the firmness of muscling, and the physical characteristics of the animal associated with maturity. Progressive changes in maturity past 30 months of age and in the amount and distribution of finish and firmness of muscling have opposite effects on quality. Therefore, for cattle over 30 months of age in each grade, the standards require a progressively greater development of the other quality-indicating factors. In cattle under about 30 months of age, a progressively greater development of the other quality-indicating characteristics is not required.

(2) Since carcass indices of quality are not directly evident in slaughter cattle, some other factors in which differences can be noted must be used to evaluate their quality. Therefore, the amount of external finish is included as a major grade factor herein, even though cattle with a specific degree of fatness may have widely varying degrees of quality. Identification of differences in quality among cattle with the same degree of fatness is based on distribution of finish and firmness of muscling. Descriptions of these factors are included in the specifications. For example, cattle which have more fullness of the brisket, flank, twist, and cod or udder and which have firmer muscling than that indicated by any particular degree of fatness are considered to have higher quality than indicated by that degree of fatness.

(3) The approximate maximum age limitation for the Prime, Choice, Good, and Standard grades of steers, heifers, and cows is 42 months. The Commercial grade for steers, heifers, and cows includes only cattle over approximately 42 months. There are no age limitations for the Utility, Cutter, and Canner grades of steers, heifers, and cows. The maximum age limitation for all grades of bullocks is approximately 24 months.[1]

[1] Maximum maturity limits for bullock carcasses are the same as those described in the beef carcass grade standards for steers, heifers, and cows at about 30 months of age. However, bullocks develop carcass indicators of maturity at younger chronological ages than steers. Therefore, the approximate age at which bullocks develop carcass indicators of maximum maturity is shown herein as 24 months rather than 30 months.

(c) *Yield Grades.* (1) The yield grades for slaughter cattle are based on the same factors as used in the official yield grade standards for beef carcasses. Those factors and the change in each which is required to make a full yield grade change are as follows:

Factor	Effect of increase on yield grade [1]	Approximate change in each factor required to make a full yield grade change [2]
Thickness of fat over ribeye.	Decreases	4/10 in.
Percent of kidney, pelvic, and heart fat.	do	5%.
Carcass weight	do	260 lb.
Area of ribeye	Increases	3 in.^{2}

[1] The yield grades are denoted by numbers 1 through 5 with Yield Grade 1 representing the highest cutability (a yield of closely trimmed retail cuts. Thus, an "increase" in cutability means a smaller yield grade number while a "decrease" in cutability means a larger yield grade number.

[2] This assumes no change in the other factors.

(2) When evaluating slaughter cattle for yield grade, each of these factors can be estimated and the yield grade determined therefrom by using the equation contained in the official standards for grades of carcass beef. However, a more practical method of appraising slaughter cattle for yield grade is to use only two factors normally considered in evaluating live cattle—muscling and fatness.

(3) In the latter approach to determining yield grade, evaluation of the thickness and fullness of muscling in relation to skeletal size largely accounts for the effects of two of the factors—area of ribeye and carcass weight. By the same token, an appraisal of the degree of external fatness largely accounts for the effects of thickness of fat over the ribeye and the percent of kidney, pelvic, and heart fat.

(4) These fatness and muscling evaluations can best be made simultaneously. This is accomplished by considering the development of the various parts based on an understanding of how each part is affected by variations in muscling and fatnes. While muscling of most cattle develops uniformly, fat is normally deposited at a considerably faster rate on some parts than on others. Therefore, muscling can be appraised best by giving primary consideration to the parts least affected by fatness, such as the round and the forearm. Differences in thickness and fullness of these parts—with appropriate adjustments for the effects of variations in fatness—are the best indicators of the overall degree of muscling in live cattle.

(5) On the other hand, the overall fatness of an animal can be determined best by observing those parts on which fat is deposited at a faster-than-average rate. These include the back, loin, rump, flank, cod or udder, twist, and brisket. As cattle increase in fatness, these parts appear progressively fuller, thicker, and more distended in relation to the thickness and fullness of the other parts, particularly the round. In thinly muscled cattle with a low degree of finish, the width of the back usually will be greater than the width through the center of the round. The back on either side of the

backbone also will be flat or slightly sunken. Conversely, in thickly muscled cattle with a similar degree of finish, the thickness through the rounds will be greater than through the back and the back will appear full and rounded. At an intermediate degree of fatness, cattle which are thickly muscled will be about the same width through the round and back and the back will appear only slightly rounded. Thinly muscled cattle with an intermediate degree of finish will be considerably wider through the back than through the round and will be nearly flat across the back. Very fat cattle will be wider through the back than through the round, but this difference will be greater in thinly muscled cattle than in those that are thickly muscled. Such cattle with thin muscling also will have a distinct break from the back into the sides, while those with thick muscling will be nearly flat on top but will have a less distinct break into the sides. As cattle increase in fatness, they also become deeper bodied because of large deposits of fat in the flanks and brisket and along the underline. Fullness of the twist and cod or udder and the bulge of the flanks, best observed when an animal walks, are other indications of fatness.

(6) In determining yield grade, variations in fatness are much more important than variations in muscling.

(d) *Other considerations.* (1) Other factors such as heredity and management also may affect the development of the grade-determining characteristics in slaughter cattle. Although these factors do not lend themselves to description in the standards, the use of factual information of this nature is justifiable in determining the grade of slaughter cattle.

(2) Slaughter cattle qualifying for any particular grade may vary with respect to the relative development of the individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more nearly typical of cattle of another grade. Because it is impractical to describe the nearly infinite number of recognizable combinations of characteristics, quality and yield grade standards describe only cattle which have a relatively similar development of the various quality and yield grade determining factors and which are near the lower limits of these grades. The requirements are given for two maturity groups in the quality grade standards for steers, heifers, and cows—but for only one maturity group for bullocks. In the yield grade standards, cattle with two levels of muscling are described and specific examples in terms of carcass characteristics also are included.

§ 53.204 Specifications for Official United States Standards for Grades of Slaughter Steers, Heifers, and Cows (Quality).

(a) *Prime.* (1) Slaughter steers and heifers 30 to 42 months of age possessing the minimum qualifications for Prime have a fat covering over the crops, back, ribs, loin, and rump that tends to be thick. The brisket, flanks, and cod or udder appear full and distended and the muscling is very firm. The fat covering tends to be smooth with only slight indications of patchiness. Steers and heifers under 30 months of age have a moderately thick but smooth covering of fat which extends over the back, ribs, loin, and rump. The brisket, flanks, and cod or udder show a marked fullness and the muscling is firm.

(2) Cattle qualifying for the minimum of the Prime grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Prime grade. Such cattle have less width of back and loin and are less uniform in width than normal for the Prime grade. The thick, full muscling gives the back and loin a well-rounded appearance with very little evidence of flatness. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Although such cattle have a lower degree of fatness over the back and loin than described as typical, evidence of more fatness than described is noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described for the Prime grade. The distribution of fat is not typical, for it is thicker over the crops, back, loin, and rump than described while the brisket, flanks, twist, and cod or udder indicate less fatness. Such cattle are wide and nearly flat over the back and loin and there is a sharp break from these parts into the sides. The width over the back is much greater than through the rounds and shoulders.

(3) Cows are not eligible for the Prime grade.

(b) *Choice.* (1) Slaughter steers, heifers, and cows 30 to 42 months of age possessing the minimum qualifications for Choice have a fat covering over the crops, back, loin, rump, and ribs that tends to be moderately thick. The brisket, flanks, and cod or udder show a marked fullness and the muscling is firm. Cattle under 30 months of age carry a slightly thick fat covering over the top. The brisket, flanks, and cod or udder appear moderately full and the muscling is moderately firm.

(2) Cattle qualifying for the minimum of the Choice grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Choice grade. Such cattle are less uniform in width than normal for the Choice grade. The thick, full muscling over the top results in a rounded appearance with little evidence of flatness. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Although such cattle have a lower degree of fatness over the back and loin than described as typical, evidence of more fatness than described is especially noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described for the Choice grade. The distribution of fat is not typical, for it is thicker over the crops, back, loin, and rump than described but with evidence of less fatness in the brisket, flanks, twist, and cod or udder. The back and loin break sharply into the sides and the width over the back is much greater than through the rounds and shoulders.

(c) *Good.* (1) Slaughter steers, heifers, and cows 30 to 42 months of age possessing the minimum qualifications for Good have a fat covering that tends to be slightly thin with some fullness evident in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a thin fat covering which is largely restricted to the back and loin. The brisket, flanks, twist, and cod or udder are slightly full and the muscling is slightly firm.

(2) Cattle qualifying for the minimum of the Good grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for the grade are thickly muscled and have a lower degree of fatness than described for the Good grade. Such cattle are less uniform in width than normal for the grade. The thick, full muscling through the back gives the back and loin a well-rounded appearance. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be prominent. Evidence of more fatness than described is especially noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for the grade are thinly muscled and have a higher degree of fatness than described for the Good grade. The distribution of fat is not typical, for it is thicker over the crops, back, loin, and rump than described while the brisket, flanks, twist, and cod or udder indicate less fatness. Such cattle are nearly flat over the back and loin and the width over the back is greater than through the rounds and shoulders.

(d) *Standard.* (1) Slaughter steers, heifers, and cows 30 to 42 months of age possessing the minimum qualifications for Standard have a fat covering primarily over the back, loin, and ribs which tends to be very thin. Cattle under 30 months of age have a very thin covering of fat which is largely restricted to the back, loin, and upper ribs.

(2) Cattle qualifying for the minimum of this grade vary relatively little in their degree of fatness. Therefore, the range in cutability among cattle that qualify for this grade is somewhat less

than in the higher grades. Most of the cutability differences among cattle qualifying for this grade are due to a wide range in muscling. Cattle with higher cutability than normal for this grade may have a slightly lower degree of fatness than described but will have thick, well-rounded backs, wide loins, and prominent, thickly muscled shoulders. The width through the rounds will be greater than over the back. Cattle with lower cutability than normal for this grade may have slightly more finish than described and will be upstanding and narrow. The loin, rump, and rounds will appear slightly sunken.

(e) *Commercial.* (1) The Commercial grade is limited to steers, heifers, and cows over approximately 42 months of age. Slaughter cattle possessing the minimum qualifications for Commercial and which slightly exceed the minimum maturity for the Commercial grade have a slightly thick fat covering over the back, ribs, loin, and rump and the muscling is moderately firm. Very mature cattle usually have at least a moderately thick fat covering over the back, ribs, loin, and rump and considerable patchiness frequently is evident about the tailhead. The brisket, flanks, and cod or udder appear to be moderately full and the muscling is firm.

(2) Cattle qualifying for the minimum of the Commercial grade will differ considerably in cutability because of widely varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Commercial grade. The thick, full muscling over the top results in a rounded appearance with little evidence of flatness. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Although such cattle have less thickness of fat over the back and loin than described as typical, evidence of mor fatness than described is especially noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described for the Commercial grade. The distribution of fat is not typical, being thicker over the crops, back, loin, and rump than described while the brisket, flanks, twist, and cod or udder indicate less fatness. The back and loin break sharply into the sides and the width over the back is much greater than through the rounds and shoulders.

(f) *Utility.* (1) The minimum degree of finish required for slaughter steers, heifers, and cows to qualify for the Utility grade varies throughout the range of maturity permitted in this grade from a very thin covering of fat for cattle under 30 months of age to a slightly thick fat covering, generally restricted to the back, loin, and rump for the very mature cattle in this grade. In such mature cattle, the crops are slightly thin and the brisket, flanks, and cod or udder indicate very slight fullness.

(2) Cattle qualifying for the minimum of the Utility grade vary somewhat in cutability especially among older animals. Those under 42 months of age are required to have very little fatness to qualify for the minimum of the grade; thus most of the variation in cutability of such cattle is due to differences in muscling. Cattle over 42 months of age will vary in their degree of fatness as well as muscling. Thus, cattle with thicker muscling than normal and less external fat than specified for this grade will have higher cutability than cattle with thinner muscling and more fatness.

(g) *Cutter.* (1) In slaughter cattle in the Cutter grade, the degree of finish ranges from practically none in cattle under 30 months of age to very mature cattle which have only a very thin covering of fat.

(2) The range in cutability among cattle that qualify for the minimum of this grade will be narrow because of very small variations in fatness and muscling.

(h) *Canner.* Canner grade cattle are those which are inferior to the minimum specified for the Cutter grade.

§ 53.205 Specifications for Official United States Standards for Grades of Slaughter Bullocks (Quality).

(a) *Prime.* (1) Slaughter bullocks possessing the minimum qualifications for the Prime grade have a moderately thick but smooth covering of fat which extends over the back, ribs, loin, and rump. The brisket and flanks show a marked fullness and the muscling is firm.

(2) Bullocks qualifying for the minimum of the Prime grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Bullocks with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described as minimum for the Prime grade. Such bullocks have less width of back and loin and are less uniform in width than described as typical for the Prime grade but the muscling is firmer than described. Conversely, bullocks with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described as minimum for the Prime grade.

(b) *Choice.* (1) Slaughter bullocks possessing minimum qualifications for the Choice grade carry a slightly thick fat covering over the top. The brisket and flanks appear moderately full and the muscling is moderately firm.

(2) Bullocks qualifying for the minimum of the Choice grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Bullocks with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described as minimum for the Choice grade but the muscling is firmer than described. Conversely, bullocks with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described as minimum for the Choice grade.

(c) *Good.* (1) Bullocks possessing minimum qualifications for the Good grade have a thin fat covering which is largely restricted to the back and loin. The brisket and flanks are slightly full and the muscling is slightly firm.

(2) Bullocks qualifying for the minimum of the Good grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Bullocks with higher cutability than normal for the grade are thickly muscled and have a lower degree of fatness than described as minimum for the Good grade. Such bullocks are less uniform in width than described as typical of the grade but the muscling is firmer than described. Conversely, bullocks with lower cutability than normal for this grade have thinner muscling and a higher degree of fatness than described as minimum for the Good grade.

(d) *Standard.* (1) Slaughter bullocks possessing minimum qualifications for the Standard grade have only a very thin covering of fat which is largely restricted to the back, loin, and upper rib.

(2) Bullocks qualifying for the minimum of this grade vary relatively little in their degree of fatness. Therefore, the range in cutability among bullocks that qualify for this grade is somewhat less than in the higher grades. Most of the cutability differences among bullocks qualifying for this grade are due to a wide range in muscling. Bullocks with higher cutability than normal for this grade may have a slightly lower degree of fatness than described but will have thick, well-rounded backs, wide loins, and prominent, thickly muscled shoulders. The width through the rounds will be greater than over the back. Bullocks with lower cutability than normal for this grade may have slightly more finish than described and will be upstanding and narrow. The loin, rump, and rounds will appear slightly sunken.

(e) *Utility.* The Utility grade includes only those bullocks that do not meet the minimum requirements specified for the Standard grade.

§ 53.206 Specifications for Official United States Standards for Grades of Slaughter Cattle (Yield).

(a) *Yield Grade 1.* (1) Yield Grade 1 slaughter cattle produce carcasses with very high yields of boneless retail cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 1 (near the borderline between Yield Grade 1 and Yield Grade 2) will differ considerably in appearance because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They are moderately wide and the width through the shoulders and rounds is greater than through the back. The top is well-rounded with no evidence of flatness, and the back and loin are thick and full. The rounds are deep, thick, and full and the width through the middle part of the rounds is greater than through the back.

The shoulders are slightly prominent and the forearms are thick and full. These cattle have only a thin covering of fat over the back and rump. The flanks are slightly shallow and the brisket and cod or udder have little evidence of fullness. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.3 of an inch of fat over the ribeye and about 13.0 square inches of ribeye area.

(3) Because of the relatively low proportion of lean to bone, practically no thinly muscled cattle produce carcasses with an exceptionally high yield of boneless retail cuts. Therefore, it is unlikely that thinly muscled cattle will qualify for Yield Grade 1.

(4) Cattle qualifying for the minimum of Yield Grade 1 will differ widely in quality grade as a result of variations in distribution of finish and firmness of muscling. For example, young cattle which have considerable firmness of muscling and considerably greater deposits of fat in the brisket, flanks, twist, and cod or udder than described for Yield Grade 1 ordinarily will qualify for the Good or Choice grade. However, such cattle with typical or less than typical deposits of fat in the brisket, flanks, twist, and cod or udder usually will qualify for the Standard or Utility grade.

(b) *Yield Grade 2.* (1) Yield Grade 2 slaughter cattle produce carcasses with high yields of boneless retail cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 2 (near the borderline between Yield Grade 2 and Yield Grade 3) will differ considerably in appearance because of differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They are wide through the back and loin and have slightly greater width through the shoulders and rounds than through the back. The top is well-rounded with little evidence of flatness and the back and loin are thick and full. The rounds are thick, full, and deep and the thickness through the middle part of the rounds is greater than that over the top. The shoulders are slightly prominent and the forearms are thick and full. There is a slightly thick covering of fat over the back and rump and the flanks are slightly deep. The brisket and cod or udder are slightly full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.6 of an inch of fat over the ribeye and about 12.5 square inches of ribeye area.

(3) Thinly muscled cattle typical of the minimum of this grade have a relatively low proportion of lean to bone. They tend to be flat and slightly narrow over the back and have slightly long, flat rounds. They are slightly wider over the back than through the rounds. The shoulders are slightly prominent and the forearms are only slightly thick. These cattle have a thin covering of fat over the back and rump. The flanks are slightly shallow and thin and the brisket and cod or udder have little evidence of fullness. Slaughter cattle of this description producing 600 pound carcasses usually have 0.3 of an inch of fat over the ribeye and about 10.0 square inches of ribeye area.

(4) Cattle qualifying for the minimum of Yield Grade 2 will differ greatly in quality grade as a result of variations in distribution of finish and firmness of muscling. For example, young cattle which have considerable firmness of muscling and typical or greater deposits of fat in the brisket, flanks, twist, and cod or udder than described for Yield Grade 2 ordinarily will qualify for Prime or Choice. Conversely, such cattle with less than typical deposits of fat in the brisket, flanks, twist, and cod or udder usually will qualify for the Good or Standard grade.

(c) *Yield Grade 3.* (1) Yield Grade 3 slaughter cattle produce carcasses with intermediate yields of boneless retail cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 3 (near the borderline between Yield Grade 3 and 4) will differ considerably in appearance because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They are very wide through the back and loin and are uniform in width from front to rear. The back or top is nearly flat with only a slight tendency toward roundness and there is a slight break into the sides. The back and loin are very full and thick. The rounds are deep, thick, and full. The shoulders are smooth and the forearms are thick and full. There is a moderately thick covering of fat over the back and rump. The flanks are deep and full and the brisket and cod or udder are full. Slaughter cattle of this desecription producing 600-pound carcasses usually have about 0.9 of an inch of fat over the ribeye and about 12.0 square inches of ribeye area.

(3) Thinly muscled cattle typical of the minimum of this grade have a relatively low proportion of lean to bone. They are flat and slightly wide over the back and loin and are wider over the back than through the rounds. The shoulders are slightly smooth and the forearms are only slightly thick. These cattle tend to have a slightly thick covering of fat over the back and rump. The flanks are slightly deep and full and the brisket and cod or udder are slightly full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.6 of an inch of fat over the ribeye and about 9.5 square inches of ribeye area.

(4) Cattle qualifying for the minimum of Yield Grade 3 will differ greatly in quality grade as a result of wide variations in distribution of finish and firmness of muscling. Cattle with higher quality than normal for the minimum of this grade will have very firm muscling and will have greater deposits of fat in the brisket, flanks, twist, and cod or udder than described for Yield Grade 3 and will normally qualify for the Prime or Choice grade. Conversely, cattle with lower quality than normal for the minimum of this grade will have less deposits of fat in the brisket, flanks, twist, and cod or udder than described herein, and may only qualify for the Good grade.

(d) *Yield Grade 4.* (1) Yield Grade 4 slaughter cattle produce carcasses with moderately low yields of boneless retail cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 4 (near the borderline between Yield Grades 4 and 5) will differ considerably in appearance because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They appear wider over the top than through the shoulders or rounds. The back and loin are very thick and full, nearly flat, and break sharply into the sides. The rounds are deep, thick, and full. The shoulders are smooth and the forearms are thick and full. These cattle have a thick covering of fat over the back and rump. The flanks are very deep and full and the brisket and cod or udder are very full. Slaughter cattle of this description producing 600-pound carcasses usually have about 1.1 inches of fat over the ribeye and about 11.5 square inches of ribeye area.

(3) Thinly muscled cattle typical of the minimum of this grade have a relatively low ratio of lean to bone. They are flat over the back and loin and much wider through the back than through the shoulders or rounds. The rounds tend to be long and flat. The shoulders are smooth and the forearms are slightly thick. The cattle have a moderately thick covering of fat over the back and rump and the back breaks sharply into the sides. The flanks are deep and full and the brisket and cod or udder are full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.9 of an inch of fat over the ribeye and about 9.0 square inches of ribeye area.

(4) Cattle qualifying for the minimum of Yield Grade 4 will differ somewhat in quality grade as a result of variations in distribution of the finish and firmness of muscling. Most cattle at the minimum of this grade will qualify for the Prime or Choice grade. However, some cattle at the minimum of Yield Grade 4 with less deposits of fat in the brisket, flanks, twist, and cod or udder than described as typical may only qualify for the Good grade.

(e) *Yield Grade 5.* (1) Yield Grade 5 slaughter cattle produce carcasses with low yields of boneless retail cuts. Cattle of this grade consist of those not meeting the minimum requirements for Yield Grade 4 because of either more fat or less muscle or a combination of these characteristics.

(2) Because of the high degree of finish required for cattle of this grade,

the range in quality grades will be somewhat small. Practically all cattle of this grade will qualify for either the Prime or Choice grade.

The inflationary impact of these revisions of the grade standards has been evaluated.

The foregoing changes shall become effective April 14, 1975.

Done at Washington, D.C., this 6th day of March 1975.

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

[FR Doc.75-6303 Filed 3-11-75;8:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER A—PROCEDURE AND RULES OF PRACTICE

PART 309—PUBLISHED AND UNPUBLISHED RECORDS AND INFORMATION

Freedom of Information

1. On January 15, 1975 the Federal Deposit Insurance Corporation ("FDIC"), in accordance with the requirement in subsection (b) of Pub. L. 93-502, published (40 FR 2715) for notice and comment a uniform schedule of fees applicable to all records made available under section 3 of the Administrative Procedure Act (5 U.S.C. 552). The period of public comment on the proposed schedule ended on February 15, 1975.

The Board of Directors of the FDIC has decided to adopt the fee schedule in a form substantially similar to that which was published for comment. The Board of Directors has also decided to adopt various other amendments to § 309.1 of the rules and regulations of the FDIC (12 CFR 309.1) which are necessitated by Pub. L. 93-502. In addition, certain purely technical amendments to § 309.1 have been adopted by the Board of Directors.

2. Paragraphs (a)(3) through (c)(1)(i) of § 309.1 of the regulations of the FDIC governing disclosure of information are revised to read as follows:

§ 309.1 Published and unpublished information.

(a) * * *

(3) *Information made available to the public.* (i) Except to the extent that the matters set forth in subdivisions (A) through (C) below relate to or contain information which is exempted from the public disclosure provisions of section 3 of the Administrative Procedure Act, as amended (5 U.S.C. 552), or other law, the Corporation makes available for public inspection and copying, upon request to the Executive Secretary of the Corportion in its office in Washington, D.C., during normal business hours, (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those statements of policy and interpretations which have been adopted by the Corporation and are not published in the FEDERAL REGISTER, and (C) Manual of Examination Policies and Instructions to Liquidators. In addition to the above, the Corporation also makes available, during normal business hours, the following reports filed by insured State nonmember banks on or after January 1, 1973, which reports would otherwise be exempt from disclosure under the provisions of subsection (b)(8) of section 3 of the Administrative Procedure Act (5 U.S.C. 552(b)(8)): Consolidated Reports of Income for mutual savings banks;[1] Consolidated Reports of Income for commercial banks;[2] Reports of Condition for mutual savings banks;[3] and Reports of Condition of commercial banks.[4] To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Corporation may delete identifying details when it makes available or publishes an opinion, order made in the adjudication of a case, statement of policy, interpretation, or staff manual or instruction. In each case the justification for the deletion will be fully explained in writing. The Corporation also makes available at its Washington office, at the New York, Chicago, and San Francisco Federal Reserve Banks and at the Reserve bank of the district in which the bank filing a report is located, for public inspection and copying reports from insured State nonmember banks required under the provisions of section 12 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78).

(ii) The Corporation also maintains and makes available for public inspection and copying a current index providing information for the public as to any matter which is issued, adopted, or promulgated after July 4, 1967, and which is required by the Administrative Procedure Act to be made available or published. The Corporation will generally publish the index or supplements thereto at least four times a year and distribute these materials (by sale or otherwise). In the event that the Board of Directors determines by order printed in the FEDERAL REGISTER that such publication would be both unnecessary and impracticable, the Corporation on request will provide copies of the index at the direct cost of duplication determined as set forth in paragraph (a)(4)(i) of this section.

(4) *Fee schedule for document search and duplication.* (i) Except to the extent that the records relate to or contain information which is exempted from the public disclosure provisions of section 3 of the Administrative Procedure Act, as amended (5 U.S.C. 552) or other law, the Corporation upon a request which reasonably describes records of the Corporation and is made in accordance with the procedures set forth in this section, will make such records available to any person who agrees to pay the costs of searching[5] (whether or not the search is successful) and duplicating such records at the rate of (a) $4.50 per hour for searching where clerical personnel are used, (b) $10.00 per hour where supervisory or professional personnel are used, (c) $175.00 per central processing unit hour for computer time used and (d) 10 cents per page for duplicating. Any request for records should specify an aggregate dollar limit which the person making the request is willing to pay for costs of searching and duplicating. Where the cost of searching and duplicating as estimated by the Corporation exceeds the aggregate amount specified in the request, or where no dollar amount is so specified, the Corporation shall promptly advise the person requesting the records of such estimated cost. In addition, whenever the cost of searching and duplicating estimated by the Corporation exceeds $200.00, the requester shall be required to pay in advance to the Corporation an amount equal to 20 percent of that estimated cost. For purposes of the time period in which the Corporation must grant or deny a request for records, such a request shall not be deemed to have been received by the Corporation until the person requesting such records agrees in writing to pay the cost of searching and duplicating as estimated by the Corporation and, if applicable, until the Corporation receives a payment in advance of 20 percent of such estimated costs.

(ii) Upon written request and at fees comparable to those imposed in paragraph (4)(i) of this section, the Corporation will undertake to compile requested data in summary, tabular or other form, unless the Corporation determines, in its discretion, that compliance with such a request would be unduly burdensome or time consuming for the Corporation.

(iii) Whenever the Corporation determines that furnishing any requested information is in the public interest because it primarily benefits the general public, it will reduce or waive any fees imposed under paragraph (4)(i) of this section. In no event will the Corporation impose a charge for furnishing requested information when the aggregate fees computed under paragraph (4)(i) of this section do not exceed $2.00 for any one request.

(b) *Unpublished information; confidential and privileged information.* (1) All requests for records of the Corporation should reasonably describe such records. Such requests or appeals from the denial of such requests should be forwarded in writing to the Office of the Executive Secretary, Records Unit, Federal Deposit Insurance Corporation, Washington, D.C. 20429. The Executive Secretary will in turn forward requests for records to the head of the Division which would reasonably be expected to

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[1] Consolidated Report of Income—Calendar Year (Including Domestic Subsidiaries), Form 73 (Savings).

[2] Consolidated Report of Income—Calendar Year (Including Domestic Subsidiaries), Form 73.

[3] Report of Condition, Form 64 (Savings).

[4] Consolidated Report of Condition of Bank and Domestic Subsidiaries, Form 64.

[5] As used in this paragraph, the term "searching" includes any method of extracting requested information from computerized record systems.

have custody of such records, for action on the request. All denials of requests for records will be made by the Chairman of the Corporation or a person specifically acting for the Chairman. The Executive Secretary will forward appeals from partial or total denials of records requests to the Board of Directors, or any persons specifically designated by the Board to determine such appeals.

(2) The Corporation will grant a request which reasonably describes records of the Corporation, except to the extent that it relates to files, documents, reports, books, accounts, and records (collectively referred to as "records" in this section) pertaining to any bank, or the internal operations and affairs of the Corporation, in the possession or control of the Corporation or any officer, employee, or agent thereof, which are (i) exempt from disclosure by statute or by an Executive Order issued in regard to national defense or foreign policy; (ii) contained in or related to examination, operating, or condition reports (other than those operating or condition reports enumerated in paragraph (a)(3) of this section) prepared by or on behalf of, or for the use of the Corporation or any agency responsible for the supervision of financial institutions;

(iii) Related solely to the internal personnel rules and practices of the Corporation; (iv) privileged or related to the business, personal, or financial affairs of any person and are furnished in confidence; (v) proceedings for cease and desist and suspension or removal orders or for the termination of the insured status of any bank; (vi) interagency or intraagency memorandums or letters which would not be available by law to a private party in litigation with the Corporation; (vii) investigatory records compiled for enforcement of the Federal Deposit Insurance Act and other statutes, but only to the extent that disclosure of the records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel; (viii) personnel files and similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (ix) records of deliberations and discussions at meetings of the Board of Directors and any committee established by the Board of Directors and exhibits filed therewith. To the extent, however, that non-exempt portions of such records are reasonably segregable from the exempt portions, the non-exempt portions shall be provided to the requester.

(3) Where the Corporation denies, in whole or in part, a request for records or an appeal with respect to a previous denial, the Executive Secretary will so notify the requester in writing. Such written notification will (A) specify whether all or only a specific part of the request or appeal is being denied, (B) set forth the names and titles of each person responsible for the denial, (C) list the reasons which resulted in the denial and (D) inform the requester (i) of his right to appeal the initial denial of any part of the request to the Board of Directors within 30 business days following receipt of notification of the denial* or (ii) of his right to judicial review under Section 3 of the Administrative Procedure Act with respect to the denial of an appeal.

(4) The Corporation will normally notify the requester of the determination made with respect to his request for records within 10 business days following the receipt of such request; and, in the case of an appeal from an initial denial the Corporation will notify the appellant of the disposition within 20 business days following receipt of the appeal.

(5) Under unusual circumstances the Corporation may require additional time, up to a maximum of 10 business days, to determine whether to grant or deny a request or appeal. These circumstances would arise only in cases where (A) the records are in facilities, such as field offices, that are separate from the Corporation's Washington office, (B) the records requested are voluminous and not in close proximity one to the other, or (C) there is a need to consult with another agency or among two or more components of the Corporation having a substantial interest in the determination. The Corporation will promptly notify the requester in writing of the estimated date it will make a determination, as well as the reasons that additional time is required.

(c) *Disclosure prohibited.* (1) Except to the extent provided in paragraphs (a) and (b) of this section, officers, employees, and agents of the Corporation are prohibited from allowing any person to inspect, examine, or copy any unpublished records of the Corporation, or furnishing copies thereof, or disclosing any confidential and privileged information except as herein provided: (i) The Director or Chief of any Division or Officer having custody thereof, in his discretion, may release or furnish any records or information, other than the records enumerated in paragraph (b) of this section, and information acquired in reference thereto, to any governmental agency, State or Federal, in the exercise of its official duties.

* * * * *

§ 309.1 [Further amended]

3. Subdivisions (ii), (iii), and (iv) of paragraph (e)(1) are each amended by deleting the words "Chief of the Division of Examination" wherever they appear therein and inserting the words "Director of the Division of Bank Supervision" in lieu thereof.

*Notwithstanding this provision the Corporation may, in its discretion, and within the 30 day period appeal the denial on its own motion.

4. Paragraph (e) of § 309.1 is amended by deleting the words "Chief of any Division" and by inserting the words "Director or Chief of any Division or Office" in lieu thereof.

5. As the portion of these amendments which was not published for public notice and comment merely represents changes in agency procedure necessitated by Pub. L. 93-502, which becomes effective on February 19, 1975, the FDIC's Board of Directors found that adherence to the requirements of sections 553(b) and 553(d) of Title 5 of the United States Code and §§ 302.1, 302.2 and 302.5 of the rules and regulations of the FDIC was unnecessary and impracticable, and determined that such requirements should not be followed.

6. *Effective date.* This regulation is effective February 19, 1975.

By order of the Board of Directors, March 6, 1975.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
Executive Secretary.

[FR Doc.75-6482 Filed 3-11-75;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEMS

[No. 75-207]

PART 545—OPERATIONS

Mobile Facilities

MARCH 5, 1975.

The Federal Home Loan Bank Board, by Resolution No. 74-1114, dated October 24, 1974, proposed an amendment to § 545.14-4(c)(2) of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.14-4(c)(2)) for the purpose of allowing for Board exceptions to the requirement that a mobile facility of a Federal association be at least ten miles from the locations of any home or branch office or agency of any institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation. Notice of such proposed rulemaking was published in the FEDERAL REGISTER on November 4, 1974 (39 FR 38913), with an invitation for interested persons to submit written comments by December 6, 1974.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board hereby amends said part 545 as proposed by revising § 545.14-4(c)(2)) thereof, to read as set forth below, effective April 12, 1975.

§ 545.14-4 Mobile facility.

* * * * *

(c) *Action by the Board.* Each application by a Federal association which is an eligible association under the provisions of paragraph (b) of this section will be considered or processed pursuant to the provisions of this section. The Board's approval of any such application will be subject to the following provisions

and any other conditions, requirements, and limitations the Board may specify in a particular case:

* * * * *

(2) The mobile facility shall be established and operated at two or more locations, each of which, at the time of filing of the application for permission to establish and operate the mobile facility, shall be more than 10 miles from the locations of any home or branch office or agency of any other institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, unless the applicant establishes to the satisfaction of the Board that a shorter distance is justified;

* * * * *

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

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[FR Doc.75-6423 Filed 3-11-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 75-WE-12-AD; Amdt. 39-2125]

PART 39—AIRWORTHINESS DIRECTIVES

Douglas Model DC-10 Series Airplanes

The Agency has received reports of failure of forward (No. 1) passenger doors to open when operated in the emergency mode. Due to misrigging or broken downlock cables, it has been impossible to release the downlocks. An airworthiness directive is being issued to require inspection and rerigging of the forward passenger doors to insure proper functioning during emergency operation.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

MCDONNELL DOUGLAS. Applies to Douglas Model DC-10-10, -30, -30F, and -40 series airplanes, certificated in all categories, with factory serial numbers as indicated in Douglas Service Bulletin No. 52-132, Revision 1, dated February 21, 1975, or later FAA-approved revisions.

To insure proper functioning of forward passenger doors during emergency operation, accomplish the following:

(a) Compliance required within the next 300 hours' time in service after the effective date of this AD, unless already accomplished.

(1) Inspect the forward passenger door (L & R) operating mechanisms for proper rigging, broken, damaged, or corroded cables, and adjust rigging or replace cables as required, in accordance with Douglas Service Bulletin No. 52-132, Revision 1, dated February 21, 1975, or later FAA-approved revisions.

(2) After accomplishment of the inspection per paragraph (a)(1) above, check pneumatic operation of doors (L & R) from both the inside and outside of the aircraft.

(b) Compliance required on airplanes with 5,000 hours' or more total time in service after the effective date of this AD, unless already accomplished per paragraph (a) above within the last 1500 hours' time in service, and thereafter at intervals not to exceed 1500 hours' time in service from the last inspection.

(1) Reinspect the forward passenger door (L & R) mechanism cables, and replace if required, in accordance with Douglas Service Bulletin No. 52-132, Revision 1, dated February 21, 1975, or later FAA-approved revisions.

(2) If cable(s) has been replaced, recheck pneumatic operation of applicable door(s) from both the inside and outside of the aircraft.

(c) Compliance required within the next 5000 hours' time in service after accomplishment of the inspection per paragraph (a) above, and thereafter at intervals not to exceed 5000 hours' time in service from the last inspection.

(1) Reinspect the forward passenger door (L & R) mechanism rigging, and adjust if required, in accordance with Douglas Service Bulletin No. 52-132, Revision 1, dated February 21, 1975, or later FAA-approved revisions.

(2) If rigging has been adjusted, recheck pneumatic operation of applicable door(s) from both the inside and outside of the aircraft.

(d) The Chief, Aircraft Engineering Division, FAA Western Region, may approve equivalent inspections and modifications upon submittal of substantiating data.

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

This amendment becomes effective April 14, 1975.

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

Issued in Los Angeles, California, on March 3, 1975.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.75-6354 Filed 3-11-75;8:45 am]

[Airworthiness Docket No. 70-WE-44-AD; Amdt. 39-2125]

PART 39—AIRWORTHINESS DIRECTIVES

General Dynamics Model 240, T-29B, 340, 440 and C-131E et al.

Amendment 39-1111 (35 FR 17834), A.D. 70-24-1, requires inspection of left and right pilots' compartment sliding windows for damage and replacement, if necessary, on all General Dynamics Model 240, 340 and 440 airplanes. After issuing Amendment 39-1111, due to service experience, the agency has determined that age of windows made practical interval inspections not entirely reliable and that window failure in all cases has caused pilot compartment damage due to the cockpit door not remaining intact. Therefore, the A.D. is being superseded by a new A.D. that requires periodic replacement of windows irrespective of visual damage and to require modification to the Model 340 cockpit door.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

GENERAL DYNAMICS. Applies to Model 240, T-29B, 340, 440, and C-131E and all such model airplanes converted to turbopropeller power in accordance with STC SA1054WE, known as Model 600, and STC's SA4-1100 and SA1096WE, known as Model 580 and Model 640, respectively, certificated in all categories. Compliance required as indicated.

To detect incipient failure of the left and right sliding windows, and, to provide for a modification to prevent door collapse on certain airplanes, accomplish the following:

(a) For those sliding windows in airplanes used in pressurized operations:

Within the next 20 hours time in service after the effective date of this A.D., unless already accomplished within the last 80 hours time in service and, thereafter, at intervals not to exceed 100 hours time in service from the last inspection, inspect windows per paragraph 2.D.(4) under the "Sliding Windows" Section, page 47 of General Dynamics Service Bulletin 640 (340D) No. 53-5A, dated September 23, 1971, or page 48 of Service Bulletin 600 (240D) No. 53-4A, dated September 27, 1971, or later FAA-approved revisions, or equivalent instructions approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(b) For those sliding windows that have been in storage or installed on airplanes which have been in storage, or installed on airplanes operated upressurized, which, after the effective date of this AD, are to be used in pressurized operation:

(1) Accomplish inspection described in paragraph (a), above, within 20 hours time in service after the effective date of this A.D., unless already accomplished within the last 55 hours time in service, and thereafter, at intervals not be exceed 75 hours time in service or each 30 days, whichever comes first after the airplane is operated in pressurized flight.

(2) After 450 hours time in service or 180 days, whichever comes first after the airplane is operated in pressurized flight, the interval inspections of paragraph (a), above, must be accomplished.

(c) If, as a result of the inspections in (a) or (b), above, damage exceeds the limits specified in the above referenced Service Bulletins; or, if the window is 12 years old or more, replace the window per the applicable Service Bulletin prior to further pressurized flight.

(d) If an airplane is to be operated with damage to the sliding windows exceeding the limits specified in the above referenced Service Bulletins, or with windows 12 years old or more, prior to flight, install a placard in plain view of the flight crew stating:

"Pressurized flight prohibited."

The placard may be removed when the window replacement is accomplished.

(e) On Models 340/440/580/640:

Within the next 2000 hours time in service or by December 31, 1975, whichever comes first after the effective date of this A.D.,

modify the cockpit door in accordance with General Dynamics Service Bulletin 640 (340D) No. 25-9, dated November 16, 1970, or later FAA-approved revisions, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment supersedes Amendment 39-1111 (35 FR 17834), A.D. 70-24-1.

This amendment becomes effective March 17, 1975.

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

Issued in Los Angeles, California, on March 3, 1975.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.75-6355 Filed 3-11-75;8:45 am]

[Docket No. 75-SO-19; Amendment 39-2124]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman Model G-1159 Airplanes

A design problem has been found which, with a single failure, could result in a dangerous condition. Both battery ground wires are connected to a single stud in the center overhead panel. The failure of this stud could result in the loss of all DC and AC electrical power.

Since this condition is likely to exist in other airplanes of the same type design, an Airworthiness Directive is being issued to require an inspection, and modification as required, of the center overhead panel wiring to assure that the two battery control relays are grounded on separate studs.

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 31 FR 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

GRUMMAN AMERICAN AVIATION CORPORATION. Applies to G-1159 airplanes certificated in all categories.

Compliance required within the next 150 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent possible loss of all DC and AC power, connect the battery switch ground leads to separate studs at the center overhead panel in accordance with Grumman ASC 188 or in an equivalent manner approved by Chief, Engineering and Manufacturing Branch, Southern Region, Atlanta, Georgia.

This amendment becomes effective March 18, 1975.

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

Issued on March 3, 1975 in East Point, Georgia.

P. M. SWATEK,
Director, Southern Region, ASO-1.

[FR Doc.75-6356 Filed 3-11-75;8:45 am]

[Airspace Docket No. 74-SW-53]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation regulations is to designate the Van Horn, Tex., transition area.

On January 21, 1975, a notice of proposed rule making was published in the Federal Register (40 FR 3312) stating the Federal Aviation Administration proposed to designate a transition area at Van Horn, Tex.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 g.m.t., June 19, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

VAN HORN, TEX

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Culberson County Airport (latitude 31°03'42" N., longitude 104°47'09" W.) and extending 6.0 miles north and 9.5 miles south of the 054° bearing from the airport coordinates to a point 19 miles northeast of the airport coordinates.

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

Issued in Fort Worth, Tex., on March 3, 1975.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.75-6357 Filed 3-11-75;8:45 am]

[Airspace Docket No. 75-SW-2]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation regulations is to designate the Malvern, Ark., transition area.

On January 24, 1975, a notice of proposed rule making was published in the Federal Register (40 FR 3785) stating the Federal Aviation Administration proposed to designate the Malvern, Ark., transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 19, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

MALVERN, ARK.

That airspace extending upward from 700 feet above the surface within a 5-statute-mile radius of Malvern Municipal Airport, Malvern, Ark. (latitude 34°19'57" N., longitude 92°45'45" W.); and within 3.5 statute miles each side of 046° bearing from the Malvern NDB (latitude 34°19'56" N., longitude 92°45'50" W.), extending from the 5-mile-radius area to 11.5 statute miles northeast of the NDB; excluding that portion which overlies the Little Rock, Ark., transition area.

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

Issued in Fort Worth, Tex., on March 3, 1975.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.75-6358 Filed 3-11-75;8:45 am]

[Airspace Docket No. 75-SO-20]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation regulations is to alter the Augusta, Ga., transition area.

The Augusta transition area is described in § 71.181 (40 FR 441). In the description, extensions are predicated on the Emory RBN 166° and 346° bearings and on the Augusta VORTAC 321° radial. These extensions were designated to provide controlled airspace protection for IFR aircraft executing the NDB RWY 17 and VOR/DME-A Instrument Approach Procedures. Since the final approach altitude of these procedures has been raised, these extensions are no longer required. It is necessary to amend the description to delete the extension and insert a 9-mile radius predicated on Daniel Field therefor. Since these amendments are less restrictive in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 28, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the Augusta, Ga., transition area is amended to read:

AUGUSTA, GA.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Bush Field (Lat. 32°22'10" N., Long. 81°57'55" W.); within 9.5 miles west and 4.5 miles east of Augusta ILS localizer south course, extending from the 11-mile radius area to 18.5 miles south of the LOM; within a 9-mile radius of Daniel Field (Lat. 33°27'55" N., Long. 82°02'25" W.); within a 7-mile radius of Thomson-McDuffie Airport, Thomson, Ga. (Lat. 33°31'45" N., Long. 82°31'00" W.); within 9.5 miles north and 4.5 miles south of the McDuffie RBN (Lat. 33°31'45" N., Long 82°26'30" W.), extending from the 7-mine radius area to 18.5 miles east of the RBN.

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

Issued in East Point, Ga., on March 3, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-6359 Filed 3-11-75;8:45 am]

[Airspace Docket No. 74-SO-109]

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

Designation of Transition Area

On December 2, 1974, a notice of proposed rule making was published in the FEDERAL REGISTER (39 FR 41751), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Kenansville, N.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 19, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

KENANSVILLE, N.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Duplin County Airport (Lat. 35°-00'00" N., Long. 77°59'00" W.); within 3 miles each side of the 034° bearing from Kenan RBN (Lat. 35°02'51" N., Long. 77° 56'45" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

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

Issued in East Point, Ga., on February 27, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-6360 Filed 3-11-75;8:45 am]

[Airspace Docket No. 75-SO-3]

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

Designation of Transition Area

On January 23, 1975, a notice of proposed rule making was published in the FEDERAL REGISTER (40 FR 3611), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Kingstree, S.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. The only comment received was from the Southern Region USAF Representative, who objected because the proposal would have a severe impact on USAF utilization of Florence 49 Low Altitude High Speed Route and Olive Branch Route 17, Statesboro, Ga.

We do not consider the objection valid since aircraft operating IFR on Florence 49 Low Altitude High Speed Route and IFR operations at Kingstree, S.C. will be under the control of the Jacksonville ARTC Center. Aircraft operating VFR on Florence 49 Low Altitude High Speed Route and Olive Branch Route 17, Statesboro, Ga., must have at least a ceiling of 3,000 feet and visibility of five miles. With these weather minimums, both military and civil aircraft in the vicinity of Kingstree will be operating on a "see and be seen" basis, in accordance with Federal Aviation Regulations.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, June 19, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

KINGSTREE, S.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Williamsburg County Airport (Lat. 33°43'01" N., Long. 79°51'26" W.); within 3 miles each side of the 307° bearing from Kingstree RBN (Lat. 33°43'04" N., Long. 79°51'23" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

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

Issued in East Point, Ga., on March 3, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-6361 Filed 3-11-75;8:45 am]

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 4—PUBLIC INFORMATION

This revision updates the rules of the Department of Commerce concerning its responsibilities under the Freedom of Information Act (the "Act", 5 U.S.C. 552) and conforms them to the amendments to the Act (Pub. L. 93-502, 88 Stat. 1561). The Department published on January 16, 1975 in the FEDERAL REGISTER (40 FR 2821) a proposed uniform schedule of fees to become part of those rules. That subject is discussed hereinbelow, and the rules on fees have been incorporated as § 4.9 of this revision.

General. The Department has continued its present format for implementation of the Act. Department Administrative Order 205-12, issued by the Secretary, contains the policies, delegations of authority, and other criteria for the issuance of supplementary rules and the taking of other actions. DAO 205-12 is attached and incorporated by reference as Appendix A to this part. It covers the making of information publicly available by publication in the FEDERAL REGISTER as required by 5 U.S.C. 552(a)(1), the making available of materials for inspection and copying as provided in 5 U.S.C. 552(a) (2) and (5) and the handling of requests for records as provided in 5 U.S.C. 552(a) (3), (4) and (6), subject to other provisions of the Act.

The rules in 15 CFR Part 4 set forth the procedures for the various organizational units of the Department to provide public reference facilities for the inspection and copying of materials for which each unit is responsible, and for their handling of public requests for records. The rules apply to all units in order to assure the maximum amount of uniformity and consistency within the Department in its implementation of the Act.

As in the existing rules, however, the units of the Department may decide whether or not to establish their own separate reference facilities or to join in the use of the central public reference facility established and maintained by the Assistant Secretary for Administration. Several units opted to establish their own facilities. Most are utilizing the central facility, as is indicated in Appendix F to this part.

There was a question whether persons requesting records under 5 U.S.C. 552(a) (3) should be required to address their written requests to a centralized place for the Department, or to send them to a specific address for a particular unit when the requester has reason to know which unit's records it is requesting. Considering the time limitations for handling these requests specified in 5 U.S.C. 552 (a)(6), it was decided, and the rules so provide, that each operating unit may have its own address to receive requests for those records for which each is responsible. A central address is provided for the requests of members of the public who are unfamiliar with the organization of the Department. These addresses are specified in Appendix B to this part.

The rules establish specific requirements for the making and processing of requests, in order tc insure compliance with the time limits imposed by the amendments to the Act. Thus, requests for records are required to be clearly marked and correctly addressed by the requester to the responsible unit or, if not known, to the central place, so as to enable their timely processing. Although Department personnel are to promptly forward the incorrectly marked and addressed requests to the responsible units, the statutory time limits are not deemed to commence to run until such nonconforming requests have been actually received at a correct address, or, with the exercise of due diligence by personnel, they should have been received.

The rules permit only specifically designated officials to initially deny requests for records, whereas additional officials may approve making records available. The officials authorized to make initial denials are identified in Appendix C (unless subsequently otherwise provided). A controlled decentralization of the initial denial decision-making authority among the Department's scattered units is desirable to meet the time limits of the Act.

The determination of appeals from initially denied requests for records has been restricted to the Secretary, to Secretarial officers for their respective offices, and to the heads of the Department's operating units for their respective organizations. These determinations are final for the Department, and a requester may go to court from an adverse determination.

The rules recognize that situations may arise when, despite the exercise of due diligence, the statutory time periods

for reply to a request or for determination of an appeal may expire without the Department's action. In such cases, the requester is to be notified that it may deem the non-reply to its request to be an initial denial from which it may immediately appeal, and the non-determination of the appeal to be an exhaustion of administrative remedies enabling the requester to bring immediate suit for judicial review. In each instance, the requester may be asked to defer such appeal or court action while the Department is making diligent efforts to process the request. Also, a proposed decision date is to be furnished to the requester.

The rules make it clear that requests for records or information that are (a) customarily made available to the public as part of the regular information dissemination activities of the Department, or (b) provided by the Department under statutory authorities other than the Act, such as its user charge statute (15 U.S.C. 1525–1527), are not to be considered requests made under the Freedom of Information Act and will be handled under different procedures and different fee schedules.

Fees and related procedures. As noted, a proposed uniform schedule of fees, with related rules, was published in the FEDERAL REGISTER on January 16, 1975. Several comments were received from the public and from within the Department.

Upon reconsideration, the fee schedule and the related rules have been amended in some respects, predicated upon the comments, a need for certain clarifications, and further consideration of how to apply the provisions of 5 U.S.C. 552(a)(4)(A). That paragraph of the Act provides that the fees be reasonable, that they apply only to document searches and duplication, and that they are fixed to recover only the direct cost of such search and duplication. Also, there shall be no fee or a reduced charge in any instance where the Department determines, in its discretion, that such waiver or reduction is in the public interest because the information contained in the records made available to the requester can be considered as primarily benefiting the general public.

It should be noted that, by construction of law, fees which are received under the Act are not retained for use by the Department but are transferred to miscellaneous receipts of the Treasury.

1. The proposed subsection 4.8 for fees has been changed to subsection 4.9 to conform to the numbering of the provisions in 15 CFR Part 4.

2. The fees which have been set for searches and for copying are considered to be the Department's present actual cost or slightly less. There were Department comments that the provision for copying of records should be clarified to indicate the page size, that the charge is for photocopying or similar process, and that the number of copies to be furnished be limited to one unless a demonstrable need for more is shown. The point of the latter comment is that the Department should avoid being in the duplicating business. These are valid comments, and § 4.9(a)(3) has been amended accordingly.

3. It was commented that provision should be made to permit charges at cost for unanticipated or other types of services or materials which may be requested. Section 4.9(a)(7) has been added for such purpose.

4. A number of Departmental comments objected to the proposal not to charge for a request when the fees totaled less than $25. "Fees" cover both search and copying. Under this provision as much as 357 pages of free reproduction would be furnished. Also, it was claimed that the amount proposed did not adequately consider limited agency resources and should be reduced. We found, from a review of the proposed fee rules which other Federal agencies issued under the Act, that if they provide for a waiver of search fees, the amount waived does not exceed $10. We believe it in line and reasonable to amend the general fee waiver to restrict it to search fees only and to reduce it to a $10 ceiling. It was also made discretionary to waive a copying fee which does not exceed $1. Paragraph 4.9(b)(5) so provides.

5. It was noted that requests for records made by Federal agencies and courts, Congressional committees, the General Accounting Office and the Library of Congress are not made under the Act, and that the fees provided under the Act are not, therefore, applicable to these requests. Paragraph 4.9(b)(1) was revised accordingly.

6. A public comment objected to the proposed provision that search fees are chargeable even when the records requested are not found in the search or they are determined to be exempt from disclosure. The comment stated that in its view of the legislative history of the amendments to the Act, Commerce is here doing what Congress did not intend it to do. The comment proposed that Commerce follow the Department of Justice rules permitting flexibility to charge if the requester has been notified about the estimated search cost and search time has in fact been substantial.

We believe that the statute and its legislative history permit an agency to charge for searches which are not productive or where records found are determined to be exempt from disclosure. A number of agencies other than Commerce have provided for this. Others have as a matter of policy decided either not to charge or to do so when search costs have been substantial. The act provides only for no charge or a reduced charge as stated in 5 U.S.C. 552(a)(4)(A). It is otherwise silent, and discretion has been left to the agencies. Search costs may be quite costly, and if not charged, they are paid from appropriated funds. Agency resources and the taxpayer's interests should be taken into account. Charging for search time when the results are negative or records are properly withheld under the Act is not intended to and does not act as a deterrent to requests for records.

The proposed rule did not provide for mandatory search charges in the stated situations; it said that search fees in such cases were "chargeable", a discretionary matter. Nonetheless, since the Department is concerned with its having to absorb substantial search charges in these situations, the rule (subparagraph 4.9(c)(1)) has been amended to provide that when search cost exceeds $50 (manual—five hours) for a particular request for records, and no records are found or forthcoming, the requester may be charged.

7. A public comment contended that there is no legal basis for a proposed rule which provides that when the agency *notifies* a requester (a) that estimated search costs will be substantial or will exceed what the requester has agreed to pay, or that the requester is delinquent in past payments, and (b) that the requester shall pay the estimated search fee before the search continues; the time period between the notice and the requester's payment of the fee shall not be included in the statutory time limitations set forth in 5 U.S.C. 552(a)(6) for a reply to the request. The comment asserts that the Act requires a determination of availability of records within the time limit, and that the Department's concern over being paid its search fee can be met by requiring payment before the records are made available to the requester.

We believe that the Act permits an agency, in its administration of fee schedules, to establish a rule setting forth the circumstances under which the agency will request payment of estimated search fees *before* a search is made. A requester is liable for payment of fees properly assessable under the Act. This liability is the same before or after the work is done by the agency, to the extent the fees are the same. It is a proper agency interest to request and receive payment before it incurs *substantial* effort and expense in making a search, particularly when the requester is unaware of the anticipated cost, or the cost will exceed what the requester has informed the agency it will pay, or the requester has not paid prior fees.

The rule would apply only in those instances. The Department is to notify the requester of the estimated search costs in the instances provided in the rules immediately upon their ascertainment. This notice protects the requester against its incurring unanticipated costs. It is then up to the requester to pay the estimated fee or to discuss with the unit how the search may be reduced. Any delay in the Department's proceeding with the search is left to the requester. The time period which is to be tolled is, therefore, entirely within the control of the requester, and does not provide for any dilatory action by the Department.

We see no real or legal difference, so far as the requester is concerned, between a rule saying the requester is to pay an estimated search fee *prior to search* (and the records are ultimately furnished to it), and the rule proposed in the comment that the records *after*

search shall be withheld from the requester until it pays the search fee. However, the Department's rules provide that a requester may also be charged a search fee when records requested are not found in a search, and when records found are determined not to be discloseable. If, subsequent to search, the requester decides for any reason not to pay the search fee in any of those situations, the Department will be left with a usually uncollectable claim for the cost of the resources it expended on the search. We believe that the law permtis the Department to insist, if it wishes, to be paid an authorized fee before it undertakes substantial work, without having the time limits contained in the Act run against the Department while the requester decides whether or not to pay.

We believe that the rule set forth in § 4.9(c)(5) is justifiable legally, and as a matter of policy. It is not intended to discourage any requests for records. As now written, it allows for administrative flexibility, permitting the responsible official in any case to determine to postpone payment of the search fee until later in the search or until it is completed.

Because this revision pertains to matters of procedure and policy, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Many of these provisions are necessary to achieve compliance with the amendments to the Freedom of Information Act (5 U.S.C. 552) which became effective on February 19, 1975. However, in accrdance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments on these amendments to the Office of the General Counsel, U.S. Department of Commerce, Room 5879, Washington, D.C. 20230, no later than March 28, 1975. Arrangements to inspect copies of written comments may be made by writing or by calling the Office of General Counsel, 202—967-5387. All comments received in this manner will be evaluated for possible changes in the rules.

In consideration of the above, Part 4 of Title 15, Code of Federal Regulations, is revised as set forth below.

Sec.

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502; 5 U.S.C. 553; 5 U.S.C. 301; Reorganization Plan No. 5 of 1950.

§ 4.1 Scope and purpose.

(a) This part revises the rules of the Department of Commerce whereby the Department and its organizational units are to make publicly available the materials and indexes specified in 5 U.S.C. 552(a)(2) and the records requested under 5 U.S.C. 552(a)(3). This revision is to conform the rules to the requirements of the Freedom of Information Act (5 U.S.C. 552), as amended by Pub. L. 93-502, 88 Stat. 1561, effective February 19, 1975.

(b) These rules supplement Department Administrative Order 205-12, which contains policies, delegations of authority, and other rules implementing 5 U.S.C. 552. DAO 205-12 is attached as Appendix A to this part.

(c) Certain units of the Department other than those identified in paragraph 4.4(d) of this section have, pursuant to delegated authority and for appropriate reasons, established their own facilities for the public inspection and copying of records. The units have provided for separate places to which requests for records are to be made and received. These facilities and places are identified in Appendix B to this part. The units may publish supplementary rules in addition to but not inconsistent with this part, DAO 205-12, and the law in their respective chapters of the Code of Federal Regulations or otherwise in the FEDERAL REGISTER. All of such rules shall be maintained in the central public reference facility identified in § 4.4(c), where information about them may be obtained.

§ 4.2 Policies.

(a) Department Administrative Order 205-12 contains the basic policies and other criteria to be considered in issuing and administering these rules. To the extent that these policies and criteria are not specified in this part or in any supplemental rules of units, they are incorporated by reference.

(b) Requests for records made under 5 U.S.C. 552(a)(3) apply only to existing records, and the Department is not required, in response to a request, to create records by combining or compiling information contained in existing records, or otherwise to prepare new records. However, Departmental officials may, upon request, provide or create new information in record form pursuant to user charge statutes, such as 15 U.S.C. 1525-1527, or in accord with authority otherwise provided by law.

§ 4.3 Definitions.

(a) All terms used in this Part which are defined in 5 U.S.C. 551 shall have the same meaning herein.

(b) As used in this part, "Act" means the "Freedom of Information Act", as amended, 5 U.S.C. 552.

(c) The terms "Office of the Secretary" and "operating unit" are defined in Department Organization Order 1-1, "Mission and Organization of the Department of Commerce" (35 FR 19704, December 27, 1970).

(d) The term "unit" as used in this part means (1) an operating unit of the Department, and (2) each Secretarial officer and the persons and the Departmental officers under each.

§ 4.4 Availability of materials for inspection and copying; indexes.

(a) The Assistant Secretary for Administration has established and maintains a central public reference facility available to units of the Department, at which place the following materials of those units utilizing the facility shall be made available for public inspection and copying:

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(2) Those statements of policy and interpretations which have been adopted by the participating organizations and are not published in the FEDERAL REGISTER;

(3) Administrative staff manuals and instructions to staff that affect a member of the public;

(4) Current indexes providing identifying information for the public as to any matter which was issued, adopted, or promulgated after July 4, 1967, and is required by 5 U.S.C. 552(a)(2) to be made available or published;

(5) Records of the final votes of each member in every proceeding of an agency comprised of more than one member;

(6) Rules and decisions denying requests for records which otherwise implement or relate to the Act; and

(7) Materials published in the FEDERAL REGISTER pursuant to 5 U.S.C. 552(a)(1) and such other materials which each unit may consider desirable and practical to make available for the convenience of the public.

(b) The Secretary of Commerce has determined (DAO 205-12, subparagraph 5.02a.5.) that it is unnecessary and impracticable to publish quarterly or more frequently and distribute (by sale or otherwise) copies of each index and supplements thereto, as provided in 5 U.S.C. 552(a)(2). Upon request, copies of such indexes shall be provided at the public reference facility at a cost not to exceed the direct cost of duplication.

(c) The central facility established by the Assistant Secretary for Administration is the Central Reference and Records Inspection Facility, Room 7043, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230. This facility is open to the public Monday through Friday of each week, except on official holidays of the Federal Government, between the hours of 9 a.m. and 4:30 p.m. There are no fees or formal requirements for inspection of materials. Coin-operated equipment for making copies of these materials is available for use by the public. Copies of various Commerce Department materials regularly available for sale by

the Department may be purchased at the facility or information about them obtained. Correspondence concerning materials available at the facility or information about the rules implementing the Act may be sent to the above address. The telephone number of the facility is Area Code 202, 967-2161.

(d) The following units of the Department are participating in the use of this central facility:

(1) All components of the Office of the Secretary of Commerce.

(2) Domestic and International Business Administration.

(3) National Bureau of Standards.

(4) Bureau of Economic Analysis of the Social and Economic Statistics Administration.

(5) United States Travel Service.

(6) Office of Minority Business Enterprise.

(7) National Technical Information Service.

(8) Office of Product Standards.

(9) Office of Telecommunications.

(10) National Fire Prevention and Control Administration.

(e) Other units of the Department which have established separate public reference facilities, listed in Appendix B to this part, shall publish rules applicable to the services provided therein, not inconsistent with this part, for public inspection and copying of materials.

§ 4.5 Requests for records.

(a) A request for a record of the Department (or information contained therein) which is not customarily made available to the public as part of the Department's regular informational services, or which is not available in a public reference facility described in § 4.4(c) or Appendix B to this part, shall be made in writing, with the envelope and the letter clearly marked "Freedom of Information Request" or "Request for Records" or the equivalent, to distinguish it from other mail to the Department. Each such request, so marked, shall be addressed to the unit of the Department identified in Appendix B to this part which the requester knows or has reason to believe is responsible for the records requested. If the requester is not sure which is the responsible addressee unit, it shall address the request to the central facility identified in § 4.4(c), or obtain advance information from that facility as to which is the responsible addressee unit.

(b) Any request for records which is not marked and addressed as specified in paragraph (a) of this section will be so marked and addressed by Department personnel and forwarded immediately to the responsible unit having possession or control of the records requested or having primary concern with such records. A request which is improperly addressed by the requester will not be deemed to have been "received" for purposes of the time period for a request for records set forth in 5 U.S.C 552(a)(6), until the earlier of the time that (1) forwarding of the request to the responsible unit has been effected, or (2) such forwarding would have been effected with the exercise of due diligence by Department personnel. In each instance when a request is forwarded, the responsible unit receiving it shall notify the requester that its request was improperly addressed and of the date the request was received by the unit.

(c) A request for records shall sufficiently identify the records requested to enable Department personnel familiar with the subject matter to locate them with a reasonable amount of effort. The requester shall, to the extent possible, furnish specific description information regarding dates and place the records were made, the file descriptions, subject matter, persons involved, and other pertinent details that will help identify the records. If the request relates to a matter in pending litigation, the court, location and case shall be identified. When more than one record is requested, the request shall clearly describe each specific record, and the specific information requested which is contained in a record, so that its availability may be separately determined. Employees at a facility or at a specific address listed in Appendix B will assist the public to a reasonable extent in framing a request.

§ 4.6 Initial determinations of availability of records.

(a) The responsible unit which receives a request for records shall promptly log the receipt of the request, and within ten days of its receipt (excepting Saturdays, Sundays, and legal public holidays) shall initially determine:

(1) Whether the request is for records under the Act, is for materials available otherwise than under the Act, or is for information not contained in existing records and, therefore, not under the Act. The requester shall be promptly notified in writing how the request is being handled when it does not come within the Act.

(2) Whether the records requested are reasonably described and can be located on the basis of the information supplied by the requester. If any of the records requested cannot be identified and located from the information furnished, the unit shall promptly so inform the requester in writing, specifying what additional identification is needed to assist the unit in locating the record, and offering to assist the requester to reformulate its request.

(3) Whether the records no longer exist, or are not in the unit's possession. The unit should, if it knows which unit of the Department or other agency may have the records, forward the request to it. In each instance, the unit shall promptly notify the requester in writing.

(4) Whether the requested records are the exclusive or primary concern of another executive agency. If so, the unit shall promptly refer the request to that other agency for further action under its rules, and promptly notify the requester in writing of this referral.

(5) Whether the request is a categorical one. A categorical request, i.e., one for all records falling within a reasonably specific but broad category, shall be regarded as conforming to the statutory requirement that records be reasonably described, if the particular records can be identified, searched for, collected and produced without unduly burdening or disrupting the unit's operations. If the categorical request does not reasonably describe the records requested, the unit shall promptly notify the requester in writing specifying what additional identification is needed, and extend to the requester an opportunity to confer with Department personnel to attempt to reformulate the request so as reasonably to describe the records.

(6) In each of the situations set forth in paragraphs (a) and (b) of this section, the procedures reating to fees described in § 4.9 shall also be applied and coordinated as appropriate.

(b) An authorized official in the responsible unit shall review the request to determine the availability of the records requested.

(1) The determination shall be made within ten days (excepting Saturdays, Sundays and legal public holidays) of the receipt of the request (as defined in § 4.5(b) of this section), unless the time is extended as provided in paragraph (b)(2) of this section.

(2) In unusual circumstances, an appropriate official authorized to make initial denials of requests may extend the time for initial determination for up to ten days (excluding Saturdays, Sundays and legal public holidays) by written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. Extensions of time for the initial determination and extensions of time on appeal may not exceed a total of ten days, and time taken for the former counts against available appeal extension time. "Unusual circumstances" means, but only to the extent reasonably necessary to the processing of a particular request: (i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request; (ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request, or (iii) the need for consultation, which shall be conducted with all practical speed, with another agency or unit having a substantial interest in the determination of the request, or among two or more components of the responsible unit having substantial subject-matter interest therein.

(3) If no determination has been sent to the requester at the end of the initial ten day period, or the last extension thereof, the requester may deem his request to be initially denied, and exercise a right of appeal therefrom. When no determination can be made within the applicable time period, the responsible unit shall nevertheless exercise due diligence in continuing to process the request. It shall, on expiration of the ap-

plicable time period, inform the requester of the reason for the delay, of the date a determination is expected to be sent, and of the requester's right to treat the delay as a denial and to appeal therefrom. It may ask the requester to forego an appeal until a determination is made.

(4) If it is determined that the records requested are to be made available, and there are no further fees to be paid, the responsible official shall promptly notify the requester as to where and when the requested records or copies may be obtained or otherwise provide them as agreed. If there are fees still to be paid by the requester, it shall be notified that upon their payment the records will immediately be made available.

(5) Appendix C lists the limited number of officials who have been authorized to make initial denials of requests for records, except as may be subsequently authorized. A reply initially denying, in whole or in part, a request for records shall be in writing, signed by an authorized official, and it shall include:

(i) A reference to the specific exemption or exemptions of the Act authorizing the withholding of the records, stating briefly why the exemption applies and, where relevant, why a discretionary release is not appropriate.

(ii) The name and title or position of each official responsible for the denial.

(iii) A statement of the manner in which any reasonably segregable portion of a record shall be provided to the requester after deletion of the portions which are determined to be exempt.

(iv) A brief statement of the right of the requester to appeal the determination, and the address to which the appeal should be sent, in accord with § 4.8 (a) and (b).

(6) A copy of each initial denial of a request for records shall be provided to the Assistant General Counsel for Administration.

§ 4.7 Inspection and copying of disclosable records.

(a) Unless the requester has otherwise indicated, disclosable records shall be sent to the appropriate facility to be held for a reasonable time for inspection by the requester, after any fees due are paid.

(b) The requester may copy by hand any portion of the record may use the coin-operated copying equipment at the facility to make copies, or may make other arrangements for copying at specified fees.

(c) No change or alteration of any kind may be made to the record being inspected, nor may any matter be added to or deleted therefrom. Papers bound or otherwise assembled in a record file may not be dissassembled by the requester. Title 18, United States Code, section 2701(a) makes it a crime to conceal, mutilate, obliterate, or destroy any record filed in any public office, or to attempt to do any of the foregoing. Staff of the facility are authorized to supervise inspection as necessary to protect the records of the Department, and they shall provide assistance if disassembly of a record is necessary for copying purposes.

(d) If a requester does not want to inspect a record by personal visit to the facility, a copy shall be mailed to the requester upon its payment of copying and postage fees as set forth in subsection 4.9 of this part, and other fees due. Original copies of records of the Department shall not be sent to any location other than the appropriate facility for inspection.

(e) A copy of transcripts of public hearings held by a unit of the Department may be made available for inspection when it is not in actual official use.

§ 4.8 Appeals from initial denials or untimely delays.

(a) When a request for records has been initially denied in whole or in part, or has not been timely determined, the requester may submit a written appeal within thirty calendar days after the date of the written denial or, if there has been no determination, on the last day of the applicable time limit. The appeal shall include a copy of the original request, the initial denial, if any, and a statement of the reasons why the records requested should be made available and why the initial denial, if any, was in error. No personal appearance, oral argument or hearing on appeal is provided.

(b) An appeal shall be addressed to the particular official identified in the initial denial notice as the person to receive an appeal; or if the requester did not receive such a notice, the appeal shall be addressed to the Assistant Secretary for Administration. Both the appeal envelope and the letter shall be clearly marked "Freedom of Information Appeal" or "Appeal for Records" or the equivalent. An appeal not addressed and marked as provided herein will be so marked by Department personnel when it is so identified, and will be forwarded immediately to the proper addressee. An appeal incorrectly addressed will not be deemed to have been "received" for purposes of the time period for appeal set forth in 5 U.S.C. 522(a)(6), until the earlier of the time that (1) forwarding to the appropriate appeals official has been effected, or (2) such forwarding would have been effected with the exercise of due diligence by Department personnel. In each instance when an appeal is so forwarded, the appropriate appeals official shall notify the requester that its appeal was improperly addressed and of the date the appeal was received by that official.

(c) An appropriate official responsible for determining appeals of requests for records shall act upon an appeal within twenty days (excluding Saturdays, Sundays and legal public holidays) of its receipt, unless an extension of time is made in unusual circumstances, when the time for action may be extended up to ten days (excluding Saturdays, and Sundays and legal public holidays) minus any days of extension granted at the initial request level. A notice of such extension shall be sent to the requester, setting forth the reasons and the date on which a determination of the appeal is expected to be sent. As used in this paragraph, "unusual circumstances" are defined in § 4.6(b)(2).

(d) If a decision on appeal is to make the records available to the requester in part or in whole, such records shall be promptly made available for inspection and copying as provided in § 4.7

(e) If no determination of an appeal has been sent to the requester within the twenty day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies with respect to such request, giving rise to a right of judicial review as specified in 5 U.S.C. 552(e)(4). When no determination can be sent to the requester within the applicable time limit, the responsible appeals official shall nonetheless exercise due diligence in continuing to process the appeal. When the time limit expires, the requester shall be informed of the reason for the delay, of the date when a determination may be expected to be made, and his right to seek judicial review. The requester may be asked to forego judicial review until the appeal is determined.

(f) A determination on appeal shall be in writing and, when it denies records in whole or in part, the notice to the requester shall include: (1) notation of the specific exemption or exemptions of the Act authorizing the withholding, a brief explanation of how the exemption applies, and, when relevant, a statement as to why a discretionary release is not appropriate; (2) a statement that the decision is final for the Department; (3) advice that judicial review of the denial is available in the district in which the requester resides or has his principal place of business, the district in which the agency records are situated, or the District of Columbia, and (4) the names and titles or positions of each official responsible for the denial of the request.

(g) Final appeal decisions shall be indexed and kept available for public inspection and copying in the central public reference facility referred to in § 4.4(c). Copies shall be sent to the Assistant Secretary for Administration and the Assistant General Counsel for Administration.

§ 4.9 Fees.

(a) *Uniform fee schedule.* Unless waived or reduced as provided in paragraph (b) of this section, only the following fees shall be charged in connection with requests for records subject to this part.

(1) *Searches other than for computerized records.* $2.50 for each one-quarter hour (or fraction thereof) per person for time spent by clerical, professional and supervisory personnel in examining records in order to find the records and information that are within the scope of the request, and for transportation of personnel and records necessary to the search.

(2) *Searches for computerized records.* Actual direct cost of the computer time to the Government agency to use the equipment involved in the search,

not to exceed $270 per hour ($4.50 per minute). This fee includes both machine time and that of related operator and clerical personnel. If programming is necessary to conduct the search, there will be an additional fee of $2.50 for each one-quarter hour (or fraction thereof) per person for programmer/analyst time. The fee for computer printouts shall be 20 cents per page for the original copy and carbon copies concurrently printed.

(3) *Copying of records.* Seven cents per copy of each page, up to 8½" x 14", made by photocopy or similar process. Normally, only one copy will be provided. Added copies will be provided only upon a showing of demonstrated need.

(4) *Copies of microfilm or microfiche.*

16 mm. (100 ft. roll), $6.00.
35 mm. (100 ft. roll), $7.00.
105 mm. fiche, $0.25 each.
Aperture cards, $0.25 each.
$0.25 per page for each microform frame printed on paper.

(5) *Certification or authentication of records.*

$3.00 per certification or authentication.

(6) *Forwarding records to requesting party.* Actual cost of postage, insurance and special fees, if their total exceeds $1.00.

(7) *Other costs.* When other duplication costs not specifically identified in this paragraph (a) are requested and provided, their direct cost to the Department shall be charged. Other services and materials requested which are not covered by this part are chargeable at actual cost to the Department.

(b) *Waiver or reduction of fees.* A fee shall not be charged, or alternatively it may be reduced, in the following instances:

(1) Requests for Department records made by a Federal agency, Federal court (excluding parties), Congressional committee or subcommittee, the General Accounting Office, or the Library of Congress, are not made under the Act, and fees payable under this part do not apply.

(2) The records are requested by a State or local government, an intergovernmental agency, a foreign government, a public international organization, or an agency thereof, and when it is determined by a responsible Departmental official that it is an appropriate courtesy, or that the records are for purposes that are in the public interest and will promote the objectives of the Act and of the Department.

(3) When it is determined, either upon petition submitted by the requester, or by a responsible Departmental official on his own initiative, that waiver or reduction of the fee is in the public interest because furnishing the information in the records requested can be considered as primarily benefiting the general public. Any such petition shall specify the intended purpose to which the records requested will be put, why all of them are necessary, and any other relevant factors, in order to show how the information furnished in all or part of the records can be expected to primarily benefit the general public.

(4) When it is determined by the responsible Departmental official, based upon a petition therefor, that the requester is indigent, that the request for records has a strong public interest justification, and that agency resources permit a waiver of the fee. A person is deemed to be indigent if he does not have income or resources sufficient to pay the fees involved.

(5) A search fee totaling $10 or less shall be waived. A copying fee totaling $1 or less may be waived. The fees for other contemporaneous requests made by the same or related requesters shall be aggregated to determine the total fee.

(c) *Payment of fees.* The following conditions shall apply to payment of fees charged under this part.

(1) A search fee provided in paragraph (a) of this section which exceeds $50 is chargeable even when no records responsive to the request are found, or when the records requested are determined by the responsible Department official to be totally exempt from disclosure.

(2) If the requester has notified the Department in or with its request for records that it is willing to pay an amount sufficient to cover the necessary search fee, a search may be made for the records without further notice to the requester, unless the requester is delinquent in making past payments or the estimated search fee will exceed $100.

(3) If the requester has stated in or with its request that it is willing to pay a specified amount which is less than $100 for a search, a search may be made for the records without further notice to the requester if the fees are estimated to be less than the specified limit, unless the requester is delinquent in making past payments.

(4) If the estimated fee (i) exceeds $100 for a request covered within paragraph (c)(2) of this section, (ii) exceeds the limits specified by a requester within paragraph (c)(3) of this section, or (iii) exceeds $50 and the requester has said nothing about payment; or if the requester in any instance is delinquent in past payments, the requester shall be notified immediately (by wire or telephone confirmed in writing) of the estimated total fee and shall be asked to pay such fee before the search may be conducted or continued. The notice may advise the requester that it may confer with specified Department personnel as to possible reformulation of the request in order to reduce the fee.

(5) The administrative time limitations prescribed in 5 U.S.C. 552(a)(6) shall be tolled from the time the notice described in paragraph (c)(4) of this section is sent to the requester until the time that the unit receives payment of the estimated fee from the requester, unless the responsible Departmental official determines to postpone payment of the search fee until later in the search or until it is completed.

(6) When a specific fee is determined to be payable and notice thereof has been given to the requester, the payment of such fee shall be received before the requested records or any part thereof are made available to the requester.

(7) Payment of fees shall be made in cash or preferably by check or money order payable to "U.S. Department of Commerce", and, they shall be paid or sent to the unit stated in the billing notice or, if none, to the unit handling the request. Where appropriate, the responsible official may require that payment be made in the form of a certified check.

(8) If an advance payment of an estimated fee exceeds the actual total fee by $1 or more, the difference shall be refunded to the requester. If the estimated fee paid is less than the actual fee later determined, any difference in excess of $1 may be further billed to and is payable by the requester.

APPENDIX A—PUBLIC INFORMATION

[DAO 205-12]

SECTION 1. *Purpose.*—.01 This order, and the rules and other materials which implement it, are designed to carry out the responsibilities of the Department of Commerce under the Freedom of Information Act, as amended (5 U.S.C. 552), hereinafter referred to as "the Act".

.02 This revision updates and clarifies the provisions of the order (dated June 29, 1967) which it supersedes, in light of the amendments to the Act which become effective February 19, 1975. Section 7, "Compulsory Process Requesting Documents or Testimony", contained in the superseded order, is now found in Department Administrative Order 218-5, to be published separately in the FEDERAL REGISTER.

SEC. 2. *Authorities*—This order is issued pursuant to the Act; 5 U.S.C. 553; 5 U.S.C. 301; Reorganization Plan No. 5 of 1950; and other authority vested by law in the Secretary applicable to the dissemination of records and other information of the Department and charges for services related thereto.

SEC. 3. Policies—.01 The Department of Commerce, in fulfilling its statutory missions to foster, promote and develop the foreign and domestic commerce of the United States and to administer the specific programs entrusted to it, regularly develops, collects, analyzes, and disseminates facts, statistics, consuses, charts, scientific findings, technology, and other information, and performs other services, in order to assist the business community and other segments of the public, according to their needs and interests. This information which the Department develops, collates, and disseminates is generally made readily available, either without charge or by purchase, to the affected persons and to anyone else who may be interested, through publications, reprints of regulations (by subscription or otherwise), press releases, special reports, correspondence and personal interviews or conferences with staff, speeches, and other media. It is the policy of the Department to continue its regular practices of disseminating information to the public prepared as a part of its program responsibilities, to the fullest extent legally permissible and economically feasible, and to continue to handle public requests for such information (which may include records) in the usual manner through its regular facilities and channels, as distinguished from those requests for records subject to 5 U.S.C. 552(a)(3) which are to be made and handled in accord with the rules established in and pursuant to subsections 5.03 and 5.04 of this order.

In carrying out this policy, the officials designated in subsection 4.01 of this order shall (a) establish and continue an effective program of communicating to the public the useful information obtained or developed in the fulfillment of their organizational missions; (b) publicize the availability of such informational materials in their rules or by other practical means so that the public shall utilize the regular informational programs of the Department, rather than resorting to the formal procedures for requesting records established pursuant to 5 U.S.C. 552 (a)(3); and (c) insure that any such information which is given to individuals or special groups shall also be made available to the general public in accord with subsections 5.01 and 5.02 of this order, when and to the extent such information is subject to publication or inspection under 5 U.S.C. 552(a)(1), (2), or (5).

.02 Officials responsible for determining, in accord with the Act and this order:

(a) What materials are to be published in the FEDERAL REGISTER; (b) What and how materials are to be made available for public inspection and copying, including indexing; and (c) What and how records which are requested are to be made available; shall, where discretion exists in making such determinations, take an affirmative and constructive view of the requirements of the Act. Accordingly, in making rules and specific determinations, they shall among other factors: (1) provide such information to the affected public as will enable it to deal effectively and knowledgeably with their organizations; (2) keep within the limits of demonstrable need the use of the legal authorities which permit the withholding of information and records; (3) apply principles of equal treatment to requests for records; (4) consider disclosure to be the rule rather than the exception; (5) consider the public convenience as well as the efficient conduct of their organizations' business; (6) act in a timely manner; and (7) be guided by materials prepared by the Department of Justice and the Office of General Counsel of the Department, and by applicable court decisions.

SEC. 4. *Delegation of authority*—.01 The Secretary of Commerce is responsible for the effective administration of the Act and other laws applicable to the dissemination of records and other information of the Department. Aside from the Secretary's retaining authority for his immediate office, or as he otherwise may act, authority is hereby delegated to the following officials of the Department to decide whether or not to make publicly available records and other information subject to the Act which are in the possession of their organizations, in accord with the provisions of the Act, this order and rules supplementing it, other applicable law, and as may be otherwise provided by the Secretary: a. Secretarial Officers, for their respective offices and for the Department staff units reporting to them (as defined in Department Organization Order 1-1, "Mission and Organization of the Department of Commerce" (35 FR 19704, December 27, 1970).)

b. Heads of operating units of the Department (as defined in Department Organization Order 1-1).

.02 Although the officials having authority under subsection 4.01 of this section may delegate or designate or permit employees within their organizations to make records and information publicly available under the Act, they shall redelegate authority to *deny* such records and information only to a limited number of officers or employees under them without power of further redelegation. The authority to make final decisions on appeal of initially denied requests for records, shall not be redelegated by the officials designated in subsection 4.01 of this section.

.03 The General Counsel of the Department, and his designees, shall provide legal services to enable the officials designated in subsections 4.01 and 4.02 of this section to discharge their respective duties and responsibilities under and pursuant to this order, and shall make legal interpretations of questions arising thereunder. The General Counsel shall also act as the focal point within the Department for consultation or other communication with the Department of Justice with respect to any actions to be taken in connection with the Act, this order, and rules implementing it.

SEC. 5. *Functions and responsibilities*—.01 *Publication in the* FEDERAL REGISTER (5 U.S.C. 552(a)(1) of the Act).

a. The following information of the Department and its component organizations shall be separately stated and currently published in the FEDERAL REGISTER for the guidance of the public:

1. Descriptions of the central and field organizations and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

2. Statements of the general course and method by which functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

3. Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

4. Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by their agencies; and

5. Each amendment, revision, or repeal of the foregoing.

b. The information contained in paragraph 5.01a of this subsection shall be published in the FEDERAL REGISTER in the form of or included in:

1. Department Organization Orders, including any supplements and appendices thereto. The Assistant Secretary for Administration shall cause such materials to be published in the FEDERAL REGISTER. The Department Organization Orders and their supplements and appendices contain, among other information, the descriptions of the various organizations of the Department, and in many instances the other information indicated in subparagraphs 5.01a.1. and 2. of this subsection.

2. Department Administrative Orders, including any supplements or appendices thereto.

3. Other Office of the Secretary or operating unit directives.

4. Rules and orders contained in the various Titles of the Code of Federal Regulations assigned to the Office of the Secretary and to the operating units of the Department.

5. General notices.

6. Other forms of publication when incorporated by reference in the FEDERAL REGISTER with the approval of the Director of the FEDERAL REGISTER.

c. Officials responsible for determining what materials are to be submitted for publication in the FEDERAL REGISTER pursuant to 5 U.S.C. 552(a)(1) shall consider, among other factors, in making such determinations:

1. That those matters which fall within one or more of the exemptions contained in 5 U.S.C. 552(b) need not be published. However, it may be decided, in accord with subsection 3.02 of this order, that publication even of such matters should in some instances and respects be made.

2. That matters which are reasonably available to the class of persons affected thereby and which have been or are to be incorporated by reference in the FEDERAL REGISTER with the approval of the Director of the Federal Register are deemed to be published in the FEDERAL REGISTER. In such cases, the standards and procedures for incorporation by reference established by the Director of the Federal Register (See 1 CFR Part 51; 37 FR 23614, November 4, 1972) shall be followed.

3. That matters to which members of the public do not have to resort or by which they are not to be adversely affected, or which do not impose burdens, obligations, conditions, or limitations upon persons affected, need not be published in the FEDERAL REGISTER under 5 U.S.C. 552(a)(1). However, the policy considerations expressed in subsection 3.02 of this order may in certain instances suggest the publication of such matters.

4. That no person shall in any manner be required to resort to or be adversely affected by any matter required to be published in the FEDERAL REGISTER under 5 U.S.C. 552(a)(1) when it is not so published. However, actual and timely notice given to such a person cures any defect of nonpublication as to such person, since a person having such actual notice is equally bound as one having constructive notice by FEDERAL REGISTER publication. Nevertheless, such actual notice should as a matter of policy be in addition to, rather than instead of, publication.

5. That "currently publish" as provided in 5 U.S.C. 552(a)(1) means promptly at the time that the action occurs.

.02 *Availability of materials for inspection and copying; indexing* (5 U.S.C. 552(a)(2) and (5) of the Act).

a. The head of each operating unit of the Department shall for his unit, and the Assistant Secretary for Administration shall for the officials, officers and units referred to in paragraph 4.01a. of this order, in accordance with rules which they shall cause to be published in the FEDERAL REGISTER, make available for public inspection and copying the following materials, unless such materials are promptly published and copies offered for sale:

1. Final opinions (including concurring and dissenting opinions), as well as orders, made in the adjudication of cases.

2. Those statements of policy and interpretations which have been adopted by the agency and are not published in the FEDERAL REGISTER.

3. Administrative staff manuals and instructions to staff that affect a member of the public.

4. Where applicable, a record of the final votes of each member of an agency in every agency proceeding when the agency has more than one member. (The terms "agency proceeding" and "agency" are defined in 5 U.S.C. 551, as amended by 5 U.S.C. 552(e)).

5. An index, currently maintained, which provides identifying information for the public as to any matter (a) which has been issued, adopted, or promulgated since July 4, 1967, and (b) which is required to be made available or published pursuant to 5 U.S.C. 552(a)(2). It is hereby determined, subject to subsequent redetermination by the Assistant Secretary for Administration pursuant to changed circumstances, that it is unnecessary and impracticable to publish quarterly or more frequently and distribute (by sale or otherwise) copies of each such index and supplements thereto. Copies of such indexes shall be provided upon request at a cost not to exceed the direct cost of duplication.

b. The rules published in the FEDERAL REGISTER under paragraph 5.02a. of this subsection shall include provisions for the time,

place, copying fees, and any procedures applicable to making such materials available at facilities or otherwise for public inspection and copying.

c. The Assistant Secretary for Administration shall establish and maintain a centralized public reference facility for the inspection and copying of materials subject to 5 U.S.C. 552(a) (2) and (5). The head of an operating unit may, with the approval of the Assistant Secretary for Administration, establish for his organization a separate place for making the materials subject to 5 U.S.C. 552(a) (2) and (5) available to the public for inspection and copying, and publish appropriate rules applicable thereto approved by the Assistant Secretary for Administration.

d. The officials responsible for determining the materials to be available for public inspection and copying under paragraph 5.02a. of this subsection, shall consider, among other factors, in promulgating the published rules or in making such determinations:

1. That those matters which fall within one or more of the exemptions contained in 5 U.S.C. 552(b) are not required to be made available. Nonetheless, they may be made available in any particular respect if it is determined that this would better serve the public interest.

2. That they may, to the extent required to prevent a clearly unwarranted invasion of personal privacy, delete identifying details from an opinion, statement of policy, interpretation, staff manual or instruction, or other materials, when it is made available or published. However, in each case the justification for the deletion shall be explained fully in writing. Such action is to be taken in order to provide the public with those informational materials called for under 5 U.S.C. 552(a)(2), while at the same time protecting the medical, family, or other personal privacy rights of the individuals involved in such agency materials. Agency explanations for deletions of identifying details should provide such information as can be furnished without defeating the purpose of the deletion provision. When an agency has a number of recurring deletion situations, it may in its implementing rules or other public notice specify the applicable reasons for such deletions, and cite the rule in the preamble to each of the covered documents, rather than contain the complete explanation in each document.

3. That distinction should be made between those materials (a) which do and which do not affect any member of the public, and (b) which are and which are not to be relied upon, used or cited as precedent by the agency against any private person or party. Those materials specified in 5 U.S.C. 552(a)(2) which affect the public and which have precedential effect shall be made available for inspection and copying, and also included in the index, as provided in this order. However, since the basic purpose of this section of the Act is to disclose to the interested members of the public essential information which will enable them to deal effectively and knowingly with an agency, materials which provide such information should be included in the appropriate facilities.

4. That an advisory interpretation made by an agency on a specific set of facts which is requested by and addressed to a particular person need not be made generally available under paragraph 5.02a. of this subsection if it is not to be cited or relied upon by any official of the agency as a precedent in the disposition of other cases. Nonetheless, if it may serve any useful public purpose, any such interpretation may be made publicly available upon the deletion of identifying details to the extent necessary to protect personal privacy.

5. That the agency is not precluded from using as precedent against any affected person those matters specified in subparagraphs 1.–3. of paragraph 5.02a of this subsection as to which a person has actual and timely notice of the terms thereof, even though they have not been indexed and either made available or published. If the agency practice is to furnish such notices, it is more desirable that it do so in addition to, rather than instead of, indexing and making them publicly available hereunder, in recognition of the purpose of 5 U.S.C. 522(a)(2) to make the end product materials of the administrative process available to the public.

6. That matters which are published in the FEDERAL REGISTER in accordance with 5 U.S.C. 552(a)(1) are not required to be made available under 5 U.S.C. 552(a)(2) for public inspection and copying nor need they be indexed (the FEDERAL REGISTER has its own index). However, to the extent that it would be useful and practicable to index and provide such published information to the public for ready reference, it should be included.

7. That an index provides sufficient identifying information for the public if a person who exercises diligence may familiarize himself with the materials through use of the index.

8. That an alternative to making materials available to the public for inspection and copying is to promptly publish and offer them for sale to the public. Such published materials, however, are subject to the indexing requirement. If it would help the public and it is practical to do so, a copy of such published materials should also be made available in any facilities established for public inspection, and if permissible, copies of the publications should be made available for sale therein.

9. That materials required to be made available or published under 5 U.S.C. 552(a)(2), but which were adopted or issued by an agency prior to July 4, 1967, may at any time be used, relied upon or cited as precedent by the agency irrespective of whether they are listed in the agency's index. Officials, however, may, to the extent they deem it practicable and helpful to the public, also index such materials in whole or in part.

.03 *Availability of records upon request* (5 U.S.C. 552(a) (3), (4), and (6) of the Act).

a. The Assistant Secretary for Administration shall cause to be published in the FEDERAL REGISTER rules stating the time, place, fees and procedures to be followed, with respect to making records of the Department promptly available to any person requesting them, as provided in 5 U.S.C. 552 (a) (3), (4), and (6).

b. The rules published in the FEDERAL REGISTER pursuant to paragraph 5.03a. of this subsection shall, insofar as is practicable, be complete, precise, and workable, suitable for the information of agency personnel and the public alike, and shall include provisions, among other matters, for the following:

1. Information as to the place to make requests, when requests will be deemed received by the Department for purposes of the time limits contained in 5 U.S.C. 552 (a) (6), the timely handling of requests, and the making of initial determinations concerning the availability of the records requested.

2. Timely notice to the requester, as applicable, that a requested record does not exist, has been disposed of as provided by law, or is not in the possession or control of the Department.

3. A procedure whereby the time limits for responding to requests for records or appeals from denials may be extended, as authorized by 5 U.S.C. 552(a)(6)(B), and wherein a failure of the agency to respond in a timely manner may be considered a denial of the request.

4. Consultation with other operating units or offices within the Department, or with other Federal executive agencies, when there is a mutual agency interest or concern in the record or its contents and there is a question as to its availability. The determination as to availability should be made by the predominantly interested agency, if there is one. When a record requested from the Department is the exclusive concern of another executive agency, the request shall be promptly referred to that other agency, and the requester so notified.

5. A procedure for administrative appeal of a request for a record initially denied in whole or in part. The appeal procedure shall include provisions which insure that: (i) the requester may file an appeal, in writing, within thirty days of receipt of an initial denial; (ii) an appeal shall be considered received when properly addressed to the applicable official specified in subsection 4.01 of this order; (iii) appeals shall be decided without right of the requester for a personal appearance, oral argument, or hearing; (iv) timely decisions on appeals or other notices concerning them shall be made in writing, and communicated to the requester; (v) if the decision is wholly or partly in favor of the requester, the official shall make the particular records or information available to the requester or order that such be done; and to the extent that the decision is adverse to the requester, it shall briefly state the reasons for the decision and the identity of the official responsible for making it; (vi) appeals and their determination shall be indexed and made available for inspection and copying as provided in subsection 5.02 of this section; and (vii) whenever applicable, requesters shall be effectively notified of their right to seek judicial review.

6. A schedule of fees as authorized by the Act, with procedures which (i) put requesters of records on timely notice as to substantial search and copying fees estimated to be incurred with respect to a request; (ii) which attempt to insure that requestors pay the chargeable fees for work to be done; (iii) which provide for appropriate waiver or reduction of fees; and (iv) which do not intend to discourage requests for records under the Act. Work, services, publications, or documents which the agency as part of its regular mission has been performing or producing or will be performed or produced for members of the public or for those who are engaged in the transaction of official business of or with the Government, without charge, by user charge, or by publication or subscription charge, are to be distinguished from those records properly requested under 5 U.S.C. 352(a)(3) and the fees charged thereunder.

c. The officials designated in subsections 4.01 and 4.02 of this order who are responsible for determining whether any records properly requested under the Act may be made available, shall include in their consideration:

1. Whether the records are of the type referred to in subsection 3.01 of this order, and the request is to be handled in accord with the policy set forth therein;

2. Whether the records are subject to 5 U.S.C. 552(a) (1), (2), or (5) and have been otherwise made publicly available pursuant to paragraphs 5.01a or 5.02a of this section;

3. Whether the requested has complied with the published rules covering the making of requests and the payment of fees;

4. Whether the records or information contained in them are matters which fall within one or more of the exemptions contained in 5 U.S.C. 552(b), and if so, whether they are not to be disclosed or whether, if such discretion exists, it would nevertheless be in the public

interest to make the record or information available in whole or in part;

5. Whether any reasonably segregable portion of the record can be disclosed after deletion of the portions which it is determined should not be disclosed.

d. The officials who establish a facility as provdied in paragraph 5.02c. of this section may utilize the facility to:

1. receive and assist in processing requests for records;

2. receive from officials the requested records which are made available, maintain custody of them and supervise their inspection and copying by requesters;

3. arrange for making certified and other copies of available records;

4. collect and account for fees established for services connected with the requests;

5. return records after inspection to their place of custody;

6. act as a central communication center between the requesters and the organizations involved in record keeping and officials making determinations as to their availability; and

7. Provide reasonable assistance to persons requesting records, including explanations of the applicable procedure and other rules, and making referrals to sources of information available under regular informational programs of the Department.

e. The Assistant Secretary for Administration shall establish such standard forms, procedures and instructions as he deems necessary for processing requests for records, maintaining records of related expenditures, and obtaining information for the Departmental report required by 5 U.S.C. 552(d).

.04 *Special Review Requirements*—a. The General Counsel of the Department or one of his designees shall be consulted before any initial denial is issued and no final denial may be issued without his concurrence.

b. The Special Assistant to the Secretary for Public Affairs or his designee shall be consulted before any decision is reached on an appeal from an initial denial, and may be consulted on any matters.

c. As provided in chapter I, subsection 4.01 of the Department's Handbook of Security Regulations and Procedures, any proposed final denial based even in part on the ground that the matter is exempted from disclosure under 5 U.S.C. 552(b)(1) (classified information) shall be reviewed by the Department of Commerce National Security Classification Review Committee, and no such final denial be issued without its concurrence.

d. If an initial denial is based, even in part, on the ground that the matter is exempted from disclosure under 5 U.S.C. 552 (b)(3) because of the provisions of section 7(c) of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2406 (c)), or by section 6(c) of its predecessor, the Export Control Act of 1949, as amended, the requester shall be informed that his appeal is to be addressed directly to the Secretary of Commerce, why this is so, and that the appeal is to explain why the Secretary shall make the requisite statutory section 7(c) determination in this case.

.05 *Annual Report* (5 U.S.C. 552(d) of the Act).

a. The Assistant Secretary for Administration shall prepare and transmit to the Congress on or before March 1 of each year the annual report required by the Act.

b. To assist in the preparation of the report, each official specified in subsection 4.01 of this order, shall, no later than January 31 of each year, provide the Assistant Secretary for Administration with the information specified in the Act and such other information as he may require.

SEC. 6. *Supplementary rules.* .01 The Secretary may from time to time issue such supplementary rules or instructions as he deems appropriate to carry out the purposes of this order.

.02 Each duly authorized official may issue rules covering his respective area of responsibility designed to implement this order, and which are consistent herewith and with any rules issued by the Assistant Secretary for Administration.

SEC. 7. *Effect on other orders.* This order supersedes Department Administrative Order 205-12 of June 29, 1967, as amended. Any other prior orders, rules, or instructions, or parts thereof, the provisions of which are inconsistent or in conflict with the provisions of this order, are hereby constructively amended or superseded.

MARCH 6, 1975.

FREDERICK B. DENT,
Secretary of Commerce.

APPENDIX B—FREEDOM OF INFORMATION PUBLIC FACILITIES AND ADDRESSEES FOR REQUESTS FOR RECORDS

1. The following public reference facilities have been established within the Department of Commerce (a) for the public inspection and copying of materials of particular units of the Department, under 5 U.S.C. 552(a)(2); (b) for persons who have requested records under 5 U.S.C. 552(a)(3) to receive and copy records made available by units of the Department; and (c) for furnishing information otherwise to assist the public concerning Departmental operations under the Freedom of Information Act.

Department of Commerce Freedom of Information Central Reference and Records Inspection Facility, Room 7043, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230. Phone (202) 967-5511. This facility serves the Office of the Secretary of Commerce and all other units of the Department not identified below. See 15 CFR 4.4 (c) and (d).

Economic Development Administration, Freedom of Information Records Inspection Facility, Room 7019, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230 Phone (202) 967-5113.

Maritime Administration, Freedom of Information Records Inspection Facility, Room 3895, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230. Phone (202) 967-3746.

National Oceanic and Atmospheric Administration, Freedom of Information Records Inspection Facility, Room 523, Building 5, Washington Science Center, 6010 Executive Boulevard, Rockville, Maryland 20852, Phone (301) 496-8192.

Patent and Trademark Office, Freedom of Information Records Inspection Facility, Room 11C12, Building 3, Crystal Plaza, Arlington, Virginia 22202. Phone (703) 557-3542.

Social and Economic Statistics Administration, Freedom of Information Records Inspection Facility, Room 2455, Federal Building 3, Washington, D.C. 20233 (Suitland, Maryland). Phone (301) 763-5119. (The Bureau of Economic Analysis of SESA uses the Department of Commerce facility.)

2. The following are the particular addresses for each unit of the Department of Commerce to which persons shall mail or deliver their requests for records made under 5 U.S.C. 552(a)(3), clearly marked on the envelope and the letter, "Freedom of Information Request", "Request for Records", or the equivalent. A requester shall address its request to the constituent unit specified below which it knows or has reason to believe has possession or control of or has primary concern with the records which it is requesting. Otherwise the requester shall mark and address its request to the Freedom of Information Central Reference and Records Inspection Facility, Room 7043, U.S. Department of Commerce, Washington, D.C. 20230, which also serves as the address for all components of the Office of the Secretary of Commerce.

Domestic and International Business Administration, Freedom of Information Request Control Desk, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

Economic Development Administration, Director, Office of Public Affairs, Freedom of Information Request Control Desk, Room 7019, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

Atlantic Regional Office, EDA, U.S. Department of Commerce, William J. Green, Jr. Federal Building, Freedom of Information Request Control Desk, 600 Arch Street, Room 10424, Philadelphia, Pennsylvania 19106.

Southeastern Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Suite 555, 1401 Peachtree Street, N.E., Atlanta, Georgia 30309.

Rocky Mountain Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Suite 505, Title Building, 909 17th Street, Denver, Colorado 80202.

Midwestern Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Civic Towers Building, 32 West Randolph Street, Chicago, Illinois 60601.

Western Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, 1700 Westlake North, Seattle, Washington 98109.

Southwestern Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, 702 Colorado Street, Austin, Texas 78701.

Maritime Administration, Freedom of Information Request Control Desk, Secretary, Maritime Administration, Room 3099-B, U.S. Department of Commerce, Washington, D.C. 20230.

National Bureau of Standards, Office of the Director, Freedom of Information Request Control Desk, Room A1130, U.S. Department of Commerce, Washington, D.C. 20234 (Gaithersburg, Maryland).

National Fire Prevention and Control Administration, Freedom of Information Request Control Desk, U.S. Department of Commerce, Washington, D.C. 20230.

National Oceanic and Atmospheric Administration, Freedom of Information Request Control Desk, Administrative Documentation Officer (AD161), Rockville, Maryland 20852.

National Technical Information Service, Freedom of Information Request Control Desk, Assistant Director for Administration, 5285 Port Royal Road, Springfield, Virginia 22161.

Office of Minority Business Enterprise, Freedom of Information Request Control Desk, U.S. Department of Commerce, Washington, D.C. 20230.

Office of Product Standards, Freedom of Information Request Control Desk, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230.

Office of Telecommunications, Freedom of Information Request Control Desk, 1325 G Street, N.W., Suite 250, Washington, D.C. 20005.

Patent and Trademark Office, Freedom of Information Request Control Desk, Box 50, Washington, D.C. 20231.

Social and Economic Statistics Administration, Administrator, Social and Economic Statistics Administration, Attention: Freedom of Information Request Control Desk,

Room 2423, Federal Building 3, Washington, D.C. 20233.

Director, Bureau of the Census, Attention: Freedom of Information Request Control Desk, Room 2423, Federal Building 3, Washington, D.C. 20233.

Bureau of Economic Analysis, Freedom of Information Request Control Desk, Room 705, Tower Building, Washington, D.C. 20230.

United States Travel Service, Freedom of Information Request Control Desk, Room 1524, U.S. Department of Commerce, Washington, D.C. 20230.

APPENDIX C—OFFICIALS AUTHORIZED TO MAKE INITIAL DENIALS OF REQUESTS FOR RECORDS

The following officials of the Department of Commerce have been delegated authority to initially deny requests for records of their respective units for which they are responsible. (The listings are subject to change because of organizational revisions or new delegations.)

Office of the Secretary:
- Office of Legislative Affairs: Special Assistant for Legislative Affairs; Deputy Director, Office of Legislative Affairs.
- Public Affairs: Special Assistant for Public Affairs; Director, Office of Communications.
- Office of Regional Economic Coordination: Special Assistant for Regional Economic Coordination; Program Development Officer.
- Office of Policy Development: Director, Office of Policy Development.

Office of the Assistant Secretary for Science and Technology: Deputy Assistant Secretary for Science and Technology.

Office of the Assistant Secretary for Economic Affairs: Deputy Assistant Secretary for Economic Affairs.

Office of the Assistant Secretary for Administration:
- Deputy Assistant Secretary for Administration.
- Appeals Board Chairman.
- Director and Deputy Director, Office of Administrative Services and Procurement.
- Director, Office of Audits.
- Director, Office of Budget and Program Analysis.
- Director, Office of Emergency Readiness.
- Director, Office of Financial Management Services.
- Director and Deputy Director, Office of Investigations and Security.
- Director and Deputy Director, Office of Publications.
- Office of Organization and Management Systems: Director; Deputy Director; Chiefs: ADP Administrative Systems Division; ADP Management Division; Management Analysis Division; and ADP Operations Division.
- Office of Personnel: Director; Deputy Director; Chief, Medical Division; Chief, Policy Division; and Policy Officer, Policy Division.

Office of the General Counsel: Deputy General Counsel and Assistant General Counsel for Administration.

Domestic and International Business Administration:
- Director, Office of Public Affairs.
- Director, Office of Field Operations.
- Bureau of Domestic Commerce:
  - Director, Office of Business and Legislative Issues;
  - Director, Office of Business Research and Analysis;
  - Director, Office of Ombudsman for Business;
  - Director, Office of Industrial Mobilization.
- Directorate of Administrative Management: Director, Office of Personnel; Director, Office of Administrative Support; Director, Office of Management and Systems; Director, Office of Budget.
- International Economic Policy and Research:
  - Director, International Trade Analysis Staff;
  - Director, Office of Competitive Assessment;
  - Director, Office of Economic Research;
  - Director, Office of International Trade Policy;
  - Director, Office of International Finance and Investment.
- Bureau of East-West Trade:
  - Director, Office of East-West Trade Analysis;
  - Director, Office of Joint Commission Secretariat;
  - Director, Office of East-West Trade Development;
  - Director, Office of Export Administration.
- Bureau of International Commerce: Director, Commerce Action Group for the Near East; Director, Office of International Marketing; Director, Office of Export Development; Director, Office of Market Planning.
- Bureau of Resources and Trade Assistance: Director, Office of Trade Adjustment Assistance; Director, Office of Import Programs; Director, Office of Textiles; Director, Office of Energy Programs.

Economic Development Administration: Director, Office of Public Affairs.

Maritime Administration: Secretary, Maritime Administration.

Office of Minority Business Enterprise: Assistant Director for Field Operations and Administration, or in his absence the Deputy Assistant Director.

National Bureau of Standards: Associate Director for Administration.

National Fire Prevention and Control Administration: Legal Adviser.

National Oceanic and Atmospheric Administration: Associate Administrator for Marine Resources; Associate Administrator for Environmental Monitoring and Prediction; Assistant Administrator, Office of Coastal Zone Management; Assistant Administrator for Administration; Director, NOAA Corps; Director, Office of Sea Grant; Director, Office of Programs and Budget; Director, National Weather Service; Director, National Ocean Survey; Director, Environmental Research Laboratories; Director, Environmental Data Service; Director, National Environmental Satellite Service; Director, National Marine Fisheries Service.

National Technical Information Service: Assistant Director, Administration.

Patent Office: Solicitor of Patents, or in his absence the Deputy Solicitor.

Office of Product Standards: Assistant Director.

Social and Economic Statistics Administration:
- Associate Administrator for Administration, SESA; Director, Bureau of the Census;
- Director of Bureau, Economic Analyses; or in their absence their deputies.

Office of Telecommunications: Deputy Director, Office of Telecommunications; Director and Deputy Director, Institute for Telecommunication Sciences; Assistant Director for Program Development and Evaluation; Chief, Frequency Management Support Division; Chief, Telecommunications Analysis Division; Chief, Policy Support Division; Administrative Officer.

United States Travel Service: Directors, Office of Convention and Incentive Travel; Office of Administration, Office of Information Services; Office of Research and Analysis; Office of Market Development; Office of Advertising and Promotion; Office of Visitor Services; Office of Expositions/Special Projects; International Division.

Effective date. This revision becomes effective on February 19, 1975.

Signed at Washington, D.C. this 25th day of February, 1975.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary of Commerce.

[FR Doc. 75-6391 Filed 3-11-75;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY EXCHANGE AUTHORITY (INCLUDING COMMODITY EXCHANGE COMMISSION), DEPARTMENT OF AGRICULTURE

REPORTS BY TRADERS, MERCHANTS, PROCESSORS AND DEALERS

Hedging; Definition, Reports, and Conforming Amendments

On November 11, 1974, notice was published in the FEDERAL REGISTER (39 F.R. 39731) that the Secretary of Agriculture was considering amending § 1.3 of the general regulations under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*) by adding a paragraph (z) which would define "bona fide hedging transactions and positions." This amendment was proposed pursuant to section 404 of the Commodity Futures Trading Commission Act of 1974 (P.L. 93-463). This section directs the Secretary of Agriculture to promulgate regulations defining "bona fide hedging transactions and positions." Section 411 of that Act provides that such regulations shall remain in full force and effect until the newly-established Commodity Futures Trading Commission defines that term, as section 404 of that Act requires it to do. The same notice included proposals for a revision of § 1.48 and amendments to four sections of Part 19 of the general regulations under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*) for the purpose of conforming certain references to hedging in these sections of the general regulations to the proposed hedging definition.

All interested parties were given an opportunity to request that a hearing be held on the proposed amendments and revision, and to submit their written statements, by December 26, 1974. No one requested a hearing on this matter. There were eighteen written responses. Six of these written responses gave unqualified support to the proposed rule on the hedging definition, or supported the substance of the proposed definition while suggesting minor changes of a clarifying nature.

The other meaningful responses, however, took exception to provisions of the

proposed definition which applied to hedging of unfilled anticipated requirements of the products of a traded commodity, principally that the proposed definition included in such hedging, only the wheat equivalent of a person's unfilled anticipated requirements of flour for baking. Some of these responses expressed the view that the definition should also include in such hedging, the corn equivalent of a person's unfilled anticipated requirements of dry corn milling products.

After considering all comments, the proposed paragraph (z) of § 1.3 was revised to include in such hedging, long positions in corn futures of processors or manufacturers using dry corn milling products. Inasmuch as no specific need for such anticipatory hedging by other users of products of traded commodities was expressed, no additional such provisions are being promulgated. A suggestion that the hedging definition include hedging of unfilled requirements of one commodity for processing, in the futures market of a different commodity, was considered but not incorporated in the final definition. Also, as a result of responses to the proposed hedging definition, provision was made to permit the hedging of stocks or fixed-price purchases of a commodity, in the futures market for that commodity's products or byproducts. In addition, minor changes of a clarifying nature were made in response to the written views.

As so revised, paragraph (z) of § 1.3, which defines "bona fide hedging transactions and positions," supersedes the statutory definition previously contained in section 4a(3) of the Commodity Exchange Act (7 U.S.C. 6a(3)). The hedging of stocks or fixed-price purchases of a commodity, in the futures market for that commodity's products or byproducts, is now permitted. Bakers are now permitted to hedge unfilled annual anticipater requirements of flour in wheat futures, and manufacturers or processors are now permitted to hedge unfilled annual anticipated requirements of dry corn milling products in corn futures. Seed corn processors and sweet corn processors are now permitted to hedge the bushel value equivalent of their unfilled annual anticipated requirements of seed corn and sweet corn, respectively, in corn futures. Certain long positions of feeders of livestock and poultry which are currently exempted from speculative limits in corn and other grain futures, are exempted in effect by the definition of "bona fide hedging transactions and positions" and such anticipatory hedging provisions for livestock and poultry feeders are extended to soybean meal.

The revision of § 1.48 of the general regulations extends the present reporting requirements for anticipatory hedging to all persons whose positions are so classified under the new definition. The amendments to four sections of Part 19 and the four additional amendments to §§ 1.17, 1.46, and 18.00 are minor in nature and are for the sole purpose of conforming all references to hedging in the general regulations to the new definition contained in paragraph (z) of § 1.3.

The opposing comments to the proposed amendments and revision were not of sufficient justification to warrant changes except as noted.

The general regulations under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*) are amended by issuing a new paragraph (z) of § 1.3, by revising § 1.48, and by amending paragraphs (c) and (e) of § 1.17, to read as set forth below, and by amending paragraph (d) of § 1.46, paragraph (a) of § 18.00, and paragraph (b) in each of §§ 19.01, 19.02, 19.03, and 19.04.

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. A new § 1.3(z) is added as follows:

§ 1.3 Definitions.

* * * * *

(z) *Bona fide hedging transactions or positions*—These shall mean sales of, or short positions in any commodity for future delivery on or subject to the rules of any contract market made or held by any person to the extent that such sales or short positions are offset in quantity by the ownership or fixed-price purchase of the same cash commodity by the same person or, conversely, purchases of, or long positions in, any commodity for future delivery on or subject to the rules of any contract market made or held by any person to the extent that such purchases or long positions are offset by fixed-price sales of the same cash commodity by the same person. In addition, there shall be included in the amount of any commodity which may be hedged by any person—

(1) The amount of such commodity such person is raising, or in good faith intends or expects to raise, within the next twelve months, on land (in the United States or its Territories) which such person owns or leases;

(2) Any amount of such commodity the sale of which for future delivery would be a reasonable hedge against any product or by-product of such commodity owned or purchased at a fixed-price by such person or the purchase of which for future delivery would be a reasonable hedge against the fixed-price sale of any product or byproduct of such commodity by such person;

(3) If such commodity is a product or byproduct of another commodity, an amount of such product or byproduct the sale of which for future delivery would be a reasonable hedge against the ownership or fixed-price purchase by such person of such other commodity of which it is a product or byproduct;

(4) An amount of such commodity the purchase of which for future delivery shall not exceed:

(i) Such person's unfilled anticipated requirements for processing or manufacturing;

(ii) The bushel value equivalent of corn reflecting such person's unfilled anticipated requirements for seed corn or sweet corn processing;

(iii) The wheat equivalent of such person's unfilled anticipated requirements of flour for baking;

(iv) The corn equivalent of such person's unfilled anticipated requirements of dry corn milling products for use in further processing or manufacturing;

(v) Such person's unfilled anticipated feeding requirements of corn, wheat, oats, barley, flaxseed, grain sorghum, rye, or soybean meal for the feeding of livestock or poultry or both;

during a specified operating period not in excess of one year. Transactions and positions shall not be classified as hedging unless their bona fide purpose is to offset price risks incidental to commercial cash or spot operations, and such positions are established and liquidated in an orderly manner and in accordance with sound commercial practices in conformity with such regulations as may be prescribed pursuant to the Commodity Exchange Act as amended.

2. Section 1.48 is revised as follows:

§ 1.48 Hedging anticipated requirements for processing or manufacturing or livestock and poultry production under section 4a of the Commodity Exchange Act and § 1.3(z)(4) of the regulations under the Commodity Exchange Act.

(a) *Form and manner of reporting.* Any person who desires to avail himself of the provisions of § 1.3(z)(4) of the regulations under the Commodity Exchange Act, and to acquire a long futures position in any commodity with respect to which trading and position limits established by the Commodity Exchange Commission, pursuant to section 4a of the Act, shall be then in effect, shall, at least ten days prior to acquiring any position in excess of any such limit, file with the Commodity Exchange Authority, United States Department of Agriculture, Washington, D.C. 20250, a statement showing such person's unfilled anticipated requirements for processing or manufacturing or feeding for a specified operating period not in excess of one year. Such statement shall set forth in detail such person's unfilled anticipated requirements and explain the method of determination thereof, and shall include but not be limited to the following information:

(1) Annual requirements of such commodity for processing or manufacturing or feeding for the three fiscal years next preceding;

(2) Anticipated requirements of such commodity for processing or manufacturing or feeding for a specified operating period not in excess of one year;

(3) Inventory and forward purchases of such commodity, including any quantity in process of manufacture and finished goods and byproducts of manufacture or processing (in terms of such commodity);

(4) Anticipated unfilled requirements of such commodity for processing or manufacturing or feeding for a specified period not in excess of one year.

Persons hedging unfilled anticipated requirements of flour, dry corn milling products, seed corn, or sweet corn, shall furnish this information both in terms of the actual commodity used for manufacturing or processing and in terms of the commodity to be purchased for future delivery, and provide the ratio of conversion from the amount of the actual commodity used for manufacturing or processing, to the amount of the commodity to be purchased for future delivery. In addition, seed corn and sweet corn processors shall report their cash positions in terms of bushel value equivalents. Persons feeding livestock and poultry shall provide the number of cattle, hogs, sheep, or poultry expected to be fed during the specified period, not to exceed one year, and the derivation of their annual requirements based upon these numbers.

(b) *Supplemental reports.* Whenever such person's anticipated requirements as set forth in item two of such statement or any statement supplemental thereto shall change, such person shall immediately file with the Commodity Exchange Authority a supplemental statement reporting and explaining such change. Such person shall also file with the Commodity Exchange Authority, at least once each year, a statement setting forth the information described in paragraph (a) hereof.

(c) *Purchases and liquidation.* All purchases of any commodity for future delivery pursuant to the provisions of § 1.3 (z) (4) of these regulations shall be made and liquidated in an orderly manner and in accordance with sound commercial practice. No such purchases shall be made or liquidated in a manner which could be expected to cause sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity.

3. Paragraphs (c) (6) and (e) of § 1.17 are amended as follows:

§ 1.17 Minimum financial requirements.

* * * * *

(c) * * *

(6) * * *

(iii) In the case of cash commodity inventories that are hedged by bona fide hedging positions in the futures market (as defined in section 1.3(z) of these regulations), the amount by which the value of such inventories used by the applicant or registrant in computing his working capital, exceeds 95 percent of the market value of such inventories;

* * * * *

(e) * * * (1) that such safety factor shall not apply to any spread or straddle held for the same account in the same commodity, on the same market, in the same crop year, or to any contract representing a bont fide hedging transaction as defined in § 1.3(z) (however, such factor shall apply to contracts specified in subparagraph (4) of § 1.3(z), representing hedges against unfilled anticipated requirements); nor shall it apply to any contract resulting from a "changer trade" made in accordance with the rules of a contract market which have been submitted to and not disapproved by the Secretary of Agriculture, and (2) that in the case of any intermarket or inter-crop year spread or straddle, or any intermarket and inter-crop year spread or straddle, held for the same account in the same commodity, the safety factor shall be 5 percent of the market value of that side of each such spread or straddle having the greater market value.

§ 1.46 [Amended]

Paragraph (d) of § 1.46 is amended by striking the phrase "in section 4a(3) of the Commodity Exchange Act".

PART 18—REPORTS BY TRADERS

§ 18.00 [Amended]

Paragraph (a) of § 18.00 is amended by striking the parenthetical phrase "(as defined in section 4a of the Act)" and inserting in its place the parenthetical phrase "(as defined in § 1.3(z))"

PART 19—REPORTS BY MERCHANTS, PROCESSORS, AND DEALERS

§§ 19.01, 19.02, 19.03, 19.04 [Amended]

Paragraph (b) of §§ 19.01, 19.02, 19.03, and 19.04 is amended in each of these sections by striking the parenthetical phrase "(as defined in section 4a of the Act)" and inserting in its place the parenthetical phrase "(as defined in § 1.3 (z))."

Section 404 of the Commodity Futures Trading Commission Act of 1974 authorizes and directs that this definition be promulgated "immediately on enactment" thereof, "notwithstanding any other provision of law." Also, the effect of these regulations is to grant certain exemptions and to relieve certain restrictions. Accordingly, it is found on good cause that these regulations should be made effective less than thirty days after publication.

These regulations shall be effective on March 12, 1974.

(Sec. 404, Pub. L. 93-463, 88 Stat. 1413; sec. 8a, as added by sec. 10, 49 Stat. 1500 and amended, 69 Stat. 535, secs. 20-23, 82 Stat. 32, 33)

Issued: March 7, 1975.

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

[FR Doc.75-6460 Filed 3-11-75;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 75-58]

PART 111—CUSTOMHOUSE BROKERS

License Revocation and Suspension Hearings

On September 27, 1974, there was published in the FEDERAL REGISTER (39 FR 34667), a notice of proposed rulemaking which would amend §§ 111.54, 111.65 through 111.69, and 111.76 of the Customs Regulations (19 CFR 111.54, 111.65-69, 111.76) to provide for the appointment, as presiding Customs officer at a customhouse broker's license suspension or revocation hearing, of a Customs officer from a Customs district other than the district for which the license was issued.

Presently, § 111.67(a) of the Customs Regulations provides that the district director of Customs of the district for which the customhouse broker's license was issued will preside at a hearing to suspend or revoke that license. Pursuant to other provisions of Part 111 of the regulations, the district director also initiates and reviews the investigation of the charges prompting the proposed suspension or revocation of the license and, based on the record of the hearing, forwards to the Assistant Secretary of the Treasury his recommendation with respect to the suspension or revocation. The United States Customs Service has determined that the best interests of the Government and the public would be served if the hearing relative to the suspension or revocation of a customhouse broker's license were held before a Customs officer other than the district director of the district for which the license was issued or a Customs officer under that district director's control.

The proposed amendment of § 111.54 of the Customs Regulations would also change the phrase "chief officer of the Customs", as used with reference to section 641(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1641(b)), to "appropriate officer of the Customs" in order to conform the language of the regulations with a similar amendment to the language of 19 U.S.C. 1641(b) made in 1970.

No comments were received in response to the notice of proposed rulemaking.

Accordingly, §§ 111.54, 111.65 through 111.69, and 111.76 of the Customs Regulations (19 CFR 111.54, 111.65-69, 111.76) are amended as set forth below.

Effective date. This amendment shall become effective April 11, 1975.

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

Approved: February 28, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

Section 111.54 and the heading to that section are revised to read as follows:

§ 111.54 Appropriate officer of the Customs.

Unless otherwise indicated in this part, the district director shall be the appropriate officer of the Customs within the scope of section 641(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1641 (b)). In the case of sickness or absence of the district director, the assistant district director designated by the district director shall be the appropriate officer of the Customs. If the office of district director is vacant or the district director is unable to designate an assistant district director as appropriate officer of the

Customs, the Commissioner shall designate one of the assistant district directors to be the appropriate officer of the Customs.

Sections 111.65 and 111.66 are revised to read as follows:

§ 111.65 Extension of time for hearing.

If the broker or his attorney requests in writing a delay in the hearing on the ground that additional time is necessary to prepare a defense, the hearing officer designated pursuant to § 111.67 (a) may reschedule the hearing, notifying the broker or his attorney in writing of the extension and the new time for which the hearing has been scheduled.

§ 111.66 Failure to appear.

When an accused broker or his attorney fails to appear for a scheduled hearing, the hearing officer designated pursuant to § 111.67 (a) shall proceed with the hearing as scheduled, and shall hear evidence submitted on behalf of the Government. The regulations of this part shall apply as though the broker were present, and the Secretary of the Treasury may issue an order of suspension or revocation if he finds it to be in order.

Paragraphs (a), (c), and (d) of § 111.67 are revised to read as follows:

§ 111.67 Hearing.

(a) *Government representatives.* The Commissioner shall designate as hearing officer an appropriate officer of the Customs other than a Customs officer of the district for which the license was issued. The hearing officer shall provide a competent reporter to make a record of the hearing. The Commissioner shall designate one or more persons to represent the Government at the hearing. The hearing officer may designate one or more persons to assist in the proceedings.

* * * * *

(c) *Interrogatories.* Upon the written request of either party, the hearing officer may permit deposition upon oral or written interrogatories to be taken before any officer duly authorized to administer oaths for general purposes or in Customs matters. The other party to the hearing shall be given a reasonable time in which to prepare cross-interrogatories and, if the deposition is oral, shall be permitted to cross-examine the witness. The deposition shall become part of the hearing record.

(d) *Transcript of record.* When the record of the hearing has been transcribed by the reporter, the hearing officer shall deliver a copy to the broker and the Government's representative without charge.

Sections 111.68 and 111.69 are revised to read as follows:

§ 111.68 Proposed findings and conclusions.

The hearing officer shall allow the parties a reasonable period of time after delivery of the transcript of record in which to submit proposed findings and conclusions and supporting reasons therefor as contemplated by 5 U.S.C. 557(c).

§ 111.69 Recommended decision by hearing officer.

After review of the proposed findings and conclusions submitted by the parties pursuant to § 111.68, the hearing officer shall make his recommended decision in the case and certify the entire record to the Secretary of the Treasury. The hearing officer's recommended decision shall conform with the requirements of 5 U.S.C. 557.

Section 111.76 is revised to read as follows:

§ 111.76 Reopening the case.

(a) *Grounds for reopening.* Any person whose license has been suspended or revoked may make written application in duplicate to the hearing officer to have the order of suspension or revocation set aside or modified upon the ground of newly discovered evidence or that important evidence is now available which could not be produced at the original hearing by the exercise of due diligence. The application must set forth specifically the precise character of the evidence to be relied upon and shall state the reasons why the applicant was unable to produce it when the original charges were heard.

(b) *Procedure.* The hearing officer shall forward the application with his recommendation to the Secretary of the Treasury. The Secretary may grant or deny the application for reopening of the case and may order the taking of additional testimony before the hearing officer. The hearing officer shall notify the applicant of the Secretary's decision. If the Secretary grants the application and orders a hearing, the hearing officer shall set a time and place for such hearing and give due notice thereof to the applicant. The procedure governing the additional hearing and recommended decision of the hearing officer shall be the same as that governing the original proceeding.

(R.S. 251, as amended, secs. 624, 641, 46 Stat. 759, as amended (19 U.S.C. 66, 1624, 1641))

[FR Doc.75-6373 Filed 3-11-75;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 122—UNAVOIDABLE CONTAMINANTS IN FOOD AND FOOD-PACKAGING MATERIAL

Polychlorinated Biphenyls (PCB's) in Paper Food-Packaging Material; Order Ruling on Objections and Hearing Regarding Temporary Tolerance

In the FEDERAL REGISTER of July 6, 1973 (38 FR 18096), the Commissioner of Food and Drugs issued an order which, inter alia, established, pursuant to section 406 of the Federal Food, Drug, and Cosmetic Act, temporary tolerances for polychlorinated biphenyls (PCB's) in certain foods, certain animal feeds, and paper food-packaging material intended for or used with human food, finished animal feed, and any components intended for animal feed, § 122.10 (21 CFR 122.10).

PCB's toxic substances, very stable and highly persistent in the environment, which have been employed in a wide range of industrial uses in the United States (37 FR 5705). Due to their widespread use, PCB's have been found in food as a result of industrial accidents and unavoidable sources of contamination, including the migration of PCB's to food from paper food-packaging materials which contain PCB's. Toxicological data have shown that the ingestion of PCB's can produce adverse health effects in both humans and animals.

The order provided that any person who would be adversely affected could at any time on or before August 6, 1973 file written objections to its provisions and request a hearing on the issues raised by the objections.

Eight responses to the order were filed by various paperboard manufacturers, a paperboard user, and three paper industry trade associations, all of which objected to the tolerance of 10 parts per million (ppm) for PCB's in paper food-packaging material and seven of which requested a hearing on this provision of the regulation.

In the FEDERAL REGISTER of August 24, 1973 (38 FR 22794), the Commissioner issued a notice confirming September 4, 1973 as the effective date for § 122.10(a)(1) through (8), the tolerances for PCB's in certain foods and animal feeds, and, on the basis of the objections filed, staying the effectiveness of § 122.10(a)(9), the tolerance for PCB's in paper food-packaging material. This stay was required under section 701(e) of the act, which provides that a regulation issued pursuant to section 406 of the act promulgating a tolerance for added poisonous and deleterious substances such as PCB's in food be stayed if timely objections to it are filed.

The Commissioner has since carefully evaluated the objections to § 122.10(a)(9), the issues raised by these objections and the requests for hearing, and his conclusions follow.

A. Legal authority to promulgate the tolerance for PCB's in paper food-packaging material:

Six responses objected that the Commissioner erred as a matter of law in determining that section 406 of the act authorizes tolerances for paper food-packaging material. This objection is based on the respondents' contention that paper food-packaging material is not "food" within the meaning of the act, and that a tolerance under section 406 of the act may therefore not be established for such material since that section authorizes promulgation of tolerances for added poisonous or deleterious substances only in "food" as food is defined by the statute.

The Commissioner concludes that this objection presents no ground which warrants a public hearing under section 701(e) of the act in that it raises a purely legal issue, not a genuine and material issue of fact that could be decided upon adduction of evidence at a

hearing. (See *The Certified Color Industry Committee* v. *Fleming*, 283 F. 2d 622 (C.A. 2, 1960); *Dyestuffs & Chemicals, Inc.* v. *Fleming*, 271 F. 2d 281 (C.A. 8, 1959), cert. den. 362 U.S. 911 (1960).) (See also *Weinberger* v. *Hynson, Westcott and Dunning*, 412 U.S. 609 (1973); *Pfizer, Inc.* v. *Richardson*, 434 F. 2d 536 (C.A. 2, 1970); *Upjohn Co.* v. *Finch*, 422 F. 2d 944 (C.A. 6, 1970).)

Under section 201(f) of the act, the term "food" includes components of food. In the decision in *United States* v. *Articles of food * * * pottery * * * "Contemporary Ironstone" * * * "Cathy Rose"*, 370 F. Supp. 371 (E.D. Mich., 1974), the Court held that pottery plates containing lead are properly regulated as food under the act because substances which are subject to being ingested as a result of migration to food are "food" within the meaning of section 201(f) of the statute. PCB's in paper food-packaging which migrate to the food packaged therein and are subject to ingestion by consumers as part of the packaged food similarly become a component of the food.

Moreover, in the recent decision in *Natick Paperboard Corp., et al.* v. *Weinberger, et al.* (D. Mass., Civ. Action No. 73-2988-C, March 4, 1975) the Court ruled that as a matter of law the Food and Drug Administration has the authority under the act to regulate paper food-packaging material containing PCB's in excess of 10 parts per million as adulterated food.

B. Factors not considered in the promulgation of the tolerance for PCB's in paper food-packaging material:

One response objected that the Commissioner erred in promulgating a blanket PCB tolerance level for paper food-packaging material without considering certain factors affecting migration rates of PCB's from such material into packaged food, viz., the type of food, the ratio of package weight to food weight, exposure time and conditions and barriers. Another response objected that the Commissioner failed to consider the variance of PCB content in paperboard from to sheet and within a particuar sheet itself, and the amount and time of vapor phase emission of PCB's from paper packaging to packaged food.

As the Commissioner stated in the preamble to the order published in the FEDERAL REGISTER of July 6, 1973 (38 FR 18100), at the time of the order no data were available either to the paperboard industry or to FDA determining the extent of the effects that type of food, ratio of package weight to food weight, or exposure time and conditions might have on the PCB contamination of food packaged in paperboard. Since the respondents advancing these objections have presented no data on these factors or on variance of PCB content of paperboard and amount and time of vapor phase emission, and have not alleged that any such data exist, the Commissioner concludes that the objections raise no genuine and material issue of fact requiring a hearing. As a matter of law, under section 406 of the act, the Commissioner in promulgating a tolerance for an unavoidable poisonous or deleterious substance added to food is not required to consider factors for which there is no existing data in establishing a particular tolerance level; rather, under this section he is required to establish a level based on existing data to the extent he finds necessary to protect the public health. In the absence of data on the factors above, the Commissioner concludes that the PCB tolerance was properly established under the act on the basis of existing toxicological and migration data. The Commissioner notes here, as he did in the preamble to the order of July 6, that should data become available on these factors they will be considered if they warrant a reassessment of the PCB tolerance level.

A consideration of the effect of barriers on migration of PCB's from paper food-packaging material to packaged food was made by the Commissioner in the promulgation of the PCB tolerance. (See paragraph G, infra.)

C. Inability of certain paperboard plants to comply with the PCB tolerance for paper food-packaging material:

Two responses objected that certain paperboard plants will be unable to comply fully with the PCB tolerance for paper food-packaging material in that they lack the analytical and monitoring capabilities to control the levels of PCB's in the paperboard they produce for food-packaging. One of these responses further proposed that since paper food-packaging material produced by some of these plants represents an insignificant portion of the total amount of paperboard produced for food-packaging nationally, plants lacking control capabilities whose annual production of paper food-packaging is less than 10,000 tons annually should be exempted from the PCB tolerance.

The Commissioner concludes that neither of these objections creates a factual hearing issue. As a matter of law a tolerance promulgated pursuant to section 406 of the act is applicable on an industry-wide basis in that section 406 contains no provisions for exemptions from the tolerance for particular segments or plants of the affected industry.

D. Regulatory alternatives to the PCB tolerance:

Six responses proposed that the Commissioner adopt one of two alternatives to the PCB tolerance for paper food-packaging material: (1) that the exemption from the tolerance for paper food-packaging separated from the packaged food by a barrier impermeable to PCB migration be modified to include barriers which significantly reduce PCB migration (See paragraph G, infra.), or (2) PCB tolerances should be confined to packaged foods alone.

The Commissioner notes that no objections were filed to his determinations that PCB's are added poisonous and deleterious substances which unavoidably contaminate paper food-packaging material and thereby by their nature may be the subject of a section 406 tolerance. Once the Commissioner makes the determinations that a substance added to an article of food is poisonous or deleterious and that it cannot be avoided or is required in producing the food, his promulgation of a section 406 tolerance for that substance in that food is legally proper provided the establishment of the tolerance level meets the requirement of section 406 to balance the extent of the need to protect the public health against the extent to which the substance is required or cannot be avoided in the production of the food. The Commissioner in promulgating the PCB tolerance for paper food-packaging material conducted this balancing. (See paragraph G, infra.)

If the criteria of a regulatory section of the act are fulfilled with respect to substances added to food, as is the case with PCB's in paper food-packaging material under section 406 of the act, it is within the discretionary authority of the Commissioner to choose to regulate such substances under that section to advance the purpose of the act to protect the public health, even if the substances could be regulated differently under section 406 or regulated under other sections of the statute. (See *Butz* v. *Glover Livestock Commission Co., Inc.*, 411 U.S. 182 (1973); *Mourning* v. *Family Publications Service, Inc.*, 411 U.S. 356 (1973); *Philadelphia Television Broadcasting Company* v. *FCC*, 359 F.2d 282 (C.A. D.C., 1966).) The Commissioner therefore concludes that proposed regulatory alternatives to his promulgation of the PCB tolerance for paper food-packaging material do not raise a genuine and material issue of fact requiring a hearing.

E. Effective date of PCB tolerance for paper food-packaging material:

One response objected that the effective date of the PCB tolerance for paper food-packaging material of September 4, 1973, announced in the order of July 6, was too early a date for compliance in that analytical procedures to assure compliance with the tolerance could not be implemented by certain paperboard manufacturers by that date.

Since the effective date of the PCB tolerance was stayed upon the timely filing of objections and requests for hearing, the Commissioner concludes that this objection is moot.

F. Potential long term hazard posed by current dietary intake of PCB's:

Six responses objected that there is no potential long term hazard posed by current dietary intake of PCB's and that imposition of a tolerance on paper food-packaging material is therefore unnecessary to minimize long range exposure to PCB's. Basing their objection on dietary intake data from the total diet studies and pesticide surveillance program of the Food and Drug Administration, on publications of the Food Protection Committee and the Pesticide Residues Committee of the National Academy of Sciences/National Research Council entitled, respectively, *Guidelines for Estimating Toxicologically Insignificant Lev-*

els of Chemicals in Food (Washington, DC, 1969), and *Report on "No Residue" and "Zero Tolerance"* (Washington, DC, 1965), and on the affidavit of a toxicologist, these responses asserted that the average dietary intake of PCB's in the United States from 1970 to 1972—no more than 4.2 micrograms/day for an adult weighing 70 kilograms—was so far below the Food and Drug Administration's acceptable safe level of 175 micrograms/day as to render such dietary intake in foods toxicologically insignificant, obviating the need to regulate PCB's in foods and in paper food-packaging material to protect the consuming public from any potential threat of chronic toxicity.

Since the Commissioner promulgated the PCB tolerance for paper food-packaging material on the basis of his conclusion, inter alia, that existing toxicological and exposure data on PCB's establish the possibility of chronic toxicity necessitating the reduction of the levels of PCB's in foods as soon as possible, he concludes that the facts cited in support of this objection raise a genuine and material issue of fact warranting a hearing on § 122.10(a)(9), which issue is set forth hereafter in this order.

G. Harm to the national recycling effort:

Six responses objected that the PCB tolerance for paper food-packaging material will significantly and unnecessarily harm the nation's recycling effort in that the burden of added costs and liabilities entailed in compliance threatens the competitive position and/or survival of many wastepaper recycling mills and will lead to a loss of recycling capacity. The respondents documented this objection by a report entitled "Potential Economic Impact on the Recycled Paperboard Industry of a 10 ppm Tolerance for PCB's" (July 1973) and by affidavits of officials of four paperboard companies, alleging:

1. The PCB tolerance will entail heavy new production costs and other economic burdens for wastepaper recycling mills.

2. The PCB tolerance will expose such mills to excessive financial liabilities for seizure-related customer losses resulting from the inadvertent production of over-tolerance packaging material.

3. The PCB tolerance will inevitably create shortages of paper food-packaging material, drive many wastepaper recycling mills out of the food board business, diminish recycling capacity, add to the burden on the solid waste disposal system, and deter new investment in the wastepaper recycling business.

In promulgating a tolerance for an added poisonous or deleterious substance in a particular food which cannot be avoided by good manufacturing practice, pursuant to section 406 of the act, the Commissioner is required to take into account the extent to which the use of such a substance cannot be avoided in the production of that article of food. Therefore, he was obligated in establishing the PCB tolerance for paper food-packaging material to assess the extent to which the presence of PCB's in recycled paperboard used for food-packaging cannot be avoided in the production of such packaging. The Commissioner recognized that PCB's may be present in recycled paper because of the inclusion of some types of carbonless copy paper containing 3 to 5 percent unavoidable PCB residues into wastepaper stocks used in the manufacture of recycled paper. Thus, in order to minimize or negate the impact of the PCB tolerance on recycling programs, the order (1) established an exemption to the tolerance for paper food-packaging separated from the food therein by a functional barrier which is impermeable to PCB migration; (2) raised the level of the tolerance from 5 ppm as provided in the proposed order to 10 ppm on the basis of an FDA survey of PCB's in foods, and food-packaging showing that the food portion of the samples with 5 to 10 ppm in the paper food-packaging contained the same range of PCB levels (0.1 to 0.6 ppm) as the food portion of the samples with 0 to 5 ppm in the paper food-packaging, as stated in the FEDERAL REGISTER of July 6, 1973 (38 FR 18100–18101); and (3) on June 29, 1973, made available to the paperboard industry draft compliance procedures for FDA's enforcement of the tolerance which, among other things, stated that paper food-packaging containing PCB's in excess of 10 ppm, separated from the packaged food by a barrier, will be considered to meet the barrier exemption standard of impermeability if migration of PCB's from the packaging does not result in any detectable PCB's in the food. Presently, limits of detection are 0.2 ppm.

The respondents advancing this objection contended that the impact of the PCB tolerance on recycling will neither be minimized nor negated by an exemption solely for barriers impermeable to PCB migration as provided by the order in that cans and bottles, the only barriers currently established as impermeable to PCB migration, are packaged in corrugated containers, 99 percent of which the respondents allege are made from virgin stock rather than from recycled paperboard. The respondents asserted that the barrier standard of impermeability is unreasonable in that every barrier commonly used with recycled packaging material is permeable to gas and to some PCB migration, and they proposed that polyvinylidene-coated paper and glassine, materials which they allege signifficantly reduce PCB migration, be included within the barrier exemption to ease the impact of the regulation on wastepaper recycling. The respondents further maintained that the increase in the tolerance level from 5 to 10 ppm will be undercut by the compliance procedure of the agency relative to the barrier exemption noted above.

The Commissioner concludes that, in view of his obligation under section 406 of the act to balance the level of the PCB tolerance against the extent to which PCB's cannot be avoided in paper food-packaging material manufactured from recycled paperboard, the facts cited in support of this objection raise further genuine and material issues of fact warranting a hearing on § 122.10(a)(9), which issues are set forth hereafter in this order.

These responses additionally objected that the PCB tolerance directly conflicts with the national policy to approach the maximum attainable recycling of depletable resources set forth in section 101(b)(6) of the National Environmental Policy Act (NEPA), in that the projected growth rate of 2 percent per year of needed recycled paperboard will be halted or reversed if the tolerance becomes effective.

The Commissioner has considered the effects of the PCB tolerance for paper food-packaging material on recycling in light of section 101(b)(6) of NEPA. Determining that the promulgation of the tolerance was a major federal action significantly affecting the quality of the human environment, he issued pursuant to NEPA an environmental impact statement on the regulation on December 18, 1972 and a supplement to the statement on July 6, 1973, concluding therein, after assessing the impact of the PCB tolerance on recycling programs, that the tolerance was warranted in that it would have a beneficial effect on the quality of the human environment by significantly minimizing or eliminating the overall long term human exposure to PCB's from dietary sources. The Commissioner concludes that he has properly evaluated the impact of the PCB tolerance within the context of NEPA, and further concludes that the objection of an alleged conflict of the tolerance with NEPA does not raise any genuine and material issue of fact requiring a hearing under section 701(e) of the Federal Food, Drug, and Cosmetic Act but is an issue which is solely for review by a federal district court pursuant to the Administrative Procedure Act.

H. Relation of level of PCB's in paper food-packaging material to level of PCB's in packaged food:

One response objected that the Commissioner erred in basing the PCB tolerance on the conclusion that the level of PCB's in paper food-packaging material is related to the level of PCB's in the food packaged therein, alleging (1) that much of the PCB content of packaged food is recognized by FDA as attributable to sources other than paper foodpackaging material, and (2) that the survey by the Food and Drug Administration of the problem of PCB's in paper food-packaging material, as noted in the FEDERAL REGISTER of March 18, 1972 (37 FR 5705), showing 67 percent of paper packaging samples to contain PCB's and 19 percent of the food samples in the survey to contain PCB's are insufficient data to establish that the PCB's in food come from packaging.

Since the Commissioner's basis for promulgating under section 406 of the act a tolerance for PCB's in paper food-packaging material is his determination that paper food packaging is a demonstrated source of PCB contamination of packaged food, he concludes that the facts

cited by this objection raise a further genuine and material issue of fact warranting a hearing on § 122.10(a)(9), which issue is set forth hereafter in this order.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 406, 701, 52 Stat. 1049, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 346, 371) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered:*

1. That a public hearing be held to adduce evidence on the issues requiring a hearing raised by the objections to the order of July 6, 1973 with respect to § 122.10(a)(9) (21 CFR 122.10(a)(9)), which establishes a tolerance of 10 parts per million for polychlorinated biphenyls (PCB's) in paper food-packaging material.

2. That the stay of § 122.10(a)(9) be continued pending the outcome of the hearing.

3. That the issues requiring a hearing raised by the objections to said order, to be decided upon the adduction of evidence at said public hearing, shall be as follows:

a. Whether or not, based on available medical and scientific evidence and on the recognition of experts qualified by scientific training and experience to evaluate the toxic effects of PCB's, there is a sufficient potential long term human toxicity hazard from dietary intake of PCB's for the Commissioner of Food and Drugs to find necessary for the protection of public health the promulgation of a tolerance of 10 parts per million for these substances in paper food-packaging material, as provided by his order of July 6, 1973.

b. Whether or not, in promulgating the tolerance level of 10 parts per million for PCB's in paper food-packaging material by his order of July 6, 1973, the Commissioner of Food and Drugs properly and adequately took into account the extent to which PCB's cannot be avoided in the production of paper food-packaging material from recycled paperboard.

c. Whether or not, in establishing by his order of July 6, 1973 an exemption from the tolerance of 10 parts per million for PCB's in paper food-packaging material for such material separated from the food therein by a functional barrier which is impermeable to migration of PCB's, the Commissioner of Food and Drugs properly and adequately took into account the effect of an exemption providing for such a barrier on the production of paper food-packaging material from recycled paperboard, including a consideration of the availability of barriers which are not impermeable but which prevent or reduce such migration of PCB's to varying degrees.

d. Whether or not, based on available scientific data, the Commissioner of Food and Drugs properly concluded, as a basis for promulgating the tolerance of 10 parts per million for PCB's in paper food-packaging material by his order of July 6, 1973, that paper food-packaging material is a demonstrated source of PCB's contained in the food packaged therein.

The hearing shall take place in the Hearing Room, Food and Drug Administration, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20852. The name of the presiding Administrative Law Judge and the date of the hearing will be announced in the FEDERAL REGISTER after the time for filing written appearances has elapsed. Written appearances must be filed with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, not later than April 11, 1975.

Parties to the hearing, i.e., persons who filed objections to the final order as well as timely written appearances, shall submit all direct evidence for the hearing record, including both testimony and documentary exhibits, in written form to the Administrative Law Judge pursuant to such requirements and by such date as he orders. Nonparty participants in the hearing, i.e., persons who did not file objections to the final order but who filed timely written appearances, shall also have the right to present such written direct evidence in accordance with the same requirements and at the same time.

Witnesses whose written direct testimony has been submitted for the hearing record shall be subject to oral cross-examination by any party upon a showing to and determination by the Administrative Law Judge for each such witness that such cross-examination is necessary to adduce relevant testimony required for a full and true disclosure of evidentiary facts. A nonparty participant may be permitted to conduct such cross-examination upon such a showing and determination, in addition to a finding by the Administrative Law Judge that his or her interest cannot otherwise be adequately protected.

The material referenced in support of the objections and requests for hearing filed is on display in the office of the Hearing Clerk at the location above.

As stated in the order of July 6, 1973, while the tolerance is stayed pending the outcome of the hearing, the Food and Drug Administration will enforce the PCB level of 10 parts per million established by §122.10(a)(9) by seizing, as adulterated food under section 402 of the act, any paper food-packaging material shipped in interstate commerce containing PCB's in excess of that level.

(Secs. 406, 701, 52 Stat. 1049, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 346, 371.)

Dated: February 5, 1975.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.75-6381 Filed 3-11-75;8:45 am]

PART 128d—PROCESSING AND BOTTLING OF BOTTLED DRINKING WATER

In the FEDERAL REGISTER of November 26, 1973 (38 FR 32563), the Commissioner of Food and Drugs proposed to amend Chapter I of Title 21 of the Code of Federal Regulations by adding a new Part 128d setting forth current good manufacturing practice for bottled water. Interested persons were invited to submit comments on the proposal on or before May 12, 1975.

Five letters of comment were received, from the American Bottled Water Association, from a consulting firm, and from individual members of industry. The individual issues raised by the comments and the Commissioner's conclusions are as follows:

1. Two comments took exception to the requirement under § 128d.3(d) that the bottle washing and sanitizing operation be performed in an enclosed room.

The Commissioner points out that an enclosed room, but not necessarily a separate room, is not required for the washing and sanitizing operation, as distinguished from the bottling operation. Other plant operations could be conducted within the same enclosed room as the bottle washing operation as long as the bottle washing operation is positioned to minimize post-sanitizing contamination of the bottles. The concern expressed by the comments about moisture developed by the bottle washing operation in an enclosed room can be eliminated by providing proper venting to the outside in accordance with 21 CFR 128.3(b)(4). The Commissioner concludes that it is not good manufacturing practice to allow open, sanitized containers to pass through a room that is not enclosed by walls, ceiling, and closed doors and windows. Even in an enclosed room, additional precautions against airborne contamination must be taken.

2. Two comments took exception to the requirement under § 128d.5(a)(3) for semiannual analysis of source water by plants, in addition to the analysis performed by the regulatory agency that approves the water source. The required analysis includes chemical, physical, and radiological determinations.

The Commissioner concludes that this exception is without merit. Only one or two water samples a year are normally taken by the regulatory agency that also inspects the water source and approves it for use. Due to this low level of sampling by regulatory agencies and the fact that the water bottling plant is obtaining a raw material for food for human consumption, it is not unreasonable to require the plant to perform or to have performed at least two analyses of their source water at intervals of not less than 5 months nor more than 7 months duration. Plants which obtain water from a municipal supply cannot safely rely on the sampling and tests conducted by the municipality, as in most cases the sampling is not performed at the bottling plant. Additionally, there are many points between the municipal water treatment facility and the bottling plant where contamination of the bottling plant's water supply could develop.

3. One comment suggested, in reference to § 128d.6(c), that the "U.S. Public Health Service (PHS) recommended standard for fabrication of single-service containers and closures for milk and milk

products" be applied to containers for bottled water and incorporated into the subject good manufacturing practice (GMP).

The Commissioner does not agree with this comment. He does agree that containers complying with the PHS recommended standard would certainly be acceptable for bottled water. However, he is of the opinion that while the PHS recommended standard is quite appropriate to the milk and milk product industry, it would be unnecessarily restrictive for the bottled water industry due to the great difference in the nature of the products involved. Further, the Commissioner has no data to lead him to believe that single-service containers currently used by the bottled water industry are not adequate for use as containers for bottled water.

The Commissioner concludes that the requirements set forth in the regulation under §§ 128d.6(c) and 128d.7(f) and (g)(1) as they relate to single-service containers and the bottling of water are sufficient to assure that the sanitary conditions of single-service containers are adequate from a public health standpoint.

4. Two comments suggested elimination of the reference to § 121.3006 in § 128d.7(a) of the proposal as it relates to the treatment of product water by ultraviolet (UV) radiation because the referenced regulation indicates the water must be sterile.

Since the expressed purpose of the UV treatment of bottled water is to destroy pathogenic organisms that may be present in the water and not to effect sterility, the Commissioner concludes that it is reasonable to remove from § 128d.7(a) of the regulation the reference to 21 CFR 121.3006 contained in the first sentence, and to revise the next sentence to read as follows: "All treatment of product water by distillation, ion-exchanging, filtration, ultraviolet treatment, reverse osmosis, carbonation, mineral addition, or any other process shall be done in a manner so as to be effective in accomplishing its intended purpose and in accordance with section 409 of the Federal Food, Drug, and Cosmetic Act."

5. One comment made a request to include the use of ozone as an approved method of disinfecting operations water and product water under § 128d.7(d).

The Commissioner concludes, upon consideration of this request and all relative information pertaining thereto, that when ozone is used to disinfect potable water in accordance with good manufacturing practices and the recommendation of the PHS, it is a safe and acceptable practice. Provisions for the use of ozone have therefore been included in the subject good manufacturing practice regulation.

6. One comment made a recommendation to utilize established sanitizing guidelines relative to strength, times, and temperatures at which chemical sanitizing solutions are used, as published in either the USPHS–FDA Food Service Sanitation Manual, 1962 edition, or the Grade "A" Pasteurized Milk Ordinance, 1965 edition.

The Commissioner points out that the recommendations of the documents above were utilized, as were other considerations, to arrive at the proposed § 128d.7(d)(3) minimum chemical sanitizing requirements. The 57° F temperature used as the baseline was selected because it represents most closely the actual temperature of the water used by this industry to perform the sanitizing procedure. Adjustments in time duration and sanitizer strength were based on the formulations in the documents referenced above. The primary requirement is that the sanitizing operation be adequate.

7. One comment questioned the intent of the coding requirements under § 128d.7(e) as they pertain to unit packages of products. The assumption was made that in situations where two or more single units of product are contained in some manner, such as in a carton or case, that only the carton or case must be coded.

The Commissioner advises that if single units of a product are or could be delivered to a consumer, then each unit of product must be coded. Where two or more units are packaged to form a single unit for delivery to a consumer, then only the carton or case need be coded.

8. One comment suggested that the requirement to maintain a record of product distribution could be interpreted to mean that plants distributing directly to retail outlets need not record the lot numbers of the products delivered.

The Commissioner concludes that such an interpretation is not justified. Section 128d.7(e) of the regulation states "the plant shall record and maintain information as to the kind of product, volume produced, date produced, lot code used, and the distribution of the finished product to wholesale and retail outlets." The Commissioner further concludes that it is not unreasonable to require a producer of bottled water to keep a record of the identity of a production lot that is delivered to a wholesaler or to a retailer for the purpose of assisting in the location and recall of a lot if it should become necessary.

9. One comment requested clarification of why the use of caustic solutions in bottle washers was not considered one of the prescribed methods of sanitizing containers.

The Commissioner points out that § 128d.7(d) already provides for the use of any suitable "chemical" sanitizing agents including caustic. However, the use of any "chemical" sanitizing agent not provided for by § 121.2547 would necessitate the complete removal of such chemical from product contact surfaces in order not to violate setion 402(a)(2)(ii) of the act. Unless such removal is accomplished with a rinse solution that will not contaminate the surface of the container with organisms of public health significance, the rinsing operation must be followed by a sanitization procedure.

The Commissioner therefore concludes that, since the subject regulation provides for various "chemical" means of effecting adequate sanitization, the use of a caustic cleaning process followed by a disinfected water rinse would be satisfactory. Recognition for such a procedure has been added to § 128d.7(d) of this regulation.

10. One comment recommended that a portion of § 128d.7(f) dealing with the taking of microbiological samples from containers and closures be placed under § 128d.6.

The Commissioner concludes that for purposes of quality assurance it is more desirable that the procedure of periodically checking containers and closures be included at its present location in the section pertaining to processes and controls and samples selected from the line at the point of filling and closing.

11. Two comments were not in agreement with the requirement under § 128d.7(g)(2) that bottling plants sample and analyze their product water at least semiannually for chemical, physical, and radiological attributes.

The Commissioner does not concur with this comment. It is the Commissioner's conclusion that any firm processing, bottling, and distributing various types of a food product must sample and analyze these products at least on a semiannual basis. While the approving agency and the plant both take samples of source water and analyze them, certain processes are utilized by bottling plants that modify the composition as well as other attributes of the source water. To assure uniformity of "drinking water," "fluoridated water," "deionized water," etc. and to assure that the product water meets the label declaration, a semiannual analysis is a minimum requirement of good manufacturing practices. Plants may find it necessary to sample more frequently depending on the variations in water composition and the degree of uniformity in the processes utilized in preparing a particular type of product water. One of the major items reported by the Environmental Protection Agency (EPA) from its 1971–1972 survey of water bottling plants was that only two of the 25 plants surveyed had adequate analysis of their water products.

12. For editorial purposes, § 128d.4(a)(2) of the subject GMP has been amended to include reference to section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348) concerning indirect food additives. Additionally, a typographical error in § 128d.7(d)(2) as proposed and published in the FEDERAL REGISTER of November 26, 1973 has been corrected to read "At least 170° F for at least 15 minutes." This section is also amended to provide another example of an equivalent (200° F for at least 5 minutes) hot water sanitization operation for enclosed systems.

Accordingly, having evaluated the comments received and other relevant material, the Commissioner concludes

that the regulation should be promulgated as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 402(a)(4), 409, 701(a), 52 Stat. 1046, 1055, 72 Stat. 1785–1788 as amended; 21 U.S.C. 342(a)(4), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended by adding a new Part 128d as follows:

Sec.
128d.1 Definitions.
128d.2 Current good manufacturing practice (sanitation).
128d.3 Plant construction and design.
128d.4 Equipment and utensils.
128d.5 Sanitary facilities and controls.
128d.6 Sanitary operations.
128d.7 Processes and controls.

AUTHORITY: Secs. 402(a)(4), 409, 701(a), 52 Stat. 1046, 1055; 72 Stat. 1785; 21 U.S.C. 342(a)(4), 348, 371(a).

§ 128d.1 Definitions.

(a) "Approved source" when used in reference to a plant's product water or operations water means that the source of the water and the water therefrom, whether it be from a spring, artesian well, drilled well, municipal water supply, or any other source, shall have been inspected and the water sampled, analyzed, and found to be of a safe and sanitary quality in accordance with the applicable laws and regulations of the government agency or agencies having jurisdiction. The presence, in the plant, of current certificates or notifications of approval from the government agency or agencies having jurisdiction shall constitute approval of the source and the water supply.

(b) "Bottled drinking water" means all water which is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

(c) "Lot" means a collection of primary containers or unit packages of the same size, type, and style produced under conditions as nearly uniform as possible and designated by a common container code or marking.

(d) "Multiservice containers" means containers intended for use more than one time.

(e) "Nontoxic materials" means materials for product water contact surfaces utilized in the transporting, processing, storing, and packaging of bottled drinking water, which are free of substances which may render the water injurious to health or which may adversely affect the flavor, color, odor, or bacteriological quality of the water.

(f) "Operations water" means water which is delivered under pressure to a plant for container washing, hand washing, plant and equipment cleanup and for other sanitary purposes.

(g) "Primary container" means the immediate container in which the product water is packaged.

(h) "Product water" means processed water used by a plant for bottled drinking water.

(i) "Shall and should." "Shall" refers to mandatory requirements and "should" refers to recommended or advisory procedures or equipment.

(j) "Shipping case" means a container in which one or more primary containers of the product are held.

(k) "Single-service container" means a container intended for one time usage only.

(l) "Unit package" means a standard commercial package of bottled drinking water, which may consist of one or more containers.

§ 128d.2 Current good manufacturing practice (sanitation).

The applicable criteria in §§ 128.3 through 128.8 of this chapter, as well as the criteria in §§ 128d.3 through 128d.7 shall apply in determining whether the facilities, methods, practices, and controls used in the processing, bottling, holding, and shipping of bottled drinking water are in conformance with or are operated or administered in conformity with good manufacturing practice to assure that bottled drinking water is safe and that it has been processed, bottled, held, and transported under sanitary conditions.

§ 128d.3 Plant construction and design.

(a) The bottling room shall be separated from other plant operations or storage areas by tight walls, ceilings, and self-closing doors to protect against contamination. Conveyor openings shall not exceed the size required to permit passage of containers.

(b) If processing operations are conducted in other than a sealed system under pressure, adequate protection shall be provided to preclude contamination of the water and the system.

(c) Adequate ventilation shall be provided to minimize condensation in processing rooms, bottling rooms, and in container washing and sanitizing areas.

(d) The washing and sanitizing of containers for bottled drinking water shall be performed in an enclosed room. The washing and sanitizing operation shall be positioned within the room so as to minimize any possible post-sanitizing contamination of the containers before they enter the bottling room.

(e) Rooms in which product water is handled, processed, or held or in which containers, utensils, or equipment are washed or held shall not open directly into any room used for domestic household purposes.

§ 128d.4 Equipment and utensils.

(a) *Suitability.* (1) All plant equipment and utensils shall be suitable for their intended use. This includes all collection and storage tanks, piping, fittings, connections, bottle washers, fillers, cappers, and other equipment which may be used to store, handle, process, package, or transport product water.

(2) All product water contact surfaces shall be constructed of nontoxic and nonabsorbant material which can be adequately cleaned and sanitized and is in compliance with section 409 of the act.

(b) *Design.* Storage tanks shall be of the type that can be closed to exclude all foreign matter and shall be adequately vented.

§ 128d.5 Sanitary facilities and controls.

Each plant shall provide adequate sanitary facilities including, but not limited to, the following:

(a) *Product water and operations water*—(1) *Product water.* The product water supply for each plant shall be from an approved source properly located, protected, and operated and shall be easily accessible, adequate, and of a safe, sanitary quality which shall be in conformance at all times with the applicable laws and regulations of the government agency or agencies having jurisdiction.

(2) *Operations water.* If different from the product water supply, the operations water supply shall be obtained from an approved source properly located, protected, and operated and shall be easily accessible, adequate, and of a safe, sanitary quality which shall be in conformance at all times with the applicable laws and regulations of the government agency or agencies having jurisdiction.

(3) *Product water and operations water from approved sources.* (i) Water samples shall be taken from approved sources by the plant as often as is necessary, but at a minimum frequency of twice each year with an interval between samples of not less than 5 months nor more than 7 months to assure that the supply is in conformance with the applicable standards, laws, and regulations of the government agency or agencies having jurisdiction. The sampling and analysis shall be by qualified plant personnel and shall be in addition to any sampling performed by the government agency or agencies having jurisdiction. Records of both government agency approval of the water source and the sampling and analysis performed by the plant shall be maintained on file at the plant.

(ii) Test and sample methods shall be those recognized and approved by the government agency or agencies having jurisdiction over the approval of the water source, and shall be consistent with the minimum requirements set forth in § 11.7 of this chapter.

(iii) Analysis of the samples may be performed for the plant by competent commercial laboratories.

(b) *Air under pressure.* Whenever air under pressure is directed at product water or a product water-contact surface, it shall be free of oil, dust, rust, excessive moisture, and extraneous materials; shall not affect the bacteriological quality of the water; and should not adversely affect the flavor, color, or odor of the water.

(c) *Locker and lunchrooms.* When employee locker and lunchrooms are provided, they shall be separate from plant operations and storage areas and shall be

equipped with self-closing doors. The rooms shall be maintained in a clean and sanitary condition and refuse containers should be provided. Packaging or wrapping material or other processing supplies shall not be stored in locker or lunchrooms.

§ 128d.6 Sanitary operations.

(a) The product water-contact surfaces of all multiservice containers, utensils, pipes, and equipment used in the transportation, processing, handling, and storage of product water shall be clean and adequately sanitized. All product water-contact surfaces shall be inspected by plant personnel as often as necessary to maintain the sanitary condition of such surfaces and to assure they are kept free of scale, evidence of oxidation, and other residue. The presence of any unsanitary condition, scale, residue, or oxidation shall be immediately remedied by adequate cleaning and sanitizing of that product water-contact surface prior to use.

(b) After cleaning, all multiservice containers, utensils, and disassembled piping and equipment shall be transported and stored in such a manner as to assure drainage and shall be protected from contamination.

(c) Single-service containers and caps or seals shall be purchased and stored in sanitary closures and kept clean therein in a clean, dry place until used. Prior to use they shall be examined, and as necessary, washed, rinsed, and sanitized and shall be handled in a sanitary manner.

(d) Filling, capping, closing, sealing, and packaging of containers shall be done in a sanitary manner so as to preclude contamination of the bottled drinking water.

§ 128d.7 Processes and controls.

(a) *Treatment of product water.* All treatment of product water by distillation, ion-exchanging, filtration, ultraviolet treatment, reverse osmosis, carbonation, mineral addition, or any other process shall be done in a manner so as to be effective in accomplishing its intended purpose and in accordance with section 409 of the Federal Food, Drug, and Cosmetic Act. All such processes shall be performed in and by equipment and with substances which will not adulterate the bottled product. A record of the type and date of physical inspections of such equipment, conditions found, and the performance and effectiveness of such equipment shall be maintained by the plant. Product water samples shall be taken after processing and prior to bottling by the plant and analyzed as often as is necessary to assure uniformity and effectiveness of the processes performed by the plant. The methods of analysis shall be those approved by the government agency or agencies having jurisdiction.

(b) *Containers.* (1) Multiservice primary containers shall be adequately cleaned, sanitized, and inspected just prior to being filled, capped, and sealed. Containers found to be unsanitary or defective by the inspection shall be reprocessed or discarded. All multiservice primary containers shall be washed, rinsed, and sanitized by mechanical washers or by any other method giving adequate sanitary results. Mechanical washers shall be inspected as often as is necessary to assure adequate performance. Records of physical maintenance, inspections and conditions found, and performance of the mechanical washer shall be maintained by the plant.

(2) Multiservice shipping cases shall be maintained in such condition as to assure they will not contaminate the primary container or the product water. Adequate dry or wet cleaning procedures shall be performed as often as necessary to maintain the cases in satisfactory condition.

(c) *Cleaning and sanitizing solutions.* Cleaning and sanitizing solutions utilized by the plant shall be sampled and tested by the plant as often as is necessary to assure adequate performance in the cleaning and sanitizing operations. Records of these tests shall be maintained by the plant.

(d) *Sanitizing operations.* Sanitizing operations, including those performed by chemical means or by any other means such as circulation of live steam or hot water, shall be adequate to effect sanitization of the intended product water-contact surfaces and any other critical area. The plant should maintain a record of the intensity of the sanitizing agent and the time duration that the agent was in contact with the surface being sanitized. The following times and intensities shall be considered a minimum:

(1) Steam in enclosed system: At least 170° F. for at least 15 minutes or at least 200° F. for at least 5 minutes.

(2) Hot water in enclosed system: At least 170° F. for at least 15 minutes or at least 200° F. for at least 5 minutes.

(3) Chemical sanitizers shall be equivalent in bactericidal action to a 2-minute exposure of 50 parts per million of available chlorine at 57° F., when used as an immersion or circulating solution. Chemical sanitizers applied as a spray or fog shall have as a minimum 100 parts per million of available chlorine at 57° F. or its equivalent in bactericidal action.

(4) 0.1 part per million ozone water solution in an enclosed system for at least 5 minutes.

(5) When containers are sanitized using a substance other than one provided for in § 121.2547 of this chapter, such substance shall be removed from the surface of the container by a rinsing procedure. The final rinse, prior to filling the container with product water, shall be performed with a disinfected water rinse free of pathogenic bacteria or by an additional sanitizing procedure equivalent in bactericidal action to that required in paragraph (d)(3) of this section.

(e) *Unit package production code.* Each unit package from a batch or segment of a continuous production run of bottled drinking water shall be identified by a production code. The production code shall identify a particular batch or segment of a continuous production run and the day produced. The plant shall record and maintain information as to the kind of product, volume produced, date produced, lot code used, and the distribution of the finished product to wholesale and retail outlets.

(f) *Filling, capping, or sealing.* During the process of filling, capping or sealing either single-service or multiservice containers, the performance of the filler, capper or sealer shall be monitored and the filled containers visually or electronically inspected to assure they are sound, properly capped or sealed, and coded and labeled. Containers which are not satisfactory shall be reprocessed or rejected. Only nontoxic containers and closures shall be used. All containers and closures shall be sampled and inspected to ascertain that they are free from contamination. At least once each 3 months, a bacteriological swab and/or rinse count should be made from at least four containers and closures selected just prior to filling and sealing. No more than one of the four samples may exceed more than one bacteria per milliliter of capacity or one colony per square centimeter of surface area. All samples shall be free of coliform organisms. The procedure and apparatus for these bacteriological tests shall be in conformance with those recognized by the government agency or agencies having jurisdiction. Tests shall be performed either by qualified plant personnel or a competent commercial laboratory.

(g) *Compliance procedures.* To assure that the plant's production of bottled drinking water is in compliance with the applicable standards, laws, and regulations of the government agency or agencies having jurisdiction, the plant shall:

(1) For bacteriological purposes, take and analyze at least once a week a representative sample from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The representative sample shall consist of primary containers of product or unit packages of product.

(2) For chemical, physical, and radiological purposes, take and analyze at least semi-annually a representative sample from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The representative sample shall consist of primary containers of product or unit packages of product.

(3) Analyze such samples by methods approved by the government agency or agencies having jurisdiction. The plant shall maintain records of date of sampling, type of product sampled, production code, and results of the analysis.

(h) *Record retention.* All records required by §§ 128d.2 through 128d.7 shall be maintained at the plant for not less than 2 years. Plants shall also retain, on file at the plant, current certificates or notifications of approval issued by the

government agency or agencies approving the plant's source and supply of product water and operations water. All required documents shall be available for official review at reasonable times.

Effective date. This order shall become effective April 11, 1975.

(Secs. 402(a)(4), 409, 701(a), 52 Stat. 1046, 1055, 72 Stat. 1785–1788 as amended; 21 U.S.C. 342(a)(4), 348, 371(a))

Dated: March 6, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-6382 Filed 3-11-75;8:45 am]

SUBCHAPTER C—DRUGS

CHANGE IN SPONSOR AND SPONSOR NAME

The Commissioner of Food and Drugs has been advised by Bayvet Corp., P.O. Box 390, Shawnee Mission, KS 66201 of their assuming sponsorship of certain new animal drug applications of their Haver-Lockhart Laboratories Division and of Chemagro Division of Baychem Corp. Specifically, these are: NADA No. 12-054V (protokylol hydrochloride injection, veterinary), NADA No. 10-540V (calcium disodium edetate injection), NADA No. 42-413V (arsenamide sodium aqueous injection, veterinary), NADA No. 12-054V (protokylol hydrochloride tablets, veterinary), NADA No. 13-602V (sulfadimethoxine tablets), NADA No. 32-336V (sulfadimethoxine injection); and NADA Nos. 34-641V, 47-138V (fenthion), NAOA Nos. 47-955V, 47-956V (xylazine hydrochloride injection), NADA No. 15-161V (trichlorfon oral veterinary), NADA Nos. 15-965V, 40-001V, 45-287V (coumaphos), NADA No. 34-394V (niclosamide tablets).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 135—NEW ANIMAL DRUGS

1. Part 135 is amended in § 135.501(c) by deleting and designating as reserved item 007 and revising item 074, as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

Code No.:	*Firm name and address*
* * * * *	
007 ----------	[Reserved]
* * * * *	
074 ----------	Bayvet Corp., P.O. Box 390, Shawnee Mission, Kans. 66201.
* * * * *	

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

§ 135a.7 [Amended]

2. Part 135a is amended in § 135a.7 *Fenthion* in paragraphs (b)(2) and (c)(2) by deleting the number "007" and inserting in its place the number "074."

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

3. Part 135b is amended as follows:

§ 135b.15 [Amended]

a. In § 135b.15 *Sulfadimethoxine injection* in paragraph (b)(2), by adding after the number "069" the phrase "for use in cats and dogs and 074 for use in dogs only."

§ 135b.58 [Amended]

b. In § 135b.58 *Xylazine hydrochloride injection* in paragraph (b), by deleting the number "007" and inserting in its place the number "074."

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

4. Part 135c is amended as follows:

§ 135c.39 [Amended]

a. In § 135c.39 *Trichlorfon oral veterinary* in paragraph (b), by deleting the phrase "047 and 048" and inserting in its place the phrase "047, 048, and 074."

§ 135c.65 [Amended]

b. In § 135c.65 *Coumaphos crumbles* in paragraph (c), by deleting the number "007" and inserting in its place the number "074."

§ 135c.101 [Amended]

c. In § 135c.101 *Niclosamide tablets* in paragraph (c), by deleting the number "007" and inserting in its place the number "074."

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

5. Part 135e is amended in § 135e.39 *Coumaphos* in paragraph (b)(1), by deleting the number "007" and inserting in its place the number "074."

Effective date. This order shall be effective on March 12, 1975.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i).)

Dated: February 28, 1975.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.75-6375 Filed 3-11-75;8:45 am]

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Chloramphenicol Ophthalmic Ointment, Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (65-460V) filed by KASCO-EFCO Laboratories, Inc., Hicksville, NY 11802, proposing safe and effective use of chloramphenicol ophthalmic ointment, veterinary, in the treatment of bacterial conjunctivitis in dogs and cats. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135a.29(b) is amended by changing the sponsor reference of "No. 049" to "Nos. 049 and 082." As revised, paragraph (b) reads as follows:

§ 135a.29 Chloramphenicol ophthalmic ointment, veterinary.

* * * * *

(b) *Sponsor.* See code Nos. 049 and 082 in § 135.501(c) of this chapter for use in accordance with paragraph (c)(1)(i) of this section and code No. 053 for use in accordance with paragraph (c)(1)(ii) of this section.

* * * * *

Effective date. This order shall be effective March 12, 1975.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i).)

Dated: March 6, 1975.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.75-6374 Filed 3-11-75;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Diethylcarbamazine Citrate Tablets

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (93-512V) filed by E. R. Squibb & Sons, Inc., Georges Rd., New Brunswick, NJ 08902, proposing safe and effective use of 200 and 300 milligram diethylcarbamazine citrate tablets for prevention of heartworm infection and treatment of ascarid infections in dogs. The supplemental application is approved, effective March 12, 1975.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended by revising § 135c.86(b)(1) to read as follows:

§ 135c.86 Diethylcarbamazine citrate tablets.

* * * * *

(b)(1) *Specifications.* Diethylcarbamazine citrate tablets contain 100, 200, or 300 milligrams of diethylcarbamazine citrate per tablet.

* * * * *

Effective date. This order shall be effective on March 12, 1975.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i).)

Dated: March 6, 1975.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.75-6376 Filed 3-11-75;8:45 am]

PART 135d—NEW ANIMAL DRUGS FOR INTRAMAMMARY USE

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS FOR VETERINARY USE

Procaine Penicillin G-Novobiocin for Intramammary Infusion

The Commissioner of Food and Drugs has evaluated a new animal drug application (55-072V) filed by the Upjohn Co., Kalamazoo, MI 49001, proposing safe and effective use of procaine penicillin G-novobiocin for intramammary infusion in the treatment of mastitis in lactating cows. The application is approved.

The drug is subject to the batch certification provisions of section 512(n) of the Federal Food, Drug, and Cosmetic Act. This order provides for appropriate amendment to the antibiotic drug certification regulations.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347-351; 21 U.S.C. 360b (i) and (n)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. In Part 135d by adding a new section to read as follows:

§ 135d.17 Procaine penicillin G-novobiocin for intramammary infusion.

(a) *Specifications.* The drug contains a suspension of procaine penicillin G, 100,000 units, and novobiocin sodium, equivalent to 150 milligrams of novobiocin, in 10 milliliters of peanut oil vehicle, and conforms to the certification requirements of § 146a.129 of this chapter.

(b) *Sponsor.* See code No. 037 in § 135-501(c) of this chapter.

(c) *Conditions of use.* (1) Use for the treatment of mastitis in lactating cows caused by susceptible strains of *Staphylococcus aureus* and *Streptococcus agalactiae.*

(2) Infuse 10 milliliters in each infected quarter after milking. Repeat once after 24 hours.

(3) For udder instillation in lactating cattle only.

(4) Do not milk for at least 6 hours after treatment; thereafter, milk at regular intervals.

(5) Milk taken from treated animals within 72 hours (6 milkings) after the latest treatment must not be used for food.

(6) Treated animals must not be slaughtered for food for 15 days following the latest treatment.

(7) If redness, swelling, or abnormal milk persists, discontinue use and consult a veterinarian.

2. In Part 146a by adding a new section to read as follows:

§ 146a.129 Procaine penicillin G-novobiocin for intramammary infusion.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Procaine penicillin G-novobiocin for intramammary infusion is a suspension of procaine penicillin G and sodium novobiocin in refined vegetable oil with a suitable and harmless suspending agent and preservative. It contains in each 10-milliliter dose 100,000 units of procaine penicillin G and 150 milligrams of sodium novobiocin. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of units of penicillin or milligrams of novobiocin that it is represented to contain. Its moisture content is not more than 1.0 percent. The procaine penicillin G used conforms to the requirements of § 440.74a of this chapter, except sterility and pyrogens, and the novobiocin used conforms to the requirements of § 455.51 of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.-3 and § 135d.17 of this chapter.

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

(i) Results of tests and assays on:

(*a*) The procaine penicillin G used in making the batch for potency percent G content, safety, moisture, pH, and crystallinity.

(*b*) The sodium novobiocin used in making the batch for potency, safety, loss on drying, pH, specific rotation, identity, and crystallinity.

(c) The batch for potency and moisture.

(ii) Samples required:

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

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

(c) The batch: A minimum of 5 immediate containers.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.105 of this chapter using test organism 0 in lieu of A to assay for penicillin content, preparing the samples for assay as follows:

(i) *Penicillin content.* Expel the syringe contents into a high speed glass blender jar containing 1 milliliter of polysorbate 80 and sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1) to give a final volume of 500 milliliters. Blend for 3 to 5 minutes. Further dilute an aliquot of this stock solution with solution 1 to the reference concentration of 1 unit of penicillin per milliliter (estimated).

(ii) *Novobiocin content.* Expel the syringe contends into a high speed glass blender jar containing 1 milliliter of polysorbate 80 and sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3) to give a final volume of 500 milliliters. Blend for 3 to 5 minutes. To an aliquot of this stock solution, add sufficient penicillinase to inactivate the penicillin; further dilute with 10 percent potassium phosphate buffer, pH 6.0 (solution 6) to the reference concentration of 0.5 microgram of novobiocin per milliliter (estimated). Allow to stand for ½ hour at 37° C before filling the cylinders on the plates.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

Effective date. This order shall be effective on March 12, 1975.

(Sec. 512 (i) and (n), 82 Stat. 347-351; 21 U.S.C. 360b (i) and (n).)

Dated: March 6, 1975.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.75-6377 Filed 3-11-75;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 495]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at 39 FR 26186-93). A list of servicing companies is also available from the Federal Insurance Administration, HUD, 451 Seventh Street SW., Washington, D.C. 20410.

The Flood Disaster Protection Act of 1973 requires the purchases of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special hazards that is located within any community currently participating in the National Flood Insurance Program.

Until July 1, 1975, the statutory requirement for the purchase of flood insurance does not apply until and unless the community enters the program and the special flood hazards have been identified. However, on July 1, 1975, or one year after the identification of the community as flood prone, whichever is later, the requirement will apply to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and flood insurance has been purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. Therefore notice and public procedure under 5 U.S.C. 553(b) are impracticable, unnecessary, and contrary to the public interest.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * *

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	
California	San Bernardino	Needles, city of	Mar. 5, 1975, emergency	June 14, 1974		
Georgia	Floyd	Unincorporated area	do			
Kentucky	Harlan	Evarts, city of	do	May 17, 1974		
Louisiana	St. Landry	Cankton, village of	do			
Minnesota	Kandiyohi	Raymond, city of	do	Apr. 12, 1974		
Missouri	Scott	Oran, city of	do			
New York	Orange	Monroe, town of	do	June 28, 1974		
North Carolina	Roberson	Lumberton, city of	do	do		
North Dakota	Burleigh	Unincorporated area	do			
Ohio	Stark	Brewster, village of	do	Feb. 8, 1974		
Do.	Tuscarawas	Uhrichsville, city of	do	Nov. 9, 1973		
Oklahoma	Carter	Ardmore, city of	do	Mar. 29, 1974		
South Carolina	Spartanburg	Uninvorporated area	do			
Texas	Denton	Corinth, town of	do			
Virginia	Greensville	Jarratt, town of	do			
Do.	Westmoreland	Colonial Beach, town of	do	Aug. 9, 1974		
Wisconsin	Walworth	Genoa City, village of	do	Jan. 9, 1974		
Do.	Sauk	LaValle, village of	do	Dec. 28, 1973		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator (34 F.R. 2680, Feb. 27, 1969) as amended 39 F.R. 2787, Jan. 24, 1974)

Issued: February 26, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-6249 Filed 3-11-75;8:45 am]

[Docket No. FI 497]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at 39 FR 26186–93). A list of servicing companies is also available from the Federal Insurance Administration, HUD, 451 Seventh Street SW., Washington, D.C. 20410.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special hazards that is located within any community currently participating in the National Flood Insurance Program.

Until July 1, 1975, the statutory requirement for the purchase of flood insurance does not apply until and unless the community enters the program and the special flood hazards have been identified. However, on July 1, 1975, or one year after the identification of the community as flood prone, whichever is later, the requirement will apply to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and flood insurance has been purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. Therefore notice and public procedure under 5 U.S.C. 553(b) are impracticable, unnecessary, and contrary to the public interest.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * *

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Alabama	Geneva	Geneva, city of	Mar. 6, 1975, emergency	Mar. 29, 1974		
Arkansas	Craighead	Caraway, city of	do	Jan. 10, 1975		
California	Los Angeles	Manhattan Beach, city of	do	July 26, 1974		
Colorado	Washington	Akron, town of	do			
Georgia	Rockdale	Unincorporated areas	do			
Illinois	Williamson	Herrin, city of	do	Feb. 15, 1974		
Do	Cook	Lemont, Village of	do	Mar. 29, 1974		
Indiana	DeKalb	Butler, city of	do	Feb. 1, 1974		
Do	Howard	Unincorporated areas	do			
Do	Harrison	New Amsterdam, town of	do	Feb. 1, 1974		
Do	Pike	Petersburg, city of	do	May 17, 1974		
Do	DeKalb	Waterloo, town of	do	Jan. 18, 1974		
Kentucky	Whitley	Williamsburg, city of	do	Feb. 1, 1974		
Louisiana	Richland Parish	Delhi, town of	do	Mar. 29, 1974		
Maine	Aroostook	St. Agatha, town of	do			
Minnesota	Anoka	Centerville, village of	do			
Missouri	Scott	Chaffee, city of	do	Mar. 15, 1974		
New York	Oneida	Lee, town of	do	June 28, 1974		
Oklahoma	Seminole	Wewoka, city of	do	June 14, 1974		
Pennsylvania	Adams	Littlestown, borough of	do	Feb. 7, 1975		
Do	Allegheny	Munhall, borough of	do	Jan. 9, 1974		
Do	Wyoming	Nicholson, borough of	do	Jan. 17, 1975		
Do	Washington	South Strabane, township of	do	Dec. 20, 1974		
Do	Erie	Wayne, township of	do	Dec. 13, 1974		
Do	Allegheny	West Deer, township of	do	Sep. 20, 1974		
Texas	Baylor	Seymour, city of	do	May 3, 1974		
Virginia	Wise	Coeburn, town of	do	May 10, 1974		
Do	Halifax	Halifax, town of	do	Nov. 15, 1974		
Washington	Snohomish	Stanwood, city of	do			
West Virginia	Gilmer	Glenville, city of	do	Apr. 5, 1974		
Do	Mercer	Princeton, city of	do	July 19, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974)

Issued: February 27, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-6250 Filed 3-11-75;8:45 am]

[Docket No. FI 498]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at 39 F.R. 26186–93). A list of servicing companies is also available from the Federal Insurance Administration, HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special hazards that is located within any community currently participating in the National Flood Insurance Program.

Until July 1, 1975, the statutory requirement for the purchase of flood insurance does not apply until and unless the community enters the program and the special flood hazards have been identified. However, on July 1, 1975, or one year after the identification of the community as flood prone, whichever is later, the requirement will apply to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and flood insurance has been purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. Therefore notice and public procedure under 5 U.S.C. 553(b) are impracticable, unnecessary, and contrary to the public interest.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * *

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Kansas	Morris	Council Grove, city of	March 7, 1975, emergency	Dec. 28, 1973		
Do.	Wyandotte	Unincorporated areas	do.			
Illinois	Lake	Bannockburn, village of	do.	Feb. 1, 1974		
Do.	Cook	Broadview, village of	do.	Mar. 22, 1974		
Do.	Grundy	Diamond, village of	do.	Mar. 8, 1974		
Do.	Kendall	Plano, city of	do.	Dec. 7, 1973		
Do.	Ogle	Rochelle, city of	do.	May 31, 1974		
Do.	Cook and Will	Steger, village of	do.	May 3, 1974		
Indiana	De Kalb	Garrett, city of	do.	May 10, 1974		
Iowa	Clayton	Garber, city of	do.	Aug. 30, 1974		
Do.	Chickasaw	New Hampton, city of	do.	June 28, 1974		
Massachusetts	Worcester	Lancaster, town of	do.	Feb. 22, 1974		
Do.	do.	Millville, city of	do.	June 28, 1974		
Michigan	Leelanau	Glen Arbor, township of	do.			
Do.	Oakland	Franklin, village of	do.			
Do.	Allegan	Otsego, city of	do.	May 3, 1974		
Mississippi	De Soto	Horn Lake, city of	do.	Feb. 1, 1974		
Missouri	Nodaway	Maryville, city of	do.	May 3, 1974		
Nebraska	Dawson	Cozad, city of	do.	June 7, 1974		
Nebraska	Dodge	Winslow, village of	do.	Aug. 23, 1974		
Do.	Madison	Battle Creek, village of	do.	Mar. 8, 1974		
New Jersey	Salem	Alloway, township of	do.	June 28, 1974		
Do.	Monmouth	Spring Lake Heights, borough of.	do.	May 3, 1974		
New Mexico	Dona Ana	La Mesilla, town of	do.			
New York	Yates	Milo, town of	do.	May 17, 1974		
Do.	Essex	North Elba, town of	do.	Jan. 17, 1975		
North Carolina	Harnett	Lillington, town of	do.			
Ohio	Scioto	Portsmouth, city of	do.	May 31, 1974		
Pennsylvania	Luzerne	Avoca, borough of	do.	July 19, 1974		
Texas	Jones	Anson, city of	do.	June 28, 1974		
Utah	Carbon	East Carbon, city of	do.			
Washington	Yakima	Wapato, city of	do.	May 24, 1974		
West Virginia	Greenbrier and Monroe.	Alderson, town of	do.	June 14, 1974		
Do.	Lewis	Jane Lew, town of	do.	Aug. 9, 1974		
Do.	Greenbrier	Quinwood, town of	do.	Nov. 15, 1974		
Do.	Doddridge	West Union, town of	do.	Mar. 29, 1974		
Wyoming	Carbon	Rawlins, city of	do.	May 24, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974)

Issued: March 3, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-6251 Filed 3-11-75;8:45 am]

[Docket No. FI 499]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Partcipating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at 39 FR 26186–93). A list of servicing companies is also available from the Federal Insurance Administration, HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special hazards that is located within any community currently participating in the National Flood Insurance Program.

Until July 1, 1975, the statutory requirement for the purchase of flood insurance does not apply until and unless the community enters the program and the special flood hazards have been identified. However, on July 1, 1975, or one year after the identification of the community as flood prone, whichever is later, the requirement will apply to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and flood insurance has been purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. Therefore notice and public procedure under 5 U.S.C. 553(b) are impracticable, unnecessary, and contrary to the public interest.

Section 1914.4 of Part 1914 of Subchapter B of chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * *

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Idaho	Jerome	Jerome, city of	March 10, 1975, emergency	May 17, 1974		
Illinois	Clinton	Albers, village of	do	Mar. 22, 1974		
Indiana	Hendricks	Danville, town of	do	Dec. 27, 1973		
Do	Randolph	Winchester, city of	do	do		
Iowa	Clayton	Olaf, city of	do			
Massachusetts	Worcester	Bolton, town of	do	June 28, 1974		
Michigan	Monroe	Dundee, village of	do	Feb. 1, 1974		
Do	Emmet	Petoskey, city of	do	June 21, 1974		
Minnesota	Chippewa	Clara City, city of	do	May 17, 1974		
New York	Oswego	Hastings, town of	do	Nov. 1, 1974		
Do	Fulton	Johnston, city of	do	June 28, 1974		
Do	Orange	Monroe, village of	do	Aug. 2, 1974		
Do	Oswego	Phoenix, village of	do	Mar. 22, 1974		
Do	Orange	Walden, village of	do	Mar. 8, 1974		
North Dakota	Ransom	Lisbon, city of	do	Nov. 23, 1973		
Ohio	Medina	Chippewa-on-the-Lake, village of	do	Mar. 22, 1974		
Do	Geauga	Middlefield, village of	do	Mar. 22, 1974		
Oklahoma	Comanche	Cache, town of	March 10, 1975, Emergency	May 17, 1974		
Pennsylvania	Washington	Allenport, borough of	do	June 21, 1974		
Do	Centre	Miles, township of	do	Sept. 13, 1974		
Tennessee	Cheatham	Ashland, town of	do	Aug. 16, 1974		
Do	Carroll	Huntingdon, town of	do	Feb. 22, 1974		
Do	Harding	Savannah, city of	do			
Texas	Karnes	Falls City, city of	do	June 28, 1974		
Utah	Cache	Hyde Park City Inc., city of	do	Aug. 2, 1974		
Do	Utah	Orem, city of	do			
Do	Tooele	Tooele, city of	do	Aug. 16, 1974		
West Virginia	Summers	Hinton, city of	do	May 31, 1974		
Do	Harrison	Nutter Fort, town of	do	Mar. 15, 1974		
Do	Greenbrier	Rencevette, city of	do	Feb. 14, 1975		
Wisconsin	Wood	Pittsville, city of	do	Dec. 17, 1973		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended, 39 FR 2787, Jan. 24, 1974

Issued: March 3, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-6252 Filed 3-11-75;8:45 am]

[Docket No. FI-496]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding. Since this publication is merely for the purpose of informing the public of the location of areas of special flood hazard and has no binding effect on the sale of flood insurance or the commencement of construction, notice and public procedure are impracticable, unnecessary, and contrary to the public interest. Inasmuch as this publication is not a substantive rule, the identification of special hazard areas shall be effective on the date shown. Where two dates appear in the column marked effective date of identification, the first listing refers to the initial identification of areas having special flood hazards, and the second date refers to additional areas identified. Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Alabama	Bullock	Unincorporated areas.	H 010231 01 through H 010231 02	Alabama Development Office, Office of State Planning, State Office Bldg., 501 Dexter Ave., Montgomery, Ala. 36104. Alabama Insurance Department, Room 453, Administrative Bldg., Montgomery, Ala. 36104.	County Board of Supervisors, Bullock County, County Courthouse, Union Springs, Ala. 36089.	Mar. 28, 1975.
Arkansas	Yell	Danville, city of	H 050318 01 through H 050318 03	Division of Soil and Water Resources, State Department of Commerce, 1520 West Capitol Ave., Little Rock, Ark. 72201. Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204.	Mayor, City of Danville, Danville, Ark. 72833.	Feb. 7, 1975.
California	Santa Clara	Milpitas, city of	H 060344A 01 through H 060344A 04	Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012.	Mayor, City of Milpitas, City Hall, 455 East Calaveras Blvd., Milpitas, Calif. 95035.	Mar. 22, 1974. Mar. 28, 1975.
Florida	Pinellas	Pinellas Park, city of.	H 120251A 01 through H 120251A 04	Department of Community Affairs, 2571 Executive Center Circle E., Howard Bldg., Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Mayor, City of Pinellas Park, Pinellas Park, Fla. 33565.	June 7, 1974. Mar. 28, 1975.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Georgia	Bulloch	Unincorporated areas.	H 130019 01 through H 130019 04	Department of Natural Resources, Office of Planning and Research, 270 Washington St. SW., Room 707, Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	County Board of Commissioners, Bulloch County, County Courthouse, Statesboro, Ga. 30458.	Do.
Do	Glascock	Gibson, city of	H 130001 01	do	Mayor, City of Gibson, Gibson, Ga. 30810.	Do.
Do	Sumter	Americus, city of	H 130203 01 through H 130203 04	do	Mayor, City of Americus, City Hall, Americus, Ga. 31709.	Do.
Do	Baker	Unincorporated areas.	H 130270 01 through H 130270 02	do	County Board of Commissioners, County of Baker, County Courthouse, Newton, Ga. 31770.	Do.
Illinois	Du Page	Elmhurst, city of	H 170205A 01 through H 170205A 03	Governor's Task Force on Flood Control, 300 North State St., Room 1010, Chicago, Ill. 60610. Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 62702.	Building Department, City of Elmhurst, 119 Schiller St., Elmhurst, Ill. 60126.	May 3, 1974. Mar. 28, 1975.
Do	Carroll	Milledgeville, village of.	H 170817 01	do	Village Clerk, Village of Milledgeville, Milledgeville, Ill. 61051.	Do.
Do	Mason	Forest City, village of.	H 170827 01	do	Village President, Village of Forest City, Village Hall, Forest City, Ill. 61532.	Do.
Do	McHenry	McCullom Lake, village of.	H 170829 01	do	Village Creek, Village of McCullom Lake, McCullom Lake, Ill. No ZIP.	Do.
Do	Mercer	Matherville, village of.	H 170833 01	do	Village Creek, Village of Matherville, Matherville, Ill. 61263.	Do.
Do	Peoria	Mapleton, village of.	H 170836 01	do	Village President, Village of Mapleton, Village Hall, Mapleton, Ill. 61547.	Do.
Do	St. Clair	Millstadt, village of.	H 170838 01	do	Village Clerk, Village of Millstadt, Millstadt, Ill. 62260.	Do.
Do	Vermilion	Belgium, village of.	H 170845 01	do	Village President, Village of Belgium, Village Hall, Belgium, Ill. No ZIP.	Do.
Do	Washington	Dubois, village of.	H 170846 01	do	Village President, Village of Dubois, Village Hall, Dubois, Ill. 62831.	Do.
Do	Bureau	Bureau Junction, village of.	H 170850 01	do	Village President, Village of Bureau Junction, Village Hall, Bureau Junction, Ill. No ZIP.	Do.
Do	do	Dalzell, village of	H 170851 01 through H 170851 02	do	Village President, Village of Dalzell, Village Hall, Dalzell, Ill. 61320.	Do.
Do	do	Hollowayville, village of.	H 170852 01	do	Village President, Village of Hollowayville, Village Hall, Hollowayville, Ill. No ZIP.	Do.
Do	Clinton	Bartelso, village of.	H 170859 01	do	Village President, Village of Bartelso, Village Hall, Bartelso, Ill. 62218.	Do.
Do	Coles	Oakland, city of	H 170861 01	do	City Manager, City Bldg., City of Oakland, Oakland, Ill. 61943.	Do.
Do	Cumberland	Greenup, village of.	H 170862 01	do	Village President, Village of Greenup, Village Hall, Greenup, Ill. 62428.	Do.
Do	Franklin	West City, village of.	H 170872 01	do	Village Clerk, Village of West City, West City, Ill. No ZIP.	Do.
Do	Jackson	Elkville, village of	H 170876 01	do	Village President, Village of Elkville, Village Hall, Elkville, Ill. 62932.	Do.
Do	Kankakee	Manteno, village of.	H 170878 01	do	Village President, Village of Manteno, Village Hall, Manteno, Ill. 60950.	Do.
Do	La Salle	Kangley, village of.	H 170879 01	do	Village President, Village of Kangley, Village Hall, Kangley, Ill. No ZIP.	Do.
Do	Logan	Middletown, village of.	H 170880 01	do	Village Clerk, Village of Middletown, Middletown, Ill. 62666.	Do.
Do	Warren	Little York, village of.	H 170884 01	do	Village President, Village of Little York, Village Hall, Little York, Ill. 61453.	Do.
Do	Woodford	Spring Bay, village of.	H 170887 01	do	Village Clerk, Village of Spring Bay, Spring Bay, Ill. No ZIP.	Do.
Indiana	Dubois	Huntingsburg, city of.	H 180362 01	Division of Water, Department of Natural Resources, 608 State Office Bldg., Indianapolis, Ind. 46204. Indiana Insurance Department, 509 State Office Bldg., Indianapolis, Ind. 46204.	City Manager, City Bldg., City of Huntingsburg, City Bldg., Huntingsburg, Ind. 47542.	Do.
Kentucky	Letcher	Fleming, city of	H 210290 01 through H 210290 02	Division of Water, Kentucky Department of Natural Resources, Capitol Plaza Office Tower, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	City Manager, City Bldg., City of Fleming, Fleming, Ky. No ZIP.	Do.
Do	Owen	Monterey, town of	H 210295 01	do	Owen County Judge, Town of Monterey, Fiscal Court, Owenton, Ky. 40359.	Do.
Maine	Aroostook	Chapman, town of.	H 230015 01 through H 230015 12	Bureau of Civil Emergency Preparedness, State House, Augusta, Maine 04330. Maine Insurance Department, Capitol Shopping Center, Augusta, Maine 04330.	Town Mayor, Town of Chapman, Chapman, Maine 04103.	Do.
Do	Hancock	Blue Hill, town of.	H 230274 01 through H 230274 22	do	Town Mayor, Town of Blue Hill, Blue Hill, Maine 04614.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Michigan	Allegan	Allegan, city of	H 260003A 01 through H 260003A 02	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48926. Michigan Insurance Bureau, 111 North Hosmer St., Lansing, Mich. 48913.	City Manager, City of Allegan, City Hall, Allegan, Mich. 49010.	June 28, 1974. Mar. 28, 1975.
Minnesota	Hennepin	Dayton, city of	H 270157A 01 through H 270157A 08	Division of Waters, Soils and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 55101.	Village Clerk, Village of Dayton, Route 6, Box 63, Anoka, Minn. 55303.	Jan. 16, 1974. Mar. 28, 1975.
Mississippi	Calhoun	Unincorporated areas.	H 280216 01 through H 280216 02	Mississippi Research and Development Center, P.O. Drawer 2470, Jackson, Miss. 39205. Mississippi Insurance Department, 910 Woolfolk Bldg., P.O. Box 79, Jackson, Miss. 39205.	County Board of Commissioners, County of Calhoun, County Courthouse, Calhoun County, Miss. No ZIP.	Do.
Montana	Lewis & Clark	Helena, city of	H 300040A 01 through H 300040A 05	Montana Department of Natural Resources and Conservation, Water Resources Division, 32 South Ewing St., Helena, Mont. 59601. Montana Insurance Department, Capitol Bldg., Helena, Mont. 59601.	City Manager, City of Helena, Civic Center, Helena, Mont. 59601.	Apr. 12, 1974. Mar. 28, 1975.
New Hampshire	Carroll	Tuftonboro, town of.	H 330234 01 through H 330234 06	Office of Comprehensive Planning, Division of Community Planning, State House Annex, Concord, N.H. 03301. New Hampshire Insurance Department, 78 North Main St., Concord, N.H. 03301.	Chairman, Board of Selectmen, Town of Tuftonboro, Tuftonboro, N.H. No ZIP.	Do.
New Jersey	Sussex	Montague, township of.	H 340559 01 through H 340559 05	Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Township Supervisor, Township of Montague, Montague, N.J. No ZIP.	Do.
New York	Orleans	Clarendon, town of.	H 361254 01 through H 361254 04	New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 123 William St., New York, N.Y. 10038.	Town Supervisor, Town of Clarendon, Town Hall, Clarendon, N.Y. 14429.	Do.
Do	Essex	Elizabethtown, town of.	H 361388 01 through H 361388 06	do	Town Supervisor, Town of Elizabethtown, Town Hall, Elizabethtown, N.Y. 12932.	Do.
North Carolina	Columbus	Tabor City, town of.	H 370070A 01 through H 370070A 04	Division of Community Assistance, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, N.C. 26711. North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 26711.	Town Mayor, Town of Tabor City, Tabor City, N.C. 28463.	June 7, 1974. Mar. 28, 1975.
Ohio	Lorain	Avon, city of	H 390348A 01 through H 390348A 06	Ohio Department of Natural Resources, Fountain Square, Columbus, Ohio 43224. Ohio Insurance Department, 115 East Rich St., Columbus, Ohio 43215.	Mayor, City of Avon, City Hall, 36774 Detroit Rd., Avon, Ohio 44011.	Apr. 12, 1974. Mar. 28, 1975.
Do	Muskingum	Unincorporated areas.	H 390425 01 through H 390425 04	do	County Board of Commissioners, County of Muskingum, County Courthouse, Zanesville, Ohio 43701.	Do.
Do	Stark	Brewster, village of.	H 390510A 01 through H 390510A 02	do	Mayor, Village of Brewster, Village Hall, 221 West Main St., Brewster, Ohio 44613.	Feb. 8, 1974. Mar. 28, 1975.
Do	Wayne & Medina	Rittman, city of	H 390578A 01 through H 390578A 02	do	City Manager's Office, City of Rittman, Rittman, Ohio 44270.	Oct. 6, 1973. Mar. 28, 1975.
Do	Ottawa	Catawba Island, township of.	H 390601A 01 through H 390601A 02	do	Catawba Island Township Community Hall, 3307 Northwest Catawba Rd., Port Clinton, Ohio 43452.	June 21, 1974. Mar. 28, 1975.
Do	Clermont	Owensville, village of.	H 390680 01 through H 390680 02	do	Village Clerk, Village of Owensville, Owensville, Ohio 45160.	Do.
Do	Lawrence	Hanging Rock, village of.	H 390699 01	do	Village Clerk, Village of Hanging Rock, Hanging Rock, Ohio 45635.	Do.
Do	Noble	Sarahsville, village of.	H 390706 01	do	Village Clerk, Village of Sarahsville, Sarahsville, Ohio 43779.	Do.
Do	Preble	Eldorado, village of.	H 390714 01	do	Village Clerk, Village of Eldorado, Eldorado, Ohio 45321.	Do.
Do	Jefferson	Smithfield, village of.	H 390725 01	do	Village Clerk, Village of Smithfield, Smithfield, Ohio 43948.	Do.
Do	Ashland	Perrysville, village of.	H 390730 01	do	Village Clerk, Village of Perrysville, Perrysville, Ohio 44864.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Pennsylvania	Crawford	Centerville, borough of.	H 426347 01	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 19063. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Mayor, Borough of Centerville, Centerville, Pa. 16404.	Do.
Do.	Huntingdon	Coalmont, borough of.	H 420484 01	do.	Mayor, Borough of Coalmont, R.D. No. 1, Box 333, Saxton, Pa. 16678.	Do.
Do.	Tioga	Charleston, township of.	H 421172 01 through H 421172 12	do.	Chairman, Board of Supervisors, Township of Charleston, R.D. No. 2, Wellsboro, Pa. 16901.	Do.
Do.	Bedford	Bedford, township of.	H 421331 01 through H 421331 20	do.	Chairman, Board of Supervisors, Township of Bedford, R.D. No. 1, Bedford, Pa. 15522.	Do.
Do.	Clearfield	Beccaria, township of.	H 421512 01 through H 471512 14	do.	Chairman, Board of Supervisors, Township of Beccaria, Coalport, Pa. 16627.	Do.
Do.	Erie	Greene, township of.	H 421649 01 through H 421649 09	do.	Chairman, Board of Supervisors, Township of Greene, R.D. No. 2, Lake Pleasant Rd., Waterford, Pa. 16441.	Do.
Do.	Fulton	Brush Creek, township of.	H 421660 01 through H 421660 14	do.	Chairman, Board of Supervisors, Township of Brush Creek, R.D. No. 2, Warfordsburg, Pa. 17267.	Do.
Do.	Montour	Valley, township of.	H 421924 01 through H 421924 03	do.	Secretary, Valley Township Board of Supervisors, R.D. No. 2, Township of Valley, Danville, Pa. 17821.	Do.
Do.	Snyder	Chapman, township of.	H 422304 01	do.	Chairman, Board of Supervisors, Township of Chapman, Port Trevorton, Pa. 17864.	Do.
Do.	Beaver	Georgetown, borough of.	H 422316 01	do.	Mayor, Borough of Georgetown, Georgetown, Pa. 15043.	Do.
Do.	do.	West Mayfield, borough of.	H 422331 01 through H 422331 02	do.	Mayor, Borough of West Mayfield, 3703 West 3rd Ave., Beaver Falls, Pa. 15010.	Do.
Do.	Butler	Allegheny, township of.	H 422341 01 through H 422341 02	do.	Chairman, Board of Supervisors, Township of Allegheny, R.D. No. 2, Emlenton, Pa. 16733.	Do.
Do.	Erie	McKean, borough of.	H 422416 01 through H 422416 02	do.	Borough Clerk, Borough of McKean, 4954 East Ave., McKean, Pa. 16426.	Do.
Do.	Lycoming	Jackson, township of.	H 422601 01 through H 422601 03	do.	Chairman, Board of Supervisors, Township of Jackson, Liberty, Pa. 16930.	Do.
South Carolina	Georgetown	Georgetown, city of.	H 450087A 01 through H 450087A 03	South Carolina Water Resources Commission, P.O. Box 4515, Columbia, S.C. 29240. South Carolina Insurance Department, 2711 Middleburg St., Columbia, S.C. 29204.	Georgetown City Hall, Front St., Georgetown, S.C. 29440.	June 7, 1974. Mar. 28, 1975.
Tennessee	Fentress	Jamestown, city of.	H 470052 01 through H 470052 04	Tennessee State Planning Office, 660 Capitol Hill Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Mayor, City of Jamestown, City Hall, Jamestown, Tenn. 38556.	Do.
Texas	Hutchison	Unincorporated areas.	H 480373 01 through H 480373 05	Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin, Tex. 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	County Judge, Hutchison County Commissioners Court, County Courthouse, Stinnett, Tex. 79083.	Feb. 7, 1975.
Vermont	Essex	Norton, town of	H 500214 01 through H 500214 03	Management and Engineering Division, Water Resources Department, State Office Bldg., Montpelier, Vt. 05602. Vermont Insurance Department, State Office Bldg., Montpelier, Vt. 05602.	Town of Norton, Board of Selectmen, Norton, Vt. 05907.	Mar. 28, 1975.
Do.	Orange	Stafford, town of	H 500240 01 through H 500240 04	do.	Town of Stafford, Board of Selectmen, West Wardsboro, Vt. 05360.	Do.
Do.	Orleans	Derby Center, village of.	H 500249 01 through H 500249 03	do.	Village Trustees, Village of Derby Center, Derby, Vt. 05829.	Do.
Virginia	King and Queen	Unincorporated areas.	H 510082 01 through H 510082 27	Bureau of water Control Management, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230. Virginia Insurance Department, 700 Blanton Bldg., P.O. Box 1157, Richmond, Va. 23209.	Chairman, Board of Supervisors, County of King and Queen, King and Queen Courthouse, Va. 23085.	Do.
Do.	Fairfax	Clifton, town of	H 510186 01	do.	Town Clerk, Town of Clifton, Clifton, Va. 22024.	Do.
Do.	Shenandoah	Edinburg, town of.	H 510213 01	do.	Town Mayor, Town of Edinburg, Edinburg, Va. No ZIP.	Do.
Do.	Independent City	Williamsburg, city of.	H 510294 01 through H 510294 05	do.	Mayor, City of Williamsburg, Williamsburg, Va. 23185.	Do.
Do.	Nottoway	Unincorporated areas.	H 510307 01 through H 510307 21	do.	County Board of Commissioners, County of Nottoway, County Courthouse, Nottoway, Va. 23055.	Do.
Do.	Spotsylvania	Unincorporated areas.	H 510308 01 through H 510308 29	do.	County Board of Commissioners, County Courthouse, County of Spotsylvania, Spotsylvania, Va. 22553.	Do.
Wisconsin	Pepin	Stockholm, village of.	H 555581B 01	Department of Natural Resources, P.O. Box 450, Madison, Wis. 53701. Wisconsin Insurance Department, 201 East Washington Ave., Madison, Wis. 53703.	Village President, Village of Stockholm, Stockholm, Wis. 54760.	Dec. 12, 1972.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: February 28, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-6253 Filed 3-11-75;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 233—INSPECTION SERVICE AUTHORITY

Mail Covers

The Postal Service has decided to republish the regulations governing the use of the mail cover as an investigative technique to make these regulations more accessible to the public, and to discourage confusion concerning the nature and uses of this important law enforcement tool. In this republication the Postal Service has updated the provisions dealing with the delegation of mail cover authority to reflect the present organizational structure of the Postal Inspection Service. However, no substantive changes have been made in mail cover procedures or safeguards.

The use of mail covers has been governed by regulations contained in § 233.2 of the *Postal Service Manual*, supplemented by provisions formerly contained in Part 861 of the *Postal Manual* of the old Post Office Department which have been retained as operating instructions by the Postal Inspection Service. The combination of these provisions under one heading in the Code of Federal Regulations will improve their accessibility and facilitate their interpretation.

A mail cover is a relatively simple investigative or law enforcement technique. It involves recording the name and address of the sender, the place and date of postmarking, the class of mail, and any other data appearing on the outside cover of a piece of mail. Mail is not delayed in connection with a mail cover, and the contents of first-class mail are not examined. As sanctioned by law, the contents of second-, third-, and fourth-class mail matter may be examined in connection with a mail cover.

In their new format, the mail cover regulations of the Postal Service continue existing procedural and substantive safeguards designed to assure the confidentiality of the mail cover process and prevent the unjustified use of mail covers. Mail covers are available to law enforcement agencies only in order to obtain information in the interest of (1) protecting the national security, (2) locating a fugitive, or (3) obtaining evidence of commission or attempted commission of a crime. Mail covers are ordered pursuant to a written request from a law enforcement agency only if the requesting authority stipulates and specifies the reasonable grounds that exist which demonstrate the mail cover is necessary for a legitimate purpose. No officers or employees of the Postal Service other than the Chief Postal Inspector, a Postal Inspector in Charge, and a limited number of their designees, are authorized to order mail covers. Only the Chief Postal Inspector, or his designees at Inspection Service Headquarters, may order a national security mail cover. Mail covers do not include matter mailed between the mail cover subject and his known attorney-at-law; and except in fugitive cases, no mail cover remains in force when the subject has been indicted for any cause. Any data concerning mail covers is made available to any mail cover subject in any legal proceeding through appropriate discovery procedures. These administrative safeguards afford significant protection to the privacy of the users of the mail, without compromising the effectiveness of the mail cover.

Accordingly, the Postal Service adopts the following amendments to the provisions concerning Postal Service management organization, procedure, and practice with regard to mail covers, effective March 14, 1975:

§ 233.2 [Redesignated]

1. In 39 CFR Part 233, § 233.2 *Withdrawal of mail privileges* is renumbered as § 233.3, and a new § 233.2 is added to read as follows:

§ 233.2 Mail covers.

(a) *Policy.* The U.S. Postal Service maintains rigid controls and supervision with respect to the use of mail covers as investigative or law enforcement techniques.

(b) *Scope.* These regulations constitute the sole authority and procedure for initiating, processing, placing and using mail covers.

(c) *Definitions.* For purposes of these regulations, the following terms are hereby defined:

(1) "Mail cover" is the process by which a record is made of any data appearing on the outside cover of any class of mail matter, including checking the contents of any second-, third-, or fourth-class mail matter as now sanctioned by law, in order to obtain information in the interest of (i) protecting the national security, (ii) locating a fugitive, or (iii) obtaining evidence of commission or attempted commission of a crime.

(2) "Fugitive" is any person who has fled from the United States or any State, territory, the District of Columbia, or possession of the United States, to avoid prosecution for a crime, to avoid punishment for a crime or to avoid giving testimony in a criminal proceeding.

(3) "Crime", for purposes of these regulations, is any commission of an act or the attempted commission of an act that is punishable by law by imprisonment for a term exceeding 1 year.

(4) "Law enforcement agency" is any authority of the Federal Government or any authority of a State or local government one of whose functions is to investigate the commission or attempted commission of acts constituting a crime.

(d) *Authorizations—Chief Postal Inspector.* (1) The Chief Postal Inspector is the principal officer of the Postal Service in the administration of all matters governing mail covers. He may delegate any or all authority in this regard to not more than two designees at Inspection Service Headquarters. Except for national security mail covers, he may also delegate any or all authority to the Regional Chief Postal Inspectors. All such delegations of authority shall be issued through official directives.

(2) The Chief Postal Inspector, or his designee, may order mail covers under the following circumstances:

(i) When he has reason to believe the subject or subjects of the mail cover are engaged in any activity violative of any postal statute.

(ii) When written request is received from any law enforcement agency wherein the requesting authority stipulates and specifies the reasonable grounds that exist which demonstrate the mail cover is necessary to (A) protect the national security, (B) locate a fugitive, or (C) obtain information regarding the commission or attempted commission of a crime.

(iii) Where time is of the essence, the Chief Postal Inspector, or his designee, may act upon an oral request to be confirmed by the requesting authority in writing within 2 business days. However, no information shall be released until an appropriate written request is received.

(e) *Postal Inspectors in Charge.* (1) All Postal Inspectors in Charge, and not more than three designees pursuant to delegations in writing, may order mail covers within their districts under the following circumstances:

(i) Where he has reason to believe the subject or subjects are engaged in an activity violative of any postal statute.

(ii) Where written request is received from any law enforcement agency of the Federal, State, or local governments, wherein the requesting authority stipulates and specifies the reasonable grounds that exist which demonstrate the mail cover would aid in the location of a fugitive, or that it would assist in obtaining information concerning the commission or attempted commission of a crime.

(2) Except where mail covers are ordered by the Chief Postal Inspector, or his designee, requests for mail covers must be approved by the Postal Inspector in Charge, or his designee, in each district in which the mail cover is to operate.

(3) Where time is of the essence, the Postal Inspector in Charge, or his designee, may act upon an oral request to be confirmed by the requesting authority in writing within 2 business days. However, no information shall be released until an appropriate written order is received.

(f) *Limitations.* (1) No person in the Postal Service, except those employed for that purpose in dead-mail offices, may break or permit breaking of the seal of any matter mailed as first-class mail without a search warrant, even though it may contain criminal or otherwise unmailable matter, or furnish evidence of the commission of a crime.

(2) No mail covers shall include matter mailed between the mail cover subject and his known attorney-at-law.

(3) No officer or employee of the Postal Service other than the Chief Postal Inspector, or Postal Inspectors in Charge, and their designees, are authorized to order mail covers. Under no circumstances shall a postmaster or postal employee furnish information as defined in § 233.2(c) to any person except as authorized by the Chief Postal Inspector, a Postal Inspector in Charge, or their designees.

(4) Excepting mail covers ordered upon subjects engaged, or suspected to be engaged, in any activity against the national security, or activity violative of any postal law, no mail cover order shall remain in force and effect for more than 30 days. At the expiration of such period, or prior thereto, the requesting authority may be granted additional 30-day periods under the same conditions and procedures applicable to the original request.

(5) No mail cover shall remain in force longer than 120 days unless personally approved for further extension by the Chief Postal Inspector.

(6) Excepting fugitive cases, no mail cover shall remain in force when the subject has been indicted for any cause. If the subject is under investigation for further criminal violations, a new mail cover order must be requested consistent with these regulations.

(g) *Records.* (1) All requests for mail covers, with records of action ordered thereon, and all reports issued pursuant thereto, shall be deemed within the custody of the Chief Postal Inspector. However, the physical housing of this data shall be at the discretion of the Chief Postal Inspector.

(2) The Postal Inspectors in Charge shall promptly submit copies of all requests for mail covers and the determination made thereon to the Chief Postal Inspector, or to his designee for review.

(3) If the Chief Postal Inspector, or his designee, determines a mail cover was improperly ordered by a Postal Inspector in Charge or his designee all data acquired while the cover was in force shall be destroyed, and the requesting authority notified of the discontinuance of the mail cover and the reasons therefor.

(4) Any data concerning mail covers shall be made available to any mail cover subject in any legal proceeding through appropriate discovery procedures.

(5) The retention period for files and records pertaining to mail covers shall be 8 years.

(h) *Reporting to Requesting Authority.* Once a mail cover has been duly ordered, authorization may be delegated to any officer in the Postal Service to transmit mail cover reports directly to the requesting authority. Where at all possible, the transmitting officer should be a Postal Inspector.

(i) *Review.* (1) The Chief Postal Inspector, or his designee, shall review all actions taken by Postal Inspectors in Charge or their designees upon initial submission of a report on a request for mail cover.

(2) The Chief Postal Inspector's determination in all matters concerning mail covers shall be final and conclusive and not subject to further administrative review.

2. In the table of sections of 39 CFR Part 233 the following entries are revised to read as follows:

Sec.
233.1 Circulars and rewards.
233.2 Mail covers.
233.3 Withdrawal of mail privileges.

(39 U.S.C. 401, 404, 410)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.75-6330 Filed 3-11-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 140]

PART 1-7—CONTRACT CLAUSES

Subcontracts

This amendment of the Federal Procurement Regulations prescribes a new Subcontracts clause for use in fixed-price supply and construction contracts. The clause requires the contractor to obtain the contracting officer's written consent prior to entering into certain types and dollar values of subcontracts. The clause becomes operative only with respect to unpriced modifications under fixed-price contracts. Adoption of the clause reflects a significant part of Recommendation A-37 of the Commission on Government Procurement. This amendment also adds a requirement for the submission of cost accounting standards information in connection with subcontracts under cost-reimbursement type supply contracts, and incorporates a new reference to the clause requiring the payment of interest on contractors' claims.

The table of contents for Part 1-7 is changed to add new entries as follows:

Sec.
1-7.102-22 Payment of interest on contractors' claims.
1-7.103-27 Subcontracts.
1-7.602-16 Subcontracts.

Subpart 1-7.1—Fixed-Price Supply Contracts

1. Section 1-7.102 required clauses is amended by the addition of § 1-7.102-22 as follows:

§ 1-7.102-22 Payment of interest on contractors' claims.

Insert the clause set forth in § 1-1.322 under the conditions prescribed therein.

2. Section 1-7.103 *Clauses to be used when applicable* is amended by the addition of § 1-7.103-27 as follows:

§ 1-7.103-27 Subcontracts.

The following clause may be inserted in fixed-price supply contracts whenever it is likely that subsequent to award major modifications will be initiated pursuant to the Changes clause, or other contract provisions, and that such modifications will result in the placement of additional subcontracts. The pricing arrangements of such subcontracts have an impact upon the final price of the modification; therefore, it is essential that they be made available by the contractor for review by the contracting officer (see §§ 1-3.807-10(b) and 1-3.903).

SUBCONTRACTS

(The provisions of this clause do not apply to firm fixed-price and fixed price with escalation (economic price adjustment) contracts. The clause does apply to new subcontracts or modifications of existing subcontracts which are necessitated because of unpriced contract changes pursuant to the Changes clause or other provisions of this contract.)

(a) As used in this clause, the term "subcontract" includes purchase orders.

(b) The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract if the Contractor's procurement system has not been approved by the Contracting Officer and if the subcontract:

(i) Is to be a cost-reimbursement, time and materials, or labor-hour contract which it is estimated will involve an amount in excess of ten thousand dollars ($10,000) including any fee;

(ii) Is proposed to exceed one hundred thousand dollars ($100,000); or

(iii) Is one of a number of subcontracts, under this contract, with a single subcontractor for the same or related supplies or services which, in the aggregate, are expected to exceed one hundred thousand dollars ($100,000).

(c) The advance notification required by paragraph (b) above shall include:

(i) A description of the supplies or services to be called for by the subcontract;

(ii) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the competition obtained;

(iii) The proposed subcontract price, together with the Contractor's cost or price analysis thereof;

(iv) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost of Pricing Data, when such data and certificates are required by other provisions of this contract to be obtained from the subcontractor;

(v) Identification of the type of subcontract to be used;

(vi) A memorandum of negotiation which sets forth the principal elements of the subcontract price negotiations. A copy of this memorandum shall be retained in the Contractor's file for use of Government reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of initial or revised prices. The memorandum should include an explanation of why cost or pricing data was, or was not

required, and, if it was not required in the case of any price negotiation in excess of $100,000, a statement of the basis for determining that the price resulted from or was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. If cost or pricing data was submitted and a certificate of cost or pricing data was required, the memorandum shall reflect the extent to which reliance was not placed upon the factual cost or pricing data submitted and the extent to which this data was not used by the Contractor in determining the total price objective and in negotiating the final price. The memorandum shall also reflect the extent to which it was recognized in the negotiation that any cost or pricing data submitted by the subcontractor was not accurate, complete, or current; the action taken by the Contractor and the subcontractor as a result; and the effect, if any, of such defective data on the total price negotiated. Where the total price negotiated differs significantly from the Contractor's total price objective, the memorandum shall explain this difference;

(vii) When incentives are used, the memorandum of negotiation shall contain an explanation of the incentive fee profit plan identifying each critical performance element, management decisions used to quantify each incentive element, reasons for incentives on particular performance characteristics, and a brief summary of trade-off possibilities considered as to cost, performance, and time; and

(viii) The Subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract to be obtained from the subcontractor.

(d) The Contractor shall not enter into any subcontract for which advance notification to the Contracting Officer is required by this clause, without the prior written consent of the Contracting Officer; *Provided* That the Contracting Officer in his discretion, may ratify in writing any subcontract. Such ratification shall constitute the consent of the Contracting Officer required by this paragraph.

(e) Neither consent by the Contracting Officer to any subcontract or any provisions thereof nor approval of the Contractor's procurement system shall be construed to be a determination of the acceptability of any subcontract price or of any amount paid under any subcontract or to relieve the Contractor of any responsibility for performing this contract, unless such approval or consent specifically provides otherwise.

(f) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

Subpart 1–7.2—Cost-Reimbursement Type Supply Contracts

Section 1–7.202–8 is amended to change paragraph (b) of the clause which is prescribed in the section as follows:

§ 1–7.202–8 Subcontracts.

* * * * *

SUBCONTRACTS

* * * * *

(b) * * *

(8) The Subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract to be obtained from the subcontractor.

* * * * *

Subpart 1–7.6—Fixed-Price Construction Contracts

Section 1–7.602 *Additional standardized clauses* is amended by the addition of § 1–7.602–16 as follows:

§ 1–7.602–16 Subcontracts.

Insert the clause set forth in § 1–7.103–27 under the conditions contained in the section.

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

Effective date. This amendment is effective April 14, 1975, but may be observed earlier.

Dated: February 27, 1975.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.75-6326 Filed 3-11-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20012, FCC 75-249]

PART 73—RADIO BROADCAST SERVICES

Non-Aural FM Subcarrier Signals

In the matter of amendment of Part 73 of the Commission's rules and regulations concerning the transmissions of non-aural signals on an FM broadcast subcarrier pursuant to a Subsidiary Communications Authorization, Docket No. 20012, RM-1927.

1. This proceeding, initiated by a notice of proposed rule making (FCC 74-367), adopted April 9, 1974, contemplates the amendment of the Commission's Rules to provide the technical framework within which FM broadcast subcarrier service, pursuant to a Subsidiary Communications Authorization (SCA), may be rendered by visual, as well as by aural means.[1]

2. A variety of such visual services are feasible, as has been demonstrated by a number of experimental operations that the Commission has authorized. However, the bandwidth available for their provision is quite limited (a channel width primarily intended to accommodate an aural signal), while the bandwidth required by some visual systems is potentially great. Accordingly, it appears necessary to establish engineering standards applicable to visual systems to assure compatibility with the basic FM broadcast service.

3. In the aforementioned Notice the Commission pointed out that it might attempt to establish rules prescribing the structure of the transmitted signal, at least for the major categories of visual transmissions, or it could restrict its technical regulations only to those intended to limit the potentiality of these transmissions for degrading the broadcast service provided by the FM station. It requested comments as to which of these approaches should be followed, and engineering proposals from those favoring one or the other of these approaches.

4. In a related context, we asked what disposition should be made of the facsimile standards contained in §§ 73.318 and 73.266 of the rules, which, respectively, establish detailed standards for facsimile transmissions and permit main channel transmission of facsmile during hours not devoted to regular programs, or subcarrier transmission of facsimile on any desired schedule.

5. Within the deadlines set for the submission of comments and reply comments, initially prescribed as May 23, 1974 and June 3, 1974, and subsequently extended by Order of June 13, 1974, to June 19 and July 3, 1974, eleven comments were filed, by the following parties:

University of Missouri
Colorado Video, Inc.
Michigan Department of Education
Control Signal Company
University of Illinois
CBS, Inc.
National Association of Broadcasters (NAB)
Information Transmission Corp.
RCA Corporation (RCA)
Interand Corp.
John R. Porterfield

John R. Porterfield submitted a reply comment.

6. All comments and reply comments have been fully considered in arriving at a decision in this matter.

7. There is no disagreement among the parties commenting on one point—that the facsimile engineering standards contained in § 73.318 of the rules, adopted in 1948 in furtherance of a concept of a radio newspaper, which never materialized—are obsolete, serve no useful purpose, and should not be retained in our rules in their present form. Similarly, § 73.266, which permits simplex facsimile transmission pursuant to these engineering standards and requires that multiplex facsimile transmission adhere to these standards, has no relevance to present day conditions. We concur generally in this view. Main carrier modulation with a facsimile signal may only be justified for the provision of a service expected to be generally available for and widely used by the general public. Over the course of many years there has been little interest in developing a facsimile newspaper service of general circulation, and there is no discernible trend toward future implementation of this service. On the other hand, it is clear that in the area of subscriber services, provided by subcarrier transmission, facsimile has considerable potential usefulness. Thus, the provision in § 73.266 for simplex facsimile can safely be deleted. Whether the facsimile standards of § 73.318 should be deleted, or revised to reflect current practice, is a part of the larger question of whether

[1] In this proceeding, we have heretofore used the term "non-aural" to describe the kind of signals which are here under consideration. This term is both awkward and vague. Since we are dealing with the transmission of information in an electrical format suitable for visual presentation at a receiving point, we henceforth will use the term "visual" in discussing such transmissions. A definition of *visual transmission*, as used to describe this particular mode of FM subcarrier operation, is included in the rule amendments adopted herein.

we should attempt to prescribe the structure of at least the major categories of visual SCA signals. The comments were overwhelmingly against such a course of action, although Colorado Video, which manufactures a slow-scan TV system tested by several of the parties, favored the adoption of certain guidelines regarding signal format for this method of visual signal transmission.

8. The arguments presented in opposition to this proposal are as follows:

(1) Any attempt to standardize the parameters of transmission system will inevitably stultify the implementation of different and improved visual systems. A number of parties are presently experimenting with such systems, and should not be hampered by rules which would tend to restrict visual signals to prescribed formats.

(2) Standardization of systems is not necessary. Unlike the situation where the service from the broadcast station is offered to the general public, and uniform transmission standards are necessary so that receivers can be designed for general public use, the service offered under an SCA is generally controlled by the sender, who undertakes to provide suitable receivers for his subscribers.

(3) Standardization would facilitate and encourage the production of receivers for public sale, which could be used to "pirate" subcarrier transmissions without authority of the sender, who, the courts have held, is legally entitled, under section 605 of the Communications Act, to control the use of material he has originated.

9. Apart from these objections, we find that, as a practical matter, it may be quite difficult to classify even the presently available types of visual systems into neat categories on the basis of a set of characteristics and parameters peculiar to each system. Thus, in attempting to differentiate slow-scan television from facsimile, while it may be quite easy to identify the differences between typical systems, the fundamental and necessary differences which place a particular system firmly in one category or the other may be hard to establish. Furthermore, there are varients of these systems, and the question may arise as to what extent a specific system may differ in detail sufficiently from the typical system as to no longer to be subject to individually tailored technical standards. All in all, we have concluded that any attempt to classify types of visual signals, and to specify the structure of these signals would be fraught with difficulty, would serve little useful purpose and could well hamper the development of new and desirable services. We will therefore abandon this approach, and proceed to consider the nature of the rule amendments appropriate to accommodate, in a broad category, the kinds of broadcast-related visual information suitable for SCA subcarrier transmission. As a first and obvious step we are deleting all matter with respect to facsimile transmission heretofore contained in §§ 73.266 and 73.318 of our rules.

10. As a second step, we have undertaken to define this category of signals, and are adopting, for inclusion in our rules, a definition for *visual transmission*.[2] This definition, which is intended to be applicable only to SCA subcarrier operations, reads as follows:

Visual transmission: Transmissions of a broadcast nature on a subcarrier modulated with a signal of such characteristics as to permit its employment, in receivers of suitable design, for visual presentation of the information so transmitted, e.g., on a viewing screen or a graphic record.

By couching this definition in terms of the end result of the visual transmission, i.e. the presentation of the received information in a form suitable for visual assimilation by the recipient, we believe that we arrived at a formulation sufficiently broad to encompass all kinds of "non-aural" transmissions, ranging from those in which the "information" to be transmitted possesses physical form and substance, as in facsimile and slow-scan television, to those where it has none whatever—as when digital information is converted into electrical signals through the keys of a teletypewriter or character generator. "Graphic", as used in this definition is intended to include all kinds of information reproducible in a two-dimensional visual record, e.g., photographs, drawings, printing and handwriting. As a further step, we must consider what, if any technical restrictions should be established with respect to the transmission of visual signals on the SCA subcarrier. We had suggested, since visual systems which might be proposed for SCA use could, in some cases, require bandwidths greatly exceeding those required for satisfactory aural signal transmissions, that, should we forego a regulatory approach which would restrict visual systems to those suitable for SCA transmission by the specification of system parameters, we should at least incorporate into the rules a suitable limitation on the base band occupied by the visual system.

11. The majority of those commenting agree that this is necessary or highly desirable, although there are one or two suggestions that it should be necessary for a licensee only to demonstrate compliance with § 73.319(c), which requires that SCA modulation in the frequency range occupied by the main program signal, whether monophonic or stereophonic, be at least 60 dB below 100 percent modulation.

12. In examining this question, we note that all visual systems which have been tested pursuant to experimental authorization for subcarrier transmission appear to function satisfactorily with information contained in a band of frequencies not exceeding 8 kilohertz in width, and that it apparently is possible for some such systems, if suitably engineered, to operate compatibly with stereophonic main channel programming with bandwidths of this magnitude. Characteristically, such systems employ filters to confine base band components substantially within an 8 kHz channel, or within a narrower channel, if the system requires a lesser bandwidth. However, it is apparent that base band filtering, alone, has been found insufficient to avoid excessive cross talk in the broadcast signal in all cases, and additional high pass filters may be required at the output of the SCA modulator, particularly in instances where the regular broadcasting is stereophonic. As a matter of fact, in many instances it apparently is necessary to restrict the band occupied by a normal aural signal before it enters the SCA generator, to restrict the subcarrier swing, and, perhaps, to employ additional filtering at the generator output. To a considerable extent, the particular measures necessary to insure compatibility between SCA transmissions and the regular broadcast operation appear to vary from installation to installation—being more severe when the main channel programming is stereophonic, to be affected by the degree of preemphasis applied to the subcarrier, and finally, to depend, to a considerable extent, on the degree of linearity which is attainable in the individual transmitting system. It seems likely that, in some cases, transmitters and associated equipment which are able to accommodate visual transmission requiring comparatively modest bandwidths, e.g., teletypewriter and facsimile, cannot function satisfactorily with relatively wide band visual systems, such as slow-scan TV.

13. Under such circumstances, while it is safe to assert that base band filtering of the visual signal is almost certainly necessary, it is apparent that additional precautions in many instances will be required to insure that the SCA transmission will not infringe on main channel operation. Accordingly, it seems infeasible to attempt to prescribe the specific characteristics of a base band filter, or the relative strength of components falling outside the filter pass band, since restrictions which may be found adequate in one case may be insufficient in another.[3]

14. It has been argued that we are, after all, concerned primarily with the end result of the SCA operation, and it should be sufficient to require that SCA transmissions, whether intended for visual or aural use by the recipient, meet the requirements of § 73.319(e) of the rules. For the reasons which we have discussed, we believe that this is perhaps the

[2] This definition will appear in § 73.310(c), in lieu of a paragraph formerly containing certain definitions pertinent to the facsimile engineering standards of § 73.318 which, as indicated above, are being deleted.

[3] Maintenance of the instantaneous frequency of the SCA subcarrier within limits where it does not intrude into the frequency range of main program audio, as required by § 73.319(b), does not insure that SCA components of troublesome intensity will not appear in the latter range. Whether the SCA program is impressed on the subcarrier by amplitude or frequency modulation, the result will be similar—the output of the SCA generator will include sidebands disposed above and below the subcarrier frequency by intervals equal to the highest modulation frequency included in the base band of the SCA program signal.

most feasible way of regulating visual transmissions effectively.

15. However, as § 73.319(e) has been applied heretofore, we have not required a specific showing by a station licensee proposing SCA operation that subcarrier transmission will comply with its requirements. Furthermore, the Commission has been unable, because of limitations in personnel and equipment, to undertake, in its FM station inspection procedures, other than a minimal measurement program to verify that SCA to main channel interference is being adequately suppressed. Thus, compliance with § 73.319(e) has been achieved essentially on a voluntary basis.

16. Considering the variety of visual signals which may be proposed for SCA use, and the potential for adverse effects obviously inherent in certain types of these signals, we do not believe that their use should be authorized without some assurance that a particular system, as installed, will perform compatibly with main channel programming. Accordingly, we are amending § 73.293 of the rules to require that an applicant for an SCA proposing to employ a visual system submit (1) full details of the system, including the characteristics of all external filters employed, and a block diagram showing the location of these filters in the system and (2) the results of properly made measurements demonstrating that the system, as installed, meets the requirements of § 73.319(e). While the measures taken to assure compliance with § 73.319(e) would tend to lessen the probability that an FM station engaging in visual transmission would radiate out-of-band signals of undue strength, we do not think it safe to assume that this necessarily would be the case. Therefore, we are also requiring the applicant to show by observations or measurements that such out-of-band components are not produced.

17. We do not believe that in requiring these showings that we are imposing an undue burden on the licensee. Rather, we are simply requiring that he furnish to the Commission the results of the measurements and observations which common prudence would dictate that he perform, in any case, before regularly engaging in such transmissions.

18. NAB and RCA have suggested that, since the technical rules governing FM broadcast operation will require substantial amendment to accommodate discrete quadraphonic FM transmissions, the Commission should delay action in this proceeding until such time (after receipt of the report of the National Quadraphonic Radio Committee) as the Commission undertakes to formulate rules to accommodate a four channel signal format.

19. We believe that the regulatory approach we are adopting—requiring a demonstration that each visual system, as installed, can operate compatibly with the basic FM broadcast service, rather than establishing specific technical standards for such systems—is sufficiently flexible to be applicable in any system which we might adopt permitting simultaneous SCA and quadraphonic operation. Thus, we do not believe that the resolution of this proceeding now would in any way complicate our subsequent consideration of standards for quadraphonic broadcasting.

20. The determination, in our Memorandum Opinion and Order of March 14, 1974 (File No. BSCA-1274, FCC 74-282) that broadcast-related subcarrier services pursuant to an SCA may be rendered in a visual, as well as an aural format, was made primarily with respect to the use of visual systems by commercial FM broadcast stations. However, there is nothing in the rationale of that decision which would limit its applicability to such stations, and we find that the employment of visual subcarrier systems by noncommercial educational FM broadcast stations also is permissible.

21. Indeed, much of the current interest in visual systems has been expressed by educational institutions, both in this proceeding and in the current proceeding in Docket No. 19079. It seems evident that visual subcarrier transmissions may be particularly valuable for educational use, either to provide an independent program source, or as a teaching adjunct to main channel transmissions.

22. The technical standards applying to SCA transmissions by noncommercial educational broadcast stations generally parallel those established for regular FM stations, either as set forth in Subpart C of Part 73 of the rules, or as incorporated by reference to pertinent sections of Subpart B. We therefore believe it appropriate to amend Subpart C, at this time, in a manner consistent with those amendments of Subpart B which we have previously discussed and adopted.

23. To this end, we are deleting § 73.566, *Facsimile broadcasting and multiplex transmission*, and are amending paragraph (b) of § 73.593 so as to require the same technical showing from educational station licensees proposing visual subcarrier transmissions as is prescribed for commercial FM stations in amended § 73.293(b).

24. *Accordingly, it is ordered*, That, effective April 11, 1975, Part 73 of the Commission's Rules is amended as set forth below.

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

Adopted: February 26, 1975.

Released: March 6, 1975.

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

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

§ 73.266 [Reserved]

1. Section 73.266 and headnote are deleted and designated [Reserved].

2. Section 73.293(b) is revised to read as follows:

§ 73.293 Subsidiary communications authorizations.

* * * * *

(b) An application for an SCA shall be submitted on FCC Form 318. An applicant for SCA shall specify the particular nature and purpose of the proposed use. If visual transmission of program material is contemplated (see § 73.310 (c)), the application shall include certain technical information concerning the visual system, on which the Commission shall rely in issuing an SCA. If any significant change is subsequently made in the system, revised information shall be submitted. The technical information to be submitted is as follows:

(1) A full description of the visual transmission system.

(2) A block diagram of the system, as installed at the station, with all components, including filters, identified as to make and type. Response curves of all composite filters shall be furnished.

(3) The results of measurements which demonstrate that the subcarrier, when modulated by the visual signal, meets the requirements of § 73.319(e), and of such observations or measurements as may be necessary to show that signal components of appreciable strength are not produced outside of the band normally occupied by the FM station's emissions (see § 73.317(a)(12) and (13)). A description of the apparatus and techniques employed in these measurements and observations shall be furnished.

NOTE: Operation of an FM broadcast station to obtain the technical information necessary to support an application for an SCA for visual transmission shall be considered "* * * for experimental purposes in testing and maintaining apparatus * * *" and may be conducted without specific authorization from the Commission pursuant to § 73.262(a) of the rules. Tests may be conducted for this purpose during the period from 6 a.m. to midnight, with prior notification to the Commission and the Engineer in Charge of the radio district in which the station is located, subject to the provisions of § 73.262(b), (1), (2), and (3).

* * * * *

3. Section 73.310(c) is revised to read as follows:

§ 73.310 Definitions.

* * * * *

(c) *Visual transmission.* Transmissions of a broadcast nature on a subcarrier modulated with a signal of such characteristics as to permit its employment, in receivers of appropriate design, for visual presentation of the information so transmitted, e.g., on a viewing screen or a graphic record.

§ 73.318 [Reserved]

4. Section 73.318 and headnote are deleted and reserved.

§ 73.566 [Reserved]

5. Section 73.566 is amended by deletion of the title and text. Section number is reserved.

6. Section 73.593(b) is revised to read as follows:

§ 73.593 Subsidiary communications authorizations.

* * * * *

(b) An application for an SCA shall be submitted on FCC Form 318. An applicant for SCA shall specify the particular nature and purpose of the proposed use. If visual transmission of program material is contemplated (see § 73.310(c)), the application shall include certain technical information concerning the visual system, on which the Commission shall rely in issuing an SCA. If any significant change is subsequently made in the system, revised information shall be submitted. The technical information to be submitted is as follows:

(a) A full description of the visual transmission system.

(2) A block diagram of the system, as installed at the station, with all components, including filters, identified as to make and type. Response curves of all composite filters shall be furnished.

(3) The results of measurements which demonstrate that the subcarrier, when modulated by the visual signal, meets the requirements of § 73.319(c), and of such observations or measurements as may be necessary to show that signal components of appreciable strength are not produced outside of the band normally occupied by the FM station's emissions (see § 73.317(a)(12) and (13)). A description of the apparatus and techniques employed in these measurements and observations shall be furnished.

NOTE: Operation of an FM brodacast station to obtain the technical information necessary to support an application for an SCA for visual transmission shall be considered "* * * for experimental purposes in testing and maintaining apparatus * * *" and may be conducted without specific authorization from the Commission pursuant to § 73.562(a) of the rules. Tests may be conducted for this purpose during the period from 6 a.m. to midnight, with prior notification to the Commission and the Engineer in Charge of the radio district in which the station is located, subject to the provisions of § 73.562(b) (1) and (2).

* * * * *

[FR Doc.75-6396 Filed 3-11-75;8:45 am]

Title 49—Transportation

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

[Docket No. 70-27; Notice 13]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Hydraulic Brake Systems

This notice amends Standard No. 105-75, *Hydraulic brake systems*, 49 CFR 571.105-75, as it applies to passenger cars, in response to petitions for reconsideration of amendments published July 15, 1974 (39 FR 25943) (Notice 11). The amendments defer for 1 year the requirement for a brake fluid level indicator and modify the permissible pedal force values used in recovery stops.

Manufacturers of hydraulic-braked motor vehicles responded to the Notice 11 amendments of the standard with petitions for reconsideration of specific technical changes in some performance requirements, and also with far-ranging requests for substantial modification, delay, or revocation of the standard. These broad requests are answered in a separate proposal to delay the effective date of the standard for 4 months in the case of passenger cars, and indefinitely in the case of multipurpose passenger vehicles (MPV's), trucks, and buses. For this reason, only the specific technical elements that necessarily affect passenger cars are addressed in this notice.

Brake fluid level indicator. Chrysler Corporation, Ford Motor Company, General Motors, and Wagner Electric Corporation responded to the 1-year delay in fluid level indicator requirements for heavy vehicles by asserting that procurement and reliability problems also exist for lighter vehicle categories. NHTSA contacted several manufacturers of brake fluid level indicators and discussed the availability and reliability of their products. It appeared that further field evaluation of available indicators could improve their reliability and that some delay should solve the availability problems which existed. At the February 11 public meeting, American Motors Corporation confirmed that availability problems still exist for brake fluid level indicators. Consequently, the NHTSA amends the standard to defer requirements for brake fluid level indicators until September 1, 1976.

International Harvester requested clarification in the wording of § 5.3.1(b), which appears to require a signal if the amount of brake fluid in a small, nearly full compartment of a split system reservoir does not equal one-quarter of the volume of the larger compartment. The NHTSA agrees that confusion may arise from the present wording, and, without changing the intended meaning of the requirement in any way, amends the wording as requested by Harvester.

Ford requested a clarification of wording in S5.3.1(a), which presently calls for a signal when "any" one of several pressure losses is experienced. Ford correctly notes that NHTSA use of "any" means that the vehicle or system must be capable of meeting the specified requirement upon the occurrence of every condition listed, and that, in this case, such was not intended. The NHTSA has corrected the wording to make clear that only one of the conditions (at the option of the manufacturer) must be indicated by the brake system indicator lamp.

Maximum and minimum brake pedal force—recovery stops. Chrysler and the Japan Automobile Manufacturers Association (JAMA) supported the Notice 11 reduction of baseline pedal force limits to permit optimization of braking characteristics over the whole range of system operating conditions. Their petitions argued for an additional change to the minimum pedal effort in the first through fourth recovery stops to encourage optimal recovery characteristics. Specifically, Chrysler recommended that the present 15-pound limit (S6.1.13) on minimum pedal force in the early recovery stops be replaced by a formula tied to the average control force for the baseline check. To avoid oversensitive brakes, a minimum pedal force of 5 pounds would be required.

The NHTSA concludes that such a requirement would allow greater design freedom in optimizing brake recovery without sacrificing limits on brake sensitivity. Accordingly, the NHTSA reconsiders its action on minimum brake control force requirements, and amends the standard in response to JAMA and Chrysler.

Chrysler also raised the issue of maximum allowable pedal force in the fifth stop of the water recovery requirements. Presently this pedal force can be a maximum of 90 pounds (60 pounds for average control force in the baseline check plus 30 pounds), but this formula requires lower pedal force on a vehicle with lower average baseline pedal force. Chrysler has considered changes in brake lining to lower the wet recovery stop values, but the modifications include major disadvantages such as increased brake imbalance, larger boosters, noise, and wear. The NHTSA finds that the formula can be revised to avoid penalizing good baseline performance, while maintaining a 90-pound maximum effort. Accordingly, S5.1.2.5 is amended to permit a 45-pound increase of pedal effort, as long as the maximum effort does not exceed 90 pounds.

Other requirements of the standard. Wagner requested that the Notice 11 revisions of "in neutral" procedures be made consistent with other provisions of the standard, or that they be replaced with other procedures. The NHTSA finds the present procedure more reproducible than that suggested by Wagner and therefore denies this petition. Wagner correctly pointed out that the procedure to "exceed the test speed by approximately 7 mph" may contradict the requirement of testing at speeds only 4 mph lower than maximum attainable speeds (S5.1). Accordingly, "4 to 8 mph" is substituted for "approximately 7 mph" in S7.

In a related area, JAMA requested that the test procedure for wet brake recovery stops be modified (S7.16.2). The NHTSA did not address these procedures in Notice 11, and does not find that this new subject matter is appropriate for consideration at this time. The JAMA petition will be considered as a petition for rulemaking which will be addressed in the near future.

Bendix requested clarification of the Notice 8 preamble discussion of "power assist" and "power" units. Bendix's question arose with regard to its "hydro-boost" unit, which is described as designed with a "push through" capability in both the "normal" and "failed power" operating conditions, and with an accumulator that permits low pedal effort for a limited number of brake applications after a power failure has occurred. The NHTSA concludes that, because the Bendix "hydro-boost" does not prevent the operator from braking the ve-

hicle by an application of muscular force in the "failed power" condition, it qualifies as a brake power assist unit under the definitions of Standard No. 105–75.

Several minor amendments have been made to correct a printing error in Table I as it appeared in Notice 8 (38 FR 13017, May 18, 1973) and for consistency in the use of abbreviations and terminology.

In consideration of the foregoing, Standard No. 105–75 (49 CFR 571.105–75) is amended as follows:

1. In S5.1.3.4 the words "reference maximum" are replaced by the word "equivalent."

2. S5.1.4.3(a) is revised to read:

S5.1.4.3(a) Each vehicle with a GVWR of 10,000 pounds or less shall be capable of making five recovery stops from 30 mph at 10 fpsps for each stop, with a control force application that falls within the following maximum and minimum limits:

(1) A maximum for the first four recovery stops of 150 pounds, and for the fifth stop, of 20 pounds more than the average control force for the baseline check; and

(2) A minimum of 10 pounds or 40 percent (whichever is greater) less than the average control force for the baseline check (but in no case less than 5 pounds).

3. S5.1.5.2(a) is revised to read:

S5.1.5.2(a) Except as provided in paragraph (b), after being driven for 2 minutes at a speed of 5 mph in any combination of forward and reverse directions through a trough having a water depth of 6 inches, each vehicle shall be capable of making five recovery stops from 30 mph at 10 fpsps for each stop with a control force application that falls within the following maximum and minimum limits:

(1) A maximum for the first four recovery stops of 150 pounds, and for the fifth stop, of 45 pounds more than the average control force for the baseline check (but in no case more than 90 pounds); and

(2) A minimum of 10 pounds or minus 40 percent (whichever is greater) less than the average control force for the baseline check (but in no case less than 5 pounds).

4. S5.3.1 is amended in part to read:

S.5.3.1 * * *

(a) A gross loss of pressure (such as caused by rupture of a brake line but not by a structural failure of a housing that is common to two or more subsystems) due to one of the following conditions (chosen at the option of the manufacturer):

(1) * * *

(b) A drop in the level of brake fluid in any master cylinder reservoir compartment to less than the recommended safe level specified by the manufacturer or to one-fourth of the fluid capacity of that reservoir compartment, whichever is greater.

5. The last sentence of S5.3.1 is amended to read:

S5.3.1 * * *

* * * * *

A vehicle manufactured before September 1, 1976, need not meet the requirements of subparagraph (b).

6. In the last sentence of S7., the phrase "approximately 7 mph" is replaced by "4 to 8 mph".

7. References to "mi/h" in the definition of "Skid number" and S5.1(including its subdivisions), S5.2.2.3, S6.4, S6.10, S7.1, S7.2, S7.3, S7.4.1.1, S7.8, S7.9.1, S7.9.4, S7.10.1, S7.10.2(a), S7.11 (including its subdivisions), S7.16.1, and S7.16.2 as these sections appear in the FEDERAL REGISTER of May 18, 1973 (38 FR 13017), are changed to "mph".

8. References to "ft/s/s" in S5.1.4.2, S7.1, S7.2, S4.4.1.1, S7.11 (including its subdivisions), and S7.16.2 as these sections appear in the FEDERAL REGISTER of May 18, 1973 (38 FR 13017), are changed to "fpsps".

9. In Table I, "S5.17" appearing in line 16 of the column titled "Test procedure" is changed to "S7.17".

Effective date. September 1, 1975: Because the amendments relax a requirement and because the present effective date of the standard is September 1, 1975, it is found for good cause shown that an effective date sooner than 180 days following publication of the amendments in the FEDERAL REGISTER is in the public interest.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51.)

Issued on March 6, 1975.

NOEL C. BUFE,
Acting Administrator.

[FR Doc.75-6389 Filed 3-7-75;11:52 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 28—PUBLIC ACCESS, USE AND RECREATION

Crab Orchard National Wildlife Refuge, Illinois

The following special regulation is issued and is effective on March 12, 1975.

§ 28.28 Special regulations, public access, use and recreation; for individual wildlife refuge areas.

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Public use is permitted on the Crab Orchard National Wildlife Refuge subject to the following special conditions:

(1) Swimming is authorized in the open portion of Crab Orchard Lake and Little Grassy Lake delineated as Areas I and III, except at designated areas. These designated "No Swimming" areas include but are not limited to: Marina Areas, Boat Docks, Boat Ramps, Spillways, Dams and Causeways. Swimming is not authorized in the closed portion of Crab Orchard Lake delineated as Area II. Swimming is not authorized at Devils Kitchen Lake, except at the Campground Beach.

(2) All types of flotation devices, are prohibited on refuge waters.

(3) Foodstuffs, drink containers (cans, bottles, cartons), pets or fires are prohibited at designated beach areas and on the rock area immediately below Crab Orchard Lake Spillway.

(4) The Carterville Beach, Lookout Point, Crab Orchard Beach, Playport Boat Dock, Sailboat Basin, Crab Orchard Spillway and Spillway parking lot and picnic areas are closed to unauthorized use from 9 p.m., local time, until 5 a.m., local time, daily.

(5) Motor vehicle entry to all refuge campgrounds is prohibited from 11 p.m. until 7 a.m., local time, during the period said campground is open to the public.

(6) Quiet shall be maintained in all refuge campgrounds between 10 p.m. and 6 a.m., local time.

(7) Alcoholic liquor may not be transported, carried or possessed on any boat propelled by sail or mechanical power, except in the original package and with the seal unbroken, while the craft is in operation on refuge waters.

(8) No marine head (toilet) on any boat or watercraft operated upon refuge waters may be so constructed or operated as to discharge any sewage into the waters directly or indirectly.

(9) The drinking or possession of alcoholic liquor by minors, as defined by State law, is prohibited on the refuge area.

(10) No person shall transport, carry, possess or have any alcoholic liquor in or upon any motor vehicle except in the original package and with the seal unbroken while on the refuge area.

(11) The use of boats with a motor larger than ten (10) horsepower is prohibited on Devils Kitchen Lake and Little Grassy Lake.

(12) Personnel must be attired in appropriate attire while on the refuge. Public nudity or topless attire by females is not authorized.

(13) The use and/or possession on the refuge of all controlled substances, including but not limited to opiates, cocaine, marijuana, hashish, depressants, stimulants, or hallucinogenic drugs is prohibited except when such use or possession is for the person's own use as authorized by law. All state laws on controlled substances applicable to the area concerned are adopted and made a part hereof.

(14) Camping, defined as the use of tent camps, bedrolls, motorized vehicles, trailers and other shelters for overnight stays for the purpose of sleeping, is prohibited except at the Devils Kitchen Campground, Little Grassy Campground, Crab Orchard Lake Campground and the Marion Boat Club Campground.

The provisions of this notice supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set

forth in 50 CFR Part 28 and are effective through December 31, 1975.

Dated: February 19, 1975.

WAYNE D. ADAMS,
Project Manager, Crab Orchard National Wildlife Refuge, Carterville, Illinois.

[FR Doc.75-6327 Filed 3-11-75;8:45 am]

PART 33—SPORT FISHING

Muscatatuck National Wildlife Refuge, Indiana

The following special regulation is issued and is effective on March 12, 1975.

§ 33.5 Special regulations: sport fishing; for individual wildlife refuge areas.

INDIANA

MUSCATATUCK NATIONAL WILDLIFE REFUGE

Sport fishing on the Muscatatuck National Wildlife Refuge, Seymour, Indiana, is permitted only on the six ponds designated by signs as open to fishing. These open areas comprising 160 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Minneapolis, Minnesota 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge shall extend from April 15, 1975, and remain open until further notice, daylight hours only.

(2) Fishing through the ice will be permitted during the winter on designated areas which have been determined to be safe and announced by the Refuge Manager.

(3) The use of boats is prohibited.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33.

Dated: March 5, 1975.

CHARLES E. SCHEFFE,
Refuge Manager, Muscatatuck National Wildlife Refuge, Seymour, Indiana.

[FR Doc.75-6328 Filed 3-11-75;8:45 am]

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

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

Incidental Taking in the Course of Commercial Fishing Operations

Amendment to Regulations governing the incidental taking of marine mammals in the course of commercial fishing operations.

Regulations governing commercial fishing operations where marine mammals are incidentally taken were published on September 5, 1974 (39 FR 32117) as amended. The regulations require that certificate holders maintain logbooks that record certain information regarding activities permitted under the certificates.

The purpose of this amendment is to stipulate retention periods for the complete logs.

The following sections are hereby amended:

In § 216.24(d)(1)(v), add following the last sentence; "Certificate holders shall retain the original logs for a period of one year from the date the required report is made in writing to the Regional Director, National Marine Fisheries Service."

In § 216.24(d)(2)(iii), add following the last sentence; "Certificate holders shall retain the original logs for a period of one year from the date the required copies are submitted to the Regional Director, National Marine Fisheries Service."

In § 216.24(d)(3)(v), add following the last sentence: "Certificate holders shall retain the original logs for a period of one year from the date the required report is made in writing to the Regional Director, National Marine Fisheries Service."

In § 216.24(d)(4)(v), add following the last sentence; "Certificate holders shall retain the original logs for a period of one year from the date the required report is made in writing to the Regional Director, National Marine Fisheries Service."

In § 216.24(d)(5)(v), add following the last sentence; "Certificate holder shall retain the original logs for a period of one year from the date the required report is made in writing to the Regional Director, National Marine Fisheries Service."

Dated: March 5, 1975.

JACK W. GEHRINGER,
Acting Director, National Marine Fisheries Service.

[FR Doc.75-6387 Filed 3-11-75;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 908]

HANDLING OF VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Expenses and Rate of Assessment for the 1974–75 Fiscal Period and Carryover of Unexpended Funds

This notice invites written comment relative to the proposed expenses of $282,550 and rate of assessment of $0.014 per carton of Valencia oranges to support the activities of the Valencia Orange Administrative Committee for the 1974–75 fiscal period under Marketing Order No. 908.

Consideration is being given to the following proposals submitted by the Valencia Orange Administrative Committee, established under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof: (1) that the expenses which are reasonable and likely to be incurred by the Valencia Orange Administrative Committee during the period from November 1, 1974, through October 31, 1975, will amount to $282,550; (2) that there be fixed, at $0.014 per carton of oranges, the rate of assessment payable by each handler in accordance with § 908.41 of the aforesaid marketing agreement and order; and (3) that unexpended funds in excess of expenses incurred during the fiscal year ended October 31, 1974, in the amount of $25,000, be carried over as a reserve in accordance with § 908.42.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file same in quadruplicate with the Hearing Clerk, Untied States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than April 1, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: March 7, 1975.

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

[FR Doc.75-6459 Filed 3-11-75;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Notice of Proposed Rulemaking

Notice is hereby given in accordance with the provisions contained in section 553 of Title 5, United States Code, that it is proposed to amend certain of the regulations relating to viruses, serums, toxins, and analogous products, in Part 113 of Title 9, Code of Federal Regulations issued pursuant to the provisions of the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158).

These amendments would either clarify, correct, or eliminate where justified, certain Standard Requirements for evaluating live virus biological products containing live avian encephalomyelitis virus, avian pox virus, bronchitis virus, fowl laryngotracheitis virus, Newcastle disease virus, and Merek's disease virus prescribed in § 113.160, § 113.161, § 113.162, § 113.163, § 113.164, and § 113.165. These changes are being proposed in response to a review of the Standard Requirements in these regulations by a joint committee composed of Veterinary Services personnel and representatives of poultry biologics producers.

Section 113.160 would be amended to provide for the use of the pathogen test in § 113.36 if vaccine cannot be evaluated by the test in § 113.37. Paragraphs (b), (d), and (e) would be affected. The virus titration test in paragraph (c)(2) would be amended to permit the use of 20 embryos as negative controls with 75 percent hatch considered a valid test.

Paragraph (d) of § 113.160 would also be amended to provide a safety test and to clarify release requirements. Paragraph (e)(1)(i) would be amended to limit the incubation requirement to desiccated samples. Paragraph (e)(3) would be added to provide a safety requirement.

Paragraphs (a) and (c)(2) of § 113.161 would be corrected by deleting "of this section" in (a) and by changing "means" to "mean" in (c)(2). A new safety test would be added to § 113.161 by revising paragraph (d)(1) and adding paragraphs (d)(1)(i) and (ii). Virus titer requirements would be included in a revised paragraph (d)(2).

The introductory portion of paragraph (e) of § 113.161 would be reworded for clarification. Safety requirements would be added as a new paragraph (e)(3).

The introductory portion of § 113.162 would be corrected by deleting the last sentence and § 113.162 would be revised to conform with other sections. The neutralization test in paragraph (c)(2) would be deleted as being an unnecessary duplication and the retained virus-recovery test would be reworded for clarification.

Paragraph (d) of § 113.162 would be revised to provide for testing of each virus type used in a vaccine. Pathogen tests requirements would be revised in paragraph (d)(1). Virus titer requirements for release would be clarified in paragraph (d)(3) by changing the wording to conform with the requirements for other vaccines.

Paragraphs (b) and (d)(1) of § 113.163 would be revised to clarify the procedure involved and to delete the requirement that a higher titered antiserum be used in the retest since such antiserum may not always be available. Paragraphs (d)(2) and (3) of § 113.163 would be revised to provide a safety test in paragraph (d)(2) and virus titer requirements in paragraph (3). TCID virus titer requirements would be provided.

Paragraph (e) of § 113.163 would be reworded to provide an exception to paragraph (c) of § 113.135. Paragraph (e)(3) would be amended to provide safety requirements for laryngotracheitis live virus vaccines prepared under special license.

Paragraphs (b) and (d)(1) of § 113.164 would be revised to clarify the procedure involved and to delete the reference to the use of a higher titered antiserum.

The route of challenge would be changed from intratracheally to intramuscularly in paragraphs (c)(3) and (e)(2)(iii) of § 113.164 to prevent overchallenge.

Paragraphs (d)(2) and (3) of § 113.164 would be combined in paragraph (3) and a safety test would be provided in a new paragraph (d)(2).

An exception to paragraph (c) of § 113.135 would be made in paragraph (e). Paragraphs (e)(3)(i) and (ii) would be revised to provide proper safety tests requirements and paragraphs (e)(3)(iii) and (iv) would be deleted.

1. § 113.160 is amended by revising paragraphs (b), (c)(1), (c)(2)(i), and (ii), and (d); by revising the introductory portion of paragraph (e); by revising paragraph (e)(1)(i); and by adding paragraph (e)(3) to read:

§ 113.160 **Avian encephalomyelitis vaccine.**

* * * * *

(b) Each lot of Master Seed Virus shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine

virus override, the test may be repeated and if the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in § 113.36 may be conducted and the virus judged accordingly.

(c) * * *

(1) Avian encephalomyelitis susceptible chickens all of the same age (eight weeks or older) and from the same source, shall be used. Twenty or more chickens shall be used as vaccinates for each method of administration recommended on the label. Ten additional chickens of the same age and from the same source shall be held as unvaccinated controls.

(2) * * *

(i) For each dilution, inoculate at least 10 embryos, 5 or 6 days old, in the yolk sac with 0.2 ml each. Twenty similar embryos obtained from the same source shall be kept as uninoculated negative controls. Disregard all deaths during the first 48 hours post-inoculation.

(ii) Eggs for each dilution shall be kept in separate containers and allowed to hatch. Sufficient precaution shall be taken to assure that chickens from each dilution remain separated. To be a valid test, at least 75 percent of the uninoculated eggs shall hatch.

* * * * *

(d) After a lot of Master Seed Virus has been established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements in § 113.135 and the requirements prescribed in this paragraph.

(1) Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine virus override, the test may be repeated and if the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in § 113.36 may be conducted and the vaccine judged accordingly.

(2) *Safety test.* Final container samples of completed product shall be tested for safety as follows:

(i) At least 25 AE susceptible birds (6 to 10 weeks of age) shall be vaccinated with the equivalent of 10 doses by each of all routes recommended on the label and be observed each day for 21 days.

(ii) If unfavorable reactions attributable to the biological product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated, except that, if the test is not repeated, the serial shall be unsatisfactory.

(3) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c) (2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than $10^{2.5}$ EID_{50} per dose.

(e) Until a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section. Each serial and subserial shall meet the applicable requirements prescribed in § 113.135, except paragraph (c), in paragraph (d) (1) of this section, and in this paragraph.

(1) *Virus titration.* * * *

(i) For release, desiccated samples shall be incubated at 37° C for not less than 7 days before preparation for use in the virus titration test. A serial or subserial which does not contain at least $10^{2.5}$ EID_{50} per dose of avian encephalomyelitis virus shall not be released.

* * * * *

(3) *Safety test.* The prechallenge portion of the immunogenicity test in this paragraph shall be the safety test. If unfavorable reactions occur which are attributable to the vaccine, the serial or subserial is unsatisfactory.

2. § 113.161 is amended by revising paragraphs (a), (c) (2), and (d) (1); by adding paragraphs (d) (1) (i) and (ii); by revising paragraph (d) (2) and the introductory portion of paragraph (e); and by adding paragraph (e) (3) to read:

§ 113.161 Avian pox vaccine.

* * * * *

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135, except paragraph (c) and shall meet the requirements prescribed in this section.

* * * * *

(c) * * *

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. Each vaccinate shall receive a predetermined quantity of vaccine virus. Five replicate virus titrations shall be conducted on an aliquot of the vaccine virus to confirm the amount of virus administered to each bird used in the test. At least three appropriate (not to exceed tenfold) dilutions shall be used and the test conducted as follows:

* * * * *

(d) * * *

(1) *Safety test.* Final container samples of completed product shall be tested for safety as follows:

(i) At least 25 fowl pox susceptible birds shall be vaccinated with the equivalent of 10 doses by each of all routes recommended on the label and be observed each day for 14 days.

(ii) If unfavorable reactions attributable to the biological product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated, except that, if the test is not repeated, the serial shall be unsatisfactory.

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c) (2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than $10^{2.5}$ EID_{50} per dose.

(e) Until a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the requirements prescribed in § 113.36, § 113.135, except paragraph (c), and in this paragraph.

* * * * *

(3) *Safety test.* The pre-challenge period of the immunogenicity test provided in paragraph (e) (2) of this section shall be the safety test. If any of the chickens become sick or die due to causes attributable to the product, the serial is unsatisfactory.

3. Section 113.162 is amended by revising the introductory portion of § 113.162; by revising paragraphs (b) and (c); by revising the introductory portion of paragraph (d); and by revising paragraph (d) (1), the introductory portion of (d) (3); and by revising paragraph (d) (3) (iii) to read:

§ 113.162 Bronchitis vaccine.

Bronchitis Vaccine shall be prepared from virus-bearing cell culture fluids or embryonated chicken eggs. Only Master Seed Virus which has been established as pure, safe, and immunogenic in accordance with the requirements in paragraphs (a), (b), and (c) of this section shall be used for preparing the production seed virus for vaccine production. All serials shall be prepared from the first through the fifth passage from the Master Seed Virus.

* * * * *

(b) Each lot of Master Seed Virus shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine virus override, the test may be repeated and if the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in § 113.36 may be conducted and the virus judged accordingly.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity and the selected virus dose to be used shall be established as follows:

(1) Bronchitis susceptible chickens, all of the same age and from the same source, shall be used in the virus-recovery test. For each method of administration recommended on the label for each serotype against which protection is claimed, twenty or more chickens shall

be used as vaccinates. Ten additional chickens for each serotype against which protection is claimed shall be held as unvaccinated controls.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity tests are conducted. Each vaccinate shall receive a predetermined quantity of vaccine virus. Five replicate virus titrations shall be conducted on an alliquot of the vaccine virus to confirm the amount of virus administered to each chicken used in such tests. At least three appropriate (not to exceed tenfold) dilutions shall be used and the test conducted as follows:

(i) For each dilution, inject at least five embryos, 9 to 11 days old, in the allantoic cavity with 0.1 ml each. Deaths occurring during the first 24 hours shall be disregarded, but at least four viable embryos in each dilution shall survive beyond 24 hours of a valid test. After 5 to 8 days incubation, examine the surviving embryos for evidence of infection.

(ii) A satisfactory titration shall have at least one dilution with between 50 and 100 percent positives and at least one dilution with between 50 and 0 percent positives.

(iii) Calculate the EID_{50} by the Spearman-Karber or Reed-Muench method.

(3) Twenty-one to twenty-eight days post-vaccination, all vaccinates and controls shall be challenged by eye-drop with virulent bronchitis virus. A separate set of vaccinates and controls shall be used for each serotype against which protection is claimed. Each challenge virus shall be approved or provided by Veterinary Services and shall titer at least $10^{4.0}$ EID_{50} per ml.

(i) Tracheal swabs shall be taken once, 5 days post-challenge, from each control and vaccinate. Each swab shall be placed in a test tube containing 3 ml of tryptose phosphate broth and antibiotics. The tube and swab shall be swirled thoroughly and if they are to be stored, be immediately frozen and be stored at below −40° C pending egg evaluation. For each chicken swab, at least five chicken embryos 9 to 11 days old shall be inoculated in the allantoic cavity with 0.2 ml each of broth from each tube.

(ii) All embryos surviving the third day post-inoculation shall be used in the evaluation, except that, if a swab is not represented by at least four embryos, the test of that swab is invalid and the results inconclusive. A tracheal swab shall be positive for virus recovery when any of the embryos in a valid test show typical infectious bronchitis virus lesions, such as but not limited to, stunting, curling, kidney urates, clubbed down, or death during the 4 to 7 day post-inoculation period. If less than 20 percent of the embryos which survive the third day post-inoculation die during the 4 to 7 day post-inoculation period and show no gross lesions typical of infectious bronchitis, they may be disregarded.

(iii) If less than 90 percent of the controls are positive for virus recovery, the test is inconclusive and may be repeated.

(iv) If less than 90 percent of the vaccinates are negative for virus recovery, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only one method of administration recommended on the label need be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraph (c)(3) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) After a lot of Master Seed Virus has been established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements in § 113.135 and the requirements prescribed in this paragraph, except that, if the vaccine contains more than one virus type, bulk samples taken from each type prior to mixing shall be used in the virus identity tests prescribed in § 113.135(c). The additional requirements in this paragraph shall also be met.

(1) Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine virus override, the test may be repeated and if the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in § 113.36 may be conducted and the vaccine judged accordingly.

* * * * *

(3) *Virus titer requirements.* A virus titration shall be conducted on final container of completed product from each serial and subserial using the procedure prescribed in paragraph (c)(2) of this section, and in this paragraph.

* * * * *

(iii) To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than $10^{2.0}$ EID_{50} per dose.

4. § 113.163 is amended by revising the introductory portion of paragraph (b); by revising paragraph (d), and the introductory portion of paragraph (e); and by revising paragraph (e)(3) to read:

§ 113.163 Fowl laryngotracheitis vaccine.

* * * * *

(b) Each lot of Master Seed Virus shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inoverride, the test may be repeated and if conclusive because of vaccine virus the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in § 113.36 may be conducted and the virus judged accordingly. Each lot shall also be tested for safety as follows:

* * * * *

(d) After a lot of Master Seed Virus has been established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements in § 113.135 and the requirements prescribed in this paragraph.

(1) Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine virus override, the test may be repeated and if the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in § 113.36 may be conducted and the vaccine judged accordingly.

(2) *Safety test.* Live virus vaccines prepared under special license shall be tested for safety as provided in the filed Outline of Production. Final container samples of completed product from each serial of modified live virus vaccine shall be tested for safety as provided in this paragraph.

(i) Twenty-five 3 to 4 week old laryngotracheit is susceptible chickens shall be injected intratracheally with 0.2 ml of vaccine rehydrated at the rate of 30 mls for 1,000 doses. Chickens shall be observed each day for 14 days. Deaths shall be counted as failures. Two-stage sequential testing may be conducted if the first test (which then becomes stage one) has five, six, or seven failures.

(ii) The results shall be evaluated according to the following table:

Cumulative totals

Stage	Number of chickens	Failures for satisfactory serials	Failures for unsatisfactory serials
1	25	4 or less	8 or more.
2	50	10 or less	11 or more.

(iii) If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated or in lieu thereof, the serial declared unsatisfactory.

(3) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method provided in paragraphs (c) (2) or (3) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than $10^{2.3}$ EID_{50} per dose for chicken embryo origin vaccine and $10^{3.0}$ EID_{50} or

$10^{2.5}$ $TCID_{50}$ per dose for tissue culture origin vaccine.

(e) Until a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements prescribed in § 113.135, except paragraph (c), in paragraph (d)(1) of this section and the requirements prescribed in this paragraph.

* * * * *

(3) *Safety test.* Live virus vaccines prepared under special license shall be tested for safety as provided in the filed Outline of Production. Final container samples of completed product from each serial or one subserial of modified live virus vaccine shall be tested for safety in ten or more susceptible chickens obtained from the same source and hatch as those used in the immunogenicity test prescribed in paragraph (e)(2) of this section. Each shall be injected intratracheally with 0.2 ml of the vaccine prepared for use as recommended on the label and observed each day for 14 days. If more than 20 percent of the chickens die during the observation period the serial or subserial is unsatisfactory.

5. § 113.164 is amended by revising paragraphs (b), (c)(3), (d), and the introductory portion of paragraph (e); by revising paragraphs (e)(2)(iii) and (e)(3)(i) and (ii); and by deleting paragraphs (e)(3)(iii) and (iv) to read:

§ 113.164 Newcastle disease vaccine.

* * * * *

(b) Each lot of Master Seed Virus shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine virus override, the test may be repeated and if the repeat test is inconclusive for the same reasons, the chicken inoculation test prescribed in § 113.36 may be conducted and the virus judged accordingly.

(c) * * *

(3) Twenty to twenty-eight days postvaccination, all vaccinates and controls shall be challenged intramuscularly with at least $10^{4.0}$ EID_{50} of virus per chicken and observed each day for 14 days. Challenge virus shall be provided or approved by Veterinary Services.

* * * * *

(d) After a lot of Master Seed Virus has been established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements in § 113.135, except § 113.34, and the requirements prescribed in this paragraph.

(1) Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine virus override, the test may be repeated and if the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in § 113.36 may be conducted and the vaccine judged accordingly.

(2) Safety test: Final container samples of completed product from each serial shall be tested to determine whether the vaccine is safe for use in susceptible young chickens. Vaccines recommended for use in chickens 10 days of age or younger shall be tested in accordance with paragraphs (d)(2)(i), (ii), and (iii) of this section.

(i) Twenty-five susceptible chickens, 5 days of age or younger, properly identified and obtained from the same source and hatch, shall be vaccinated by the eye drop method with the equivalent of 10 doses of vaccine and the chickens observed each day for 21 days. Severe respiratory signs or death shall be counted as failures. Two-stage sequential testing may be conducted if the first test (which then becomes stage one) has 3 failures.

(ii) The results shall be evaluated according to the following table:

Cumulative totals

Stage	Number of chickens	Failures for satisfactory serials	Failures for unsatisfactory serials
1	25	2 or less	4 or more.
2	50	5 or less	6 or more.

(iii) If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and may be repeated.

(iv) Vaccines not recommended for use in chickens 10 days of age or younger shall be tested for safety as follows:

Each of twenty-five 3 to 5 week old Newcastle disease susceptible chickens shall be vaccinated as recommended on the label with the equivalent of ten doses and observed each day for 21 days. If any of the birds show severe clinical signs of disease or death during the observation period due to causes attributable to the product, the serial is unsatisfactory.

(3) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than $10^{5.5}$ EID_{50} per dose.

(e) Until a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements prescribed in § 113.135, except paragraph (c) and § 113.34, in paragraphs (d)(1) and (2) of this section and the requirements prescribed in this paragraph.

* * * * *

(2) * * *

(iii) Twenty to twenty-eight days postvaccination, the vaccinates and the controls shall be challenged intramuscularly with at least $10^{4.0}$ EID_{50} Newcastle disease virus provided or approved by Veterinary Services. The chickens shall be observed each day for 14 days.

* * * * *

(3) * * *

(i) Vaccines recommended for use in chickens 10 days of age or younger shall be tested in accordance with paragraphs (d)(3)(i), (ii), and (iii) of this section.

(ii) For vaccines not recommended for use in chickens 10 days of age or younger, the pre-challenge period of the immunogenicity test provided in subparagraph (e)(2) of this section shall be the safety test. If any of the birds show severe clinical signs of disease or death during the observation period due to causes attributable to the product, the serial is unsatisfactory.

6. Paragraph (d) of § 113.165 is revised to read:

§ 113.165 Marek's disease vaccine.

* * * * *

(d) Test requirements for release: Except for the virus identity tests in § 113.135(c), each serial and subserial shall meet the applicable requirements prescribed in § 113.135. Final container samples of completed product shall also meet the requirements in paragraphs (d)(1), (2), and (3) of this section. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, Hyattsville, Maryland 20782. All comments received on or before April 10, 1975, will be considered.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business. (7 CFR 1.27 (b)).

Done at Washington, D.C. this 6th day of March, 1975.

J. M. HEJL,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.75-6308 Filed 3-11-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 123]

BILINGUAL EDUCATION

Notice of Proposed Rule Making

Pursuant to the authority contained in the Bilingual Education Act as amended (Title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 90–247, 81 Stat. 816, 20 U.S.C. 880b, as amended by Title I of the Education Amendments of 1974, Pub. L. 93–380, 84 Stat. 151, 20 U.S.C. 880b), notice

is hereby given that the U.S. Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend various sections of Part 123 of Title 45 of the Code of Federal Regulations.

Various technical and substantive amendments to Part 123 are necessitated by the amendments to the Bilingual Education Act (applicable for Fiscal Year 1975) made by Pub. L. 93–380 and by an increased emphasis on training and curriculum and materials development activities to meet the needs of the bilingual community in the light of the provisions of the statute and relevant legislative history.

Section 105(a)(1) of the Education Amendments of 1974 (Pub. L. 93–380) substantially amends the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act, and divides it into a new part A (relating to financial assistance for bilingual education programs), a new part B (relating to administration), and a new part C (relating to supportive services and activities). Section 105(a)(2) of Pub. L. 93–380 provides that the amendment made by section 105(a) shall be effective on the date of enactment of Pub. L. 93–380 (August 21, 1974), except that the provisions of part A of Title VII of the Elementary and Secondary Education Act of 1965 (as amended) shall become effective on July 1, 1975 and the provisions of Title VII of the Elementary and Secondary Education Act in effect immediately prior to August 21, 1974 "shall remain in effect through June 30, 1975, to the extent not inconsistent with the amendment made by" section 105 of Pub. L. 93–380.

The proposed amendments to the regulations in Part 123 (which relate to financial assistance for bilingual education programs) have been prepared in light of the above-described provisions of section 105. The provisions of the Bilingual Education Act in effect immediately prior to August 21, 1974 form the basis for the grant-making authority in the regulations except to the extent inconsistent with Pub. L. 93–380. New authority in Part A of the Act, as amended, is not implemented unless specifically authorized by law for Fiscal Year 1975 implementation. Citations of authority are generally to the sections of the United States Code in effect prior to August 21, 1974. Citations to various provisions of the amended version of the Bilingual Education Act are also provided where appropriate, designated by an asterisk.

The proposed regulation would be applicable only to assistance to eligible recipients under the Bilingual Education Act. It does not purport to implement Part C of the amended act or any other provision of the act which may involve competitive contracts.

The proposed regulation is intended as an interim regulation applicable for Fiscal Year 1975. A regulation under the Bilingual Education Act to implement the program for Fiscal Year 1976, the first fiscal year for which the Act will be fully effective, is in preparation.

The major changes in the current regulations include the following:

1. Section 123.02 provides a new and expanded set of definitions pursuant to changes in the general section of the Act made by Pub. L. 93–380, including the definition of "programs of bilingual education" contained in the amended act.

2. Section 123.12 provides a more extensive listing of authorized activities for which an eligible applicant as defined by § 123.11 may apply for assistance. Resource centers, materials development centers, and dissemination/assessment centers are specifically referenced as allowable activities under § 123.12(a)(1). In § 123.12(a)(2) reference to preservice training programs is expanded in a new paragraph § 123.12(h)(1) to include traineeship assistance to participants in bilingual education programs who need and seek further training at approved institutions of higher education for a career in bilingual education. In addition, to improve the capability of such institutions to serve bilingual education personnel, training programs under § 123.12(h)(2) may include grants to institutions of higher education (which apply jointly with a local educational agency) to enhance their training program capacity.

3. As mandated by Pub. L. 93–380 for Fiscal Year 1975, a new § 123.12–1 is added to provide for fellowships for persons preparing to become trainers of teachers in bilingual education programs.

4. Section 123.14 of the regulations (relating to criteria for evaluation of applications) is substantially rewritten. The general criteria for evaluation (in § 123.14(a)) and accompanying distribution of maximum points are restated and reorganized. Section 123.14(b) (relating to special funding criteria for continuation projects) is substantially revised. New paragraphs (c) and (d) are added to set forth particular criteria for evaluation of training activities and centers described in § 123.12(a)(1), and a new paragraph (e) is added to describe the process by which applications will be evaluated for funding.

5. Pub. L. 93–380 also mandates a different composition and selection of community advisory groups than that used in Pub. L. 90–247 and requires their consultation before submission of an application, as provided in § 123.16.

6. Other amendments to the regulations include the provisions regarding the documentation necessary for the Commissioner's approval of non-profit institutions or organizations of Indian tribes operating elementary and secondary schools for Indian children as eligible applicants in § 123.13(d), and clarifying language in § 123.15(a) regarding the participation of children in private schools where the dominant language of the participating children in the non-profit private school is not the same dominant language spoken by the participating children in the proposed program submitted by the applicant agency.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulation changes to:

Office of Education, Division of Bilingual Education, 400 Maryland Avenue SW., ROB #3, Room 3116A, Washington, D.C. 20202.

on or before April 30, 1975. Comments received shall be available for public inspection at the above office, Monday through Friday between the hours of 8:00 a.m. to 4:30 p.m.

(Catalog of Federal Domestic Assistance Number 13.403; Bilingual Education)

Dated: February 20, 1975.

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

Approved: March 5, 1975.

Caspar W. Weinberger,
Secretary of Health, Education, and Welfare.

Part 123 of Chapter I of Title 45 of the Code of Federal Regulations is amended as follows:

1. Section 123.01 is revised to read as follows:

§ 123.01 Purpose and scope.

* * * * *

(b) This part applies only to the provision of assistance to eligible recipients under the Bilingual Education Act.

(20 U.S.C. 880b)

2. Section 123.02 is revised to read as follows:

§ 123.02 Definitions.

As used in this part (except as otherwise defined by an applicable statute or regulation):

"Act" means the Bilingual Education Act as amended.

(20 U.S.C. 880b–880b–12)

"Dependent" means any of the following persons over half of whose support, for the calendar year in which the school year begins, was received from the fellow or participant:

(a) A spouse,

(b) A child, or descendant of such child, or stepchild,

(c) A brother or sister,

(d) A brother or sister by the half blood,

(e) A stepbrother or stepsister,

(f) A parent, or ancestor of such parent,

(g) A stepfather or stepmother,

(h) A son or daughter of fellow's or participant's brother or sister,

(i) A brother or sister of fellow's or participant's father or mother,

(j) A son-in-law, or daughter-in-law, or father-in-law, or mother-in-law, or brother-in-law, or sister-in-law,

(k) A person (other than the fellow's or participant's spouse) who, during the fellow's or participant's entire calendar year, lives in the fellow's or participant's home and is a member of the fellow's or participant's household (but not if the relationship between the person and the

fellow or participant is in violation of local law), or

(l) A cousin (descendant of a brother or sister of the fellow's or participant's father or mother) who, during the fellow's or participant's calendar year, is receiving institutional care on account of a physical or mental disability, and before receiving such care was a member of the same household as the fellow or participant,

(m) A legally adopted child or a child placed in the fellow's or participant's home for adoption by an authorized agency is considered to be a child by blood,

(n) A citizen of a foreign country may not be claimed as a dependent, unless he is a resident of the United States, Canada, Mexico, Panama or the Canal Zone, at some time during the calendar year in which the school year of the fellow or participant begins, or is a resident of the Philippines, born to or adopted by, a fellow or participant while he was a member of the Armed Forces, before January 1, 1956, or is an alien child legally adopted by and living with a fellow or participant as a member of his household for the entire calendar year.

(20 U.S.C. 880b-9(a)(2),(3))*

"Dominant langauge" means the language most relied upon for communication in the home.

(20 U.S.C. 880b-880b-5)

"Fellowship" means an award under this part to an individual to enable him to participate in a program of study in the field of training teachers for bilingual education.

(20 U.S.C. 880b-9(2))*

"Fellow" means an individual who has been awarded a fellowship under this Part.

(20 U.S.C. 880b-9(2))*

"Institution of higher education" means an educational institution in any State which meets the requirements set forth in section 881(e) of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 880b-3(a), 881(e))

"Limited English-speaking ability," when used with reference to an individual, means—(a) Individuals who were not born in the United States or whose native language is a language other than English, and (b) Individuals who come from environments where a language other than English is dominant, and by reason thereof, have difficulty speaking, and understanding instruction in, the English language.

(20 U.S.C. 880b-1(a)(1))*

"Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political sub-division of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school. In addition, such term includes a non-profit institution or organization of an Indian tribe which operates on or near a reservation an elementary or secondary school for Indian children and which is approved by the Commissioner of Education for purposes of this part, and an elementary or secondary school for Indian children on a reservation which is operated or funded by the Department of the Interior.

(20 U.S.C. 880b-3a, 881(f))

"Low-income", when used with respect to a family, means an annual income (for such a family) which does not exceed the low annual income determined pursuant to section 103 of Title I of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (on the basis of the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census).

(20 U.S.C. 880b-1(a)(3))*

"Program of bilingual education" or "bilingual education program" means a program of instruction, designed for children of limited English-speaking ability in elementary and secondary schools, in which with respect to the years of study to which such program is applicable (1) there is instruction given in, and study of, (i) English and, (ii) (to the extent necessary to allow a child to progress effectively through the educational system) the native language of the children of limited English-speaking ability; (2) such instruction is given with appreciation for the cultural heritage of such children, and, (3) with respect to elementary school instruction, such instruction is given, to the extent necessary, in all courses or subjects of study which will allow a child to progress effectively through the educational system. A program of bilingual education shall also meet the requirements of section 703(a)(4)(B)-(E) of the Act, which are as follows:

(1) A program of bilingual education may make provision for the voluntary enrollment to a limited degree therein, on a regular basis, of children whose language is English, in order that they may acquire an understanding of the cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In determining eligibility to participate in such programs, priority shall be given to the children whose language is other than English. In no event shall the program be designed for the purpose of teaching a foreign language to English-speaking children. (See § 123.12(d)(1))

(2) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English-speaking ability in regular classes.

(3) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment, as determined after considering such attainment through the use of all necessary languages. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

(4) An application for a program of bilingual education shall be developed in consultation with parents of children of limited English-speaking ability, teachers, and, where applicable, secondary school students, in the areas to be served, and assurances shall be given in the application that, after the application has been approved under this part, the applicant will provide for participation by a committee composed of, and selected by, such parents, and, in the case of secondary schools, representatives of secondary school students to be served.

(20 U.S.C. 880b-1(a)(4)*; Sen. Rep. No. 93-1026, at 148-49(1974))

"Special educational needs" means the particular educational requirements of children of limited English-speaking ability, the fulfillment of which will provide them with equal educational opportunity.

(20 U.S.C. 880b)

"State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 881(j))

"Stipend" means the allowance paid to a participant in a training program or fellow for subsistence and other expenses for such participants and their dependents under this part.

(20 U.S.C. 880b-9 (2), (3)*, 880b-2(b))

"Teacher" means an individual providing instruction in a program of bilingual education and, for the purposes of this part, also includes other pupil-service personnel, such as librarians, counselors, school social workers, child psychologists, and educational media specialists participating in such programs.

(20 U.S.C. 880b-2(b))

"Teacher aide" means a person who assists a teacher in the performance of his professional teaching duties in a program of bilingual education. Such term does not include persons in positions such as clerk to a principal, food-handlers in

a cafeteria or in other jobs not related to the teaching-learning process.

(20 U.S.C. 880b-2(b))

"Traineeships" means awards to individuals from grants to local educational agencies applying jointly with institutions of higher education to provide financial assistance in pursuing a degree and/or credentials in bilingual education.

(20 U.S.C. 880b-2(b))

3. Section 123.12 is amended as follows: Subparagraph (1) of paragraph (a) is revised, paragraph (d) is revised, and a new paragraph (h) is added. Such revisions read as follows:

§ 123.12 Authorized activities.

(a) * * *

(1) Planning for and taking other steps leading to the development of bilingual education programs (as defined in § 123.02) designed to meet the special educational needs of children of limited English-speaking ability in schools having a high concentration of such children from low-income families (as defined in § 123.02) including research projects, pilot projects, resource centers, materials development centers, and dissemination/assessment centers designed to test the effectiveness of plans so developed and to develop and disseminate special instructional materials (including tests) for use in bilingual education programs. For the purpose of this part: a resource center means a set of activities under a project designed to provide direct services such as personnel training in the use of materials and resources and field testing of materials for bilingual education programs for use by local educational agencies and institutions of higher education. A materials development center means a set of activities under a project designed to develop instructional materials for bilingual education programs and education personnel training materials for utilization in resource centers and other bilingual education projects. A dissemination/assessment center means a set of activities under a project designed to publish and distribute materials developed for bilingual education programs and to evaluate the appropriateness and effectiveness of materials for such programs.

(20 U.S.C. 880b-2(a); H.R. Rep. No. 93-1378, at 12 (1974); Sen. Rep. No 93-763, at 43 (1974))

* * * * *

(d)(1)(i) A program assisted under this Part shall include such provisions as are necessary to prevent the separation of children by language or ethnic background in any activity included in such programs, unless the applicant demonstrates that such separation for a portion of the school day for specific language learning activities is essential to the achievement of the purpose of this part.

(ii) Nothing in this part shall be interpreted or applied to authorize isolation of children of limited English-speaking ability by language or ethnic background for a substantial portion of the school day.

(2) No child of limited English-speaking ability attending a school having a high concentration of the children described in paragraph (a)(1) of this section shall be prohibited from participating in a program assisted under this part on the ground that such child is not a member of a low-income family as defined in § 123.02.

(20 U.S.C. 880b, 880b-2, 880b-3 (a)(3), 880b-3 (b)(3)(A); Sen. Rep. No. 91-634, at 56 (1970); 42 U.S.C. 2000d-2000d-4)

* * * * *

(h) *Training.* (1) Preservice training grants under paragraph (a)(2)(i) of this section may be awarded to an institution of higher education applying jointly with one or more local educational agencies to provide traineeships leading to a degree and/or credential, as appropriate, to persons preparing to participate in the conduct of programs of bilingual education. Selection of candidates for traineeships under this part shall be made jointly by the applicant local educational agency or agencies and the institution of higher education. They shall give priority to applicants who are participating in bilingual education programs and have demonstrated a high interest and competency in a bilingual education program. The traineeship under this section may not exceed $3,500. Allowable costs shall include stipends, tuition, books, travel, tutoring, counseling and other training costs related to the traineeship as required by the institution of higher education.

(2) For the purpose of obtaining an appropriate distribution of high quality programs for training bilingual education personnel, grants for training programs under this part may include assistance to institutions of higher education, which apply jointly with one or more local educational agencies, to pay part of the cost (not otherwise covered under this part) of developing or strengthening higher education or graduate programs in bilingual education which meet, or, as a result of the assistance received under this subsection, which will enable the institution to meet (i) individual needs and (ii) encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education.

(20 U.S.C. 880b-2(b), Sen. Rep. No. 93-763, at 43, 370 (1974))

4. A new § 123.12-1 is added after § 123.12. It reads as follows:

§ 123.12-1 Fellowships for teacher training.

(a) *General.* The Commissioner may arrange for awarding fellowships for persons preparing to become trainers of teachers in bilingual education pursuant to this section. For the fiscal year ending June 30, 1975, the Commissioner will undertake to award not less than 100 such fellowships.

(b) *Requests for participation by institutions.* (1) In order to effectuate the purposes of this section, the Commissioner will entertain requests for participation under this section from institutions of higher education proposing to carry out graduate or other programs leading to an advanced degree in the field of training teachers for bilingual education.

(2) Such requests for participation shall indicate the number of fellowships which the institution is prepared to sponsor and shall contain information as to the nature of the program to be carried out by such institution, including information with respect to the faculty, facilities and equipment pertaining to such program and such other information as the Commissioner deems necessary to enable him to assess the capacity of the institution and of such program to fulfill the purposes of the Act or to to make the determinations under this part.

(3) Notwithstanding the provisions of § 123.11(a), an institution of higher education submitting a request for participation under this paragraph may (but need not) submit such request jointly with one or more local educational agencies but must consult with one or more such agencies (having a substantial number of children of limited English-speaking ability) with respect to the program to be carried out by such institution. Such request shall describe such consultation.

(c) *Approval of requests.* (1) In approving requests under paragraph (b) of this section, and in making any allotment of fellowships which may be necessary, the Commissioner will consider the information specified in paragraph (b) of this section and the relative need for teachers, for programs of bilingual education, of various groups of individuals with limited English-speaking ability.

(2) The Commissioner will notify each institution of higher education which has submitted a request pursuant to paragraph (b) of this section whether such request has been approved.

(d) *Award of fellowships to individuals.* (1) An individual seeking a fellowship under this section shall submit an application for such fellowship (in such form and detail as prescribed by the Commissioner) through an institution of higher education with a request approved under paragraph (c).

(2) From among those individual applicants which it accepts for study, such institution shall make nominations to the Commissioner. Wherever possible the institution should nominate alternates in addition to the regular nominations.

(3) To be eligible for a fellowship, an individual must (i) be willing to pursue a full-time graduate or other program leading to an advanced degree in bilingual education teacher training and (ii) be either a citizen or national of the United States or be in the United States for other than a temporary purpose and

have the intention of becoming a permanent resident thereof, or be a permanent resident of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(4) The commissioner will award fellowships to individuals selected by him from among those nominated as described in this paragraph. In making such selections, the Commissioner will be guided by the relative need for teachers, for programs of bilingual education, of various groups of individuals with limited English-Speaking ability and by available indicia as to the likelihood that individual nominees will, after the fellowship period, pursue a permanent career in bilingual education teacher training. Each individual nominated will be advised as soon as practicable of the action taken by the Commissioner on his nomination.

(e) *Stipends.* (1) Each fellow awarded a fellowship under this section will receive a stipend, which includes where applicable, an allowance for dependents as defined in § 123.02. Such allowance shall be consistent with that provided under comparable Federally supported programs, as determined by the Commissioner. Tuition and fees will be paid out of the fellowship award. A fellowship under this section shall not exceed $6,000 per annum.

(2) A stipend shall be paid only to a fellow who is enrolled and in good standing in a graduate or other program leading to an advanced degree in bilingual education teacher training.

(3) In order to remain eligible for payment of stipends, a fellow must maintain satisfactory progress in the program of study for which the fellowship was awarded and must continue to pursue a full-time course of study without gainful employment except as provided in paragraph (e)(4) of this section.

(4) A fellow may not engage in gainful employment during the period of a fellowship award under this part which will delay satisfactory progress toward completion of the course of study.

(20 U.S.C. 880b-9(a)(2), (3); Sen. Rep. No. 93-1255, at 18 (1974); Sen. Rep. No. 93-1026, at 151-52 (1974))

5. Section 123.13 is revised by adding a new paragraph (b)(11) and a new paragraph (c). As revised it reads as follows:

§ 123.13 Applications.

* * * * *

(b) * * *

(11) *Identification of target children and needs.* The manner and methods by which the applicant has identified the children with limited English-speaking ability who are to be reached; has measured the degree of such limited English-speaking ability for such children; and has assessed the need of such children.

(c) *Information pertaining to Indian institutions and organizations.* In addition to the assurances and information required in paragraph (b), applications submitted by non-profit institutions or organizations of Indian tribes operating elementary and secondary schools for Indian children shall include (1) evidence that the schools operated prior to the request for funds under this part and description of such schools, and (2) evidence of their non-profit status in order for the Commissioner to approve such organizations as eligible applicants for the purposes of section 706 (a) of the Act, as added by Pub. L. 91-230. Any of the following shall be acceptable evidence of non-profit status:

(i) A reference to the organization's listing in the Internal Revenue Service's most recent cumulative list of organizations described in section 501(c)(3) of the Internal Revenue Code as tax exempt,

(ii) A copy of currently valid Internal Revenue Service tax exemption certificate,

(iii) A statement from a State taxing body or the State attorney general certifying that the organization is a non-profit organization operating within the State and that no part of its net earnings may lawfully inure to the benefit of any private shareholder or individual,

(iv) A certified copy of the organization's certificate of incorporation or similar document if it clearly establishes the non-profit status of the organization,

(v) Any of the evidence described in clauses (i) through (iv) of this subparagraph which applies to a State or national parent organization, and a statement by the parent organization that the applicant organization is a local non-profit affiliate.

(20 U.S.C. 880b-3a(a))

6. Section 123.14 is amended as follows: Paragraph (a) is revised, paragraph (b) is revised, and new paragraphs (c), (d) and (e) are added. Such revisions read as follows:

§ 123.14 Criteria for competition for assistance.

(a) *General criteria.* In approving applications for assistance under this part (except as provided in paragraph (b)), the Commissioner will apply 225 points distributed according to the following criteria:

(1) *Relative need for assistance.* (50 points) The extent to which the educational needs identified and addressed in the application are for programs reaching areas having the greatest need for assistance under this part determined on the basis of the following:

(i) (10 points) The geographic distribution of children of limited English-speaking ability within the State;

(ii) (10 points) The relative need of persons in different geographic areas within the State for the kinds of services and activities described in § 123.12;

(iii) (10 points) The extent to which the educational approach, method, or technique to be demonstrated by the program has not previously been the object of assistance under the Act in the project area;

(iv) (10 points) The extent to which there is a need for additional demonstration of the educational approach, method, or technique involved in the program with respect to the target population for which the program is designed and with respect to bilingual education programs for children with the particular dominant language concerned;

(v) (10 points) The relative intensity of the educational needs of the children for whom the project is designed.

(Sen. Rep. No. 93-763, at 43-45 (1974); Sen. Rep. No. 93-1255, at 18 (1974); Sen. Rep. No. 93-1026, at 151 (1974))

(2) *Target population and program objectives.* (25 points)

(i) (5 points) The extent to which the educational needs identified and addressed in the application are clear and specific and relate the purpose of § 123.01.

(ii) (15 points) The extent to which evidence presented by documented objective data demonstrates the existence of students with needs described in § 123.12(a)(1) by indicating:

(A) (5 points) The number and percentage of children of limited English-speaking ability between the ages of 3 and 18 inclusive, residing in the school district served by the applicant agency; and

(B) (5 points) The numbers of such children enrolled in the school or schools which the proposed project is intended to serve, both public and non-public; and

(C) (5 points) The percentage of such children for which funds are being requested within the project school or schools, both public and non-public.

(iii) Statement of objectives. (5 points) The extent to which the application sets forth unattained objectives and plans for attaining them in relation to the needs assessed and to specific identified paragraphs in § 123.12, which are interrelated, specific, measurable, and realistically attainable within the specified periods.

(3) *Results or benefits expected.* (25 points) (i) Evaluation. (20 points) The extent to which the application sets forth quantifiable measurement of the success of the proposed program in attaining the stated objectives including: (A) a statement of the criteria by which attainment of objectives is to be measured; (B) a description of the instruments to be used to collect data for evaluation of the proposed program (and the method to be used to validate such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; (C) an assessment of the validity of such instruments when used to evaluate the lanuguage skills, academic achievement, academic aptitude, or general intelligence of children whose dominant language is other than English; (D) a time-table for the collection of data for evaluation, and a description of the method to be used to review the program in light of such data; and (E) provisions for comparison of evaluation results with norms, control group performance, results or other programs, or other external standards.

(ii) Dissemination (5 points) The extent to which the application sets forth provisions for (A) disseminating the results of the program and (B) making

materials, techniques, and other outputs resulting therefrom available to persons residing in the school district served by the applicant local educational agency, the general public, and those concerned with the educational opportunities of children of limited English-speaking ability.

(4) *Approach.* (65 points) (i) Activities. (20 points) (A) The extent to which the activities included in the proposed program (I) are defined in reference to authorized activities specified in § 123.12 and (II) assure positive results in the attainment of the applicant's stated objectives, and (B) in the case of an applicant which received assistance under this part during the fiscal year prior to the fiscal year for which assistance is sought, the extent to which the applicant demonstrates, by evaluation reports and other objective evidence, that any program proposed to be continued has made substantial progress in meeting the special educational needs of children of limited English-speaking ability;

(ii) Use of educational resources. (5 points) The extent to which the applicant proposes to utilize the expertise and cultural and educational resources described in § 123.13(b)(7).

(iii) Parent and community involvment. (10 points) The extent to which the application (A) delineates specific opportunities for the participation of the community advisory group described in § 123.16 in the planning, implementation, operation, and evaluation of the proposed program and (B) includes evidence that such participation has been encouraged and has in fact occurred;

(iv) Concentration. (5 points) The degree to which the program is sufficiently restricted in size and scope in relation to the nature of the program to avoid jeopardizing its effectiveness in meeting its objectives.

(v) Program administration. (5 points) The extent to which the application sets forth (A) a plan for meeting the logistical requirements of the proposed activities including a description of adequate and conveniently available facilities and equipment; (B) a statement of methods of administration that will ensure the proper and efficient operation of the proposed program, and (C) a statement of fiscal control and fund accounting for funds made available under this part;

(vi) Resource management. (10 points) The extent to which the application contains evidence that (A) the costs of program components are reasonable in relation to the expected benefits; (B) the proposed program will be coordinated with existing efforts; and (C) all possible efforts have been made to minimize the amount of funds requested for purchase of equipment necessary for implementation of the proposed program;

(vii) Continuation of program. (10 points) The extent to which the proposed program is designated in such a manner as to facilitate the continuation of such program as part of the regular school program of the applicant local educational agency upon the unavailability of assistance under this part.

(5) *Staffing.* (60 points) The extent to which the application:

(i) (10 points) Sets forth an adequate staffing plan which includes provisions for making maximum use of the best available staff capabilities, including the director,

(ii) (10 points) Provides for the continuing training of professional and paraprofessional staff which will assist the applicant in increasing the effectiveness of the proposed program,

(iii) (40 points) Indicates that the personnel to be employed in the program possess qualifications relevant to the objectives of the program.

(20 U.S.C. 880b–1(b), 880b–3(a) (2), (3), (5), (6), and (8), 880b–3(b) (1) and (2), 880b–3(b)(3)(A), 1231d; Sen. Rep. No. 90–726, 49 (1967); Sen. Rep. No. 91–634, 57 (1970))

(b) *Funding categories.* (1) The Commissioner may make awards for bilingual education programs under this part on a project period basis. (See § 100.1.) The duration of the project will reflect only the minimum period needed to carry out the demonstration or other approved objective involved in the program. Award decisions for fiscal years during the project period but subsequent to the initial fiscal year of award will be based upon an evaluation of the progress of the program in meeting its objectives.

(2) Applications for such "continuation awards" in subsequent fiscal years during the project period will not be competitive with applications for new programs and will be rated under the criteria in this section only if funds are insufficient to support all satisfactory continuation programs.

(3) Following the expiration of the project period for a particular program, an application for further assistance with respect to such program shall be evaluated and rated in accordance with the criteria in this section in competition with other applications evaluated thereunder.

(4) In approving applications for assistance under this part, the Commissioner shall take into consideration any recommendations offered by the appropriate State educational agency to the extent such recommendations are consistent with the criteria set out in this section.

(20 U.S.C. 880b–1(b), 880b–3(a)(3), 880b–3(b)(1), (b)(2), Sen. Rept. No. 93–763, at 43–45, (1974); Sen. Rep. No. 93–1255, at 18 (1974))

(c) Criteria for training activities. The Commissioner will apply the following criteria to projects involving training activities under § 123.12 in cases where institutions of higher education apply jointly with a local educational agency, (90 points distributed as follows):

(1) (10 points) The extent to which the applicant (or applicants) possesses demonstrated competence and experience in the field of bilingual educational training as evidenced by such factors as (i) the number of bilingual students enrolled (ii) the number of bilingual personnel employed (iii) the nature and type of involvement within bilingual education local educational agency(s);

(2) (10 points) The extent to which a program or project leads toward a degree or credential in bilingual education;

(3) (10 points) The extent to which a program or project is an integral part of the institution;

(4) (10 points) The extent to which the program or project will increase the capability of an institution to train educational personnel in bilingual education;

(5) (10 points) The extent to which the proposed program or project is coordinated with, or supportive of, local educational agency projects or other projects funded under the Act;

(6) (10 points) The extent to which the proposed program or project is directed toward the educational personnel needs of a particular school district(s) serving children of limited English-speaking ability;

(7) (10 points) The extent to which the proposed program includes effective procedures for evaluating the impact of the program or project;

(8) (10 points) The extent to which the trainees will be trained and be able to teach in academic subjects in the non-English language involved;

(9) (10 points) The extent to which the proposed program or project is directed toward training education personnel to identify and deal with individual learning problems related to limited non-English speaking ability.

(20 U.S.C. 880b–3(a)(3), 880b–3(b)(2))

(d) *Criteria for curriculum activities.* In addition to the criteria in paragraph (a), the Commissioner shall apply the following criteria to those applications which propose centers as described in § 123.12(a)(1):

(1) The extent to which the center will result in the development of educational services, materials and curricula for bilingual education in the areas of greatest need and with respect to language groups for which the need for curriculum materials development is particularly acute;

(2) The extent to which the center will have an effective and efficient delivery system of services for bilingual education programs;

(3) The extent to which the center will have the administrative capability to respond to the need for bilingual education programs; and

(4) The extent to which the center has the resources to carry out the proposed activities.

(20 U.S.C. 880b–3(a)(3), 880b–3(b)(2))

(e) *Application of criteria.* (1) In the case of a program involving training to be carried out in whole or in part by an institution of higher education, the training component of the application shall be evaluated in accordance with the criteria in paragraph (c) of this

section. Applications for training assistance will be rated and ranked in accordance with such evaluation, except that consideration will be given only to applications involving instructional components in the fundable range as determined in accordance with the criteria in paragraph (a) of this section through the establishment of a minimum point score. Approval of the instructional component of a program will not, however, necessarily lead to approval of the training component.

(2))The Commissioner will reserve $16,000,000 of that part of the appropriations to carry out the provisions of this part which does not exceed $70,000,000 for all training activities and will reserve for such activities 33⅓ per centum of that part which is in excess of $70,000,000.

(3) In the case of a project involving a center as described in § 123.12(a)(1), the application involving the project will first be evaluated, in its entirety, in accordance with the criteria in paragraph (a) except that all applications proposing such a center applying jointly as a consortia composed of two or more local educational agencies applying jointly with one or more institutions of higher education shall receive up to 20 additional points for the proposed center component only. Such project will also be evaluated in accordance with the criteria in paragraph (d) of this section. Applications will be ranked on the basis of such rating in paragraph (a) of this section and the evaluation under paragraph (d) of this section. Consideration will be given only to applications which receive a point score in excess of a minimum point score established on the basis of available funds.

(20 U.S.C. 880b-3(b)(2), 880b(b)(3)*, Sen. Rep. No. 93-763 at 43-45 (1974))

7. Paragraph (a) of § 123.15 is revised to read as follows:

§ 123.15 Participation of children enrolled in private schools.

(a) *Assurances.* (1) Applications submitted under this part shall contain an assurance that, to the extent consistent with the number of children of limited English-speaking ability enrolled in nonprofit private schools in the area to be served, provision has been made for the participation of such children in the proposed program. Such participation may, at the option of the applicant, involve children in a private school whose dominant language is not the dominant language of the children to be served in the public school by the proposed program.

(2) An applicant shall provide satisfactory assurance that it is in a position to maintain administrative direction and control over the components of the proposed program in which such private school children participate and is in a position to provide such public school or other publicly provided personnel (having competence in the dominant language of such private school children) as are necessary for the implementation of a quality bilingual education program for such children.

(3) Applications shall contain a description of the provisions which have been made for such participation. Such provisions shall assure that the special educational needs of such children enrolled in private schools to which the program is directed are addressed to the same extent as the special educational needs of children of limited English-speaking ability enrolled in the schools of the applicant local educational agency.

(20 U.S.C. 880b-3(b)(3)(B), Sen. Rep. 93-1026, at 150 (1974))

8. § 123.16 is amended as follows: Paragraph (a) is revised and paragraph (c) is revised. Such revisions read as follows:

§ 123.16 Parent and community participation.

(a) *Assurances.* (1) Applications submitted under this part shall contain an assurance (i) that parents of children of limited English-speaking ability, teachers, and where applicable, secondary school students, in the areas to be served, were consulted in the development of an application for a program of bilingual education; (ii) that the applicant local educational agency will consult with a community advisory group established in accordance with paragraph (c) of this section at reasonable intervals (in formal meetings open to the public) with respect to the administration and operation of any program assisted under this part; (iii) that such agency will provide such group with a reasonable opportunity periodically to observe (upon prior and adequate notice to such agency and at such time or times as such groups and such agency may agree) and comment upon all activities included in any program assisted under this part; and (iv) that such agency will make such provisions as are necessary to insure the participation of such group in the evaluation of any program assisted under this part.

(2) No application for assistance under this Act may be considered unless the local educational agency making such application certifies to the Commissioner that members of the public have been afforded the opportunity upon reasonable notice to testify or otherwise comment regarding the subject matter of the application.

* * * * *

(c) *Composition of community groups.* The community advisory group required by this section shall be composed of, and selected by, parents of children of limited English-speaking ability in the areas to be served, and in the case of secondary schools, representatives of secondary school students to be served.

(20 U.S.C. 1231(d); 20 U.S.C. 880b-1(a)(4)(E)*; 20 U.S.C. 887e; Sen. Rep. No. 91-634, 57 (1970))

[FR Doc.75-6297 Filed 3-11-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 75-WE-13-AD]

McDONNELL DOUGLAS DC-8 SERIES AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to McDonnell Douglas DC-8 Series airplanes. There have been several failures of the Nose Landing Gear (NLG) orifice support tube due to the development of fatigue cracks in the upper O-ring groove. One failure caused the NLG to collapse during roll-out after landing because the downlock bungee bracket was broken by the failure of the orifice support tube. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require inspection, rework, and replacement with an improved orifice support tube on all DC-8 airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, Attention: Regional Counsel, AWE-7. All communications received on or before April 15, 1975 will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rules Docket for examination by interested persons.

This amendment is proposed under the authority of section 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation regulations by adding the following new airworthiness directive:

McDONNELL DOUGLAS. Applies to all DC-8 Series airplanes as listed on McDonnell Douglas DC-8 Service Bulletin 32-168, dated February 28, 1975, or later FAA-approved revisions, and certificated in all categories.

Compliance required as indicated.

To prevent failure of the Nose Landing Gear (NLG) orifice support tube, accomplish the following:

(a) Within the next 1,000 landings after the date of this A.D., unless already accomplished, remove the NLG orifice support tube P/N5598184 or 5717019 and perform a penetrant inspection of the upper O-ring groove in accordance with McDonnell Douglas DC-8 Service Bulletin 32-168, dated February 28,

1975, or later FAA-approved revisions, or by an equivalent inspection procedure approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(1) If cracks are found, discard the support tube and either replace with a reworked orifice support tube P/N 5598184-SC2465 or 5717019-SC2465 or replace with a new orifice support tube P/N 5598184-503 or 5717019-503 in accordance with DC-8 Service Bulletin 32-168, dated February 28, 1975, or later FAA-approved revision, or an equivalent rework approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(2) All tubes found to be free of cracks must either be reworked and replaced in accordance with DC-8 Service Bulletin 32-168 dated February 28, 1975, or later FAA-approved revisions, or an equivalent rework procedure approved by the Chief, Aircraft Engineering Division, FAA Western Region, or they must be replaced by new orifice support tubes P/N 5598184-503 or 5717019-503.

(b) Unless already accomplished by (a) (1) or (a)(2) above, within the next 3000 landings or 24 months, whichever occurs first, after the date of this A.D., replace all DC-8 NLG orifice support tubes with new orifice support tubes P/N 5598184-503 or 5717019-503 in accordance with DC-8 Service Bulletin 21-168, dated February 28, 1975, or later FAA-approved revisions.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Regional Director, FAA Western Region, may adjust the initial inspection compliance time specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

Issued in Los Angeles, California on March 3, 1975.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.75-6362 Filed 3-11-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-EA-5]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation regulations so as to alter the West Point, Va., Transition Area (40 FR 612).

A review of the airspace requirements for the terminal area indicates a requirement to alter the transition area to provide additional controlled airspace for the VOR instrument approach procedure to West Point Municipal Airport in accordance with Terminal Instrument Procedures (TERPs).

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before April 11, 1975 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of West Point, Virginia, proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting in the description of the West Point, Va. Transition Area, "and within 2 miles each side of the Harcum, Va., VOR 148° radial extending from the 6-mile radius area to 8 miles southeast of the VOR." and by substituting the following in lieu thereof: "and within 4 miles each side of the Harcum, Va. VORTAC 148° radial, extending from the 6-mile radius area to 11 miles southeast of the VORTAC."

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on February 24, 1975.

JAMES BISPO,
Acting Director, Eastern Region.

[FR Doc.75-6363 Filed 3-11-75;8:45 am]

[14 CFR Parts 71, 73]

[Airspace Docket No. 74-NW-14]

RESTRICTED AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Parts 71 and 73 of the Federal Aviation regulations that would change Restricted Area R-6713 Whidbey Island, Wash., by reducing its time of designation and by altering its location and dimensions. The restricted area would be subdivided into three layers identified, from the surface up, as R-6713A, R-6713B and R-6713C. R-6713C would also be included in the continental control area.

Interested persons may participate in the proposed rul emaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. Comments on the overall environmental aspects of the proposed rule are specifically invited. All communications received on or before April 11, 1975 will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

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

The proposed amendments would relocate R-6713 approximately five nautical miles southeast, raise its designated altitude to 15,000 feet MSL, subdivide it into three layers and reduce its time of designation as described by the following:

R-6713A WHIDBEY ISLAND, WASH.

Boundaries. Beginning at Lat. 48°14'54" N., Long. 122°53'30" W.; thence to Lat. 48°21'27" N., Long. 122°59'34" W.; to Lat. 48°23'06" N., Long. 122°55'18" W.; to Lat. 48°22'54" N., Long. 122°49'12" W.; to Lat. 48°20'12" N., Long. 122°46'42" W.; to Lat. 48°16'00" N., Long. 122°48'27" W.; to point of beginning excluding that airspace within 1000 feet both horizontally and vertically around Smith Island centered at Lat. 48°19'10" N., Long. 122°50'33" W., and excluding that airspace from the surface to 100 feet AGL beyond a 1.25-nautical mile surface radius of Lat. 48°19'11" N., Long. 122°54'12" W.

Designated altitudes. Surface to 5,000 feet MSL (less exclusions).

Time of designation. Daily, 0700 to 2400 local time.

Controlling agency. Federal Aviation Administration, Seattle ARTC Center.

Using agency. Commander Medium Attack Tactical Electronic Warfare Wing, U.S. Pacific Fleet (COMMATVAQWINGPAC), NAS Whidbey Island, Wash.

R-6713B WHIDBEY ISLAND, WASH.

Boundaries. Beginning at Lat. 48°14'54" N., Long. 122°53'30" W.; thence to Lat. 48°21'27" Long. 122°59'34" W.; to Lat. 48°23'06" N., Long. 122°55'18" W.; to Lat. 48°22'54" N., Long. 122°49'12" W.; to Lat. 48°20'12" N., Long. 122°46'42" W.; to Lat. 48°16'00" N., Long. 122°48'27" W.; to point of beginning.

Designated altitudes. 5000 feet MSL to 10,000 feet MSL.

Time of designation. 0800 to 2400 local time, Monday through Friday.

Controlling agency. Federal Aviation Administration, Seattle ARTC Center.

Using agency. Commander Medium Attack Tactical Electronic Warfare Wing, U.S. Pacific Fleet (COMMATVAQWINGPAC), NAS Whidbey Island, Wash.

R-6713C WHIDBEY ISLAND, WASH.

Boundaries. Beginning at Lat. 48°14'54" N., Long. 122°53''30" W.; thence to Lat. 48°21'27" N., Long 122°59'34" W.; to Lat. 48°23'06" N., Long 122°55'18" W.; to Lat. 48°22'54" N., Long. 122°49'12" W.; to Lat. 48°20'12" N., Long. 122°46'42" W.; to Lat. 48°16'00" N., Long. 122°48'27" W.; to point of beginning.

Designated altitudes. 10,000 feet MSL to 15,000 feet MSL.

Time of designation. 0800 to 2400 local time, Monday through Friday.

Controlling agency. Federal Aviation Administration, Seattle ARTC Center.

Using agency. Commander Medium Attack Tactical Electronic Warfare Wing, U.S. Pacific Fleet (COMMATVAQWINGPAC), NAS Whidbey Island, Wash.

R–6713C would also be included in the continental control area.

Alteration of R–6713 as proposed would permit establishment of a hydroacoustic automated scoring range in the waters west of Smith Island thereby enhancing the Navy's capability to perform effective air-to-ground weapons delivery training in the area. The additional altitude would be needed to contain flight maneuvers of current operational military aircraft using the range. All related flight operations would be subsonic and associated target practice would employ nonexplosive training devices. The altered restricted area would also be used to contain the activities for which R–6713 is now authorized. R–6713A, B and C would all be designated for joint use and would therefore be made available to the public when not required by the using agency.

In addition to this proposal, nonrulemaking action is being considered that would establish three alert areas extending generally northwest, southwest and southeast from the amended R–6713. These alert areas would not impose any restriction to flight. Their depiction on air navigation charts would, however, direct pilot attention to the high volume of military aircraft normally en route therein to and from R–6713. The alert areas would be defined as follows:

A–671A WHIDBEY ISLAND, WASH. (NORTHWEST CORRIDOR)

Boundaries. Beginning at Lat. 48°22'09" N., Long. 122°57'50" W.; thence to Lat. 48°26'30" N., Long. 123°01'48" W., to Lat. 48°27'00" N., Long. 123°00'42" W.; to Lat. 48°22'36" N., Long. 122°56'33" W.; to point of beginning.

Altitude. 200 feet AGL to 5,000 feet MSL.

Time of use. Daily, 0700 to 2400 local time.

A–671B WHIDBEY ISLAND, WASH. (SOUTHWEST CORRIDOR)

Boundaries. Beginning at Lat. 48°13'48"N., Long. 123°06'06" W.; thence to Lat. 48°14'-41" N., Long. 123°06'44" W.; to Lat. 48°18'-30" N., Long. 122°56'48" W.; to Lat. 48°17'-45" N., Long. 122°56'12" W.; to point of beginning.

Altitude. 200 feet AGL to 5,000 feet MSL.

Time of use. Daily, 0700 to 2400 local time.

A–671C WHIDBEY ISLAND, WASH. (SOUTHEAST CORRIDOR)

Boundaries. Beginning at Lat. 48°11'12" N., Long. 122°46'33" W.; thence to Lat. 48°10'-39" N., Long. 122°47'42" W.; to Lat. 48°15'-16" N., Long. 122°51'47" W.; to Lat. 48°15'36" N., Long. 122°50'27" W.; to point of beginning.

Altitude. 200 feet AGL to 5,000 feet MSL.

Time of use. Daily, 0700 to 2400 local time.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on March 6, 1975.

F. L. CUNNINGHAM,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75–6364 Filed 3–11–75;8:45 am]

Coast Guard

[33 CFR Part 66]

[CGD 70–159]

PRIVATE RADIO AIDS TO NAVIGATION

Withdrawal of Proposed Rulemaking

The purpose of this notice is to withdraw the rulemaking proposal, CGD 70–159 (36 FR 928). The proposed rulemaking document would have amended 33 CFR 66.01–1(d), by rescinding the prohibition of private radio aids to navigaton in U.S. navigable waters and on the continental shelf. It also proposed a new subpart 66.15 which allowed private radio aids to navigation.

The reason for the proposal was the need for more radio aids to navigation than the government could provide. The proposal was meant to have the limited effect of authorizing private radio aids to navigation when they would provide necessary navigation services which could not be reasonably provided by the government.

The proposal is withdrawn because the Coast Guard now can provide all necessary radio aids to navigation. A system in which the Coast Guard provides all necessary radio aids to navigation is simpler to administer and less confusing for the mariner than a system that includes private radio aids to navigation.

If further information is required interested parties are invited to write to Commandant (G–WAN–3/73), U.S. Coast Guard, 400 7th St. SW., Washington, D.C. 20590.

(Sec. 1, 63 Stat. 500, as amended, (14 U.S.C. 81, 83); Sec. 1, 63 Stat. 503, as amended, (14 U.S.C. 92); Sec. 1, 63 Stat. 545, as amended (14 U.S.C. 633); 67 Stat. 462, (43 U.S.C. 1333 (e)); 80 Stat. 937, as amended, (49 U.S.C. 1655(b)); 49 CFR 1.46(b))

Dated: March 6, 1975.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.75–6417 Filed 3–11–75;8:54 am]

[33 CFR Part 127]

[CGD 74–188]

NEW LONDON HARBOR, CONN.

Proposed Establishment of Security Zone

The Coast Guard is considering amending Title 33 of the Code of Federal Regulations to establish an additional security zone on the Thames River, west of the Naval Submarine Base, New London, Connecticut. This security zone is needed to safeguard U.S. Naval vessels from destruction, loss or injury from sabotage or other subversive acts, accidents or other causes of a similar nature.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (mps), Third Coast Guard District, Governors Island, New York, N.Y. 10004. Each person submitting comments should include his name and address, identify the notice, (CGD 74–188), and give reasons for any recommended change in the proposal. Copies of all submissions received will be available for examination by interested persons at the Office of the Commander, Third Coast Guard District.

The Commander, Third Coast Guard District will forward any comments received before April 14, 1975, and his recommendations to the Commandant (G–W), U.S. Coast Guard who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in light of comments received.

In consideration of the foregoing, it is proposed to amend Part 127 of Title 33 of the Code of Federal Regulations by adding a new paragraph (a)(3) to § 127.305 to read as follows:

§ 127.305 New London Harbor, Connecticut.

(a) * * *

(3) *Security zone C.* The waters of the Thames River, west of the Naval Submarine Base, New London, enclosed by a line beginning at a point on the shoreline at latitude 41°23'15.8" N., longitude 72°-05'17.9" W.; thence to latitude 41°23'-15.8" N., longitude 72°05'22" W.; thence to latitude 41°23'25.9" N., longitude 72°-05'29.9" W.; thence to latitude 41°23'-47.2" N., longitude 72°05'42.2" W.; thence to latitude 41°23'53.8" N., longitude 72°05'43.7" W.; thence to latitude 41°24'04.2" N., longitude 72°05'42.9" W.; thence to a point on the shoreline at latitude 41°24'04.2" N., longitude 72°05'38" W.; thence along the shoreline to the point of beginning.

* * * * *

(50 U.S.C. 191, 14 U.S.C. 91, 49 U.S.C. 1655(b)(1) E.O. 10173, as amended, 3 CFR 1949–1953 Comp. 356, 773, 873, 3 CFR 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.56(b))

Dated: March 4, 1975.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.75–6418 Filed 3–11–75;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Parts 571, 581]

[Dockets Nos. 74–11, 73–19, Notices 7, 6]

MOTOR VEHICLE SAFETY AND DAMAGE STANDARDS

Proposed Amendments to Bumper Requirements

The purpose of this notice is to propose and amendment to Standard No. 215, *Exterior Protection*, 49 CFR 571.215, that would reduce the number of longitudinal pendulum impacts and temporarily suspend the effective date for the low-corner impact requirements. The notice also proposes implementation of damageability provisions under the Motor Vehicle Information and Cost Savings Act to be effective September 1, 1976.

On January 2, 1975, the National Highway Traffic Safety Administration published a notice proposing a reduction in

the pendulum and barrier impact speeds specified in Standard No. 215 and proposed in Part 581. Also included in this notice was a proposed reduction in the number of pendulum impacts and a revision in the damage criteria proposed for Part 581 (July 9, 1974, 39 FR 25237).

A considerable amount of interest was manifested in the content of the January 2, 1975, proposal. Due to the controversial nature of the proposed amendments, the NHTSA conducted a two-day public hearing (February 18 and 19, 1975) that provided a forum for the airing of all views on the subject.

Several vehicle manufacturers argued that the 5-mph bumpers were not advantageous to consumers, in that they cost more initially, added weight that increased fuel consumption, and actually increased the overall repair costs of the vehicles. These data and arguments were contradicted, however, by other interested persons, including representatives of virtually the entire automobile insurance industry. They stated that the collision loss figures for vehicles with the new 5-mph bumpers showed significant reductions, justifying premium discounts that had already been granted. Considerable evidence was presented that the heavy systems on some current vehicles were the result of unnecessary design choices by their manufacturers, which could and probably would be changed to create lighter systems in the near future. The NHTSA has carefully examined all the evidence presented, including experience to date, and has reviewed its previous studies in light of this evidence. The agency has concluded that the 5-mph protection level (and the 3-mph corner impact level associated with it) should not be reduced, that for the present it best carries out the intent of Congress with respect to bumper protection, and that with careful design and use of available materials manufacturers can produce systems that are not unduly heavy and produce significant net benefits for consumers. This agency has also tentatively determined, however, that some detail changes in Standard No. 215, and in the proposed "Title I" bumper standard into which it is expected to be merged, will allow more design freedom without significantly lowering the protection level.

With a view to allowing a reduction in cost and weight of current production bumper systems, the NHTSA proposed in its January 2, 1975, notice to lower the number of required longitudinal pendulum impacts to three, front and rear. Ford Motor Company submitted to the docket a petition asking the agency to reduce the number of longitudinal pendulum impacts to one, front and rear, and also to reduce the number of corner impacts to one, front and rear. It explained that such a revision in the standard's requirements could reduce the overall system cost and weight. On the basis of this submittal, and its own analysis of accident data, the NHTSA proposes that Standard No. 215 be amended by reducing the number of longitudinal pendulum impacts from the current six to two, front and rear. Comments are specifically requested on the merits of this proposed change.

Standard 215 currently requires one corner impact, front and rear, at a height of 20 inches. The "low corner" (between 16 and 20 inches) impact requirements of Standard No. 215 are presently scheduled for implementation on September 1, 1975. Chrysler has brought to the NHTSA's attention the serious financial difficulties it is now experiencing. In a petition submitted October 17, 1974, Chrysler requested a delay in the application of the low corner pendulum impacts to vehicles with wheelbases exceeding 120 inches. The redesigning necessary to bring its "full-sized" cars into compliance with the low corner requirement by September 1, 1975, would, according to Chrysler, add significantly to its financial burdens. If, however, a delay is granted for application of the requirements to full-sized vehicles, Chrysler expects that compliance can be obtained without serious difficulty.

In order to provide Chrysler with needed relief the NHTSA is proposing a temporary delay in the low corner impact requirements for vehicles with wheelbases exceeding 120 inches. The effective date of the low corner provisions for these full size cars would be postponed for 1 year until September 1, 1976.

In its January 2, 1975, notice the NHTSA proposed the implementation of damage criteria that would prohibit surface damage except where such damage occurred to a component of the bumper system that contacted the impact ridge of the pendulum test device (the bumper face bar) or fastened that component to the chassis frame. These damage criteria were proposed under the authority of Title I of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1911 et seq., which directs the NHTSA to promulgate a standard that will reduce consumer costs incurred when vehicles are involved in low-speed collisions. Since these criteria were only proposed with respect to the lower test speeds, and no time remains for design changes in the 1976 models, the NHTSA recognizes that further leadtime is called for with respect to this change. It is therefore proposed that these damage criteria become effective September 1, 1976, or in the alternative, September 1, 1977 or 1978. The NHTSA is interested in receiving comments on the feasibility of satisfying the proposed damage criteria within the alternative time periods.

The January 2, 1975, proposal would have limited damage to the bumper face bar to deformations not more than 0.010 inch deep, beginning September 1, 1978. Houdaille Industries, Inc., a manufacturer of bumpers, argued that this requirement effectively eliminated all metal bumper face bars, and that such action was unjustified in that metal bars could be developed to meet reasonable "no damage" requirements. Houdaille also commissioned a survey by Louis Harris & Associates of public reactions to bumper damage a various depths. Results of this survey indicated that consumers generally did not consider damage to be significant until it reached a depth on the order of one-quarter to one-half inch. On the basis of this information, it is proposed that vehicles manufactured on or after September 1, 1979, be capable of withstanding the 5-mph longitudinal test speeds and the 3-mph corner test speeds without experiencing damage except to the bumper face bar, where no permanent deviations greater than 3/8 inch from the original contour would be permitted.

As was proposed in the January 2, 1975, notice, this notice would integrate the proposed requirements of Part 581 and the requirements of the current Standard No. 215, *Exterior Protection*, into one bumper standard as of September 1, 1976 (or, in the alternative, September 1, 1977 or 1978).

In its July 9, 1974, proposal (39 FR 25237) the NHTSA added a provision that limited the amount of force a vehicle could exert on areas of the pendulum face other than the impact ridge. The NHTSA included a Figure 3 which demonstrated the manner in which planes A and B of the pendulum test device would be instrumented to measure the force and pressure. As that proposed provision is still active, the NHTSA requests further comments on the suggested manner of measuring the force and pressure.

In consideration of the foregoing, it is proposed that S5.2.1 and S7.1 of Standard No. 215 (49 CFR 571.215) be amended as follows, effective on the date of publication:

§ 571.215 Standard No. 215, Exterior Protection.

* * * * *

S5.2.1 The corner impact procedure of S7.2.2 shall not apply to any vehicle with a wheelbase exceeding 120 inches manufactured from _____ to August 31, 1976.

* * * * *

S7.1 *Longitudinal impact test procedures.* Impact the vehicle's front surface and its rear surface two times each with the impact line at any height between 20 inches and 16 inches, in accordance with the following procedure.

* * * * *

It is further proposed that the proposal for a new Part 581, Bumper Standard, (Docket No. 74-11, Notice 6; Docket No. 73-19, Notice 5, January 2, 1975, 40 FR 10) be amended to read as set forth below and that the present Standard No. 215 (49 CFR 571.215) be merged with that new Part 581 with § 571.215 deleted and reserved.

S1. *Scope.* This standard establishes requirements for the impact resistance of vehicles in low speed front and rear collisions.

S2. *Purpose.* The purpose of this standard is to reduce physical damage to the front and rear ends of a passenger motor vehicle from low speed collisions.

S3. *Application.* This standard applies to passenger motor vehicles other than multipurpose passenger vehicles.

S4. *Definitions.* All terms defined in the Motor Vehicle Information and Cost Savings Act, P.L. 92-513, 15 U.S. 1901-1991, are used as defined therein.

"Bumper face bar" means any component of the bumper system that contacts the impact ridge of the pendulum test device.

S5. *Requirements.*

S5.1 *Vehicles manufactured on or after September 1, 1976.* Each vehicle manufactured on or after September 1, 1976, shall meet the damage criteria of S5.3.1 through S5.3.9 when impacted by a pendulum-type test device in accordance with the procedures of S7.2 under the conditions of S6, at an impact speed of 3 mph, and when impacted by a pendulum-type test device in accordance with the procedures of S7.1 at 5 mph, followed by impacts into a fixed collision barrier that is perpendicular to the line of travel of the vehicle, while traveling longitudinally forward, then longitudinally rearward, under the conditions of S6, at 5 mph.

Alternative Proposals: That the effective date in S5.1 be September 1, 1977, or September 1, 1978.

S5.2 *Vehicles manufactured on or after September 1, 1979.* Each vehicle manufactured on or after September 1, 1979, shall meet the damage criteria of S5.3.1 through S5.3.7, and S5.3.9 through S.5.3.11, when tested in accordance with the requirements of S5.1.

S5.3 *Protective criteria.*

S5.3.1 Each lamp or reflective device except license plate lamps shall be free of cracks and shall comply with applicable visibility requirements of S4.3.1.1 of Standard No. 108 (§ 571.108 of this part). The aim of each headlamp shall be adjustable to within the beam aim inspection limits specified in Table 2 of SAE Recommended Practice J599b, July 1970, measured with a mechanical aimer conforming to the requirements of SAE Standard J602a, July 1970.

S5.3.2 The vehicle's hood, trunk, and doors shall operate in the normal manner.

S5.3.3 The vehicle's fuel and cooling systems shall have no leaks or constricted fluid passages and all sealing devices and caps shall operate in the normal manner.

S5.3.4 The vehicle's exhaust system shall have no leaks or constrictions.

S5.3.5 The vehicle's propulsion, suspension, steering, and braking systems shall remain in adjustment and shall operate in the normal manner.

S5.3.6 A pressure vessel used to absorb impact energy in an exterior protection system by the accumulation of gas pressure or hydraulic pressure shall not suffer loss of gas or fluid accompanied by separation of fragments from the vessel.

S5.3.7 The vehicle shall not touch the test device, except on the impact ridge shown in figures 1 and 2, with a force that exceeds the following:

a. 200 pounds when measured over any one square inch of the area of the surfaces of planes A and B of the test device.

b. 2,000 pounds total force on the combined surfaces of planes A and B of the test device.

S5.3.8 For vehicles manufactured from September 1, 1976 (or, in the alternative, September 1, 1977 or 1978) to August 31, 1979, the exterior surfaces shall have no separations of surface materials, paint, polymeric coatings, or other covering materials from the surface to which they are bonded, and no permanent deviations from their original contours 30 minutes after completion of each pendulum and barrier impact, except where such damage occurs to the bumper face bar and the components and associated fasteners that directly attach the bumper face bar to the chassis frame.

S5.3.9 Except as provided in S5.3.8, there shall be no breakage or release of fasteners or joints.

S5.3.10 For vehicles manufactured on or after September 1, 1979, the exterior surfaces, except for the bumper face bar, shall have no separations of surface materials, paint, polymeric coatings, or other materials from the surface to which they are bonded, and no permanent deviations from their original contours 30 minutes after completion of each pendulum and barrier impact.

S5.3.11 The bumper face bar shall have no permanent deviation greater than three-eighths of an inch from its original contour 30 minutes after completion of each pendulum and barrier impact.

S6. *Conditions.* The vehicle shall meet the requirements of S5 under the following conditions.

S6.1 *General.*

S6.1.1 The vehicle is at unloaded vehicle weight.

S6.1.2 The front wheels are in the straight ahead position.

S6.1.3 Tires are inflated to the vehicle manufacturer's recommended pressure for the specified loading condition.

S6.1.4 Brakes are disengaged and the transmission is in neutral.

S6.1.5 Trailer hitches are removed from the vehicle.

S6.2 *Pendulum test conditions.* The following conditions apply to the pendulum test procedures of S7.1 and S7.2.

S6.2.1 The test device consists of a block with one side contoured as specified in Figure 1 and Figure 2 with the impact ridge made of A1S1 4130 steel hardened to 34 Rockwell "C". The impact ridge and the surfaces in planes A and B of the test device are finished with a surface roughness of 32 as specified by SAE Recommended Practice J449A, June 1963. The surfaces of the device in planes A and B are instrumented to measure force and pressure as shown in Figure 3. From the point of release of the device until the onset of rebound, the pendulum suspension system holds plane A vertical, with the arc described by any point on the impact line lying in a vertical plane (for S7.1, longitudinal; for S7.2, at an angle of 30° to a vertical longitudinal plane) and having a constant radius of not less than 11 feet.

S6.2.2 With plane A vertical, the impact line shown in Figures 1 and 2 is horizontal at the same height as the test device's center of percussion.

S6.2.3 The effective impacting mass of the test device is equal to the mass of the tested vehicle.

S6.2.4 When impacted by the test device, the vehicle is at rest on a level rigid concrete surface.

S6.3 *Barrier Test Condition.* At the onset of a barrier impact, the vehicle's engine is operating at idling speed in accordance with the manufacturer's specification. Vehicle systems that are not necessary to the movement of the vehicle are not operating during impact.

S7. *Test Procedures.*

S7.1 *Longitudinal Impact Test Procedures.*

S7.1.1 Impact the vehicle's front surface and its rear surface two times each with the impact line at any height between 20 inches and 16 inches, in accordance with the following procedure.

S7.1.2 For impacts at a height of 20 inches, place the test device shown in figure 1 so that plane A is vertical and the impact line is horizontal at the specified height.

S7.1.3 For impacts at a height between 20 inches and 16 inches, place the test device shown in figure 2 so that plane A is vertical and the impact line is horizontal at a height within the range.

S7.1.4 For each impact, position the test device so that the impact line is at least 2 inches apart in vertical direction from its position in any prior impact, unless the midpoint of the impact line with respect to the vehicle is to be more than 12 inches apart laterally from its position in any prior impact.

S7.1.5 For each impact, align the vehicle so that it touches, but does not move, the test device, with the vehicle's longitudinal centerline perpendicular to the plane that includes plane A of the test device and with the test device inboard of the vehicle corner test positions specified in S7.2.

S7.1.6 Move the test device away from the vehicle, then release it to impact the vehicle.

S7.1.7. Perform the impacts at intervals of not less than 30 minutes.

S7.2 *Corner impact test procedure.*

S7.2.1 Impact a front corner and a rear corner of the vehicle once each with the impact line at a height of 20 inches and impact the other front corner and the other rear corner once each with the impact line at any height between 20 inches and 16 inches in accordance with the following procedure.

S7.2.2 For an impact at a height of 20 inches, place the test device shown in Figure 1 so that plane A is vertical and the impact line is horizontal at the specified height.

S7.2.3 For an impact at a height between 20 inches and 16 inches, place the test device shown in Figure 2 so that plan A is vertical and the impact line is horizontal at a height within the range.

S7.2.4 Align the vehicle so that a vehicle corner touches, but does not move, the lateral center of the test device with

plane A of the test device forming an angle of 60 degrees with a vertical longitudinal plane.

S7.2.5 Move the test device away from the vehicle, then release it to impact the vehicle.

S7.2.6 Perform the impacts at intervals of not less than 30 minutes.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: April 4, 1975.

Proposed effective date: The amendments to Standard No. 215, *Exterior Protection*, would be effective on the date of publication of the final rule. The Part 581 Bumper Standard would be effective September 1, 1976 (or, in the alternative, September 1, 1977 or 1978).

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 102, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912); delegations of authority at 49 CFR 1.51 and 501.8.)

Issued on March 7, 1975.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.75-6421 Filed 3-7-75;2:28 pm]

CIVIL AERONAUTICS BOARD

[14 CFR Chapter II]

[EDR-283; Docket No. 27591]

BAGGAGE DELAY AND LOSS COMPENSATION

Advance Notice of Proposed Rule Making

MARCH 6, 1975.

Notice is hereby given that the Civil Aeronautics Board is considering issuing a notice of proposed rule making looking towards the adoption of a regulation prescribing liquidated damages for delay in the receipt of baggage and a minimum liability for loss of baggage. These new forms of compensation are described and discussed in the attached Explanatory Statement. This advance notice is issued pursuant to the authority of sections 204(a) and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788; 49 U.S.C. 1324, 1481.

Interested persons may participate in the rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding, may do so through submission of comments in letter form to the Docket Section at the above-indicated address, without the need of filing additional copies thereof. All relevant material in communications received on or before April 21, 1975, will be considered before taking action on the proposal. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C. upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

EXPLANATORY STATEMENT

By this Advance notice of proposed rule making, the Board is inviting the views of interested persons on the desirability of the prescription by regulation of minimum compensation to be paid to passengers in cases involving the mishandling of baggage. The general background of this proceeding is set forth in a contemporaneously issued Order to Show Cause concerning carrier baggage liability[1] and need not be repeated here. Suffice it to say that mishandling of baggage and carrier practices with respect to settlement of baggage claims represent a major source of consumer complaints.

Undoubtedly, the quality of carrier baggage-handling procedures is in part a function of the cost of such service in relation to the cost of claims for mishandled baggage. The higher the claims cost per dollar of passenger revenue, the greater is the incentive to minimize those costs through improvement of baggage-handling methods and facilities. The volume of complaints received by the Board indicates that the industry may not be fully satisfying its responsibilities for the safe carriage of passengers' baggage. In part this may be attributable to the fact that carriers do not assume liability for the full range of damages suffered when baggage is delayed or lost.

Among the types of injury for which compensation is not usually provided are the frustration and delay resulting when baggage does not arrive on the flight on which it was checked. These damages are by their very nature difficult to establish and quantify in monetary terms, and the amounts involved normally do not warrant the time and expense of litigation on the part of the aggrieved passenger. For these reasons, it is virtually impossible for a passenger to obtain compensation for these types of damages. However, the difficult problem of establishing and quantifying these damages in no way detracts from their very real nature. Furthermore, both the Aviation Consumer Action Project petition for rule making,[2] and the complaints received by the Office of the Consumer Advocate, which are discussed in more detail in the Show Cause Order, indicate that these types of damages are among the most frequent suffered by passengers.

Accordingly, we are considering a rule making to provide passengers additional compensation for delay in the receipt of or for loss of their baggage, or any piece thereof, over and above the value of the bag itself, as more fully set forth below.

There is, of course, a precedent for this type of regulation in Part 250 of the Board's Economic Regulations (14 CFR Part 250) which prescribes liquidated damages in the case of denied boarding of passengers holding confirmed reservations. The success of this regulation suggests that a similar rule could be adopted providing liquidated damages for delay in the receipt of baggage, and a minimum liability for loss of baggage. However, considering the numerous and complex issues involved in fashioning such rules, we have decided to approach this matter by the preliminary procedure of an advance notice of rule making. For the same reason, we have not proposed any specific rules, but instead invite comment on the feasibility and desirability of prescribing minimum compensation for delayed and lost baggage and solicit suggestions for appropriate means to incorporate these proposals into new economic regulations. What follows is a discussion of the proposals and the factors that have compelled us to propose them.

COMPENSATION FOR DELAYED BAGGAGE

Passengers whose baggage is delayed face frustration, decreased utility from their trip, and assorted other inconveniences. At present, recovery for these inconveniences is extremely limited for two reasons: (1) as noted in our contemporaneous Show Cause Order, existing tariffs do not afford passengers compensation for consequential damages, and (2) damages resulting from delay in the receipt of baggage are by their nature intangible and difficult to quantify. It is not surprising, therefore, that the Office of the Consumer Advocate (OCA) reports that problems associated with delays in the delivery of baggage are a major source of complaints in the baggage claim area.[3]

We are aware that at present, station personnel of most carriers are authorized to provide passengers whose baggage has been misplaced reimbursement for incident necessities, and do undertake action to locate the bag and return it to the passenger promptly. However, the number of letters received suggests that present practices may not be adequate.

[1] Order 75-3-18.

[2] Docket 25788, filed August 13, 1973.

[3] See CAB Press Release 74-256.

In the first place, absence of clearly defined standards in this area leaves open the possibility of discrimination between passengers on the basis of the degree to which they express their displeasure over their predicament. Secondly, although the carriers do make efforts to accommodate passengers whose baggage is delayed, we are not aware of any carrier whose practice is to reimburse passengers for the frustration, inconvenience, and other consequential effects of the delay. In fact, as noted, the carriers' tariffs appear to effectively disclaim liability for these consequential damages.

Accordingly, we are tentatively of the view that the traveling public is entitled to compensation for the damages that inevitably result whenever baggage is delayed. One possible approach would be a regulation prescribing liquidated damages for delay of baggage. Under such a rule, passengers would be compensated for those damages which are common to virtually all baggage delays, yet which would not otherwise be recovered.

We note in this regard that in the contemporaneous Show Cause Order, we have tentatively found that the disclaimer of liability for consequential damages is unjust and unreasonable, and have proposed instead that carriers be liable for such damages up to the monetary liability limit. The liquidated damages we are considering here would be in lieu of any right to recover for consequential damages. Passengers eligible for such compensation would include those whose baggage, or any piece thereof, was not available in the normal course of unloading the flight on which it was checked. The amount of the compensation could either be a fixed sum or could vary on the basis of the fare paid. We have tentatively concluded that any regulation should apply to all trips on certificated carriers in interstate or overseas air transportation.

Obvious questions underlying the proposed regulation, and upon which the comments are specifically requested to focus, include whether check-in restrictions should be imposed to insure adequate time to get the baggage on the aircraft; the applicability of the regulation to interline trips, and the apportionment between connecting carriers of the damages; whether exculpatory conditions should be permitted, and if so what those conditions should be; and finally, the amount of the compensation.

MINIMUM LIABILITY FOR LOST BAGGAGE

The ACAP petition indicates that another area of consumer concern is the procedures and techniques followed by carriers in the settlement of claims for lost baggage. Among the settlement practices which have generated consumer complaints to the Board are the following: (1) requiring purchase receipts for lost items; (2) limiting recovery for loss to depreciated value; and (3) strict adherence to time limitations on filing claims. Undoubtedly, carriers need some mechanism to protect themselves from fraudulent claims, and review of the complaints does not indicate that procedures improper in themselves are in use. However, the need to guard against fraudulent claims cannot justify overreaching by carriers to deny or arbitrarily reduce legitimate claims for loss.

The Board cannot and should not attempt to arbitrate between the passenger and the carrier as to the amount of recovery, or to regulate the methods used by carriers to determine claims for loss. However, considering the bargaining position of the parties, and the fact that passengers whose loss was not substantial lack economic incentive to litigate their claims, it may be desirable to adopt a regulation establishing a minimum liability for loss of baggage to reduce abuse of the settlement process. Under this concept, any carrier which loses a passenger's baggage, or any piece thereof, automatically would be liable for a specified minimum dollar amount. Although we have not reached any conclusions as to the amount of such liability, one possible basis would be a reasonable percentage of the lower level of the carriers' claims experience. The claims data which we have directed the carriers to report in conjunction with our contemporaneously issued Order to Show Cause on carrier baggage liability could provide a basis upon which to establish the amount of such liability. The establishment of a minimum liability would not preclude passengers whose baggage was worth more than the minimum from filing a claim for the additional loss up to the limit of the carrier's liability. However, acceptance of the minimum amount would preclude the passenger from subsequently claiming any additional damages. We have tentatively concluded that if a bag has not been located within 60 days of the date of the flight on which it was checked, it should be presumed lost for purposes of invoking the carriers' minimum liability.

In addition to removing minor loss claims from the current settlement process, the minimum liability concept should provide carriers added incentive to improve baggage-handling procedures. This after all is the primary means by which most consumer complaints can be eliminated.

[FR Doc.75-6441 Filed 3-11-75;8:45 am]

[14 CFR Part 221]

[EDR-282; Docket No. 27590]

CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Removal of Authority To File Tariffs Containing a Time Limit for Filing Baggage Liability Claims

MARCH 6, 1975.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments of Part 221 of its Economic Regulations (14 CFR Part 221) which would remove the authority to file tariffs imposing time limits on the filing of passenger claims for loss of, damage to, or delay in the delivery of baggage. The purpose of the proposed amendments is explained in the attached Explanatory Statement, and the proposed amendment is set forth in the proposed rule. The amendment is proposed under the authority of sections 204(a), 403, and 1002 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758 (as amended), and 788, 49 U.S.C. 1324, 1373, and 1482.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding, may do so through submission of comments in letter form to the Docket Section at the above indicated address, without the necessity of filing additional copies thereof. All relevant material in communications received on or before April 21, 1975, will be considered by the Board before taking final action on the proposed rules. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

EXPLANATORY STATEMENT

By this notice of proposed rule making, the Board proposes to amend Part 221 of its Economic Regulations (14 CFR Part 221) to remove the authority to file tariffs imposing time limits on the filing of claims for lost, damaged, or delayed baggage. The proposed amendment is part of a concerted effort by the Board to formulate just and reasonable rules to prevent negligent and discriminatory baggage-handling practices and to insure proper settlement of passenger claims in the event that baggage is lost, damaged, or delayed. The background of the Board's concern in this area is set forth in detail in an Order to Show Cause issued contemporaneously herewith,[1] and need not be repeated here.

Existing tariffs[2] provide that actions arising from loss, damage, or delay of baggage are barred unless the carrier receives written notice of the claim within 45 days of the incident giving rise to liability. We tentatively conclude that such tariffs are unlawful in that they bar recovery on legitimate claims and do not appear to serve a useful purpose.

The vice of the time limit is its ability to trap passengers who are unaware of its existence, much less its precise requirements. For example, complaints to the Board's Office of the Consumer Advocate indicate that passengers who fill

[1] Order 75-3-18.

[2] See, e.g., Rule 40(B), CAB No. 142 Local and Joint Passenger Rules Tariff No. PR-6, Airlines Tariff Publishers, Inc., Agent.

out so-called "irregularity reports" [3] and follow up with correspondence confirming that their baggage has not been returned may nonetheless be denied recovery for failure to file a *formal* loss claim within the 45-day limit. Such complaints should not be considered isolated abberations since few passengers can be expected to have knowledge of the time limit.

Some carriers include a notice of the time limit in their "irregularity report," and we anticipate arguments that these notices are adequate to cure our objections. We have serious reservations concerning the effectiveness of any notice. Moreover, no matter what notice requirements we were to adopt, some passengers would remain unaware of the time limit and would be deprived of a right of action. We could justify such a result only if the time limit served some clear and convincing legitimate function. We tentatively conclude that it does not.

We recognized that time bars to legal actions can serve many legitimate functions. In particular, such bars serve to preclude stale claims which can no longer be defended for loss of records and witnesses.[4] These policies are generally effectuated through traditional statutes of limitations and we can perceive no justification for special treatment to air carriers in this regard. Traditionally, statutes of limitations provide generally for from two to six years for bringing civil actions.[5] In our judgment, adequate protection is afforded by the provision in Rule 40(B) barring actions not commenced within two years of the occurrence of the events giving rise to the action.

In sum, we tentatively conclude that tariff provisions setting forth time limits for filing claims for baggage loss, damage, or delay are unreasonable and that such provisions should no longer be authorized under Part 221.[6] We therefore propose to amend Part 221 by adding a provision removing authority to include such time limits in tariffs.

[3] A passenger whose baggage does not arrive in the normal course of unloading his flight will ordinarily report such occurrence to claims personnel. Under typical carrier claim procedures, if the baggage is not located quickly, the passenger will be requested to fill out an "irregularity report." If the baggage is still not located after a reasonable number of days, and the passenger wishes to recover damages for the loss, he must file a formal lost-baggage claim form within the 45-day time limit.

[4] See generally, 51 Am. Jur. 2d Limitation of Action §§ 17–19.

[5] See generally, 51 Am. Jur. 2d Limitations of Actions §§ 1 *et seq.*, and 14 Am. Jur. 2d Carriers § 597 *et seq.*

[6] The Board is aware that in connection with an earlier investigation of carrier tariff liability rules (Docket 4059, *et al.*) it had found a rule requiring written notice of claims for loss or damage of baggage or other property within 45 days not unreasonable or unlawful. However, the finding was not based upon a record, but was in conjunction with a partial settlement of a complex proceeding. See, e.g., Order E–7422, May 28, 1953.

PROPOSED RULE

It is proposed to amend Part 221 of the Economic Regulations by adding the following paragraph (l) to § 221.38:

§ 221.38 Rules and regulations.

* * * * *

(l) *Baggage liability rules.* No provision of the Board's regulations issued under this part or elsewhere shall be construed to permit on and after the filing of any tariff rules stating any limitations on or condition relating to, the time period within which passengers must present written claims for loss of, damage to, or delay in delivering of baggage.

[FR Doc.75–6440 Filed 3–11–75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19789; FCC 75–124]

COMBINATION ADVERTISING RATES AND OTHER JOINT SALES PRACTICES

First Report and Further Notice of Proposed Rule Making

1. The Commission has before it for consideration the notice of inquiry and notice of proposed rule making adopted July 18, 1973 [1] (41 FCC 2d 951 (1973)) requesting information on certain aspects of Commission policies concerning combination advertising rates and joint sales practices, and comments and reply comments filed in response thereto.[2]

[1] The notice, which provided for the filing of comments by November 1, 1973 and reply comments by December 3, 1973, was published in the FEDERAL REGISTER on July 30, 1973 (38 FR 20276). By Order adopted November 1, 1973 (published in the FEDERAL REGISTER November 9, 1973, 38 FR 31018), the time for submitting comments was extended to December 3, 1973, and the time for reply comments was extended to January 3, 1974. Subsequently, the time for filing reply comments was again extended to January 21, 1974, by Order adopted December 19, 1973, which was published in the FEDERAL REGISTER on January 4, 1974 (39 FR 1077).

[2] Comments were filed by the following:
KITN–KITI, Corp.
Swanco Broadcasting, Inc.
Bob Dore Associates, Inc.
KMSO–TV, Inc.
Avco Radio Television Sales, Inc.
Robert Eastman & Co., Inc.
Central California Communications, Corp.
KRLD, Corp.
Wilkes Broadcasting Co.
Bonneville International, Corp.
Southern Broadcasting Co.
Station Representatives Assn.
First Illinois Cable TV, Inc.
Alan Torbet Associates, Inc.
XYZ Television, Inc.
Jack Masla & Co., Inc.

Reply comments were filed by the following:
Northing Carolina Assn., of Broadcasters
Taft Broadcasting Corp.
Cox Broadcasting Corp.
WGN Continental Sales Co.
John Blair & Co.
Nassau Radio Corp.
Kansas State Network, Inc.
Cox Broadcasting Corp.

2. The basic policy concerning combination advertising rates was set forth in a Public Notice, 45 FCC 581, adopted January 30, 1963. The policy concerns combination advertising rates offered by two or more separately owned stations serving substantially the same area, and provides that agreements whereby, either directly or indirectly through a representative acting for all, combination rates are offered to advertisers who purchase time for the broadcast of advertising by all participating stations, raise serious questions under the policies underlying the anti-trust laws (15 U.S.C. 1 et seq.), conflict with established Commission policy, and are contrary to the public interest. In this policy statement the Commission stated that although it does not enforce the anti-trust laws as such, it has the authority and responsibility to take cognizance of the public policy considerations underlying such laws, that inherent in combination rate agreements is the element of price fixing by independent parties who should be competing with one another, and that such price-fixing practices are obviously contrary to the public interest. Further it stated that combination rate practices are in flagrant conflict with the basic policy of promoting "arms length competition" among broadcast stations and that:

> We wish to make clear that our ruling is not designed solely to insure that the public, including advertising members of the public, find the field of broadcasting to be one of open and fair competition. The broadcast station in the area is also entitled to face broadcast competitors—not combinations. Otherwise, the station not participating in such combination rate arrangements might lose substantial revenues because of these improper arrangements—to the possible detriment of its overall operation and its service to the public in its area. [41 FCC 2d at 956.]

3. In the past, it has been the Commission's position that use of combination rates by commonly owned stations is not contrary to the public interest if there is no requirement that an advertiser, in order to place advertising on a station, also must buy time on another of the licensee's stations and if the practice is not employed to advance unfairly a competitive position. *Indianapolis Broadcasting, Inc.*, 22 FCC 421 (1957);

Midwest Television, Inc.
Metromedia, Inc.
McClatchy Newspapers.
Stauffer Publications, Inc.
John Blair & Co.
Wyneco Communications, Inc.
Fairbanks Broadcasting Co., Inc.
Lincoln Deller.
Columbia Empire Broadcasting Corp.
McGavren-Guild-PGW Radio, Inc.
Haley, Bader & Potts.
960 Radio, Inc.
KFXM Broadcasting Co.
Heart O'Wisconsin Broadcasters, Inc.
Television Advertising Rep., Inc. and Radio Advertising Rep., Inc.
Katz Agency, Inc.
Arco Radio TV Sales, Inc.
Greater Media, Inc.
Metromedia, Inc.
Century Broadcasting Corp.

WBBF, Inc., 24 FCC 179 (1958), affirmed *Federal Broadcasting System, Inc.*, v. *Federal Communications Commission*, 266 F. 2d 922 (1959), Cert. denied, 361 U.S. 822. In *Midcontinent Broadcasting Company of Wisconsin, Inc.*, 11 RR 2d 1081 (1967), the Commission found that two commonly owned television stations serving different areas required national advertisers to buy time on both stations during or adjacent to periods when the stations were identically programmed. No forced combination rates were imposed on local or regional advertisers at any time, or on national advertisers when the stations were separately programmed. The Commission held:

> * * * any policy which requires a time buyer to purchase time on a station in order to obtain time on another station is anti-competitive in nature and, as such, is contrary to the purposes of the anti-trust laws, and is against the public interest. A multiple owner who is able to sell time on one of his stations because a buyer desires to purchase time on another enjoys an unfair advantage over competitors who either do not have such leverage or do not employ it.

In a subsequent case the Commission did not apply this policy to a situation involving a parent television station and its 100-percent satellite. The Commission stated that as a 100-percent satellite, the station "* * * does nothing more than rebroadcast the programs of the parent station, including advertisements, and that as long as the station remains a 100-percent satellite, with no means of originating programs or advertising locally, time is sold, by the very nature of a 100-percent satellite operation, for both * * * markets." *Midcontinent Broadcasting of Wisconsin, Inc.*, 12 FCC 2d 111, 113, 12 RR 2d 763, 766 (1968). A station that is primarily a satellite, as contrasted to a 100-percent satellite, has the capability for local originations and would not come under the exception set out in this case.

4. Regarding sales representatives, in *Golden West Broadcasters*, 16 FCC 2d 918 (1969), the Commission held that representation of a station by a licensee or sales representative owned wholly or partially by the licensee of a competing station in the same community or service area is a violation of longstanding Commission policy proscribing cross-interests by licensees in more than a single station in the same service in the same area. The Commission stated that such an arrangement gives the licensee-representative a large stake in the financial well-being of the station it represents and that this relationship necessarily militates against competition by the two stations. The Commission stated further that the policy was based on its concern for potential impairment of competition, so that it was not necessary to find actual injury to competition, citing *Shenandoah Life Insurance Co.*, 19 RR 1 (1959).

5. The Notice of Inquiry and Notice of Proposed Rule Making invited comments on certain aspects of these policies and also provided for submission of other pertinent information. In reply, a number of respondents opposed any Commission action or favored only limited change in any new policy statement or Rules. Some favored termination of the proceeding and believed that the Commission should consider on a case-by-case basis any problems which might arise in regard to combination rates and joint sales practices. A number of respondents requested that no action be taken without further notice of proposed rule making, and Central California Communications Corporation requested that the Commission issue detailed guidelines similar to those set forth in the Primer for ascertainment of community needs and interests, rather than adopting specific rules. Some expressed concern about the Commission's becoming involved with rates charged for broadcast time. In this regard, North Carolina Association of Broadcasters (NCAB) opposed "new detailed regulation of the industry's rate practices" and stated that the proper agencies to deal with these problems are the Department of Justice and Federal Trade Commission since they were charged with the specific statutory responsibilities and were possessed with the requisite experience and expertise for enforcement of federal laws against unfair and anti-competitive trade practices. NCAB stated further:

> To our knowledge, neither the Justice Department, the FTC nor the courts have held the specific rate practices the Commission addressed in its *Notice* to be unfair or anti-competitive *per se*. Moreover, the Commission offered no indication in the *Notice* that anyone at any time had ever complained that the practices were in any way unfair or anti-competitive. We cannot but question the wisdom of rushing in to regulate where the activity is under the direct jurisdiction of other federal agencies and neither those agencies nor the public have called for intervention or assistance from the FCC.
>
> Thus, we are concerned that the adoption of rules which prohibit certain rate practices *per se*, will inevitably bring on more rules, and ultimately lead the Commission to "rate setting".

6. We have considered the comments opposing any Commission action or proposing only very limited Commission action in regard to combination rates and related matters. Some of the concerns are, in our view, unjustified. For example, this proceeding is not concerned with rate setting. In fact, it is not within the regulatory jurisdiction of the Commission to set rates for broadcast licensees. *FCC* v. *Sanders Brothers Radio Station*, 309 U.S. 470, 60 S. Ct. 693 (1940). This proceeding is for the purpose of gathering information on certain aspects of the policies regarding combination advertising rates and other joint sales practices, some of which, as noted above in paragraphs 2 and 3, are contrary to the policies underlying the anti-trust laws and are contrary to the public interest. Although we do not enforce the anti-trust laws we do take cognizance of the policies behind these laws in making public interest findings. See, for example, *E. O. Roden & Associates, Inc*, 12 FCC 2d 274, 12 RR 2d 489 (1968); *Uniform Policy on Violation of Laws*, 16 FR 3187, 1 R.R. 91:495; *National Broadcasting Company* v. *U.S.*, 319 U.S. 190, 222–224 (1943); *U.S.* v. *Radio Corporation of America*, 358 U.S. 334 (1959). In our view, the policies concerning combination advertising rates and other joint sales practices, like any others, are appropriately the subject of inquiry to gain a better understanding of their effect, and clarification or codification, where appropriate, will aid in guiding our staff and licensees. Accordingly, we reject the proposals that we take no action.

7. We are not, however, proposing substantial changes in this area. We propose only the following at this time: (1) the issuance of a further notice of proposed rule making looking toward the adoption of a rule that would prohibit combination sales when the stations involved have an overlap of certain contours or when a station contour overlaps the service area of a cable television system; (2) the setting aside of the limited approval of combination rates in the circumstances described in *FM Group Sales, Inc.*, 45 FCC 1281, 2 RR 2d 1110 (1964); and (3) the making of revisions in our policy as set forth in *Golden West, supra*. Additionally, we note that comments were received proposing a change in the policy regarding television stations operated as satellites, and that other comments were filed proposing that we set aside our policy as to combination rates so as to permit independently owned stations in the same market to use combination advertising rates. These proposals are outside the scope of this proceeding, and we draw no conclusions in regard thereto. We turn now to the comments received in response to our specific questions.

COMMENTS REGARDING DEFINITION OF THE PHRASE "SERVING SUBSTANTIALLY THE SAME AREA."

8. Our present policy prohibits combination rates between separately owned stations "serving substantially the same area." Because we had received many inquiries as to the meaning of the phrase, we sought comments in this proceeding as to how it should be defined. The comments filed have provided both support and opposition to virtually all possible yardsticks. Some of these must be rejected because of the difficulty of obtaining the necessary information, such as definitions based on "community identifications," or "community service." Others suggested geographic definitions, such as the Census Bureau's Standard Metropolitan Statistical Area, and the American Research Bureau's "Metro Area" or "Area of Dominant Influence." These have their merits in some situations, but become unwieldy in others. For example, if we used the Standard Metropolitan Statistical Area (SMSA), it would be necessary to use some other standard for markets with no defined SMSA. Futher, SMSA's in most instances are based on a county or counties, rather than the areas served by broadcast stations. Thus, if the SMSA were adopted to

define which stations "serve substantially the same area," a supplementary standard would be required for those stations outside the SMSA but serving areas within it.

9. The use of service contours[4] has been proposed as a standard for determining the area served by broadcast stations. Such a standard has the advantage of being related to the technical facilities (height and power) of all broadcast stations, can be readily determined on the basis of existing Rules, and can be applied easily by licensees, the Commission and other industry-related groups. Upon consideration of the various contours that might be used, we have tentatively concluded that the 5 mv/m contour for standard broadcast stations, the 3.16 mv/m contour for FM broadcast stations, and the contours provided as minimum field intensities over the principal community pursuant to Section 73.685 of the Rules for television broadcast stations would provide the best means for defining the phrase "serving substantially the same area." We believe that these contours will assure that separately owned stations obtaining audiences and revenues from substantially the same area will not engage in combination sales practices, while separately owned stations that are not serving substantially the same area will be permitted to use joint sales practices, if they so choose. However, rather than adopt these contours as a standard set forth in a new policy statement or in the form of an amendment of the Rules at this time, we believe that it would serve the public interest if interested parties were afforded an opportunity for comment thereon. Therefore, we are making this proceeding a Further Notice of Proposed Rule Making. We propose the adoption of a new section of the Rules which is attached as an APPENDIX. Effective one year from the effective date of its adoption, the rule would prohibit the sale or offer of sale of broadcast time on a station owned by a licensee or permittee in combination with the sale or offer of sale of broadcast time on a station owned by another licensee or permittee if there is an overlap of contours set forth therein. The proposal concerns any selling in combination whether with or without a combination rate and whether or not a discount is offered. The rule would be applicable to all separately owned standard, FM and television broadcast stations and also proposes the prohibition of such sales in combination with separately owned cable television systems. The proposed rule would prohibit combination sales between commonly owned television and aural stations if there is an overlap of contours. However, the rule would not apply to the sale of time on stations by a network provided the sale is of network commercial time adjacent to or within a program supplied by a network.

COMMENTS REGARDING USE OF COMBINATION RATES BY COMMONLY OWNED STATIONS IN THE SAME MARKET

10. As a part of this proceeding, comments were requested on the use of combination rates by commonly owned stations in the same market. Pursuant to Commission policy, combination rates may be used by commonly owned stations if there is no requirement that an advertiser, in order to buy time on one station, also must buy time on another of the licensee's stations and if the practice is not employed to advance unfairly a competitive position. Parties were requested to comment as to whether the Commission should continue to permit the practice and whether combination rates should be prohibited if the combined rates were less than the sum of the separate rates; also, if discounts were permitted, at what point discounts unfairly advance a competitive position, and whether there are any guidelines that could be used to make the determination.

11. The majority of respondents commenting in regard to this matter believed that the policy should be continued and that discounts should be permitted. Many favored the practice because it was a financial aid to FM stations and to some AM stations in smaller communities. Another reason given for continuing the practice was that there were selling and administrative savings in joint sales, and discounts were reflections of actual cost savings. However, many believed that discounts should not be permitted to unfairly advance a competitive position; one respondent believed that discounts should be permitted provided that the discounts were not so low as to be tantamount to a forced sale. Another respondent suggested that the question of whether discounts unfairly advanced a competitive position should be left for resolution by the Federal Trade Commission, and one believed that the Commission should make the determination on a case-by-case basis. "Grandfather protection" was requested if the policy were changed. On the other hand, several respondents favored prohibiting commonly owned stations from using combination rates on the ground that this practice created a competitive advantage, but one respondent favored an exception for simulcasting.

12. It appears that the comments regarding this question are primarily concerned with AM and FM combinations. Although some respondents favored a change in policy because it gave a competitive advantage, others favored continuation of the policy because joint selling resulted in administrative savings and was a financial aid, particularly to small-market FM stations. Moreover, we note that many licensees of FM stations at least part of the day simultaneously duplicate programs of commonly owned AM stations in the same local area. As mentioned in paragraph 21, *infra*, AM–FM program duplication, in part, has been regarded as a financial aid to the FM service. Although our ultimate goal is to achieve a system in which all, or nearly all, of the programming broadcast by AM and FM stations in the same community is separate, simulcasting is a common practice and time on the stations is sold together. Therefore, we do not propose at the present time to prohibit sales in combination between commonly owned AM and FM stations in the same market. However, because of competitive advantages that flow from such combination sales, we will continue to give this area close scrutiny. With respect to television-aural combination sales between commonly-owned stations in the same market, we do not find the same factors (assistance to small market stations and simulcasting) to override our concern as the unfair competitive advantages that flow from such combination rates. Therefore, it does not appear that it would be in the public interest to permit such stations to be sold in combination. Thus, we propose the adoption of a rule as set forth below as paragraph (b). In regard to those combination sales practices that are permitted, it appears that it would be difficult to establish specific guidelines for determining what discounts or other practices might unfairly advance a competitive position. Accordingly, we do not propose to adopt guidelines in this area at this time. We shall, however, consider on a case-by-case basis any questions arising as to whether any practices of commonly owned stations in the same market unfairly advance a competitive position. We may also, if warranted, refer cases to the Federal Trade Commission or the Department of Justice.

COMMENTS REGARDING THE USE OF COMBINATION RATES BY COMMONLY OWNED STATIONS IN DIFFERENT MARKETS

13. Comments were sought as to the policy permitting commonly owned stations in different markets to use combination rates. The present policy is the same as that concerning commonly owned stations in the same market, i.e., the practice is permissible if not employed to unfairly advance a competitive position and if advertisers are not forced to buy time on one station in order to purchase time on another. Parties were requested to state whether the policy should be continued and whether the practice should be prohibited if the combined rate was less than the sum of the separate rates; also if discounts were permitted, at what point discounts unfairly advance a competitive position, and what guidelines should be used in making that determination.

14. KITN–KITI Corporation comments that it offered discounts for combination sales of two of its stations in separate markets because of savings in production, sales and handling, and it favored continuation of the practice. The Katz Agency, Inc., advocated continuation of the policy permitting combination rates for stations under common ownership in different markets. Southern

[4] Technically, "service contours" refer to AM stations and "iso-service contours" are used in reference to FM and television stations. For brevity, we shall use "service contours" to refer to all broadcast stations.

Broadcasting Company and Metromedia, Inc., preferred continuation of the policy as long as anti-competitive practices were not used. Greater Media, Inc., and Nassau Radio Corp. also favored continuation of the policy, provided discounts did not amount to tie-ins, reasoning that such combinations were indistinguishable from network sales.

15. KMSO–TV, Inc., Central California Communications Corp., Kansas State Network, Inc., and Wyneco Communications, Inc., all licensees of television stations together with satellites or semi-satellites serving sparsely populated areas, believe that under their circumstances licensees should be permitted to use combination rates with discounts. KMSO–TV, Inc., stated that fully 72 per cent of its stations' combined revenue in 1972 was generated by network and national spot advertising, and that all of this advertising was sold in combination.

16. Station Representatives Association (SRA) pointed out that under present policy there was no prohibition against utilization of combination rates by stations serving different markets, whether the stations are under common ownership or separate ownership, and states:

> By definition the stations utilizing the combination rates are not competitive; they serve different markets. The stations engaged in this practice do not enjoy unfair leverage for in most markets there is a large number of outlets which makes possible the establishment of a large number of groups to which stations in the various markets can coalesce for sales purposes. Finally, it is important to note that networks both national and regional are classic cases of combination rates for stations located in different markets. Time on the affiliated stations is sold pursuant to a combination rate card at a figure which is not the sum of the affiliates' individual rates. There is no suggestion in the Notice that this practice should be abolished or revised and SRA does not so propose. However, there is keen competition between networks and stations (through their sales representatives) for the advertising dollar of the national accounts. It would not be consistent with the Commission's stated goal of promoting "a healthy, competitive economic environment for broadcast * * *" to permit one segment of the industry to utilize a sales tool which is denied to a competitive force in the industry. Public interest requires that the same treatment be accorded all competitors.

SRA commented further that there was a possibility of anti-competitive abuse in use of combination rates but it believed that the Commission and other government agencies which enforce the anti-trust laws could deal with such practices on a case-by-case basis.

17. The parties filing comments did not mention any particular abuses or problems in the use of combination rates by commonly owned stations in different markets. Moreover, it appears that most respondents proposed continuation of the present policy, although many believed that combination rates should not be used in an anti-competitive manner. However, it appears from the comments that it will be difficult to determine at what point discounts would be anti-competitive. Upon consideration of the entire matter, we believe that the public interest would be served by retaining our present policy, although we recognize that some anti-competitive practice may arise in the future through use of discounts or in some other manner. Therefore, we will consider on a case-by-case basis any information regarding anti-competitive practices.

COMMENTS REGARDING WHETHER THE PROHIBITION AGAINST FORCED COMBINATION RATES SHOULD BE APPLIED TO COMMONLY OWNED AM–FM STATIONS IN THE SAME MARKET DURING PERIODS WHEN SIMULCASTING

18. Station Representatives Association commented that "when commonly owned stations simulcast, there must of necessity be a combination rate—indeed a unitary rate," and that during simulcasting an indivisible package is being sold for which only a single price can be charged. Metromedia, Inc., also argued that simulcasting was a unitary product which could not be separated for sales purposes. Midwest Television, Inc., stated:

> The salient characteristic of simulcast advertising time, of course, is that it necessarily delivers the time buyer's message to the combined audiences of both stations: by nature the two audiences cannot be separated. Since audiences are what advertisers buy, simulcast time plainly represents a unitary product that is different in size and composition from separate time on either station. Again, the only anti-trust principle applicable is the prohibition against tied sales. Where, however, a truly unitary product is offered, "tie-in" considerations do not come into play. Here, too, the Supreme Court's Times Picayune[4] [footnote added] decision is instructive:
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> "The common core of the adjudicated unlawful tying arrangements is the forced purchase of a second distinct commodity with the desired purchase of a dominant 'tying' products, resulting in economic harm to competition in the 'tied' market. Here, however, two newspapers under single ownership at the same place, time, and terms sell indistinguishable products to advertisers; no dominant 'tying' product exists (in fact, since space in neither the [morning paper] nor the [evening paper] can be bought alone, one may be viewed as 'tying' as the other); no leverage in one market excludes sellers in the second, because for present purposes the products are identical and the market the same." 345 U.S. at 614.
>
> Needless to say, a simulcast audience, which is inherently indivisible, is even more unitary in nature than was the combined newspaper readership in *Times Picayune*, since the latter could have been divided. Given the legitimacy of the "unitary product," *i.e.* of simulcasting (at least within the confines of § 73.242), there is no reason to regard its sale at a single rate as a sale at a "forced combination rate."

Further, Midwest stated that if the Commission wished to regulate simulcasting practices, it has ample power to do so by direct programming regulations rather than by indirect and arbitrary economic penalties.

19. Alan Torbet Associates, Inc., in commenting on forced combination rates during simulcasting stated that "in most markets with a multiplicity of stations, no advertiser is required to buy such time unless the cost is right; he has many alternates" and that in the radio field the operation of normal market forces will promote competition much more than rigid rules which ignore the diversity of different factual situations. McClatchy Newspapers (McClatchy) commented that to require that AM and FM stations be offered separately to advertisers during simulcasting periods would, because of practical difficulties, lead to discontinuance of simulcasting. It offered as an example an AM station selling 18 minutes of commercial time in an hour simulcasting with an FM selling no commercial time, and stated that during the airing of AM commercials the FM station would be silent and that even if some time were sold on the FM station the placement and duration of spots could not be coordinated so completely as to maintain program continuity. McClatchy pointed out that the economics of joint operation, which still are essential to existence of many FM stations, would be entirely lost, and that if the Commission wished to deal with simulcasting, it should do so by amendment of the Rules. Stauffer Publications filed similar comments. Heart O'Wisconsin Broadcasters, Inc., Fairbanks Broadcasting Company, Inc., Taft Broadcasting Corporation and Greater Media, Inc., all believed that combination rates were necessary when simulcasting. On the other hand, Century Broadcasting Corporation favored prohibiting forced combination rates during simulcasting in markets of less than one million on the grounds that it was unfair from the standpoint of the independent FM station.

20. In requesting comments as to simulcasting, we asked whether the prohibition against forced combination rates should be applied during simulcasting, and if applied, what additional costs could be anticipated. Also comments were requested as whether smaller markets should be exempt, and, if so, how should a smaller market be defined. Although one respondent favored the prohibition of forced combination rates in cities of less than one million, no other information was proffered as to whether smaller markets should be exempt and no comment was made regarding anticipated additional costs. Most respondents opposed applying the prohibition and many believed that there was no practical way to separate the two services. Many argued that in simulcasting a unitary product was being offered and suggested that if the Commission desired to change the present simulcasting practice it should be done by rule making.

21. We agree that if we are to deal with forced combination rates during simulcasting, we should do so through rule making which deals with the entire subject of independent programming by FM stations. At present, Section 73.242 of our Rules provides that licensees of FM stations in cities of over 100,000 population shall operate so as to devote

[4] *Times-Picayune Publishing Co.* v. *United States*, 345 U.S. 594 (1953).

no more than 50 percent of the average FM broadcast week to programs duplicated from an AM station owned by the same licensee in the same local area. In the notice of proposed rule making (Docket No. 15084, FCC 63-48, 25 RR 1615) which resulted in adoption of § 73.242 we stated:

> At best, AM-FM program duplication has been regarded as a temporary expedient—originally, as a means of bringing about a changeover from AM to FM and, more recently, as a stopgap measure to avoid the collapse of the FM service. It was our hope that dual operators could utilize the economies made possible through duplication of staff, programming, and physical facilities to develop FM to a point of independent viability. Moreover, it was urged that the establishment of these AM-FM operations would act to spur FM receiver sales and would be a major force to create a market for future independent operations.
>
> We now feel that this interim policy concerning FM has been of more limited value than expected and, with the demand for FM facilities increasing rapidly, we believe it is appropriate to consider a gradual change in our policy regarding duplicated AM-FM programming. It is still true that most independent FM stations do not report profitable operations. We believe, however, that the prospects of profitable independent FM operation may be improved if these stations are not forced to compete for advertising revenues with AM-FM duplicators giving away FM advertising free with AM time sales. Moreover, we have considerable doubt that AM-FM duplicators are a substantial force acting to put FM sets in the home or automobile. With certain localized exceptions, it does not appear reasonable to assume that significant numbers of people buy FM sets merely to hear what they can receive, quite adequately, on their AM radios. These factors, combined with our great concern over the frequency wastage represented by program duplication in areas where no more vacant FM channels remain, have caused us to reach the tentative conclusion that total AM-FM duplication is no longer a force acting to promote FM but is, to the contrary, a practice which, in many areas, will retard the growth of an efficient and viable service.
>
> Our ultimate goal, of course, is to achieve a system in which all, or nearly all, of the programming broadcast by AM and FM stations in the same community is separate.

22. In further implementation of the policy of gradual reduction of simulcasting, we adopted on April 10, 1974, a notice of proposed rule making (46 FCC 2d 277 (1974)) requesting comments on a proposed amendment of § 73.242 of the rules because current information suggested a need to extend the coverage of the rule to smaller communities and/or to increase the amount of non-duplicated programming that some or all of the now affected stations must carry. We believe that the rule-making proceeding directly and exclusively concerned with simulcasting, which is now being currently pursued, would best serve the public interest in carrying out our policy regarding development of the FM service by permitting the continuation of simulcasting in some markets but restricting it in others and thus controlling the circumstances in which combination sales may be used. Also the operational and economic difficulties noted by McClatchy, persuade us that we should not alter our policy as to joint sales for simulcasting AM-FM combinations in the present proceeding.

COMMENTS REGARDING WHETHER A LICENSEE OR LICENSEE OWNED SALES ORGANIZATION SHOULD BE PRECLUDED FROM REPRESENTING A STATION IN A DIFFERENT SERVICE IN THE SAME AREA

23. We have held that representation of a station by a licensee or sales representative owned wholly or partially by the licensee of a competing station in the same community or service area is a violation of our longstanding policy proscribing cross-interests by licensees in more than a single station in the same service in the same area (paragraph 4, *supra*). In order to determine whether the policy should be expanded or changed we requested comments on the matter. Specifically, the following questions were raised.

> Should the prohibition against sales representation of a station by a licensee or licensee-owned sales organization that operates a competing station in the same service in the same area be expanded to include stations not in the same service? For example, should a sales representative owned by a television station be prohibited from representing an AM or FM station in the same area? Should the prohibition be applied in the same service if the two stations do not compete for the same audiences? For example, a black-oriented AM station owns a sales organization. May it represent a Spanish-language AM station in the same market? A country and western music station? If so, what showing should be required to establish that the stations do not compete?

24. In reply, most respondents opposed extending the policy. However, Robert E. Eastman & Co., Inc. a major independent national sales representative for radio stations, stated that it believed that no broadcast licensee should be permitted to represent any broadcast station in the same market where it is licensed to operate a station. Century Broadcasting Corporation proposed limiting representation to one station in each service in each market. Alan Torbet Associates, Inc., commented that the Commission had gone too far in prohibiting a firm controlled by a licensee with a station in a market from acting as a representative of another station in the same service and in the same market. Station Representatives Association (SRA) stated as follows:

> SRA believes that since this prohibition is based upon the Commission's duopoly or cross interest policy the logical result is to follow the pattern of the Commission's rules on this subject. Thus the Commission's cross interest rules permit common ownership of AM-FM in the same market but prohibit (prospectively) common ownership between television stations on the one hand and either AM or FM stations on the other. Hence, it would be logical to permit an AM licensee-owned representative to represent an FM station in the market but not another AM station or a TV station. A television licensee-owned representative could not represent any other station in the market.

25. The other question in this area was whether a licensee or licensee owned sales organization, which operates a station in the area, should be precluded from representing another station in the same service if the two stations do not compete for the same audience. In this regard, respondents favored prohibiting dual representation for stations in the same service even if the programming were different. SRA asserted that it is not realistic to assume that stations in the same service do not compete for the same audience even though different techniques or program formats are used; that the audience is not static and neither are formats, and all stations compete with each other for a sponsor's budget; and that relaxation of the policy for stations using different formats would lead to a situation virtually impossible to administer because of changing formats and lack of objective standards on which to judge formats.

26. We do not believe that a licensee or licensee owned sales organization that operates a station in a given market should be permitted to represent another station in the same market in the same service, even though the stations employ different formats. We believe that SRA's comments, set out in the preceding paragraph, are persuasive on this point. Moreover, we do not believe that our policy should be limited to stations in the same service. We stated in *Golden West Broadcasters*, 16 FCC 2d 918 (1969):

> We are of the view that representation of a station by a licensee or licensee-owned organization which operates a station in the same service in the same area gives the licensee-representative a large stake in the financial well-being of the station it represents and that this relationship necessarily militates against competition between the two stations. (16 FCC 2d at 921).

Golden West arose in the context of two stations in the same service, and the case ruled on the circumstances presented there. However, we perceive no reason for reaching a different result as to stations in different services but in the same market. Separately owned stations are supposed to compete at arm's length. Indeed, the thrust of our policies as to joint sales practices is to assure such competition. It clearly runs counter to those policies for a station to represent one of its competitors in the same market.[5] Accordingly, we find that it will serve the public interest to amplify the policy set out in *Golden West* to include stations in the same market in all broadcast services. In defining the "same market," we propose to use the same standard as set forth in this Further Notice of Proposed Rule Making. We recognize that this change in policy may call for change in representation of some stations. Therefore, this modification of policy will become effective on the date of adoption of an

[5] As noted in *Golden West*, we do not need demonstrated anti-competitive abuses in this area. "* * * it is the potential for such impairment which the Commission's policy is designed to guard against," citing *Shenandoah Life Insurance Co., supra.*

Order for amendment of the Rules as herein proposed.

COMMENTS REGARDING WHETHER A SALES REPRESENTATIVE SHOULD BE PERMITTED TO REPRESENT TWO OR MORE STATIONS IN THE SAME MARKET

27. The vast majority of respondents favored permitting stations to enter into contracts with sales representatives, even though the sales representative may represent one or more other stations in the same market. The respondents favored multiple representation regardless of whether the stations were in the same service or in different services, or whether the stations had different formats. However, Television Advertising Representatives, Inc., (TVAR) and Radio Advertising Representatives, Inc., (RAR), both subsidiaries of Westinghouse Broadcasting Company, Inc., as well as Century Broadcasting Corporation and Metromedia, Inc., (Metromedia) favored multiple representation only if the stations were in different services, and Metromedia gave as the reason for its comments that it believed that separately owned stations in the same service in the same area should compete at arm's length. Metromedia considered AM stations and FM stations to be in the same service. However, other respondents considered AM stations and FM stations to be in different services.

28. John Blair and Co. (Blair), believed that representation of two or more stations in the same market should be permitted if the stations were in different services and stated that although a television station may compete with a same-market radio station for business of a local advertiser, the two types of stations do not compete for national business because national advertisers allocate budgets by media—a certain amount for television, a certain amount for radio, a certain amount for newspapers, etc. In reply comments, Blair stated that any policy or rules should not prohibit representation of two stations in the same market in the same service if one station was represented for regional business and the other for national business. Blair commented further that any conflict of interest could be resolved by the licensees involved by seeking representation from another organization and that no Commission Rules were needed. Avco Radio Television Sales, Inc., favored multiple representation if no combination rates, discounts or "must buy" arrangements were used and Katz favored multiple representation if control of rates was retained by the station. Jack Masla and Co., Inc., believed that short of violating antitrust norms, stations, particularly small-town stations, should not be restricted from adopting practices to meet competition. Alan Torbet Associates, Inc., believed that in the absence of situations revealing abuse, competition would be promoted far more by normal competitive practices in the market place than by fixed rules proscribing certain practices, and mentioned that networks with pre-set rates, inherent discounts, national coverage and tied-in programming have the ability to, and do, offer advertisers far lower rates than rates offered by local stations either individually or through their national representatives.

29. Comments disclosed that the number of independent sales representatives has been decreasing over the years and that many stations for various reasons are not now being represented. A number of respondents submitted comments describing the decline in number of representatives and the reasons therefor. By way of example, Robert E. Eastman & Co., Inc. (Eastman) described its operation as one of four major independent national sales representatives for radio stations maintaining offices in the top nine major markets of continental United States. It estimated that there are at most 27 national radio sales representatives now in business but that "if one were careful in his analysis, that number could be reduced to fifteen" and that of this 15, eleven represent their own stations or are what is known in the trade as "House Reps." Eastman points out that in the October *Standard Rate and Data Statistics* there were 82 radio sales representatives listed but that not all were "national" or even "regional" and some representatives represented other sales representatives from other areas of the country. Historically, Eastman stated:

> Fifteen or more years ago, the national radio sales representative was an important part of a thriving broadcast business. In the past seven years, not one new national sales representative has entered the field and made its entry a success. The prophets of *radio* broadcasting predict that, given another fifteen years in the future comparable to the fifteen years of the past, then the national radio sales representative will be dead and the business itself only a fond memory.
>
> Now, what has caused this? For one thing, there has been a great exodus from the ranks of the *radio* side of national representation by those attracted to the enormous rewards awaiting those who till in the national spot *television* representatives' vineyards. Secondly, the growth of multiple owners in the radio *and* the television broadcast industry has brought about the so-called House Representative who represents on a national basis not only his group of stations but additional stations non-conflicting as well. Thirdly, the flight of the advertiser's dollar from radio to television has brought about a steady decline in national radio advertising revenues over the past five years in particular. Fourthly, the profusion of *radio* broadcast construction permits (particularly in FM) issued by this Commission has so fragmented the listening audiences, that, in general, few radio broadcast stations command a sufficiently large *regular* audience that can command a national advertiser's costume. For example, in New York City there are 40 *radio* stations that have enough audience to show up in an ARB survey. By contrast, in the much smaller town of Albuquerque, New Mexico, 11 radio stations fight for $550,000 in national radio advertising while 3 *television* stations divide more than $2,000,000 among them.
>
> To sum up the foregoing, certain facts are quite clear to the national radio sales representative:
>
> (a) National advertising dollars are declining for radio—television is the glamour medium.
>
> (b) (a) results in less dollars for the national radio sales representative.
>
> (c) Costs for the national radio sales representative, as for everyone else, continue to rise skyhigh.
>
> (d) (c) results in less profits (or any) for the national sales representatives.
>
> (e) Hundreds, if not thousands, of *radio* stations are without *any* national radio sales representative.
>
> (f) As a simple fact of economic life, national radio sales representatives are resigning the representation of more and more radio stations daily because to go on representing stations that can generate less than $100,000 in national sales annually, is a loss proposition for the national sales representative. The national radio sales representative cannot have one of its salesmen call upon any advertising agency at a cost per call of less than $25. For Eastman's 24 salesmen to make one call per week for 52 weeks for one radio outlet costs it in excess of $30,000 annually. To justify that minimal expense, the salesmen must sell a minimum of $240,000 annually for that client's station from that single weekly call.
>
> All of the foregoing documents why it is that even radio stations in as important markets as New York, Chicago, Los Angeles, Philadelphia, Detroit, and San Francisco cannot find a national radio sales representative to work for them.

Further, Eastman stated that more than 70 per cent of all national radio advertising dollars are spent in the top 50 markets and that for the rest of the United States and its hundreds upon hundreds of markets and radio stations, the fight is for a small piece of the remaining 30 per cent.

30. Station Representatives Association (SRA) agreed that the number of national radio sales representatives was diminishing and stated:

> A similar situation (although not quite as severe) obtains in the television area. Here there are approximately 22 effective firms of which 12 are controlled by the station licensees or networks. While the powerful VHF stations have no difficulty obtaining sales representation, the independent stations particularly those in the UHF band may have obvious difficulties. They have last choice of representatives and their circulation is often so restricted that they are not attractive prospects for representation. The common representation of two or more independent stations in a market could alleviate this situation.

SRA argued in favor of sales representatives representing more than one station as follows:

> So far as the sales representatives are concerned, they are not independent contractors. They are simply sales agents for the stations acting pursuant to the directions and instructions of the stations and entering into sales contracts on behalf of the stations and for their approval. In point of fact the representation in a market is generally an exclusive one for stations of that service. However, SRA urges that there should not be a hard and fast rule on the subject requiring exclusivity. First, common sales agents are utilized in many industries and such arrangements are not in and of themselves inconsistent with the policies of the antitrust laws (see *Virginia Excelsior Mills* v. *Federal Trade Commission*, 256 F. 2d 538, 541 (4th Cir. 1958)). Antitrust considerations come into play only when the dual representation is part of an arrangement to fix prices between competitors—a

feature which is not present when each principal exercises independence in pricing, acceptance of orders, and similar matters. All of these safeguards are present in the field of sales representation by independent station representatives.

Secondly, mention should be made of the fact that dual representation of two or more stations already exists in many markets. Thus in the radio field both ABC and Mutual Broadcasting System are permitted by the Commission to sell national time on two or more stations in the same market—either all AM or all FM or a combination of the two. Similarly time barterers do the same thing for AM, FM and TV stations. They have availabilities on many stations in a given market, those under separate as well as common ownership. A time buyer can deal with one time barterer for time on two or more stations in the same market. And what is more, the time barterer controls the prices at which the availabilities are sold on the competitive stations. No such control is present in the case of sales representatives.

31. In its comments McGavren-Guild-PGW Radio, Inc. (McGavren), proposed that in relation to the combination rate policy the Commission consider "rep networks" which were described as follows:

The rep network concept has grown out of the practice of many rep firms of negotiating with a prospective advertiser or its agency the purchase of broadcast time on a number of stations at one time, based upon the grouping of stations according to market size, audience size and other factors. These group plans have, in the past several years, achieved a greater degree of sophistication, and have recently begun to be promoted by rep firms as "networks." They are not networks in the traditional sense of the word insofar as networking implies the simultaneous *broadcast* by two or more stations of *programming* which originates from a single source. The rep network concept is essentially the linking by a time sales rep of a number of stations in order to present to a prospective advertiser or agency an aggregate of audience and market characteristics against which the advertiser's advertising objectives may be measured, and by which the process of purchasing time on many individual stations throughout the country may be simplified.

McGavren also proposed that the Commission require the filing of all agreements between a station and its representative if they involve the offer of a combination rate and that consideration be given to filing the agreements with the Federal Trade Commission. Cox Broadcasting Company (Cox) stated that in the field of national radio advertising the use of combination rates by separately owned stations serving different markets is the foundation for the so-called "non-wire network" and that this "joint sales practice unfairly limits competition through collective and secret pricing, to the detriment of individual stations." Cox believed that in order to curtail the practice, the Commission should prohibit stations in different markets from being sold in combination at a combined rate which is less than the sum of the published rates of the individual stations but Cox would not apply the prohibition to "normal network operations." Bob Dore Associates, Inc., claim that such networks stifle competition since they offer discounts, and that this is unfair to stations not affiliated with rep networks.

32. In reply comments, Blair opposed regulation of "rep networks" and the filing of contracts. Blair stated that it has a radio network, that it is composed of independently owned stations in different markets and that advertising is sold on a joint basis. Flair stated further that it quotes a single rate for specified amounts of time on various stations with given audience characteristics frequencies and duration, that the rate is the aggregate of individual rates, and that it acts solely as an agent and does not determine rates. Blair maintained that such matters were beyond the scope of the proceeding. Katz favored permitting stations in separate markets to combine to offer group plans.

33. SRA also requested that the Commission investigate the desirability of limiting the right of multiple owners with stations in major markets from acting as the sales representative for other stations not owned by them. TVAR and RAR opposed this, stating it was an unwarranted extension of the proceeding. Metromedia stated that although SRA described itself as an association of independent station representatives, persons who were officers or who held interests in representatives had broadcast interests and that one representative was a licensee and another had stock interests in licensees.

34. As stated previously, the Commission policy regarding sales representatives has been to prohibit representation of a station by a licensee or sales representative owned wholly or partially by a licensee of a competing station in the same community in the same service. In this proceeding we proposed to expand this policy to include stations in the same market in all broadcast services. Thus, a licensee or sales representative owned wholly or partially by the licensee of a station in a community may not represent another broadcast station in the same community. However, a sales representative, which is not owned wholly or partially by a licensee of a station in a community, may represent more than one station in a community.[8] We do not believe it would serve the public interest to restrict such multiple representation at this time. We have no evidence of anti-competitive results from multiple representation, and we note from the tenor of comments that there are insufficient radio representatives available to represent all stations desiring representation, with the smaller stations experiencing the greatest difficulty. We also note that independent television stations, particularly UHF stations, have difficulty in obtaining representation. While a representative may represent two or more separately owned stations in the same community, it may not sell them in combination. For example, it will be expected that such representatives will not sell or offer to sell time in combination for two separately owned stations in the same community, will enter into separate contracts with clients for each station represented and will leave all decisions as to contracting for the sale of time, including rates charged to each individual licensee. We are not unmindful that questions may arise as to unfair practices because of multiple representation. Therefore we will consider on a case-by-case basis any such questions and should we receive information that unfair practices result, we will consider this matter further. Concerning the objections to "rep networks," it appears that such networks primarily are made up of separately owned stations located in separate markets, and this inquiry was limited to representation of stations in the same market and commonly owned stations in different markets. Thus, these objections are outside the scope of this proceeding, and we draw no conclusions in regard thereto.

[8] If the specified contour standard used in the Rule proposed in this proceeding, or other similar standard, is adopted, then such standard shall be used in lieu of standards heretofore expressed as "the same community", "the same market," or "substantially the same area."

COMMENTS REGARDING COMBINATION RATES BY SEPARATELY OWNED FM BROADCAST STATIONS IN THE SAME MARKET OR AREA

35. In our Notice of Inquiry and Notice of Proposed Rule Making we mentioned that in the case *FM Group Sales, Inc., supra*, we permitted combination rates between FM stations serving the same area, subject to specified limitations, designed to enhance the competitive position of FM stations vis-a-vis AM stations. Further, we stated that during the nine years which had elapsed following that decision, the economic position of FM stations as a whole had substantially improved, and that we believed that the ruling might no longer be appropriate. Thus, we elicited comments as follows:

Are there any separately owned FM stations in the same area or market that have combined rate plans similar to that approved in *FM Group Sales, Inc., supra*? If so, what stations are involved? What percentage of total revenues of each station are obtained through such combined efforts? What would the effect of prohibiting such practices be on the stations involved?

36. In reply, no respondent submitted specific information as to such stations using combined rate plans or revenues received. Robert E. Eastman and Co., Inc., Southern Broadcasting Company, and Century Broadcasting Corporation stated that Commission financial information indicated that independent FM stations still should be treated as an exception to the Commission policy regarding combination rates. However, TVAR and RAR in a joint response and SRA believed that FM stations now have sufficient economic strength that an exception is no longer warranted.

37. We believe that conditions have changed substantially since 1964 and that FM broadcast stations are in a much better position to compete. This change of conditions was noted in the notice of proposed rule making concerning AM–FM program duplication, in Docket No.

20016, 46 FCC 2d 277 (1974), when we said:

> In the last 10 years the number of independent FM stations doubled, average revenues per independent FM station have almost quadrupled and their total revenues have increased sevenfold. The percentage of independent FM stations making a profit has also climbed significantly.

Accordingly, upon review of the group sales plan as set forth in the *FM Group Sales* case, we conclude that such plan no longer serves the public interest, and that operation of any such plan, if still in existence, should be discontinued.

COMMENTS REGARDING WHETHER COMBINATION RATES BETWEEN CABLE TELEVISION SYSTEMS AND BROADCAST LICENSEES SHOULD BE CONSIDERED IN THE SAME MANNER AS COMBINATION RATES BETWEEN BROADCAST LICENSEES

38. Very little comment was received regarding combination rates between cable television systems and broadcast licensees. Southern Broadcasting Company believed that cable systems and broadcast stations would not attempt to combine rates, but if a practice should develop it should be prohibited. Station Representatives Association did not believe any specific regulations were required at this time because cable television is in its infancy and that the matter could be considered at a later time when the nature and extent of cable advertising became firmly established * * * However, Metromedia, Inc., stated in this regard:

> As stated in the Notice, the Commission has specifically disapproved a rate package between a licensee and a commonly owned non-broadcast business. This specific disapproval should certainly extend to combination rates with cable systems. Such a policy would fully comport with the Commission's CATV cross-ownership rules.

39. In accordance with the rules, cable television systems may originate programs and present advertising. Thus, the possibility exists for joint sales practices or combination rates between a separately owned cable television system and broadcast station in the same community. We believe that a separately owned broadcast station and cable television system in the same community should be engaging in "arms length competition" and that combination rate agreements or practices between such a system and a broadcast station are contrary to the public interest. Accordingly, the rules proposed herein by the further notice of proposed rule making include the combination sales between cable television systems and broadcast stations.

40. Under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, it is proposed to amend Part 73, Subpart H, of the Commission's rules by adding a new § 73.____ as set forth below.

41. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before May 12, 1975, and reply comments on or before June 12, 1975. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching a decision in this proceeding the Commission may also take into account other relevant information before it in addition to the specific comments invited by this notice.

42. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs and other documents shall be furnished the Commission. All filings in this proceeding will be available for examination by interested parties during regular business hours at its Headquarters in Washington, D.C. (1919 M Street, NW.).

Adopted: January 29, 1975.

Released: March 7, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Secretary.

It is proposed to amend Part 73, Subpart H, of the Commission's rules by the addition of a new section as follows:

§ 73.___ Combination sales.

(a) Commencing (one year from the date of adoption of this proposed section of the Rules) no licensee of a broadcast station shall sell or offer to sell broadcast time, or permit any person acting in its behalf to sell or offer to sell broadcast time, on a station owned by such licensee in combination with the sale or offer of sale of broadcast time on a station owned by another licensee if there exists any overlap in the contours of the two stations as herein specified in regard to the following types of stations: the predicted or measured 5 mV/m groundwave contour of a standard broadcast station; the predicted 3.16 mV/m contour of an FM broadcast station; and the contours provided as minimum field intensities over the principal communities pursuant to § 73.685 of the rules for television broadcast stations; nor shall such licensee sell or offer to sell broadcast time or permit any person acting in its behalf to sell or to offer to sell broadcast time on a station owned by such licensee in combination with the sale or offer of sale of time on a cable television system owned by other than such licensee which serves any part of the area circumscribed by the contour of the broadcast station hereinabove specified for the type of station involved. Contours shall be computed in accordance with § 73.183 or § 73.186 for standard broadcast stations; § 73.313 for FM broadcast stations; and § 73.684 for television broadcast stations.

(b) Commencing (one year from the date of adoption of this proposed section of the Rules) a television broadcast station and an FM broadcast station which are commonly owned, or a television broadcast station and a standard broadcast station which are commonly owned shall not sell or offer to sell bradcast time in combination, nor shall any licensee permit anyone acting on its behalf to sell or offer to sell broadcast time on such stations in combination, if there is overlap of the contours, as set forth in paragraph (a) of this section, for the stations involved.

(c) In case any questions arise concerning compliance with this section, the licensees involved shall have the burden of proving the non-existence of overlap of the contours herein specified.

(d) The licensee of each station shall exercise reasonable diligence to determine that independent contractors, agents or others representing the licensee do not offer to sell or effect transactions for the sale of the station's time which would be prohibited by this section if such sale or offer of sale were made directly by the licensee.

(e) Nothing contained in this section shall prohibit the sale or offer for sale of time of stations by a network provided that such sale or offer of sale is of network commercial time adjacent to or within a program supplied by the network.

[FR Doc.75-6397 Filed 3-11-75;8:45 am]

[1] Commissioner Lee not participating; Commissioner Hooks concurring and issuing a statement, which is filed as part of the original document.

[47 CFR Part 73]

[Docket No. 20374; RM-2347]

FM BROADCAST STATIONS, NEW JERSEY AND DELAWARE

Table of Assignments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Cape May Court House, New Jersey, and Rehoboth Beach, Delaware), Docket No. 20374, RM-2347.

1. *Petitioner, proposal and comments—Petitioner:* Triplett Broadcasting Co., Inc., licensee of Stations WTOO (AM) and WOGM-FM (Channel 252A), Bellefontaine, Ohio; and WYAN-FM (Channel 240A), Upper Sandusky, Ohio.

Proposal: Assign Class B Channel 225 to Cape May Court House, New Jersey. This proposal would require substitution of Channel 288A for Channel 224A at Rehoboth Beach, Delaware. A construction permit for Channel 224A (WLRB) has been granted to Melvin Gollub (BPH-8898) conditioned on Gollub's acceptance of any modification requiring use of a channel other than Channel 224A as a result of whatever action the Commission may take on a petition for rule making in RM-2347, the instant proceeding.

Comments: The instant proposal may be granted without affecting any assignments other than Channel 224A at Rehoboth Beach. The antenna location for the proposed Cape May Court House assignment must be 2 miles southeast of the community.

2. *Location, population, present aural service, and preclusion—Location:* Cape May Court House, New Jersey, is located

approximately 29 miles southwest of Atlantic City, and 39 miles east of Dover, Delaware. It is the seat of Cape May County. Rehoboth Beach, Delaware, is located in Sussex County, approximately 30 miles southwest of Cape May Court House, and 40 miles southeast of Dover.

Population:[1] Cape May Court House 2,062; Cape May County 59,554; Rehoboth Beach 1,614; Sussex County 80,356.

Present Aural Service: Cape May Court House has no local aural service. Cape May County originates two AM services (full-time Station WCMC, Wildwood, and daytime-only Station WSLT, Ocean City-Somers Point). There are four FM assignments in the county: Channel 264, Wildwood (WCMC–FM); Channel 292A, Ocean City (WSLT–FM); Channel 272A, Cape May (WRIO–FM); and Channel 232A, Avalon (applications pending). Relative to Cape May Court House, Avalon is located 6.5 miles east-northeast; Ocean City, 20 miles northeast; Cape May, 12 miles south-southeast and Wildwood, 6.5 miles southeast.

3. *Preclusion considerations — Channels precluded:* No adjacent or co-channel preclusion would result from the proposed assignment.

4. *Comments.* A. Petitioner avers that a Class A station at Cape May Court House will offer an FM service to 46,000 persons during the "off-season" and 115,000 persons during the summer when there is a large influx of vacationers. Ordinarily, communities the size of Cape May Court House are assigned Class A channels with Class B assignments generally going to large, densely populated communities. Channel 288A can be assigned to Cape May Court House. The petitioner should indicate whether it is willing to construct and operate a Class A channel if it is assigned to Cape May Court House.

B. Petitioner avers that the proposed Class B station would serve 314,000 persons during the "off-season" and 547,000 persons during the summer. Information as to areas and populations that would receive a first and second FM service as a result of a Class B assignment was not submitted although the Commission requested it. Therefore, petitioner should make a showing as to whether the proposed Class B assignment would provide such first or second FM service. The method for making such a showing is set forth in paragraph 3 of *Roanoke Rapids and Goldsboro, N.C.* (9 F.C.C. 2d 672 (1967)). Further, since we view AM and FM services as complementary parts of a single aural service, petitioner should also show whether the proposed assignment would bring a first or second full-time aural service to any populations or areas. (See *Anamosa and Iowa City, Iowa,* 46 F.C.C. 2d 520 (1974).)

5. We believe that petitioner has made a sufficient public interest showing to warrant issuance of a Notice of Proposed Rule Making.

6. Accordingly, the Commission proposes to amend § 73.202(b) of the Commission's Rules, the FM Table of Assignments as follows:

City	Channel No. Present	Channel No. Proposed
Cape May Court House, N.J.		225
Rehoboth Beach, Del.	224A	228A
or alternatively		
Cape May Court House, N.J.		288A

7. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are stated below and are incorporated into this notice of proposed rule making.

8. Interested parties may file comments on or before April 30, 1975, and reply comments on or before May 20, 1975.

9. The Secretary is directed to send a copy of this Notice of Proposed Rule Making to Melvin Gollub, permittee of Station WLRB, Rehoboth Beach, Delaware.

Adopted: February 25, 1975.

Released: March 6, 1975.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL] WALLACE E. JOHNSON, *Chief, Broadcast Bureau.*

[Docket No. 20374, RM2347]

FILING REQUIREMENTS

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth above in the notice of proposed rule making.

2. *Showings required.* Comments are invited on the proposal discussed above in the notice of proposed rule making. In initial comments, proponent(s) will be expected to answer whatever questions are presented in the notice. The proponent(s) of the proposed assignment(s) is expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the requests.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth above in the notice of proposed rule making. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.75-6398 Filed 3-11-75;8:45 am]

[47 CFR Part 73]

[Docket No. 20375, RM. 2383]

TELEVISION BROADCAST STATIONS, GEORGIA

Table of Assignments

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Atlanta, Georgia), Docket No. 20375, RM–2383.

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration the petition for rule making filed by John Hartrampf, requesting the amendment of § 73.606(b) of the Commission's Rules and Regulations, proposing the assignment of Channel 63 or any other available but unassigned UHF channel for Atlanta, Georgia.

2. Petitioner states that Atlanta (pop. 496,973)[1] is the 18th ranking market in the United States. He also avers that the Atlanta Urbanized Area consists of 1,172,778 persons compared to a 768,125 population in 1960; that growth in the Atlanta area has been substantial since 1960; and that expansion in population has been characterized by an 80 percent increase in non-agricultural employment and a 45 percent increase in manufacturing employment. The Atlanta area, we are told, is now recognized as the center of commerce for the southeastern part of the United States as demonstrated by the fact that retail sales, bank deposits, the

[1] All population figures are from the 1970 U.S. Census.

[1] Unless otherwise specified, all population figures are from the 1970 Census.

value of construction and the annual number of private housing units have at least tripled since 1960.

3. Atlanta is currently assigned 6 commercial TV broadcast channels and 2 noncommercial channels. Service is presently provided by the following stations: WSB, Channel 2, an NBC affiliate; WAGA, Channel 5, a CBS affiliate; WXIA, Channel 11, an ABC affiliate; WTCG, Channel 17; and WHAE, Channel 46. A construction permit for Channel 36 is outstanding and an application for a covering license (BLCT-1894) is pending. Two noncommercial educational TV broadcast channels are also assigned to Atlanta—Channel *30 (WETV) and Channel *57 (vacant). Therefore petitioner concludes that the only available option for an additional television station in Atlanta is to amend the Table of Television Assignments to add a 7th commercial TV channel.

4. Recent Georgia assignments of educationally reserved channels were made in response to a petition from the Georgia State Board of Education pursuant to an overall state plan. Because of these assignments, few channels remain available for assignment to Atlanta. Petitioner has requested assignment to Atlanta of Channel 63 or any other available but unassigned UHF channel. The Commission's engineering staff has determined that the assignment of Channel 69 would cause the least amount of preclusion to the surrounding area and would not adversely affect any existing stations. Also, assignment of Channel 69 to Atlanta would permit the exercise of maximum flexibility with respect to future assignments of available channels to the area.

5. Petitioner states that it will apply for a construction permit if the channel is assigned and, if its application is granted, it will promptly construct a television broadcast station facility.

6. In view of the foregoing, pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules and Regulations, it is proposed to amend § 73.606(b) of the Commission's Rules, the Television Table of Assignments, as follows:

City	Channel No.	
	Present	Proposed
Atlanta, Ga.....	2, 5–, 11+, 17–, *30, 36, 46–, *57+	2, 5–, 11+, 17–, *30, 36, 46–, *57+, 69

7. *Showings required.* Comments are invited on the proposal discussed above. Petitioner is expected to file comments even if only to resubmit or incorporate by reference his former pleadings. He should reaffirm his present intention to apply for the channel if it is assigned, and, if authorized, to construct the station promptly. Failure to file may lead to denial of the request.

8. *Cut-off procedure.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments. (See § 1.420(b) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered as comments in this proceeding, and Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that date, they will not be considered in connection with the decision in this docket.

9. *Comments and reply comments.* Pursuant to applicable procedures set out in Section 1.415 of the Commission's Rules and Regulations, interested parties may file comments on or before April 30, 1975, and reply comments on or before May 20, 1975. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b), and (c) of the Commission's rules.)

10. *Number of copies.* In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

11. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

Adopted: February 25, 1975.

Released: March 6, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-6399 Filed 3-11-75;8:45 am]

[47 CFR Part 76]

[Docket No. 20363]

MAJOR MARKET CABLE TELEVISION SYSTEMS

Extension of Time

In the matter of amendment of Part 76 of the Commission's rules and regulations relative to postponing or cancelling the March 31, 1977 date by which major market cable television systems existing prior to March 31, 1972, must be in compliance with § 76.251 (a)(1)–(a)(8).

1. In Notice of Proposed Rulemaking in Docket 20363, FCC 75-211, —— FCC 2d —— (1975), 40 FR 8967, March 4, 1975, the Commission announced that it was considering postponing or cancelling the March 31, 1977 deadline for compliance with the channel capacity and access requirements of § 76.251 (a)(1)–(a)(8) of the rules. Comments were requested on or before April 7, 1975 and replies on or before April 17, 1975. While indicating our intent to act expeditiously on this specific matter, we stated that we would issue in the very near future an additional Notice upon which interested parties would be invited to express their views concerning alternate substantive approaches for requiring compliance with our channel capacity and access requirements.

2. In response to our Notice we have before us a letter dated February 28, 1975, filed by 11 multiple cable system operators and lending institutions urging that we advance the date for filing comments and replies. These parties urge that in view of the present economic burdens placed upon systems which must in the very near future commence construction in order to comply by March 31, 1977 with our requirements, such an expedited procedure is imperative.

3. In view of the considerations expressed in our Notice and upon examination of the letter before us, we feel that good cause has been shown for shortening the deadline for filing comments and replies in this proceeding.

Accordingly, it is ordered, That the dates for filing comments and reply comments in the above-captioned proceeding are advanced to March 17, and March 27, 1975, respectively.

This action is taken by the Chief, Cable Television Bureau, pursuant to authority delegated by § 0.288(a) of the Commission's rules.

Adopted: March 3, 1975.

Released: March 6, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] DAVID D. KINLEY,
Chief, Cable Television Bureau.

[FR Doc.75-6400 Filed 3-11-75;8:45 am]

[47 CFR Parts 2, 91, 93, 95, 97]

[Docket No. 20351 etc.]

CLASS E CITIZENS RADIO SERVICE

Deferral of Action on Proposals

On June 6, 1973, the Commission adopted a notice of inquiry and notice of proposed rule making in Docket 19759 (38 FR 26942) looking toward the reallocation of the 224–225 MHz band to the Citizens Radio Service for the creation of a new Class E category station. The band 220–225 MHz is now allocated for shared use by stations in the Government Radiolocation Service and the Amateur Radio Service. The time for filing original and reply comments in this proceeding expired on October 19, 1973 and November 23, 1973, respectively. By

letter dated December 27, 1974, the Acting Director of the Office of Telecommunications Policy urged, "that every consideration be given to expeditious action on this matter by the Commission."

The Commission on July 23, 1974, adopted a notice of proposed rule making in Docket 20120 (40 FR 8230), which proposed to more than double the radio spectrum space allocated to Class D stations in the Citizens Radio Service and reregulate some of the operating rules applicable to that class of station. The time for filing original and reply comments in that proceeding is January 30, 1975 and March 14, 1975, respectively.

On December 4, 1974, the Commission adopted a notice of proposed rule making in Docket 20282 (39 FR 44042), which proposed the restructuring of the various classes of amateur radio operator licenses to, among other things, create a new Communicator Class of license which would not require a code examination and would have operating privileges in the 220–225 MHz band. The time for filing original and reply comments in that proceeding is June 16, 1975 and July 16, 1975, respectively.

The Commission believes that these three rule making proceedings (Dockets 19759, 20120 and 20282) all involve related issues. Principal among these are the amount and location of spectrum space that should be allocated to meet the personal and business radio communication needs of the general public. In addition, we believe further discussions with Canada are needed relative to Class E frequencies along our border. Accordingly, we will defer action on Docket 19759 until later in 1975 to permit us to fully develop the requirements and alternative solutions we feel are needed. We are fully aware of the importance of the issues in Docket 19759 and it is our firm intention to conclude this proceeding as promptly as possible.

It should also be noted that the Commission on February 5, 1975 adopted a notice of proposed rule making in Docket 20351 proposing a requirement that most stations licensed in the Safety and Special Radio Services be fitted with an Automatic Transmitter Identification System (ATIS). It may well be, depending on the outcome of that proceeding, that the initiation of any new service of the potential size and regulatory complexity of the proposed Class E service will need to incorporate ATIS from its inception.

Action by the Commission March 6, 1975.[1]

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

[FR Doc.75-6402 Filed 3-11-75;8:45 am]

[1] Commissioners Wiley (Chairman), Lee, Reid, Hooks, Quello, Washburn and Robinson.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 270, 275]

[Release Nos. IA-439, IC-8690, File No. 4-149]

EXEMPTIVE RULES FOR VARIABLE LIFE INSURANCE

Withdrawal of Proposed Amendments and Proposed Rescission of Rules

Notice is hereby given that the Securities and Exchange Commission has determined not to adopt, and, therefore, hereby withdraws proposed amendments to Rule 3c-4 (17 CFR 270.3c-4) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) ("Investment Company Act") and Rule 202-1 (17 CFR 275.202-1) under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) ("Advisers Act") (hereinafter together referred to as the "Rules"). These Rules exempt issuers of certain variable life insurance contracts, and affiliated persons thereof, from the provisions of the Investment Company Act and the Advisers Act.

Further, notice is hereby given that the Securities and Exchange Commission ("Commission") has under consideration the rescission of Rule 3c-4 and Rule 202-1. While rescission of these Rules would result in the application of all provisions of the Investment Company and Advisers Acts to variable life insurance contracts, their issuers and related persons, the Commission announced its intention to propose a rule under section 6(e) (15 U.S.C. 80a-6(e)) of the Investment Company Act (Investment Company Act Rel. No. 8691, Investment Advisers Act. Rel. No. 440, February 27, 1975) which would, in effect, conditionally exempt certain variable life insurance separate accounts from section 7 (15 U.S.C. 80a-7) and other sections of the Investment Company Act and rules thereunder, while requiring full compliance with all other provisions of the Act and rules.

Rule 3c-4 defines the term "insurance company" as used in section 3(c)(3) (15 U.S.C. 80a-(c)(3)) of the Investment Company Act to include a separate account which would be employed as the funding medium for variable life insurance contracts. For this purpose, the Rule defines a variable life insurance contract to be any contract of insurance issued by an insurance company which so long as premiums are paid when due, provides a death benefit which varies to reflect the investment experience of a separate account established and maintained by such insurance company and which meets the four additional criteria specified in paragraph (b) of the Rule.

Rule 202-1 excludes from the definition of the term "investment adviser," set forth in section 202(a)(20) (15 U.S.C. 80b-2(a)(20)) of the Advisers Act, an insurance company, or any affiliated company thereof to the extent that any advisory services performed are incidental to the conduct of the business of issuing any variable life insurance contract as defined in Rule 3c-4 under the Investment Company Act or any interest or participation in a separate account issued in connection with such contract.

The Commission was persuaded to adopt Rule 3c-4 for several reasons, the foremost of which was the Commission's recognition of the difficulties which would be encountered in reconciling the regulatory scheme of the Investment Company Act to the developing pattern of state insurance regulation.[1] In adopting Rule 3c-4, the Commission stated that it viewed as significant,

> * * * the active participation of the National Association of Insurance Commissioners ("NAIC") in the hearing (held between April 10 and June 7, 1972) and the Model Variable Contract Law and Regulation adopted by them which the Commission views as the beginning of the development of a uniform state regulatory structure designed specifically to meet the requirements of variable life insurance and the needs of variable life insurance contractholders beyond the disclosure which the Securities Act would provide. Based on the representations made in the memoranda submitted by the National Association of Insurance Commissioners, the Commission believes that they are qualified to develop and administer the type of regulation particularly appropriate to the operation of variable life insurance separate accounts.

The Commission indicated it expected that the regulatory protections provided by the Investment Company Act would only duplicate regulations to be developed by the NAIC. Such regulations, the Commission believed, would provide material protections to purchasers substantially equivalent to the relevant protections that would be available under the Investment Company Act. Finally, the Commission made clear that it would

> * * * monitor the development of state law in this area to assure its adequacy in providing these protections and, if in the future it appears that substantial deficiencies exist and are not likely to be remedied, the Commission will then consider whether it is necessary or appropriate to modify or rescind Rule 3c-4.

Because of its concern that regulations be developed to provide adequate investor protections which would be substantially equivalent to relevant protections afforded by the Investment Company Act, and its intent that such regulations be adopted prior to the sale to the public of variable life insurance contracts, the Commission requested comments,[2] and subsequently ordered a public hearing,[3] on proposed amendments to

[1] See, Securities Act Rel. No. 5360, Securities Exchange Act Rel. No. 9972, Investment Company Act Rel. No. 7644, Investment Advisers Act Rel. No. 359 (January 31, 1973), published in the FEDERAL REGISTER on February 13, 1973 (38 FR 4315).

[2] Investment Company Act Rel. No. 8000, Investment Advisers Act Rel. No. 391 (September 20, 1973), published in the FEDERAL REGISTER on September 26, 1973 (38 FR 26816).

[3] Investment Company Act Rel. No. 8216, Investment Advisers Act Rel. No. 399 (January 31, 1974), published in the FEDERAL REGISTER on February 11, 1974 (39 FR 5209).

the Rules, and on the Model Variable Life Insurance Regulation adopted by the NAIC in December 1973. The Commission indicated, among other things, that commentators should address themselves to whether the amendments should be adopted, whether the Model Regulation would provide protections substantially equivalent to relevant protections under the Acts, and what other regulatory steps should be taken by the Commission to ensure the full protection of variable life insurance purchasers.

The amendment, if adopted, would have conditioned the availability of the exemption afforded by Rule 3c–4 upon a specific determination by the Commission that applicable state laws and regulations provide investor protections substantially equivalent to those provided by the Investment Company Act with respect to: (1) valuation of portfolio securities in a uniform manner; (2) annual reporting to contractholders of information similar in nature to the information that would be provided by a registered investment company to its shareholders through annual reports and proxy statements; (3) prohibitions against unauthorized or improper changes in investment policies; (4) protection against excessive management fees, administrative fees and sales charges; and (5) protections similar to those afforded by section 17 (15 U.S.C. 80a–17) of the Investment Company Act relating to transactions with affiliates.[4]

The proposed amendment to Rule 202–1 would have conditioned the exemption from the Advisers Act on a Commission determination that the laws, rules or regulations of each state in which variable life insurance contracts or interests are offered provide investor protection substantially equivalent to relevant protections provided by the Advisers Act.[5]

Public hearings were held from March 25 to March 28, 1974 with respect to these matters. In addition, the Commission received many written comments and wishes to thank those persons who responded to its notice of proposed amendments to the Rules and its request for comments with respect to the Model Variable Life Insurance Regulation. Particularly, the Commission recognizes the detailed and extremely helpful material supplied by the NAIC in response to specific questions presented by the Commission's staff.

Almost without exception, public response to the proposed amendments to the Rules was negative. Some commentators asserted that the amendments were inconsistent with the Commission's objectives in adopting the Rules in that the requirement of prior approval would interfere with the development of insurance regulations, would be difficult, if not impossible, for the Commission to implement, and would result in extensive delay before contracts could be sold to the public.

Other commentators suggested that the amendments would not go far enough toward assuring that variable life insurance contract-holders have protections substantially equivalent to those afforded other investment company shareholders. Those commentators indicated that the prior approval procedure would not take into account the fact that continuous administration and enforcement are indispensable components of effective regulation under the Acts, and that the Commission could not efficiently utilize the approval procedure or monitoring techniques to perform these functions.

It is based on these comments and testimony as well as the extensive submissions made throughout the Commission's consideration of the status of variable life insurance under the Federal securities laws, that the Commission has concluded that the prior approval procedure proposed by the amendments would not result in uniformity of regulatory oversight, and that it would not result in adequate investor protections in the relevant areas. In addition, the Commission has also concluded that the exemptions provided by Rules 3c–4 and 202–1 would not assure necessary investor protections, including, but not limited to, prohibitions against excessive management fees, administrative fees and sales charges, controls to prevent unfair contract provisions with respect to redemption of contractholder interests, management accountability to investors and independent review of the operations of the separate account, prohibitions against breaches of fiduciary duty and private rights of action with respect to investor protection provisions. The Commission now believes that without application of the Investment Company and Advisers Acts, variable life insurance contractholders would not have these protections. Accordingly, the Commission has determined not to adopt the proposed amendments.

Pursuant to authority granted the Commission in sections 6(c) and 38(a) of the Investment Company Act (15 U.S.C. 80a–6(c) and 80a–38(a)) and sections 202(a)(11), 206A and 211(a) of the Advisers Act (15 U.S.C. 80b–2(a)(11), 80b–6A and 80b–11(a)) the Commission proposes to rescind Rules 3c–4 and 202–1.

All interested persons are invited to submit their written views and comments on the proposed rescission of the Rules to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before 5:30 p.m., March 31, 1975.[6] All communications in this regard should refer to File No. 4–149, and will be available for public inspection. All interested persons are also referred to Investment Company Act Release No. 8691, Investment Advisors Act Release No. 440 (February 27, 1975) for consideration of the announcement made by the Commission with respect to the expected regulatory pattern to be developed if and when the Rules are rescinded.

By the Commission.

Dated: February 27, 1975.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75–6415 Filed 3–11–75;8:45 am]

[4] The Commission also invited comment on the appropriateness of including the following eleven additional areas of protection in the Rule, as well as any other areas that might be deemed relevant to purchasers of variable life insurance: (1) protection against unfair contract provisions with respect to redemption of contractholder interests; (2) protections relating to insider trading with respect to portfolio securities; (3) protections against improper lending of the separate account's assets to controlling persons or persons under common control with the separate account; (4) prohibitions against breaches of fiduciary duty involving personal misconduct and against larceny and embezzlement; (5) provision for written advisory contracts; (6) prohibitions against persons serving as employees of such insurance companies in connection with the operation of the separate account who have been convicted of certain crimes or who have willfully violated the federal securities laws; (7) provision for custodianship of cash and portfolio securities of the separate account and bonding of persons with access to such cash and securities; (8) provisions relating to the capacity of the separate account to invest in investment companies, insurance companies, broker-dealers, underwriters and investment advisers; (9) provision for independent review of the operations of the separate account, by a state insurance commissioner or otherwise, similar to that provided by directors of a registered investment company; (10) provision for review of the financial statements of the separate account by independent certified public accountants; and (11) private rights of action with respect to such investor protection provisions for contractholders.

[5] Comments were requested as to the appropriateness of including in Rule 202–1 five specific areas of protection: (1) prohibitions against persons who have committed certain crimes or violations of the federal securities laws from acting as investment advisers of variable life insurance separate accounts or as associated persons of such advisers; (2) prohibitions against the payment of unfair or inequitable advisory fees; (3) provisions for adequate recordkeeping; (4) prohibitions against fraudulent and improper conduct; and (5) private rights of action with respect to such investor protection provisions for contractholders.

[6] On March 5, 1975, the Commission extended the period for comment to April 18, 1975. See Investment Company Act Release No. 8706, Investment Advisers Act Release No. 443, (March 5, 1975).

[17 CFR Parts 270, 275]

[Release Nos. IA–440, IC–8691, File No. S7–554]

SEPARATE ACCOUNTS OF LIFE INSURANCE COMPANIES FUNDING CERTAIN VARIABLE LIFE INSURANCE CONTRACTS

Notice of Intention To Propose Rule

The Securities and Exchange Commission ("Commission") announced that it has determined to withdraw proposed amendments to Rule 3c–4 (17 CFR 270.3c–4) under the Investment Company Act of 1940 ("Investment Company

Act") (15 U.S.C. 80a–1 et seq.) and Rule 202–1 (17 CFR 275.202–1) under the Investment Advisers Act of 1940 ("Advisers Act") (15 U.S.C. 80b–1 et seq.) (hereinafter collectively referred to as the "Rules")[1] and has proposed to rescind these Rules.[2]

In 1973[3] the Commission determined that variable life insurance contracts are securities and separate accounts funding variable life insurance contracts are investment companies. If and when the Rules are rescinded, such separate accounts, and investment advisers to such separate accounts, would, in the Commission's view, be required to register under the Investment Company Act and the Advisers Act and to comply with all sections of those Acts and the rules promulgated thereunder. The Commission has determined, however, to propose a rule under section 6(e) of the Investment Company Act (15 U.S.C. 80a–6(e)) relating to separate accounts of life insurance companies formed to fund certain variable life insurance contracts.

A variable life insurance contract is an insurance contract in which the death benefit, cash surrender value and other benefits vary to reflect the investment experience of a separate account maintained by a life insurance company. In determining the status of variable life insurance contracts, issuers and related persons, the Commission recognized that state regulation of insurance is also applicable to variable life insurance, that the insurance and investment company regulatory schemes would be difficult to reconcile, and that insurance regulations might be adopted which would provide protections for purchasers of variable life insurance contracts substantially equivalent to relevant protections afforded by the Investment Company and Advisers Acts, thus making duplicative the application of those Acts. The Commission now believes, however, that the most appropriate method for assuring adequate protections for purchasers of variable life insurance contracts would be by regulation under the Investment Company and Advisers Acts in conjunction with state insurance laws and regulations.

In recognition of the unique insurance aspects of variable life insurance and the extensive insurance regulatory pattern to which the contracts, issuers and related persons will be subject, the Commission contemplates that a pattern of regulation will be developed under section 6(e) of the Investment Company Act. The Commission therefore intends shortly to publish for comment, a rule under this section which will designate the provisions of the Investment Company Act from which variable life insurance separate accounts will be exempt and the conditions upon which such exemptions will be available.

Section 6(e) of the Investment Company Act provides that if, in connection with any rule, regulation or order under section 6 exempting any investment company from any provision of section 7 (15 U.S.C. 80a–7) the Commission deems it necessary or appropriate in the public interest or necessary for the protection of investors that certain provisions of the Investment Company Act shall be applicable with respect to such company, the provisions so specified shall apply to such company and to other persons in their transactions and relations with such company, as though such company were a registered investment company.

Most of the public written comments and testimony received by the Commission with respect to variable life insurance has related to the questions of the status of the contracts, issuers and related persons under the Federal securities laws, the feasibility of amending the Rules to condition exemptions from the Acts on a determination by the Commission that state insurance regulation provides investor protections substantially equivalent to relevant protections afforded by the Investment Company and Advisers Acts, and the provisions of the Model Variable Life Insurance Regulation. The Commission believes that interested persons now may wish to make specific suggestions for inclusion in the rule to be proposed and, therefore, is offering this opportunity for interested persons to address themselves to those provisions of the Investment Company Act and rules from which exemptions are necessary or appropriate.

In particular, the possible application of two areas of the Investment Company Act to variable life insurance has provoked substantial comment in the past: the limitations imposed by section 27 (15 U.S.C. 80a–27) on sales loads which may be charged purchasers of variable life insurance contracts, and the provisions of the Act designed to assure accountability of management to variable life contract holders.

The Commission recognizes that application of these provisions of the Investment Company Act would necessitate certain changes in the procedures and policies of persons proposing to issue variable life insurance contracts from those found in ordinary, fixed-benefit insurance. It believes, however, that such provisions, with certain modifications to recognize the insurance aspects of the product and the interests of the life insurer and the state insurance commissioners in the operation and performance of the account, will afford variable life insurance purchasers with substantial protections not otherwise provided by other applicable securities or insurance law and regulation. Therefore, the Commission expects that its rule proposal under section 6(e) will not grant total exemption from these important and controversial areas, but will instead provide limited exemptions where necessary or appropriate to reflect the nature of the product, the risks assumed by the life insurer and regulatory activities of state insurance regulators.

The Commission invites interested persons to provide their ideas and specific suggestions now as to how the requirements of the Investment Company Act may be modified to recognize the unique qualities of variable life insurance while maintaining the basic investor protections afforded by the Act. The Commission intends to consider carefully all such ideas and suggestions in its formulation of a proposed rule under section 6(e).

The Commission believes that there are a number of other provisions of the Investment Company Act, the requirements of which could be conditionally modified or from which conditional exemptions could be granted. In order to provide a general framework for comments in this respect, the following is a tentative list of possible actions which the Commission will consider. It should be emphasized that the list is not intended to be complete or final, and that provisions may be added or deleted.

1. Pursuant to the rule, a separate account established to fund certain variable life insurance contracts, as defined in the rule, would be exempt both from section 7, which effectively prohibits an unregistered investment company from operating, and from section 8 (15 U.S.C. 80a–8), which provides for the method of regsitration and the content of the registration statement (although some notification requirement would be imposed), provided that the separate account is established and maintained in accordance with requirements, some of which are now found in Rule 3c–4, and that the account's adviser is registered as an investment adviser under the Advisers Act. The rule would provide that separate accounts funding variable life insurance contracts may comply with every provision of the Investment Company Act as if they were registered open-end investment companies, except for certain specified sections of the Investment Company Act.

2. Partial exemption may be granted from section 9 (15 U.S.C. 80a–9) so that the restrictions of that Section shall be applicable only to officers, directors and employees of the life insurance company or its affiliates who participate directly in the management or administration of the separate account or in the sale of variable life insurance contracts which are funded by such separate account.

3. If accountability to contractholders is to be provided through a board of directors then an exemption from section 10(b)(2) (15 U.S.C. 80a–10(b)(2)) may

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[1] See Investment Company Act Release No. 8000, Investment Advisers Act Release No. 391 (September 20, 1973), published in the FEDERAL REGISTER on September 26, 1973 (38 FR 26816); Investment Company Act Release No. 8216, Investment Advisers Act Release No. 399 (January 31, 1974), published in the FEDERAL REGISTER on February 11, 1974 (39 FR 5209).

[2] Investment Company Act Release No. 8690, Investment Advisers Act. Rel. No. 439 (February 27, 1975).

[3] Securities Act Rel. No. 5360, Securities Exchange Act Rel. No. 9972, Investment Company Act Rel. No. 7644, Investment Advisers Act Rel. No. 359 (January 31, 1973), published in the FEDERAL REGISTER on February 13, 1973 (38 FR 4315).

be appropriate to allow affiliated persons of the principal underwriter of the variable life insurance contracts (ordinarily the life insurance company or an affiliate thereof) to compromise up to sixty percent (60%) of the members of the board of directors of the separate account.

4. The rule may also require as a condition for the exemptions granted that no change of investment policy could be effected if such action is objected to as endangering the solvency of an insurer by the insurance commissioner of the company's state of domicile.

5. Exemption from the provisions of section 14(a) (15 U.S.C. 80a–14(a)) with respect to an account's initial capital requirement may be provided to afford certain variable life insurance separate accounts similar exemption as that provided by Rule 14a–2 (17 CFR 270.14a–2) to certain variable annuity separate accounts.

6. Exemption from the requirements of section 15(a) (15 U.S.C. 80a–15(a)) could be provided similar in scope to that provided for variable annuities pursuant to Rule 15a–3 (17 CFR 270.15a–3). Whether the exemption from section 15(a) for variable life insurance is broader than that applicable to variable annuities will depend on the general determination made by the Commission as to how to implement the accountability provisions of the Act, specifically those relating to voting rights.

7. A limited exemption from the requirement of section 16(a) (15 U.S.C. 80a–16(a)) may be allowed to variable life insurance separate accounts to provide similar treatment to that provided by Rule 16a–1 (17 CFR 270.16a–1) for certain variable annuity separate accounts. Thus, persons serving as directors of a variable life insurance separate account would be exempt initially from the requirement of section 16(a) that such persons be elected by the policyholders at an annual meeting. Here, too, the scope of this exemption would depend on the eventual determination made with respect to voting requirements.

8. A narrow exemption from section 17(d) (15 U.S.C. 80a–17(d)) could be granted. Most life insurance companies currently invest some portion of their general funds in equity securities, and it is anticipated that many companies will establish a separate account that will qualify for exemption under a proposed rule. While the investment policies of the general and separate account may differ, there may be times when an insurance company will wish simultaneously to purchase or sell the same security on behalf of its general account and its separate account. The rule could grant exemption from section 17(d) to permit contemporaneous purchases or contemporaneous sales of the same class or series of securities of the same issuer on behalf of a separate account and the general account of the insurance company.

9. The proposed rule may grant an exemption from the requirements of section 17(f) (15 U.S.C. 80a–17(f)) to allow securities held in a variable life insurance separate account to be held in the custody of the life insurer.

10. In order to effect any changes in the accountability provisions of the Act determined by the Commission to be appropriate, it may be necessary to provide exemption from or modification of section 18(i) (15 U.S.C. 80a–18(i)).

11. The rule could grant exemption from the requirements of section 19 (15 U.S.C. 80a–19) in recognition of the fact that variable life insurance separate accounts will not pay dividends in the sense in which the term is used in this section.

12. In recognition of the fact that variable life insurance contracts will be offered and sold subject to established premium schedules and underwriting standards, and in accordance with State insurance laws, the requirements of sections 22(d) (15 U.S.C. 80a–22(d)) and 22(f) (15 U.S.C. 80a–22(f)) may not be necessary. Similarly, exemptions may be appropriate from the strict application of section 22(e) (15 U.S.C. 80a–22(e)).

13. The basic limitations on sales loads found in section 27 of the Act and the requirement that the contracts be "redeemable securities" as provided in section 27(c)(1) (15 U.S.C. 80a–27(c)(1)) will be applicable to variable life insurance. However, many of the terms and specified requirements found in this section must be defined or modified to be made applicable to variable life insurance. For example, compliance with sections 27(a)(1) (15 U.S.C. 80a–27(a)(1)) and 27(h)(1) (15 U.S.C. 80a–27(h)(1)) must be defined in terms of the maximum number of years over which the sales load must average not more than 9 percent. Those charges which are not "sales loads" as defined in section 2(a)(35) (15 U.S.C. 80a–2(a)(35)) and are to be treated as insurance or administrative charges must be clarified. It is also probable that exemptions now available for variable annuities will be similarly proposed for variable life insurance.

The 45-day redemption right contained in section 27(f) (15 U.S.C. 80a–27(f)) may be modified to conform to the comparable provision in the Model Variable Life Insurance Regulation though explicit notice of this right may be required. The rule also could clarify the applicability of the requirements of section 27(d) (15 U.S.C. 80a–27(d)) by defining portions of the premium which are not to be included for purposes of computation of the amount due upon redemption and the notice and reserve requirements of that section.

14. The rule could provide modifications of the requirements of section 30 (15 U.S.C. 80a–30) and section 31 (15 U.S.C. 80a–31) pertaining to periodic and other reports and accounts and records, in recognition of the applicable requirements of state insurance laws and the unique nature of variable life insurance.

15. The proposed rule may provide exemption from section 32(a) (15 U.S.C. 80a–32(a) similar to present Rule 32a–2 (17 CFR 270.32a–2) with respect to the selection of independent public accountants for the separate account.

All interested persons are invited to submit their written views and comments on the provisions of the Investment Company Act for which exemptions for variable life insurance separate accounts would be necessary or appropriate and the manner in which such exemptions should be provided, including specific exemptive language. Comments should be submitted to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before 5:30 p.m., April 18, 1975. All communications in this regard should refer to File No. S7–554 and will be available for public inspection. After considering such comments, the Commission intends to propose a specific rule for further comment.

By the Commission.

Dated: February 27, 1975.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75–6416 Filed 3–11–75;8:45 am]

notices

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

DEPARTMENT OF STATE

[Public Notice CM-5/25]

GOVERNMENT ADVISORY COMMITTEE ON INTERNATIONAL BOOK AND LIBRARY PROGRAMS

Notice of Meeting

The Government Advisory Committee on International Book and Library Programs will meet in open session in Room 1408 in the Department of State, 2201 C Street, N.W., Washington, D.C. on April 10 and 11, 1975. The meeting will be held from 9 a.m. to 5 p.m. on April 10, and from 9 a.m. to 12 p.m. on April 11.

The Committee will discuss:

1. Final plans for the Nigeria Book Exhibit and Seminar,
2. The future role of the Committee, and
3. A report on American libraries abroad.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting must advise the Executive Secretary by telephone in advance of the meeting. Telephone: 632-2841.

Dated: February 24, 1975.

CAROL M. OWENS,
Executive Secretary.

[FR Doc.75-6329 Filed 3-11-75;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

INDUSTRIAL PERSONNEL SECURITY CLEARANCES, SUPPLEMENTAL INSTRUCTIONS AND GUIDANCE

Issuance of supplemental instructions and guidance under subsection VII.A., DoD Directive 5220.6 "Industrial Personnel Security Clearance Program" (39 FR 28521, 8/8/74).

The Acting Director for Industrial Security Clearance Review, ODASD (Security Policy), Office of the Assistant Secretary of Defense (Comptroller), approved the following on February 26, 1975:

MEMORANDUM FOR EASTERN FIELD OFFICE, WESTERN FIELD OFFICE, ALL DISCR

Subject: As stated above.

I. *Purpose.* This memorandum is published under the authority of DoD Directive 5220.6 (39 FR 28521, 8/8/74) to clarify the procedures to be followed in the issuance of supplemental instructions and guidance. Subsection VII.A. of DoD Directive 5220.6 (§ 155.6(a)) presently provides for the issuance of supplemental instructions and guidance as "Personnel Security Memorandums".

II. *Policy.* All Memoranda of instruction and guidance affecting the procedural or substantive rights of an applicant under DoD Directive 5220.6 (39 FR 28521, 8/8/74) shall be issued under Subsection VII.A. (§ 155.6(a)) as number publications entitled "Personnel Clearance Memorandums" and shall be published in the FEDERAL REGISTER (see § 155.11). Other memoranda of instruction or guidance issued before or after the amendment to subsection VII.A. (§ 155.6(a)) of October 6, 1970 providing for the publication of "Personnel Clearance Memorandums" and not otherwise reissued under the amended section, are without force and effect.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MARCH 7, 1975.

[FR Doc.75-6422 Filed 3-11-75;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON THEATER NUCLEAR FORCES R&D REQUIREMENTS

Advisory Committee Meeting

The Defense Science Board Task Force on Theater Nuclear Forces R&D Requirements will meet in closed session on 31 March and 1 April 1975, at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of technology and systems applicable to theater nuclear forces and indicate promising solutions to the problem area for possible implementation within the Department of Defense.

In accordance with Pub. L. 92-463, section 10, paragraph (d), it has been determined that Defense Science Board meetings concern matters listed in section 552(b) of Title 5 of the United States Code, particularly subparagraph (1) thereof, and that public interest requires such meetings to be closed insofar as the requirements of subsections (a)(1) and (a)(3) of section 10, Pub. L. 92-463 are concerned.

MAURICE W. ROCHE, *Director, Correspondence and Directives, OASD (Comptroller).*

MARCH 7, 1975.

[FR Doc.75-6371 Filed 3-11-75;8:45 am]

Department of the Air Force

UNIFORM CODE OF MILITARY JUSTICE

Court-Martial Sentences

MARCH 3, 1975.

On February 18, 1975, the Secretary of the Air Force directed that effective with court-martial sentences adjudged on and after May 1, 1975, approval of a court-martial sentence which includes the elements set forth in Article 58a, subsection (a) (1), (2), and (3), will reduce an enlisted member of the Air Force in grade only if the approved sentence also includes an approved reduction and, in that case, the member will be reduced only to the grade provided for in the approved reduction. If the supervisory authority or the Judge Advocate General acts to eliminate the reduction from the sentence or to lessen the degree of reduction, such action will correspondingly eliminate or lessen the degree of the reduction under Article 58a. Except as provided above, the grade of enlisted members who have been convicted by courts-martial will be as provided by the sentence of the courts-martial and by applicable regulations. Suitable regulations will be issued to insure that prisoners serving sentences to confinement while in grades above E-1 do not receive advantages and perquisites, other than pay and allowances, not provided for other prisoners.

STANLEY L. ROBERTS,
Colonel, USAF, Chief, Legislative Division Office of The Judge Advocate General.

[FR Doc.75-6320 Filed 3-11-75;8:45 am]

Department of the Army

JUNIOR SCIENCE AND HUMANITIES SYMPOSIA ADVISORY COMMITTEE

Notice of Meeting

In accordance with Pub. L. 92-463, dated October 6, 1972, notice is given of a meeting of the Junior Science and Humanities Symposia (JSHS) Advisory Committee, as follows:

Date: 1 May 1975.
Time: 1530 hours.
Place: U.S. Military Academy, West Point, New York.

Agenda subjects will be as follows:

Introductory remarks—Dr. Marcus E. Hobbs, Chairman.
Introduction of MG George Sammet, Jr.—Colonel Lothrop Mittenthal.
Remarks—MG George Sammet, Jr.
Action on summary of 28th meeting held 17 October 1974, Army Research Office, Durham, North Carolina.

JSHS audio visual presentation—Donald C. Rollins, Director, Duke JSHS Office.
Status of regional programs—Donald Rollins.
Other Army support of JSHS, FY 75—Colonel Lothrop Mittenthal, Commander, US Army Research Office.
Status of 1976 National JSHS—Donald Rollins.
Other items of business.
Date and place of next meeting.

The meeting will be open to the public. For information concerning participation, contact Mrs. Anne G. Taylor, Executive Secretary, JSHS Advisory Committee, U.S. Army Research Office, Box 12211, Research Triangle Park, North Carolina 27709, telephone (919) 549-0641.

Dated: March 5, 1975.

LOTHROP MITTENTHAL,
Col., AD,
Commanding.

[FR Doc.75-6321 Filed 3-11-75;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

CIBA-GEIGY CORP.

Importer of Controlled Substances; Application

By Notice dated January 13, 1975, and published in the FEDERAL REGISTER on January 17, 1975; (40 FR 3018) Pharmaceuticals Division, Ciba-Geigy Corporation, 556 Morris Avenue, Summit, N.J. 07901, made application to the Drug Enforcement Administration to be registered as an Importer of Methylphenidate and Phenmetrazine, basic class controlled substances listed in Schedule II.

No comments or objections having been received, and, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1311.42, the above firm is granted registration as an Importer of Methylphenidate and Phenmetrazine.

Dated: March 5, 1975.

JOHN R. BARTELS, Jr.,
Administrator.

[FR Doc.75-6457 Filed 3-11-75;8:45 am]

HALSEY DRUG CO.

Importer of Controlled Substance; Application

By Notice dated December 20, 1974, and published in the FEDERAL REGISTER on January 3, 1975; (40 FR 803-4) Halsey Drug Company, Inc., 1827 Pacific Street, Brooklyn, N.Y. 11233, made application to the Drug Enforcement Administration to be registered as an Importer of Codeine, a basic class controlled substance listed in Schedule II.

No comments or objections having been received, and, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1311.42, the above firm is granted registration as an Importer of Codeine.

Dated: March 5, 1975.

JOHN R. BARTELS, Jr.,
Administrator.

[FR Doc. 75-6458 Filed 3-11-75; 8:45 am]

STEPAN CHEMICAL CO.

Manufacture of Controlled Substances; Application

By Notice dated January 13, 1975, and published in the FEDERAL REGISTER on January 17, 1975; (40 FR 3018-9) Stepan Chemical Company, Maywood Division, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Cocaine, a basic class controlled substance listed in Schedule II.

No comments or objections having been received, and, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1301.43, the above firm is granted registration as a bulk manufacturer of Cocaine.

Dated: March 5, 1975.

JOHN R. BARTELS, Jr.,
Administrator.

[FR Doc.75-6456 Filed 3-11-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

JOSEPH P. CONGLETON, ET AL.

Endangered Species Petition

MARCH 7, 1975.

The Department of the Interior has been petitioned by Joseph P. Congleton, Zygmunt J. B. Plater, and Hiram G. Hill, Jr., to list the snail darter (*Percina (Imostoma)*) sp., from the Little Tennessee River, as an endangered species according to the expedited emergency procedures of section 4(f)(2)(B)(ii) of the Endangered Species Act of 1973. Notice is hereby given that the petitioners have presented substantial evidence, as required by section 4(c)(2) of the Act, to warrant a review of the situation and action is being initiated immediately on this matter.

FREDERICK WHITE, Jr.,
Acting Director, Fish and Wildlife Service.

MARCH 7, 1975.

[FR Doc.75-6420 Filed 3-11-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation No. A164]

IOWA

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Iowa:

Audubon	Ida
Calhoun	Kossuth
Carroll	Monona
Cass	Palo Alto
Crawford	Pocahontas
Dickinson	Sac
Emmet	Shelby
Greene	Webster
Harrison	Woodbury
Humboldt	

The Secretary has found that this need exists as a result of a natural disaster consisting of a blizzard January 10, 11, and 12, 1975.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Robert D. Ray that such designation be made.

Applications for Emergency loans must be received by this Department no later than April 28, 1975, for physical losses and November 28, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 6th day of March, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-6461 Filed 3-11-75;8:45 am]

[Designation No. A163]

NEVADA

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Nevada:

Clark	Lander
Elko	Lincoln
Eureka	White Pine

The Secretary has found that this need exists as a result of a natural disaster consisting of drought from March 24 through October 24, 1974.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Mike O'Callaghan that such designation be made.

Applications for Emergency loans must be received by this Department no later than April 28, 1975, for physical losses and November 28, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for

subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 5th day of March, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-6462 Filed 3-11-75;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-441]

PRUDENTIAL LINES, INC.

Application

Notice is hereby given that Prudential Lines, Inc., has applied for operating-differential subsidy to aid in the operation of the SS SANTA ANA, a MA Design C4-S-1u type vessel, in its subsidized Line C, Trade Route No. 4, cargo vessel service under a renewed bareboat charter for one-year. The Operator provides or may provide service on Trade Route No. 4 between U.S. Atlantic ports and ports in the Venezuela-Netherlands West Indies-North Coast of Colombia range, with privileges of serving certain other Caribbean and Atlantic areas such as Guantanamo Bay, Cuba, Jamaica, Haiti, Dominican Republic, Guadeloupe, Martinique, Caribbean ports in Central America from Panama to British Honduras, inclusive, and the port of Cristobal, Canal Zone. No change is proposed by Prudential Lines, Inc., in its operating-differential subsidy contract Trade Route No. 4 sailing requirements from the present minimum of 44 and maximum of 52 per annum for the duration of the one-year charter.

Any person having an interest in the granting of such application and who would contest a finding by the Maritime Subsidy Board that the Service now provided by vessels of United States registry on Trade Route No. 4 is inadequate must, on or before March 21, 1975, notify the Secretary, Maritime Subsidy Board, in writing, of his interest and position and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board (46 CFR Part 201).

Each such Statement of interest and petition to intervene shall state whether a hearing is requested under section 605 (c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175) and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of United States registry in such essential service is inadequate, and (2) whether in the accomplishment of the purpose and policy of the Act additional vessels should be operated therein.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: March 6, 1975.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.75-6480 Filed 3-11-75;8:45 am]

National Bureau of Standards

HOT-ROLLED RAIL STEEL BARS

Action on Proposed Withdrawal of Commercial Standard

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the withdrawal of Commercial Standard CS 150-63, "Hot-Rolled Rail Steel Bars (Produced from Tee-Section Rails)."

It has been determined that this standard is no longer technically adequate and no longer used by the industry, and in view of the existence of an up-to-date standard identified as American Society for Testing and Materials A499-74, "Standard Specification for Hot-Rolled Rail Carbon Steel Bars and Shapes," revision of this Commercial Standard would serve no useful purpose. This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of January 3, 1975 (40 FR 818), to withdraw this standard.

The effective date for the withdrawal of this standard will be May 12, 1975. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

RICHARD W. ROBERTS,
Director.

MARCH 5, 1975.

[FR Doc.75-6365 Filed 3-11-75;8:45 am]

National Oceanic and Atmospheric Administration

MRS. DIANNA WILSON ALLEN

Issuance of Permit for Marine Mammals

On May 20, 1974, notice was published in the FEDERAL REGISTER (39 FR 17784), that an application had been filed with the National Marine Fisheries Service by Mrs. Dianna Wilson Allen, P.O. Box 971, Donna, Texas 78537, for a permit to take two (2) California sea lions (*Zalophus californianus*) for training and exhibit in a traveling sea lion show.

Notice is hereby given that, on February 28, 1975, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit to Mrs. Dianna Wilson Allen, subject to certain conditions set forth therein. The permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, in the Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, and in the Office of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Dated: February 28, 1975.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

[FR Doc.75-6384 Filed 3-11-75;8:45 am]

HONG KONG JOCKEY CLUB (CHARITIES) LTD. AND LA GALOPERIE

Denial of Permit Applications

On April 10, 1974, notice was published in the FEDERAL REGISTER (39 FR 13014) that applications had been submitted to the National Marine Fisheries Service by The Hong Kong Jockey Club (Charities) Ltd., Ocean Park Limited, Prince's Building, Hong Kong and La Galoperie, Societe a Responsabilite Limitee au Capital de 290,000 Fr, 59 Anor (Nord) France, for permits to take certain marine mammals for the purpose of public display. The Hong Kong Jockey Club requested to take ten (10) California sea lions (*Zalophus californianus*) and ten (10) Pacific harbor seals (*Phoca vitulina richardii*) and La Galoperie requested to take three (3) Atlantic bottlenosed dolphins (*Tursiops truncatus*) and two (2) California sea lions (*Zalophus californianus*).

Notice is hereby given that the National Marine Fisheries Service (NMFS), after consultation with the Marine Mammal Commission and following due consideration of the record of a public hearing on these requests, has denied the above permit applications.

The denial of La Galoperie application was based, in part, on a lack of showing in the application that existing and proposed facilities were adequate for proper care of the animals requested; and, in part, on the lack of a mechanism to properly follow up on the activities of the facility to assure that it was complying with the conditions of a permit, if one were issued.

The denial of The Hong Kong Jockey Club application was based on the absence of a mechanism which could verify the statements concerning the

adequacy of its facilities set forth in the application as well as properly follow up on the Club's activities, to assure that it was complying with the conditions of a permit, if one were issued. Verification of statements and follow up is accomplished in the United States by recognized veterinarians and personnel of the National Marine Fisheries Service (NMFS).

The NMFS has determined that, under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), its responsibilities with respect to the care and maintenance of animals in facilities outside the jurisdiction of the United States can be met only if there is independent evidence upon which to base a conclusion as to the reliability of statements concerning existing or planned facilities set forth in an application, as well as independent evidence that the government having jurisdiction over the facility has the appropriate laws and regulations to ensure compliance with permit conditions (and is willing to do so) and will provide to NMFS essential periodic reports.

Therefore, no application from a foreign facility for a permit to take marine mammals for export from the United States will be considered unless:

(a) it is submitted to the Director, NMFS, through an appropriate agency of a foreign government;

(b) it includes, in addition to the information required by pertinent regulations (39 FR 14348, April 23, 1974),

i. a certification from such appropriate government agency verifying the information set forth in the application;

ii. a certification from such appropriate government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. a statement that the government concerned will afford comity to a NMFS decision to amend, suspend, or revoke a permit.

For purposes of obtaining certification from the appropriate government agency, a foreign facility may obtain a copy of the general conditions to a permit by writing to: The Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

For purposes of this notice and the processing of all applications from a foreign facility for a permit, "appropriate government agency" means that agency or agencies of a foreign government which perform functions and activities similar to the functions and activities performed by the NMFS.

The denials of the above applications are without prejudice. Either applicant may resubmit its application in accordance with the above guidelines. The above guidelines, in addition to those in 39 FR 14348, will be used as the basis for evaluating all applications for permits from foreign facilities.

Dated: March 6, 1975.

JACK W. GEHRINGER,
Acting Director.

[FR Doc.75-6386 Filed 3-11-75;8:45 am]

MARINE ATTRACTIONS, INC.

Issuance of Permit for Marine Mammals

On October 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 35828) that an application had been filed with the National Marine Fisheries Service by Marine Attractions, Inc., Aquatarium and Zoological Gardens, 6500 Beach Plaza Road, P.O. Box 6086, St. Petersburg Beach, Florida 33736, for a Public Display Permit to take twenty (20) Atlantic bottlenosed dolphins (*Tursiops truncatus*).

Notice is hereby given that, on March 3, 1975, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above described taking to Marine Attractions, Inc. subject to certain conditions set forth therein. The permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and in the Office of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

MARCH 3, 1975.

[FR Doc.75-6385 Filed 3-11-75;8:45 am]

MYSTIC MARINELIFE AQUARIUM

Issuance of Permit for Marine Mammals

On October 21, 1974, notice was published in the FEDERAL REGISTER (39 FR 37408), that an application had been filed with the National Marine Fisheries Service by Mystic Marinelife Aquarium, P.O. Box 190, Mystic, Connecticut 06355, for a permit to take two (2) California sea lions (*Zalophus californianus*) for public display.

Notice is hereby given that, on February 28, 1975, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit authorizing Mystic Marinelife Aquarium to take two beached and stranded sea lions that were placed in temporary custody of Marinelife of the Pacific by the State of California, subject to certain conditions set forth therein. The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and the Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, and the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

FEBRUARY 28, 1975.

[FR Doc.75-6383 Filed 3-11-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

OFFICE OF ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part I of the Statement of Organization, functions, and Delegations of Authority for the Department of Health, Education, and Welfare is hereby amended. The new chapter supersedes chapter IT 30 (38 FR 16404, June 22, 1973) and IT 300101 (38 FR 26223, September 19, 1973). It deletes the Operations Staff and transfers appropriate functions to a new Administrative Staff and separates the OS Federal Women's Program Staff and the OS Spanish-Speaking Program Staff from the OS Equal Employment Opportunity Staff. The Division of Safety Management, Division of Central Payroll, the Printing and Publications Management Staff, and the Minority Business Assistance Staff are transferred to other parts of the Office of the Assistant Secretary for Administration and Management. The new chapter reads as follows:

SEC. IT30.00 *Mission.* The Office of Administration is a component of the Office of the Assistant Secretary for Administration and Management and provides advice and services on matters having to do with administrative services and personnel operations and equal employment opportunity to departmental headquarters and the provision of department wide leadership in the areas of administrative services, emergency coordination, and data management.

SEC. IT30.10 *Organization.* The Office of Administration which is under a Director who reports to the Assistant Secretary for Administration and Management consists of the following components:

Office of the Director.
Division of Administrative Services.
Division of Emergency Coordination.
Division of OS Personnel.
Data Management Center.
Administrative Staff.
OS Equal Employment Opportunity Staff.
OS Federal Women's Program Staff.
OS Spanish-Speaking Program Staff.

SEC. IT30.20 *Functions.* A. OFFICE OF THE DIRECTOR. The Office of the Director provides leadership, policy guidance, and supervision of all activities, as well as coordinating long- and short-range planning to constituent units.

B. *Division of Administrative Services.* The Division of Administrative Services is responsible for the development and provision of centralized, common and general administrative services, and staff support functions for the Office of the Secretary and Department principal operating components at headquarters. The functions of the Division are as follows:

1. Printing and Visual Systems Branch plans and directs the printing management and visual systems program of the Office of the Secretary through the operation of the Department printing plant and other organizational elements; provides offset, duplicating, photographic, collating, copy preparation, visual-graphic, and addressograph services. Provides printing and visual systems advisory services and centralized procurement of the services from outside sources.

2. Supply Operations Branch plans and directs the provision of centralized purchasing and contracting services for administrative supplies, professional, technical and research requirements; administers program contracts sponsored by OS officials. Provides supply, storage, shipping and receiving, and laboring services for department headquarters activities. Maintains personal property management accounts and administers the publications storage and distribution program of the Office of the Secretary. Provides staff assistance and guidance to program management personnel on purchasing, contracting, and supply, procedures.

3. Communications Branch plans and directs the communication management programs for the Office of the Secretary; has Department-wide responsibility for postal services and mail management; provides OS centralized mail, messenger, telegraph, transportation, and legislative materials distribution services; administers the OS central files, records management and disposal, and forms management activities.

4. Department Library Branch plans and directs a program for library activities and services Department-wide; provides general reference, historical, bibliographic, subject area, and specialized materials services; provides staff assistance, guidance, and direction throughout the Department; services as liaison with the Federal Library Committee and the Library of Congress.

C. *Division of Emergency Coordination.* The Division of Emergency Coordination serves as the HEW focal point for all emergency preparedness, planning, and operations activities. The head of the staff is designated as the Emergency Coordinator. The functions of the Division are as follows:

1. Participates in conferences or negotiations with representatives of Federal agencies, such as Department of Defense, Office of Management and Budget, and other governmental and non-governmental agencies, for the purpose of developing or implementing national mobilization and readiness measures, including those related to natural disasters; maintains continuing liaison with Federal agencies (DOD, OEP, etc.) and with private organizations (American National Red Cross, State Association of Civil Defense Directors, etc.) which have non-military defense assignments or interests; facilitates the day-to-day working relationships of HEW operating units with these agencies.

2. Coordinates readiness measures for the Department related to non-military defense under the overall leadership and guidance of the Office of Emergency Preparedness in accordance with Pub. L. 920, 81st Congress, Reorganization Plan No. 1 of 1958, and related legislation, and Executive Orders 11490 and 10958.

3. Keeps the Secretary and senior staff of the Department (Assistant Secretaries, agency heads and members of the Secretary's immediate staff, as appropriate) informed of all major government-wide developments in readiness planning and of progress in developing and maintaining HEW readiness capability. Recommends additional steps and, when necessary, corrective action; develops and maintains the Emergency Planning and Operations Manual of the Department. The Emergency Coordinator is also custodian for the Secretary of important policy guidance and emergency action documents which are required to be classified; supervises readiness cadres at two headquarters relocation sites; maintains and tests the Department's alerting procedures for notification of relocatees; prepares instructional material governing the actions of key officials (relocatees) in the event of a national emergency; coordinates HEW participation in national and regional interagency readiness tests and exercises.

4. Provides consultation, guidance, and assistance to the HEW Regional Directors to aid in their development and maintenance of regional emergency operational readiness as required by the Secretary's directive (35 FR 13546).

5. Prepares budget estimates and justification and other supporting material required by the Office of Emergency Preparedness, the Office of Management and Budget, and the Congress, and participates in Appropriations Committee hearings having to do with the Department's defense activities when requested; coordinates the receipt and approval of all contracts and agreements with other Federal agencies involving defense assignments and related research.

6. Coordinates HEW natural disaster assistance and relief activities to assure expedited response to State and local government requests for HEW aid; manages disaster information and reporting system; coordinates the performance of other actions required of the Department by Pub. L. 91-606 and Executive Order 11575, section 4.

D. *Division of OS Personnel.* The division assists and advises in the formulation and development of personnel policies and implementation of established policy for the Office of the Secretary. The division provides services in the areas of recruitment and placement, classification, employee relations, employee development, and other personnel services in the Office of the Secretary.

1. Personnel Staffing and Data Control Branch is responsible for all staffing and pay setting activities of employees in the Office of the Secretary headquarters through GS-15 and wage grade equivalents, and consultants and experts; responsible for processing a variety of personnel/payroll data elements into an automated personnel data system, and for maintaining the basic personnel records, such as official Personnel Folders, organizational listings, service records, card files and retention registers for purposes of reduction-in-force.

2. Classification Branch plans, administers, and maintains a comprehensive position classification and wage administration program. The program encompasses General Schedule, Wage System, including Lithographic, Excepted Service and expert and consultant positions for OS Headquarters. Plans and implements a Position Management Program. In classification surveys and daily operations makes continuous analyses and appraisal of position structure to determine that work is organized and assigned among positions in the most efficient and economical manner to assure the related effective use of manpower resources.

3. Employee Relations Branch plans and administers programs in employee relations for the Office of the Secretary; represents the Division of OS Personnel in various proceedings; provides advice and guidance to operating officials and employees on employee benefits and services, grievances and appeals, disciplinary actions, awards, and related matters; provides advisory service to employees for child day care service; coordinates the employee alcohol and drug abuse programs; serves as OS liaison with the Health Unit for program coordination; publishes employee newspaper.

4. Employee Training Branch designs programs that provide career training to all OS clerical, professional, management and high-level staff personnel; determines total OS training needs and develops annual training plans to service those needs; investigates feasibility of creating new types of training, as needed, and works with operating officials in planning and implementing training; presents full range of clerical, professional and management training opportunities to employee force to meet present or anticipated career; evaluates, revises and otherwise improves programs.

5. Employee Development Center is responsible for planning and administering the Office of the Secretary Upward Mobility Program in the areas of Job Restructuring Employee Counseling, Employee Training and Career Development.

6. Labor Relations Branch plans and administers programs in labor relations for the Office of the Secretary; conducts negotiations with employee organizations; provides advice and guidance to operating officials in dispute resolution and other labor relations matters.

E. *Data Management Center.* The Data Management Center provides for the Department upon request computer systems design, programming, and data processing, and an operational integrated data base to meet reporting requirements and maintenance of consolidated financial and related statistical reporting services Department-wide on a fee-for-service basis. Its specific components and functions are:

1. Advanced Systems Research and Development Group analyzes new developments in the computer industry and designs computer systems that will take advantage of the most advanced "state of the art" techniques in computer science, information science, scientific management, operations research, and mathematical statistics; conducts long-range computer center planning and computer requirements.

2. Management Information Systems Group develops, implements, and maintains Department information systems. Provides access to a comprehensive integrated financial data base to meet the Department's reporting requirements in the financial and related statistical reporting services. Establishes uniform data elements classifications, terminologies and recommends policies to be used Department-wide in statistical and financial management automated applications. Establishes and directs implementation of a Department "Grant-in-Aid" Reporting System for Consolidated Activities of all operating agencies. Develops and implements on a continuing basis necessary data storage, retrieval and display systems for management and statistical information and reports.

3. The Division of Data Processing acquires, maintains, and operates ADP equipment; develops and maintains teleprocessing support systems; provides support services for submission, monitoring, and quality control of recurring production programs; provides computer out-put microfilm (COM) services, including processing, duplicating and editing; prepares proposals and monitors contracts for keypunching and machine services; develops computer operations standards and guidelines; prepares short- and long-range forecasts for data processing requirements and maintains an ADP Technical Library for computer center users.

4. The Division of Systems Planning analyzes, designs, and maintains automated data processing systems; provides programming services; prepares proposals and monitors contracts for systems analysis, design, and programming; implements policies and procedures related to systems analysis and programming operations.

F. *Administrative Staff.*—The Administrative Staff assists the Director in the management of the Office by formulating recommendations for plans and policies related to administrative and fiscal activities and procedures. Its principal functions are:

1. Prepares internal manuals and directives as necessary; coordinates requests for personnel actions with the Division of OS Personnel; conducts reviews of organizations, functions, and delegations of authority; conducts analyses of operations and management practices and procedures; develops and maintains the OA's applications of the Manpower Utilization program; prepares reports pertinent to the Office of Administration participation in the DHEW Management Improvement Program; develops performance indices and standards data for management review of effectiveness of the Office of Administration operations.

2. Formulates budget estimates and oversees the preparation of the operating budget and oversees all aspects of budget execution; maintains or keeps in touch with those who maintain funds control and coordination of accounting and reporting; coordinates the budgetary and fiscal activities with the Working Capital Fund in cooperation with the Assistant Secretary, Comptroller; produces statistics to review management's posture relative to program objectives and budget constraints; maintains position control data; and develops and publishes periodic status of funds reports for organizational units and top management.

G. *OS Equal Employment Opportunity Staff.* Carries out activities within OS as mandated by Executive Order 11478 and Pub. L. 92–21, as amended by Pub. L. 92–261 (42 U.S.C. 2000e–16), which require the establishment and maintenance of a positive program of non-discrimination in employment. Its major functions are:

1. Provides direction and guidance on the EEO system to OS managers and employees through development and issuance of directives, instructions, and guidelines.

2. Coordinates and formulates the OS Annual Affirmative Action Plan; monitors and evaluates efficiency and effectiveness of the OS plan.

3. Monitors OS EEO complaint system and prepares proposed dispositions on all formal complaints; ensures adequacy of counselors and investigators through training and assignment.

4. Maintains surveillance over minority employment data, provides leadership and assistance in the design, development, and issuance of manpower information relevant to minority and female employment profiles through the OS Department and agency automatic data systems.

5. Is functionally accountable to the Director of EEO through the Department-level EEO staff.

H. *OS Federal Women's Program Staff.* As a component of the total EEO program in the Office of the Secretary, performs a liaison and advocate role for activities within OS involving the establishment and maintenance of a positive program of activities related to the status of women in the Office of the Secretary. Its major functions are:

1. Develops recommendations of policies, and provides direction and guidance on activities related to the status of women employed by the Office of the Secretary.

2. Develops and issues guidelines providing technical advice in assuring understanding and positive attitudes toward equal employment opportunities for women to OS managers and employees.

3. Coordinates and provides liaison function for the OS with other Federal agencies, national women's organizations, and women employees to develop awareness of the needs and attitudes of women affected by OS programs and to provide leadership in the creation of quality programs.

4. Analyzes the employment status of women in OS, and prepares reports evaluating the effectiveness of the OS Federal Women's Program, identifying problems, and recommending alternatives.

5. Is functionally accountable to the Director of HEW Federal Women's Program through the Department-level EEO staff.

I. *OS Spanish-Speaking Program Staff.* As a component of the total EEO program in the Office of the Secretary, performs a liaison and advocate role for activities within OS related to the recruitment of Spanish-Speaking employees and the establishment and maintenance of methods tailored specifically to the employment and impact of Federal programs on the Spanish-speaking. More specifically:

1. Advises OS managers in implementing the Spanish-speaking program, providing guidance in recruitment, training, upward mobility and career counseling.

2. Maintains effective liaison with other HEW Spanish-speaking Program Coordinators, with Spanish-speaking organizations, both Federal and private, for interchange of information relative to agency needs, job opportunities, goals and objectives of the Spanish-speaking program, and progress.

3. Counsels Spanish-speaking employees in all areas related to their employment and represents the OS at meetings affecting Spanish employees. Acts as advisor on the Spanish-speaking program to the OS EEO Officer.

4. Develops and implements OS policy related to the recruitment, employment, upward mobility, and training of the Spanish-speaking and Spanish-surnamed employees.

5. Is functionally accountable to the Director of HEW Spanish-Surnamed Program through the Department level EEO staff.

Dated: March 3, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.75-6451 Filed 3-11-75;8:45 am]

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

Statement of Organization, Functions, and Delegations of Authority

Part 1 of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare is amended to revise Section 1T Office of the Assistant Secretary for Administration and Management (38 FR 17521, July 2, 1973, as amended). The changes are intended to streamline the Immediate Office, reduce the number of officials reporting directly to the Assistant Secretary, and more effectively distribute certain activities of the Office of Administration. The revised Section 1T is as follows:

SEC. 1T.00 *Mission.* The Office of the Assistant Secretary for Administration and Management exercises the authority of the Secretary for the administrative management functions (exclusive of financial management) of the Department. The Assistant Secretary for Administration and Management, as appropriate, serves as the principal advisor to the Secretary on matters of administrative management.

SEC. 1T.10 *Organization.* A. The Assistant Secretary for Administration and Management reports to the Secretary and supervises the following Offices:

Executive Staff.
Offices of Equal Employment Opportunity: HEW Federal Women's Program Staff; HEW Equal Employment Opportunity Staff; HEW Spanish Speaking Program Staff.
Office of Management Planning and Technology.
Office of Administration.
Office of Personnel and Training.
Office of Facilities Engineering and Property Management.
Office of Grants and Procurement Management.
Office of Investigations and Security.

B. During the absence or inability of the Assistant Secretary for Administration and Management or in the event of a vacancy in that Office, the Deputy Assistant Secretary for Management Planning and Technology serves as Acting Assistant Secretary for Administration and Management. During the absence of both the Assistant Secretary and the aforementioned Deputy or in the event of vacancies in both Offices, one of the office heads, properly designated, will serve as Acting Assistant Secretary for Administration and Management.

SEC. 1T.20 *Functions.* The Office of the Assistant Secretary for Administration and Management performs for the Secretary the administrative management functions (exclusive of financial management) of the Department. In carrying out these responsibilities, the Office of the Assistant Secretary for Administration and Management performs the following functions:

A. The Executive Staff serves as the principal staff of the Assistant Secretary in matters relating to his office, such as personnel, budget, correspondence and facilities; interfaces as directed with other elements of the Department; advises on matters of concern; and performs special assignments as requested.

B. The Offices of Equal Employment Opportunity serve as the principal advisors on matters relating to the status of women in the Department, HEW equal employment opportunity, and the Spanish Speaking Program.

C. The Office of Management Planning and Technology serves as the Secretary's principal staff to ensure that the organization, and the management policies, procedures, and systems of the Department contribute to the effective and efficient achievement of the Department's goals; develops policies and procedures on, and takes other actions to effect compliance with the National Environmental Policy Act of 1969; coordinates international activities of agencies and programs; and coordinates Department activities related to Fair Information Practice.

D. The Office of Administration advises on and/or provides services relative to personnel operations, equal employment opportunity in the Office of the Secretary, defense coordination, data management, new careers, minority business assistance, and administrative services.

E. The Office of Personnel and Training advises and acts for the Secretary on personnel management and training matters affecting HEW employees; formulates policies and plans broad programs under which the personnel and training functions will be carried out throughout the Department; maintains cognizance of such policies and programs; and represents the Department on personnel and training matters with the Civil Service Commission, other Federal agencies, the Congress, and the public. Provides Department-wide central payroll services.

F. The Office of Facilities Engineering and Property Management provides architectural/engineering policy direction and services for both direct Federal and federally assisted construction activity; manages an integrated facilities engineering system for all DHEW-owned or operated real property; Makes available Federal surplus property to health, education, and civil defense donees; and Provides Department-wide safety management program leadership and services.

G. The Office of Grants and Procurement Management provides staff support and technical assistance to the Office of the Secretary and manages the procurement, materiel, and grants functions of the Department; conducts comprehensive evaluations of all departmental procurement, materiel and grant activities.

H. The Office of Investigations and Security serves as the Secretary's staff to ensure compliance with established requirements for management of programs and utilization of Federal assistance funds provided by the Department in accordance with applicable laws and regulations, and ensures that the security program provides for the internal security of the Department. (Sub-elements of the above-listed units are specified in subsections.)

SEC. 1T.30 *Delegations of Authority.* A. Except as specifically reserved to the Secretary or delegated or assigned to other officials of the Department not under the supervision of the Assistant Secretary for Administration and Management, the Assistant Secretary for Administration and Management is authorized to perform all administrative and management functions of the Secretary excluding financial management functions. In exercising this authority, the Assistant Secretary for Administration and Management may redelegate any portion thereof and authorize further redelegations.

B. The Assistant Secretary for Administration and Management is authorized to exercise the authority of the Secretary under 42 U.S.C. 3505 relating to directing the use of the Department seal.

C. The Assistant Secretary for Administration and Management is authorized to exercise the authority granted to the Secretary to make determinations and allocations for education, public health, and civil defense purposes as authorized by section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)), and the Federal Civil Defense Administration (Defense Civil Preparedness Agency, Department of Defense) Delegation 5, and to take such action as may be necessary in connection with the assignment, disposal, and utilization of surplus property for educational and public health purposes pursuant to section 203(k) of the Act, except that any action which is required to be taken by the Secretary shall be prepared and submitted to the Secretary for approval.

Dated: March 3, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.75-6455 Filed 3-11-75;8:45 am]

OFFICE OF MANAGEMENT PLANNING AND TECHNOLOGY

Statement of Organization, Functions, and Delegations of Authority

Chapter 1T40 of Part 1 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Office of the Secretary, Office of the Assistant Secretary for Administration and Management, is amended to reflect the addition of the Printing and Publications Management Staff and the Media Management Information Systems Staff to the Office of Management Planning, and the addition, as separate offices of the Office of International Affairs Management, the Office of Environmental Affairs, and the Fair Information Practice Staff. The amended statement reads as follows:

SEC. 1T40.00 *Mission.* Under the direction of the Assistant Secretary for Administration and Management, the Office of Management Planning and Technology serves as the Secretary's principal staff to ensure that the organization, management policies, procedures, and systems of the Department contribute to the effective and efficient achievement of the Department's goals. Specifically, the objectives of the organization are:

A. Provide the Department with a center for (a) the development of innovative and realistic management concepts (b) the development of measures to place the concepts into effect, (c) the technical expertise to implement the measures, (d) the determination of how successful the implemented measures are accomplishing the Department's goals.

B. Ensure the accountability of line and staff offices to the Secretary whereby individuals responsible for certain accomplishments are evaluated on their performance vis-a-vis their stated objectives.

C. Institutionalize good management principles (for example, management-by-objectives and the effective use of management information systems) in order that the principal operating components and OS offices can better accomplish their objectives.

D. Provide the Secretary and Under Secretary with means of effecting management control over the Department, enabling them to decentralize decision-making to the lowest practical levels of organization.

E. Recommend to the Secretary action for rationalizing the missions and functions and improving the organization of the headquarters regional and field offices.

F. Provide the Secretary with management information which enables him and his staff to ensure control over the Department and to take corrective actions before anticipated problems become actual or minor problems become major and devise an optimal management information system.

G. Identify organizational impediments to achieving the Department's objectives.

H. Provide for and control a clear distribution of authority throughout the Department and a comprehensive and integrated organizational manual which specifies this distribution.

I. Evaluate the management effectiveness of the principal operating components and offices of the Department in accordance with directives of the Office of Management and Budget and the Secretary's directions.

SEC. 1T40.10 *Organization.*—The Office of Management Planning and Technology is under the direction of the Deputy Assistant Secretary for Management Planning and Technology and consists of the following elements:

Office of the Director.
Office of Management Planning:
  Division of Program Management Analysis.
  Division of Organizational Analysis.
  Division of Management Improvement.
  Division of Management Policy and Directives.
  Printing and Publications Management Staff.
  Media Management Information Systems Staff.
Office of Management Technology:
  Division of Management Information Systems.
  Division of Management Sciences.
  Division of ADP and Telecommunications Resources.
Office of International Affairs Management.
Office of Environmental Affairs.
Management Control Staff.
Fair Information Practice Staff.

SEC. 1T40.20 *Functions.*—A. *Office of the Director.* 1. Directs and coordinates the activities of the Office of Management Planning and Technology.

2. Through the medium of ad hoc Management Evaluation Teams, optimizes the use of analytical staffs to accomplish complex, priority assignments and studies.

B. *Office of Management Planning.* 1. Serves as the principal element of the office with respect to: organizational planning, review, approval, and documentation; management development; industrial management techniques applicable to public sector; principal operating component management improvement program; and principal operating component staffing standards program. With respect to the foregoing: (a) develops and recommends Departmental policies, standards, systems, procedures, and program plans; (b) provides technical assistance to principal operating components; and (c) evaluates the technical adequacy of principal operating component performance.

2. Conducts special studies to: (a) resolve specific management problems and (b) identify problems and develop solutions relating to all phases of principal operating component management and operations.

3. Develops solutions to management problems using the systems approach to principal operating component management, including the use of various analytical and managerial techniques for problem solving and decision making.

4. Conducts technical studies using industrial management engineering practices, operations research analyses, mathematical techniques, scheduling and control systems such as PERT, Critical Path Method, and other program control and evaluation techniques.

5. Using approved work measurement methods and staffing standards, or in the absence thereof, after developing necessary methods and standards, conducts studies to validate existing staffing standards and their relationships to manpower productivity and program output.

6. Develops and administers the principal operating component system for approval and documentation of organization changes, functional assignments, delegations of authority, and creation and dissolution of committees.

7. Develops, recommends, and evaluates principal operating component policies, standards, systems, procedures, and program plans with respect to principal operating component directives, records, reports, and other paperwork management programs.

8. Works closely with the Office of Management Technology staff to apply latest technological developments to Department and principal operating component problems and programs involving records systems, file equipment and supplies, records and forms (including design, storage, and disposal), directives, correspondence, and staff manual distribution programs.

9. Publishes reports and forms catalogs, directives checklists, official glossaries, and other similar reference documents.

10. Reviews and coordinates all public reporting and record keeping requirements with the Office of Management and Budget and other Government agencies under the provisions of 44 U.S.C. 3501 et seq.

11. Manages the DHEW directives system. Provides guidance to directives management officers. Maintains identification and control of DHEW directives and the master reference file.

12. Develops and promulgates plans, policies, and procedures in the management of the Departmentwide Printing and Publications Management Program encompassing all principal operating components and regions.

13. Advises top Departmental management on matters pertaining to management and direction of the Department's printing and publications program and provides leadership and direction to the principal operating components in planning, executing, and evaluating printing and reprographics programs.

14. Provides liaison for the Department with the Congressional Joint Committee on Printing, Government Printing Office, other Government agencies, and private industry on printing and publications management matters.

15. Provides staff and technical assistance and policy determination in the analysis, design, development and operation of media information and communications management systems within the Office of the Secretary; coordinates and assists in the establishment or promulgation of such systems in a networking arrangement pertaining to HEW principal operating components and regions. When mutually beneficial, maintains coordination and liaison with other Federal agencies in the development and participation in interactive systems and networking proposals for Media Management Information Systems purposes.

C. *Office of Management Technology.* 1. Provides leadership, policy direction, and technical assistance in evaluating and applying management science to Departmental operations and evaluations.

2. Develops and enforces policies and standards for information systems throughout the Department.

3. Determines and enforces mathematical and statistical policies and standards for the Department.

4. Develops systems to ensure accountability measurement of Departmental managers.

5. Develops ADP and telecommunications policies, standards, systems, and procedures.

6. Develops long-range plans for future automatic data processing and Departmental telecommunications systems and resources.

7. Reviews existing ADP and Departmental telecommunications systems for performance against approved plans and for conformity with policy and standards.

8. Provides Departmental leadership to improve management evaluation and methodology by use of technological improvements.

9. Sets specifications for equipment and resources against required performance.

10. Coordinates the integration of program and management data needs and automatic data processing systems across functional and organizational lines.

11. Coordinates ADP resources requirements with available or proposed funding and establishes priorities.

12. Develops measures of current program performance and provides technical leadership in application of these measures to management evaluation.

13. Develops methodology based on the state of the art of management science for work measurement productivity determination and provides interpretations and technical assistance in application of the measures to internal operations.

D. *Office of International Affairs Management.* 1. Serves as the primary source of advice and counsel to the Secretary and the Assistant Secretary for Administration and Management for policy development and management aspects of the Department's international affairs and commitments. Maintains an overview of the international activities of the various principal operating components of the Department to ensure that these activities conform with overall Department policy. Represents the Department in discussions of international policy matters with representatives of executive departments and agencies, international organizations, and the private sector. At the request of the State Department, coordinates the nomination of Departmental personnel and public members to serve on official U.S. delegations or as participants in international conferences.

2. In his capacity as Special Assistant to the Secretary, the Director of the Office informs and advises the Secretary on international developments of concern to the Department, provides general staff support as required, and represents the Secretary, as he directs, in international matters.

3. Provides a policy and program management overview to principal operating components of the Department concerning DHEW's international activities.

4. Provides a focus within the Department for cross-cutting international problems and considerations and a contact point for those outside the Department seeking information and cooperation on international matters.

5. Reviews proposed agency program and budget submissions to identify potential duplications of effort or conflict in international matters, and most importantly, to foster the maximum use of projects and resulting information and data by all elements of the Department, as appropriate.

6. Represents the Department, when appropriate, in discussions of international policy matters with representatives of executive departments and agencies, international organizations, and the private sector. Reviews all formal agreements with other departments and agencies involving Department participation in international programs.

7. Coordinates the preparation of position papers and other materials by the principal operating components for use by U.S. delegations at intergovernmental international organization meetings, conferences, and assemblies, and, as appropriate, drafts DHEW coordinated position papers.

8. Coordinates the Department's participation in, and recommends courses of action with respect to, the activities of governmental and non-governmental international organizations. At the request of the Department of State, coordinates the nomination of Departmental personnel and public members to serve on official U.S. delegations or as participants in international conferences. Also facilitates nominations of candidates from the public and private sectors when required or desirable for positions with international agencies.

9. Formulates and monitors foreign travel procedures, including the establishment of ceilings, review and approval of foreign travel plans and amendments to them, and distributes travel-related information to DHEW principal operating components.

10. Chairs and provides administrative and secretarial support to the Exchange Visitor Waiver Review Board in its efforts to ensure thorough and equitable evaluations of applications for waivers for the 2-year foreign residence requirement of the exchange visitor program. Recommends to the Department of State for or against waivers for cases involving professional competencies of special interest to this Department. Assists the Board in giving particular attention to the relationship of the Department's waiver policies to the international mobility of manpower and its implications for the migration of talent from the developing countries.

E. *Office of Environmental Affairs.* The Office of Environmental Affairs coordinates environmental activities. In so doing, the Office: develops Departmental policy, procedures, and criteria in implementation of the National Environmental Policy Act of 1969, and recommends the approval of such to the Secretary; coordinates the development of internal procedures and criteria; monitors compliance and approves the issuance of draft and final Environmental Impact Statements and the issuance of official DHEW comments with respect to impact statements submitted for review by other departments; provides technical assistance to State and local agencies; and maintains liaison with the Council on Environmental Quality and the Environmental Protection Agency.

F. *Management Control Staff.* 1. Operates the Departmental Operational Planning System (management by objectives) and provides the staff assistance for the Secretary's Management Conferences.

2. Serves as the Secretary's staff to review and evaluate proposed policy implementation plans and monitors the execution of the plans.

3. Directs the institutionalization of results-oriented management throughout the Department.

4. Develops a pool of expertise on the programs and management of each principal operating component of the Department.

5. For each principal operating component, provides the Secretary and his key staff with recommendations to solve management problems and with suggestions to improve principal operating component management.

6. Advises the OS on the management constraints and problems of each particular principal operating component and their impact on policy decisions, legislation, budget, forward planning and evaluation.

7. Provides the Secretary with a quick response capability for issues regarding management problems or issues where rapid answer is necessary.

G. *Fair Information Practice Staff.* 1. Serves as principal advisor to the Assistant Secretary for Administration and Management for all fair information practice related matters.

2. Provides leadership and direction to the Department's Fair Information Practice Program.

3. Develops Departmental policy regarding fair information practice, regulations and implementation plans.

4. Monitors Departmental progress in all aspects of fair information practice and prepares reports and analyses.

5. Reviews and develops Department positions on all proposed legislation and regulations for conformance with sound fair information practice.

6. Provides technical assistance and advice concerning fair information practice to all principal operating components and OS offices and acts as staff to the Secretary for his Domestic Council Committee on the Right of Privacy responsibilities.

7. Plans for and monitors the implementation of fair information practice legislation such as the Family Educational Rights and Privacy Act of 1974.

Dated: March 3, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc. 75-6452 Filed 3-11-75; 8:45 am]

OFFICE OF FACILITIES ENGINEERING AND PROPERTY MANAGEMENT

Statement of Organization, Functions, and Delegations of Authority

Part 1 of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare is amended to modify section 1T80, Office of Facilities Engineering and Property Management, OFEPM (39 FR 5811, February 15, 1974, and 38 FR 16406, June 22, 1973, as amended.) A new Office of Safety Management has been established. This was accomplished by transferring the functions and staff of the former Division of Safety Management from the Office of Administration, Assistant Secretary for Administration and Management, to OFEPM. The functional statement of OFEPM is modified as follows to reflect this change.

Add at the end of section 1T80.00 *Mission* a new statement: "; and provide Department-wide leadership in safety management."

Add to section 1T80.10 *Organization* a new Office of Safety Management.

Add to section 1T80.20 *Functions* a new item as follows:

G. Office of Safety Management. The Office of Safety Management is responsible for the establishment and management of a comprehensive Department-wide Safety and Health Program which will provide a safe and healthful work environment for employees and the public served, and minimize losses as they relate to human resources, property, equipment and material. This program encompasses the requirements of section 7902 of Title 5 of the U.S. Code and section 19(a) of the Occupational Safety and Health Act as implemented by Executive Order 11807 and Safety and Health Provisions for Federal Employees, Title 29, CFR, Part 1960. Specifically, the Office shall be responsible for:

1. Developing and promulgating plans, policies, and procedures in the management of the Department-wide Safety Program encompassing all agencies and regions.

2. Advising top management of the Department on all matters pertaining to the top management and direction of the Department Safety Program and providing technical assistance to the operating agencies, regional offices, and field installations in all areas of safety management.

3. Developing, coordinating and/or promulgating safety and health standards.

4. Conducting safety management surveys and evaluations to determine program implementation and management effectiveness.

5. Preparing and/or coordinating the Department's position on proposed legislation, standards, and regulations relating to safety management.

6. Planning and administering a safety management information system.

7. Developing, coordinating, and monitoring safety education, training, and promotion activities throughout the Department.

8. Coordinating and monitoring research for development of new loss control methods and concepts.

9. Representing the Department on the Federal Safety Advisory Council, Federal Fire Council and providing official Department representation to the Department of Labor, General Services Administration, and other Federal agencies.

10. Providing Department liaison with National Fire Protection Association, National Safety Council, and other outside organizations.

Dated: March 3, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.75-6454 Filed 3-11-75;8:45 am]

OFFICE OF PERSONNEL AND TRAINING

Statement of Organization, Functions, and Delegations of Authority

Part 1 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is amended to reflect certain changes in Section 1T90 *Office of Personnel and Training* (38 FR 34753, December 18, 1973). The changes are occasioned by the transfer to the OPT of the Personnel-Payroll Systems Integration Staff and the Division of Central Payroll. That part of Section 1T30 *Office of Administration* (38 FR 16404, June 22, 1973) dealing with central payroll services, and the entire section 1T01007 Personnel-Payroll Systems Integration Staff (38 FR 34221, December 12, 1973) are superseded by the changes detailed herein. The changes are as follows:

Add to Section 1T90.00 *Mission* a new item as follows:

The Office of Personnel and Training serves as the Secretary's staff for promoting effective personnel management and personnel administration in the Department. The OPT provides Department-wide leadership in the area of central payroll. The Office (1) advises and acts for the Secretary on personnel management and training matters affecting HEW employees; (2) formulates policies and plans broad programs under which the personnel and training functions will be carried out throughout the Department; (3) maintains cognizance of such policies and programs; and (4) represents the Department on personnel and training matters with the Civil Service Commission, other Federal agencies, the Congress, and public.

Add to Section 1T90.20 *Functions* a new paragraph 6 as follows:

6. *Personnel-Payroll Systems Integration Staff.* The Personnel-Payroll Systems Integration (PPSI) Staff is a special staff which has been established to (1) expand the OPT terminal system to capture the full range of field input for the DHEW Payroll, Personnel and Agency systems; (2) coordinate and implement as required, modifications to the Payroll or Personnel Systems generated by the terminal expansion; (3) make sure the terminal system provides direct communication with the central DHEW computers; (4) eventually assume full responsibility for terminal operation; (5) improve the performance and quality of both the Payroll and Personnel systems through eventual integration and reduction in data redundancy; and (6) define and implement the working environment and prepare manuals for use by Personnel Offices using the expanded terminal system.

Renumber Section 1T90.20 *Functions* as follows:

Change numbers 6, 7, and 8 to numbers 7, 8, and 9 respectively.

Add to Section 1T90.20 Functions number 10 as follows:

10. *Division of Central Payroll.* The Division of Central Payroll provides a centralized payroll Department-wide, including active and retired Commissioned Officers, produces accounting reports data, provides information for the Personnel Data System and reports to other Government agencies covering retirement and unemployment compensation. Functions inherent in this division are as follows:

1. Microfilms and controls all payroll source documents and their processing; responsible for mailing services.

2. Makes all adjustments of salary and updates history portions of the master record file, processes time and attendance reports and output listings from the time and leave programs.

3. Responsible for the payment of active and retired Commissioned Officers, and the operation of a completely separate payroll system.

4. Establishes and maintains effective liaison with agency liaison officers, timekeepers, financial and personnel officials to promote a more efficient payroll system.

Add to Section 1T90.10 *Organization* two new statements as follows:

The Office of Personnel and Training reports to the Assistant Secretary for Administration and Management. The components of the Office of Personnel and Training are as follows:

Executive Office.
Labor Relations Staff.
Upward Mobility Staff.
HEW Fellows Staff.
Technical Assistance and Evaluation Staff.
Personnel-Payroll Systems Integration Staff.
Office of Personnel Management Information and Reports.
Office of Executive Manpower and Career Development.
Office of Personnel Policy and Planning.
Division of Central Payroll.

Dated: March 3, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.75-6453 Filed 3-11-75;8:45 am]

Office of Education

BILINGUAL EDUCATION

Closing Date for Receipt of Applications

The Commissioner of Education hereby gives notice that pursuant to the authority contained in the Bilingual Education Act as amended (Title VII of the Elementary and Secondary Education Act of 1965, as amended by section 105 of the Education Amendments of 1974, Pub. L. 93-380, 84 Stat. 151, 20 U.S.C. 880b), applications for assistance are being accepted from local educational agencies, institutions of higher education in combination with such agencies, and certain organizations of Indian tribes which operate schools for Indian children. Funds are available for grants to new applicants and applicants for the continuation of assistance under the Bilingual Education Act as amended. This notice covers the provision of assistance under the Act for the current fiscal year, except for the program of fellowships for persons preparing to become trainers of bilingual education teachers which will be the subject of a separate notice.

Applications must be received by the U.S. Office of Education Application Control Center on or before April 15, 1975.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW, Washington, D.C. 20202, Attention: 13.403. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than April 10, 1975, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt mantained by the Department of Health, Education, and Welfare, or the U.S. Office of Education).

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW, Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Division of Bilingual Education, Bureau of School Systems, Office of Education, Room 3600, 7th and D Streets SW., Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a). Amendments to the regulations for Bilingual Education Programs (45 CFR Part 123), are published as a Notice of Proposed Rule Making in this issue of the FEDERAL REGISTER. Substantial changes in the current regulations in Part 123 with respect to conditions regarding awards of assistance; activities which may be assisted, priorities and criteria governing award decisions, post award requirements and other relevant matters are proposed in such notice.

Part 123, as altered by such amendments as republished in final form, will govern the operation of the program.

(20 U.S.C. 880b)

(Catalog of Federal Domestic Assistance Number 13.510; Bilingual Education)

Dated: March 5, 1975.

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

[FR Doc.75-6298 Filed 3-11-75;8:45 am]

Food and Drug Administration

[FAP 4B2983]

CIBA-GEIGY CORP.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 4B2983) has been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in olefin basic copolymers complying with § 121.2501(c) (21 CFR 121.2501(c)), item 3.4, in contact with food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: March 4, 1975.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc.75-6380 Filed 3-11-75;8:45 am]

[DESI 8119; Docket No. FDC-D-691; NDA 9-087]

SUBLINGUAL DRUG CONTAINING HYDROGENATED ERGOT ALKALOIDS

Follow-up Notice and Notice of Opportunity for Hearing; Correction

In FR Doc. 74-17866, appearing at page 28310 in the FEDERAL REGISTER for Tuesday, August 6, 1974, in the third column, the second sentence of the "INDICATIONS" section in paragraph B. 2. b. is corrected to read as follows: "Short term clinical studies have demonstrated modest improvement in levels of performance of self care and such symptoms as mood-depression, confusion, unsociability, and dizziness."

Dated: March 4, 1975.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.75-6379 Filed 3-11-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[75 073]

COAST GUARD ACADEMY ADVISORY COMMITTEE

Open Meeting

This is to give notice pursuant to Pub. L. 92-463, sec. 10(a), approved October 6, 1972, that the Coast Guard Academy Advisory Committee will hold their Spring Meeting at the U.S. Coast Guard Academy on 7-9 April 1975.

Members of the Committee and their positions are:

RADM William A. BROCKETT, USN (Ret).
Dean Lindsey Cowen, Chairman, The Franklin Thomas Backus School of Law, Case Western Reserve University.
Mr. James J. Henry, President, J. J. Henry Company, Inc.
Dr. Melvin R. Lohmann, Dean, College of Engineering, Oklahoma State University.
Dr. Luna I. Mishoe, President, Delaware State College.
Dr. James M. Palmer, President, Metropolitan State College.
RADM W. A. JENKINS, USCG, Executive Director, Superintendent, U.S. Coast Guard Academy.

Agenda items to be discussed at the various sessions are:

a. Review of Fall 1974 Advisory Committee recommendations.
b. Academic Program.
c. New England Association of Schools and Colleges accreditation and conditions.
d. Review of ECPD accreditation and conditions.
e. Faculty (balance; quality; professional growth).
f. Rehabilitation and growth of McAllister Hall.
g. Communications.
h. General discussion with the Academic Council.
i. Programs, Personnel and Physical Plant.

The Coast Guard Academy Advisory Committee was established by Commandant, U.S. Coast Guard on April 16, 1937, to advise on the status of the curriculum and faculty of the Academy and to make recommendations as necessary. Public members of the Committee serve voluntarily with compensation for their travel and per diem. Interested persons may

seek additional information by writing Commandant (G-PTE), U.S. Coast Guard, Washington, D.C. 20590 or by calling 202-426-1381.

Dated: March 6, 1975.

By direction of the Commandant.

R. W. DURFEY,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Personnel.

[FR Doc.75-6419 Filed 3-11-75;8:45 am]

Hazardous Materials Regulations Board

SPECIAL PERMITS ISSUED

Pursuant to Docket No. HM-1, Rulemaking procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 FR 8277) 49 CFR 170, following is a list of new DOT Special Permits upon which Board action was completed during February 1975.

Special permit No.	Issued to—Subject	Mode or modes of transportation
SP 6063	Rio Tinto Delaware, Inc., Wilmington, Delaware, to ship Anhydrous hydrofluoric acid in a non-DOT specification portable tank complying with ISO standards and hydrostatically tested to 150 psig.	Cargo vessel, Motor vehicle.
SP 6064	Union Carbide Corporation, Bound Brook, N.J., to ship a class B poisonous solid in non-DOT Specification multi-wall reinforced bags, fabricated of polybutylene film, having a volumetric capacity of approximately 50 cubic feet, in containerized loads.	Cargo vessel, Motor vehicle.
SP 6066	Thiokol Chemical Corp., Wasatch Division, Brigham City, Utah, to ship Detonating fuses, Class C explosives in non-DOT Specification flame retardant, polystyrene foam containers.	Cargo vessel, Motor vehicle, Rail freight.
SP 6067	E. I. du Pont de Nemours & Co., Inc., Wilmington, Delaware, to ship Nitrocellulose, wet in 55 gallon capacity drums complying with DOT Specification 17H except for markings.	Cargo vessel, Motor vehicle.
SP 6069	Department of Health and Social Services, State of Alaska, Juneau, Alaska, to ship, via passenger-carrying aircraft, Oxygen in a DOT 3AA cylinder integral to a transport incubator.	Passenger-carrying aircraft.
SP 6070	Pyronetics Devices, Inc., Santa Fe Springs, Calif., to ship Helium in toroidal shaped, steel pressure vessels complying with DOT Specification 3P with certain exceptions.	Motor vehicle.
SP 6071	Chem Service, Inc., West Chester, Pa., to ship Corrosive materials and certain other hazardous materials in inside metal boxes or cases overpacked in a strong outside wooden or fiberboard packagings described as "Chemical Kits".	Cargo vessel, Cargo-only aircraft, Motor vehicle, Rail freight, Rail express.
SP 6072	Dow Chemical Company, Midland, Michigan, to ship various hazardous materials in DOT Specification 12B fiberboard boxes closed with hot melt adhesive.	Cargo, vessel, Motor vehicle, Rail freight, Rail express.
SP 6074	Taveo, Inc., Chatsworth, Calif., to ship Oxygen in steel cylinders made in compliance with DOT Specification 3E with certain exceptions.	Cargo-only aircraft, Motor vehicle, Rail freight, Rail express.
SP 6075	Eli Lilly and Company, Indianapolis, Ind., to ship a Poisonous solid, n.o.s. in non DOT Specification steel drums overpacked in plywood pallet boxes.	Motor vehicle.
SP 6077	Allied Chemical Corp., Morristown, N.J., to make limited shipments of a Class B poisonous solid in a DOT Specification 21C115 fiber drum overpacked in a DOT Specification 21C250 fiber drum except it has a larger diameter than prescribed.	Cargo vessel, Motor vehicle, Rail freight.
SP 6078	No. Texas LPG Corporation, Houston, Texas, to ship or transport a liquefied, flammable compressed gas mixture in MC331 insulated tank motor vehicles under temperature controlled conditions.	Motor vehicle.
SP 6079	Avon Products, Inc., New York, N.Y., to waive the labeling requirements, the one quart or less packaging criteria, and the inaccessible carriage limitations, specified in 14 CFR 103.13, 103.15(b) and 103.19 (a) and (c) for small quantity toilet articles or cosmetics shipped by Avon to its sales representatives in Alaska, Hawaii, or Guam.	Passenger-carrying aircraft, Cargo-only aircraft.

ALAN I. ROBERTS,
Secretary.

[FR Doc.75-6291 Filed 3-11-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 75-3-15; Dockets Nos. 27363 and 25659]

ALLEGHENY AIRLINES INC.

Investigation of the Local Service Class Subsidy Rate

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of March, 1975.

In the matter of petition of Allegheny Airlines, Inc. for establishment of subsidy mail rates pursuant to section 406 of the Federal Aviation Act of 1958, as amended.

By petition filed January 3, 1975, Allegheny Airlines, Inc., has requested the Board to establish a final subsidy rate of $4 million for the transportation of mail over its entire system for the annual period commencing January 3, 1975.

In support of its petition, Allegheny alleges that for the year commencing January 1, 1975, profits from subsidy-ineligible services will decline substantially because of the economic recession and continued inflation in costs, particularly of fuel and labor. This decline in profits in its subsidy-ineligible sector will, according to Allegheny, substantially reduce its ability to offset the losses from eligible operations. While earnings held through the third quarter of 1974, the fourth quarter reflected a significant decline. Net profits in October were only $186,000, and the company reported a loss of $2.6 million in November, which reduced net profits for the twelve months ended November 30, 1974 to $7,286,000. According to the carrier, the downturn in traffic commenced after Labor Day and accelerated in November, when local traffic declined 9.5% from the level in November 1973.

Allegheny has reviewed its 1975 operating plans and has concluded that there will be little, if any, industry growth in 1975. Accordingly, the carrier indicates a cut-back in service is scheduled for January 7, 1975, predicted on a forecast growth of 2.2% in revenue passenger-miles compare with the year ended November 30, 1974. Further cutbacks are contemplated if traffic levels continue to decline.

Allegheny projects in the following table that 1975 system operations will result in profit levels significantly below those relied upon by the Board in Order 74-6-42: [1]

	12 months ending—		
	Sept. 30, 1975	Mar. 31, 1976	Dec. 31, 1975
Adjusted Investment (thousands).	$181,978	$178,202	$181,501
Adjusted Operating Profit Excluding Subsidy (thousands).	18,351	21,971	14,179
Return on Adjusted Investment Excluding Subsidy (percentage).	10.08	12.32	7.81

For 1975, Allegheny estimates a system operating profit of $11,117,000 as a result of a $16,401,000 operating profit forecast for ineligible operations combined with an expected operating loss of $5,284,000 from eligible services. After application of standard subsidy ratemaking adjustments totaling $3,062,000, Allegheny forecasts a system operating profit of $14,179,000. The carrier also forecasts an average system investment of $225,520,000 which was reduced to $181,501,000 after subsidy adjustments.

Allegheny attributes a significant portion of the estimated increase in the cost of operation to higher expenses for fuel and labor. For example, Allegheny estimates that a new contract to replace an agreement with a major fuel supplier which expired on January 1, 1975, will add $9.2 million to its costs for the year at the projected level of service. Labor costs are anticipated to increase approximately 8.5% in 1975 based on commitments already entered into with pilots, mechanics, and flight attendants, as well as anticipated increases required for non-organized employee groups. On the revenue side, full recognition was given in the estimates to the latest 4% fare increase approved by the Board effective November 15, 1974. However, the carrier did not attempt to forecast the impact of the Board's decisions in Phases 4 and 9 of the *Domestic Passenger-Fare Investigation* (DPFI).

Although Allegheny claims that it is taking all prudent steps to minimize its need for subsidy, the carrier states that anticipated 1975 operating results represent a significant decline from the profit

[1] The Order to Show Cause, Order 74-6-42, adopted on June 7, 1974, which proposed subsidy-free rates for Allegheny on and after July 1, 1974, noted that Allegheny's subsidy-ineligible routes generated operating profits of $24.1 million for the year ended March 31, 1974, which more than offset the operating loss on eligible services of $2.1 million. Order 74-7-61, July 15, 1974, made final the proposed subsidy-free rates.

level at the time its subsidy-free mail rate was established. Allegheny has, however, estimated a return on adjusted investment *before subsidy* of 7.81% for the year ending December 31, 1975. This figure is well below the 12.35% rate of return recognized for subsidy-ineligible services but only slightly less than the 9 percent minimum return recognized for subsidy-eligible services in Class Rate VII. However, Allegheny realized a return on adjusted investment of 16.11% for the year ended September 30, 1974, which is more than seven points higher than the minimum. Further, preliminary reports filed by the carrier indicate a return on adjusted investment of 8.5% for calendar year 1974. These and the projected 7.81% return on investment for 1975 compare very favorably with recent experience of other air carriers. In fact, a carrier able to achieve such rates of return during a period of recession might be considered fortunate.

The carrier's petition leaves the impression that Allegheny believes that subsidy is intended to guarantee a specific return on investment. There is nothing in the legislative history of the Civil Aeronautics Act of 1938, on which the Federal Aviation Act of 1958 was based, to reveal any Congressional intent to guarantee a particular profit element each and every year. Instead, the Board has established a policy which views earnings over an extended period of time to determine whether they are reasonable. In so doing, the Board has indicated that there are no guarantees that the earnings permitted under fair and reasonable mail rates established pursuant to section 406 of the Act will be reasonable during every particular period of time in which the rates are in effect.[2] In this regard, the Board stated in the *Panagra* case, at page 562: "The earnings may in a limited period be unreasonably low or unreasonably high; nevertheless, the rates may stil be reasonable if the average earnings over a reasonably extended period reaches a fair level." This policy squares with the consistent refusal of the Board to take a keyhole view of a carrier's financial results in many different aspects of ratemaking as Allegheny is requesting us to do.[3]

Although we made no attempt to thoroughly screen all of Allegheny's data, a preliminary analysis indicates that the carrier's forecasts of revenues and expenses are out of line in several important areas.

For example, the carrier did not take into account the impact on passenger revenues of the Board's decisions in Phases 4 and 9 of the *Domestic Passenger-Fare Investigation*. We believe that these decisions, taken together, will have a significant favorable impact on Allegheny's revenues.

Also, Allegheny's projections of some expenses—particularly promotion and sales, and general and administrative—appear uncommonly high. Our examination of the carrier's recent experience indicates that the total overstatement on these particular cost items amounts to more than $2 million.

The carrier also asserts that its passenger and cargo handling costs will increase by four percent in 1975 as a result of seniority increases. In determining future-period mail rates, the Board has in the past disallowed prospective wage and salary increases based upon longevity,[4] although, for past periods, such increases have been recognized.[5] A disallowance of this increase alone would lower Allegheny's estimated traffic servicing expense by $1.3 million for the year ending December 31, 1975.

On the basis of the foregoing, we tentatively find and conclude that, on and after January 3, 1975, the fair and reasonable rates of compensation to be paid to Allegheny Airlines, Inc., for the transportation of mail over its entire system as constituted on or subsequent to January 3, 1975, the facilities used and useful therefor, and the services connected therewith, are the service mail rates payable to Allegheny Airlines, Inc., by the Postmaster General in effect on January 3, 1975, or thereafter established by the Board.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302.

It is ordered, That:

1. All interested persons, and particularly Allegheny Airlines, Inc., are directed to show cause why the Board should not adopt the foregoing findings and conclusions and fix, determine, and publish the mail rates specified above;

2. Further procedures herein shall be in accordance with the rules of practice, 14 CFR Part 302, and if there is any objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and, if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order;

3. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days after service of this order, or if any answer timely filed raises no material issue of fact, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final order, and the Board may enter an order incorporating the findings and conclusions proposed herein and fixing and determining the rates herein specified;

4. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307; and

5. This order shall be served upon Allegheny Airlines, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.75-6444 Filed 3-11-75;8:45 am]

[Order 75-3-14; Docket No. 24088, etc.]

ALLEGHENY AIRLINES, INC. ET AL.

Applications for Amendments of Certificates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of March, 1975.

In the matter of applications of, Allegheny Airlines, Inc., Hughes Airwest, Ozark Air Lines, Inc., and Southern Airways, Inc. for amendments of certificates pursuant to Subpart M of the Board's rules of practice.

In reviewing applications which are currently pending before the Board, it has come to our attention that the exhibit material in the above-referenced Subpart M applications is based on data several years old. In order to process these applications, we believe that more recent evidence is desirable. Consequently, we hereby request the above-referenced carriers to submit, within 45 days from the service date of this order, detailed revised exhibits based upon the latest available traffic and cost data. Updated responses, where appropriate, should be filed pursuant to the procedures of Subpart M.

Accordingly, it is ordered, That:

1. Allegheny Airlines Inc. (Dockets 24088 and 24582), Hughes Airwest (Docket 22493), Ozark Air Lines, Inc. (Docket 23117), and Southern Airways, Inc. (Dockets 24625 and 24778), be and they hereby are directed to submit revised exhibit material, based upon the latest available traffic and cost data;

2. Such exhibits shall be filed within 45 days from the service date of this order; and

3. Updated responses shall be filed pursuant to the procedures established

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[2] Pan American-Grace Airways, Inc., Mail Rates, 3 C.A.B. 550, 562 (1942); Continental Air Lines, Inc., Mail Rates, 8 C.A.B. 825, 844–845 (1947).

[3] Reopened Transatlantic Final Mail Rate Case, 42 C.A.B. 195, 207 (1965); Aloha Airlines, Inc., Temporary Subsidy Rate, Orders 69-8-60, August 11, 1969, p. 2, and 69-11-82, November 19, 1969.

[4] Southwest Airways Company, Mail Rates, 11 C.A.B. 651, 655 (1950); West Coast Airlines, Inc., Mail Rates, 11 C.A.B. 662, 665 (1950); Pioneer Air Lines, Inc., Mail Rates, 12 C.A.B. 84, 93 (1950); Pioneer Air Lines, Inc., Mail Rates (Supplemental Opinion and Order), 17 C.A.B. 499, 501–502 (1953).

[5] "In fixing rates for past, as distinguished from future, periods we do not disallow increases of this nature as such. In such cases, the reported results for past periods necessarily reflect all economies and efficiencies resulting from managerial efforts, the increased experience of other personnel and the incentive provided by so-called step-increases in wages and salaries. However, in setting a rate for a future period we are faced with the fact that efficiencies and economies resulting from factors such as the foregoing are not capable of being translated into dollar amounts with any reasonable degree of accuracy and, accordingly, are normally not reflected in specific dollar amounts, as such, in the determination of the rate." Mohawk Airlines, Inc., Mail Rates, 18 C.A.B. 490, 495 (1954).

by Subpart M of the Board's rules of practice.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.75-6443 Filed 3-11-75;8:45 am]

[Order 75-3-18; Dockets Nos. 27589, 25788]

AVIATION CONSUMER ACTION PROJECT

Domestic Baggage Liability Rules Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of March, 1975.

In the matter of petition of aviation consumer action project, for issuance of reasonable rules concerning loss, damage, and delay of passengers' baggage and personal belongings.

This order to show cause deals with the tariff rules and practices of certificated air carriers governing the acceptance of passengers' baggage, and the carriers' liability for loss of, damage to, or delay in the delivery of baggage.

Prior to enactment of federal statutes regulating interstate transportation by common carriers, the liability of such carriers was governed by common-law rules which had been developed to control the superior bargaining position of the carrier. In general, federal common-law rules permitted carriers to limit their liability by contract, subject to judicial review of the limitations. However, under regulatory statutes such as the Federal Aviation Act, a properly filed effective tariff constitutes the exclusive law governing the relationship between the carrier and the user.[1] Thus, under the doctrine of primary jurisdiction, the courts generally defer to the Board in the determination of the reasonableness of the carriers' tariff rules.[2]

The implication of this is apparent: the Board has a continuing obligation to review the carriers' tariffs to assure the reasonableness of those rules.

The significant contours of the substantive baggage liability rules which are now on file were shaped in the *Baggage Liability Rules Case*, decided in 1966.[3] That case put in issue the lawfulness of the then existing rules regarding the amount of liability assumed by the carriers, the treatment of unusually valuable items, and the adequacy of notice to the passenger regarding these rules. The proceeding was confined to interstate air transportation performed by the local service and trunkline carriers within the 48 contiguous states and the District of Columbia. Supplemental carriers, intra-Hawaiian and Alaskan carriers, and a few small passenger carriers were not included.

At the conclusion of that case, the standard limitation of liability on passenger baggage was raised to $500. The limits had ranged from $100 for certain local service carriers to a standard $250 for trunkline operators. Additionally, the *Baggage* case limited the practice of disclaiming liability for valuables in two respects: (1) items such as money, jewelry, silverware, etc., were covered up to the standard $500 when checked as baggage; and (2) the carriers were required to accept a declaration of excess value if the passenger retained control of the valuable items. The Board did not at that time find that passenger notice was inadequate, but noted that if it became necessary to adopt specific practices in the future, a rulemaking proceeding could be instituted. Subsequently, the Board did set minimum standards for the provision of notice.[4]

Over eight years have now passed since our last detailed investigation of the carriers' baggage liability rules. During this interval, baggage-related problems have been a recurrent subject of passenger complaints received by the Board.[5] In addition, the Aviation Consumer Action Project (ACAP) has petitioned the Board to institute a rule making in order to formulate just and reasonable rules to prevent negligent or discriminatory baggage handling practices and to insure proper settlement of passenger claims in the event that baggage is lost, damaged, or delayed.

A review of the ACAP petition and the complaint letters received indicates a number of tariff provisions that clearly require review. While specific problems will be dealt with below, passenger dissatisfaction generally appears to stem not only from the actual loss, delay, or damage to baggage, but also from the ambiguity apparent in the rules governing carrier liability, and the level of compensation ultimately received.

The allegations made in the ACAP petition and those contained in the complaint letters received by our staff have served as initial points of reference for review of existing tariff rules. This review has lead us to the conclusion that there is significant room for improvement in the rules which govern baggage acceptance and liability. Where existing rules are clearly unreasonable, we have proposed their elimination or modification. However, we are convinced that ultimately the carriers themselves are the most logical source of solutions to this type of problem. Their knowledge of the working of baggage systems is the most complete. Nevertheless, we are not satisfied that the present liability rules provide adequate incentive to the carriers to improve the quality of baggage handling. We are here seeking to provide that incentive through proposals which are designed to insure adequate compensation for all damages resulting from failures in the system for handling and safeguarding of passenger baggage. We have no doubt that whatever curable problems exist, the fastest route to their cure is to insure that the price of inaction is full compensation for the damage done.

The proceeding that we are here initiating deals with a large portion of the problems presented. Specifically, the concerns raised by ACAP and included within the scope of our actions here involve: (1) the standard $500 limitation on carrier liability; (2) tariff rules disclaiming liability for certain categories of baggage; (3) carrier practices concerning the settlement of passenger claims; (4) the exclusion of consequential damages from damage computations; and (5) the need for reemphasized notice provisions.[6] ACAP has also raised issues that are already being considered in separate proceedings before the Board, and to this extent the petition will be dismissed.[7]

In summary, we are requiring by this order that the industry show cause: (1) why the existing standard limitation on baggage liability should not be raised to $750; (2) why consequential damages should not be included within both the standard liability limit and the provisions for declaration of excess value; (3) why the existing provisions of Rule 365—"Liability of Carrier" should not be found unlawful; (4) why the existing standard limitation of liability should not be waived where it can be shown that with regard to the particular claimant the

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[1] See, e.g., Lichten v. Eastern Airlines, 189 F.2d 939 (2nd Cir., 1951).

[2] See, e.g., Continental Charters, Inc., Complaint of Mary Battista, *et al.*, 16 C.A.B. 772 (1953).

[3] 45 C.A.B. 182. The Board's authority to require the filing of tariff rules, regulations, practices, and services in connection with air transportation is contained in section 403 of the Federal Aviation Act of 1958 (49 U.S.C. 1373). Tariff provisions regarding passenger baggage are filed pursuant to Part 221 of the Board's Economic regulations (14 CFR Part 221), particularly §§ 221.3 and 221.38.

[4] See ER-691, § 221.176, and subsequent amendments, 36 FR 17034.

[5] Problems associated with baggage handling and claims compensation constitute one of the major sources of complaints received by the Board's Office of the Consumer Advocate. Statistical records of all complaints received show that baggage problems have been on the increase not only in absolute terms, but also relative to the total volume of complaints. During calendar year 1972, the Board received 1,183 complaints related to baggage, and these complaints represented approximately 15 percent of the total received. The respective figures for 1973 were 1,850 complaints, and 18 percent of the total. In the first ten months of 1974, 2,189 complaints were received representing 20 percent of the total. The figures are contained in C.A.B. Press Releases 73-10, 74-6, and 74-256.

[6] As will be seen below, we have also initiated action in certain related areas.

[7] In particular, ACAP has raised issues which parallel those under consideration in Docket 24869, *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation*, and Docket 26568, *In the Matter of Liability Rules of Domestic Certificated Carriers Pursuant to the Carriage of Live Animals as Baggage*, in which the Board has found unlawful certain tariff provisions of various certificated carriers disclaiming liability for the carriers' own negligence. See Order 74-12-124, December 31, 1974.

baggage liability notice provisions of § 221.176 of Part 221 of the Board's Economic Regulations have not been complied with; and (5) why the above provisions should not, with equal effect, be applicable to all air carriers engaging in interstate and overseas air transportation of passengers. Contemporaneously herewith, we are proposing the issuance of an amended Part 221 to preclude the filing of tariffs containing a time limit on the presentation of written baggage liability claims.[9] We have also tentatively concluded that a more equitable baggage system may require that the air carriers stipulate to an automatic recovery of specified damages for baggage delay, and a minimum liability for lost baggage. These conclusions are considered in an advance Notice of Proposed Rule Making also issued contemporaneously.[9]

The Continued Adequacy of the $500 Limit

Exercise of our responsibility for the review of tariff rules brings into question the continued validity of the standard $500 limit on ordinary baggage liability. As noted above, this limit was established in the *Baggage Liability Rules Case*. We held in that case that:

> [B]aggage liability limits should be high enough to cover all but unusual or extraordinary cases. The publishing of baggage liability limits is permitted for the protection of carriers against extraordinary claims.[10]

A review of the evidence of record in that proceeding led the Board to the conclusion that the $500 limit was then necessary to insure coverage of all but unusual cases. The record from which we drew these conclusions was compiled for the most part in early 1965. Given the inflationary trend of consumer prices during the period since the close of that investigation, a serious question is raised concerning capability of a $500 limit to satisfy "all but unusual or extraordinary cases." According to the Consumer Price Index, nondurable consumer goods, not including food, rose in price to a level of 124.8 percent of the base year over the period from 1967 (base) to the end of 1973.[11] Price increases during the current year have been even more accelerated, and the index for the most current month stands at 145.3 percent of the base period.[12] Furthermore, there is little likelihood that this trend of increases will undergo any immediate reversal; indeed, the regrettable probability is that it will continue for some time. Based on the foregoing, it is reasonable to assume that pieces of luggage and articles of clothing and personal convenience priced at $500 in 1967 would have cost approximately $725 by September 1974, and even more at present.

We have considered this rising trend in the consumer price index in the light of the decisional grounds in the *Baggage Liability Rules Case*, and we have reached the tentative conclusion that the standard limit of liability for checked and unchecked baggage should be raised to $750. This figure represents our judgment as to a reasonable quantification of the effects of rising costs on passenger baggage. In order to review this judgment, we will require, as hereinafter set forth, that all certificated passenger carriers provide us with certain information concerning their present claims experience.

We are also of the tentative opinion that this limit should be extended to all certificated carriers (including supplemental air carriers) providing interstate and overseas air transportation of persons. Any carrier not heretofore covered by the 48-state standard will, of course, be given the opportunity to demonstrate that its operations present distinct characteristics which do not justify its inclusion. But at present we do not perceive any sound policy reasons for the continuation of this distinction.[13]

The Exclusion of Consequential Damages

Under the existing liability limitation rules there is no realistic provision for the payment of what may be termed consequential damages. We believe that examination of this problem indicates that the industry's failure to provide for such damages is unreasonable *per se*.

Consequential damages refer to a category of special damages arising out of contract and distinguished from general damages in that they result from unique circumstances which do not adhere to the general mass of contracts of the same category.[14] For the purposes of this proceeding, the term is not nearly so limited. We intend by its use to refer to the variety of expenses and complications that may occur as a result of lost, damaged, or delayed baggage, including those which may be of a special nature. A simple example will suffice to make our intent clear. Suppose a vacationer on a golfing trip checks his golf bag as part of his baggage. Subsequently, the golf bag is lost and the vacationer must rent clubs and golf shoes. In our use of the term, the added expense of renting equipment could give rise to damages that will be a consequence of the airlines' improper service. While compensation for the value of the bag is already provided, the existing tariff rules do not provide for the additional cost of renting equipment. Similar examples are readily apparent.

Rule 370, "Limitation of Liability,"[15] which is the rule that establishes the standard $500 limitation on liability, is drawn in a manner which effectively precludes the recovery of consequential damages. The rule states in pertinent part that:

> The liability, if any, of all participating carriers for the loss of, damage to, or delay in the delivery of any personal property, including baggage * * * shall be limited to an amount equal to the value of such property, which shall not exceed the following amounts * * *.[16]

By confining liability to "the value of such property" subject to the $500 limit or declared value, the industry has effectively prevented recovery of consequential damages for the mishandling of passenger baggage at least in cases where the baggage is never ultimately recovered. Even where the baggage is recovered, and a technical argument can be made that liability still exists up to the value of the property, it appears that carriers frequently deny consequential damages.

In our view of this matter, it is unreasonable for the carriers to be immune from liability for the whole complex of injuries which may occur as a result of the failure to connect a passenger and his baggage at the appropriate time and place. The present immunity extends to consequences that are certainly the normal and likely results of a temporary separation of the passenger and his baggage. In this category of consequences we would place the purchase of items which are needed for immediate use, the additional transportation expenses involved in bringing duplicates to the passenger, or loss of compensation where a business purpose is frustrated by baggage mishandling. Damages arising from these types of injury can hardly be said to have been outside of the carrier's expectations when it undertook to provide the passenger with transportation. Adhering as they do to the general mass of similar contracts, these injuries do not have the qualities of surprise and calamity which were responsible for the formulation of the common-law rules regarding special damages. They are the normal and likely result of the circumstance of baggage delay and should be compensable.

We are aware that there may be instances where quite unusual circumstances of injury will be claimed as a result of the removal of the existing barrier to consequential damages. However, since the carriers' liability is limited to the amounts specified in the tariffs

[9] See EDR-282.

[9] See EDR-283.

[10] *Baggage Liability Rules Case*, supra, at 187.

[11] Department of Commerce, Bureau of Economic Analysis, 54 Survey of Business Statistics, No. 10, at S-8, October 1974. Essentially the same results obtain whether the overall index or other pertinent subgroups are examined, *i.e.*, the overall index stood at 133.1 for the year 1973, and apparel had advanced to 126.8.

[12] *Id.* This figure is for the month of September 1974. Equivalent figures for the overall index and the subgroup for apparel are 151.9 and 139.9, respectively.

[13] As indicated by the summary above, we have reached a similar conclusion with regard to the remaining proposals herein, and we would expect any comments filed by the carriers thus affected to address themselves to all issues which are of interest to them. This conclusion should be assumed without the necessity of restatement in the remaining discussions in this order.

[14] See, generally, 22 Am. Jur. 2nd, Damages, section 56.

[15] Rule 370, ATP Rules Tariff, C.A.B. No. 142.

[16] *Id.*

(or to declared value), there is no reason for precluding recovery for any type of provable damage. The rationale underlying common-law rules restricting the award of special or consequential damages is essentially that in undertaking the obligations of a contract, a party does not expect that his failure to perform will, through remote and unforeseeable circumstances, expose him to damages that are of such an extraordinary nature as to jeopardize his financial ability to continue in business. On the contrary, he reasonably assumes only the normal, likely consequences of his failure, and specific notice to him of the existence of special circumstances are normally required before he would be held liable for special damages. This requirement for specific notice, as a practical matter, gives the contractor an opportunity to refuse to take the risk of misperformance or to arrange for a limit on the extent of his possible liability. Since the airline industry has unilaterally limited its exposure through the filing of tariff rules, the basis for specific notice is no longer apparent. And without the distinguishing feature of specific notice, there are no important considerations which justify carrier immunity to damages for all injuries which are the consequence of its actions.

Based on the foregoing, we have tentatively concluded that carrier rules which, in terms or effects, preclude compensation within the tariff limits for provable forms of consequential damage are unreasonable. Passengers should be given the opportunity to claim and be satisfied for all the reasonable consequences of improper baggage service within the proposed $750 limit. In addition, where a passenger reasonably expects that the delay or loss of his or her baggage will have consequences greater in value than the $750 limit, the excess valuation procedure should be available on the same terms as it would be were the value of the property itself at issue.

THE PROBLEM OF DISCLAIMED LIABILITY

Carrier rules regarding the "acceptability" of baggage for transportation, and certain practices surrounding the application of these rules, have become a principal cause of consumer concern. The heart of this dissatisfaction lies in the possibility that a carrier may transport certain items or packages, but attempt to disclaim liability for subsequent loss, damage, or delay on the grounds that the items were not acceptable for, or were inherently unsuited to, air transportation.

Rule 340, "Acceptance of Baggage," the rule governing baggage acceptance for nearly all of the domestic system, starts with the general proposition that air carriers will accept as baggage such personal property as is necessary or appropriate for the wear, use, comfort, or convenience of the passenger for the purpose of his trip.[17] This proposition is subject to the explicit condition that,

> The carrier will refuse to accept any property for transportation if it cannot withstand ordinary handling, or its weight, size or character renders it unsuitable for transportation on the particular aircraft on which it is to be transported.[18]

The condition creates the implication that air carriers will screen incoming baggage to ascertain its suitability for transportation. This impression is apparently false, and the carriers allegedly have sought to protect themselves from the failure to perform the obligation imposed by their own tariff. Thus, Rule 365, "Liability of Carrier," establishes a general disclaimer of liability for property which is not acceptable for transportation pursuant to Rule 340.[19] Logically, it would be unnecessary for a carrier to disclaim liability for damage or loss to property that, according to its tariffs, it will refuse to transport. Indeed, a disclaimer of liability for baggage on the ground that a bag could not have withstood ordinary handling constitutes an implicit admission of a violation of the tariff rule that states it will not accept such baggage in the first place.

In our judgment, Rule 365, "Liability of Carrier," is unreasonable on its face. Through the filing of tariffs embodying this rule, the majority of the industry has disclaimed liability for loss, damage to, or delay in the delivery of fragile or perishable articles, or articles not suitable, or not suitably packed for air transportation. Whether or not a carrier has knowledge of the fragile or unsuitable nature of a passenger's baggage has no effect on the carrier's right to disclaim liability under this rule. In essence, an extreme version of the doctrine of assumption of risk has been created.

The rule does not define the terms "fragile" or "unsuitable," but passengers are required to bear the burden of any injury that may occur to these categories of baggage. Rarely would the passenger's knowledge of the inner workings of baggage transfer and holding systems be sufficient to allow intelligent judgments concerning the stresses to which his baggage may be exposed, even if the passenger is fully apprised of the tariff provisions. Nonetheless, the carrier's immunity from liability is complete. There is not even the need for a determination that the injury resulted from the article's inherent nature as fragile or unsuitable rather than as result of some gross abuse.[20] Furthermore, the rule disclaims liability not only for *damage*, but also absolves the carrier from responsibility where fragile or unsuitable articles are lost, stolen, or delayed. Obviously these types of injury have nothing to do with the fact that the baggage can be categorized as fragile or unsuitable. Essentially the same problems exist regarding the disclaimer associated with perishable articles. The disclaimer reaches all damage resulting from delay, whether the delay resulted from weather conditions or carrier negligence in misdirecting connecting baggage. Additionally, liability is disclaimed when the cause of injury is loss, theft, or partial destruction due to improper handling. Yet it is again obvious that the perishable nature of an article has nothing to do with injuries of these latter types.

Accordingly, we tentatively find that the foregoing circumstances present a sufficient basis for the conclusion that the existing provisions of Rule 365 are unreasonable *per se*. Considering the nature of this problem, it may well be that the only reasonable rule is one that imposes on carriers responsibility for all items which they actually transport. However, there could exist serious drawbacks in this approach. Rather than prescribe a tentative rule at this time, we invite the comments of interested parties as to the best formulation of a replacement rule which meets the objections outlined above. Recognizing our obligations under section 1002(d) of the Act, it is our present intent to prescribe a lawful rule at the close of this proceeding, after consideration of any comments which may be forthcoming.

THE PROVISION OF ADEQUATE NOTICE

The Board has several times previously considered the question of the provision of adequate notice to passengers regarding the existence of liability limits in the carriers' tariffs. In the *Baggage Liability Rules Case, supra*, the Board reviewed a number of alternatives and concluded that a flexible approach based on experimentation by individual carriers had the best possibility of providing adequate information to the passenger. But this judgment was conditioned by the reservation that a rule making would be undertaken if it later appeared warranted. A rule making was instituted in 1970, partly because of separate problems regarding notice of liability limits in foreign air transportation, but also because, it appear[ed] that the practices of some carriers with respect to providing notice of domestic limits have not measured up to the standards the Board assumed the carriers would establish * * *[21]

As a result of that rule making, the Board promulgated the notice provisions which appear in § 221.176 of Part 221 of the Board's Economic regulations.

ACAP has once again raised the issue of the lack of adequate notice, not primarily in the context of the inadequacy of the provisions of § 221.176, but rather in allegations that the carriers frequently fail to satisfy those provisions. Specifically, ACAP alleges that the carriers often fail to fully meet the requirement for the conspicuous posting of a sign containing the liability limits.[22]

[17] Rule 340, ATP Rules Tariff C.A.B. No. 142.

[18] Rule 340(B)(1)(b).

[19] Rule 365(A), ATP Rules Tariff C.A.B. No. 142.

[20] There is no equity in a rule which disclaims liability for injury to a musical instrument, whether the instrument was damaged in the course of ordinary handling or by the wheel of a baggage loading truck.

[21] Notice of proposed rule making, EDR-182, issued May 7, 1970, 35 FR 7513.

[22] Section 221.176 requires, *inter alia*, that air carriers cause a sign containing pertinent liability rules to be continuously and conspicuously displayed at points where tickets may be purchased.

Whether or not ACAP's allegations in this regard are generally correct, we do recognize that the rules in § 221.176 have supplanted most other forms of passenger notice and have thus become the primary source of passenger knowledge about the limits that the carriers have put on their liability. Full compliance with the spirit and letter of that section is thus essential to an equitable tariff system. We believe that this compliance is best insured by requiring that adequate notice to the passenger be a precondition to a carrier's right to limit its exposure to damages. Consequently, we have tentatively concluded that an exception to the limitation on carrier liability is appropriate when the provisions of § 221.176 have not been complied with.[23]

INFORMATION SUBMISSION

In addition to the foregoing matters, the Board is also concerned that certain carrier practices regarding the settlement of baggage claims may also be unreasonable. ACAP alleges that a variety of tactics may be used to induce passengers to accept less than the claimed value of their belongings. Included among these are the use of a depreciated value standard, and the requirement that claimants provide proof of purchase for articles on which a claim is made.

While these practices may not be uniformly unreasonable, their application in particular cases raises serious questions. For instance, proof of purchase may be reasonable where a passenger has claimed the loss of expensive cameras, but it is absurd to require a passenger to prove the purchase of "sneakers, one T-shirt and white sailor's hat."[24] In order to consider the problems raised by the alleged abuse of these practices, we have determined that more concrete information should be made available. Specifically, we will require all certificated carriers to file with us a copy of all manuals, depreciation schedules, directives, and other managerial communications which govern the activities of personnel responsible for the handling of baggage claims. All such documents should be filed, whether directed to individual station personnel, central claims offices, or otherwise.

The Board also anticipates that carrier responses to a number of the proposals raised in the instant show cause order will focus upon the added cost to the traveling public of improved service and compensation. In order to insure an adequate factual record on this issue, we are directing the carriers to provide quantified estimates of the cost of existing and proposed programs. The particulars of this request are set out in the ordering paragraphs herein.

PROCEDURE

Notwithstanding that we are here concerned *inter alia* with determining the legality of carriers' existing rules, regulations, and practices affecting rates, fares, or charges for interstate air transportation, or the value of service thereunder, pursuant to the provisions of section 1002(d), we are tentatively of the view that an evidentiary hearing is not required. Our basic concern in this proceeding is with the policy the Board should adopt with respect to the future baggage liability rules and practices of air carriers certificated to perform interstate and overseas air transportation and not an adjudication of individual carrier's liability for past conduct, or a determination of past and present rights and liabilities. Thus, at this same time, it does not appear that the issues involve disputed evidentiary facts, but rather involve policy conclusions to be drawn from the facts.[25]

Furthermore, since by their terms none of the statutory provisions pursuant to which we are proceeding requires an "on the record" hearing, we believe the rulemaking procedures more fully set forth below satisfy the requirements of the Administrative Procedure Act (5 U.S.C. 551 *et. seq.*), and afford all parties due process.[26] Finally, to the extent a hearing pursuant to section 556 of the APA may be thought to be required, we are tentatively of the view that the procedures herein adopted which provide for submission of evidence in written form are adequate for development of a complete record and do not prejudice any party.[27]

In consideration of the foregoing, it is tentatively found that:

1. Rule 370—"Limitation of Liability", Airline Tariff Publishers, Tariff C.A.B. No. 142, and any other tariff which applies to the interstate or overseas passenger operations of certificated air carriers is and will be unjust to the extent that it embodies (a) a limitation on carrier liability for loss of, damage to, or delay in the delivery of personal property, including baggage, in an amount less than $750 and (b) an implied or explicit exculpation of liability for consequential damages arising out of the carriage of such personal property.

2. The lawful rule concerning limitations on carrier liability for personal property, including baggage, shall be one that contains a limitation of no less than $750 per passenger and explicitly assumes the obligation to compensate for all direct and consequential damages resulting from the carriage of such personal property up to the limits of liability, or declared value, whichever is higher.

3. Rule 365—"Liability of Carrier," Airline Tariff Publishers, Tariff C.A.B. No. 142, and any other tariff which applies to the interstate or overseas passenger operations of certificated air carriers is and will be unjust to the extent that it disclaims carrier liability for any item of personal property which a carrier has actually transported, except insofar as it disclaims liability beyond the $750 minimum limit.

4. All certificated air carriers providing passenger service in interstate or overseas air transportation should be required to include in any future tariff rule concerning limits on their liability for passengers' personal property or baggage, a provision explicitly waiving such limits with regard to any individual claimant where it is shown that with respect to that claimant the provisions of § 221.176 of Part 221 of the Board's Economic Regulations have not been complied with.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, 407(a), 416(a), and 1002(d) thereof;

It is ordered, That:

1. All air carriers certificated to engage in interstate or overseas air transportation of persons and all other interested persons, are hereby directed to show cause why the Board should not make final its tentative findings and conclusions herein;

2. Objections filed pursuant to paragraph 1 shall set forth in detail any facts upon which the objection is based and shall contain any economic data or other material which it is desired that the Board officially notice. Such objections shall be filed within 45 days after the service of this order. Any interested person may within 21 days thereafter file an answer to any of the objections. Answers shall set forth any economic data or other material upon which they are based.

A list of all persons filing objections will be prepared by the Docket Section and sent to the persons named thereon. Those persons filing answers should serve any person whose objection is dealt with in their answer.

Those persons planning to file objections and/or answers who wish to be served with the objections and answers filed by others; who are willing to undertake service of their own filings on others, shall file with the Docket Section by March 17, 1975, a request to be placed on the service list in Docket No. 27589. The service list will be prepared by the Docket Section and sent to the persons named thereon. The persons on the service list are to serve each other with their objections and/or answers at the time of filing, and to include appropriate proof of service (Rule 3(e), 14 CFR 302.8(e)) with each filing.

Parties requesting an evidentiary on-the-record hearing in this matter shall set forth in detail the reasons therefor, accompanied by a statement of the facts which they intend to develop in a hearing;

3. The air carriers indicated in paragraph 1 above will provide the claims

[23] If this tentative conclusion is finalized, we will amend Part 221 to reflect this finding.

[24] Complaint letter received by the Office of the Consumer Advocate identified CA-73-4922.

[25] See *American Airlines, Inc.* v. *Civil Aeronautics Board*, 359 F. 2d 624 (D.C. Cir. 1966) *cert. denied*, 385 U.S. 843.

[26] See *U.S.* v. *Florida East Coast Railway Co.*, 410 U.S. 244 (1973); and *U.S.* v. *Allegheny-Ludlum Steel Corp.*, 406 U.S. 742 (1974).

[27] 5 U.S.C. 556(d). Persons advocating an evidentiary hearing shall detail the reasons therefor, and those facts they intend to develop in such a hearing.

data set forth in Appendix A,[*] for the months of November 1974 and February 1975. The data for November shall be supplied within 45 days from the service of this order. The February 1975 data shall be supplied no later than April 14, 1975;

4. Within 45 days of the service of this order, the carriers indicated in paragraph 1 above shall provide to the Bureau of Economics three copies of all manuals, depreciation schedules, directives, or other managerial communications, in effect as of the date of service of this order, concerning their procedures for the processing and disposition of baggage complaints and claims;

5. Any carrier submitting an objection to the tentative conclusions based in whole or part on the added cost of the proposed findings will include in its responses a detailed estimate of (1) the added costs that would be incurred in the event that the proposals contained in this show cause order were made final, (2) data indicating the carrier's current claims cost, including insurance and the costs associated with in-house processing of baggage claims, and (3) such other financial and statistical data as in the opinion of the carrier are necessary for a complete factual record. Carrier responses should explicitly set forth all sources, procedures, and allocation methods needed for a proper understanding of their submissions;

6. The petition for rule making filed by the Aviation Consumer Action Project in Docket 25788 be consolidated into the *Domestic Baggage Liability Rules Investigation*, Docket 27589, except to the extent that the petition is addressed to issues within the scope of the proceedings, in Docket 24869, *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation*, and Docket 26568, *In the Matter of Liability Rules of Domestic Certificated Carriers Pursuant to the Carriage of Live Animals as Baggage;* and

7. Except to the extent consolidated into the *Domestic Baggage Liability Rules Investigation*, Docket 27589, the petition for rule making filed by the Aviation Consumer Action Project (Docket 25788) be and it hereby is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.75-6442 Filed 3-11-75;8:45 am]

[Docket No. 27498]

CESKOSLOVENSKE AEROLINIE

Czechoslovak-U.S. Scheduled Service; Postponement of Prehearing Conference and of Hearing

The prehearing conference and the hearing in this proceeding, presently scheduled to be held on March 17, 1975 (40 FR 8587, February 28, 1975), are hereby postponed indefinitely.

Dated at Washington, D.C., March 5, 1975.

[SEAL] E. ROBERT SEAVER,
Administrative Law Judge.

[FR Doc.75-6449 Filed 3-11-75;8:45 am]

[Order 75-3-22; Docket No. 25659]

FRONTIER AIRLINES, INC.

Investigation of the Local Service Class Subsidy Rate; Class Rate VII

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of March 1975.

By this order the Board is (1) denying the exception of Frontier Airlines, Inc. to Order 74-12-119,[1] (2) dismissing the objection of Frontier to Order 74-12-120 and (3) making final the amended subsidy rate contained in Order 74-12-120.[2]

Frontier's exception to Order 74-12-119 and its objection to Order 74-12-120 both relate to adjustments to operating profits and investment which eliminate flight equipment depreciation (by aircraft type) in excess of amounts recognized for subsidy purposes. No exceptions or objections were received from any other party.

Frontier argues that if regulatory depreciation standards established for commercial rates are to be used for subsidy purposes, they should be applied to all aircraft types and not just those types for which reported depreciation expense is greater than the regulatory standards. Frontier states that it uses depreciation rates that are higher than regulatory levels for some aircraft and lower for others, and, in the aggregate, its depreciation for the 12 months ended September 30, 1974 is less than that prescribed by the Board for regulatory purposes.[3] Moreover, if regulatory depreciation had been used for all aircraft types instead of just those types with reported depreciation expense above regulatory, total depreciation expense recognized for subsidy would have been increased. Frontier, in short, believes that regulatory depreciation standards should apply to subsidy in the same manner as applied to the development of commercial rates.

There may be merit to Frontier's contention that depreciation standards for subsidy should be applied to total depreciation for all aircraft rather than to specific aircraft types individually. Consequently, the next time all aspects of the rate are open, we will consider using the lower of total book depreciation or total regulatory depreciation to develop a new subsidy class rate. It is a different matter, however, to argue—as does Frontier—that depreciation standards developed for commercial ratemaking should be used to increase depreciation expenses above levels actually recorded on carriers' books thereby creating "phantom expenses" which, in turn, increase subsidy payments. There may be numerous valid reasons why a carrier would elect to depreciate aircraft at rates less than regulatory standards. The Board, however, sees no compelling reason why a subsidy rate should be burdened with depreciation expense greater than the carrier records on its books.

Frontier does not make a compelling case for an immediate change in the depreciation policy currently employed in the regular semi-annual reviews of the profit-sharing provisions of Class Rate VII. In our judgment, it would not be proper to consider any change in the depreciation adjustment methodology without also considering all other elements of the class rate. Frontier does not contend that the total amount of subsidy is inadequate. Moreover, no point raised in its exception or in its objection supports such a conclusion.

Upon consideration of the foregoing, we reject the contentions of Frontier and will adhere to our depreciation policy in future semi-annual reviews of Class Rate VII. Therefore, all findings and conclusions set forth in Order 74-12-119, as it applies to Frontier Airlines, Inc. are hereby reaffirmed and made final and Frontier's exception to said order is hereby denied. In addition, Frontier's objection to Order 74-12-120 is dismissed and all findings and conclusions set forth in said order are hereby reaffirmed and made final.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof and the Board's Procedural Regulations, 14 CFR, Part 302,

It is ordered, That:

1. The exception of Frontier Airlines, Inc., to Order 74-12-119, be and hereby is denied;

2. The objection of Frontier Airlines, Inc., to Order 74-12-120, be and hereby is dismissed;

3. All findings and conclusions set forth in Order 74-12-120 are hereby reaffirmed and made final;

4. This order shall be effective as of the date of service hereof; and

5. This order shall be served on all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.75-6439 Filed 3-11-75;8:45 am]

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[*] Filed as part of the original document.

[1] Order 74-12-119 (Amendment Three to Order 74-1-123), dated December 30, 1974, updated the provisions for offset of excess profits from ineligible services as specified in Section IV. C. of the Rate Formula set forth in Order 74-1-123.

[2] Order 74-12-120, dated December 30, 1974, directed the carriers receiving subsidy under Class Rate VII to show cause why the provision for sharing changes in levels of eligible need and a change in *ad hoc* procedures should not be adopted.

[3] Flight equipment depreciation and residual values for rate-making purposes are set out in 14 CFR 399.42.

[Docket No. 27233]

KUONI TRAVEL, INC.

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on April 17, 1975, at 9:30 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

The order of presentation and cross-examination will be Kuoni Travel Limited (Switzerland) d/b/a Kuoni Travel, Inc., Swiss Air Transport Company, Ltd., Pan American World Airways, Inc., and the Bureau of Operating Rights.

Dated at Washington, D.C., March 7, 1975.

[SEAL] BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc.75-6447 Filed 3-11-75;8:45 am]

[Docket No. 26907]

LONG-HAUL MOTOR/RAILROAD CARRIER AIR FREIGHT FORWARDER AUTHORITY CASE

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on April 22, 1975, at 10 a.m. (e.d.t.) in Room 726, 1825 Connecticut Ave. NW., Washington, D.C. 20428 before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on November 7, 1974, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C. March 5, 1975.

[SEAL] E. ROBERT SEAVER,
Administrative Law Judge.

[FR Doc.75-6448 Filed 3-11-75;8:45 am]

[Docket No. 27473]

NISSIN INTERNATIONAL TRANSPORT U.S.A., INC.

Prehearing Conference and Hearing

In the matter of Nissin Transportation & Warehousing Co., Ltd., d/b/a Nissin International Transport U.S.A., Inc., Docket 27473; Foreign Indirect Air Carrier (Japan).

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on March 26, 1975, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge E. Robert Seaver.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before March 17, 1975.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., March 5, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.75-6445 Filed 3-11-75;8:45 am]

OFFICE OF THE CONSUMER ADVOCATE

Notice of Presentations

Notice is hereby given that presentations will be made by the Office of the Consumer Advocate, Civil Aeronautics Board to travel agents on April 2, 1975 and to airline customer relations directors and representatives of indirect air carriers on April 4, 1975, at the second floor conference room, Administration Building, Los Angeles Department of Airports, 1 World Way, Los Angeles, California 90009. Public interest groups are invited as observers.

Dated at Washington, D.C., March 7, 1975.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.75-6446 Filed 3-11-75;8:45 am]

CIVIL RIGHTS COMMISSION

MAINE STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on April 2, 1975, University of Maine, Bangor, Maine.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting follow-up on Maine Indian Report and Affirmative Action in State Government.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., March 7, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-6427 Filed 3-11-75;8:45 am]

MONTANA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Montana State Advisory Committee (SAC) to this Commission will convene at 4:00 p.m. on April 11, 1975, at 1609 W. Broadway, Holiday Inn—Meeting Room A.

Persons wishing to attend this meeting should contact the Committee Chairman or the Mountain States Regional Office of the Commission, Room 216, Champa Street, Denver, Colorado 80202.

The purpose of this meeting will be to discuss final plans for its conference on the media which will be held on April 12.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., March 7, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-6428 Filed 3-11-75;8:45 am]

MONTANA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference of the Montana State Advisory Committee (SAC) to this Commission will convene at 8:00 a.m. on April 12, 1975, at the University of Montana School of Music-Auditorium.

Persons wishing to attend this meeting should contact the Committee Chairman or the Mountain States Regional Office of the Commission, Room 216, Champa Street, Denver, Colorado 80202.

The purpose of this conference is to focus on the media and its effects on minorities and women. The two major foci will be employment and the image-making impact of the media.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., March 7, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-6429 Filed 3-11-75;8:45 am]

NEW YORK STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York State Advisory Committee (SAC) to this Commission will convene at 4 p.m., on April 3, 1975, at the Federal Plaza, 26 Federal Plaza, Room 1400.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to hear presentation by Dr. Robert Seidenberg on treatment of women in phermacextical ads.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., March 7, 1975.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.75-6430 Filed 3-11-75;8:45 am]

SOUTH CAROLINA STATE ADVISORY COMMITTEE

Cancellation of Meeting

The meeting of the South Carolina Advisory Committee to the United States Commission on Civil Rights, originally scheduled for March 24, 1975, a notice of which was previously published on page 10514 in the FEDERAL REGISTER on Thursday, March 6, 1975 (39 FR 75-5940), is cancelled.

Dated at Washington, D.C., March 7, 1975.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.75-6431 Filed 3-11-75;8:45 am]

SOUTH CAROLINA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the South Carolina State Advisory Committee (SAC) to this Commission will convene at 10:30 a.m. on April 7, 1975, at the Buccaneer Room, Capito Cabana Motel, 1901 Assembly Street, Columbia, South Carolina 29202.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Southern Regional Office of the Commission, Room 362, Citizens Trust Bank Building, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303.

The purpose of this meeting recharterring SAC, LEAA report plans for the next program.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., March 7, 1975.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.75-6432 Filed 3-11-75;8:45 am]

UTAH STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Utah State Advisory Committee (SAC) to this Commission will convene at 7 p.m. on April 17, 1975, State Capitol Governor's Board Room, Salt Lake City.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mountain States Regional Office of the Commission, Room 216, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this meeting is that the Utah SAC will be briefed and plans finalized for the press conference the following morning. The meeting will focus on major recommendations of the report.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., March 7, 1975.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.75-6433 Filed 3-11-75;8:45 am]

UTAH STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a press conference of the Utah State Advisory Committee (SAC) to this Commission will convene at 10 a.m. on April 18, 1975, State Capitol Governor's Board Room, Salt Lake City.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mountain States Regional Office of the Commission, Room 216, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this press conference SAC will make—public its report: credit availability to women in Utah—press members will be in attendance to receive personal copies of the report.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., March 7, 1975.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.75-6434 Filed 3-11-75;8:45 am]

CIVIL SERVICE COMMISSION

ACTION

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes ACTION to fill by noncareer executive assignment in the excepted service the position of Deputy Associate Director for Older Americans Programs, Office of Domestic and Anti-Poverty Operations.

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

[FR Doc.75-6424 Filed 3-11-75;8:45 am]

VETERANS ADMINISTRATION

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Veterans Administration to fill by noncareer executive assignment in the excepted service the position of Deputy Director, National Cemetery System, Office of the Director.

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

[FR Doc.75-6425 Filed 3-11-75;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CORRELATION OF TEXTILE AND APPAREL CATEGORIES WITH THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED

Corrections

MARCH 6, 1975.

On February 3, 1975, there was published in the FEDERAL REGISTER (40 FR 5010) a Correlation of the Tariff Schedules of the United States Annotated numbers arranged by the cotton, wool, and man-made fiber categories used by the United States in administering the textile trade agreements program. The following corrections are hereby incorporated into the Correlation:

Page	Textile category	Incorrect TSUSA	Correct TSUSA
5063	64	347.2502	347.2520
5066	64	385.2410	358.2410
5086	125	Blank	382.6000
5091	128	350.3500	358.3500
5095	202	310.2060	310.1065
5118	242	365.8580	365.8570
5118	242	367.6034	367.6030
5122	242	365.8580	365.8570

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.75-6311 Filed 3-11-75;8:45 am]

COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MACAU

Entry or Withdrawal From Warehouse for Consumption

MARCH 6, 1975.

On August 14, 1973, there was published in the FEDERAL REGISTER (38 FR 21962) a letter dated August 6, 1973 from the Chairman of the Committee for the Implementation of Textile Agreements, prohibiting entry into the United States for consumption and withdrawal

from warehouse for consumption of cotton, wool and man-made fiber textile products, produced or manufactured in Macau and exported from Macau for which Macau had not issued a visa. One of the requirements is that each visa include the signature of an official authorized to issue visas. Macau has requested that Mrs. Olivia Maria dos Remedios Cesar and Dr. Armando Gil Lopes de Campos be authorized to issue visas replacing Dr. Lourenco Maria da Conceicao, Dr. Joaquim Leonel Ferreira Marinho de Bastos, and Jose Silveira Machado.

Accordingly, there is published below a letter of March 6, 1975, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the directive of August 6, 1973, effective on March 12, 1975. Facsimiles of the signatures of the two newly-designated officials are filed as part of the original document with the Office of the Federal Register. A complete list of officials currently authorized to issue visas for cotton, wool and man-made fiber textile products exported to the United States from Macau is enclosed with the letter to the Commissioner of Customs.

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

MARCH 6, 1975.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive of August 6, 1973 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, under certain specified conditions, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1–64; wool textile products in Categories 101–126, 128, and 131–132; and made-made fiber textile products in Categories 200–243, produced or manufactured in Macau for which Macau had not issued an appropriate visa. One of the requirements is that each visa include the signature of a Macau official authorized to issue visas.

Under the provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreements of December 22, 1972 between the Governments of the United States and Portugal, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, the directive of August 6, 1973 is amended, effective on March 12, 1975 to authorize Mrs. Olivia Maria dos Remedios Cesar and Dr. Armando Gil Lopes de Campos to issue visas in place of Dr. Lourenco Maria da Conceicao, Dr. Joaquim Leonel Ferreira Marinho de Bastos, and Jose Silveira Machado, who will no longer sign. A complete list of Macau officials currently authorized to issue visas is enclosed.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton, wool and man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

Macau Officials Currently Authorized to Issue Visas for Cotton, Wool and Man-Made Fiber Textile Products Exported to the United States:

Dr. Jose Correia Montenegro.
Dr. Armando Gil Lopes de Campos.
Mrs. Olivia Maria dos Remedios Cesar.

[FR Doc.75-6390 Filed 3-11-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 343-3]

LAKE MICHIGAN COOLING WATER STUDIES PANEL

Meeting

Pursuant to Pub. L. 92-463, notice is given that a meeting of the Lake Michigan Cooling Water Studies Panel will be held at 9:30 a.m. on Tuesday, April 1, 1975 at the O'Hare Hilton Hotel, O'Hare International Airport, Chicago, Illinois.

The purpose of this meeting will be to discuss direction of the Panel, priorities, literature work, and studies regarding lake wide effects. There will be additional discussion of the final version of the Panel report.

The meeting will be open to the public. Any member of the public wishing to attend the meeting should contact the Chairman, Mr. Karl E. Bremer, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The telephone number is 312/353-1458.

Minutes of the meeting will be available for public inspection two weeks after the meeting at the EPA Region V Office.

FRANCIS T. MAYO,
Regional Administrator, Region V.

[FR Doc.75-6369 Filed 3-11-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

AIRCRAFT RECEIVERS

Interference to Aeronautical Communications and Radionavigation

FEBRUARY 25, 1975.

The Commission has received reports and investigated several recent cases of interference to air-ground communications and radionavigation caused by interfering signals or by inadequate design characteristics of aircraft radio receivers. Operation of the aircraft receivers in the vicinity of high power FM broadcast stations is the subject of this public notice.

The signals of FM stations may combine in several ways to produce undesired signals on other frequencies. The undesired signals are called "intermodulation products." Because FM broadcast frequencies and the most heavily used aeronautical frequencies are closely related, the intermodulation products are often on the aeronautical frequencies.

Intermodulation products are generally produced in one of three ways. First, if two strong broadcast stations (two FM stations or a FM and an AM station) are geographically close to each other, intermodulation products may be generated in the output of one or both of these transmitters of sufficient magnitude to cause interference to certain aeronautical frequencies. When intermodulation products capable of causing interference are detected as a result of such a situation, the Commission will require that appropriate corrective action be taken by the stations so involved.

In the second case, many materials, particularly dissimilar metals that are touching, may act as mixers by detecting the FM signals and radiating the intermodulation products. Once the signal source is located its radiation can usually be stopped. In either of the above cases, pilots should report persistent interference to the Commission's Field Office or to the Federal Aviation Administration in order that sources of interference may be found and corrected.

In the third case, the source of interference may be in the aircraft receiver itself which ironically comes about because of one of the greatest advances in communications, solid state electronics. Along with their many advantages over earlier equipment, receivers using solid state devices may be the point at which FM signals are mixed unless the receivers are correctly designed. The Commission's information shows that this susceptibility is more prevalent in general aviation equipment as opposed to airline equipment.

Another design characteristic which may be troublesome is the tendency for receivers to be desensitized in the presence of strong radio signals even though no interfering signal or intermodulation product is present on the aeronautical frequencies. Again, the tendency is probably inversely proportioned to equipment cost.

The Commission has no rules concerning the performance of aircraft receiving equipment; however, the Radio Technical Commission for Aeronautics (RTCA) has published a paper designated as DO-157 which contains recommendations concerning receiver rejection of unwanted signals. The Commission urges that purchasers ascertain that the radio receivers comply with the RTCA recommendations before purchasing.

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

[FR Doc.75-6405 Filed 3-11-75;8:45 am]

JOHN W. DAVIDSON

Standard Broadcast Applications Ready and Available

The following application, seeking the facilities of station WDAX, McRae, Georgia, has been accepted for filing. Public notice of its acceptance was released by the Commission on February 19, 1975. The former authorization for WDAX was cancelled and the call letters deleted on February 10, 1975. The Commission will accept any other applications for consolidation with this application which propose essentially the same facilities. The Commission will also entertain a request for joint interim operation by all interested and qualified applicants.

BP-19862 NEW, McRae, Georgia
John W. Davidson
Req: 1410 kHz, 1 kW, Day

Pursuant to the provisions of §§ 1.227 (b) (1) and 1.591(b) of the Commission's rules, an application, in order to be considered with this application must be tendered no later than April 14, 1975. Any request for joint interim operation must be filed no later than May 14, 1975.

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 relating to such pleadings.

Adopted: March 4, 1975.

Released: March 5, 1975.

By the Chief, Broadcast Bureau.

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

[FR Doc.75-6403 Filed 3-11-75;8:45 am]

NON-CERTIFIED RECEIVERS

Trade Show Display or Sales Importation Prohibited

FEBRUARY 27, 1975.

In response to inquiries from the Electronics Industries Association (EIA), the Commission, through its office of General Counsel, has issued interpretations of two aspects of its Marketing Rules. These interpretations relate to trade show displays and importation of equipment that has not been authorized by the Commission.

Although the interpretations are addressed specifically to certification, they apply equally well to type approval and type acceptance.

In a letter to EIA, the Commission pointed out that the display of a receiver at a trade show constitutes an offer for sale and is prohibited if the receiver has not been certificated. This interpretation applies whether the receiver is complete and in operating condition or whether the receiver is merely a dummy or mock-up package.

The second question deals with importation of non-certificated receivers for test and evaluation, as proposed in the importation rules in Docket No. 20194. The Commission said that importation for "test and evaluation" means "test and evaluation to determine compliance with FCC requirements." This phrase does not mean "evaluation for sales purposes" and importation for this purpose violates the marketing rules.

These interpretations are an expression of the Commission's intent not to permit a manufacturer or vendor to create a market for a product that may not be able to comply with its requirements and which could therefore not be legally sold or used. The Commission must insist that compliance with its requirements be demonstrated, by a grant of certification, prior to any offer for sale or any attempt to create a market for the equipment. The interpretation set out herein supercedes any earlier statements or interpretations issued by the Commission.

The full text of the Commission's letter to EIA, signed by Ashton Hardy, General Counsel, dated December 26, 1974, follows:

This refers to your letter of December 6, 1974, submitted on behalf of the Consumer Electronics Group of the Electronic Industries Association, requesting a clarification of the application of the marketing rules to the display of non-certificated "prototype" receivers at trade shows. The Association suggests that such displays are not in violation of the marketing regulations.

You state that trade show exposure of "one-or-few-of-a-kind prototype receivers" is necessary to determine the market acceptability of the receivers and that the displays are only for demonstration and evaluation purposes. In support of your conclusion that the display of an engineering prototype at a trade show does not constitute a violation of Section 302 of the Communications Act nor the Commission's marketing rules, you point to the fact that the Commission in its proposed rules on the importation of RF devices, Docket No. 20194, FCC 74-084, would allow the release of a limited number of unapproved RF devices imported for test and evaluation.

I do not agree with your interpretation of the marketing regulations or the proposed rule making on the importation of RF devices. In fact, the provision that you have cited on the importation of RF devices was proposed to permit the importation of non-certificated RF devices for the sole purpose of testing and evaluating the technical capabilities of the devices in accordance with the equipment authorization requirements. It was further proposed that these unapproved devices only be imported in a very limited quantity and for a limited time period and not be offered for sale or displayed at trade shows.

The display at a trade show of non-certificated, prototype receivers would be contrary to the Commission's marketing regulations, in that, it would offer or advertise for sale non-certificated devices in violation of Section 2.803 of the Commission's rules. The Commission fully discussed "offer for sale" in its Report and Order adopting the marketing regulations, 23 FCC 2d 79 (1970) and 25 FCC 2d 911 (1970). The advertising of an existing device prior to the date that it has been determined that such devices comply with the Commission's requirements was prohibited. The Commission further noted that vendors should not be able to call attention to and create a market for products that could not be shipped or sold and which the public could not lawfully use.

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

[FR Doc.75-6404 Filed 3-11-75;8:45 am]

[FCC 75-223; Docket No. 20200; File No. BR-1945]

STORZ BROADCASTING CO.

Memorandum Opinion and Order

In re application of Storz Broadcasting Co. for renewal of license for station WTIX, New Orleans, Louisiana (39 FR 36140).

By the Commission:

1. We have before us (a) our Memorandum Opinion and Order, FCC 74-1038, 48 FCC 2d 1223, released October 3, 1974, designating the above-captioned renewal application of Storz Broadcasting Co. (Storz) for hearing; (b) Storz's motion for leave to file a petition for reconsideration, and its petition for reconsideration, filed November 1, 1974; (c) the Chief, Broadcast Bureau's opposition to said motion, filed November 14, 1974; and (d) Storz's reply to the Broadcast Bureau's opposition, filed November 26, 1974.[1]

2. Storz's motion and its petition for reconsideration raise substantial questions which warrant a departure from our standard practice of not entertaining petitions for reconsideration of a designation order. See § 1.106 of the Commission's rules and regulations, 47 CFR 1.106. It appears therefrom that the pleading which contained the crucial allegations on which our designation order was based (Southern's reply (and affidavits thereto) to Storz's opposition to the petition to deny) was never served on Storz. After a careful consideration of Storz's instant pleadings, we believe a serious question exists as to whether the alleged broadcast on which the hearing is predicated actually occurred, or, if it did occur, whether it involved a news broadcast, in which case the policy of not inquiring into the truth or falsity of a news broadcast (absent extrinsic evidence of distortion or slanting) might apply. In short, upon consideration of the pleadings before us, as well as the pleadings which originally led to designation, we believe sufficiently serious questions have been raised to justify inquiry into whether a hearing is actually warranted. While we do not agree with Storz that the hearing should be terminated and its application granted forthwith, we do believe a further inquiry into the background is necessary

[1] By an Order adopted under delegated authority, The Southern Media Coalition (Southern), on the basis of whose petition to deny the application had been designated for hearing, was granted an extension until December 2, 1974 to file an opposition to Storz's motion for leave to file a petition for reconsideration. It appears Southern never filed its opposition.

to provide us with a basis for determining the substantiality of the allegations on which the hearing was based.

3. *Accordingly, it is ordered,* That the above-described motion for leave to file a petition for reconsideration is granted, the petition for reconsideration is accepted, and relief is granted to the extent hereinafter indicated, and is otherwise denied.

4. *It is further ordered,* That the hearing heretofore ordered herein, is stayed, until the completion of the inquiry hereinafter ordered.

5. *It is further ordered,* pursuant to sections 403 and 409(e) of the Communications Act of 1934, as amended, that an inquiry is hereby instituted to determine the full facts and circumstances concerning the alleged broadcast; and whether a sufficiently substantial basis exists warranting hearings on this matter with respect to WTIX or any other Commission licensee.

6. *It is further ordered,* That the inquiry shall be a public proceeding and that the provisions of § 1.27 of the Commission's rules shall apply to the production of oral and documentary evidence under subpoena.

7. *It is further ordered,* That, pursuant to section 5(d)(1) of the Communications Act of 1934, as amended, for the purpose of this inquiry authority is hereby delegated to the Chief Administrative Law Judge of the Commission to require by subpoena the production of books, papers, correspondence, memoranda and other records deemed relevant to the inquiry; to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and to perform such other duties in connection therewith as may be necessary or appropriate to the compilation of a complete record concerning the subject matter of this inquiry.

8. *It is further ordered,* That the Chief Administrative Law Judge is specifically authorized to designate a Commission Administrative Law Judge to exercise the authority conferred by this Order; and to require witnesses to testify and produce evidence under authority of, and in the manner provided in, section 409 of the Communications Act of 1934, as amended, when requested to do so by Commission Counsel.

9. *It is further ordered,* That the subpoena powers delegated by this Order shall be exercised in accordance with §§ 1.331 through 1.340 of the Commission's rules. Motions to quash or limit subpoena shall be directed to the presiding Administrative Law Judge in accordance with § 1.334 of the Rules. Applications for review of the presiding Administrative Law Judge's rulings on such motions may be filed with the Commission within ten (10) days after the issuance by the presiding Administrative Law Judge of such rulings.

10. *It is further ordered,* That the Office of the General Counsel shall designate the counsel to represent the Commission in this inquiry, *provided,* That such counsel shall not be selected from the staff of the Broadcast Bureau.

11. *It is further ordered,* That upon conclusion of the inquiry ordered herein, the presiding Administrative Law Judge shall prepare a report of the findings and submit it to the Commission.

Adopted: February 26, 1975.

Released: March 6, 1975.

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

[FR Doc.75-6401 Filed 3-11-75;8:45 am]

FEDERAL MARITIME COMMISSION

CANAVERAL PORT AUTHORITY AND PORT EVERGLADES TOWING, INC.

Agreement Filed

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

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 1, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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

Notice of agreement filed by:

Edward M. Jackson, Esq.
Attorney At Law
Canaveral Port Authority
P.O. Box 127
Cocoa, Florida, 32922.

Agreement No. T-3051, between Canaveral Port Authority (Canaveral) and Port Everglades Towing, Inc. (PET) grants PET a 10-year franchise to provide vessel towing service at Port Canaveral, Brevard County, Florida. Pursuant to this franchise, PET agrees to operate and maintain two or more modern harbor tug boats equipped with fire fighting apparatus. Canaveral will receive $200 annually as a franchise fee. The agreement further provides that Canaveral will not grant a franchise to another tug towing service without first having a public hearing to determine the convenience and necessity of such additional service.

By Order of the Federal Maritime Commission.

Dated: March 7, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-6435 Filed 3-11-75;8:45 am]

NORTH EUROPE-U.S. PACIFIC FREIGHT CONFERENCE

Agreement Filed

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

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 1, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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

Notice of agreement filed by:

David C. Nolan, Esquire
Graham & James
One Maritime Plaza
San Francisco, California 94111.

Agreement No. 93-11, among the member lines of the above-named conference, extends the inland authority contained in the basic agreement and covering points in Continental Europe, the Republic of Ireland and the United Kingdom for an additional 18 months.

By Order of the Federal Maritime Commission.

Dated: March 7, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-6436 Filed 3-11-75;8:45 am]

SEA-LAND SERVICE, INC. AND PORT OF PORTLAND

Agreement Filed

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

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before April 1, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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

Notice of agreement filed by:

Betty I. Crofoot, Esq.
Port of Portland
Box 3529
Portland, Oregon 97208.

Agreement No. T-3064, between Sea-Land Service, Inc. (Sea-Land) and the Port of Portland (Portland), provides for the two-year lease to Port of certain marine terminal facilities at Swan Island Industrial Park. As compensation Sea-Land will receive a percentage of revenues paid to Port in accordance with applicable tariffs with a minimum guarantee of $21,000 per year.

By Order of the Federal Maritime Commission.

Dated: March 7, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-6437 Filed 3-11-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI75-509]

ATLANTIC RICHFIELD CO.

Application

MARCH 5, 1975.

Take notice that on February 20, 1975, Atlantic Richfield Company (Applicant), P.O. Box 2819, Dallas, Texas 75221, filed in Docket No. CI75-509 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a sale of natural gas in interstate commerce in the Drinkard Field, Lea County, New Mexico, to Skelly Oil Company (Skelly), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it proposes to abandon partially the sale of gas to Skelly from the subject acreage, which sale has been made pursuant to a percentage-type contract with Skelly. Applicant states that as oil wells the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that it proposes to abandon the sale from four wells to Skelly because the New Mexico Oil Conservation Commission has reclassified these wells as gas wells and that Skelly is no longer contractually entitled to the gas from the subject wells.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 25, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-6337 Filed 3-11-75;8:45 am]

[Docket Nos. RP74-82; RP74-81]

COLUMBIA GAS TRANSMISSION CORP. AND COLUMBIA GULF TRANSMISSION CO.

Extension of Time

MARCH 4, 1975.

On January 17, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued May 31, 1974, as most recently modified by notice issued February 26, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, March 11, 1975.
Service of Intervenor's Testimony, April 1, 1975.
Service of Company Rebuttal, April 15, 1975.
Hearing, April 29, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-6338 Filed 3-11-75;8:45 am]

[Docket Nos. RP74-90; RP73-107]

CONSOLIDATED GAS SUPPLY CORP.

Extension of Procedural Dates

MARCH 5, 1975.

On February 28, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued September 16, 1974, as most recently modified by notice issued December 20, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, April 30, 1975.
Service of Intervenor's Testimony, May 14, 1975.
Service of Company Rebuttal, May 28, 1975.
Hearing, June 17, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-6339 Filed 3-11-75;8:45 am]

[Docket Nos. RP71-15; PGA75-3(a)]

EAST TENNESSEE NATURAL GAS CO.

Revised PGA Rate Adjustment

MARCH 5, 1975.

Take notice that on February 28, 1975, East Tennessee Natural Gas Company (East Tennessee) tendered for filing proposed changes to Sixth Revised Volume No. 1 of its FPC Gas Tariff to be effective on March 15, 1975, consisting of the following revised tariff sheets:

Second Substitute Eleventh Revised Sheet No. 4 and Alternate Second Substitute Eleventh Revised Sheet No. 4.

East Tennessee states that the sole purpose of these revised tariff sheets is to revise its PGA filing of February 12, 1975, in this docket. East Tennessee states that the previous filing reflected an increase of its supplier Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) in Docket No. RP75-13. On February 28, 1975, Tennessee revised its filing in that docket to reflect the effects of its PGA filing pursuant to Opinion Nos. 699-G and 699-H. Accordingly, East Tennessee states that it must revise its filing in this docket in order that its rates which become effective on March 15, 1975, reflect the total increase by Tennessee which will become effective on that date.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-6340 Filed 3-11-75;8:45 am]

[Docket No. RP71-15; PGA75-4]

EAST TENNESSEE NATURAL GAS CO.

Proposed PGA Rate Adjustment

MARCH 5, 1975.

Take notice that on February 28, 1975, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Substitute Eleventh Revised Sheet No. 4 to Sixth Revised Volume No. 1 of its FPC Gas Tariff, proposed to be effective March 1, 1975.

East Tennessee states that the sole purpose of the revised tariff sheets is to adjust East Tennessee's rates pursuant to the PGA provision in section 22 of the General Terms and Conditions to reflect increased purchased gas costs resulting from a rate increase by its sole supplier, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), on February 28, 1975. East Tennessee further states that the revised tariff sheets reflect an increase of 14.06 cents per Mcf in East Tennessee's commodity and Developmental Period rates and the rates for Supplemental Winter Service.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-6341 Filed 3-11-75;8:45 am]

[Docket No. CP72-77][1]

EL PASO NATURAL GAS CO.

Petition To Amend

MARCH 5, 1975.

Take notice that on February 14, 1975, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP72-77 a petition to amend the order issued in said docket pursuant to section 7(c) of the Natural Gas Act so as to increase the authorized cost of a single project from $467,911 to $615,224, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

The Commission by order dated November 8, 1972, in Docket No. CP72-77, authorized the installation of one 880 horsepower compressor at Northwest's Station No. 24 at an estimated cost of $467,911. The actual project cost of installing the compressor was $615,224, according to Northwest.

Northwest states that the total project cost has exceeded previous estimates as a result of increased costs in material, installation, and other costs primarily attributable to early winter weather conditions that forced the temporary shutdown of construction prior to completion. The additional increased costs associated with the shutdown were not previously anticipated according to Northwest.

Northwest states that the total costs for installation of the Compressor Station No. 24 when taken together with the costs of the other projects constructed under the authorization issued in Docket No. CP72-77, did not exceed the total authorized limitation of $1,000,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 19, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-6342 Filed 3-11-75;8:45 am]

[1] By Order of the Commission issued September 21, 1973, in Docket No. CP73-331, *et al.*, Northwest Pipeline Corporation (Northwest) was authorized *inter alia* to acquire and operate the facilities of El Paso Natural Gas Company's (El Paso) Northwest System Division. Northwest, in its application filed June 15, 1973, in Docket No. CP73-331 requested that all certificates currently held by El Paso which are applicable to the Northwest Division be reissued to Northwest. The Commission in its order of September 21, 1973, stated that specific authorizations under such certificates will be subject to future orders in these dockets.

[Docket No. E-9292]

KANSAS POWER AND LIGHT CO.

Filing of Renewal Contract

MARCH 5, 1975.

Take notice that on February 28, 1975, The Kansas Power and Light Company (Kansas) tendered for filing a newly executed renewal contract dated February 20, 1975, with the City of Severence, Kansas for wholesale electric service to that community. Kansas states that this is a renewal of a similar contract dated December 8, 1964, and designated KPL Rate Schedule FPC No. 46. The proposed effective date is February 15, 1975 and Kansas requests that the Commission waive the notice requirements as allowed in § 35.11 of its regulations. According to Kansas, the net billing for the twelve months succeeding the proposed change in agreements was $6,507.98. In addition, Kansas states that copies of the contract have been mailed to the City of Severence and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-6344 Filed 3-11-7;8:45 am]

[Docket No. E-9289]

EL PASO ELECTRIC CO.

Application

MARCH 5, 1975.

Take notice that on February 21, 1975, El Paso Electric Company (Applicant)

filed an application pursuant to section 204 of the Federal Power Act and Commission regulations thereunder seeking authority to negotiate with underwriters regarding the proposed issuance and sale of 500,000 shares of Common Stock by negotiated underwriting. Applicant seeks permission to negotiate with underwriters regarding the terms upon which the securities might be issued in order to determine whether application for exemption from the competitive bidding requirements of the Commission's regulations should be filed.

Applicant is incorporated under the laws of the State of Texas with its principal business office at El Paso, Texas and is engaged in the electric utility business in the States of Texas and New Mexico.

The aggregate proceeds from the proposed financing will be used to repay outstanding short-term bank loans, which totaled $33,400,000 at the end of January 1975 and which are expected to total $33,650,000 at the time of the sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 21, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 75-6343 Filed 3-11-75;8:45 am]

[Docket No. E-9284]

KENTUCKY UTILITIES CO.

Application

MARCH 5, 1975.

Take notice that on February 21, 1975, Kentucky Utilities Company (Applicant) filed an application pursuant to section 203 of the Federal Power Act seeking authorization to acquire from Old Dominion Power Company (Old Dominion) from time to time during the year 1975, unsecured promissory notes of Old Dominion (a) in amounts not to exceed $3,000,000 in the aggregate at any time unpaid and (b) in such additional amount, not to exceed $200,000 at any time outstanding, as may be loaned by the Applicant to Old Dominion on or after November 23, 1975, which is the maturity date of the note issued by Old Dominion to the Applicant in the principal amount of $200,000 due November 23, 1975. Old Dominion is the wholly owned subsidiary of the Applicant.

Applicant is incorporated under the laws of the State of Kentucky, with its principal business office at Lexington, Kentucky. Applicant is a public utility engaged in generating, purchasing, transmitting, distributing and selling electric energy in central, southeastern and western Kentucky. Applicant also serves about 23 counties in Tennessee.

Old Dominion is incorporated under the laws of the State of Virginia with its principal business office at Norton, Virginia and is engaged in purchasing, transmitting, distributing and selling electric energy in five counties in southwestern Virginia. Old Dominion is a wholly owned subsidiary of the Applicant.

The electric utility facilities of the Applicant and of Old Dominion are interconnected with those of certain other electric utilities under interconnection agreements on file with the Commission.

The proceeds from the issuance of the notes will be used by Old Dominion to finance the construction, completion, extension and improvement of its electric utility facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before March 21, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants, parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-6345 Filed 3-11-75;8:45 am]

[Docket No. RP73-43; PGA 75-3]

MID LOUISIANA GAS CO.

Proposed Change in Rates

MARCH 5, 1975.

Take notice that Mid Louisiana Gas Company (Mid Louisiana), on February 25, 1975, tendered for filing as a part of First Revised Volume No. 1 of its FPC Gas Tariff, Thirteenth Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment to Mid Louisiana's Rate Schedules G-1, SG-1, I-1 and E-1 to be effective March 1, 1975, to reflect the increase in Mid Louisiana's purchase gas cost attributable to gas supplier increases made pursuant to Commission Opinion No. 699-H in Docket No. R-389-B. The revised tariff sheet is proposed to become effective March 1, 1975 to coincide with United Gas Pipe Line Company's Docket No. RP72-133 rate increase to Mid Louisiana. Mid Louisiana further states that copies of the filing were served on interested customers and state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-6346 Filed 3-11-75;8:45 am]

[Docket No. RP71-16; PGA 75-5]

MIDWESTERN GAS TRANSMISSION CO.

Notice of PGA Filing

MARCH 5, 1975.

Take notice that on February 28, 1975, Midwestern Gas Transmission Company (Midwestern) tendered for filing Ninth Revised Sheet No. 5 to Third Revised Volume No. 1 to its FPC Gas Tariff. Midwestern states that the sole purpose of the revised tariff sheet, proposed to be effective April 1, 1975, is to reflect an increase in its Southern System rates resulting from an increase filed by its supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee). Tennessee's increase was based solely on increased purchased gas costs resulting from the new national rates for producers in accord with Opinion Nos. 699-G and 699-H.

Because several of its customers have requested an April 1, 1975, effective date for this PGA adjustment, Midwestern states that Ninth Revised Sheet No. 5 is proposed to be effective only in the event the Commission permits Midwestern to collect carrying charges on the amounts it is deferring as reflected in the Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account. Ninth Revised Sheet No. 5 reflects a total increase of 17.23 cents per Mcf in the commodity rates of Midwestern's Southern System Rate Schedules, consisting of the Current Purchased Gas Cost Rate Adjustment and the Surcharge.

In the event the Commission does not permit Midwestern to collect carrying charges on the amounts deferred for March, 1975, Midwestern also tendered for filing Alternate Ninth Revised Sheet No. 5. The revised tariff sheet reflects only the Current Purchased Gas Cost Rate Adjustment of 13.98 cents per Mcf in the commodity rate of Midwestern's Southern System Rate Schedules. Midwestern requests waiver of §§ 1.2 and 1.3 of Article XVII of its FPC Gas Tariff in order to make the revised tariff sheet effective on March 1, 1975. Midwestern

states that the proposed effective date is in accord with Opinion No. 699–H which specifically allows such PGA increases to become effective on the date of filing.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH L. PLUMB,
Secretary.

[FR Doc.75-6347 Filed 3-11-75;8:45 am]

[Docket No. CP75-227]

MONTANA-DAKOTA UTILITIES CO.

Application

MARCH 5, 1975.

Take notice that on February 10, 1975, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP75-227 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Northern Gas Company (Northern Gas), all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant seeks authorization to sell gas commencing April 1, 1975, to Northern Gas for resale at a rate of 38.88 cents per Mcf an annual quantity of natural gas equal to 6,000 Mcf per day to be delivered at Riverton Dome, Fremont County, Wyoming. The purpose of this sale, according to Applicant, is to provide gas to Applicant's customers on Applicant's intrastate natural gas system (Sheridan system) serving the communities of Kaycee, Buffalo and Sheridan in Johnson and Sheridan Counties, Wyoming. Applicant states that Northern Utilities, Inc. (Northern Utilities), an affiliate of Northern Gas, will sell an equivalent amount of gas to Applicant to supply the Sheridan system. Applicant further states that Northern Utilities is the current supplier of gas to Applicant for use in its Sheridan system, but that Northern Utilities can no longer supply said gas due to depletion of its own gas reserves.

Applicant declares that there are no facilities required to implement the subject sale. Applicant points out that a condition for the implementation of the subject proposal is that none of the gas purchased by the parties involved shall be transported in interstate commerce and that all gas purchased will be resold, transported, used and consumed wholly within Wyoming. Applicant states that without this condition, Northern Gas and Northern Utilities, both intrastate companies, would not have agreed to the proposals contained herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-6348 Filed 3-11-75;8:45 am]

[Docket No. RP73-8; PGA 75-6]

NORTH PENN GAS CO.

Proposed Changes in FPC Gas Tariff

MARCH 5, 1975.

Take notice that North Penn Gas Company (North Penn) on February 28, 1975, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause for rates to be effective March 1, 1975. North Penn states that the proposed rate increase would generate $1.7 million annually in additional jurisdictional revenues based on the twelve-month period ending January 31, 1975.

North Penn states that the PGA filing was triggered by a PGA rate increase filed by Consolidated Gas Supply Corporation on February 26, 1975, to become effective March 1, 1975, and a PGA rate increase filed by Tennessee Gas Pipeline Company February 28, 1975, to become effective March 1, 1975.

North Penn is requesting a waiver of the 45-day notice requirement contained in its PGA clause since it did not receive the suppliers' revised rates in sufficient time to make a timely filing and further asks for a waiver of any other of the Commission's rules and regulations in order to permit the proposed rates to go into effect on March 1, 1975.

North Penn states that copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-6349 Filed 3-11-75;8:45 am]

[Docket No. RP75-63]

PACIFIC GAS TRANSMISSION CO.

Order Rejecting Proposed Tariff Sheets and Denying Waiver and Hearing

MARCH 5, 1975.

On February 12, 1975, Pacific Gas Transmission Company (PGT) tendered for filing certain new and revised Tariff Sheets to be included in its FPC Gas Tariff, Original Volume No. 1.[1] PGT states that the purpose of these tariff sheets is to permit it to include advance payments to suppliers in its rate base under its cost of service tariff. PGT requests an effective date of March 14, 1975 for these tariff sheets.

Notice of the filing was issued February 26, 1975, with protests and petitions to intervene due on or before March 10, 1975. To date no such protests or petitions to intervene have been received.

In order to permit these tariff sheets to become effective, PGT requests waiver of § 154.38(d)(3) of the Commission's Regulations. PGT requests a hearing in the

[1] Second Revised Sheet No. 4, Second Revised Sheet No. 14, Original Sheet No. 14A, and Original Sheet No. 14B.

event such waiver is not granted. Section 154.38(d)(3) provides that, except as permitted by §§ 154.38(d) (4) and (5) and 154.52, no automatic adjustment provision shall be permitted in a natural gas company tariff. PGT's tariff is a cost-of-service tariff pursuant to § 154.52 of the regulations.

This filing is similar to PGT's filing of June 27, 1973. In that filing, PGT sought to include an advance payment in its rate base as well as to include a provision for tracking advance payments by including such advances in the definition of working capital in its tariff sheets. In our order, issued in Docket No. RP73-116, on July 31, 1973, we rejected that part of PGT's filing, without prejudice to PGT's right to seek approval of future advances on a case-by-case basis. Since that time, in Order No. 499, issued December 28, 1973, we have again passed on the propriety of provisions for tracking advance payments. We therein declined to adopt tracking provisions.[2] We believe that, since we have previously rejected such a provision for PGT and since we have subsequently refused to provide for such provisions for all pipelines, we should again reject PGT's proposal, without prejudice to its right to seek rate base treatment for advances on a case-by-case basis. Accordingly, we shall also deny PGT's request for waiver of § 154.38(d)(3) of our regulations and the hearing requested by PGT if such waiver is denied.

With regard to any filing by PGT which seeks approval of any advance payments on a case-by-case basis, we believe it appropriate to restate our policy as to advances to producers in the Dominion of Canada. We shall in no circumstances permit advance payments to Canadian producers to be included in PGT's rate base. Our refusal to permit advances to Canadian producers is necessary to insure that the United States consumer will receive any benefits which may be derived from the inclusion of any advance payments in PGT's rate base.[3]

The Commission finds: It is necessary and appropriate in the public interest and to aid in the enforcement of the Natural Gas Act that PGT's proposed tariff sheets be rejected and that its request for waiver and hearing be denied.

The Commission orders: (A) PGT's proposed tariff sheets are hereby rejected.

(B) PGT's request for waiver and hearing is hereby denied.

(C) This rejection is without prejudice to PGT's right to seek rate base treatment of advance payments on a case-by-case basis, as hereinabove described.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

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

[FR Doc.75-6350 Filed 3-11-75;8:45 am]

[Dockets Nos. E-7718; E-8435]

PENNSYLVANIA ELECTRIC CO.

Extension of Procedural Dates

MARCH 4, 1975.

On February 24, 1975, Pennsylvania Electric Company (Panelec) filed a motion to suspend the procedural dates fixed by order issued November 11, 1974, as most recently modified by notice issued February 3, 1975, in the above-designated matter, pending Commission action on Panelec's filing of February 12, 1975.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Rebuttal, April 29, 1975. Hearing, May 13, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-6351 Filed 3-11-75;8:45 am]

[Docket No. RP72-133; PGA 75-1]

UNITED GAS PIPE LINE CO.

Order Granting Late Interventions

MARCH 5, 1975.

On December 18, 1974, the United Gas Pipe Line Company (United) tendered for filing a Substitute Twentieth Revised Sheet No. 4. United's filing was noticed by the Commission on December 27, 1974, with protests and petitions to intervene due on or before January 6, 1975.

An untimely Notice of Intervention was filed by the Mississippi Public Service Commission on February 3, 1975. Having reviewed the above petition to intervene, we believe that the petitioner has sufficient interest in the proceedings to warrant intervention.

The Commission finds: It is desirable and in the public interest to allow the above-named petitioner to intervene.

The Commission orders: (A) The above-named petitioner is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the Notice of Intervention; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that he might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

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

By the Commission.

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

[FR Doc.75—6352 Filed 3-11-75;8:45 am]

[Docket No. RP75-60]

UNITED GAS PIPE LINE CO.

Order Accepting for Filing and Permitting Rate Change To Become Effective Subject to Refund

MARCH 5, 1975.

On February 3, 1975, United Gas Pipe Line Company (United) tendered for filing proposed changes[1] to its FPC Gas Tariff, Original Volume No. 2, which would have the effect of increasing its rate for transporting gas for Louisiana Power & Light Company (LP&L) from the presently effective rate of 1¢/Mcf to 11.89¢/Mcf. Based on the calendar year 1974, this increase amounts to $193,428 annually.

LP&L receives transportation service from United under United's Rate Schedule X-30 which provides for the transportation of gas from Antioch Field, Claiborne Parish, Louisiana, to LP&L's steam electric generating plant at Sterlington, Louisiana. The present provisions of that rate schedule, the term of which extends to January 1, 1975, provide for the transportation of a minimum annual volume of 2,500,000 Mcf, thereby establishing a minimum annual bill of $25,000. United's proposed revisions to that agreement, in addition to providing for an increase in rate, further provide for: an extension of the agreement's term to January 1, 1976, and from year-to-year thereafter; a change in the basis for measuring the volumes of gas transported; a reduction in the minimum annual volume to 1,000,000 Mcf (while still maintaining the $25,000 minimum annual bill); and the redefintion, clarification and general updating of the force majeure provision and the scope of the contract. United also proposes to add a new provision which requires the payment of a price equal to United's average jurisdictional transmission cost of service in the rate zone in which the transportation service is rendered, that cost being initially determined on the basis of any new rate filing which United may file with this Commission. The tariff sheets reflect an effective date of January 1, 1975.

The filing was noticed on February 19, 1975, with protests, notices of intervention and petitions to intervene due on or before February 28, 1975. No comments were filed in response to this notice.

We note that United's proposed rate of 11.89¢/Mcf is equal to the rate which

[2] Order No. 499, issued December 31, 1973, mimeo at 7-8.

[3] See, *e.g., Texas Eastern Transmission Corporation,* Opinion No. 672, issued November 1, 1973; *Michigan Wisconsin Pipe Line Company,* Opinion No. 685, issued January 31, 1974; Order Denying Rehearing issued March 29, 1974.

[1] First Revised Sheet Nos. 215 through 227 and 232 of Rate Schedule X-30.

United has proposed to charge in Docket No. RP74-83 for transportation service in its Northern Zone and which is presently being collected subject to refund. As the proposed terms of United's agreement provide that the transportation rate to LP&L will be that charged in the Northern Zone, and since the current Northern Zone rate is now pending resolution of the issues in the consolidated dockets RP74-20 and RP74-83, we shall accept United's proposed tariff sheets for filing and make them subject to refund and subject to the ultimate disposition of the proceedings in the aforementioned dockets.

We further note that although United's proposed tariff sheets reflect a January 1, 1975 effective date, United has not requested waiver of the thirty day notice requirements of our Regulations nor has it alleged any facts which would constitute good cause for doing so. Accordingly, we shall accept United's tariff sheets for filing to be effective March 6, 1975, thirty days after the filing date.

The Commission finds: Good cause exists to accept United's proposed tariff sheets, filed February 3, 1975, for filing to become effective March 6, 1975, subject to refund and subject to the disposition of the proceedings in Docket Nos. RP74-20 and RP74-83.

The Commission orders: (A) United's proposed tariff sheets, filed February 3, 1975, are hereby accepted for filing to become effective March 6, 1975, subject to refund and subject to the disposition of the proceedings in Docket Nos. RP74-20 and RP74-83.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-6353 Filed 3-11-75;8:45 am]

[Docket No. RI75-113]

KOCH DEVELOPMENT CORP.

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

FEBRUARY 28, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, 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, Chapter 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. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless 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, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

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

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 subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI75-113	Koch Development Corp.	2	[2] 6	El Paso Natural Gas Co. (San Juan Basin Area, San Juan County, N. Mex., San Juan Basin Area) (Rocky Mountain Area).		1-29-75	3-1-75	[3] Accepted	23.52		
	do		7	do	$868	1-29-75	3-1-75	[3] Accepted	23.52	[4] 24.0	
	do			do	86	1-29-75		8-1-75	[4] 24.0	[4] 24.5	
	do	3	[2] 6	do		1-29-75	3-1-75	[3] Accepted	14.7		
	do		7	do	4,994	1-29-75	3-1-75	[3] Accepted	14.7	[4] 24.0	
	do			do	229	1-29-75		8-1-75	24.0	24.5	

[1] Plus applicable tax and Btu adjustment.
[2] Contract dated Jan. 15, 1975.
[3] Accepted, as of the date set forth in the "Effective Date Unless Suspended" column.
[4] Unless otherwise stated, the pressure base is 14.73 lb/in²a.

The proposed rate increases of Koch Development Corporation which exceed the applicable area ceiling rate in Opinion No. 658 are suspended for five months.

[FR Doc.75-6216 Filed 3-11-75;8:45 am]

[Docket No. RI75-116]

NORTHEAST BLANCO DEVELOPMENT CORP.

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

FEBRUARY 28, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, 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, Chapter 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. Each of these supplements shall become effective, subject to refund,

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

as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless 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, whichever is earlier.

By the Commission.

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

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 subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI75-116..	Northeast Blanco Development Corp.	1	11	El Paso Natural Gas Co. (New Mexico, Rocky Mountain Area).	$832,672	1-29-75	.....	Rejected	29.23	[1] 1.6717	RI72-82.
	.....do.....		12	.....do.....	[2] 228,567	1-29-75	.....	[3] 9-21-75	29.23	[4] 62.8852	RI72-82.

[1] Includes applicable liquids adjustment.
[2] Five months from termination of the suspension period in Docket No. RI75-69.
[3] Calculated on the basis of an increase from a total rate of 53.98 cents per Mcf (Docket No. RI75-69) to a total rate of 62.8852 per Mcf.
*Unless otherwise stated, the pressure base is 15.025 lb/in²a.

The expired contract of Northeast Blanco has not been renewed and, therefore, the sale of gas does not qualify for the national rate. We shall suspend Northeast Blanco's proposed rate of 62.8852 cents per Mcf for five months from the date the underlying rate becomes effective subject to refund inasmuch as the proposed rate exceeds the applicable area ceiling established in Opinion No. 658.

Northeast Blanco's underlying rate is currently under suspension in Docket No. RI75-69 and does not become effective subject to refund until April 21, 1975. Northeast Blanco has tendered a proposed increased rate of 61.6717 cents per Mcf for the retroactive locked in period from October 20, 1974, to January 1, 1975. The Commission's suspension order in Docket No. RI75-69 prohibits the changing of the suspended rate (i.e. the underlying rate involved here) during the period of suspension. Moreover, good cause has not been shown for waiving this prohibition or for allowing the proposed rate to become effective retroactively. As a result, the proposed increased rate of 61.6717 cents per Mcf is rejected.

[FR Doc.75-6217 Filed 3-11-75;8:45 am]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

NOTICE OF COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of Pub. L. 92-463, effective January 5, 1973, notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, April 3, 1975
Thursday, April 10, 1975
Thursday, April 17, 1975
Thursday, April 24, 1975

The meetings will convene at 10 a.m. and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street, NW, Washington, D.C.

The committee's primary responsibility is to study the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the committee will consider proposed plans for implementation of Pub. L. 92-392, which law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public on the basis of a determination under section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C., section 552(b)(2), that the closing is necessary in order to provide the members with the opportunity to advance proposals and counter-proposals in meaningful debate on issues related solely to the Federal Wage System with the view toward ultimately formulating advisory policy recommendations for the consideration of the Civil Service Commission.

However, members of the public who wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Federal Prevailing Rate Advisory Committee, Room 5451, 1900 E Street, NW, Washington, D.C. 20415.

DAVID T. ROADLEY,
Chairman, Federal Prevailing Rate Advisory Committee.

MARCH 7, 1975.

[FR Doc.75-6366 Filed 3-11-75;8:45 am]

FEDERAL RESERVE SYSTEM

AMERICAN BANCSHARES, INC.

Order Approving Formation of Bank Holding Company

American Bancshares, Inc., Tulsa, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) for formation of a bank holding company through the acquisition of 84.9 per cent or more of the voting shares of American Bank of Oklahoma, Pryor Creek, Oklahoma ("Bank").

Notice of the application, affording an opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments has expired, and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a non-operating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank (deposits of $15.9 million) [1] Bank is the smaller of two banks in Pryor Creek, an agriculturally oriented community in eastern Oklahoma about 30 miles northeast of Tulsa. Bank is the second largest of five banks in the relevant banking market (approximated by Mayes County) and controls 38 per cent of the total commercial bank deposits therein. Upon acquisition of Bank, Applicant would control the 119th largest bank in Oklahoma with .19 per cent of total deposits in commercial banks in the State. Since the purpose of the proposed transaction is to effect a transfer of the ownership of Bank from individuals to a corporation owned by the same individuals, consummation of the proposal herein would not eliminate existing or potential competition, nor have an adverse effect on other area banks.

The principals of Applicant are also principals in two other registered one-bank holding companies, Bostates Investment Company and Quatro Corporation, both of Tulsa, Oklahoma, which control, respectively, Boulder Bank and Trust Company, Tulsa, Oklahoma, and Sand Springs State Bank, Sand Springs, Oklahoma. Each of these banks competes in the Tulsa banking market. Since these banks are located in a banking market separate and distinct from that of Bank and in view of the common ownership, as well as other facts of record, it appears that no significant existing competition would be eliminated, nor potential competition foreclosed, as a result of the consummation of this proposal. Accordingly, it is concluded that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, which will depend upon those of Bank, are considered to be satisfactory. Applicant proposes to service the debt incurred as a result of the consummation of this proposal over a 12-year period through dividends of Bank. In light of the past earnings of Bank and its anticipated growth, the projected earnings

[1] All banking data are as of June 30, 1974.

of Bank appear to provide Applicant with the necessary financial flexibility to meet its annual debt servicing requirements while maintaining an adequate capital position for Bank. Therefore, considerations relating to banking factors are consistent with approval of the application. Although consummation of the proposal would effect no changes in the banking services offered by Bank, the considerations relating to the convenience and needs of the community to be served are consistent with approval. It has been determined that the proposed transaction would be in the public interest and that the application should be apprpved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective March 3, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-6322 Filed 3-11-75;8:45 am]

FIDELITY AMERICAN BANKSHARES, INC.

Order Approving Entry De Novo in Insurance Agency Activities

Fidelity American Bankshares, Inc., Lynchburg, Virginia, a bank holding company within the meaning of the Bank Holding Company Act of 1956, has proposed under section 4(c)(8) of the Act and § 225.4(b)(1) of the Board's Regulation Y, to engage *de novo* in the sale of credit life, credit accident and health, and mortgage redemption insurance through a wholly-owned subsidiary, Columbia Insurance Agency, Inc., in Lynchburg, Virginia, and 30 other communities in the State at offices where Applicant or its lending subsidiaries are located. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4 (a)(9)).[1]

Notice of the proposal, affording opportunity for interested persons to express comments and views was duly published in accordance with § 225.4(b)(1) of the Board's Regulation Y. Numerous objections to the application were received, whereupon Applicant modified its original request by deleting the sale of property insurance. Subsequently, all the objections were withdrawn with the exception of that filed by the Lynchburg Association of Life Underwriters ("Protestant").

The Federal Reserve Bank of Richmond determined that Protestant's comments were not of such nature as to warrant advising Applicant not to consummate the proposal. Protestant was advised, however, that it could seek Board review of this decision in accordance with the provisions of § 265.3 of the Board's rules regarding delegation of authority (12 CFR 265.3). Thereafter, Protestant petitioned the Board for such a review. In accordance with the procedures set forth in § 265.3, review by the Board was authorized and Applicant was notified not to consummate its proposal. The proposal has now been reviewed by the Board, and its finding and decision are set forth hereinafter.

Applicant controls 16 banks with aggregate deposits of $669 million, representing about 5.5 per cent of total deposits in commercial banks in Virginia.[2] Applicant's nonbanking subsidiaries include a mortgage company, a leasing company, an investment advisory firm, and a consumer finance company.

Protestant's opposition to Applicant's proposal is based principally on a concern that approval of the application would allow Applicant to make the purchase of credit life, credit accident and health, or mortgage redemption insurance a prerequisite for a loan. Thus, Protestant views the proposal as one that would eliminate a borrower's "freedom of choice" and tend to eliminate competition in the insurance industry.

It is the Board's view that the public benefits that may reasonably be expected to result from the sale of the specified coverages appear to be positive in terms of greater convenience to the consumer-borrower. The ability of a borrower to complete an entire credit-related insurance transaction at one location is likely to result in a considerable savings in time as well as eliminate the duplication of certain information requirements. In addition, the added convenience of combining the loan installments and insurance premiums in a single payment is likely to result in Applicant's ability to offer a lower premium rate on such coverages for their borrower-insureds. In the Board's view, these benefits are the type which Congress envisioned when it enacted the 1970 Amendments to the Bank Holding Company Act. Moreover, Applicant's *de novo* entry into this nonbanking activity would be procompetitive as it brings an added element of competition into the local Virginia markets in which Applicant has offices that would not otherwise exist.

One of the possible adverse effects which Congress directed the Board to consider in determining whether a particular activity is a proper incident to banking or managing or controlling banks is the danger of decreased or unfair competition. Protestant supports his opposition to the instant proposal by citing an occurrence wherein a bank not affiliated with Applicant required the purchase of credit life insurance as a condition precedent to an extension of credit. It is clear that coerced tying is forbidden by § 106 of the Bank Holding Company Act and under certain conditions by provisions of the antitrust laws. The evidence of record contains no specific instance of a tying arrangement involving Applicant resulting from either coerced or "voluntary" tying.[3] In the Board's view, the dangers of tying in this case are not substantial and should not bar Applicant's sale of insurance in local Virginia markets. Moreover, there is no evidence in the record indicating that engaging in these activities would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects on the public interest.

Based on the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under § 4(c)(8) is favorable. Accordingly, the application to sell the coverages specified above is hereby approved. This determination is further subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations issued thereunder or to prevent evasion thereof. The transaction herein approved shall be executed not later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[4] effective February 26, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-6323 Filed 3-11-75;8:45 am]

HELMERICH & PAYNE, INC.

Order Approving Acquisition of Shares of Bank Holding Company

Helmerich & Payne, Inc., Tulsa, Oklahoma, a registered bank holding company owning or controlling 23.15 per cent of Utica National Bank & Trust Company, Tulsa, Oklahoma ("Bank") has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act ("Act") (12 U.S.C. 1842(a)(3)) to

[1] See Board Order of January 28, 1974, granting approval to Worcester Bancorp, Inc., to engage *de novo* in the sale of credit life, credit accident and health, and mortgage redemption insurance (1974 Federal Reserve *Bulletin* 393).

[2] All banking data are as of June 30, 1974.

[3] Voluntary tying results not from any coercion placed on the borrower by the lender but rather from the borrower's presumed desire to enhance the probability of obtaining a loan.

[4] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher, Holland, Wallich, and Coldwell.

exchange the interest it holds in Bank for 22.2 per cent of the voting shares of Utica Bankshares Corporation, Tulsa, Oklahoma ("Utica").[1]

Notice of the application, affording opportunity for interested persons to submit comments and views has been duly published (40 FR 840 (1974)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant presently owns or controls 23.15 percent of Bank ($105.6 million of deposits). Shareholders of Bank have formed Utica to effectuate a corporate reorganization that includes the acquisition of Allstates. In connection with the corporate reorganization, Applicant proposes to change its direct ownership of shares of Bank to indirect ownership of shares of Bank through ownership of shares of Utica.

In that the proposed acquisition of voting shares of Utica is simply a reorganization of Applicant's ownership of Bank's stock, the acquisition would have no effect on banking competition. Banking factors and considerations relating to the convenience and needs of the community to be served are satisfactory and consistent with approval of the application. It is the Board's judgment that the proposed transaction would be consistent with the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction to exchange shares of Bank for shares of Utica shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City, pursuant to delegated authority.

[1] Applicant simultaneously applied for the Board's approval under § 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, to engage indirectly in nonbanking activities through Allstates Capital Corporation, Tulsa, Oklahoma, and its subsidiaries ("Allstates"). Subsequently, however, Applicant filed an irrevocable declaration under section 4(c)(12) of the Act which declaration was accepted on January 27, 1975. The declaration commits Applicant to terminate its bank holding company status by January 1, 1981. Pursuant to § 225.4(d) of the Board's Regulation Y, a company that has filed such a declaration may make an acquisition of a going concern 45 days after the company has informed its Reserve Bank of the proposed acquisition, unless notified to the contrary within that time. Accordingly, the Board has not acted upon the section 4(c)(8) application, and Applicant may indirectly acquire shares of Allstates 45 days from the date the section 4(c)(12) irrevocable declaration was filed unless notified to the contrary by the Federal Reserve Bank of Kansas City.

By order of the Board of Governors,[2] effective March 3, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-6324 Filed 3-11-75;8:45 am]

UTICA BANKSHARES CORP.

Order Approving Formation of Bank Holding Company and Acquisition of Company Engaged in Nonbanking Activities

Utica Bankshares Corporation, Tulsa, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquistion of 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Utica National Bank and Trust Company, Tulsa, Oklahoma ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Applicant has also applied, pursuant to section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire 100 per cent of the voting shares of Allstates Capital Corporation ("Allstates"), Tulsa, Oklahoma, and thereby of its wholly-owned subsidiaries, Allstates Leasing Corporation ("Leasing"), Allstates Mortgage Corporation ("Mortgage"), and Allstates International Finance Corporation ("International"), all located in Tulsa, Oklahoma. Applicant would thereby indirectly engage in (1) making or acquiring loans for its own account or for the account of others, (2) equipment leasing where leases represent functional equivalents of extensions of credit and acting as broker with respect to such leases, (3) servicing loans and other extensions of credit, and (4) acting as financial or investment adviser to the extent of providing portfolio investment advice to persons and providing financial advice to State and local governments. Such activities have been determined by the Board in § 225.4(a)(1), (3), (5)(iii), (5)(v), and 6(a) of Regulation Y to be permissible for bank holding companies.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been duly published (40 FR 841). The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in § 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant is a newly formed corporation organized for the purpose of becoming a bank holding company through the acquisition of Bank, and acquiring Allstates. Bank (deposits of $100.6 million) is the fifth largest of 31 banks in the relevant banking market (approximated by Tulsa County) and holds approximately 5.3 per cent of total deposits held by commercial banks in that market. Bank is the ninth largest bank in Oklahoma holding approximately 1.2 per cent of total deposits held by commercial banks located in the State.[1] Inasmuch as the proposed formation of a bank holding company merely represents a corporate reorganization, the acquisition of Bank would not eliminate any significant actual or probable future competition, increase the concentration of banking resources, or have an adverse effect on competition within the banking market. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application to acquire Bank.

The financial and managerial resources and future prospects of Applicant, which are dependent upon those of Bank and Allstates, are considered satisfactory and consistent with approval. The same conclusion applies with respect to considerations relating to the convenience and needs of the communities to be served. It is the Board's judgment that consummation of the holding company formation would be consistent with the public interest, and that the application to acquire Bank should be approved.

Allstates' (consolidated assets of $575,700 as of December 31, 1973) activities will be limited to the provision of administrative and financial services to its three wholly-owned subsidiaries, Leasing, Mortgage, and International, all of which would operate from the same office in Tulsa. Leasing would engage in full payout equipment leasing activities, formerly conducted by International, including originations, brokering, purchasing and servicing of leases covering various types of capital goods, primarily business machines, computers, machine tools, plant equipment, and transportation and aviation equipment. It is anticipated that approximately 75 per cent of Leasing's volume and customers would be located in the Tulsa area.

Mortgage, inactive for more than three years, would broker and service, for the accounts of others, first mortgage loans on commercial real estate, construction loans, land development loans, as well as second mortgage loans. Mortgage would also acquire, sell and service, for its own account and the accounts of others, sales financing contracts and notes secured by capital goods, as well as provide other commercial finance services, all of which are activities currently conducted by International. It is estimated that approximately 95 per cent of Mortgage's real estate loan revenues would derive from Tulsa and the surrounding areas and that 75 per cent of its sales financing business would originate in Tulsa.

International engages directly in export sales financing, including acquiring and selling of loans for its own account and accounts of others, factoring,

[2] Voting for this action: Chairman Burns and Governors Mitchell, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Governor Sheehan.

[1] Banking data are as of June 30, 1974.

loan brokerage and leasing capital goods. Approximately 90 per cent of International's volume derives from Tulsa. It also engages in international loan brokerage and underwriting of international transactions which ordinarily do not involve exports sales. Money transfers and remittance services are provided by International in connection with foreign exchange foreign custodial transactions.[3] International also is a general partner in Allinter-Mexico, Ltd. 1972 ("Allinter"), a limited partnership. It has no ownership interest therein. Allinter invests the subscribed capital of the limited partners and borrowed funds in obligations of Mexico, credit institutions regulated by the Government of Mexico, and Mexican corporations. Limited partnership interests are not sold to the public and Allinter appears to be a form of closed-end investment company, advised by International. International also owns shares of Africa Trade Development, Ltd. ("ATDL") which is the general partner with a 25 per cent limited partnership interest in Africa Trade Company, an inactive nonoperating company. ATDL engages in the dissemination of general economic and financial information with regard to export opportunities.[4] It also furnishes financial and economic advisory services to State and local governments.[4] Allstates would not directly or indirectly act as an insurance agent or broker.

It does not appear that the acquisition of Allstates and its subsidiaries would have any adverse effects on competition in view of the relatively slight presence that Allstates' subsidiaries have in Tulsa in product markets in which they may compete with Bank. The affiliation of Bank and Allstates would enable Bank to form an international department and add to the stability and growth prospects of leasing, mortgage, and international activities of Allstates' subsidiaries. There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects upon the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that considerations under § 3(c) of the Act and the balance of the public interest factors that the Board is required to consider under section 4(c)(8) of the Act favor approval of Applicant's proposals.

On the basis of the record, the applications are approved for the reasons summarized above. The acquisition of shares of Bank shall not be made before the thirtieth calendar day following the effective date of this Order; and neither the acquisition of shares of Bank nor the acquisition of shares of Allstates shall be made later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to authority delegated hereby. The determination as to Applicant's nonbanking activities is subject to the conditions set forth in § 225.4(c) of Regulation Y as well as to the Board's authority to require reports by, and to make examinations of, bank holding companies and their subsidiaries and to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board may find necessary to assure compliance with the provisions and purposes of the Act and of the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[5] effective March 3, 1975,

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-6325 Filed 3-11-75;8:45 am]

[3] International also currently engages in offering investigative services to clients directly and indirectly through banks concerning credit and other export-import risks; locating and obtaining for others sales and service representatives in foreign countries; and arranging for others product licensing and joint ventures in foreign countries. Upon cosummation of the proposed transaction, International will cease the foregoing activities except investigative service concerning credit and other risks solely in connection with the financing activities of Applicant and its subsidiaries.

[4] ATDL also currently engages in locating and obtaining for others sales and service representatives in Africa, and arranging for others product licensing and joint ventures in Africa. Upon consummation of the proposed transaction, ATDL will cease the foregoing activities other than those that are both incidental and necessary to the dissemination of general economic and financial information with regard to export-import opportunities and to the provision of international financial advice to State and local governments.

[4] In addition, International owns 40 per cent of the voting shares of Corporacion Intermex, S.A. de C.V. ("Intermex"), a Mexican corporation which provides management facilities and financial brokerage services to Tulsa companies doing business in Mexico. It arranges, brokers, and purchases loans for its own account and the account of others. The Board has today approved an application by Applicant to acquire indirectly Intermex pursuant to section 4(c)(13) of the Act.

[5] Voting for this action: Chairman Burns and Governors Mitchell, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Governor Sheehan.

GENERAL ACCOUNTING OFFICE

SECURITIES AND EXCHANGE COMMISSION

Receipt of Regulatory Reports Review Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on March 6, 1975. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed SEC forms are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments must be received on or before March 31, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW, Washington, D.C. 20548.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

SECURITIES AND EXCHANGE COMMISSION

Request for review and clearance of an extension (no change) of Form R-4a, "Private Noninsured Pension Plans." The questionnaire is voluntary and is used quarterly by the Securities and Exchange Commission to collect from banks as managers of pension plans, corporations, unions and multi-employer groups as sponsors of pension plans, information for its annual survey of pension funds. The form requests information on common stock acquisitions and dispositions, and a statement of assets. The respondent burden is estimated to be 3 hours per response. The sample will consist of approximately 560 respondents.

Request for review and clearance of an extension (no change) of Form R-5, "Property and Liability Insurance Companies." The quarterly questionnaire is voluntary and is used by the Securities and Exchange Commission to collect from property and liability insurance companies, information for its annual survey of pension funds. The form requests information on common stock acquisitions and dispositions, and a statement of assets. The respondent burden is estimated to be 3 hours per response. The sample will consist of approximately 120 respondents.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc.75-6466 Filed 3-11-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on March 7, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (X) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service, EPSDT—Program Survey, quarterly, State and local welfare and health agencies, Sunderhauf, M. B., 395-4911.

Public Health Service, Assessment of Special Programs for Minority/Disadvantaged, single-time, schools of health professions, Planchon, P., 395-3898.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research, Repair and Maintenance Problems of Elderly Homeowners, single-time, elderly homeowners in seven areas of country, Community and Veterans Affairs Division, 395-3532.

Housing Production and Mortgage Credit Settlement Cost Evaluation Survey, single-time, mortgagees in 12 counties throughout the United States, Community and Veterans Affairs Division, 395-3532.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management:

Special Land Use Application and Permit (Short Form), 2920-3, on occasion, individuals, Lowry, R. L., 395-3772.

Special Recreation Use Application and Permit (Short Form), 6260-4, single-time, individuals, Lowry, R. L., 395-3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-6630 Filed 3-11-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-409]

DAIRYLAND POWER COOPERATIVE

Consideration of Proposed Modification to Facility Irradiated Fuel Storage Pool

The Nuclear Regulatory Commission (the Commission) is considering the approval of a modification to the irradiated fuel storage pool of the La Crosse Boiling Water Reactor (the facility) operated under Provisional Operating License No. DPR-45 issued to Dairyland Power Cooperative (the licensee). The facility is located in Vernon County, Wisconsin, and is currently authorized to operate at 165 MWt.

The proposed modification to the irradiated fuel element storage pool would provide for additional storage racks for irradiated fuel and shrouds in accordance with the licensee's proposal dated December 12, 1974.

Prior to approval of the proposed modification, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rule and regulations. The modification to the irradiated fuel element storage pool will not be approved until the Commission has reviewed the safety aspects and has concluded that approval of the modification will not be inimical to the common defense or to the health and safety of the public.

By April 11, 1975 the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the approval of the modification to the subject facility irradiated fuel element storage pool. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed action. Such petitions must be filed in accordance with the provisions of this Federal Register notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Fritz Schubert, Esquire, 2615 East Avenue South, La Crosse, Wisconsin 54601, attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the licensee's proposal dated December 12, 1974, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601. The Commission's approval and the Safety Evaluation, when issued, may be inspected at the above locations, and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 5th day of March 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Reactor Licensing.

[FR Doc.75-6336 Filed 3-11-75;8:45 am]

[Docket No. 50-261]

CAROLINA POWER & LIGHT CO.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-23 issued to Carolina Power and Light Company (the licensee) for operation of the H. B. Robinson Unit 2 located in Darlington County, Hartsville, South Carolina.

The amendment would revise the provisions in the Technical Specifications relating to the requirements for spent fuel handling, in accordance with the licensee's application for amendment, dated October 16, 1974.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By April 11, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory

Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts, Trowbridge & Madden, Barr Building, 910 17th Street, N.W., Washington, D.C. 20006, the attorney for the applicant.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated October 16, 1974, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. and at the Hartville Memorial Library, Home and Fifth Avenues, Hartville, South Carolina 29550. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland this 4th day of March 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

[FR Doc.75-6235 Filed 3-11-75;8:45 am]

[Dockets Nos. 50-250, 50-251]

FLORIDA POWER AND LIGHT CO.

Proposed Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-31 and DPR-41 issued to Florida Power and Light Company (the licensee) for operation of the Turkey Point Nuclear Generating Units 3 and 4 located in Dade County, Florida.

The amendments would revise the provisions in the Technical Specifications relating to several Limiting Safety System Setpoints and Engineered Safety System Setpoints in order to avoid abnormal occurrence reports which the licensee maintains have no safety significance, in accordance with the licensee's application for amendments dated January 31, 1975.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By April 11, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Jack R. Newman, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue NW., Washington, D.C. 20006, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendments dated January 31, 1975, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Lily Lawrence Row Public Library, 212 NW., First Avenue, Homestead, Florida. The license amendments and the Safety Evaluation, when issued, may be inspected at the above locations, and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland this March 4, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

[FR Doc.75-6236 Filed 3-11-75;8:45 am]

[Dockets Nos. STN 50-516, 50-517]

LONG ISLAND LIGHTING CO. (JAMESPORT NUCLEAR POWER STATION, UNITS 1 AND 2)

Order Relative to Prehearing Conference

Take notice, there will be a prehearing conference at the Holiday Inn, Exit 72, Long Island Expressway, Riverhead, Long Island, New York, on March 26, 1975, commencing at 9:30 a.m. (local time).

In the Board's Order subsequent to the prehearing conference on December 19, 1974, the Board expressed its concern over delay in ruling on all contentions of each party. The Board has determined that it will proceed as originally announced—each Intervenor will be invited to amplify on contentions not previously admitted and the Board will expect the Applicant and Staff to respond. The Board will invite parties at the commencement of the proceeding to submit any proposed stipulations but will not grant additional time for further negotiations.

The public is invited to attend. Limited appearance statements will not be accepted at this proceeding.

It is so ordered.

Dated at Bethesda, Maryland this 6th day of March, 1975.

THE ATOMIC SAFETY AND LICENSING BOARD,
ELIZABETH S. BOWERS, *Chairman.*

[FR Doc.75-6335 Filed 3-11-75;8:45 am]

[Docket No. 50-171]

PHILADELPHIA ELECTRIC CO.

Proposed Issuance of Amendment to Provisional Operating License

The Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Provisional Operating License No. DPR-12 issued to the Philadelphia Electric Company (the licensee) for the Peach Bottom Atomic Power Station Unit 1 located in York County, Pennsylvania.

The Peach Bottom Atomic Power Station was shut down on October 31, 1974 and decommissioning is to be accomplished by the Philadelphia Electric Company. After the fuel has been removed from the reactor and placed in storage, the proposed amendment to the license would authorize the Philadelphia Electric Company to possess but not operate the decommissioned facility. The Technical Specifications would also be revised to be consistent with the possession only status of the facility.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By April 11, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Eugene J. Bradley, the attorney for the applicant.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the Application for amendment dated August 29, 1974, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 4th day of March 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

[FR Doc.75-6237 Filed 3-11-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

BBI, INC.

Suspension of Trading

MARCH 4, 1975.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 5, 1975 through March 14, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-6406 Filed 3-11-75;8:45 am]

[70-5623]

CENTRAL AND SOUTH WEST CORP.

Order Authorizing Solicitation of Stockholders' Proxies

MARCH 6, 1975.

In the matter of Central and South West Corporation, P.O. Box 1631, Wilmington, Delaware, 19899, (70-5623).

Notice is hereby given that Central and South West Corporation ("Central"), a registered holding company, has filed a declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6, 7 and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Central proposes to amend its Certificate of Incorporation ("charter") to increase its authorized common stock from 51,500,000 shares to 56,500,000 shares, par value $3.50 per share. Central presently has 51,417,892 shares of its common stock issued and outstanding. It is stated that Central's Board of Directors believes it will be necessary that Central sell additional shares within the next two years to help finance planned construction expenditures of Central's subsidiaries while maintaining proper capital ratios. Construction expenditures by Central's subsidiaries are estimated at approximately $863,800,000 for 1975-1977.

The proposed charter amendment is to be submitted to Central stockholders at the annual meeting to be held on April 17, 1975. Approval of the charter amendment requires the affirmative vote of the holders of a majority of the shares of common stock outstanding. Central proposes to solicit proxies from its common shareholders to obtain the requisite approval of the proposed charter amendment, to elect directors, to approve the appointment of Central's auditors and to act upon any other matters which may properly come before the annual meeting.

Fees and expenses to be paid by Central in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person, may, not later than April 4, 1975, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the 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 any

notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes the solicitation of proxies from Central's common stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the declaration regarding the proposed solicitation of proxies of Central's common stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-6410 Filed 3-11-75;8:45 am]

[File No. 500-1]

CENTURY MEDICAL INC.

Suspension of Trading

MARCH 5, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Century Medical Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 11 a.m. (e.s.t.) on March 5, 1975 through midnight (e.s.t.) on March 14, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-6407 Filed 3-11-75;8:45 am]

[812-3182; 812-3448]

CRESCENT GENERAL CORP.

Filing and Order for Consolidated Hearing on Applications

MARCH 5, 1975.

In the matter of Crescent General Corporation, 5510 Abrams Road, Suite 126, Dallas, Texas 75214, (812-3182) (812-3448).

Notice is hereby given that Crescent General Corporation ("Crescent") filed an application on May 30, 1972, and amendments thereto on March 29, 1973, and April 9, 1973 (File No. 812-3182) (1) pursuant to section 3(b)(2) of the Investment Company Act of 1940 ("Act") for an order declaring that Crescent is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities, either directly or through majority-owned subsidiaries or through controlled companies conducting similar types of businesses, or (2) in the alternative, pursuant to section 6(c) of the Act, for an order exempting Crescent from all provisions of the Act. Crescent also filed an application on April 9, 1973, and an amendment thereto on June 15, 1973 (File No. 812-3448) pursuant to section 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act certain transactions described in and contemplated by an agreement dated March 26, 1973, as amended (the "Agreement"), between Crescent and two individuals, Dr. Theodore Holstein and Mr. Clyde Skeen, each of whom holds common stock of Crescent. All interested persons are referred to the applications, as amended, on file with the Commission for a statement of the representations therein, a summary of which is included below.

Background of Applications. Crescent (whose present name was adopted in 1969) is a corporation which was organized under the laws of the State of Utah in 1920. Crescent's balance sheet at December 31, 1970, showed total assets of $957,333, including $839,046 of real property, plant and equipment and leasehold improvements at cost net of depreciation and amortization, and $53,000 representing Crescent's investment at cost in 48% of the outstanding common stock of Biotechnics Research, Inc. ("Biotechnics"), a corporation engaged in the business of obtaining and marketing human blood plasma. It therefore appears that at such time Crescent was engaged in the business of owning real property.

In January, 1971, Crescent acquired the remaining 52% of the outstanding common stock of Biotechnics in exchange for common stock of Crescent reported to be worth $78,000. On this basis, the cost to Crescent of its investment in 100% of Biotechnics common stock totaled $131,000. During the period March, 1971 through August, 1971, Crescent acquired 60.01% of the common stock of Environmental Pollution Research Corporation ("Envirpol"), which was engaged in the development, manufacture and sale of waste compaction systems; and in September, 1971, Crescent acquired 15.98% of the common stock of Illustrated World Encyclopedia, Inc. (now, by change of name, Magnus International, Inc.), hereinafter referred to as "Magnus," which was principally engaged in the publication, sale and distribution of the Illustrated World Encyclopedia and other educational and reference works. On November 17, 1971, Crescent sold its holdings of all of the common stock of Biotechnics to Holstein for $50,000 payable as set forth in the related sales-purchase agreement. Following the consummation of the foregoing transaction, Crescent's balance sheet at December 31, 1971, reflected investment securities consisting of its holdings of Magnus common stock in the amount of about $1,900,000 and $6,450 principal amount of promissory notes. Such investment securities aggregating approximately $1,906,450 represented about 57.4% of the total assets (exclusive of Government securities and cash items) shown on such balance sheet. It therefore appears that at December 31, 1971, (and, possibly, prior to November, 1971, when it sold all of the outstanding common stock of Biotechnics to Holstein for $50,000), Crescent may have been an investment company as defined in section 3(a)(3) of the Act.

The Application Pursuant to section 3(b)(2), or in the Alternative, Pursuant to section 6(c). The application contains the following representations in support of the request pursuant to section 3(b)(2) of the Act for an order declaring that Crescent is not an investment company and in support of the alternative request, pursuant to section 6(c) of the Act, for an order exempting Crescent from all provisions of the Act.

On May 22, 1972, Crescent sold its investment in the common stock of its majority-owned subsidiary, Envirpol, as well as substantially all of Crescent's real property. The application states that, following the sale of such assets, Crescent's principal assets consisted of about 10 acres of land and 131,665 shares of Magnus common stock; and that the value of its holdings of Magnus common stock consisting of less than a majority of such shares outstanding exceeded 40% of the value of Crescent's total assets. On this basis, Crescent indicates that it may have become an investment company as defined in section 3(a)(3) of the Act on May 22, 1972. However, Crescent contends that it is entitled to a finding that it is not an investment company because it is primarily engaged in the same businesses as Magnus through that company. The application states that, as of the date thereof, three of the five directors of Magnus were nominees of Crescent; that a director of Crescent was the chief executive officer and chairman of the board of directors of Magnus; that an individual who was a vice-president, secretary, assistant secretary, and a director of Crescent was also a vice-president, secretary, assistant treasurer, and a director of Magnus.

Statutory Standards—section 3(b)(2) and section 6(c). Section 3(a)(3) of the Act defines an investment company as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40% of the value of its total assets (exclusive of Government securities and cash items) on an unconsolidated basis. For the purposes of this section, "investment securities" are defined as including all securities except Government securities, securities issued by employees' securities companies and securities issued by majority-owned subsidiaries which are not investment companies.

Section 3(b)(2) of the Act provides that, notwithstanding section 3(a)(3),

the term "investment company" does not include any issuer whom the Commission upon application finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities either directly or through majority-owned subsidiaries or through controlled companies conducting similar types of businesses.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicability of sections 17 (a) and (b) and Effect of Proposal on Crescent. By order dated December 21, 1973 (Investment Company Act Release No. 8149), the Commission granted to Crescent a temporary exemption from the provisions of Section 7 of the Act until such time as the Commission should act on its application, described hereinabove, for an order of the Commission pursuant to section 3(b)(2) of the Act. Such order had the effect, among others, of subjecting Crescent and other persons in their relations and transactions with Crescent, with certain specified exceptions, to all provisions of the Act (including sections 17(a) and 17(b) of the Act and the Rules and Regulations thereunder) as though Crescent were a registered investment company.

If the proposal described below should be consummated, Crescent would, among other things, dispose of all of its present holdings of investment securities, eliminate a substantial portion of its debt obligations, and acquire 100% of the common stock of Biotechnics.

Application Pursuant to section 17(b). The application contains the following representations with respect to the request for an order pursuant to section 17(b) of the Act.

(a) *Affiliations.* Pursuant to the terms of an agreement dated January 15, 1971, Skeen and Mr. Robert J. Ringer, on January 18, 1971, each purchased 50,000 shares of Crescent common stock from Crescent at a price of $1 a share. Under that agreement, Skeen and Ringer agreed to purchase from Holstein and Ms. Teresa A. Goldie a total of 1,610,000 shares of the outstanding common stock of Crescent over a period of years. Pursuant to that agreement Skeen and Ringer obtained proxies to vote such shares of Crescent stock while the shares remained subject to said agreement. In December, 1971, Skeen and Ringer assigned to Magnus their rights to acquire from Holstein and Goldie 240,000 shares of Crescent common stock and Magnus purchased such shares from Holstein and Goldie. Skeen owns, controls or holds with power to vote 1,460,500 shares (approximately 60%) of Crescent's outstanding common stock. Of such number of shares, Skeen owns 90,500 shares and has received proxies from Holstein and Goldie to vote 1,370,000 shares. Holstein owns 1,440,570 shares (approximately 59%) of Crescent's outstanding common stock, including 1,301,920 shares which Skeen has the power to vote pursuant to proxies received from Holstein. Skeen is chairman of Crescent's board of directors as well as chief executive officer and a director of Crescent. As a result of the foregoing, Holstein and Skeen are each an affiliated person of Crescent as defined in section 2(a)(3) of the Act.

(b) *The Agreement.* The Agreement dated March 26, 1973, between Crescent, Holstein and Skeen has been entered into for the stated purpose of "reorganizing their respective rights and liabilities in Crescent and Biotechnics."

The Agreement, which as previously noted enumerates the transactions for which exemption is sought pursuant to section 17(b) of the Act, provides, in pertinent part, as follows:

1. Holstein will, concurrently with the consummation of the transaction described in item 2 below, cause to be completed the resale to Crescent of all of the outstanding capital stock of Biotechnics, which he purchased for $50,000, for a price of $216,241 plus an amount equal to Biotechnics' accrued net income, before taxes (as certified by specified accountants for Holstein) for the period after April 30, 1973, to the date the transaction is consummated. Such price is to be paid as follows: $50,000 in cash at the closing and the balance (equal to the sum of $166,241 plus the amount of accrued net income before taxes of Biotechnics computed for the period and in the manner noted) by a promissory note of Crescent bearing interest from the date of closing at the rate of 9% per annum.

2. Skeen will purchase from Crescent and Crescent will sell to Skeen 131,665 shares of Magnus common stock for a consideration consisting of a cash payment of $200,000 by Skeen and the assumption by Skeen of specified liabilities of Crescent aggregating $2,061,000 at October 18, 1972, plus accrued interest and charges as set forth in the Agreement. As further consideration for such purchase and sale of Magnus common stock, Holstein and Crescent acknowledge that Crescent is indebted to Skeen in the total amount of $335,000 and Skeen agrees to cancel said indebtedness in exchange for the issuance and sale by Crescent to Skeen of 100,000 shares of Crescent common stock. In the event Crescent common stock is not trading at a bid price of $3.35 or more per share two years from the date of closing, Crescent is to pay to Skeen, in cash or in Crescent stock, at the option of Crescent, an amount equal to the difference between the market value of the 100,000 Crescent shares (computed on the basis of the bid price) and $335,000.

3. The closing is conditioned upon the accomplishment of certain action by Crescent and Skeen, including obtaining (1) the written consent of various specified persons to the assumption by Skeen of certain Crescent obligations which total $2,038,025 at October 18, 1972 (and which are included in the figures of $2,061,000 mentioned in item 1 above) and (2) the release of Crescent from such obligations.

The closing is also subject to the condition that a meeting of the board of directors of Crescent shall be held to reconstitute such board of directors so as to consist of Holstein plus two of his nominees and Skeen plus one of his nominees.

4. Skeen will, at or prior to the closing, cause to be satisfied certain obligations of Crescent to its trade creditors totaling about $38,000 and an obligation of Crescent in the amount of about $17,000 arising out of certain litigation. In addition Skeen agrees to pay for any defense of Crescent necessitated by reason of any future contingent liabilities arising out of action after January 15, 1971, and prior to the closing.

5. The agreement of January 15, 1971, referred to hereinabove, is amended so as to postpone the date for the sale by Holstein and the purchase by Skeen of 285,000 shares of Crescent's outstanding common stock; and at the closing such agreement is to be further amended so as to provide for (1) postponing the other dates on which Holstein is to sell and Skeen is to purchase additional specified amounts of Crescent's outstanding common stock, (2) the revocation of the proxy heretofore given to Skeen by Holstein to vote shares of Crescent's outstanding stock which are owned by Holstein, (3) the granting by Skeen to Holstein of an option for a specified period to repurchase any shares of Crescent's common stock which Skeen purchases or has purchased from Holstein under these agreements at a price of 150% of the price paid by Skeen, and (4) obligating Skeen, so long as the foregoing option is in effect, to vote all of his holdings of Crescent's outstanding stock so as to allow Holstein to maintain control of Crescent's board of directors.

6. Crescent, Holstein and Skeen each agree to release and hold each other harmless from and against any and all claims which each may have against each other except as to the obligations contained in the Agreement.

Statutory Standards—section 17(b). Section 17(a) of the Act prohibits an affiliated person of a registered investment company from selling to or purchasing from such registered investment company any security or other property, subject to certain exceptions not pertinent here. However, the Commission, upon application, pursuant to section 17(b) of the Act, may grant an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

It appearing to the Commission that it is appropriate in the public interest that a hearing be held with respect to said matters; and

It further appearing to the Commission that the foregoing matters are related and that evidence offered in respect of each of said matters may have a bearing on the other matter and that said matters should be consolidated:

It is ordered, That the proceeding filed as 812-3182 be and the same hereby is consolidated with the proceeding filed as 812-3448, the Commission reserving the right, however, at any time hereafter to sever said proceedings for hearing or determination.

It is further ordered, Pursuant to section 40(a) of the Act, that a consolidated hearing on the aforesaid applications under the applicable provisions of the Act and the rules of the Commission thereunder be held on the 29th day of April 1975 at 10 a.m. in the offices of the Commission, 500 North Capitol Street, NW., Washington, D.C. 20549. At such time, the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person, other than Crescent, desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission his application pursuant to Rule 9(c) of the Commission's rules of practice on or before the date provided in that rule setting forth any issues of law or fact which he desires to controvert or any additional issues which he deems raised by this notice and order or by such applications. Persons filing such an application will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of these proceedings.

It is further ordered that any officer or officers of the Commission to be designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Act, and to an Administrative Law Judge under the Commission's rules of practice.

The Division of Investment Management Regulation has advised the Commission that it has made a preliminary examination of the applications, and that upon the basis thereof the following matters are presented for consideration, without prejudice to its specifying additional matters upon further examination.

1. Whether Crescent is an investment company as defined in section 3(a)(3) of the Act, and, if so, whether Crescent is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or through majority-owned subsidiaries or through controlled companies conducting similar types of businesses.

2. Whether the requested exemption from all provisions of the Act pursuant to section 6(c) of the Act is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Whether, in the event the Commission grants the application pursuant to section 6(c) of the Act, it is necessary or appropriate in the public interest and consistent with the protection of investors to impose conditions.

4. Whether the terms of the transactions proposed to be carried out pursuant to the agreement dated March 26, 1973, as amended, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned.

5. Whether such proposed transactions are consistent with the general purposes of the Act.

6. Whether the action taken or proposed to be taken under the agreement dated March 26, 1973, as amended, complies in all respects with all the pertinent provisions of the Act and the rules and regulations thereunder.

It is further ordered, That at the aforesaid hearing, attention should be given to the foregoing matters.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing copies of this notice and order by certified mail to Crescent, Dr. Theodore Holstein, Sacramento, California, and to Mr. Clyde Skeen, Dallas, Texas; that Crescent shall cause copies of this Notice and Order to be mailed to the stockholders of Crescent at their last known addresses on or before April 8, 1975; that notice to all persons shall be given by publication of this Notice and Order in the FEDERAL REGISTER; and that a copy of this Notice and Order shall be published in the "SEC Docket" and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest."

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-6411 Filed 3-11-75;8:45 am]

[File No. 500-1]

ENVIROMED CORP.

Suspension of Trading

MARCH 5, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Enviromed Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 11 a.m. (e.s.t.) on March 5, 1975, through midnight (e.s.t.) on March 14, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-6408 Filed 3-11-75;8:45 am]

[File No. 500-1]

LIFE SCIENCES, INC.

Suspension of Trading

MARCH 5, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Life Sciences, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 11 a.m. (e.s.t.) on March 5, 1975, through midnight (e.s.t.) on March 14, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-6409 Filed 3-11-75;8:45 am]

[70-5626]

NEW ENGLAND ELECTRIC SYSTEM

Proposed Issue and Sale of Common Stock

MARCH 3, 1975.

In the matter of New England Electric System, 20 Turnpike Road, Westborough, Massachusetts 01581 (70-5626).

Notice is hereby given that New England Electric System ("NEES"), a registered holding system, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

NEES proposes to issue and sell for cash before April 30, 1975, up to 2,500,000 shares of its common stock, par value $1 per share (the "Additional Common Stock"), in a negotiated public underwriting through a group of underwriters represented by The First Boston Corporation, E. F. Hutton & Company, Inc., Kidder, Peabody Co., Inc., and Paine, Webber, Jackson & Curtis, Inc.

On November 7, 1974 (Holding Company Act Release No. 18646), this Commission announced a temporary suspension of the competitive bidding requirements of Rule 50 under the Act insofar as those requirements apply to sales of common stock. This suspension is effective, under certain conditions, until April 30, 1975. NEES contemplates selling its stock during this period, and thus the sale will be exempt from the competitive bidding requirements.

The proceeds from the sale of the Additional Common Stock will be used by NEES for the payment of short-term indebtedness, incurred to make investments in NEES's subsidiaries or for additional investments in NEES's subsidiaries

through loans to such subsidiaries, purchases of additional shares of their capital stock or capital contributions.

The fees and expenses to be paid by NEES are estimated at $150,000, including service fees, at cost, of New England Power Service Company, a wholly-owned subsidiary of NEES of $60,000. The fees of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 31, 1975, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be 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 for advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-6412 Filed 3-11-75;8:45 am]

[37-65]

NORTHEAST UTILITIES, ET AL.

Proposed Services by Service Company to Non-Associate

MARCH 3, 1975.

In the matter of Northeast Utilities Service Company, Northeast Utilities, et al., P.O. Box 270, Hartford, Connecticut 06101 (37-65).

Notice is hereby given that Northeast Utilities ("Northeast"), a registered holding company, together with its subsidiary companies including Northeast Utilities Service Company "Service Company"), have jointly filed with this Commission a post-effective amendment No. 7 to their joint application-declaration, as heretofore amended, regarding the organization and conduct of business of Service Company, designating section 13(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 88 promulgated thereunder as applicable to the transaction proposed in said post-effective amendment. All interested persons are referred to the amendment for a statement of the proposed transaction which is summarized below.

Service Company performs various services at cost to its associated companies in the Northeast System. It is also authorized to perform for non-associate companies services which, except as otherwise authorized by the Commission pursuant to a declaration, are limited to dispatching and related services. (See Holding Company Act Release No. 15498, June 8, 1966.)

Service Company proposes to enter into a contract with the City of Westfield, Massachusetts, Gas and Electric Light Department ("Westfield G&E"), whereby Service Company would perform the necessary engineering and related services to design and construct for Westfield G&E a bulk substation at Buck Pond Road, Westfield, Massachusetts. It is stated that the Buck Pond substation will be substantially similar to another substation located in Westfield previously owned by Western Massachusetts Electric Company ("WMECO"), an associate company, and sold to Westfield G&E in 1972; that Westfield G&E's service area as adjacent to that of WMECO, and its system is interconnected with WMECO's; that performance of the proposed services by Service Company will assure the compatibility of the Buck Pond substation with the interconnecting WMECO facilities; and that the proposed contract will promote the more efficient use of Service Company's personnel and resources without additional cost to its associate system companies.

It is expected that the engineering and design work will commence immediately and that construction will start about June 1, 1977 and be completed about June 1, 1978. The total cost to Westfield G&E for the proposed services of Service Company is estimated at $1,250,000. Under the contract, Service Company would bill Westfield G&E monthly for services performed and those expected to be performed in the current month, in amounts intended to reimburse Service Company for its direct costs together with an additional amount representing overhead and profit. It is stated that in view of such monthly billings, no borrowings of funds by Service Company in connection with services performed under the contract will be necessitated.

Fees and expenses of the proposed transaction are estimated not to exceed $1,000. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 24, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended by said post-effective amendment, or as it may be further amended, which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-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 so amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-6413 Filed 3-11-75;8:45 am]

[70-5627]

UTAH POWER AND LIGHT CO.

Proposed Issue and Sale of Common Stock to Shareholders

MARCH 3, 1975.

In the matter of Utah Power & Light Company, P.O. Box 899, Salt Lake City, Utah 84110 (70-5627).

Notice is hereby given that Utah Power & Light Company ("Utah"), an electric utility company and a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated January 8, 1973 (Holding Company Act Release No. 17847) Utah was authorized to issue and sell 40,000 shares of its common stock, $12.50 par value ("stock"), to its common stockholders pursuant to a Dividend Reinvestment and Stock Purchase Plan ("plan"). Under the plan a holder of Utah common stock may elect to have his dividends automatically invested in additional common stock of Utah.

Utah now proposes to offer to shareholders who are or who become plan participants an additional 200,000 shares of its authorized but unissued common stock under the plan. Utah states that the proposed offering is necessary to meet the requirements of plan participants resulting from the expected April 1, 1975, dividend payment and dividend payments subsequent thereto. In the event all 200,000 shares are not sold by Utah within 12 months from the effective date of the order in this proceeding, Utah proposes to file an amendment seeking authority to continue the plan with respect to any unsold shares. All 40,000 shares originally offered under the plan have been sold. Utah states that it does not now propose to amend or supplement the plan in any way.

The plan is administered by Zions First National Bank of Salt Lake City, Utah, a commercial banking institution, the "Trustee" appointed by Utah's board of directors. Under the plan a holder of Utah common stock may elect to have his dividend automatically invested in additional common stock of Utah. Dividends to be so invested include dividends received on the shares held by the Trustee for the participant's account. The price of the shares to be issued by Utah to the Trustee is determined by the closing price of Utah's common stock on the New York Stock Exchange on each dividend payment date. The shares purchased by the Trustee are held for the exclusive benefit of the participants in the Plan.

A participant may at any time withdraw full shares in his account under the plan without terminating his participation in the plan. Fractional share interests will be paid in cash, based on the closing market price on the day the withdrawal or termination request is received by Utah. A participating stockholder must affirmatively terminate his enrollment in the plan to end his participation and he may do so at any time.

Investment of dividends held under the plan will not be made until a period of two weeks has elapsed following the dividend payment date. This will allow a participant to withdraw from the plan and receive his last dividend in cash. Notice of the withdrawal must be received by Utah within the two week period for the participant to receive the dividend in cash.

If a participant ceases to be a record shareholder, Utah will endeavor to secure from him instructions regarding the disposition of the shares held for his account under the plan. Should Utah be unable to obtain such instructions, it may, at its discretion, continue to reinvest the dividends on shares so held, until otherwise notified. A quarterly statement will be issued to each participating stockholder indicating the status of his stock interest in the plan.

Each participant pays a service charge to Utah of three (3) percent of the dividend received for investment, up to a maximum of two (2) dollars per account for each dividend. The service charge is automatically deducted from each account, and may, after proper notice to each participant, be adjusted up or down to reflect changes in the cost of administering the plan. The Trustee is paid a fee by Utah from funds received through the service charge. There is no broker's commission charged to participants of the plan.

The Trustee will not vote any shares held by it under the plan. Participants receive a single proxy with respect to full shares which they own of record or under the plan.

Fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Public Service Commission of Wyoming and the Idaho Public Utilities Commission have jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 24, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-6414 Filed 3-11-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Authority Delegation 30; Revision 15]

ASSOCIATE ADMINISTRATOR FOR OPERATIONS

Delegation of Authority

This document delegates the necessary authority to the Associate Administrator for Operations to conduct program activities in field offices and to amend, modify, or revoke authorities to field positions to assure efficient operation in the implementation of SBA programs in field offices.

The document also revises and incorporates into a single document the delegation of authority issued by the Administrator to regional directors and redelegations by regional directors to subordinate field positions. The new format will enable users to ascertain readily the field officials having authority under a specific program function. Therefore, the following delegations of authority are hereby rescinded without prejudice to actions taken prior to the date hereof:

No. 30 (Rev. 14), 37 FR as amended, 37 FR 14840, 37 FR 19405, 37 FR 21466, 37 FR 23594, 38 FR 32984, 39 FR 1898 and 40 FR 6729.
No. 30-I (Rev. 1), 39 FR 8678.
No. 30-II (Rev. 2), 39 FR 8683, as corrected, 39 FR 17147, as amended, 40 FR 4373.
No. 30-III (Rev. 1), 39 FR 15551, as amended, 40 FR 4374.
No. 30-IV (Rev. 1), 39 FR 11352, as amended, 39 FR 33614, 40 FR 4373.
No. 30-V (Rev. 1), 39 FR 20239.
No. 30-VI (Rev. 1), 39 FR 8664, as amended, 39 FR 42957.
No. 30-VII (Rev. 1), 39 FR 23311.
No. 30-VIII (Rev. 1), 39 FR 8669, as amended, 39 FR 30975.
No. 30-IX (Rev. 1), 39 FR 11357, as amended, 39 FR 31368, 40 FR 4374.
No. 30-X (Rev. 1), 39 FR 8674.

Now therefore, Delegation of Authority No. 30 (Revision 15) reads as follows:

Pursuant to authority vested in me by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, the following authority is hereby delegated to the Associate Administrator for Operations together with further authority to delegate, amend, modify, or revoke any authority delegated to field positions hereinafter set forth:

PREFACE

The policies, rules, procedures and other requirements, as well as citations to the statutes, governing the programs for which this delegation of authority is issued, are contained in various parts of the Regulations of the Small Business Administration, Chapter I of Title 13 of the Code of Federal Regulations, as amended from time to time in the FEDERAL REGISTER.

PART I—FINANCING PROGRAM

SECTION A—LOAN APPROVAL AUTHORITY

1. *Business and Handicapped Assistance Loans (Small Business Act (SBAct))*. To approve or decline sections 7(a) business loans and 7(h) handicapped assistance loans not exceeding the following amounts (SBA share):

	Approve	Decline
a. Regional Director	$350,000	$350,000
b. Assistant Regional Director for F&I	350,000	350,000
c. District Director	350,000	350,000
d. Assistant District Director for F&I	350,000	350,000
e. Chief, Financing Division, D/O	350,000	350,000
f. Supervisory Loan Specialist, Financing Division, D/O	200,000	300,000
g. Branch Manager	200,000	300,000

2. *Economic Opportunity Loans (EOL) (SBAct).* To approve or decline section 7(i) economic opportunity loans not exceeding the following amounts (SBA share):

	Approve	Decline
a. Regional Director	$50,000	$50,000
b. Assistant Regional Director for F&I	50,000	50,000
c. District Director	50,000	50,000
d. Assistant District Director for F&I	50,000	50,000
e. Chief, Financing Division, D/O	50,000	50,000
f. Supervisory Loan Specialist, Financing Division, D/O	30,000	40,000
g. Branch Manager	50,000	50,000

3. *Product Disaster and Economic Injury Disaster Loans (SBAct).* To decline section 7(b)(4) product disaster and section 7(b)(2) economic injury disaster loans in connection with "natural disaster" declarations made by the Secretary of Agriculture in any amount and to approve such loans up to the following amounts (SBA share):

a. *Direct and Immediate Participation Loans:*

(1) Regional Director	$500,000
(2) Assistant Regional Director for F&I	500,000
(3) District Director	500,000
(4) Assistant District Director for F&I	500,000
(5) Chief, Financing Division, D/O	500,000
(6) Supervisory Loan Specialist, Financing Division, D/O	300,000
(7) Branch Manager	300,000

b. *Guaranty Loans* (In addition to direct and immediate participation authority):

(1) Regional Director	$1,000,000
(2) Assistant Regional Director for F&I	1,000,000
(3) District Director	1,000,000
(4) Assistant District Director for F&I	500,000
(5) Chief, Financing Division, D/O	500,000
(6) Supervisory Loan Specialist, Financing Division, D/O	500,000
(7) Branch Manager	500,000

4. *Sections 7(b)(3), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8) and 7(g) Loans (SBAct).* To decline section 7(b)(3) displaced business loans, 7(b)(5) regulatory disaster loans (including coal mine health and safety, consumer protection—meat, egg, poultry—and occupational safety and health, etc.) 7(b)(6) strategic arms limitation economic injury loans, 7(b)(7) base closing economic injury loans, 7(b)(8) emergency energy shortage economic injury loans, and 7(g) water pollution loans in any amount and to approve such loans up to the following amounts (SBA share):

a. *Direct and Immediate Participation Loans:*

	Approve
(1) Regional Director	$500,000
(2) Assistant Regional Director for F&I	500,000
(3) District Director	500,000
(4) Assistant District Director for F&I	500,000
(5) Chief, Financing Division, D/O	500,000
(6) Supervisory Loan Specialist, Financing Division, D/O	300,000
(7) Branch Manager	300,000

b. *Guaranty Loans* (In addition to direct and immediate participation authority):

	Approve
(1) Regional Director	$1,000,000
(2) Assistant Regional Director for F&I	1,000,000
(3) District Director	1,000,000
(4) Assistant District Director for F&I	500,000
(5) Chief, Financing Division, D/O	500,000
(6) Supervisory Loan Specialist, Financing Division, D/O	500,000
(7) Branch Manager	500,000

SECTION B—OTHER FINANCING AUTHORITY FOR ALL TYPES OF LOANS CONTAINED IN SECTION A ABOVE:

1. *Loan Participation Agreements.* To enter into individual and blanket loan participation agreements with lenders:
a. Regional Director
b. Assistant Regional Director for F&I
c. District Director
d. Assistant District Director for F&I
e. Chief, Financing Division, D/O
f. Branch Manager

2. *Loan Authorizations.* a. To execute written authorizations:
(1) Regional Director
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O
(6) Branch Manager

b. To cancel, reinstate, modify, and amend authorizations:
(1) Regional Director
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director of F&I
(5) Chief, Financing Division, D/O (on fully undisbursed loans)
(6) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)
(7) Branch Manager

3. *Disbursement Period Extension.* To extend disbursement periods:
a. Without limitation:
(1) Regional Director
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O (on fully undisbursed loans)
(6) Branch Manager

b. For a cumulative total not to exceed six (6) months:
(1) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursement loans)

4. *Service Charges.* To approve service charges by participating lenders not to exceed two (2) percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing:
(1) Regional
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O (on fully undisbursed loans)
(6) Supervisory Loan Specialist, D/O (on fully undisbursed loans)
(7) Branch Manager

PART II—DISASTER PROGRAM

NOTE: The loan approval authority in Part II refers to the total indebtedness of an applicant for a disaster loan (regardless of the number of structures damaged) for each separate disaster.

SECTION A—DISASTER LOAN AUTHORITY

1. *Direct and Immediate Participation 7(b)(1) Physical Disaster Loans (SBAct).* a. To decline direct and immediate participation 7(b)(1) physical disaster loans in any amount and to approve such loans not exceeding the following amounts (SBA share):

(1) *Home Loans:* $50,000 for repair, restoration, or replacement of a home; $10,000 for repair, restoration, or replacement of household contents or personal property; or $55,000 for a single disaster home loan, plus $50,000 for refinancing prior liens:
(a) Regional Director
(b) Assistant Regional Director for F&I
(c) District Director
(d) Assistant District Director for F&I
(e) Disaster Branch Manager
(f) Supervisory Loan Specialist, Financing Division, D/O
(g) Supervisory Loan Specialist, Disaster Office

(2) *Business Loans:* Including repair, restoration, or replacement of all real or personal property and refinancing as follows:

(a) Regional Director	$500,000
(b) Assistant Regional Director for F&I	500,000
(c) District Director	500,000
(d) Assistant District Director for F&I	500,000
(e) Disaster Branch Manager	500,000
(f) Supervisory Loan Specialist, Financing Division, D/O	300,000
(g) Supervisory Loan Specialist, Disaster Office	300,000

2. *Guaranteed Physical Disaster Loans 7(b)(1) (SBAct).* To decline section 7(b)(1) physical disaster guaranteed loans in any amount and to approve such loans in addition to direct and immediate participation authority not exceeding the following amounts (SBA share):

	Home loans	Business loans
a. Regional Director	$200,000	$1,000,000
b. Assistant Regional Director for F&I	200,000	1,000,000
c. District Director	200,000	1,000,000
d. Assistant District Director for F&I	100,000	500,000
e. Disaster Branch Manager	100,000	500,000
f. Supervisory Loan Specialist, Financing Division, D/O	100,000	500,000
g. Supervisory Loan Specialist, Disaster Office	100,000	500,000

3. *Direct and Immediate Participation Economic Injury Disaster Loans*

(*SBAct*). To decline direct and immediate participation section 7(b)(2) economic injury disaster loans (in connection with a physical disaster declaration by the Administrator, or a "major disaster" declaration by the President) in any amount and to approve such loans, not exceeding the following amounts (SBA share):

	Business Loans
a. Regional Director	$500,000
b. Assistant Regional Director for F&I	500,000
c. District Director	500,000
d. Assistant District Director for F&I	300,000
e. Disaster Branch Manager	300,000
f. Supervisory Loan Specialist, Financing Division, D/O	200,000
g. Supervisory Loan Specialist, Disaster Office	200,000

4. *Guaranteed Economic Injury Disaster Loans (SBAct).* To decline section 7(b)(2) Economic Injury guaranteed disaster loans (in connection with a physical disaster declaration by the Administrator, or a "major disaster" declared by the President) in any amount and to approve such loans, in addition to the direct and immediate participation authority, not exceeding the following amounts (SBA share).

	Business Loans
a. Regional Director	$1,000,000
b. Assistant Regional Director for F&I	1,000,000
c. District Director	1,000,000
d. Assistant District Director for F&I	500,000
e. Disaster Branch Manager	500,000
f. Supervisory Loan Specialist, Financing Division, D/O	500,000
g. Supervisory Loan Specialist, Disaster Office	500,000

5. *Processing Representatives.* To appoint as a processing representative any bank in the disaster area:
a. Regional Director
b. Assistant Regional Director for F&I
c. District Director
d. Disaster Branch Manager

6. *Late Filing.* To approve or reject the request of an applicant to file for a disaster loan after the period for acceptance under the original disaster declaration, or extension thereof, has expired: a. Regional Director—only.

SECTION B—ADMINISTRATIVE AUTHORITY

1. *Establishment of Disaster Field Offices.* a. To establish field offices upon receipt of advice of the designation of a disaster area and to close disaster field offices when justified; and

b. To obligate the Small Business Administration to reimburse the General Services Administration for the rental of temporary office space:
(1) Regional Director
(2) Assistant Regional Director for F&I
(3) Assistant Regional Director for Administration
(4) District Director
(5) Assistant District Director for F&I
(6) Disaster Branch Manager

2. *Purchase and Contract Authority*—
a. *Rental of Motor Vehicles and Garage Space.* To rent motor vehicles necessary for the use of disaster branch office personnel and garage space for the storage of such vehicles when not furnished by this Administration:
(1) Regional Director
(2) Assistant Regional Director for F&I
(5) Assistant District Director for F&I Administration
(4) District Director
(5) Assistant District Director for F&I
(6) Disaster Branch Manager

b. *Office Supplies and Equipment.* To purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in sections 257 (a) and (b) of that chapter.
(1) Regional Director
(2) Assistant Regional Director for F&I
(3) Assistant Regional Director for Administration
(4) District Director
(5) Assistant District Director for F&I
(6) Disaster Branch Manager

c. *Credit Bureau Services.* To contract for local credit bureau services pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in sections 257(a) and (b) of that chapter:
(1) Regional Director
(2) Assistant Regional Director for F&I
(3) Assistant Regional Director for Administration
(4) District Director
(5) Assistant District Director for F&I
(6) Disaster Branch Manager

PART III—COMMUNITY ECONOMIC DEVELOPMENT (CED) PROGRAM

SECTION A—SECTION 501 AND 502 LOAN APPROVAL AUTHORITY (SBACT)

1. *Section 501 State Development Company Loans.* To approve or decline section 501 state development company loans not exceeding the following amounts (SBA share):

a. Regional Director	Unlimited With concurrence in at least one prior recommendation:
b. Assistant Regional Director for F&I	$750,000
c. District Director	750,000
d. Assistant District Director for F&I	750,000
e. Chief, CED Division, D/O	750,000
f. Chief, Financing Division, D/O	750,000

2. *Section 502 Local Development Company Loans (SBI Act).* To approve or decline section 502 local development company loans not exceeding the following amounts (SBA share) for each small business concern being assisted, within the project cost limitations shown below:

NOTE: Project cost applies to the cumulative CED assistance to a small business concern and its affiliates and not to the additional assistance on which the action is being taken.

a. Unlimited project cost:	
(1) Regional Director	$350,000
b. Overall project cost not exceeding $1,000,000:	
(2) Assistance Regional Director for F&I	350,000
(3) District Director	350,000
(4) Assistant District Director for F&I	350,000
c. Overall project cost not exceeding $700,000:	
(5) Chief, CED Division, D/O	350,000
(6) Chief, Financing Division, D/O	350,000

SECTION B—OTHER 501 AND 502 AUTHORITY

1. *Participation Agreements.* To enter into participation agreements with lenders:
a. Regional Director
b. Assistant Regional Director for F&I
c. District Director
d. Assistant District Director for F&I
e. Chief, CED Division, D/O
f. Chief, Financing Division, D/O

2. *Loan Authorizations.* a. To execute written loan authorizations:
(1) Regional Director
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Chief, CED Division, D/O
(6) Chief, Financing Division, D/O

b. To cancel, reinstate, modify, and amend authorizations:
(1) Regional Director
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Chief, CED Division, D/O (before initial disbursement)
(6) Chief, Financing Division, D/O (before initial disbursement)

3. *Disbursement Period Extension.* To extend disbursement periods:
a. Regional Director
b. Assistant Regional Director for F&I
c. District Director
d. Assistant District Director for F&I
e. Chief, CED Division, D/O (on wholly undisbursed loans)
f. Chief, Financing Division, D/O (on wholly undisbursed loans)

SECTION C—LEASE GUARANTEE

1. *Approval Authority.* To approve or decline applications and issue commitment letters for the direct guarantee of rents not to exceed the following amounts:

a. Regional Director	$1,000,000
b. Assistant Regional Director for F&I	500,000
c. District Director	500,000
d. Assistant District Director for F&I	500,000
e. Senior Surety Bond Specialist, San Francisco District Office—only	500,000

2. *Commitment Letters.* To modify commitment letters:
a. Regional Director
b. Assistant Regional Director for F&I
c. Regional Counsel
d. District Director
e. Assistant District Director for F&I

f. Chief, CED Division, D/O
g. District Counsel

SECTION D—SURETY GUARANTEE

1. To guarantee sureties against portion of losses resulting from the breach of bid, payment, or performance bonds on contracts, not to exceed $500,000.
a. Regional Director
b. Assistant Regional Director for F&I
c. Surety Bond Guarantee Officer, R/O
d. District Director, Region IV District Offices only
e. Chief, CED Division, San Francisco, New York, and all Region IV District Offices only.
f. Surety Bond Guarantee Officer, San Francisco, New York and all Region IV District Offices only.

SECTION E—EDA LOAN AUTHORITY

1. *EDA Loan Disbursement Authority.* To disburse EDA loans, as directed by EDA:
a. Regional Director
b. Assistant Regional Director for F&I
c. Regional Counsel
d. District Director
e. Assistant District Director for F&I
f. Chief, CED Division, D/O
g. District Counsel

PART IV—PORTFOLIO MANAGEMENT (PM) PROGRAM

SECTION A—PORTFOLIO MANAGEMENT, SERVICING, COLLECTION, AND LIQUIDATION AUTHORITY

1. To take all necessary action in connection with the administration, servicing, collection, and liquidation of all SBA loans (and EDA loans in liquidation when and as authorized by EDA) and lease guarantees, *exclusive of matters in litigation*, and to do and perform, and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate these granted powers.
EXCEPT:
a. *To compromise or sell* any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereof;
b. *To deny liability* of the Small Business Administration under the terms of a participation or guaranty agreement (including lease guarantees);
c. *To authorize suit* for recovery from a participating institution under any alleged violation of a participation or guaranty agreement; or
d. *To accept a lump sum settlement or to purchase property* under the lease guarantee:
(1) Regional Director
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Branch Manager (full service branches only)

2. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all SBA loans (and EDA loans in liquidation when and as authorized by EDA) and lease guarantees, *exclusive of matters in litigation;* and to do and perform, and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate these granted powers.
EXCEPT:
a. *To compromise or sell* any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon;
b. *To deny liability* of the Small Business Administration under the terms of a participation or guaranty agreement (including lease guarantees);
c. *To initiate suit* for recovery from a participating institution under any alleged violation of a participation or guaranty;
d. *To authorize the liquidation of a loan* (except Disaster Home Loans) or to cancel authority to liquidate; or
e. *To accept a lump sum settlement or to purchase property* under the lease guaranty:
(1) Branch Manager (limited servicing branches)
(2) Chief, Portfolio Management Division, D/O
(3) Supervisory Loan Specialist, Portfolio Management Division, D/O

3. *Other Portfolio Management Authority.* a. To take *only* the following actions on loans in a current status:
(1) Approve editorial modifications in loan authorizations;
(2) Extend disbursement periods on loans partially undisbursed;
(3) Release of cash surrender value or dividends to pay premiums due on assigned policy;
(4) Extension of initial principal payment dates or adjustment of interest payment dates;
(5) Release of equipment (or hazard insurance checks) where the total value being released does not exceed $500.
(a) Loan Specialist, Portfolio Management Division, D/O
(b) Loan Specialist, Portfolio Management Division, B/O

PART V—CLAIMS REVIEW COMMITTEE

SECTION A—AUTHORITY TO COMPROMISE CLAIMS

1. *District Claims Review Committee.* This committee shall consist of the Portfolio Management (PM) Chief (or Supervisory PM Officer), serving as chairman, the Finance Division Chief (or the Supervisory Finance Division Officer) and the District Counsel or those officially acting in their behalf. In those district offices not having any one of these positions, the committee shall consist of the Assistant District Director for Finance and Investment, acting as chairman, the Assistant District Director for Management Assistance and District Counsel or those officially acting in their behalf. a. Claims not in excess of $25,000 (excluding interest) upon unanimous vote of the Committee.

2. *Regional Claims Review Committee.* This committee shall consist of Assistant Regional Director for Finance and Investment (chairman); Assistant Regional Director for Management Assistance; and Regional Counsel. Authority is delegated to take final action on compromise proposals of indebtedness owed to the Agency as follows:
a. Claims not in excess of $25,000 (excluding interest) upon majority vote of the Committee.
b. Claims in excess of $25,000 but not exceeding $100,000 (excluding interest) upon unanimous vote of the Committee.

PART VI—PROCUREMENT ASSISTANCE PROGRAM (PA)

SECTION A—CERTIFICATE OF COMPETENCY APPROVAL AUTHORITY

1. With the exception of re-referred cases, to approve applications for Certificates of Competency up to but not exceeding $250,000 bid value received from small business concerns located within the geographical jurisdiction:
a. Regional Director
b. Assistant Regional Director for Procurement Assistance

2. To deny an applicant for a Certificate of Competency when an adverse determination as to capacity or credit is concurred in:
a. Regional Director
b. Assistant Regional Director for Procurement Assistance

SECTION B—SECTION 8(a) CONTRACTING AUTHORITY (SBACT)

1. To enter into contracts such as, but not limited to, supplies, services, construction, and concession on behalf of the Small Business Administration with the U.S. Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration, and agreeing to the terms and conditions of such contracts:
a. Regional Director
b. Assistant Regional Director for Procurement Assistance

2. To arrange for the performance of such contracts as stated in paragraph 1 above by negotiating or otherwise letting subcontracts to small business concerns or others. Further, to arrange for such management services as deemed necessary to enable the Small Business Administration to perform such contracts based upon the availability of funds:
a. Regional Director
b. Assistant Regional Director for Procurement Assistance

3. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent to perform any specific Government procurement contract to be let by any such officer:
a. Regional Director

b. Assistant Regional Director for Procurement Assistance

PART VII—MANAGEMENT ASSISTANCE PROGRAM

SECTION A—CALL CONTRACTS AUTHORITY

1. *Administration and Management of Call Contracts.* To take all necessary actions in connection with the administration and management of contracts executed by the Assistant Administrator for Management Assistance under the authority granted in Section 7(j) of the Small Business Act, as amended, (formerly under Section 406 of the Economic Opportunity Act of 1964) except changes, amendments, or termination of the contract.

a. Regional Director
b. Assistant Regional Director for Management Assistance
c. District Director
d. Assistant District Director for Management Assistance

PART VIII—LEGAL SERVICES

SECTION A—AUTHORITY TO CONDUCT LITIGATION ACTIVITIES

1. To conduct all litigation activities, including SBIC and Economic Development Administration matters, as assigned, and to take all action necessary in connection with matters in litigation; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers.

EXCEPT:

a. *To compromise or sell* any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon;

b. *To deny liability* of the Small Business Administration under the terms of a participation or guaranty agreement (including lease guarantees); or

c. *To authorize suit* for recovery from a participating institution under any alleged violation of a participation or guaranty agreement; or

d. *To accept a lump sum settlement or to purchase property* under the lease guarantee:

(1) Regional Director
(2) Regional Counsel
(3) Attorney, Regional Office
(4) District Counsel
(5) Attorney, District Office
(6) Branch Counsel

SECTION B—LOAN CLOSING AUTHORITY

1. To close and disburse approved SBA loans and to close EDA loans, as authorized:

a. Regional Director
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel
e. Attorney, District Office
f. Branch Counsel

2. To approve, when requested, in advance of disbursements, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization:

a. Regional Director
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel
e. Attorney, District Office
f. Branch Counsel

3. To approve or disapprove fees charged by borrowers' counsel:

a. Regional Director
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel
e. Attorney, District Office
f. Branch Counsel

PART IX—ELIGIBILITY AND SIZE DETERMINATIONS

SECTION A—ELIGIBILITY DETERMINATIONS

1. *Eligibility Determination Authority.* In accordance with Small Business Administration standards and policies, to determine eligibility of applicants for assistance under *any program of* the Agency, *EXCEPT the SBIC program.*

a. Regional Director

b. All officials having the authority and assigned responsibility to take final action on the assistance requested.

SECTION B—SIZE DETERMINATIONS

1. *Size Determination Authority.* In accordance with Small Business Administration Small Business Size Standards Regulations, to make initial size determinations of applicants for assistance under *any* program of the Agency.

a. Regional Director

b. All other officials having authority and assigned responsibility to take final action on the assistance requested, *EXCEPT* the SBIC program.

PART X—ADMINISTRATIVE

SECTION A—AUTHORITY TO PURCHASE, RENT, OR CONTRACT FOR EQUIPMENT, SERVICES, AND SUPPLIES

1. *Purchase Reproductions of Loan Documents.* To purchase reproductions of loan documents, chargeables to the revolving fund requested by U.S. Attorneys in foreclosure cases:

a. Regional Director
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel
e. Attorney, District Office
f. Branch Counsel

2. *Office Supplies and Equipment.* To purchase office supplies and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in section 257(a) and (b) of that chapter:

a. Regional Director
b. Assistant Regional Director for Administration
c. District Director
d. Branch Manager

3. *Rental of Motor Vehicles.* To rent motor vehicles when not furnished by this Administration:

a. Regional Director
b. Assistant Regional Director for Administration
c. District Director
d. Branch Manager

4. *Rental of Conference Space.* To rent temporarily SBA conference space located within the respective geographical jurisdiction.

a. Regional Director

5. *Use of Seal of the Small Business Administration.* To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the nonexistence of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certification.

a. Regional Director
b. District Director
c. Branch Manager

PART XI—REDELEGATION AUTHORITY

SECTION A—REDELEGATION

1. The Associate Administrator for Operations may amend, modify, or revoke specific authorities delegated to field positions within the limitations of this document.

2. The Administrator shall approve delegations expanding the scope of any delegation herein.

3. The authority delegated herein may be exercised by an SBA employee designated as acting in a position designated herein.

Effective Date: March 14, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-6304 Filed 3-11-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MARCH 7, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before March 24, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 3753 (Sub-No. E1), filed May 12, 1974. Applicant: AAA TRUCKING CORP., 3630 Quaker Bridge Rd., Trenton, N.J. 08619. Applicant's representative: George Zigich (same as above). 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, those injurious or contaminating to other lading, clay products, refractory products, and undeliverable and refused clay products and refractory products); (1) between points in Nassau & Suffolk Counties, N.Y., on the one hand, and, on the other, points in New York, in the New York commercial zone, as defined in New York, N.Y., Commercial Zone, 1 M.C.C. 665, points in Hudson, Essex, and Union Counties, N.J., points in Bergen and Passaic Counties, N.J., on and east of U.S. Highway 202, and points in Middlesex County, N.Y., on and north of New Jersey Highway 18 (New York, N.Y.)*; (2) between points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, Baltimore, Md., Washington, D.C., points in Orange, Rockland, and Westchester Counties, N.Y., points in that part of New Jersey on, east, and south of U.S. Highway 202 from the New Jersey-New York State line to junction U.S. Highway 206, thence on and east of U.S. Highway 206 to Trenton, N.J., and on, north, and west of a line beginning at the Delaware River near Penns Grove, N.J., and extending along an unnumbered highway to junction U.S. Highway 130.

Thence along U.S. Highway 130 to Bridgeport, N.J., thence along Alternate U.S. Highway 130 to junction U.S. Highway 130, thence along U.S. Highway 130 to junction New Jersey Highway 33 and thence along New Jersey Highway 33 to the Atlantic Ocean at Ocean Grove, N.J., points in that part of Delaware on and north of a line beginning at the Maryland-Delaware State line and extending along U.S. Highway 40 to junction Delaware Highway 273, and thence along Delaware Highway 273 to the Delaware River, and points in Pennsylvania, east of the Susquehanna River, from the Pennsylvania-Maryland State line to junction U.S. Highway 11 at Pittston, Pa., thence on and east of U.S. Highway 11 to Scranton, Pa., and thence on, west, and south of U.S. Highway 611 from Scranton, Pa., to the Pennsylvania-New Jersey State line (New York, N.Y.)*; (3) between points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, points in Connecticut, Rhode Island, and Massachusetts (Essex County, N.J.)*; (4) between points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, points in Burlington, Camden, Gloucester, Salem, Atlantic, Cape May, and Cumberland Counties, N.J. (Newark, N.J.)*; and (5) between points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, Mercer, Bergen, Hunterdon, Passaic, Morris, and Sussex Counties, N.J. (Passaic County, N.J.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 21170 (Sub-No. E68), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushi (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and groceries*, from points in that part of Minnesota east of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 63 to the Minnesota-Wisconsin State line to Norfolk, Nebr. The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.

No. MC 21170 (Sub-No. E69), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushi (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Eggs and butter*, from points in that part of Kansas east of U.S. Highway 81 and from that part of Missouri on and north of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 50 to junction Missouri Highway 23, thence along Missouri Highway 23 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Missouri Highway 5, thence along Missouri Highway 5 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Iowa-Missouri State line to Pittsburgh, Pa.; and *empty cartons and containers* used in the shipping of butter and eggs, from Pittsburgh, Pa., to the above-described territory. The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.

No. MC 21170 (Sub-No. E74), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushi (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware and closures for glass containers*, from Burlington, Wis., to Aurora, Bolivar, Carthage, Clinton, Joplin, Neosho, Springfield, and Webb City, Mo. The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.

No. MC 21170 (Sub-No. E75), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushi (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty cartons and containers*, used in the shipping of butter and eggs, from Pittsburgh, Pa., to Fargo, N. Dak. The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.

No. MC 21170 (Sub-No. E76), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushi (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty malt bevarage containers*, from Aurora, Carthage, Joplin, Neosho, Springfield, and Webb City, Mo., to Milwaukee, Wis. The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.

No. MC 26739 (Sub-No. E3), filed June 3, 1974. Applicant: CROUCH-BROTHERS, INC., P.O. Box 1059, St. Joseph, Mo. 64502. Applicant's representative: Sheldon Silverman, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery*, from points in Illinois, Iowa, and Missouri (except points in Newton, McDonald, Barry, Stone, Taney, Christian, Ozark, Hawell, Oregon, Ripley, Butler, New Madrid, Dunklin, and Pemiscot Counties, Mo.), to points in Oklahoma (except points in Ottawa, Craig, and Delaware Counties). The purpose of this filing is to eliminate the gateway of points in Kansas on and east of a line beginning at the Kansas-Nebraska State line, thence along U.S. Highway 75 to the Kansas-Oklahoma State line.

No. MC 61396 (Sub-No. E14), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over ir-

regular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except those requiring heat in transit), in bulk, in tank vehicles, from Falls City, Nebr., to points in that part of Missouri on and east of a line beginning at the Missouri-Iowa State line, thence along U.S. Highway 65 to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateway of points in Harrison County, Mo.

No. MC 61396 (Sub-No. E16), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the site of the pipeline terminal of the Champlin Refining Co., at or near Columbus, Nebr. to points in Caldwell, Clinton, Daviess, De Kalb, Gentry, Harrison, Worth, Atchison, Nodaway, Holt, Andrew, Buchanan, Platte, Clay, and Jackson Counties, Mo. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa, and points in Iowa within ten miles of Council Bluffs.

No. MC 61396 (Sub-No. E17), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as defined in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the Kaneb Pipeline Terminal at or near Fairmont, Nebr., to points in North Dakota, Minnesota, and points in that part of Iowa on and north of a line beginning at the Iowa-Illinois State line, thence along U.S. Highway 20 to the Iowa-Nebraska State line. The purpose of this filing is to eliminate the gateway of Yankton, S. Dak.

No. MC 61396 (Sub-No. E18), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Falls City, Nebr., to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateways of (1) Council Bluffs and points in Iowa within ten miles of Council Bluffs; and (2) Norfolk, Nebr.

No. MC 61396 (Sub-No. E19), filed May 14, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Norfolk, Nebr., to points in Brown, Nemaha, Doniphan, Atchison, Jackson, Jefferson, Marshall, Leavenworth, Wyandotte, and Shawnee Counties, Kans., and to points in Caldwell, Clinton, Daviess, De Kalb, Gentry, Harrison, Worth, Atchison, Nodaway, Holt, Andrew, Buchanan, Platte, Clay, and Jackson Counties, Mo. The purpose of this filing is to eliminate the gateways of Council Bluffs, Iowa, and points in Iowa within 10 miles of Council Bluffs.

No. MC 61396 (Sub-No. E20), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles (except those requiring heat in transit), from Norfolk, Nebr., to points in Missouri. The purpose of this filing is to eliminate the gateways of Council Bluffs, Iowa, and points in Iowa within ten miles of Council Bluffs, and Harrison County, Mo.

No. MC 61396 (Sub-No. E21), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Omaha, Salem, Superior, and Falls City, Nebr., to points in Iowa on and east of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 169 to the Iowa-Missouri State line. The purpose of this filing is to eliminate the gateway of points in that part of Iowa on and west of U.S. Highway 169.

No. MC 61396 (Sub-No. E22), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificate*, 61 M.C.C. 209, in bulk, in tank vehicles (except those requiring heat in transit), from Harrison County, Mo., to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateway of Norfolk, Nebr.

No. MC 61396 (Sub-No. E23), filed May 10, 1974. Applicant: HERMAN BROS, INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as defined in Appendix XIII to the report in *Descriptions in Motor Carrier Certificate*, 61 M.C.C. 209 (except those requiring heat in transit), from the site of the American Oil Co., pipeline terminal in Andrew County, Mo., to points in North Dakota, South Dakota, and points in that part of Minnesota on and north of a line beginning at the Minnesota-North Dakota State line, thence along U.S. Highway 2 to Lake Superior. The purpose of this filing is to eliminate the gateway of Norfolk, Nebr.

No. MC 61396 (Sub-No. E24), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Sugar Creek, Mo., and points in Missouri within 15 miles of Sugar Creek to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateway of Norfolk, Nebr.

No. MC 61396 (Sub-No. E25), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Sugar Creek, Mo., and points in Missouri within 15 miles of Sugar Creek, to points in Iowa on and west of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 71 to the Iowa-Minnesota State line. The purpose of this filing is to eliminate the gateways of Salem, Omaha, and Falls City, Nebr.

No. MC 61396 (Sub-No. E26), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, in tank vehicles, from the sites of the terminal outlets of the Mid-America Pipeline Co., Pipeline at or near Kearney and Moberly, Mo., to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateway of Norfolk, Nebr.

No. MC 61396 (Sub-No. E27), filed May 10, 1974. Applicant: HERMAN BROS, INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from Tarkio, Mo., and points within five miles of Tarkio, to points in North Dakota, South Dakota, and points in that part of Minnesota on

and north of a line beginning at the Minnesota-North Dakota State line, thence along U.S. Highway 2 to Lake Superior. The purpose of this filing is to eliminate the gateway of Norfolk, Nebr.

No. MC 61396 (Sub-No. E29), filed May 10, 1974. Applicant: HERMAN BROS, INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in tank vehicles, from points in Iowa to points in that part of South Dakota on, west, and north of a line beginning at the South Dakota-Iowa State line, thence along U.S. Highway 18 to junction U.S. Highway 281, thence along U.S. Highway 281 to the South Dakota-Nebraska State line. The purpose of this filing is to eliminate the gateway of the site of the terminal outlet of the Mid-America Pipeline Co., pipeline at or near Sanborn, Iowa.

No. MC 61396 (Sub-No. E32), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from points in that part of Iowa on and west of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 63 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Iowa-Minnesota State line, thence along the Iowa-Minnesota State line to point of origin, to points in Missouri. The purpose of this filing is to eliminate the gateway of site of the pipeline terminal of Hydrocarbon Transportation, Inc., at or near Des Moines, Iowa.

No. MC 61396 (Sub-No. E33), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum-based dry fertilizer*, in bulk, from points in that part of Iowa on and east of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 169 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Iowa-Illinois State line, to points in Nebraska. The purpose of this filing is to eliminate the gateway of Jefferson, Iowa.

No. MC 61396 (Sub-No. E38), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from points in that part of Iowa on and east of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 63 to the Iowa-Missouri State line, to points in Kansas and Nebraska. The purpose of this filing is to eliminate the gateway of the plant-site of Green Valley Chemical Corp., at or near Creston, Iowa.

No. MC 61396 (Sub-No. E39), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum-based* dry fertilizer, from points in Iowa to points in Colorado. The purpose of this filing is to eliminate the gateway of the warehouse or storage facilities of Farmland Industries, Inc., at or near Council Bluffs, Iowa.

No. MC 61396 (Sub-No. E40), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum-based dry fertilizer, dry fertilizer materials, dry urea, and dry ammonium nitrate*, from points in Iowa, to points in the Lower Peninsula of Michigan, and points in Ohio (except Cincinnati). The purpose of this filing is to eliminate the gateway of Clinton, Iowa.

No. MC 61396 (Sub-No. E43), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from points in Iowa to points in that part of the Lower Peninsula of Michigan on, north, and east of a line beginning at Lake Michigan, thence along Interstate Highway 96 to junction Interstate Highway 69, thence along Interstate Highway 69 to the Michigan-Indiana State line. The purpose of this filing is to eliminate the gateway of the storage facility of Armour Agricultural Chemical Co., near Bellevue, Jackson Co., Iowa.

No. MC 61396 (Sub-No. E45), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from points in that part of Iowa on, east, and south of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 63 to junction U.S. Highway 18, thence along U.S. Highway 18 to the Iowa-Wisconsin State line, to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateway of the facilities of Gulf Central Pipeline Co., located at or near Algona and Iowa Falls, Iowa.

No. MC 61396 (Sub-No. E46), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer materials*, from the plant site of W. R. Grace and Co., located at or near Henry, Ill., to points in Kansas, Nebraska, North Dakota, South Dakota, and Oklahoma. The purpose of this filing is to eliminate the gateway of Clinton, Iowa.

No. MC 61396 (Sub-No. E47), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, and in bags, from the plant site of W. R. Grace and Co., located at or near Henry, Ill., to points in Nebraska. The purpose of this filing is to eliminate the gateway of Dubuque, Mason City, Carroll, and Waterloo, Iowa.

No. MC 61394 (Sub-No. E48), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from all refining and distributing points in Kansas, to points in that part of Iowa on, west, and north of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 169 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Iowa-Nebraska State line. The purpose of this filing is to eliminate the gateway of Omaha, Nebr.

No. MC 61396 (Sub-No. E49), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and fertilizer solution*, in bulk, in tank vehicles, from the plant site of Hercules, Inc., near Louisiana, Mo., to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateway of Omaha, Nebr.

No. MC 61396 (Sub-No. E50), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from all refining and distributing points in that part of Kansas on and west of a line beginning at the Kansas-Nebraska State line, thence along U.S. Highway 81 to the Kansas-Oklahoma State line to points in Iowa. The purpose of this filing is to

eliminate the gateways of (1) Omaha, Nebr.; and (2) points in that part of Iowa on and west of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 169 to the Iowa-Missouri State line.

No. MC 61396 (Sub-No. E51), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from the site of the pipeline terminal of Hydrocarbon Transportation, Inc., at or near Rockford, Ill., to points in Nebraska. The purpose of this filing is to eliminate the gateways of (1) Dubuque, Clinton, and Jackson Counties, Iowa; (2) Council Bluffs, Iowa, and points in Iowa within ten miles of Council Bluffs.

No. MC 61592 (Sub-No. E83), filed July 5, 1974. Applicant: JENKINS TRUCK LINE, INC., R.R. 3, P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building board* (plywood or paneling with artificially imposed wood grain on plastic film coating), from Pevely, Mo., to points in Indiana on and north of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 30 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Indiana-Ohio State line. The purpose of this filing is to eliminate the gateway of Beardstown, Ill.

No. MC 61592 (Sub-No. E112) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER, February 19, 1975. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural and garden tractors and agricultural implements*, from points in Wisconsin south of U.S. Highway 10 to points in Nebraska and points in South Dakota on and south of South Dakota Highway 34. The purpose of this filing is to eliminate the gateway of Ida Grove, Iowa. The purpose of this correction is to correct the "E" number.

No. MC 78228 (Sub-No. E14), filed September 12, 1974. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pig iron*, in dump vehicles (except materials used by steel mills from points in Jackson and Washington Counties, Ohio, and except ferro alloys, in containers, from the plant site of the Union Carbide and Carbon Company, at or near Ashtabula, Ohio); (a) from points in Ohio to points in Connecticut, Maine, Maryland, Massachusetts, New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden and Burlington Counties, N.J.), and Rhode Island; (b) from points in that part of West Virginia on and north of U.S. Highway 50, to points in Connecticut, Maine, Massachusetts, New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden and Burlington Counties, N.J.), New York and Rhode Island; (2) *coke*, in dump vehicles (except materials used by steel mills from points in Jackson and Washington Counties, Ohio, and (except ferro alloys, in containers, from the plant site of the Union Carbide and Carbon Company at or near Ashtabula, Ohio); (a) from points in Ohio to points in Connecticut, Maine, Maryland, Massachusetts, New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden and Burlington Counties, N.J.), and Rhode Island; (b) from points in that part of West Virginia on and north of U.S. Highway 50, to points in Connecticut, Maine, Massachusetts, New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden and Burlington Counties, N.J.), New York and Rhode Island;

(c) From Ashland, Ky., to points in Connecticut, Maine, Maryland, Massachusetts, New Jersey (except points in Cumberland, Salem, Gloucester, Cape Counties, N.J.), New York, and Rhode Island; and (d) from Harriet, N.Y., to points in Maryland, Virginia and West Virginia; (3) *pig iron*, in dump vehicles, from points in Connecticut, Massachusetts, Rhode Island, Vermont, and New Hampshire to points in Ohio; and (4) *pig iron*, in dump vehicles (except materials used by steel mills from points in Jackson and Washington Counties, Ohio, and except ferro alloys, in containers, from the plant site of the Union Carbide and Carbon Company, at or near Ashtabula, Ohio), from points in Connnecticut, Massachusetts, Rhode Island, Vermont, and New Hampshire, to points in Indiana, Michigan, West Virginia, and Ohio (except points in Cuyahoga, Geauga, Portage, and Lorain Counties, Ohio). Restriction: The service authorized in (3) and (4) above is restricted against the transportation of the involved commodities from points in New Hampshire, Vermont, and Connecticut to Ashtabula, Ohio. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83539 (Sub-No. E71), filed May 30, 1974. Applicant: C & H TRANSPORTATION, 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which, because of size or weight, require the use of special equipment (except machinery, equipment, materials, and supplies used in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof), and *parts thereof* when moving in connection therewith; and (2) *Self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy machinery, and *related machinery, tools, parts, and supplies* when moving in connection therewith (restricted to commodities which are transported on trailers); between points in Kansas, on the one hand, and, on the other, points in Ada, Canyon, Gen, Payette, Washington, Adams, Idaho, Louis, Nez Perce, Clearwater, Lotah, Benewah, Shoshone, Koltinai, Bonner, Lemhi, Clark, and Fremont Counties, Idaho (points in Nebraska, Oregon, and that part of Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.)*; (3) *Commodities*, the transportation of which, because of size or weight, require the use of special equipment or handling (except boats, and the stringing or picking up of pipe in connection with main or trunk pipelines), between points in Texas, on the one hand, and, on the other, points in Ada, Canyon, Gen, Payette, Washington, Adams, Idaho, Louis, Nez Perce, Clearwater, Latah, Benewah, Shoshone, Koltinai, Bonner, Elmore, Boise, Valley, Lemhi, Clark, and Fremont Counties, Idaho (points in Colorado, Oregon, and that part of Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.)*;

(4) *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and *parts thereof* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special equipment, between points in Iowa, on the one hand, and, on the other, points in Louisiana (points in Kansas, Missouri, and Nashville, Tenn., and points in Tennessee within 50 miles of Nashville)*; (5) *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and *parts thereof* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special equipment, and (6) *Self-propelled articles*, each weighing 15,000 pounds or more, and *related* machinery, parts, tools, and supplies moving in connection therewith (restricted to commodities which are transported on trailers) between points in Missouri, on the one hand, and, on the other, points in that part of Tennessee on and west of U.S. Highway 13 (points in Kansas and Nashville, Tenn., and points in Tennessee within 50 miles of Nashville)*; (7) *Commodities*, the transportation of which, because of size or weight, require the use of special equipment (except boats), and *related machinery parts and related contractors' materials and supplies* when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment, and (8) *Self-propelled articles*, each weighing 15,000 pounds or

more, which may be included in heavy machinery, and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in Montana, on the one hand, and, on the other, points in Washington and Oregon (points in that part of Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.)*;

(9) *Commodities*, the transportation of which because of size or weight require the use of special equipment, and *parts* of such commodities when moving in connection therewith, and (10) *Self-propelled articles*, each weighing 15,000 pounds of more, and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities which are transported on trailers); between points in Nebraska, on the one hand, and, on the other, points in Oklahoma (points in Kansas)*; (11) *Such commodities* as require special handling or rigging because of size or weight (except boats), and (12) *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities which are transported on trailers); between points in New Mexico, on the one hand, and, on the other, points in Wyoming (points in Colorado)*; (13) *Such commodities*, as require special handling or rigging because of size or weight (except boats), and (14) *Self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy machinery, and *related* machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in New Mexico, on the one hand, and, on the other, points in Washington (points in Colorado and that part of Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.)*; (15) *Such commodities*, as require special handling or rigging because of size or weight (except boats), and (16) *Self-propelled articles*, each weighing 15,000 pounds or more, and related machinery, parts, tools, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in Oklahoma, on the one hand, and, on the other, points in Utah and Wyoming (Wichita, Kans., points in Colorado and New Mexico)*.

Restriction: The operations authorized in (1), (4), (5), and (9) above are subject to the following restrictions: (a) Carrier shall not transport (1) any shipment which originates at St. Louis or Kansas City, Mo., and which is destined to any points in Missouri, Kansas, or Iowa, or (2) any shipment which originates at any points in Missouri, Kansas, or Iowa, and which is destined to St. Louis and Kansas City. (b) Carrier shall not transport any cast iron pressure pipe and fittings and accessories therefor when moving with such pipe, from Council Bluffs, Iowa. (c) The carrier shall not engage in the stringing or picking up of pipe along main or trunk pipeline rights of way, other than in the transportation, stringing or picking up of pipe (1) in connection with river crossings of pipelines, and (2) in connection with the operation, repair, and maintenance of pipelines. The operations authorized in (1) above are subject to the condition that carrier's service on traffic originating at or destined to points in Illinois and Iowa, by reason of carrier's operations authorized in this certificate, shall be limited to movements (1) of machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) of related contractors' equipment, materials, and supplies when their transportation is incidental to the transportation by carrier of commodities which because of size or weight require the use of special equipment.

The operations authorized in (2), (6), and (10) above are restricted against the transportation of any shipment which (1) originates at St. Louis or Kansas City, Mo., and which is destined to any points in Iowa, Kansas, or Missouri, or (2) originates at any points in Iowa, Kansas, or Missouri and which is destined to St. Louis or Kansas City, Mo. The operation authorized in (3) above are restricted against the tacking of the authority to transport commodities which have an origin or destination at points in Illinois, Indiana, and Ohio, with any other authority now held by carrier for the purpose of providing a through service. The operations authorized in (4) and (5) above are restricted against the stringing and/or picking up of pipe in connection with the construction and dismantling of main or trunk pipelines between points in Louisiana, Mississippi, and North Carolina. The operations authorized in (9) and (15) above are subject to the following restrictions: (a) Heavy machinery parts which are not transported with the machinery of which they are a part or on which they are to be installed, shall not be transported between points in Illinois, on the one hand, and, on the other, points in Mississippi and Louisiana and those in Arkansas on U.S. Highway 61. (b) No service shall be performed in the stringing or picking up of the commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 87103 (Sub-No. E1), filed June 4, 1974. Applicant: MILLER TRANSFER & RIGGING COMPANY, P.O. Box 6077, Akron, Ohio 44312. Applicant's representative: Edward P. Bocko (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Machinery and contractors' equipment and supplies which because of size or weight require special equipment: (1) between points in Illinois, on the one hand, and, on the other, points in New York; (2) between points in Indiana, on the one hand, and, on the other, those points in New York on and east of a line beginning at Lake Erie and extending along New York Highway 16 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction New York Highway 319, thence along New York Highway 319 to junction New York Highway 219, thence along New York Highway 219 to the New York-Pennsylvania State line, (3) between points in that part of New York on and east of a line beginning at Oswego and extending along New York Highway 104 to Victory, thence along New York Highway 38 to junction Interstate Highway 90, thence along Interstate Highway 90 to West Junius, thence along New York Highway 14 to Geneva, thence along New York Highway 245 to North Cohocton, thence along U.S. Highway 15 to junction New York Highway 70, thence along New York Highway 70 to North Hornell, thence along New York Highway 21 to Andover, thence along New York Highway 17 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in that part of Ohio on and west of a line beginning at Cleveland and extending along Ohio Highway 14 to Deerfield, thence along Ohio Highway 14 to Salem, thence along Ohio Highway 45 to West Point, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line.

(4) Between points in that part of New York on and north of a line beginning at the New York-Pennsylvania State line and extending along unnumbered highway to Hancock Eddy, thence along New York Highway 17 to East Branch, thence along New York Highway 30 to Margaretville, thence along New York Highway 28 to Kingston, thence along New York Highway 199 to junction U.S. Highway 44, thence along U.S. Highway 44 to the New York-Connecticut State line, on the one hand, and, on the other, points in that part of West Virginia on and west of a line beginning at the West Virginia-Maryland State line and extending along U.S. Highway 219 to Huttonville, thence along U.S. Highway 250 to the West Virginia-Virginia State line; and (5) between those points in Ohio on and east of a line beginning at Lake Erie and extending along Ohio Highway 534 to junction Ohio Highway 307, thence along Ohio Highway 307 to junction Ohio Highway 193, thence along Ohio Highway 193 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Ohio Highway 85, thence along Ohio Highway 85 to the Ohio-Pennsylvania State line, on the one hand, and, on the other, those points in West Virginia on and north of U.S. Highway 50, and those points on and south of a line beginning at the Kentucky-West Virginia State line near Kermit, and extending along unnumbered highway to Breeden, thence along unnumbered highway to junction West Virginia Highway 10 at Logan, thence along West Virginia Highway 10 to junction West Virginia Highway 85, thence along West Virginia Highway 85 to junction West Virginia Highway 99, thence along West Virginia Highway 99 to junction West

Virginia Highway 3, thence along West Virginia Highway 3 to junction unnumbered highway at Pettus, thence along unnumbered highway to junction U.S. Highway 21 at Price Hill, thence along U.S. Highway 21 to junction West Virginia Highway 61, thence along West Virginia Highway 61 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction unnumbered highway at Danese, thence along unnumbered highway to junction West Virginia Highway 20 at Meadow Bridge, thence along West Virginia Highway 20 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateways of Clarion, Pa., and points within 40 miles thereof.

No. MC 102298 (Sub-No. E1), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: Konrab A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 107107 (Sub-No. E2), filed June 4, 1974. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fresh meats*, from Southboro and Boston, Mass., to points in Texas (Florida)*; (2) *jams and jellies*, in vehicles equipped with mechanical refrigeration from Spencer, Mass., to points in Wayne, Chatham, Lowndes, Ware and Glynn Counties, Ga. (Jacksonville, Fla.)*; (3) *cheese*, from Boston and Brockton, Mass., to New Orleans, La. (Florida)*; (4) *candy*, from Providence, R.I., to points in Alabama, Louisiana, and those in Mississippi on and south of U.S. Highway 80 (Pensacola and Tallahassee, Fla.)*; (5) *pie and pastry fillings, and soda fountain preparations* and *extracts*, from Providence, R.I., to points in Wayne, Lowndes, Ware and Glynn Counties, Ga. (Jacksonville, Ga.)*; (6) *frozen foods*, useful or used in the manufacture of ice cream, *bakery products*, unfrozen, *prepared horse radish* and *horse radish cocktail sauce* in vehicles equipped with mechanical refrigeration, from Baltimore, Md., to points in Wayne, Ware, Lowndes and Glynn Counties, Ga. (Jacksonville, Fla.)*; and (7) *fresh meats*, from points in Emporia, Norfolk, Smithfield and Timberville, Va., to points in Texas (Florida)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 107107 (Sub-No. E3), filed June 4, 1974. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from points in New York on and east of New York Highway 14 to points in Mississippi (Sylvester, Ga.)*; (2) *candy and confectionery* and *related advertising materials*, from New York, N.Y., and points within 15 miles thereof, to points in Louisiana (Pensacola and Tallahassee, Fla.)*; (3) *meat, meat products*, as defined by the Commission, from New York, N.Y., to points in Alabama, Louisiana, Mississippi and those in Georgia on and south of U.S. Highway 280 (except Savannah, Ga.) (and points in Florida)*; and (4) *food and food ingredients* requiring temperature control in transit from New York, N.Y., and points within 15 miles thereof, to points in Wayne, Lowndes, Ware and Glynn Counties, Ga. (Jacksonville, Fla)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 107107 (Sub-No. E13), filed June 2, 1974. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Florida to points in South Carolina, North Carolina, Virginia, Maryland, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia, restricted to the transportation of shipments moving in foreign commerce only. The purpose of this filing is to eliminate the gateways of Glynn and Chatham Counties, Ga.

No. MC 107107 (Sub-No. E14), filed May 31, 1974. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen fresh meat*, from those points in Alabama on and south of Alabama Highway 10 and those points in Georgia on and south of a line beginning at the Atlantic Ocean and extending along Georgia Highway 38 to junction Georgia Highway 32, thence along Georgia Highway 32 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Alabama-Georgia State line to points in Maine and New Hampshire (Florida)*; (2) *Meats, meat products, and meat byproducts* as defined by the Commission, and *fresh meats*, from those points in Alabama on and south of Alabama Highway 10 and those points in Georgia on and south of a line beginning at the Atlantic Ocean and extending along Georgia Highway 38 to junction Georgia Highway 32, thence along Georgia Highway 32 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Alabama-Georgia State line to points in Connecticut, Delaware, Illinois, Indiana, Missouri, Ohio, Massachusetts, New Jersey, New York, Pennsylvania, Virginia, West Virginia, Rhode Island, and the District of Columbia (Florida)*; and (3) *Frozen foods*, from Mobile, Ala., to Savannah, Ga. (Jacksonville, Fla.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 107295 (Sub-No. E18), filed May 14, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicants representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down, or in sections; (1) from points in Iowa to points in Alabama and Mississippi; (2) from points in Iowa to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; (3) from points in Iowa to points in Delaware, Maryland, New Jersey, Virginia, West Virginia, and the District of Columbia; (4) from points in Iowa to points in Florida and Georgia; (5) from points in Iowa to points in New York; (6) from points in Iowa to points in North Carolina; (7) from points in Iowa to points in South Carolina; (8) from points in Iowa to points in Pennsylvania. The purpose of this filing is to eliminate the gateways of (1) points in Illinois; (2) Terre Haute, Ind.; (3) points in Ohio; (4) points in Illinois; (5) points in Ohio; (6) points in Ohio; (7) points in Ohio and Lumberton, N.C.; and (8) points in Illinois.

No. MC 107295 (Sub-No. E19), filed May 14, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections; (1) from points in Mississippi to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; and (2) from points in Mississippi to points in Michigan and Ohio. The purpose of this filing is to eliminate the gateways of (1) points in Illinois and Washington Court House, Ohio; and (2) points in Illinois.

No. MC 107295 (Sub-No. E20), filed May 14, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down, or in sections; (1) from points in that part of Wisconsin located in and east of Florence, Marinette, Oconto, Outagamie, Winnebago, Fond du Lac, Dodge, Jefferson, and Walworth Counties to points in that part of Arizona located in and south of Yuma, Yavapai, Gila, Graham, and Greenlee Counties, and to points in that part of California located in and south of San Luis Obispo, Kern, and San Bernardino Counties; (2) from points in that part of Wisconsin located in and south of Pepin, Eau Claire, Chippewa, Taylor, Lincoln, Langlade, Oconto, and Marinette Counties to points in Idaho; (3) from points in that part of Wisconsin located in, east

and south of Green, Dane, Dodge, Washington, and Ozaukee Counties to points in that part of Montana located in, west, and south of Flathead, Powell, Jefferson, Broadwater, Mempher, Wheatland, Golden Valley, Musselshell, Rosebud, Custer, and Fallon Counties; (4) from points in Wisconsin to points in Connecticut, Maine, Massachuetts, New Hampshire, Rhode Island, and Vermont; (5) from points in Wisconsin to points in Delaware, Maryland, New Jersey, and the District of Columbia; (6) from points in Wisconsin to points in North Carolina; (7) from points in Wisconsin to points in that part of South Carolina located in and east of Lancaster, Kershaw, Sumter, and Calhoun Counties; and (8) from points in Wisconsin to points in Virginia and West Virginia. The purpose of this filing is to eliminate the gateways of (1) Pine Bluff, Ark.; (2) points in Wapello County, Iowa; (3) points in Wapello County, Iowa; (4) Washington Court House, Ohio; (5) points in Ohio; (6) points in Ohio; (7) points in Ohio and Lumberton, N.C.; and (8) points in Ohio.

No. MC 107295 (Sub-No. E21), filed May 14, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections, and when transported in connection with the transportation of such buildings, *component parts thereof* and *equipment* and *materials* incidental to the erection and completion of such buildings; (1) from points in Kansas to points in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, and Vermont; (2) from points in Kansas to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia; (3) from points in Kansas to points in Indiana and Ohio; (4) from points in Kansas to points in North Carolina and Virginia; and (5) from points in Kansas to points in West Virginia. The purpose of this filing is to eliminate the gateways of (1) points in Illinois and Washington Court House, Ohio; (2) points in Illinois and Ohio; (3) points in Illinois; (4) points in Illinois and Tennessee; and (5) points in Illinois and Ohio.

No. MC 107295 (Sub-No. E22), filed May 14, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Prefabricated and precut buildings or houses, complete, knocked down, or in sections: (1) from the District of Columbia to points in Arizona, Arkansas, and California; (2) from the District of Columbia to points in Colorado, Idaho, Montana, Nevada, North Dakota, South Dakota, Utah, and Wyoming; (3) from the District of Columbia to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; (4) from the District of Columbia to points in Florida, Georgia, and South Carolina; (5) from the District of Columbia to points in Iowa and Missouri; (6) from the District of Columbia to points in Kansas and Oklahoma; (7) from the District of Columbia to points in Louisiana and Mississippi; (8) from the District of Columbia to points in Michigan and Wisconsin; (9) from the District of Columbia to points in Minnesota; (10) from the District of Columbia to points in Nebraska; and (11) from the District of Columbia to points in Texas. The purpose of this filing is to eliminate the gateways of (1) points in Ohio and Pine Bluff, Ark.; (2) points in Ohio and Wapello County, Iowa; (3) Baltimore, Md.; (4) Lumberton, N.C.; (5) points in Ohio; (6) points in Ohio and Illinois; (7) Washington Court House, Ohio; (8) points in Ohio; (9) points in Ohio and Illinois; (10) points in Ohio and Illinois; and (11) points in Ohio and Illinois.

No. MC 107295 (Sub-No. E24), filed May 14, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down, or in sections, from points in Illinois to points in Connecticut, Maine, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Washington Court House.

No. MC 107295 (Sub-No. E57), filed May 9, 1974. Applicant: PRE-FAB TRANSIT COMPANY, P.O. Box 146, Farmer City, Ill. 61842. Applicant's reppresentative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials*, (1) from East St. Louis, Ill., to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, North Carolina, Rhode Island, Vermont, Virginia, the District of Columbia, and to points in that part of Louisiana in and south of De Soto, Red River, Natchitoches, Winn, Caldwell, Franklin, and Tensas Parishes, and to points in that part of New York in and east of Franklin, Hamilton, Fulton, Montgomery, Schoharie, Greene, Ulster, and Orange Counties, including Long Island, and to points in that part of West Virginia in and south of Mason, Jackson, Roane, Calhoun, Braxton, Webster, and Pocahontas Counties, (2) from East St. Louis, Ill., to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateways of (1) Henry County, Tenn., and (2) Fort Dodge, Iowa.

No. MC 107295 (Sub-No. E68), filed May 14, 1974. Applicant: PRE-FAB TRANSIT COMPANY, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections, and when transported in connection with the transportation of such buildings, *component parts*, thereof, and *equipment and materials* incidental to the erection and completion of such buildings, (1) from points in Florida to points in Indiana, Iowa, and Michigan; (2) from points in Florida to points in Missouri; (3) from points in Florida to points in Montana, South Dakota, and North Dakota; (4) from points in Florida to points in that part of Tennessee in and west of Henry, Carroll, Henderson, Chester, and McNairy Counties. The purpose of this filing is to eliminate the gateways of (1) points in Illinois, (2) points in Illinois, (3) points in Illinois and Wapello County, Iowa, and (4) points in Arkansas.

No. MC 107295 (Sub-No. E71), filed May 14, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board;* (1) from Suffolk, Va., to points in California, Arizona, Nevada, New Mexico, Texas, Kansas, Utah, and Oklahoma; (2) from Suffolk, Va., to points in Colorado, Nebraska, North Dakota, and South Dakota; and (3) from Suffolk, Va., to points in Idaho, Montana, Oregon, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways of (1) Trumann, Ark.; (2) Fort Dodge, Iowa; and (3) the plant site and warehouse facilities of Keene Corporation at Kalamazoo, Mich.

No. MC 107295 (Sub-No. E93), filed May 14, 1974. Applicant: PRE-FAB TRANSIT COMPANY, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections, and when transported in connection with the transportation of such buildings, *component parts* thereof and *equipment* and *materials* incidental to the erection and completion of such buildings, (1) from points in Nebraska to points in Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina; (2) from points in Nebraska to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; (3) from points in Nebraska to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, West Virginia, and the District of Columbia; (4) from points in Nebraska to points in Indiana, Kentucky, Michigan and Ohio; (5) from points in Nebraska to points in North Carolina and Virginia; (6) from points in Nebraska to points in Tennessee; (7) from points in that part of Nebraska located in and north of Kimball, Cheyenne, Garden, Arthur, Hooker, Thomas, Blaine, Loup, Garfield, Wheeler, Boone, Platte, Colfax, Dodge, and Washington Counties to points in that part of Missouri located in and west of St. Charles, Franklin, Gasconade, Phelps,

Texas, and Howells Counties. The purpose of this filing is to eliminate the gateways of (1) Pine Bluff, Ark., (2) points in Illinois and Terre Haute, Ind., (3) points in Illinois and Ohio, (4) points in Illinois, (5) points in Illinois and Ohio, (6) points in Illinois, and (7) points in Illinois.

No. MC 107295 (Sub-No. E95), filed May 13, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation materials*, (1) from Sedalia, Mo., to points in that part of Alabama in and south of Sumter, Hale, Perry, Dallas, Autauga, Elmore, Macon, and Russell Counties; (2) from Sedalia, Mo., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Virginia, and the District of Columbia; (3) from Sedalia, Mo., to points in North Carolina and to points in that part of Louisiana in and east of Terrebonne, St. James, Ascension, Livingston, and St. Helena Counties; (4) from Sedalia, Mo., to points in that part of Nebraska in, west, and north of Knox, Antelope, Wheeler, Garfield, Loup, Blaine, Thomas, Hooker, Grant, Garden, Morrill, and Scotts Bluff Counties and to points in North Dakota and South Dakota; and (5) from Sedalia, Mo., to points in West Virginia. The purpose of this filing is to eliminate the gateways of (1) Camden, Ark.; (2) the plant site and warehouse facilities of Clark Grave Vault Co., located at or near Columbus, Ohio; (3) points in Henry County, Tenn.; (4) Fort Dodge, Iowa; and (5) Franklin, Ohio.

No. MC 107295 (Sub-No. E102), filed May 9, 1974. Applicant: PRE-FAB TRANSIT COMPANY, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard*, from the facilities of National Gypsum Company, located at or near Rotan, Tex., (1) to points in Illinois and Iowa; (2) to points in that part of Louisiana in and south of Beauregard, Allen, Evangeline, St. Landry, Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, and Washington Counties; (3) to points in that part of Mississippi in and east of Marion, Jefferson Davis, Simpson, Scott, Leake, Attala, Montgomery, Grenada, Yalobusha, Lafayette, and Marshall Counties. The purpose of this filing is to eliminate the gateways of (1) Hamlin, Tex., (2) San Antonio, Tex., and (3) Livingston, Ala.

No. MC 107295 (Sub-No. E184), filed May 14, 1974. Applicant: PRE-FAB TRANSIT COMPANY, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down, or in sections, including all component parts, materials, supplies, and fixtures, and when shipped with such buildings, *accessories* used in the erection, construction, and completion thereof, (1) from points in Ohio to points in Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, South Dakota, Utah, and Wyoming; (2) from points in Ohio to Kansas and Oklahoma; (3) from points in Ohio to points in Louisiana, Mississippi, and Texas; (4) from points in Ohio to points in Minnesota; and (5) from points in Ohio to points in Nebraska. The purpose of this filing is to eliminate the gateway of (1) points in Wapello County, Iowa, (2) points in Illinois, (3) points in Arkansas, (4) points in Illinois, and (5) points in Illinois.

No. MC 107295 (Sub-No. E188), filed May 14, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardboard*, from the plant site of Superior Fiber Products, Inc., at Superior, Wisc., (1) to points in Alabama, Louisiana, Mississippi, and Texas; (2) to points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia and to points in that part of Virginia north of U.S. Highway 460 and west of U.S. Highway 301; (3) to points in Nebraska; and (4) to points in North Carolina. The purpose of this filing is to eliminate the gateways of (1) Union, Mo., (2) points in Lucas County, Ohio, (3) Fort Dodge, Iowa, and (4) Franklin, Ohio.

No. MC 107403 (Sub-No. E531), filed May 29, 1974. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquefied petroleum gases) in bulk, in tank vehicles, from the facilities of Allied Chemical at Baton Rouge, La., and Dow Chemical at or near Plaquemine, La., to points in Michigan (except those west of a line beginning at the Indiana-Michigan State line and extending along U.S. Highway 131 to junction Michigan Highway 89, thence along Michigan Highway 89 to Lake Michigan). The purpose of this filing is to eliminate the gateways of Ashland, Ky., South Point and Ironton, Ohio.

No. MC 107826 (Sub-No. E1), filed June 3, 1974. Applicant: R. A. FOWLER, RFD 1 Woodbinr Eldora, Cape May, N.J. 08204. Applicant's representative: Mike Cotten, P.O. Box 1148, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *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 Texas, on the one hand, and, on the other, points in Mississippi. The purpose of this filing is to eliminate the gateways of points in Louisiana.

No. MC 112617 (Sub-No. E66), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Whiskey*, in bulk, in tank vehicles, from Tullahoma, Tenn., to Stamford, Conn., and Providence, R.I. The purpose of this filing is to eliminate the gateway of Bardstown, Ky.

No. MC 112617 (Sub-No. E68), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Whiskey*, in bulk, in tank vehicles, between Cincinnati, Ohio, and Lawrenceburg, Ind., on the one hand, and, on the other, Tullahoma, Tenn. The purpose of this filing is to eliminate the gateway of Louisville, Ky.

No. MC 112617 (Sub-No. E70), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fluorospar*, dry, in bulk, from Cave in Rock, Ill., and points within 10 miles thereof, to points in North Carolina, South Carolina, and Georgia. The purpose of this filing is to eliminate the gateway of Robertson County, Tenn.

No. MC 112617 (Sub-No. E71), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases and natural gasoline*, in bulk, in tank vehicles, from the site of the plant of the Columbia Hydrocarbon Corporation, at or near Siloam, Ky., to points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, Vermont, Virginia (except points in Virginia on and west of a line extending over U.S. Highway 33 from the Virginia-West Virginia State line to junction U.S. Highway 15, thence on and west of U.S. Highway 15 to the North Carolina-Virginia State line), New York, New Jersey, Pennsylvania, Rhode Island, and the District of Columbia. The purpose of this filing is to eliminate the gateway of the refineries at or near Leach, Ky.

No. MC 112617 (Sub-No. E72), filed May 11, 1974. Applicant: LIQUID

TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases and natural gasoline*, in bulk, in tank vehicles, from the plant site of Columbia Hydrocarbon Corporation, at or near Siloam, Ky., to points in Alabama, Florida, North Carolina, Louisiana, Minnesota, and Mississippi. The purpose of this filing is to eliminate the gateway of the refineries at or near Leach, Ky.

No. MC 112617 (Sub-No. E73), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases and natural gasoline*, in bulk, in tank vehicles, from the plant site of the Columbia Hydrocarbon Corporation at or near Siloam, Ky., to points in Wisconsin and Illinois (except East St. Louis, Ill.). The purpose of this filing is to eliminate the gateway of Seymour, Ind.

No. MC 112617 (Sub-No. E74), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, from Henderson, Ky., to points in Maryland, Pennsylvania, and West Virginia. The purpose of this filing is to eliminate the gateway of Doe Run, Ky.

No. MC 112617 (Sub-No. E75), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trichloromonofluoromethane, dichlorodifluoromethane, monochlorodifluoromethane, trichlorotrifluoroethane, dichlorotetrafluoroethane*, and *mixtures thereof*, in bulk, in tank vehicles, from points in Marshall County, Ky., to points in Pennsylvania. The purpose of this filing is to eliminate the gateway of Doe Run, Ky.

No. MC 112617 (Sub-No. E78), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acetone and phenol*, in bulk, in tank vehicles, from the plant site of the United States Steel Corporation at or near Haverhill (Scioto County), Ohio, to points in Texas, Oklahoma, Nebraska, and points in the East St. Louis, Mo.-East St. Louis, Ill., commercial zone. The purpose of this filing is to eliminate the gateway of Calvert City, Ky.

No. MC 112617 (Sub-No. E79), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acetone and phenal*, in bulk, in tank vehicles, from the plant site of the United States Steel Corporation at or near Haverhill (Scioto County), Ohio, to points in New Mexico, Wyoming, Utah, Colorado, and Montana. The purpose of this filing is to eliminate the gateway of Calvert City, Ky.

No. MC 112617 (Sub-No. E80), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and petroleum products*, in bulk, in tank vehicles, from Seymour, Ind., and Freeman Field, near Seymour, Ind., to points in Alabama, Georgia, Virginia, and Mississippi. The purpose of this filing is to eliminate the gateway of Doe Run, Ky.

No. MC 112617 (Sub-No. E81), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Seymour, Ind., and Freeman Field (near Seymour), to points in Illinois and Missouri located in the St. Louis, Mo.-East St. Louis, Ill., commercial zone. The purpose of this filing is to eliminate the gateway of Henderson, Ky.

No. MC 112617 (Sub-No. E83), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Seymour, Ind., and Freeman Field (near Seymour), to points in Montana, Colorado, Wyoming, New Mexico, and Utah. The purpose of this filing is to eliminate the gateway of Calvert City, Ky.

No. MC 112617 (Sub-No. E85), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paints, stains and varnishes, paint materials, and plastics*, in bulk, in tank vehicles, from Circleville, Ohio, to points in Louisiana, Texas, Colorado, New Mexico, Utah, and Wyoming. The purpose of this filing is to eliminate the gateway of Calvert City, Ky.

No. MC 112617 (Sub-No. E88), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky., 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum asphalt*, in bulk, in tank vehicles, from points in Davidson County, Tenn., to points in Ohio. The purpose of this filing is to eliminate the gateway of the site of the Kentucky Asphalt Terminal, near Louisville, Ky.

No. MC 112617 (Sub-No. E89), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum asphalt*, in bulk, in tank vehicles, from points in Davidson County, Tenn., to points in that part of Virginia on and west of a line beginning at the Virginia-North Carolina State line extending along Interstate Highway 77 to the Virginia-West Virginia State line, and points in West Virginia (except points in Morgan, Berkeley, Jefferson, Hampshire, Mineral, Hardy, Grant, Tucker, Preston, Marion, Monongalia, and Pendleton Counties. The purpose of this filing is to eliminate the gateway of points in Kentucky.

No. MC 112617 (Sub-No. E90), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid paint and paint material*, in bulk, in tank vehicles, from Ft. Wayne, Ind., to points in Arkansas, Oklahoma, and Louisiana. The purpose of this filing is to eliminate the gateway of Doe Run, Ky.

No. MC 112617 (Sub No. E91), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid paint and paint material*, in bulk, in tank vehicles, from Ft. Wayne, Ind., to points in Texas, New Mexico, and Utah. The purpose of this filing is to eliminate the gateway of Calvert City, Ky.

No. MC 112617 (Sub No. E92), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid paint and paint materials* (except animal oil and vegetable oils and blends thereof), in bulk, in tank vehicles, from Ft. Wayne, Ind., to points in North Carolina. The purpose of this filing is to eliminate the gateway of Circleville, Ohio.

No. MC 112617 (Sub-No. E93), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases*, in bulk, in tank vehicles, from Cleves, Ohio, to points in Mississippi, Alabama, Louisiana, Georgia, and Florida. The purpose of this filing is to eliminate the gateway of Doe Run, Ky.

No. MC 112617 (Sub-No. E95), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases*, in bulk, in tank vehicles, from points in Butler County, Ohio, to points in Alabama, Georgia, Florida, and Mississippi. The purpose of this filing is to eliminate the gateway of Doe Run, Ky.

No. MC 112617 (Sub-No. E98), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid latex emulsions*, in bulk, in tank vehicles, from Ringwood, Ill., to points in that part of Tennessee on and east of a line beginning at the Tennessee-Kentucky State line extending along U.S. Highway 27 to the Tennessee-Georgia State line, points in Alabama (except Lauderdale and Colbert Counties), Arkansas, Georgia, Mississippi, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateway of Robertson County, Tenn.

No. MC 112617 (Sub-No. E99), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from points in Fayette, Jessamine, and Scott Counties, Ky., to points in Alabama, Arkansas, and Mississippi. The purpose of this filing is to eliminate the gateway of Robertson County, Tenn.

No. MC 112617 (Sub-No. E100), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemical fertilizers, in bulk* (except in dump vehicles), from Mt. Vernon, Ind., and points within 5 miles thereof, to points in Tennessee. The purpose of this filing is to eliminate the gateway of Henderson County, Ky.

No. MC 112617 (Sub-No. E103), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid oxo-alcohols and liquid spent olefins*, in bulk, in tank vehicles, from the plant site of the Oxo-Chemical Company at Haverhill, Ohio, to points in North Dakota, Montana, Wyoming, Colorado, and New Mexico. The purpose of this filing is to eliminate the gateway of Calvert City, Ky.

No. MC 112617 (Sub-No. E105), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in Clark County, Ind., to points in Alabama, Georgia, Mississippi, Maryland, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of Doe Run, Ky.

No. MC 114019 (Sub-No. E102), filed May 13, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Rd., Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Asbestos scrap, asphalt, automobile body panels, asphalt flooring blocks, fibreboard*, and *pulpboard* (impregnated with asphalt), *asbestos wall boards, bituminized burlap, tin roofing caps, carpet lining, cement* (in packages), *metal clamps, metal clips, cotton cloth* (saturated with asbestos), *roof coating* (with asbestos, pitch tar, or rosin base), *conduits, creosote*, in packages, *eave filler strips, roofing felt, asphalt composition flashing blocks, asbestos* or *felt paper insulating material, asbestos millboard, mineral wool, high temperature bonding mortar* or *cement* (in packages), *nails, asbestos packing, asphaltum, coal tar, asbestos*, and *coal tar paint, roofing paper, paving joints, cement pipe* containing asbestos fiber, *roofing pitch, asphalt paving planks, asbestos ridge rolls, roofing, asbestos sheathing, shingles, sheathings, shorts, asbestos* and *asphalt siding, concrete slabs, tin straps, roofing tar, asphalt floor tile*, and *wood preservatives*, restricted against the transportation of the above-named commodities in bulk, from Chicago, Ill., to points in Colorado, Kansas, North Dakota, South Dakota, West Virginia, Tennessee, (except Memphis), Kentucky (except those points on the Ohio River), points in Nebraska on, north, and west of U.S. Highway 77, points in Minnesota on, west, and north of a line beginning at the Minnesota-Wisconsin State line and extending west along U.S. Highway 12 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Minnesota-Iowa State line; and

(B) *Asphalt, wallboard, fibreboard, pulpboard, and strawboard, tin roofing caps, roofing cement, metal clamps, roof coating, creosote, metal fasteners, building* or *roofing felts, asbestos* or *felt paper insulating material, nails, asphaltum*, and *coal tar paint, building and roofing paper, roofing pitch, composition or prepared roofing, asphalt siding, shingles, asbestos sheathing, tin straps*, and *roofing tar*, restricted against the transportation of the above commodities in bulk, from Chicago, Ill., and points in its commercial zone to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, points in Maryland, on and east of Interstate Highway 81, those in Virginia on and east of Interstate Highway 81 beginning at the West Virginia-Virginia State line, thence along Interstate Highway 81 to junction U.S. Highway 522, thence along U.S. Highway 522 to U.S. Highway 60, thence along U.S. Highway 60 to junction Interstate Highway 95 and U.S. Highway 301, thence along Interstate Highway 95 and U.S. Highway 301 to the Virginia-North Carolina State line, those in North Carolina, on and east of Interstate Highway 95 beginning at the Virginia-North Carolina State line extending along Interstate Highway 95 to junction North Carolina Highway 43, thence along North Carolina Highway 43 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction U.S. Highway 70, thence along U.S. Highway 70 to Onslow Bay, and the District of Columbia. The purpose of this filing is to eliminate the gateways of North Judson, Ind., and Sunbury, Pa.

No. MC 114019 (Sub-No. E162), filed May 8, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Rd., Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grease and tallows*, in bulk, in tank vehicles equipped with heating coils; (a) from points in Indiana on and north and west of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 52 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Indiana Highway 39, thence along Indiana Highway 39 to Lake Michigan, thence along Lake Michigan to the Illinois-Indiana State line, to points in New York, Connecticut, Massachusetts, New Jersey, Rhode Island, Philadelphia, Pa., Wilmington, Del., Baltimore, Md., and Washington, D.C.; (b) from points in that part of Indiana on and west of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 24 to junction Indiana Highway 43, thence along Indiana Highway 43 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 67, thence along Indiana High-

way 67 to the Indiana-Illinois State line, to points in New York, Massachusetts, Connecticut, Rhode Island, and New Jersey; (c) from points in that part of Indiana on and north of a line beginning at the Indiana-Michigan State line and extending along Indian Highway 39 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Indiana Highway 19, thence along Indiana Highway 19 to the Indiana-Michigan State line.

Thence along the Indiana-Michigan State line to point of beginning, to points in Connecticut, Massachusetts, Rhode Island, and New Jersey, Philadelphia, Pa., and those points in New York on and north and east of U.S. Highway 81; (d) from points in Morgan, Johnson, Shelby, Hendricks, Marion, Hancock, Boone, Hamilton, and Madison Counties, Ind., to points in that part of New York on, east, and north of a line beginning at Lake Ontario and extending along New York Highway 13 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 308, thence along U.S. Highway 308 to junction New York Highway 199, thence along New York Highway 199 to the New York-Connecticut State line, that part of Connecticut on, east, and north of a line beginning at the New York-Connecticut State line and extending along Connecticut Highway 4 to junction Connecticut Highway 8, thence along Connecticut Highway 8 to junction Connecticut Highway 66, thence along Connecticut Highway 66 to junction Connecticut Highway 16, thence along highway 16 to junction Connecticut Highway 2, thence along Connecticut Highway 2 to Watch Hill Point, Conn., and all points in Massachusetts and Rhode Island; (e) from those points in Indiana on and west of a line beginning at the Indiana-Michigan State line and extending along Indiana Highway 39 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Indiana Highway 119, thence along Indiana Highway 119 to junction Indiana Highway 39, thence along Indiana Highway 39 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Indiana Highway 25, thence along Indiana Highway 25 to junction Indiana Highway 26, thence along Indiana Highway 26 to the Illinois-Indiana State line, thence along the Illinois-Indiana State line to Lake Michigan, thence along Lake Michigan to the Michigan-Indiana State line to point of beginning to that part of Pennsylvania on and south and west of U.S. Highway 219;

(f) From points in that part of Indiana on and north of a line beginning at the Indiana-Illinois State line extending east along Lake Michigan to the Indiana-Michigan State line, thence along the Indiana-Michigan State line to the Michigan-Indiana-Ohio State line, thence along the Indiana-Ohio State line to junction U.S. Highway 224, thence along U.S. Highway 224 to junction Indiana Highway 5, thence along Indiana Highway 5 to junction Indiana Highway 114, thence along Indiana Highway 114 to junction Indiana Highway 14, thence along Indiana Highway 14 to the Illinois-Indiana State line, thence along the Indiana-Illinois State line to point of beginning to St. Louis, Mo.; (g) from points in Indiana to Des Moines, Iowa; (h) from points in Indiana to Omaha, Nebr., and Sioux City, Iowa; and (i) from those points in Indiana on and north of a line beginning at the Illinois-Indiana State line and extending along U.S. Highways 24 and 52, to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Indiana Highway 26, thence along Indiana Highway 26 to the Indiana-Ohio State line, to Wichita, Kansas City, Kans., and St. Joseph, Mo. The purpose of this filing is to eliminate the gateways of Gary, Ind., and Cleveland, Ohio.

No. MC 114019 (Sub-No. E301), filed May 20, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Rd., Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fish*, from Boothbay Harbor, Portland, and Rockland, Maine, to points in North Dakota, South Dakota, Minnesota, Arkansas, Bowling Green, Ky., and Nashville, Tenn. The purpose of this filing is to eliminate the gateways of Chicago, Ill., Muscatine, Iowa, Louisville, Ky., and Darien, Wisc.

No. MC 114019 (Sub-No. E302), filed May 22, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Rd., Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, and *articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 in mechanically refrigerated vehicles, from West Point, Nebr., to points in Virginia and West Virginia, those in Ohio south of U.S. Highway 40, and those in Kentucky on and east of a line beginning at the Indiana-Kentucky State line and extending along Kentucky Highway 55 to its junction with U.S. Highway 127, thence along U.S. Highway 127 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of Union City, Ohio.

No. MC 114019 (Sub-No. E303), filed May 22, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Rd., Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products*, and *articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from West Richfield, Ohio, to points in Maine, New Hampshire, Vermont, and those in Virginia. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-6479 Filed 3-11-75;8:45 am]

[Notice No. 718]

ASSIGNMENT OF HEARINGS

MARCH 7, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 61440 Sub 138, Lee Way Motor Freight, Inc., now assigned March 10, 1975 at aKnsas City, Mo. is cancelled and transferred to Modified Procedure.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-6469 Filed 3-11-75;8:45 am]

[Ex Parte No. 241, Rule 19, 9th Rev. Exemption 91]

ATLANTA & WEST POINT RAILROAD CO. ET AL.

Exemption Under Mandatory Car Service Rules

It appearing, that the United States railroads own numerous plain 50-ft. boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the United States railroads, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain 50-ft. boxcars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 394, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations XM, and bearing all reporting marks assigned to the United States railroads,

shall be exempt from the provisions of Car Service Rules 1(a), 2(a) and 2(b). (See Exception)

Exception. This exemption shall not apply to 50-ft. plain boxcars owned by the railroads named below:

Atlanta and West Point Railroad Company. Reporting Marks: AWP.
Bangor and Aroostook Railroad Company. Reporting Marks: BAR.
Boston and Maine Corporation (Robert W. Meserve and Benjamin H. Lacy, Trustees). Reporting Marks: BM–B&M.
Burlington Northern Inc. Reporting Marks: BN–CBQ–GN–NP–SPS.
Central Vermont Railway, Inc. Reporting Marks: CV–CVC.
Chicago, Milwaukee, St. Paul and Pacific Railroad Company. Reporting Marks: MILW.
Delaware and Hudson Railway Company. Reporting Marks: DH.
Duluth, Winnipeg and Pacific Railway. Reporting Marks: DWP.
Erie Lackawanna Railway Company (Thomas F. Patton and Ralph S. Tyler, Jr., Trustees). Reporting Marks: DL&W–EL–ERIE.
Illinois Central Gulf Railroad Company. Reporting Marks: ICG–CLG–GMO–IC.
The Kansas City Southern Railway Company. Reporting Marks: KCS–LA.
Lehigh Valley Railroad Company (Robert C. Haldeman, Trustee). Reporting Marks: LV.
Maine Central Railroad Company. Reporting Marks: MEC.
Norfolk and Western Railway Company. Reporting Marks: N&W–NKP–WAB.
St. Louis Southwestern Railway Company. Reporting Marks: SSW.
Southern Pacific Transportation Company. Reporting Marks: SP.
The Texas Mexican Railway Company. Reporting Marks: TM.
The Western Pacific Railroad Company. Reporting Marks: WP.
The Western Railway of Alabama. Reporting Marks: WA.

Effective March 6, 1975, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 25, 1975.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.75-6471 Filed 3-11-75;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 7, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before March 27, 1975.

AGGREGATE-OF-INTERMEDIATES

FSA No. 42948—*Lime to El Paso, Texas.* Filed by Southwestern Freight Bureau, Agent (No. B–516), for interested rail carriers. Rates on lime, in bulk, in carloads, as described in the application, from Clifstone, Texas to El Paso, Texas.

Grounds for relief—Maintenance of depressed rates published to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 65 to Southwestern Freight Bureau, Agent, tariff 87–J (TLFB Series), I.C.C. No. 1159. Rates are published to become effective on April 13, 1975.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-6473 Filed 3-11-75;8:45 am]

FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

MARCH 7, 1975.

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 Special Rule 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.

New York Docket No. T 9299, filed January 20, 1975. Applicant: KONTRO-TEMP TRANSPORTATION CORP., 22 Flint Street, Rochester, N.Y. 14608. Applicant's representative: Robert V. Gianniny, 900 Midtown Tower, Rochester, N.Y. 14604. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: New furniture, crated and uncrated and those products requiring temperature control, from the counties of Monroe, Wayne and to the counties of Monroe, Livingston, Ontario, Genesee, Wayne, Cayuga, Erie, Allegany, Seneca, Oswego, Niagara, Onondaga, Tompkins, Cortland, Chemung, Madison, Chautauqua, Oneida, Chenango, Broome, Herkimer, Otsego, Fulton, Montgomery, Schenectady and Albany. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, N.Y. 12226, and should *not* be directed to the Interstate Commerce Commission.

South Carolina Docket No. 17,982, filed December 27, 1974. Applicant: FRADY'S SERVICE, INC., P.O. Box 5844, Walhalla, S.C. 29691. Applicant's representative: Pettit, Ross and Stoudemire, Short Street, P.O. Box 99, Walhalla, S.C. 29691. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Commodities in general (except any commodities or products in bulk in tank trucks; Classes A and B explosives and Classes A and C and D Poisons as defined under explosives and other dangerous articles in American Trucking Association, Inc., Agent, Tariff No. 10, MF–ICC No. 11, PSCSC No. 11, Supplements thereto or re-issues thereof; and household goods and related articles, as defined in Motor Truck Rate Bureau, Agent, Household Goods Tariff, Motor Freight Tariff No. 8–C, SCPSC–MF No. 79, Supplements thereto or reissues thereof): Between points and places in Oconee County, and between points and places in Oconee County and points and places in South Carolina. Intrastate, interstate and foreign commerce authority sought.

HEARING: Hearing assigned for May 7, 1975, at 10:30 a.m. in Room 704, Owen Building, 1321 Lady Street, Columbia, S.C. 29201. Requests for procedural information should be addressed to the Public Service Commission of South Carolina, 8th Floor, Owen Building, P.O. Drawer 11649, Columbia, S.C. 29211, and should *not* be directed to the Interstate Commerce Commission.

Texas Docket No. 34886, filed February 25, 1975. Applicant: PHILIP R. BERNSTEIN, doing business as BERNSTEIN TRUCKING CO., 2101 Epps Street, Fort Worth, Tex. 76104. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of shipper-owned trailers and trailers owned or leased by railroads, loaded or empty, having a prior or subsequent movement by rail in trailer on flatcar service between railroad ramping facilities located in the Dallas-Fort Worth Commercial Zone as defined by the Railroad Commission of Texas, on the one hand, and, on the other, points in Texas within a 100 mile radius of such railroad ramping facilities. Restriction: Restricted to performing over-the-road service only in connection with the carrier's performing ramping and deramping (loading or unloading) of the trailers and using specialized equipment for such ramping or deramping. Intrastate, interstate and foreign commerce authority sought.

HEARING: Approximately 30 days after publication of notice in FEDERAL REGISTER, in Austin, Tex. Request for procedural information should be addressed to the Director of Transporta-

tion, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Tex. 78711, and should *not* be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-6475 Filed 3-11-75;8:45 am]

[Notice 9]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MARCH 7, 1975.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), 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(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(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(c)(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 5909 (Deviation No. 1), ARROW FREIGHT LINES, INC., P.O. Box 1665, Grand Island, Nebr. 68801, filed February 10, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Lincoln, Nebr., over Interstate Highway 80 to 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 a pertinent service route as follows: From Lincoln, Nebr., over Nebraska Highway 2 to Grand Island, Nebr., thence over U.S. Highway 30 to junction U.S. Highway 275, thence over U.S. Highway 275 to Omaha, Nebr., and return over the same route.

No. MC 107478 (Deviation No. 3), OLD DOMINION FREIGHT LINE, P.O. Box 1189, High Point, N.C. 27261, field February 24, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Danville, Va., over U.S. Highway 360 to Richmond, Va., 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 a pertinent service route as follows: From Danville, Va., over U.S. Highway 58 to Norfolk, Va., thence over U.S. Highway 60 to Richmond, Va., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-6476 Filed 3-11-75;8:45 am]

[Notice 3]

MOTOR CARRIER APPLICATIONS FOR TACKING AND GATEWAY ELIMINATION IN FINANCE PROCEEDINGS

MARCH 10, 1975.

The following notices are supplemental materials to the Section 5(2) finance applications listed below wherein each applicant requests (1) to tack certain authorities in its respective pending finance application, and (2) to concurrently eliminate the gateway in order to provide the described direct service.

Each applicant (except as otherwise speifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

Protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER Notice. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in this noticed portion of the finance proceeding.

A protest should comply with section 247(d) of the Commission's *General Rules of Practice*. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative or applicant if no representative is named.

MC-F-11836—Delaware Express Co.—Purchase—Franklin B. Baker, Jr., dba, Baker Transport.

MC-F-12071—Sammon Trucking—Pur. (P)—Elmer L. Sims, G. Grant Sims—(Trustee for Sims Family Trust), dba Salt Lake Transfer Company.

MC-F-12346—Cook Motor Lines, Inc.—Pur. (P)—Dayton Transport Corporation.

MC-F-12377—Central Transport, Incorporated—Purchase (Portion)—Piedmont Petroleum Products, Inc.

MC-F-12444—Reisch Trucking & Transportation Co., Inc.—Control and Merger—Dial Motor Line, Inc.

MC 114301 (Sub-No. 86), filed February 4, 1975. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, Md. 21921. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from Baltimore, Md., and Newark, Del., to points in Maryland, Pennsylvania, and Delaware, within 20 miles of Newark, Del., including Newark, Del., and points in Fairfield, Hartford, and New Haven Counties, Conn., Maryland, New Jersey (except Manville), Nassau, Orange, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, N.Y., New York, N.Y., points in Chester, Delaware, Bucks, Lebanon, Berks, Lancaster, York, Cumberland, Perry, Franklin, Adams, Dauphin, Juniata, Montgomery, Philadelphia, Susquehanna, Northampton, Monroe, Pike, Sullivan, Lehigh, Indiana, Allegheny, Armstrong, Beaver, Washington, Cambria, and Northumberland Counties, Pa. The purpose of this filing is to eliminate the gateways at Newark, Del. and the plantsite of Artic Roofing at Edgemoor, Del. This application is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55 Sub-No. 8 noticed in the FEDERAL REGISTER issue of December 9, 1974; and directly related to MC-F-11836 published in the FEDERAL REGISTER of April 11, 1973.

No. MC 124692 (Sub-No. 144), filed February 4, 1975. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Iron and steel articles*, (1)(a) from points in Oregon and Washington, to the Henderson Mine and Mill Site—American Metals Climax, Inc. (A.M.E.X.), near Parshall, Colo. and the East and West Portals of the Straight Creek Tunnel in Colorado. The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah.

(1)(b) From points in Oregon and Washington, to Rapid City, S. Dak. The purpose of this filing is to eliminate the gateways of Geneva and Provo, Utah.

(2) From the plantsite of Commercial Stamping and Forging, Inc., at Bedford Park, Ill., to points in Oregon, restricted to transportation of iron and steel articles as described in Appendix V, Group III to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and to traffic originating at the above-described plantsite, and further restricted against transportation of oil field and pipeline commodities as defined by the Commission in *Mercer Extension — Oilfield Commodities*, 74 M.C.C. 459 and against the transportation of pipe, pipeline materials and machinery and equipment incidental to or used in connection with the construction, repairing or dismantling of pipelines. The purpose of this filing is to eliminate the gateway of Montana.

(3) From Granite City, Ill., to points in Oregon and Washington. The purpose of this filing is to eliminate the gateway of Montana.

(4) From Minneapolis, Minn., to points in Oregon. The purpose of this filing is to eliminate the gateways of Montana and Utah.

(5) From Duluth, Minn., to points in Oregon and Washington. The purpose of this filing is to eliminate the gateway of Utah.

(6) From the plantsite and storage facilities of Paper Calmenson Company

at Superior, Wis., to points in Oregon and Washington, restricted in parts A (4), A(5), and A(6) against transportation of commodities which because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Montana.

(7) From East Alton, Ill., to points in Oregon and Washington. The purpose of this filing is to eliminate the gateway of Provo, Utah.

(8) From Parsons, Kans., and Jefferson City, Springfield, and Sedalia, Mo., to points in Oregon and Washington, restricted in parts A(1)(b), A(7) and A(8) against transportation of commodities which because of size or weight require the use of special equipment and oilfield and pipeline commodities as defined in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459. The purpose of this filing is to eliminate the gateway of Utah.

(B) *Building, roofing and insulation materials* (except iron and steel, commodities in bulk, and commodities which because of their size and weight require the use of special equipment), from the plantsite and warehouse facilities of Certain-teed Products Corporation in Scott County, Minn., to points in Oregon and Washington. The purpose of this filing is to eliminate the gateway of Montana.

(C) *Buildings*, complete, knocked down, or in sections (except commodities as require the use of special equipment), from the plantsite of Capp-Homes, Inc., at Des Moines, Iowa, to points in Oregon and Washington. The purpose of this filing is to eliminate the gateway of Utah.

(D) *Magnesium ingots*, from points in Oregon and Washington, to points in Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Washington, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateway of Rowley, Utah.

(E) *Building materials* as defined by the Commission in Appendix VI to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 279, from Minneapolis and Duluth, Minn. and Chicago, Ill., to points in Oregon and Washington, restricted to transportation of commodities the transportation of which because of size or weight require the use of special equipment or iron and steel articles, as described in Appendix V to the report of the Commission in Ex Parte No. 45, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209. The purpose of this filing is to eliminate the gateway of Montana.

This application is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55 (Sub-No: 8) noticed in the FEDERAL REGISTER issue of December 9, 1974; and is directly related to MC–F–12071 published in the FEDERAL REGISTER of January 9, 1974.

No. MC 106451 (Sub-No. 12), filed February 7, 1975. Applicant: COOK MOTOR LINES, INC., P.O. Box 370, Akron, Ohio 44305. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in that part of Ohio north and east of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway 40 to Zanesville, Ohio, thence along Ohio Highway 16 to Coshocton, Ohio, thence along Ohio Highway 76 to Wooster, Ohio, thence along Ohio Highway 3 to Medina, Ohio, thence along Ohio Highway 18 to Mallet Corner, Ohio, and thence along Ohio Highway 252 to Lake Erie (except between Cleveland and Akron and points in the commercial zones thereof as described by the Commission, on the one hand, and, on the other, those points in West Virginia on and north of U.S. Highway 60 which are within 30 miles of Charleston), including points on the indicated portions of the highways specified, and between the plant site of the Ohio Body Company at New London, Ohio, on the one hand, and, on the other, Harrisonburg, Va. The purpose of this filing is to eliminate the gateway of points in Pendleton County, W. Va. This application is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55 (Sub-No. 8) noticed in the FEDERAL REGISTER issue of December 9, 1974; and is directly related to MC–F–12346 published in the FEDERAL REGISTER of November 6, 1974.

No. MC 118831 (Sub-No. 116), filed January 20, 1975. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 5388, High Point, N.C. 27262. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, from Graselli and Passiac, N.J., and Philadelphia, Pa., to points in North Carolina, Virginia, South Carolina, Georgia, Florida, Arkansas, Alabama, and Mississippi; and (2) *liquid chemicals* in bulk, from Graselli and Passiac, N.J., and Philadelphia, Pa., to points in Kentucky, Tennessee, West Virginia, Ohio, Indiana, Illinois, Michigan, Wisconsin, and Missouri. The purpose of this filing is to eliminate the gateways at Charlotte, N.C. Commercial Zone; Lanett, Ala.; Spartansburg, S.C., and Robertson County, Tenn.

NOTE.—This application is a gateway elimination request filing pursuant to the Commission's Policy Statement in Ex Parte No. 55 Sub-No. 8 noticed in the FEDERAL REGISTER issue of December 9, 1974; and directly related to MC–F–12377 published in the FEDERAL REGISTER of December 18, 1974.

No. MC 16513 (Sub-No. 7), filed February 21, 1975. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 819 Union Avenue, Pennsauken, N.J. 08110. Applicant's representative: L. C. Major, Jr., Suite 400 Overlook Office Bldg., 6121 Lincolnia Road, Alexandria, Va. 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, livestock, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), (1) between Providence, R.I., points in that part of Massachusetts on and east of U.S. Highway 5 and points in that part of Connecticut on and east of U.S. Highway 5 and those on U.S. Highway 1 between the New York-Connecticut State line and New Haven, Conn., on the one hand, and, on the other, points in New Jersey and points in Pennsylvania on and east of U.S. Highway 15 and (2) between points in Delaware, District of Columbia, and Baltimore, Md., and points within 10 miles of Baltimore, on the one hand, and, on the other, points in that part of Pennsylvania east of the Susquehanna River. The purpose of this filing is to eliminate the gateway of Mercer County, N.J. This application is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55 (Sub-No. 8) noticed in the FEDERAL REGISTER issue of December 9, 1974; and is directly related to MC–F–12444 to be published in the FEDERAL REGISTER of March 12, 1975 or March 13, 1975.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-6477 Filed 3-11-75;8:45 am]

[Notice 19]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MARCH 7, 1975.

The following publications include motor carrier, water carrier, broker, freight forwarder and rail proceedings indexed as follows: (1) grants of authority requiring republication prior to certification; (2) notices of filing of petitions for modification of existing authorities; (3) new operating right's applications directly related to and processed on a consolidated record with finance applications filed under sections 5(2) and 212(b); (4) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of section 212(b) transfer applications.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application in compliance with the requirements of 49 CFR 1100.250.

Protests to the granting of the requested authority must be filed with the Commission on or before April 11, 1975

(unless otherwise specified). Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest should comply with section 247(d) or section 240(c) as appropriate of the Commission's General Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and a detailed description of the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest (except for petitions and Finance Dockets under Rule 40 requiring the original and six (6) copies of the protest) shall be filed with the Commission, and a copy shall be served concurrently upon applicant's or petitioner's representative, or applicant or petitioner if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) or section 240(c)(4) of the special rules, and shall include the certification required therein.

MC 124711 (Sub-No. 23) (Corrected republication), filed September 17, 1973, and published in the FEDERAL REGISTER issue of January 10, 1974 and February 20, 1975, and republished this issue. Applicant: BECKER & SONS, INC., P.O. Box 1050, El Dorado, Kans. 67042. Applicant's representative: T. M. Brown, 600 Leininger Building, Oklahoma City, Okla. 73112. An order of the Commission, Review Board Number 3, dated January 22, 1975, and served February 5, 1975, 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 *liquid animal feed, supplements, and ingredients*, in bulk, in tank vehicles, from the facilities of ConAgra Feed Division Great Plains Region in Butler County, Kans., to points in Missouri, Nebraska, Oklahoma, and Iowa; 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. The purpose of this republication is to indicate that the carrier seeks to perform operations to the additional destination State of Iowa, in lieu of Colorado as originally published. 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 above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 121499 (Sub-No. 2) (Notice of filing of petition to remove restrictions), filed February 24, 1975. Petitioner: WILLIAM HAYES LINES, INC., Post Office Box 610, Lebanon, Ky. 37087. Petitioner's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Petitioner holds a motor *common carrier* certificate in No. MC 121499 (Sub-No. 2), issued February 8, 1971, authorizing transportation, over regular 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 those requiring special equipment): (1) Between Nashville, Tenn., and Lebanon, Tenn., serving all intermediate points: From Nashville over U.S. Highway 70 (Tennessee Highway 24) to Lebanon, and return over the same route; (2) Between Lebanon, Tenn., and junction U.S. Highway 231 and Tennessee Highway 25, serving all intermediate points: From Lebanon over U.S. Highway 231 to junction Tennessee Highway 25, and return over the same route; (3) Between junction U.S. Highway 231 and Tennessee Highway 25, and Louisville, Ky., serving no intermediate points, but serving Glasgow, Ky., and junction U.S. Highway 31–E and Kentucky Highway 218 for the purpose of joinder only: From junction U.S. Highway 231 and Tennessee Highway 25 over U.S. Highway 231 to junction U.S. Highway 31–E, thence over U.S. Highway 31–E to Louisville, and return over the same route; (4) Between Glasgow, Ky., and Louisville, Ky., serving no intermediate points, but serving Glasgow, Ky., junction Kentucky Highway 218 and Interstate Highway 65, junction Interstate Highway 65 and Kentucky Highway 70, for the purpose of joinder only: From Glasgow over Kentucky Highway 90 to junction U.S. Highway 31–W.

Thence over U.S. Highway 31–W to junction Kentucky Highway 70, thence over Kentucky Highway 70 to junction Interstate Highway 65, thence over Interstate Highway 65 to Louisville, and return over the same route; (5) Between junction U.S. Highway 31–E and Kentucky Highway 218, and junction Kentucky Highway 218 and Interstate Highway 65, serving no intermediate points, but serving the termini for the purpose of joinder only: From junction U.S. Highway 31–E and Kentucky Highway 218 over Kentucky Highway 218 to junction Interstate Highway 65, and return over the same route; (6) Between junction U.S. Highway 70 and Tennessee Highway 109, and junction Interstate Highway 65 and Kentucky Highway 70, serving no intermediate points, but serving junction Tennessee Highway 109 and Interstate Highway 65, and junction Interstate Highway 65 and Kentucky Highway 70 for the purpose of joinder only: From junction U.S. Highway 70 and Tennessee Highway 109 over Tennessee Highway 109 to junction U.S. Highway 31–W, thence northerly over combined U.S. Highway 31–W and Tennessee Highway 109 to junction Interstate Highway 65, thence over Interstate Highway 65 to junction Kentucky Highway 70, and return over the same route; and (7) Between junction Interstate Highways 40 and 65, at Nashville, Tenn., and junction Interstate Highway 65 and combined U.S. Highway 31–W and Tennessee Highway 109, serving no intermediate points, but serving junction Interstate Highway 65 and combined U.S. Highway 31–W and Tennessee Highway 109 for the purpose of joinder only: From junction Interstate Highways 40 and 65 at Nashville over Interstate Highway 65 to junction combined U.S. Highway 31–W and Tennessee Highway 109, and return over the same route. Restrictions: The service authorized over Routes (3) through (7) herein are subject to the following conditions:

(a) Said operations are restricted to the transportation of traffic received from or delivered to connecting carriers at Louisville, Ky.;

(b) Said operations are restricted against the transportation of traffic originating at or destined to Louisville, Ky.;

(c) Said operations are restricted against the transportation of traffic originating at, destined to, or received from or delivered to connecting carriers at points in Davidson County, Tenn.;

(d) The authority granted herein shall not be severable by sale or otherwise.

By the instant petition, petitioner seeks to delete restrictions (a), (b) and (d) above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 123057 (Sub-No. 12) (Notice of filing of petition to modify an origin point), filed February 13, 1975. Petitioner: JAMES RICCAARDI & SONS, INC., 203 Fillmore Street, Staten Island, N.Y. 10301. Petitioner's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Petitioner holds a motor *common carrier* certificate in No. MC 123057 (Sub-No. 12), issued September 15, 1975, authorizing transportation, over irregular routes, of *building materials* (except glass products, commodities in bulk, stone, slate, brick, lumber products, and unfabricated metals), *gypsum* and *gypsum products* (except in bulk), *paint* and *paint products* (except in bulk) *lime* (except in bulk), *paper bags*, and *gypsum board paper*, between the plant and warehouse sites of United States Gypsum Company, at Staten Island, N.Y., and at or near Stony Point, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia (except

Fredericksburg, West Point, Richmond, and Norfolk, and points in their respective commercial zones as defined by the Commission, points in Northumberland, Lancaster, Westmoreland, and Richmond Counties, Va., and points in that part of King George County, Va., on and east of U.S. Highway 301), West Virginia, and the District of Columbia. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at or destined to the plant and warehouse sites of United States Gypsum Company, at Staten Island, N.Y., or at or near Stony Point, N.Y., (except that no transportation is authorized from the plant site of the Kaiser Gypsum Company at Delanco, N.J., to the plant and warehouse sites of the United States Gypsum Company at Staten Island, or at or near Stony Point, N.Y.). By the instant petition, petitioner seeks to delete the Staten Island, N.Y., plant and warehouse origin sites, and substitute in lieu thereof, the plant and warehouse sites of the United States Gypsum at Woodbridge Township, N.J., and modify its restriction accordingly. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 135649 (Sub-No. 1) (Notice of filing of petition to modify territorial description), filed February 13, 1975. Petitioner: FRIEDERICH TRUCK SERVICE, INC., 630 E. State Street, P.O. Box 86, O'Fallon, Ill. 62269. Petitioner's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Petitioner holds a motor *contract carrier* permit in No. MC 135649 (Sub-No. 1), issued March 12, 1974, authorizing transportation, over irregular routes, of *Commodities* such as are dealt in by retail discount stores, between St. Louis, Springfield, Kansas City, and Independence, Mo., Alton, Fairview Heights, Chicago, and Peoria, Ill., and Overland Park, Kans., under a continuing contract or contracts with Venture Stores, Inc., a division of May Department Stores Co., of St. Ann, Mo., restricted against the transportation of shipments between points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission and points in St. Clair County, Ill., subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of Section 210 of the Act. By the instant petition, petitioner seeks to add Mt. Prospect, Ill., as a service point in the above territorial description. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views of arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

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 C.F.R. 1,240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-12444. Authority sought for control and merger by REISCH TRUCKING & TRANSPORTATION CO., INC., 819 Union Avenue, Pennsauken, New Jersey 08110, of the operating rights and property of DIAL MOTOR LINES, INC., 901 Woodbine Avenue, Cornwells Heights, Pennsylvania 19020, and for acquisition by EHM Rental Co., Inc., also of Pennsauken, New Jersey 08110, of control of such rights and property through the transaction. Applicants' attorneys: L. C. Major, Jr., and Russell R. Sage, Suite 400 Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Operating rights sought to be controlled and merged: *General commodities*, with exceptions as a *common carrier* over regular routes between Trenton, N.J., and Philadelphia, Pa., serving the intermediate point of Camden, N.J., with restrictions. REISCH TRUCKING & TRANSPORTATION CO., INC. is authorized to operate as a *common carrier* in Connecticut, Delaware, District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12447. Authority sought for purchase by TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Business I-44, Joplin, MO 64801, of a portion of the operating rights of POZZI BROS. TRANSPORTATION, INC., Box 776, 705 W. Meeker St., Kent, WA 98031. Applicants' attorney and representative: Max G. Morgan, Suite 223, Ciudad Bldg., Oklahoma City, OK 73112, and Clinton D. Pozzi, Box 776, 705 W. Meeker St., Kent, WA 98031. Operating rights sought to be transferred: *Explosives, blasting materials, blasting supplies* and *blasting agents*, as a *common carrier* over regular routes, between Tacoma, Wash., and Fort Lewis, Wash., serving intermediate and off-route points in Pierce County, Wash., on, north, and west of U.S. Highway 99, and those east of U.S. Highway 99 within three miles of Lakeview, Wash. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12448. Authority sought for purchase by CROUCH FREIGHT SYSTEMS INC., P.O. Box 1059, St. Joseph, MO 64502, of the operating rights of WORLD FREIGHT CARRIER'S CORP., P.O. Box 311, West Springfield, MA 01089, and for acquisition by UTS FREIGHT SYSTEMS; O.N.C. FREIGHT SYSTEMS, both of 2800 W. Bayshore Rd., Palo Alto, CA 94303, and ROCOR INTERNATIONAL (a non-carrier holding company) and in turn by DAVID P. ROUSH, and DIANE G. ROUSH, as custodian for their minor children, all of 260 Sheridan Ave., Palo Alto, CA 94306, of control of such rights through the purchase. Applicants' attorneys: Roland Rice, 1111 E St. NW., Suite 618, Washington, DC 20004, and Martin J. Rosen, 140 Montgomery St., San Francisco, CA 94104. Operating rights sought to be transferred: *General commodities*, with the usual exceptions, as a *common carrier* over regular routes, between Boston, and Pepperell, Mass., serving all intermediate points and various off-route points, between points in Massachusetts, between Dover, N.H., and Hartford, Conn., between Dover, N.H., and Haverhill, Mass., between points in Massachusetts, between Seabrook, N.H., and Providence, R.I., between Taunton, Mass., and Providence, serving all intermediate points; *baker's ovens*, knocked down, over irregular routes, between Newburyport, Mass., on the one hand, and, on the other, points in New Hampshire, Rhode Island, Connecticut, and New York; *clothing and athletic goods*, between Lawrence, Mass., on the one hand, and, on the other, points in New Hampshire, Rhode Island, Connecticut, and New York; *textile mills supplies*, between Andover, Nethuen, Lowell, Haverhill, North Andover, and Lawrence, Mass., on the one hand, and, on the other, Franklin, N.H., Peacedale, R.I., and Rockville, Conn. Vendee is authorized to operate as a *common carrier* in Arizona, Arkansas, California, Connecticut, Illinois, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Washington, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12449. Authority sought for purchase by PINTER BROS., INC., Carll's Path and Lake Ave., Deer Park, NY 11729, of a portion of the operating rights of WESTCHESTER MOTOR LINES, INC., 35 Edgemere Rd., New Haven, CT 06512, and for acquisition by JOSEPH A. PINTER, 271 Plymouth Ave., Brightwaters, NY 11718, of control of such rights through the purchase. Applicants' attorneys: John P. Tynan, 65-12 69th Place, Middle Village, NY 11379, and William J. Meuser, 86 Cherry St., Milford, CT 06460. Operating rights sought to be transferred: *General commodities*, with the usual exceptions, as a *common carrier* over irregular routes, between points in Westchester County, N.Y. (except points within the New York, N.Y., Commercial Zone), on the one hand, and, on the other, points in Fairfield County, Conn. Vendee is authorized to operate as a *common carrier* in Connecticut, Massachusetts, New Jersey, New York, Penn-

sylvania, Rhode Island, Vermont, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12450. Authority sought for purchase by ROBCO TRANSPORTATION, INC., P.O. Box 12729, 309 Fifth Ave. NW., New Brighton, MN 55112, of a portion of the operating rights of B. J. McADAMS, INC., Route #6, Box 15, North Little Rock, AR 72118, and for acquisition by C. H. ROBINSON CO., 3033 Excelsior Blvd., Minneapolis, MN 55416, of control of such rights through the purchase. Applicants' attorneys: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402, and Donald Garrison also of N. Little Rock, AR 72118. Operating rights sought to be transferred: *Milk food products* (except in bulk, and except frozen foods), *plastic articles, rubber articles,* and *drugs,* as a *common carrier* over irregular routes, from Altavista, Va., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin, and Wyoming, with restriction. Vendee is authorized to operate as a *common carrier* in North Dakota, South Dakota, Minnesota, Wisconsin, Michigan, Illinois, Nebraska, Iowa, Virginia, Colorado, Pennsylvania, Massachusetts, New York, Indiana, West Virginia, Maine, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Vermont, New Hampshire, Kansas, Oklahoma, Texas, Arkansas, Missouri, North Carolina, Tennessee, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12451. Authority sought for control by WILLIAM M. AND BARBARA R. GULLY, non-carriers, 25 Payson Heights, Lake Rd., Quincy, IL 62301, of C. L. CONNORS, INC., 2700 Gardner Expressway, Quincy, IL 62301. Applicants' attorney: Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. Operating rights sought to be controlled: *Coal* and *road construction materials,* in bulk, in dump vehicles, as a *common carrier* over irregular routes, between Quincy, Ill., on the one hand, and, on the other, points in Clark, Scotland, Knox, Lewis, Shelby, Marion, Monroe, Ralls, and Pike Counties, Mo.; steel and steel products, from Barge terminals on the Mississippi River at Quincy, Ill., to points in the defined Counties of Missouri; *ground limestone,* from Quincy, Ill., to points in Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Wisconsin; *trace minerals* and *trace mineral ingredients,* between Quincy, Ill., on the one hand, and, on the other, points in Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Wisconsin; *inedible rock salt,* in bulk, in dump vehicles, from Quincy, Ill., to points in Illinois, Iowa, and Missouri; *road construction materials* (except cement), in bulk, in dump vehicles, between points in that part of Iowa on and south of Iowa Highway 92 and on and east of U.S. Highway 63, and points in Clark, Knox, Lewis, Marion, Monroe, Pike, Ralls, Scotland, and Shelby Counties, Mo., and points in Illinois (except between Quincy, Ill., on the one hand, and, on the other, points in Clark, Knox, Lewis, Marion, Monroe, Pike, Ralls, Scotland and Shelby Counties, Mo.); *alcoholic beverages,* from St. Paul, Minn., to Quincy, Ill., and Hannibal, Mo.; storage tanks, from Quincy, Ill., to points in Iowa, Minnesota, Wisconsin, Indiana, Michigan, Missouri, Kansas, Arkansas, Kentucky, and Nebraska; *lime* and *limestone* (except ground limestone), from Quincy, Ill., to points in Iowa, Indiana, Kansas, Kentucky, Michigan Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas and Wisconsin; *moulding sand, bonded,* except in bulk, from Aurora, Ill., to points in the United States except Hawaii, Alaska, Washington, Oregon, California, Arizona, Utah, Idaho, Nevada, and Illinois; *dump truck bodies* and *dump truck hoists,* from Milwaukee, Wis., to Quincy, Ill.; and *lime spreader bodies,* as a *contract carrier* over irregular routes, from the plant site of Adams and Doyle located at Quincy, Ill., to points in the United States (except points in Alaska and Hawaii); *wagon bodies,* partially set up, from Quincy, Ill., to points in Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Tennessee and Wisconsin, with restrictions. WILLIAM M. AND BARBARA R. GULLY holds no authority from this Commission. However it is affiliated with HANNIBAL QUINCY TRUCK LINES, INC., 3820 Wisman Lane, Quincy, IL 62301, which is authorized to operate as a *common carrier* in Illinois, Iowa, Kansas, and Missouri. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12452. Authority sought for purchase by PETRUZZELLO TRANSPORT, INC., 188 Rimmon Rd., Woodbridge, CT 06525, of the operating rights of BENTON'S HARTFORD EXPRESS, INC., 1 Cooper Lane, Stafford Springs, CT 06076, and for acquisition by ANTHONY S. PETRUZZELLO, AND JOAN PETRUZZELLO, both of Woodbridge, CT 06525, of control of such rights through the purchase. Applicants' attorney: Thomas W. Murrett, 342 N. Main St., W. Hartford, CT 06117. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC 57346 (Sub-No. 1), covering the transportation of general commodities, as a common carrier in interstate commerce, within the State of Connecticut. Vendee is authorized to operate as a *common carrier* in New Jersey, New York, and Connecticut. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 124567 (Sub-No. 5), is a matter directly related.

No. MC–F–12453. Authority sought for purchase by JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, AR 72764, of a portion of the operating rights of DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, AL 35201, and for acquisition by HARVEY JONES, also of Springdale, AR 72764, of control of such operating rights through the purchase. Applicants' attorney: Kim D. Mann, 702 World Center Bldg., 918 16th St. NW., Washington, DC 20006. Operating rights sought to be transferred: *General commodities,* with the usual exceptions, as a *common carrier* over regular routes, between Birmingham, Ala., and Greenville, Miss., between Oxford and Birmingham, Ala., serving all intermediate points in Mississippi and serving Oxford, Ala., for purposes of joinder only, between Atlanta and Oxford, Ala., serving no intermediate points and serving Oxford, Ala., for purposes of joinder only, between Atlanta and Ox- *commodities,* with the usual exceptions over irregular routes, between Atlanta, Ga., and a described area around Atlanta, on the one hand, and, on the other, Oxford, Ala., serving Oxford for purposes of joinder only. Vendee is authorized to operate as a *common carrier* in Missouri, Arkansas, Oklahoma, Tennessee, Kansas, Texas, Mississippi, Illinois, Indiana, Nebraska, Iowa, Louisiana, Alabama, Florida, Ohio, Kentucky, Michigan, Wisconsin, Maryland, New Jersey, Pennsylvania, District of Columbia, Utah, Colorado, Minnesota, North Dakota, New Mexico, South Dakota, Massachusetts, New York, North Carolina, Virginia, West Virginia, South Carolina, Arizona, California, Georgia, Idaho, Nevada, Oregon, and Washington. Application has not been filed for temporary authority under section 210a(b).

Chicago, Milwaukee, St. Paul, and Pacific Railroad Company, hereby gives notice that it has filed with the Interstate Commerce Commission at Washington, D.C., an Application assigned Finance Docket No. 27861 for approval of a trackage rights agreement between itself and the Chicago and North Western Railway Company dated September 28, 1932, wherein it was granted the joint use of approximately 10.5 miles of Chicago and North Western Railway Company trackage in Cook County, Illinois, located generally between a point in the vicinity of Milepost 7.5 near Bensenville, Illinois, and a point in the vicinity of Milepost 17.6 near Techny, Illinois, on the line of railroad presently designated as Chicago and North Western Transportation Company's New Line Subdivision.

Applicant believes that the requested Commission action will not have any adverse effect on the quality of the human environment.

In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation*—

Nat'l Environmental Policy Act, 1969, 340 I.C.C. 431 (1972), any protests to the Application may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b)(1)–(5), 340 I.C.C. 431, 461.

The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER. A copy of any such protest should also be sent to Joseph J. Nagle, General Attorney, 888 Union Station, 516 W. Jackson Boulevard, Chicago, Illinois 60606.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-6478 Filed 3-11-75;8:45 am]

[Notice 246]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings.

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.

Finance Docket No. 27846. By order entered February 28, 1975, the Motor Carrier Board approved the transfer to Cross-Sound Ferry Services, Inc., New London, Conn., of a portion of Third Amended Certificate No. W-939 issued August 17, 1955, to New London Freight Lines, Inc., New York, N.Y., evidencing a right to engage in transportation in interstate or foreign commerce as a common carrier by water transporting (1) general commodities, automobiles with passengers, and tractors, trailers, and trucks, loaded and empty, between New London, Conn., on the one hand, and, on the other, Orient Point, Long Island, N.Y., and (2) passengers between New London, Conn., and Orient Point, N.Y. Peter A. Greene, 1625 K St. NW., Washington, D.C. 20006, Attorney for applicants.

No. MC-FC-75347. By order of February 25, 1975, the Motor Carrier Board approved the transfer to Prescott Enterprises, Inc., Chelsea, Mass., of the operating rights in Certificate No. MC 98032 (Sub-No. 1), issued January 16, 1961, to Frank Gerrin, doing business as Frank's Trucking Co., Chelsea, Mass., authorizing the transportation of lumber between Boston, Mass., on the one hand, and, on the other, Providence, Pawtucket, and Westerly, R.I., points in New Hampshire, and those in Massachusetts within 50 miles of Boston. Norman I. Jacobs, 75 Federal St., Boston, Mass. 02110, Attorney for applicants.

No. MC-FC-75673. By order of February 27, 1975, the Motor Carrier Board approved the transfer to Loh International Movers, Inc., Oakland, Calif., of the operating rights in Certificate No. MC 135716 (Sub-No. 1), issued August 31, 1973, to Stan's Vans, Inc., Oakland, Calif., authorizing the transportation of used household goods between points in Alameda, Contra Costa, Napa, Marin, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Solano, Sonoma, Stanislaus, Sutter, Yuba, Yolo, Fresno, Merced, Monterey, San Benito, and Santa Cruz Counties, Calif., subject to certain restrictions. Leigh B. Morris, 100 Bush St., San Francisco, Calif. 94104, Attorney for applicants.

No. MC-FC-75678. By order of February 25, 1975, the Motor Carrier Board approved the transfer to The Tri-State Transit Authority, Huntington, W. Va., of the operating rights in Certificates Nos. MC 50008 and MC 50008 (Sub-No. 10), issued December 12, 1955, and April 16, 1962, respectively, to Ohio Valley Bus Company, a corporation, Huntington, W. Va., authorizing the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Ashland, Ky., and Huntington, W. Va., and between other specified pairs of points in Ohio, West Virginia, and Kentucky, serving all intermediate points. Richard J. Bolen, P.O. Box 2185, Huntington, W. Va. 25722, Attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-6472 Filed 3-11-75;8:45 am]

[Notice 26]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 6, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, 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 (6) 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 50069 (Sub-No. 497TA), filed February 27, 1975. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals, rolling processing fluids, and lubricating oils*, in bulk, in tank vehicles, from Columbus, Ohio to points in Alabama, Arkansas, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Tennessee, Virginia, West Virginia, and Wisconsin; and (2) *ingredients, and raw materials* used in the manufacture of liquid chemicals, *rolling processing fluids and lubricating oils*, in bulk, in tank vehicles, from points in Smackover, Ark., Savannah, Ga., Itasca, McCook, Cicero, and Chicago, Ill.; Hammond, Jeffersonville, Ind.; Ft. Wayne, and Plymouth, Ind.; Ashland, Ky.; Elkridge, Md.; Austin, Minn.; St. Louis, Mo.; Weehawken, N.J.; Buffalo, N.Y.; Bradford, Marcus Hook, Petrolia, Franklin, and Philadelphia, Pa.; Houston, Tex.; Norfolk, Va.; Milwaukee, Cudahy, and Madison, Wis.; and Lake Charles, La., for 180 days. Supporting shipper: The Ironsides Company, 270 West Mound St., P.O. Box 1999, Columbia, Ohio 43216. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 59367 (Sub-No. 97TA), filed February 27, 1975. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, 5th Ave. So., Fort Dodge, Iowa 50501. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer*, from Peoria, Ill., to Fort Dodge, Iowa, for 180 days. Supporting shipper: Blue Ribbon Distributing Company, 605 South

22nd, Fort Dodge, Iowa 50501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 95084 (Sub-No. 107TA), filed February 28, 1975. Applicant: HOVE TRUCK LINE, Stanhope, Iowa 50246. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and implements, parts and attachments*, from Garden City, Kans., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, Pennsylvania, South Dakota, and Wisconsin, for 180 days. Supporting shippers: Speed King Manufacturing Co., Inc., Dodge City, Kans. 67801. Palmer Manufacturing & Tank, Inc., Box 901, Garden City, Kans. 67846. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 95920 (Sub-No. 37TA), filed February 28, 1975. Applicant: SANTRY TRUCKING COMPANY, 11552 SW. Pacific Highway, Portland, Oreg. 97223. Applicant's representative: George R. LaBissoniere, P.O. Box 88968, Tukwila Branch, Seattle, Wash. 98188. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Olympia, Wash., to points in Missouri; and *supplies, materials, and equipment used in the manufacture of malt beverages*, from points in Missouri to Olympia, Wash., under a continuing contract or contracts with Olympia Brewing Company of Olympia, Wash., for 180 days. Supporting shipper: Olympia Brewing Company, P.O. Box 947, Olympia, Wash. 98507. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 107010 (Sub-No. 55TA), filed February 28, 1975. Applicant: BULK CARRIERS, INC., Box 423, Auburn, Nebr. 68305. Applicant's representative: Patrick E. Quinn, Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid fertilizer solutions, in bulk, from Aurora, Nebr., to points in the state of Minnesota, for 180 days. Supporting shipper: Vernon E. Brady, Phillips Petroleum Company, 151 Phillips Bldg., Annex, Bartlesville, Okla. 74004. Send protests to: Max H. Johnston, District Supervisor, 320 Federal Bldg. & Court House, Lincoln, Nebr. 68508.

No. MC 110525 (Sub-No. 1117TA), filed February 27, 1975. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 Lancaster Ave., Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the facilities of Nalco Chemical Company at or near Garyville, La., to all points in the United States, except Alabama, Alaska, Arkansas, Florida, Georgia, Hawaii, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Nalco Chemical Company, 2901 Butterfield Road, Oak Brook, Ill. 60521. Send protests to: Peter R. Guman, District Supervisor, Federal Bldg., Room 3238, 600 Arch St., Philadelphia, Pa. 19106.

No. MC 110525 (Sub-No. 1118TA), filed February 27, 1975. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, in bulk, in tank vehicles, from ports of entry on the International Boundary line between the United States and Canada, located on the St. Lawrence, Niagara, Detroit, and St. Clair Rivers, to points in Illinois, Indiana, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Vermont, restricted to traffic originating in the Province of Ontario, Canada, for 180 days. Supporting shipper: Redpath Sugars Ltd., 1720 du Canal, Montreal, Quebec, Canada. Send protests to: Peter R. Guman, District Supervisor, Federal Bldg., Room 3238, 600 Arch St., Philadelphia, Pa. 19106.

No. MC 111397 (Sub-No. 112TA), filed February 26, 1975. Applicant: DAVIS TRANSPORT, INC., 1345 South Fourth Street, Paducah, Ky. 42001. Applicant's representative: H. S. Melton, Jr., P.O. Box 1407, Avondale Station, Paducah, Ky. 42001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground and Pulverized coal*, in bulk, in pneumatic trailers, from the plantsite of Ashland Chemical Company, at or near Hansford, W. Va., to the plantsite of International Harvester Company, Indianapolis, Ind., for 180 days. Supporting shipper: Ashland Chemical Company, 5200 Paul G. Blazer Memorial Parkway, Dublin, Ohio 43017. Send protests to: Floyd A. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 435 Federal Office Bldg., 167 North Main St., Memphis, Tenn. 38103.

No. MC 111729 (Sub-No. 516TA), filed February 27, 1975. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, audit and accounting media of all kinds*, (a) between Willard, Ohio, and Cleveland, Ohio; (b) between Newark, N.J., and New York, N.Y.; (2) *Daily telephone addenda and listings*, between Willard, Ohio, on the one hand, and, on the other, Elkhart and South Bend, Ind., and points in Michigan; (3) *Proofs, cuts, copy, artwork, and advertising material;* (a) between Willard, Ohio, and Cleveland, Ohio; (b) between Newark, N.J., and New York, N.Y. Restricted, in Parts (1)(a) and (1)(b), and (3)(a) and (3)(b), above, to traffic having an immediately prior or subsequent movement by air, for 90 days. Supporting shipper: R. R. Donnelley & Sons Company, 1145 Conwell Ave., Willard, Ohio 44890. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112822 (Sub-No 365TA), filed February 26, 1975. Applicant: BRAY LINES, INCORPORATED, 1401 N. Little St., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Fort Worth, Tex., to Hayden, Colo., for 180 days. Supporting shipper: Miller Brewing Company, Robert F. Niemann, Asst., Corporate T. M., 4000 W. State St., Milwaukee, Wis. 53208. Sent protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 113861 (Sub-No. 63TA), filed February 26, 1975. Applicant: WOOTEN TRANSPORTS, INC., 153 Gaston Avenue, Memphis, Tenn. 38106. Applicant's representative: James N. Clay, III, 2700 Sterick Bldg., Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar, corn syrups and blends thereof* (in bulk, in tank vehicles), from Memphis, Tenn., to Fort Payne, Huntsville, Decatur, Florence, Sheffield, Muscle Shoals, and Tuscumbia, Ala., for 180 days. Supporting shipper: Sugar Services Corporation, 3820 Premier Ave., P.O. Box 18375, Memphis, Tenn. 38118. Send protests to: Floyd A. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 435 Federal Office Bldg., 167 North Main St., Memphis, Tenn. 38103.

No. MC116014 (Sub-No. 70TA), filed February 28, 1975. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from points in Breathitt, Clay, Laurel, Morgan, and Wolfe Counties, Ky., to Jeffersonville, Ind., for 180 days. Supporting shipper: W. W. Sexton, General Supt., Fossil Energy Corp., 310 East Liberty, Louisville, Ky. 40202. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, 222 Bakhaus Bldg., 1500 West Main St., Lexington, Ky. 40505.

No. MC 117068 (Sub-No. 39 TA) (Correction), filed January 30, 1975, published FEDERAL REGISTER, issue of February 12, 1975, and republished this issue. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., No. Highway 63, P.O. Box 6418, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., 15th and New York Ave. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies used in the manufacture of excavators* (except those the transportation of which, by reason of size or weight, require special equipment, except commodities in bulk), from points in Michigan, Illinois, Indiana, and Wisconsin to Winona, Minn., for 180 days. Supporting shipper: Warner & Swasey Company, Winona, Minn. 55987. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 414 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

NOTE.—The purpose of this republication is to show the correct Sub number assigned thereto, as shown above, in lieu of Sub No. 38TA as previously published.

No. MC 117119 (Sub-No. 526TA) (Correction), filed February 14, 1975, published in the FEDERAL REGISTER issue of February 28, 1975, and republished as corrected this issue. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Breader base mixes and flour compounds* (except in bulk), between Evansville, Ind., and Ponchatoula, La., for 180 days. Supporting shipper: Modern Maid Foods Products, Inc., 250 E. Willow St., Ponchatoula, La. 70454. Send protests to: William H. Land, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Bldg., 700 West Capitol, Little Rock, Ark 72201.

NOTE.—The purpose of this republication is to correct the sub number which was published in error in the previous publication.

No. MC 119988 (Sub-No. 77TA), filed February 18, 1975. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood pulp* (except in bulk), from the plantsite of Temple-Eastex, Inc., in Jasper County, Tex., to Gulf ports at Beaumont, Port Arthur, Houston, Galveston, Texas City, Orange, Freeport, Corpus Christi, and Brownsville, Tex., restricted to traffic having a subsequent movement by water, for 180 days. Supporting shipper: Temple-Eastex, Inc., Evadale, Tex. 77615. Send protests to: John Mensing, District Supervisor, Interstate Commerce Commission, 515 Rusk, Room 8610, Federal Bldg., Houston, Tex. 77002.

No. MC 120813 (Sub-No. 2TA), filed February 26, 1975. Applicant: HUCKABEE HOUND, INC., P.O. Box 357, Cayce, S.C. 29033. Applicant's representative: Robert W. Keyes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* restricted to shipments having prior or subsequent movement by rail, between Cayce, S.C., and Winnsboro, S.C., for 180 days. Supporting shipper: Airtemp Division, Chrysler Corporation, 1619 Kuntz Road, Dayton, Ohio 45404. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Bldg., 1400 Pickens St., Columbia, S.C. 29201.

No. MC 124211 (Sub-No. 257TA) (Correction), filed February 12, 1975. Published in the FEDERAL REGISTER issue of February 25, 1975, and republished as corrected this issue. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, Downtown Station, Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motorcycles, recreational vehicles and machines, accessories and parts*, and (2) *equipment materials and supplies used in the manufacture, distribution, or sale of the commodities named in (1) above*, between Lincoln, Nebr., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Kawasaki Motors Corp., U.S.A., 1062 McGaw Ave., Santa Ana, Calif. 92705. Send protests to: Carroll Russell, District Supervisor, Suite 620, Union Pacific Plaza, 110 North 14th St., Omaha, Nebr. 68102.

NOTE.—The purpose of this republication is to add the territorial description which was omitted in the previous publication.

No. MC 12438 (Sub-No. 17TA), filed February 27, 1975. Applicant: STAR LINE TRUCKING CORPORATION, 18460 W. Lincoln Ave., New Berlin, Wis. 53151. Applicant's representative: S. F. Schreiter, 161 West Wisconsin Ave., Suite 3008, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, in dump vehicles, from points in Dodge and Fond du Lac Counties, Wis., to Gary, and East Chicago, Ind., for 180 days. Western Lime and Cement Company, 125 E. Wells St., Milwaukee, Wis. 53202. Send protests to: John E. Ryden, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 125243 (Sub-No. 5TA), filed February 27, 1975. Applicant: A R K, INC., doing business as ARK VAN SERVICE, 1660 West Bell Road, Phoenix, Ariz. 85023. Applicant's representative: A. Michael Bernstein, 1327 United Bank Bldg., Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Race horses*, and in connection therewith, *personal effects of attendants, equipment, supplies, and mascots* used in the care, racing, and exhibition of such animals. From points in Arizona to points in Illinois, Florida, Kentucky, Ohio, Pennsylvania, New York, Michigan, Maryland, Virginia, West Virginia, Connecticut, Massachusetts, New Hampshire, and Vermont. From points in Illinois, Florida, New Jersey, Michigan, Pennsylvania, Maryland, Virginia, Vermont, New York, West Virginia, Ohio, Kentucky, Connecticut, Massachusetts, and New Hampshire to points in California. From points in Illinois, Kentucky, New York, Ohio, Pennsylvania, Virginia, West Virginia, New Jersey, to points in Colorado. From points in Colorado to Illinois, Michigan, and Kentucky. From Illinois, Michigan, and Kentucky to points in Arizona, for 180 days. Supporting shippers: There are approximately 13 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Rm. 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 128638 (Sub-No. 9TA), filed February 27, 1975. Applicant: CENTRAL GRAIN HAULERS, INC., Route No. 1, Van Meter Road, Winchester, Ky. 40391. Applicant's representative: George M. Catlett, 703–706 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from points in Laurel, Knox and Jackson Counties, Ky., to Cincinnati, Columbus, Dayton, Fairborn and Hamilton, Ohio, and points within their respective commercial zones, for 180 days. Supporting shippers: Jerry Greer, President, G & G Coal & Energy Corporation, P.O. Box 269, London, Ky. 40741, and G & G Coal & Energy Company, Partner, P.O. Box 269, London, Ky. 40741. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, 222 Bakhaus Bldg., 1500 West Main St., Lexington, Ky. 40505.

No. MC 133703 (Sub-No. 5TA), filed February 28, 1975. Applicant: WISCONSIN CHEESE SERVICE, INC., 770 Springdale Road, Waukesha, Wis. 53187. Applicant's representative: Frank M. Coyne, 25 West Main St., Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Rochester, Minn., to points in the United States, for 180 days. Supporting shipper: Milwaukee Cheese Company, 770 Springdale Road, Waukesha, Wis. 53187. Send protests to: John E. Ryden, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 134922 (Sub-No. 113TA) (Correction), filed February 12, 1975, published FEDERAL REGISTER, issue of February 25, 1975, and republished this issue. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Don Garrison (same address as applicant. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Outdoor furniture*, in cartons, from North Little Rock, Ark., to points in California, for 180 days. Supporting shipper: Arkco Manufacturing Company, Inc., 1312 East 8th St., North Little Rock, Ark. 72114. Send protests to: William H. Land, Jr., District Supervisor, 2519 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

NOTE.—The purpose of this republication is to show the docket number as MC 134922 (Sub-No. 113TA), in lieu of MC 134992 (Sub-No. 113TA) which was in error.

No. MC 135007 (Sub-No. 49TA), filed February 26, 1975. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, Nebr. 68127. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering, floor tile and material, equipment and supplies necessary for the installation thereof*, from Libertyville and Kankakee, Ill., to points in Oklahoma, under a continuing contract with William Volker & Company, for 180 days. Supporting shipper: William Volker & Company, P.O. Box 529, Burlingame, Calif. 94010. Send protests to: Carroll Russell, District Supervisor, Suite 620 Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 135423 (Sub-No. 3TA), filed February 24, 1975. Applicant: FRANKLIN GORDON, R.R. 1, Manilla, Ind. 46150. Applicant's representative: Robert W. Loser, II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed mixing salt*, from Manistee and St. Louis, Mo., to Rushville, Ind.; (2) *animal feed, dry*, in bags, from Slinger, Wis., to Rushville, Ind.; (3) *dog food*, in bags, from Muscatine, Iowa, to Rushville, Ind.; (4) *calcium chloride flakes*, in bags, from Effingham, Ill., to Rushville, Ind., (5) *soybean meal and corn gluten feed*, from Decatur, Ill., to Rushville, Ind. Restriction: The operations authorized hereinabove are limited to a transportation service to be performed under a continuing contract, or contracts with Cargill, Inc., Nutrena Feed Division, of Minneapolis, Minn., for 180 days. Supporting shipper: Cargill, Inc., Nutrena Feed Division, 7228 Galloway, Indianapolis, Ind. 46250. Send protests to: James W. Habermehl, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46205.

No. MC 135797 (Sub-No. 34TA), filed February 28, 1975. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, Ark. 72745. Applicant's representative: L. C. Cypert, 108 Terrace Drive, Lowell, Ark. 72745. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood shavings, wood chips and wood waste*, from Smithton, Mo., and points within its Commercial Zone to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin, for 180 days. Supporting shipper: The Smithton Industries, Inc., Smithton, Mo. 65350. Send protests to: William H. Land, Jr., District Supervisor, 2519 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 138057 (Sub-No. 1TA), filed February 24, 1975. Applicant: C & F TRANSPORT, INC., 2211 Cosben Ave., Elkhart, Ind. 46514. Applicant's representative: S. L. Wittner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets, boxes, skids, lumber and wood products* (except in bulk), from Shipshewana Pallet Co., Inc., Lagrange County, Ind., to points in the state of Illinois and the Chicago Commercial zone, for 180 days. Supporting shipper: Shipshewana Pallet Co., Inc., R.R. 1, Shipshewana, Ind. 46565. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 W. Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 140598 (Sub-No. 1TA), filed February 26, 1975. Applicant: MELLO TRUCK LINES, INC., 725 Carey Street, Hanford, Calif. 93230. Applicant's representative: Gilbert W. Howell, 701 N. Irwin Street, Hanford, Calif. 93230. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed formulas*, from Stockton, Calif., to Klamath Falls, Oreg., for 180 days. Supporting shipper: Western Consumers Industries, Inc., 705 West Weber Avenue, P.O. Box 1968, Delta Station, Stockton, Calif. 95201. Send protests to: Walter W. Strakosch, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708, Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 140608TA (Amendment), filed January 30, 1975, published in the FEDERAL REGISTER issue of February 13, 1975, and republished as amended this issue. Applicant: BENTLEY W. WARREN, doing business as, BENTLEY W. WARREN TRUCKING COMPANY, Fernald Street, Gloucester, Mass. 01930. Applicant's representative: Ignatius C. Goode, 22 N. Shetland Road, Danvers, Mass. 01923. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, in bulk, in hydraulic dump trailers, from points in the State of New Hampshire to Boston, Everett, and Tewksbury, Mass., from points in the State of Massachusetts to Madbury, N.H., for 180 days. Supporting shippers: Tewksbury Auto Parts, Inc., 860 East St., Tewksbury, Mass. 01876. Madbury Metals, Inc., 860 East St., Tewksbury, Mass. 01876. B. P. Enterprises, 41 Pine St., Peabody, Mass. 01960. Send protests to: Max Gorenstein, District Supervisor, Interstate Commerce Commission, 150 Causeqay St., Boston, Mass. 02114.

NOTE.—The purpose of this republication is to add the two territorial descriptions described above to applicant's request for authority. The rest of the notice remains as previously published.

No. MC 140646 (Sub-No. 1TA), filed February 28, 1975. Applicant: ROY L. HENDRICKS, doing business as, HILL CITY TRUCKING, 632 Oakley Avenue, Lynchburg, Va. 24501. Applicant's representative: Roy L. Hendricks (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Irrigation solutions*, in containers, from Altavista, Va., to Rocky Mount, N.C., for 180 days. Supporting shipper: Abbott Labortories, 14th & Sheridan Road, North Chicago, Ill. 60064. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Ave. SW., Roanoke, Va. 24011.

No. MC 140648 (Sub-No. 2TA), filed February 27, 1975. Applicant: FRANKS & SON, INC., Route 1, Box 108a, Big Cabin, Okla. 74332. Applicant's representative: James E. Frasier, Mezzanine Floor, Beacon Bldg., Tulsa, Okla. 74103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wooden products, such as tongue depressors, cervical scrapers, toothpicks, ice cream spoons and wood turning; also clothes pins, plastic cating utensils, sporting goods, such as sleds, etc.;* (1) from Strong, Maine, to Milwaukee, Wis.; (2) from Strong, Maine to Los Angeles, Calif.; with stop in transit for partial unloading in Milwaukee, Wis.; (3) from Wilton, Maine to Dallas, Tex., with stop in transit for partial unloading at New Orleans, La.; (4) from Wilton, Maine to Seattle, Wash.; also to Seattle, Wash., with stop in transit for partial unloading at Denver, Colo., or at Billings, Mont.; (5) from Wilton, Maine to Los Angeles, Calif.; also to Los Angeles, Calif., with stop in transit for partial unloading in Phoenix, Ariz.; (6) from Wilton, Maine to San Francisco, Calif.; (7) from Skowhegan, Maine to Los Angeles and Oakland, Calif., and Seattle, Wash., for 180 days. Supporting shippers: Strong Woods Products, Inc., Strong, Maine 04933, Solon Mfg. Co., Inc., Solon, Maine 04979, Forster Mfg. Co., Wilton Maine 04294. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old Post Office Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 140654 (Sub-No. 1TA), filed February 28, 1975. Applicant: OLIVER & OLIVER, INC., P.O. Box 83, Campton, Ky. 41301. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling

Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from points in Breathitt, Clay, Laurel, Morgan and Wolfe Counties, Ky., to Jeffersonville, Ind., for 180 days. Supporting shipper: W. W. Sexton, General Supt., Fossil Energy Corp., 310 East Liberty, Louisville, Ky. 40202. Send protests to: R. W. Schneider, District Supervisor, Interstate Commerce Commission, 222 Bakhaus Bldg., 1500 West Main St., Lexington, Ky. 40505.

No. MC 140655 (Sub-No. 1TA), filed February 27, 1975. Applicant: EARL J. RUCKDASCHEL, doing business as EARL J. RUCKDASCHEL TRUCKING, 265 East Greene St., Postville, Iowa 52162. Applicant's representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, Iowa 52001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation and equipment used in the installation* of same, from, at, or near Postville, Iowa, to points in Illinois, located on and west of U.S. Highway 66 and on and north of U.S. Highway 24, Minnesota, and Wisconsin; and (2) *scrap paper*, from points in Illinois, located on and west of U.S. Highway 66 and on and north of U.S. Highway 24, Minnesota, and Wisconsin, to, at, or near Postville, Iowa, for 90 days. Supporting shipper: Iowa Excel Corporation, P.O. Box 642, Postville, Iowa 52162. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 140667 (Sub-No. 3TA), filed February 25, 1975. Applicant: JOYCE E. HAYNES TRUCKING, INC., 221 Davidson, Independence, Mo. 64056. Applicant's representative: Warren H. Sapp, Suite 910 Fairfax Bldg., 101 W. Eleventh St., Kansas City, Mo. 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail variety, discount, and drug stores, and wholesale houses serving such stores, and *advertising materials*, (a) from Ripon, Wis., Atkins and Hardy, Ark., Terre Haute, Ind., Lancaster, Wooster and Cleveland, Ohio, Caney, Kans., Dallas and Nacogdoches, Tex., Tulsa, Oklahoma City, and Eufaula, Okla., Des Moines, Clinton and Davenport, Iowa, and points in Illinois and Missouri to the warehouse and plant facilities of Shawnee Evans Company, located at or near Lenexa, Kans., and (b) from the warehouse and plant facilities of Shawnee Evans Company, located at or near Lenexa, Kans., to points in Texas, Louisiana and Oklahoma, under a continuing contract or contracts with Shawnee Evans Company, of Lenexa, Kans., for 180 days. Supporting shipper: Shawnee Evans Company, 13917 West 101st St., Lenexa, Kans. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 140683TA, filed February 26, 1975. Applicant: SHAW AND SONS EXCAVATING AND HAULING, INC., 500 Bennington Road, Kansas City, Mo. 64125. Applicant's representative: Lucy Kennard Bell, 910 Fairfax Bldg., 101 W. 11th Street, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel flue dust*, from Kansas City, Mo., to Humboldt, Iowa, for 180 days. Supporting shipper: Frit Industries, Inc., P.O. Box 1324, Ozark, Ala. 36360. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 140684TA, filed February 27, 1975. Applicant: JACK L. STORMS, R.R. 1, Argyle, Iowa 52619. Applicant's representative: Jack L. Storms (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Road materials* (rock, sand, asphalt, cinders, and similar road materials), between points in Lee and Van Buren Counties, Iowa; Clark and Lewis Counties, Mo., and Hancock and Henderson Counties, Ill., for 180 days. Supporting shippers: John W. Sammons Const., Co., Inc., 614 South 4th St., Keokuk, Iowa 52632. Dallas City Ready Mixed Concrete Corp., 825 South 5th St., Keokuk, Iowa 52632. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 140685 (Sub-No. 1TA), filed February 28, 1975. Applicant: CHARLES G. RITZ, 1006 Pierce Ave., Salisbury, Md. 21801. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Foods*, from Trappe, Md., to points in the states of Maryland, New York, Pennsylvania, New Jersey, Delaware, Virginia, North Carolina, Washington, D.C., Ohio and Connecticut, Upper Indiana and Chicago, Ill., for 180 days. Supporting shipper: Trappe Frozen Foods Corp., Trappe, Md., 21673. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, Room 317, 12th & Constitution Ave., N.W., Washington, D.C. 20423.

No. MC 140687TA, filed February 25, 1975. Applicant: TEAGUE W. ANDREWS, doing business as ANDREWS AND SONS TRUCKING, 21413 Minnehaha Street, Chatsworth, Calif. 91311. Applicant's representative: Teague W. Andrews (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hospital laboratory instrument reagents*, from Anaheim, Calif., to Dallas, Tex.; Miami, Fla., Pittsburgh, Pa., Washington, D.C., and New York City, N.Y., for the account of Environmental Chemical Specialty, Inc.; (2) *organic and inorganic chemicals*, from New York City, N.Y., Baltimore, Md., Cincinnati, Ohio, and St. Louis, Mo., to Anaheim, Calif., for the account of Environmental Chemical Specialty, Inc.; (3) *liquor*, from Lawrenceburg, Ind., and Clearwater, Ky., to Compton, Calif., for the account of Drummond Distributing, Inc., for 180 days. Supporting shippers: Environmental Chemical Specialty, Inc., 3700 E. Mira Loma St., Anaheim, Calif. Drummond Distributing Co., Inc., 1715 S. Anderson, Compton, Calif. Send protests to: Walter W. Strakosch, District Supervisor, Bureau of Operations, Interstate Commerce, Room 7708, Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 140688TA, filed February 27, 1975. Applicant: NICOLL TRUCKING (Medicine Hat) Ltd., 31 Huckvale Crescent S.W., Medicine Hat, Alberta, Canada T1A 5J7. Applicant's representative: Ray F. Koby, 314 Montana Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brick, tile and clay products* (except in bulk), from ports of entry on the United States-Canada International Boundary line, located in the states of North Dakota, Montana, Idaho, and Washington to points in the states of Idaho, Montana, North Dakota, Oregon and Washington; (2) *Lumber and lumber products, particle board, treated posts and poles*, between ports of entry, located on the United States-Canada International Boundary line in the states of Montana, Idaho and Washington, on the one hand, and, on the other, points in the states of California, Idaho, Montana, Oregon and Washington; (3) *gypsum board*, from the plantsite of Georgia-Pacific Corp., located at or near Lovell, Wyo., to the port of entry on the United States-Canada Boundary line near Sweetgrass, Mont., for 180 days. Supporting shippers: There are approximately 11 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Room 222, U.S. Post Office Building, Billings, Mont. 59101.

Application of Water Carrier

W 471 (Sub-No. 7 TA), filed February 26, 1975. Applicant: MERRY SHIPPING COMPANY, INC., 310 Bay Street, Savannah, Ga. 31402. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *water carrier*, as follows: General towage of *non-self-propelled lighter-aboard-ship (LASH) barges*, between the Port of Norfolk, Va., on the one hand, and, on the other, ports and points along the Atlantic Coast and inland tributary waterways between New Bern, N.C. and Miami, Fla. inclusive, for 180 days. Supportings: Waterman Steamship Corporation, 708 Richards Bldg., New Orleans, La. 70112. Prudential Lines, Inc., One World Trade Center, New York, N.Y.

10048. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-6474 Filed 3-11-75;8:45 am]

[NOTICE 29]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Peoples Express Co., MC-1756 Subs-20, 24	MC-1756 Sub-21	May 6, 1974
Walter Potter, MC-16550 Sub-5	MC-16550 Sub-6	May 22, 1974
Gene Mitchell Co., MC-21455 Sub-32	MC-21455 Sub-30	May 8, 1974
Williams Motor Transfer, Inc., MC-28067 Sub-18	MC-28067 Sub-16	May 14, 1974
All-American, Inc., MC-29120 Sub-158	MC-29120 Sub-160	May 2, 1974
Davis & Mavis Forwarding Co., MC-29886 Sub-300	MC-29886 Sub-301	May 7, 1974
D.B.A., Peer Bros. Trucking Co., MC-30160 Sub-4	MC-30160 Sub-5	May 14, 1974
Shipley Transfer, Inc., MC-30887 Sub-195	MC-30887 Sub-198	Do.
Wells Fargo Armored Service, MC-35807 Sub-36	MC-35807 Sub-38	May 3, 1974
Marty's Express, Inc., MC-39249 Sub-14	MC-39249 Sub-15	May 13, 1974
Refiners Transport & Terminal Corp., MC-50069 Sub-163	MC-50069 Sub-166	May 17, 1974
Sioux City Refrigerated Express, Inc., MC-52598 Sub-2	MC-52598 Sub-4	May 14, 1974
Southwestern Transportation Co., MC-59488 Sub-38	MC-59488 Sub-39	May 23, 1974
Hunt Transportation, Inc., MC-82841 Sub-124	MC-82841 Sub-117	May 22, 1974
Fleet Transport Co., Inc., MC-103051 Sub-272	MC-103051 Sub-281	May 8, 1974
Fleet Transport Co., Inc., MC-103051 Sub-283	MC-103051 Sub-284	May 7, 1974
Morgan Drive-Away, Inc., MC-103993 Sub-774	MC-103993 Sub-781	May 9, 1974
Miller Transporters, Inc., MC-107002 Sub-432	MC-107002 Sub-433	May 13, 1974
Matlack, Inc., MC-107403 Sub-843	MC-107403 Sub-847	May 23, 1974
Armored Motor Service Corp., MC-107882 Sub-28	MC-107882 Sub-32	May 17, 1974
Chemical Leaman Tank Lines, Inc., MC-110525 Sub-1054	MC-110525 Sub-1058	May 23, 1974
DBA, William Truck Service, MC-111720 Sub-9	MC-111720 Sub-10	May 14, 1974
Skagit Bulley Trucking Co., Inc., MC-112014 Sub-17	MC-112014 Sub-21	May 13, 1974
Liquid Transporters, Inc., MC-112617 Sub-306	MC-112617 Sub-308	May 9, 1974

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-6470 Filed 3-11-75;8:45 am]

federal register

WEDNESDAY, MARCH 12, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 49

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

LIBRARIES AND LEARNING RESOURCES

Education Innovation and Support

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 100c, 134, 134a, 134b]

LIBRARIES AND LEARNING RESOURCES

Education Innovation and Support

Pursuant to the authority contained in Title IV of the Elementary and Secondary Education Act of 1965 as amended (20 U.S.C. 1801 *et seq.*), added by section 401 of Pub. L. 93-380 (enacted August 21, 1974), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 45 of the Code of Federal Regulations by adding a new Part 134 to read as set forth below, and by revising § 100c.1.

Title IV of the Elementary and Secondary Education Act (hereinafter referred to as ESEA) provides for the consolidation of certain educational programs into two parts, B and C. Part B consists of the programs authorized by Title II of the ESEA (school library resources, textbooks, and other instructional materials), so much of Title III of ESEA as relates to testing, counseling, and guidance, and Title III (except for Section 305 thereof) of the National Defense Education Act of 1958 (financial assistance for strengthening instruction in academic subjects). Part C consists of the programs authorized by Title III (except for programs of testing, counseling, and guidance) of ESEA (supplementary educational centers and services), Title V of ESEA (strengthening State and local educational agencies), section 807 of ESEA (dropout prevention projects), and section 808 of ESEA (demonstration projects to improve school nutrition and health services for children of low-income families). State educational agencies are required to submit an annual program plan under which subgrants are made by the State to local educational agencies. The statute provides for the participation of children from non-profit private schools, and for children in the Outlying Areas, and in schools operated by the Departments of Defense and Interior.

Section 402 of ESEA does not make provision for allotments to the District of Columbia and Puerto Rico. A technical amendment has been submitted by the Department to Congress which would make the definition of "State" in section 801 of ESEA applicable to Title IV. That definition of "State" includes the District of Columbia and Puerto Rico. Section 134.2 of the regulations tentatively defines "State" to include the District of Columbia and Puerto Rico on the assumption that the technical amendment will be enacted.

In order to facilitate comments, explanations of many of the substantive sections of the proposed rules are set out below. "Comment" sections following substantive sections have been used as a format in lieu of a lengthy preamble for ease of reading and to highlight the substance of the proposed rules.

Reviewers should also note that where statutory language has been repeated in these proposed rules, it is so indicated by the use of quotation marks which will be deleted when the final regulations are published. With respect to this material, comments should be directed to the need (or lack of a need) for regulations, rather than to its substance. Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulations to Regulations Officer, U.S. Office of Education, Room 2085, 400 Maryland Avenue SW., Washington, D.C. 20202.

Comments received in response to this notice will be available for public inspection at the above office on week days from 8:30 a.m. to 4:00 p.m. All relevant materials received on or before April 11, 1975 will be considered.

Dated: February 27, 1975.

T. H. BELL,
Commissioner of Education.

Approved: March 4, 1975.

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

Title 45 of the Code of Federal Regulations is amended as follows:

PART 100c—INDIRECT COSTS UNDER CERTAIN PROGRAMS

1. Section 100c.1 is revised by adding a new paragraph (c-1), to read as follows:

§ 100c.1 Scope.

* * * * *

(c-1) Part C of Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 1831);

* * * * *

2. New Parts 134, 134a, and 134b are added, to read as follows:

PART 134—LIBRARIES AND LEARNING RESOURCES; EDUCATIONAL INNOVATION AND SUPPORT

Subpart A—General

Sec.

Subpart B—Annual Program Plans

GENERAL

PROVISIONS TO BE INCLUDED IN ANNUAL PROGRAM PLAN

REQUIREMENTS RELATING TO CERTAIN ANNUAL PROGRAM PLAN PROVISIONS

Subpart C—State Advisory Council

Subpart D—Outlying Areas; Departments of Defense and Interior

Subpart E—Administration

Subpart F—Participation by Children Enrolled in Private Schools

AUTHORITY: Title IV, Pub. L. 89-10, as amended, 88 Stat. 535-544 (20 U.S.C. 1801-1832), unless otherwise noted.

Subpart A—General

§ 134.1 Scope of part.

(a) This part applies to the Federal programs authorized by Title IV of the Act.

(b) Regulations which apply specifically to Part B of Title IV of the Act are set forth in Part 134a of this chapter.

(c) Regulations which apply specifically to Part C of Title IV of the Act are set forth in Part 134b of this chapter.

(20 U.S.C. 1801)

§ 134.2 Definitions.

As used in this part and Parts 134a and 134b of this chapter:

"Act" means the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 1801)

"Children who do not complete their secondary school education" means children who were enrolled during a regular school term in an elementary or secondary school and withdrew before graduating from secondary school or before completing an equivalent program of studies. The term includes such an individual (a) whether he or she left school during or between regular school terms, (b) whether he or she left school before or after reaching the compulsory school attendance age, and (c) where applicable, whether or not he or she completed a minimum required amount of school work.

(20 U.S.C. 1831(a)(4))

"Children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such terms does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental disadvantage.

(20 U.S.C. 1803(a)(8)(B))

"Construction" means: (a) the erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; (b) the acquisition of existing structures not owned by the local educational agency making application for assistance under section 431(a)(1) of the Act; (c) the remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (d) a combination of any two or more of the foregoing.

(20 U.S.C. 1831(a)(1))

"Cultural and educational resources" includes: "State educational agencies, local educational agencies, private nonprofit elementary and secondary schools, institutions of higher education, public and nonprofit agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources."

(20 U.S.C. 1832)

"Handicapped children" means those children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or otherwise health impaired, and who by reason thereof require special education and related services.

(20 U.S.C. 1803(a)(8)(B))

"Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(20 U.S.C. 1803(a)(4))

"Minor remodeling" (notwithstanding the definition set forth in § 100.1 of this chapter) means minor alterations which are (a) made in a previously completed building used or to be used as a laboratory or classroom for instruction in academic subjects, and (b) needed to make effective use of equipment in providing instruction in such subjects. The term does not include building construction, structural alterations to buildings, or building maintenance, repair, or renovation.

(20 U.S.C. 1821(a)(2))

"Outlying Areas" means each of the following: Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1802(a))

"School library resources" means books, periodicals, documents, audiovisual materials, and related library materials which are suitable for use by elementary or secondary school children and teachers and which with reasonable care and use may be expected to last more than one year. The term does not include furniture or equipment.

(20 U.S.C. 1821(a)(1))

"State," except as used in § 134.14, means the several States in the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1802(a))

"State advisory council" means the advisory council established under section 403(b) of the Act.

(20 U.S.C. 1803(b))

"State educational agency" means the State board of education or other agency or officer primarily responsible for State supervision of public elementary and secondary schools.

(20 U.S.C. 1803(a)(1))

"Teacher" includes guidance counselors, school librarians, and supervisory staff, as well as instructional staff.

(20 U.S.C. 1821(a))

"Testing" means the use of tests which measure abilities and aptitudes pertaining to an individual's educational or career development.

(20 U.S.C. 1821(a)(3)(A))

"Text book" means a book, reusable workbook, or manual, whether bound or in looseleaf form, intended for use as a principal source of study materials for a given class or group of students, a copy of which is expected to be available for the individual use of each student in such class or group.

(20 U.S.C. 1821(a)(1))

Comment. The definition of "school library resources" is derived from section 203(a)(2)(A) of Title II of the Elementary and Secondary Education Act and existing administrative practice under that program. The definition currently appearing in the Title II regulations (45 CFR 117.1(i)) has been simplified, but it is not intended to make any substantive change in the types of library resources and instructional materials which may be purchased under Part B of Title IV of the Act (section 421(a)(1)) from the types of library resources and instructional materials which currently may be purchased under Title II.

§ 134.3 General provisions regulations.

Assistance under Title IV of the Act is subject to applicable provisions contained in subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 1801)

Subpart B—Annual Program Plans

General

§ 134.10 Submission.

(a) "Any State which desires to receive grants under" Title IV of the Act shall "submit to the Commissioner" an annual program plan "in such detail as the Commissioner deems necessary."

(20 U.S.C. 1232c(b)(1)(A)(i); 1803(a))

(b) The annual program plan shall contain the provisions set forth in this subpart and section 434(b)(1)(B)(ii) of the General Education Provisions Act, as amended.

(20 U.S.C. 1232c(b)(1)(B)(ii); 1803(a))

Comment. Section 434(b) of the General Education Provisions Act (added by Section 511 of Pub. L. 93-380, enacted August 21, 1974) provides for the submission by each State of (1) a general application containing five assurances, and (2) an annual program plan for each Office of Education program under which funds are provided to local educational agencies through, or under the supervision of, the State educational agency. Regulations governing submission of these documents will be published in the FEDERAL REGISTER as amendments to the Office of Education General Provisions Regulations (45 CFR Part 100b, which applies to the State-

administered programs). Under section 434 (b) and the implementing regulations, the submission of the general application and an annual program plan will be in lieu of submission of a State plan for Title IV. The provisions to be included in the annual program plan for Title IV are set forth in proposed §§ 134.11–134.21 of these regulations and Section 434(b)(1)(B)(ii) of the General Education Provisions Act, which states that each annual program plan shall "set forth a statement describing the purposes for which Federal funds will be expended during the fiscal year for which the annual program plan is submitted."

PROVISIONS TO BE INCLUDED IN ANNUAL PROGRAM PLAN

§ 134.11 State educational agency.

The annual program plan shall designate "the State educational agency as the State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the" annual program plan.

(20 U.S.C. 1803(a)(1))

§ 134.12 Allowable expenditures.

(a) The annual program plan shall set "forth a program under which funds paid to the State from its allotments under section 402" of the Act "will be expended solely for the programs and purposes authorized by Parts B and C of" Title IV of the Act, "and for administration of the" annual program plan.

(20 U.S.C. 1803(a)(2))

(b) The annual program plan shall include a detailed description of activities planned for the purposes authorized under section 431(a) (1), (2), and (4) of the Act and for the purpose of strengthening local educational agencies under section 431(a)(3) of the Act. This description shall include: (1) measurable objectives, (2) the specific activities planned to achieve each such objective, (3) the affected populations, and (4) the amount of funds allocated to meet each such objective.

(20 U.S.C. 1803(a))

(c) The annual program plan shall include a detailed description of activities planned for the purpose of strengthening the State educational agency under section 431(a)(3) of the Act. This description shall include: (1) measurable objectives, (2) the specific activities planned to achieve each such objective, (3) the amount of funds allocated to meet each such objective, and (4) with respect to each such objective, an indication whether the State educational agency intends to contract for services or equipment.

(20 U.S.C. 1803(a))

(d) The annual program plan shall include (1) a detailed description of the activities to be carried out by the State advisory council and (2) the amount of funds which will be provided for each such activity "from funds available for administration of the annual program plan."

(20 U.S.C. 1803 (a), (b)(4))

Comment. Section 403(b)(4) of the Act requires the Commissioner to assure that funds sufficient for the functions of the State advisory council "are made available to each council from funds available for administration of the [annual program] plan." The information asked for in § 134.12(d) is designed to serve this purpose, and is deemed to be the type of "detail" which the Commissioner is authorized to require in the annual program plan, which shall be "in such detail as the Commissioner deems necessary." (section 403(a) of the Act.)

§ 134.13 Participation of children and teachers in private schools.

(a) The annual program plan shall provide "assurances that the requirements of section 406" of the Act "(relating to the participation of pupils and teachers in" private nonprofit "elementary and secondary schools) will be met, or" shall certify "that such requirements cannot legally be met in such State."

(20 U.S.C. 1803(a)(3); 1806(a))

(b) A certification that a State cannot legally meet the requirements of section 406 of the Act shall be made by the State attorney general or other appropriate legal officer.

(20 U.S.C. 1803(a)(3))

§ 134.14 Distribution of funds to local educational agencies.

(a) The annual program plan shall provide "assurance that:

(1) funds" which the State educational "agency receives from appropriations made under section 401(a)" of the Act "will be distributed among local educational agencies according to the enrollments in public and nonpublic schools within the school districts of such agencies, except that substantial funds will be provided to: (i) local educational agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding payments made under Title I of" the Elementary and Secondary Education "Act) is no greater than the average per pupil expenditure in the State, and (ii) local educational agencies which have the greatest number or percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is not the dominant language; and

(2) funds" which the State educational "agency receives from appropriations made under section 401(b)" of the Act "will be distributed among local educational agencies on an equitable basis recognizing the competitive nature of the grantmaking except that the State educational agency shall provide assistance in formulating proposals and in operating programs to local educational agencies which are less able to compete due to small size or lack of local financial resources."

(b) The annual program plan "shall set forth the specific criteria the State educational agency has developed and will apply to meet the requirements of" paragraph (a) of this section.

(20 U.S.C. 1803(a)(4))

§ 134.15 Part B funds; discretion of local educational agencies.

The annual program plan shall provide "that each local educational agency will be given complete discretion (subject to the provisions of section 406" of the Act) "in determining how the funds it receives from appropriations made under section 401(a)" of the Act "will be divided among the various programs described in section 421" of the Act "except that, in the first year in which appropriations are made pursuant to Part B" of Title IV of the Act "each local educational agency will be given complete discretion with respect to 50 per centum of the funds appropriated for that part attributable to that local educational agency."

(20 U.S.C. 1803(a)(5))

§ 134.16 Evaluation, dissemination, and adoption of promising practices.

(a) The annual program plan shall provide "for the adoption of effective procedures (1) for an evaluation by the State advisory council, at least annually, of the effectiveness of the programs and projects assisted under the" annual program plan, "(2) for the appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects, and (3) for the adoption, where appropriate, of promising educational practices developed through innovative, programs supported under part C" of Title IV of the Act.

(20 U.S.C. 1803(a)(6))

(b) The annual program plan shall include a description of and calendar for each of the activities set forth in paragraph (a) of this section.

(20 U.S.C. 1803(a))

§ 134.17 Single application from a local educational agency.

The annual program plan shall provide "that local educational agencies applying for funds under" Title IV of the Act "shall be required to submit only one application for such funds for any one fiscal year."

(20 U.S.C. 1803(a)(7))

§ 134.18 Use of funds.

The annual program plan shall provide that:

(a)(1) "of the funds the State receives under Section 401" of the Act "for the first fiscal year for which such funds are available," the State educational "agency will use for administration of the" annual program "plan not to exceed whichever is greater: (i) 5 per centum of the amount so received ($50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a)(3)" of the Act "or (ii) the amount

it received for the fiscal year ending June 30, 1973, for administration of the programs referred to in section 421(b) and 431(b)" of the Act "and the remainder of such funds shall be made available to local educational agencies to be used for the purposes of parts B and C, respectively" of Title IV of the Act, and

(2) "of the funds the State receives under section 401" of the Act "for fiscal years thereafter, it will use for administration of the" annual program "plan not to exceed whichever is greater: (i) 5 per centum of the amount so received ($50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a)(3)" of the Act "or (ii) $225,000, and "the remainder of such funds shall be made available to local educational agencies to be used for purposes of parts B and C, respectively" of Title IV of the Act;

"(b) not less than 15 per centum of the amount received pursuant to section 401(b)" of the Act "in any fiscal year (not including any amount used for purposes of section 431(a)(3)" of the Act) "shall be used for special programs or projects for the education of children with specific learning disabilities and handicapped children, and"

"(c) not more than the greater of (1) 15 per centum of the amount which such State receives pursuant to section 401(b)" of the Act "in any fiscal year, or (2) the amount available by appropriation to such State in the fiscal year ending June 30, 1973, for purposes covered by section 431(a)(3)" of the Act "shall be used for purposes of section 431(a)(3)" of the Act "(relating to strengthening State and local educational agencies)."

(20 U.S.C. 1803(a)(8))

Comment. The following example shows how the set-asides referred to in the above section should be calculated:

Assume that a State has an allotment of $1 million for Part B and an allotment of $1 million for Part C.

The set-aside for section 431(a)(3) purposes should be calculated first since this amount is deducted from the base figure for calculating the set-asides for administration and for the education of children with specific learning disabilities and handicapped children. The State may use for the purpose of strengthening State and local educational agencies an amount not to exceed the greater of: (1) 15 percent of the State's Part C allotment or (2) the amount available to that State for section 431(a)(3) purposes in fiscal year 1973. Assuming that the 15 percent figure is the larger and assuming the full 15 percent is used for this purpose, the set-aside would be $150,000 in this example.

The next set-aside to be calculated is the 5 percent maximum for administration. In the present example, this would be 5 percent of the $1 million for Part B plus 5 percent of the remaining $850,000 for Part C. (It should be noted that the statute provides that in the first year of consolidation a State can use up to the amount available to that State in fiscal year 1973 for administration of the categorical programs if this amount is greater than the 5 percent figure. In subsequent years the State can use for administration up to the 5 percent figure referred to above or $225,000, whichever is greater. For the purposes of this example, the 5 percent figure is used to calculate the amount available for State administration.) Thus, in the example, administrative expenses cannot exceed $50,000 for administration of Part B and $42,500 for administration of Part C.

The last set-aside to be calculated is 15 percent (as a minimum) of the Part C allotment (after the set-aside for strengthening State and local educational agencies is taken out) for special programs or projects for the education of children with specific learning disabilities and handicapped children. In this example, the 15 percent set-aside would be calculated against $850,000 and would equal $127,500.

In the example, therefore, of the $1 million allotted for Part B, $50,000 is available for administration and the remaining $950,000 is available for program purposes.

Of the $1 million allotted for Part C, assuming $150,000 is set aside for strengthening State and local educational agencies and assuming $42,500 is set aside for administration of the annual program plan for Title IV, $807,500 ($1 million−$150,000+$42,500)) is available for program purposes, and of that amount at least $127,500 is for programs for the handicapped.

§ 134.19 Use and access by handicapped persons.

The annual program plan shall provide "assurances that in the case of any project for the repair, remodeling, or construction of facilities, that the facilities shall be accessible to and usable by handicapped persons."

§ 134.20 Commingling of funds.

The annual program plan shall set "forth policies and procedures which give satisfactory assurance that Federal funds made available under" Title IV of the Act "for any fiscal year will not be commingled with State funds."

(20 U.S.C. 1803(a)(10))

§ 134.21 Maintenance of expenditures from non-Federal sources.

The annual program plan shall give "satisfactory asssurance that the aggregate amount to be expended by the State and its local educational agencies from funds derived from non-Federal sources for programs described in section 421(a)" of the Act "for a fiscal year will not be less than the amount so expended for the preceding fiscal year."

(20 U.S.C. 1803(a)(11))

Requirements Relating to Certain Annual Program Plan Provisions

§ 134.37 Application by a local educational agency.

(a) The application by a local educational agency under § 134.17 shall be submitted to the State educational agency in accordance with such instructions and forms as the State educational agency may prescribe, consistent with the requirements of Title IV of the Act, this part, and Parts 134a and 134b of this chapter.

(b) The submission of a single application under § 134.17 shall not preclude the State educational agency from making separate subgrants under Parts B and C of Title IV of the Act to the local educational agency.

(20 U.S.C. 1803(a)(7); H. Rept. No. 93-805, p. 26 (1974))

§ 134.38 State administrative funds in fiscal year 1976.

(a) Funds provided under § 134.18(a) for administration of the annual program plan shall be used only for the administration of the State's annual program plan under Title IV of the Act.

(b) Funds for State administration in fiscal year 1976 of Titles II and III of the Elementary and Secondary Education Act of 1965 and Title III-A of the National Defense Education Act of 1958 may be drawn from the respective allotments for such programs under section 401(c) (1) and (2) of the Act, subject to any applicable limitations on State administrative funds set forth in such Acts.

(20 U.S.C. 1801; 1803(a)(8))

§ 134.41 Data relating to maintenance of expenditures from non-Federal sources.

The State educational agency shall collect and maintain data to verify compliance with the provision set forth in § 134.21, and make such data available to the Commissioner on request.

(20 U.S.C. 1803(a)(11))

Subpart C—State Advisory Council

§ 134.50 Establishment.

"Any State which desires to receive grants under" Title IV of the Act "shall establish an advisory council as provided in" section 403(b) of the Act.

(20 U.S.C. 1803(a))

§ 134.51 Membership.

(a) The membership of the State advisory council shall include at least one person "representative of" each of the following:

(1) public elementary and secondary schools;

(2) private elementary and secondary schools;

(3) institutions of higher education;

(4) fields of professional competence in dealing with children needing special education because of physical or mental handicaps;

(5) fields of professional competence in dealing with children needing special education because of specific learning disabilities;

(6) fields of professional competence in dealing with children needing special education because of severe educational disadvantage;

(7) fields of professional competence in dealing with children needing special education because of limited English-speaking ability;

(8) fields of professional competence in dealing with children needing special education because they are gifted or talented; and

(9) fields of professional competence in guidance and counseling.

(b) The membership of the State advisory council shall also include such other persons as may be necessary to make such council "broadly representative of the cultural and educational re-

sources of the State" "and of the public."

(20 U.S.C. 1803(b)(1)(A); H. Rept. No. 93-805, p. 28 (1974))

§ 134.52 Certification and qualification of members.

(a) The certification required under section 403(b)(2) of the Act shall include the name of each person who is to serve on the State advisory council (including the name and address of the Chairman), the cultural or educational resources of the State which each person represents, and a statement that the persons appointed are qualified to represent those resources.

(20 U.S.C. 1803(b)(2))

(b) The State shall maintain on file, and furnish to the Commissioner at his request, the qualifications of the persons appointed to the State advisory council.

(20 U.S.C. 1803(b)(1)(A))

§ 134.53 Advisory functions.

The State advisory council shall "advise the State educational agency on the preparation of, and policy matters arising in the administration of, the" annual program "plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under" Title IV of the Act.

(20 U.S.C. 1803(b)(1)(B))

Comment. This section repeats the statutory language of section 403(b)(1)(B) of the Act. The State advisory council is required to advise on each of the matters set forth in that section: preparation of the annual program plan and policy matters arising in the administration of the annual program plan. The council shall advise regarding the development of criteria for the distribution of funds and shall advise regarding the approval of applications under Title IV of the Act.

§ 134.54 Notification of acceptance of certification.

The Commissioner will provide written notification to the State educational agency and the Chairman of the State advisory council when the certification under Section 403(b)(2) of the Act has been accepted.

(20 U.S.C. 1803(b)(2), (3))

§ 134.55 Evaluation of programs and projects.

(a) The State advisory council shall "evaluate all programs and projects assisted under" Title IV of the Act at least annually.

(b) Evaluations by the State advisory council shall include the scope and quality of programs and projects for children enrolled in public elementary and secondary schools and private nonprofit elementary and secondary schools and evaluate the extent to which the objectives which were set forth pursuant to § 134.12(b) were met.

(20 U.S.C. 1803(b)(1)(C), (D); 1806(a))

§ 134.56 Report to the Commissioner.

The State advisory council shall "prepare at least annually and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner."

(20 U.S.C. 1803(b)(1)(D))

Subpart D—Outlying Areas; Departments of Defense and Interior

§ 134.70 Annual program plans.

(a) Any Outlying Area which desires to receive funds under Title IV of the Act shall submit an annual program plan which meets the substance of the requirements of Subpart B of this part, except §§ 134.14, 134.15, and 134.17.

(b) The Department of the Interior may apply for funds under section 402(a)(1) of the Act by submitting an annual program plan (to provide programs authorized by Title IV of the Act to "children and teachers in elementary and secondary schools operated" by it "for Indian children") which meets the substance of the requirements of §§ 134.12(a), 134(a)(2) and (3), (b), 134.18(b) and 134.19, and section 434(b)(1)(B)(ii) of the General Education Provisions Act, as amended.

(c) The Department of Defense may apply for funds under section 402(a)(1) of the Act by submitting an annual program plan (to provide programs authorized by Title IV of the Act to "children and teachers in" its "overseas dependents schools") which meets the substance of the requirements of §§ 134.12(a), 134.16(a)(2) and (3), (b), 134.18(b), 134.19, and section 434(b)(1)(B)(ii) of the General Education Provisions Act, as amended.

(20 U.S.C. 1802(a)(1))

Comment. Neither the Department of the Interior nor the Department of Defense may use the funds received for Part C programs for activities authorized by section 431(a)(3) of the Act.

§ 134.71 Application procedures.

(a) The Departments of Defense and Interior and the Outlying Areas may designate administrative units to submit applications for funds under Title IV of the Act.

(b) Applications under paragraph (a) of this section shall be submitted to the appropriate Department or Outlying Area in accordance with such instructions and forms as it may prescribe.

(c) Each application under paragraph (a) of this section shall include a description of the purposes for which such funds will be used.

(20 U.S.C. 1802(a)(1))

§ 134.72 Single application.

Administrative units designated under § 134.71(a) shall be required to submit only one application for funds under Title IV of the Act for any one fiscal year.

(20 U.S.C. 1802(a)(1))

§ 134.73 Distribution of funds on the basis of educational needs.

The Departments of Defense and Interior and each Outlying Area, receiving funds under Title IV of the Act, shall use a substantial amount of such funds to provide services, materials, and equipment to schools attended by children having the greatest educational needs for those services, materials, and equipment.

(20 U.S.C. 1802(a)(1))

§ 134.74 Apportionment of funds.

(a) Funds appropriated under section 402(a)(1) of the Act will be apportioned among the Outlying Areas and the Departments of Defense and Interior on the basis of the number of children enrolled in the schools of such Outlying Areas and Departments.

(b) The amount of funds of an Outlying Area or Department under paragraph (a) of this section which the Commissioner determines will not be required for any fiscal year will be reapportioned to the other Outlying Areas and Departments in proportion to their original apportionments for that year.

(20 U.S.C. 1802(a)(1))

Subpart E—Administration

§ 134.80 Allowable costs.

Allowability of costs under Title IV of the Act is governed by Subpart G of Part 100b of this chapter.

(20 U.S.C. 1803(a)(2))

§ 134.81 Standards for selection of personal property.

The State educational agency shall develop standards which may be used by local educational agencies in acquiring expendable and non-expendable personal property (as defined in § 100.1 of this chapter) of appropriate quality and in appropriate quantities.

(20 U.S.C. 443(a)(4); 823(a)(2)(B)(i); 1803(a)(5); 1821(b); 1831(b))

Comment. This section is not intended to limit the complete discretion of local educational agencies (set forth in section 403(a)(5) of the Act) in determining how the funds it receives from appropriations made under Part B of Title IV of the Act will be divided among the various programs described in section 421 of the Act.

§ 134.82 Charges for use.

No charge shall be levied against children or school personnel for the ordinary use of expendable and nonexpendable personal property acquired under Title IV of the Act.

(20 U.S.C. 1801)

Subpart F—Participation by Children Enrolled in Private Schools

§ 134.89 Scope of subpart.

(a) For the purposes of this subpart, "local educational agency" means any "local educational agency which is a recipient of funds under" Title IV of the Act "or which serves the area in which a program or project assisted under" Title IV of the Act "is located."

(b) For the purposes of this subpart, "private school children" means "children who are enrolled in private non-

profit elementary and secondary schools" "in the school district of a local educational agency" to which this subpart applies.

(20 U.S.C. 1806(a))

Comment. Section 406(a) of the Act requires that benefits be provided to private school children by any local educational agency "which is a recipient of funds under" Title IV of the Act "or which serves the area in which a program or project is located." No guidance is provided in the legislation itself or its legislative history as to how a local educational agency which does not receive funds under Title IV is to provide these benefits. Therefore, § 134.89(a) merely repeats the statutory language.

§ 134.90 Benefits.

(a) The local educational agency "shall provide for the benefit of" private school children "secular, neutral, and nonideological services, materials, and equipment" authorized under Title IV of the Act, "including the repair, minor remodeling, or construction of public school facilities as may be necessary for their provision (consistent with" §§ 134.98 and 134.99).

(b) If the local educational agency determines that it is not "feasible or necessary" to locate the "services, materials, and equipment" referenced in paragraph (a) of this section "in one or more" "private schools," the local educational agency "shall provide such other arrangements as will assure equitable participation of" private school children "in the purposes and benefits of" Title IV of the Act.

(20 U.S.C. 1806(a))

§ 134.91 Number of private school children to be served.

The number of private school children to receive benefits under Title IV of the Act shall be determined by the local educational agency on a basis comparable to that used in determining the number of children enrolled in public schools to receive such benefits.

(20 U.S.C. 1806(a))

§ 134.92 Expenditures.

Subject to § 134.93, the average expenditure per child for private school children who receive benefits under Title IV of the Act shall be "equal" to the average expenditure per child for children enrolled in public schools who receive such benefits.

(20 U.S.C. 1806(b))

§ 134.93 Criteria for adjustment of expenditures.

(a) The local educational agency shall adjust its average expenditure per private school child if (1) the needs of private school children with respect to benefits under Title IV of the Act differ from such needs of children enrolled in public schools, and (2) the actual cost per child of such benefits to meet the needs of private school children is lesser or greater than the actual cost per child of such benefits to meet the needs of public school children.

(b) Any such adjustments shall be designed to assure the "equitable participation of" private school "children in the purposes and benefits of" Title IV of the Act.

(20 U.S.C. 1806(a), (b))

§ 134.94 Concentration of programs or projects.

In addition to the requirements set forth in §§ 134.92 and 134.93, "when funds available to a local educational agency under Title IV of the Act "are used to concentrate programs or projects on a particular group, attendance area, or grade or age level," private school children "who are included within the group, attendance area, or grade or age level selected for such concentration shall" be assured equitable participation in the purposes and benefits of such programs or projects."

(20 U.S.C. 1806(b))

§ 134.95 Consultation with private school officials.

The local educational agency shall consult with "appropriate private school officials" with respect to all matters including planning, relating to the requirements of this subpart prior to making any determinations or decisions affecting such matters.

(20 U.S.C. 1806(a), (b))

§ 134.96 Separate compliance for Parts B and C.

(a) Matters relating to assistance under Part C of Title IV of the Act shall have no bearing on a determination of whether a State or local educational agency is in compliance with section 406 of the Act or this subpart with respect to assistance under Part B of Title IV of the Act.

(b) Matters relating to assistance under Part B of Title IV of the Act shall have no bearing on a determination of whether a State or local educational agency is in compliance with section 406 of the Act or this subpart with respect to assistance under Part C of Title IV of the Act.

(20 U.S.C. 1801(a), (b))

§ 134.97 Information in the project application.

Each application submitted to the State educational agency shall (a) describe how the local educational agency will fulfill the requirements of §§ 134.90–134.95 (inclusive) and (b) contain information indicating: (1) the number of private school children in the school district of the local educational agency; (2) the number of private school children to be served by the project and the basis on which such children were selected; (3) the manner in which and the extent to which "appropriate private school officials" were consulted; (4) the places at which and the times during which private school children will be served; (5) the differences, if any, in the kind and extent of services to be provided public and private school children and the reasons for such differences; and (6) the adjustments (if any) which the local educational agency has made under §§ 134.92 and 134.93, and the basis on which such adjustments were made.

(20 U.S.C. 1806(a), (b))

§ 134.98 Control by public agency.

"The control of funds provided under" Title IV of the Act "and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in" Title IV of the Act, "and a public agency shall administer such funds and property."

(20 U.S.C. 1806(c)(1))

§ 134.99 Limitations on personnel providing services.

"The provision of services pursuant to" this subpart "shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under" Title IV of the Act "shall not be commingled with State or local funds."

(20 U.S.C. 1806(c)(2))

§ 134.100 Private schools not to benefit.

(a) Use of funds under Title IV of the Act shall not inure to the benefit of any private school.

(b) Personal property acquired under Title IV of the Act shall not become a part of the permanent structure of any private school and must be capable of being installed and removed without requiring remodeling of the premises.

(20 U.S.C. 1806(c); *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971))

§ 134.101 Avoidance of separate classes.

Any project to be carried out in public facilities which involves joint participation by children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid the separation of participating children by school enrollment or religious affiliation.

(20 U.S.C. 1806(a))

§ 134.102 Complaint procedure.

(a) Any organization or individual may file a written complaint with the State educational agency setting forth: (1) an allegation that, with respect to a program or project under Title IV of the Act being conducted or approved by the State educational agency to be conducted, eligible private school children will not receive benefits on an equitable basis, and (2) the facts on which such allegation is based.

(b) The State educational agency shall, within sixty days from the receipt of the complaint, file a report with the Commissioner, with a copy to the com-

plainant, setting forth the nature of the complaint and the actions taken to resolve the matter.

(c) If after such sixty-day period has elapsed, either the State educational agency, the Commissioner, or the complainant feels that the problem has not been satisfactorily resolved, the Commissioner will review the matter and take appropriate action.

(20 U.S.C. 1806(e))

§ 134.103 Award of subgrants to local educational agencies.

The State educational agency shall not make any subgrant under Part B or Part C of Title IV of the Act which does not meet the requirements of section 406 of the Act and this subpart.

(20 U.S.C. 1806(a), (b))

§ 134.104 Waiver in the case of legal prohibition.

(a) "If a State is prohibited by law from providing for the participation in programs of" private school children "as required" under Section 406 of the Act and this subpart, the Commissioner may waive such requirements.

(20 U.S.C. 1806(d))

(b) The State educational agency shall not approve an application subject to paragraph (a) of this section until the Commissioner has waived such requirement.

(20 U.S.C. 1806 (a), (b), (d))

(c) The State educational agency shall promptly notify the Commissioner when approval of any application is being delayed under paragraph (b) of this section, and shall, in addition to the certification provided under § 134.13(a), provide the Commissioner with a written interpretation of the applicable law, prepared by the State attorney general or other appropriate State legal officer.

(20 U.S.C. 1232c(b)(1)(A)(ii)(III); 1806(d))

§ 134.105 Provision of services by the State educational agency.

(a) If at any time after the approval of its application, "the local educational agency" substantially fails "to provide for the participation on an equitable basis of" private school children as required by section 406 of the Act and this subpart, the State educational agency may make arrangements either directly or through contract (subject to the provisions in Subpart I of Part 100b of this chapter), for such participation.

(20 U.S.C. 1806(e))

(b) In each such case, the State educational agency shall promptly notify the Commissioner whether it intends to take action under paragraph (a) of this section.

(20 U.S.C. 1806(e))

Comment. This section provides State educational agencies with an opportunity to remedy substantial failures by local educational agencies to serve private school children. If the State and local educational agency are the same (for example, in an Outlying Area), this section would not apply.

§ 134.106 Provision of services by the Commissioner.

In the case of a prohibition of law described in § 134.104(a), or if a State educational agency does not make satisfactory arrangements under § 134.105(a) within a reasonable period of time, the Commissioner will "arrange for the provision of services to" the affected private school "children."

(20 U.S.C. 1806(e))

§ 134.107 Cost of services under an arrangement by the State educational agency or the Commissioner.

(a) When the State educational agency makes arrangements for services under § 134.105, it shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate amount granted to the affected local educational agency.

(b) When the Commissioner makes arrangements for services under § 134.106, "he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allotment of the State" under Title IV of the Act.

(20 U.S.C. 1806(f))

§ 134.108 Suspension and termination.

(a) Section 434(c) of the General Education Provisions Act (as amended) (1) requires that whenever the Commissioner finds, after reasonable notice and an opportunity for hearing, that there has been a failure by a recipient to comply substantially with the terms of a Federal program for which the Commissioner has administrative responsibility, he shall notify such recipient that payments will not be made to such recipient under that program until there is no longer any such failure to comply, and (2) provides for suspension of payments to the recipient pending such hearing.

(20 U.S.C. 1232c(c))

(b) Since the Commissioner will provide services under § 134.106 only where a State or local educational agency has failed to comply substantially with section 406 of the Act, section 434(c) of the General Education Provisions Act requires that payments shall be withheld from such State or local educational agency until there is no longer any such failure to comply.

(c) Where the Commissioner proposes to provide services under § 134.106, the notice and opportunity for hearing provided under section 406(g)(1) of the Act shall be combined with the notice and opportunity for hearing provided under section 434(c) of the General Education Provisions Act.

(20 U.S.C. 1232c(c); 1806(g)(1))

(d) This section shall not apply where the Commissioner has granted a waiver under § 134.104(a).

(20 U.S.C. 1232c(c); 1806(d), (e))

Comment. Under section 406(d) of the Act, the Commissioner may (but is not required to) waive the requirement of section 406 where a State is prohibited by law from providing for the participation of private school children under Title IV. Section 406(e), which applies to situations where a State or local educational agency has "substantially failed" to provide for such participation, does not authorize the Commissioner to waive the requirement of section 406. Therefore, in those cases in which no waiver is granted and there is substantial failure, the local educational agency would lose its Title IV funds for the affected Part.

This statutory language is in contrast with the provisions applicable to Title I of the Elementary and Secondary Education Act (which were enacted in the same law as Title IV—Pub. L. 93-380). The Title I provisions specifically require the Commissioner to waive the requirement for participation of private school children when he arranges for services to them, both where there is a legal prohibition and where there has been a substantial failure by the local educational agency. (See sections 141A(b)(1) and 141A(b)(2) of Title I, added by section 101(a)(6) of Pub. L. 93-380.)

If the requirement for participation under section 406 is not waived (and in the case of substantial failure, it cannot be waived), a finding of failure to comply with section 406 (for the purposes of section 406(d) and (e)) would also constitute a "failure * * * to comply substantially" with the terms of Title IV under section 434(c) of the General Education Provisions Act (added by Section 511 of Pub. L. 93-380). This section of the regulations combines the necessary proceedings under section 406(g)(1) of Title IV and section 434(c) of the General Education Provisions Act.

§ 134.109 Notice; opportunity for hearing; judicial review.

Final actions by the Commissioner under this subpart are subject to the requirements relating to notice, opportunity for hearing, and judicial review set forth in section 406(g) of the Act.

(20 U.S.C. 1806(g))

PART 134a—LIBRARIES AND LEARNING RESOURCES

Subpart A—General

Sec.

Subpart B—School Library Resources, Textbooks, and Other Instructional Materials

Subpart C—Instructional Equipment and Minor Remodeling

AUTHORITY: Part B of Title IV, Pub. L. 89-10, as amended, 88 Stat. 542-543 (20 U.S.C. 1821), unless otherwise noted.

Subpart A—General

§ 134a.1 Scope.

(a) This part applies to Federal financial assistance under Part B of Title IV of the Act (as defined in § 134.2 of this chapter).

(b) Regulations applicable to both Part B and Part C of the Act are set forth in Part 134 of this chapter.

(20 U.S.C. 1801, 1821)

§ 134a.2 Authorized activities.

Each State may receive a grant under this part (pursuant to the annual program plan approved under section 403 of the Act):

(a) "for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools;

(b) for the acquisition of instructional equipment (including laboratory and other special equipment, including audio-visual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools, and for minor remodeling of laboratory or other space used by such schools for such equipment; and

(c) for (1) a program of testing students in the elementary and secondary schools,

(2) programs of counseling and guidance services for students at the appropriate levels in elementary and secondary schools designed (i) to advise students of courses of study best suited to their ability, aptitude, and skills, (ii) to advise students with respect to their decisions as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, and (iii) to encourage students to complete their secondary school education, take the necessary courses for admission to postsecondary institutions suitable for their occupational or academic needs, and enter such institutions, and such programs may include short-term sessions for persons engaged in guidance and counseling in elementary and secondary schools, and

(3) programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools."

(20 U.S.C. 1821(a))

§ 134a.3 Distribution of resources.

(a) Local educational agencies receiving funds under § 134.14(a)(1)(ii) (for "children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is not the dominant language") shall use such funds (taking into account the requirements of section 406 of the Act) to provide services, materials, and equipment under Part B of Title IV of the Act (1) in schools attended by such children (subject to § 134.90(b)) and (2) for the benefit of such children.

(20 U.S.C. 1803(a)(4)(ii))

(b) Local educational agencies receiving funds under § 134.14(a)(1) of this chapter (except subdivision (ii) thereof) may concentrate the services, materials, and equipment provided under Part B of Title IV of the Act in one or more schools according to the educational needs of the children attending such schools (taking into account the requirements of Section 406 of the Act).

(20 U.S.C. 1803(a)(4))

§ 134a.4 Administrative costs of local educational agencies.

No administrative costs, except those properly incurred by the State educational agency, shall be allowable under Part B of Title IV of the Act, either on a direct cost or on an indirect cost basis.

(20 U.S.C. 1821 (a), (b))

§ 134a.5 Allowable costs.

(a) For the purposes of this part, "acquisition," as defined in § 100.1 of this chapter, shall include the costs of processing and installation.

(b) Expenditures for equipment under this part may include (1) the cost of raw or processed materials or component parts to be made into finished products, and (2) the cost of making and assembling the equipment.

(20 U.S.C. 1821(a) (1) and (2))

Subpart B—School Library Resources, Textbooks, and Other Instructional Materials

§ 134a.10 Consideration of the needs of occupational education.

The State educational agency shall develop specific criteria to be used by local educational agencies in acquiring school library resources, textbooks, and other instructional materials under section 421(a)(1) of the Act so as to give consideration to the needs for instruction, orientation, and guidance and counseling in occupational education. Such consideration shall be on a basis equal with the consideration given to meeting other educational needs.

(20 U.S.C. 1821(b); 823(a)(3)(D))

§ 134a.11 Distribution and control.

The costs of administration of the annual program plan with respect to Part B of Title IV of the Act may include the distribution and control by a local educational agency of school library resources, textbooks, and other printed and published instructional materials acquired under § 134a.2(a) for the use of children and teachers in public and private elementary and secondary schools.

(20 U.S.C. 1821(b); 823(a)(2)(B)(ii))

Subpart C—Instructional Equipment and Minor Remodeling

§ 134a.20 Expansion or improvement of services.

The State educational agency may use funds it receives for administration of Part B of Title IV of the Act for expansion or improvement of supervisory or related services in public elementary and secondary schools in the fields of academic subjects, as well as other authorized activities.

(20 U.S.C. 1821(b); 443(a)(5)(A))

PART 134b—EDUCATIONAL INNOVATION AND SUPPORT

Sec.

Subpart A—General

134b.1 Scope.
134b.2 Authorized activities.

Subpart B—Supplementary Centers and Services

134b.10 Activities.

Subpart C—Health and Nutrition

134b.20 Health and nutrition projects.

Subpart D—Strengthening State and Local Educational Agencies

State Educational Agencies

134b.30 State educational agency activities.
134b.31 Interstate tranafer funds.

Local Educational Agencies

134b.40 Local educational agency activities.

Comprehensive Planning and Evaluation

134b.50 Comprehensive educational planning and evaluation activities.

Authority: Part C of Title IV, P.L. 89-10, as amended, 88 Stat. 543-544 (20 U.S.C. 1831), unless otherwise noted.

Subpart A—General

§ 134b.1 Scope.

(a) This part applies to Federal financial assistance under Part C of Title IV of the Act (as defined in § 134.2 of this chapter).

(b) Regulations applicable to both Part B and Part C of Title IV of the Act are set forth in part 134 of this chapter.

(20 U.S.C. 1801, 1831)

§ 134b.2 Authorized activities.

Each State may receive a grant under this part (pursuant to the annual program plan approved under section 403 of the Act):

(a) "for supplementary educational centers and services to stimulate and assist in the provision of vitally needed educational services (including preschool education, special education, compensatory education, vocational education, education of gifted and talented children, and dual enrollment programs) not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school programs (including the remodeling, lease, or construction of necessary facilities) to serve as models for regular school programs;

(b) for the support of demonstration projects by local educational agencies or private educational organizations designed to improve nutrition and health services in public and private elementary and secondary schools serving areas with high concentrations of children from low-income families, and such projects may include payment of the cost of (1) coordinating nutrition and health service resources in the areas to be served by a project, (2) providing supplemental health, mental health, nutritional, and

food services to children from low-income families when the resources for such services available to the applicant from other sources are inadequate to meet the needs of such children, (3) nutrition and health programs designed to train professional and other school personnel to provide nutrition and health services in a manner which meets the needs of children from low-income families for such services, and (4) the evaluation of projects assisted with respect to their effectiveness in improving school nutrition and health services for such children;

(c) for strengthening the leadership resources of State and local educational agencies, and for assisting those agencies in the establishment and improvement of programs to identify and meet educational needs of States and of local school districts;

(d) for making arrangements with local educational agencies for the carrying out by such agencies, in schools which (1) are located in urban or rural areas, (2) have a high percentage of children from low-income families, and (3) have a high percentage of such children who do not complete their secondary school education, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children who do not complete their secondary school education."

(20 U.S.C. 1831(a))

Comment. Section 134b.2 repeats the statutory language in section 431(a) of the Act. With respect to § 134b.2(d), which refers to "schools * * * located in urban or rural areas," neither the Act nor its legislative history suggests what type or types of area should be excluded from this phrase (if any). It is the interpretation of the Commissioner that there is no type of area that would be excluded as not falling within the meaning of the terms "urban" or "rural areas."

Subpart B—Supplementary Centers and Services

§ 134b.10 Activities.

Activities under § 134b.2(a) may only include:

(a) planning for and taking other steps leading to the development of programs or projects designed to provide supplementary educational activities and services described in paragraphs (b) and (c) of this section, including pilot projects designed to test the effectiveness of plans so developed;

(b) the establishment or expansion of exemplary and innovative educational programs for the purpose of stimulating the adoption of new educational programs (including those described in § 134b.30(d) and special programs for handicapped children) in the schools of the State; and

(c) the establishment, maintenance, operation, and expansion of programs or projects, including the acquisition of necessary equipment, designed to enrich the programs of local elementary and secondary schools and to offer a diverse range of educational experience to persons of varying talents and needs by providing, especially through new and improved approaches, supplementary educational services and activities, such as:

(1) remedial instruction, and school health, physical education, recreation, psychological, social work, and other services designed to enable and encourage persons to enter, remain in, or reenter educational programs, including the provision of special educational programs and study areas during periods when schools are not regularly in session;

(2) comprehensive academic services and where appropriate, vocational guidance and counseling, for continuing adult education;

(3) programs designed to encourage the development in elementary and secondary schools of occupational information and counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education;

(4) specialized instruction and equipment for students interested in studying advanced scientific subjects, foreign languages, and other academic subjects which are not taught in the local schools or which can be provided more effectively on a centralized basis, or for persons who are handicapped or of preschool age;

(5) making available modern educational equipment and specially qualified personnel, including artists and musicians, on a temporary basis for the benefit of children in public and other nonprofit schools, organizations, and institutions;

(6) developing, producing, and transmitting radio and television programs for classroom and other educational use;

(7) in the case of any local educational agency which is making a reasonable tax effort but which is nevertheless unable to meet critical educational needs (including preschool education), because some or all of its schools are seriously overcrowded, obsolete, or unsafe, initiating and carrying out programs or projects designed to meet those needs, particularly those which will result in more effective use of existing facilities;

(8) providing special educational and related services for persons who are in or from rural areas or who are or have been otherwise isolated from normal educational opportunities, including, where appropriate, the provision of mobile educational services and equipment, special home study courses, radio, television, and related forms of instruction, bilinqual education methods and visiting teachers' programs;

(9) encouraging community involvement in educational programs;

(10) providing programs for gifted and talented children; and

(11) other specially designed educational programs or projects which meet the purposes of this subpart.

(20 U.S.C. 1831(b); 843(b))

Subpart C—Health and Nutrition

§ 134b.20 Health and nutrition projects.

A demonstration project under section 431(a)(2) of the Act may be administered by a private educational organization only if: (a) such organization meets the requirements of § 134.99 of this chapter, and (b) such organization administers the project under a contract with a local educational agency.

(20 U.S.C. 1806(c); 1831(a)(2); 1803 (a)(4)(B), (a)(8(A))

Subpart D—Strengthening State and Local Educational Agencies

State Educational Agencies

§ 134b.30 State educational agency activities.

Funds available under § 134b.2(c) may be used by the State education agency for the planning of, and for programs for, the development, improvement, or expansion of activities promoting the purposes set forth in § 134b.2(c), such as:

(a) Educational planning on a statewide basis, including the identification of educational problems, issues, and needs in the State and the evaluation on a periodic or continuing basis of education programs in the State;

(b) Providing support or services for the comprehensive and compatible recording, collection, processing, analyzing, interpreting, storing, retrieving, and reporting of State and local educational data, including the use of automated data systems;

(c) Dissemination or support for the dissemination of information relating to the condition, progress, and needs of education in the State;

(d) Programs for conducting, sponsoring, or cooperating in educational research and demonstration programs and projects such as (1) the development in elementary and secondary schools of programs of occupational information, counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education, (2) establishing and maintaining curriculum research and innovation centers to assist in locating and evaluating curriculum research findings, (3) discovering and testing new educational ideas (including new uses of printed and audio-visual media) and more effective educational practices and putting into use those which show promise of success, and (4) studying ways to improve the legal and organizational structure for education and the management and administration of education in the State;

(e) Publication and distribution, or support for the publication and distribution, of curricular materials collected and developed at curriculum research centers and elsewhere;

(f) Programs to improve the quality of teacher preparation, including student-teaching arrangements, in cooperation with institutions of higher education and local educational agencies;

(g) Programs and other activities specifically designed to encourage the full and adequate utilization and acceptance of auxiliary personnel (such as teacher aides) in elementary and secondary schools on a permanent basis;

(h) Studies or support for studies concerning the financing of public education in the State;

(i) Support for statewide programs designed to measure the educational achievement of pupils;

(j) Training and otherwise developing the competency of individuals who serve State or local educational agencies and provide leadership, administrative, or specialist services throughout the State, or throughout the area served by a local educational agency, through the initiation, improvement, and expansion of activities such as (1) sabbatical leave programs, (2) fellowships and traineeships (including educational expenses and the cost of travel) for State educational agency personnel to pursue graduate studies, and (3) conducting institutes, workshops, and conferences (including related costs of operation and payment of the expenses of participants);

(k) Providing local educational agencies and the schools of those agencies with consultative and technical assistance and services relating to academic subjects and to particular aspects of education such as the education of the handicapped, and gifted and talented children, school building design and utilization, school social work, the utilization of modern instructional materials and equipment, transportation, educational administrative procedures, and school health, physical education, and recreation;

(l) Evaluation and demonstration projects to insure that benefits obtained by children in Head Start and other preschool programs are not lost during their early elementary school years, but are instead enhanced so as to provide continuity in and accelerated development of the child's learning, academic and other social achievements; and

(20 U.S.C. 1831(b); 863)

(m) Experimental projects for developing State leadership or for the establishment of special services which hold promise of making a substantial contribution to the solution of problems common to the State educational agencies of all or several States.

(20 U.S.C. 1831(b); 865)

§ 134b.31 Interstate transfer of funds.

One or more State educational agencies may, consistent with State law, transfer grant funds to another State agency or combine grant funds from several State educational agencies for the joint support of the cost of carrying out one or more programs or activities which may be conducted pursuant to the provisions of section 431(a)(3) of the Act, including experimental projects for developing State leadership and the establishment of special services which hold promise of making a substantial contribution to the State educational agencies of all or several States. Such funds shall be administered by the receiving State on behalf of all of the participating States.

(20 U.S.C. 1831(b); 862(b)(2))

LOCAL EDUCATIONAL AGENCIES

§ 134b.40 Local educational agency activities.

(a) Funds available under § 134b.2(c) may be used to stimulate and assist local educational agencies in strengthening the leadership resources of their districts, and to assist those agencies in the establishment and improvement of programs to identify and meet the educational needs of their districts.

(20 U.S.C. 1831(b); 866(a))

(b) Activities authorized under paragraph (a) of this section may include:

(1) Educational planning on a district basis, including the identification of educational problems, issues, and needs in the district and the evaluation on a periodic or continuing basis of educational programs in the district;

(2) Providing support or services for the comprehensive and compatible recording, collecting, processing, analyzing, interpreting, storing, retrieving, and reporting of educational data including the use of automated data systems;

(3) Programs for conducting, sponsoring, or cooperating in educational research and demonstration programs and projects such as (i) establishing and maintaining curriculum research and innovation centers to assist in locating and evaluating curriculum research findings, (ii) discovering and testing new educational ideas (including new uses of printed and audiovisual media) and more effective educational practices, and putting into use those which show promise of success, and (iii) studying ways to improve the legal and organizational structure for education, and the management and administration of education in the district of such agency;

(4) Programs to improve the quality of teacher preparation, including student-teaching arrangements, in cooperation with institutions of higher education and State educational agencies;

(5) Programs and other activities specifically designed to encourage the full and adequate utilization and acceptance of auxiliary personnel (such as instructional assistants and teacher aides) in elementary and secondary schools on a permanent basis;

(6) Providing such agencies and the schools of such agencies with consultative and technical assistance and services relating to academic subjects and to particular aspects of education such as the education of the handicapped, the gifted and talented, and the disadvantaged, vocational education, school building design and utilization, school social work, the utilization of modern instructional materials and equipment, transportation, educational administrative procedures, and school health, physical education, and recreation;

(7) Training programs for the officials of such agencies; and

(8) Carrying out any such activities or programs, where appropriate, in cooperation with other local educational agencies.

(20 U.S.C. 1831(b); 866(b))

COMPREHENSIVE PLANNING AND EVALUATION

§ 134b.50 Comprehensive educational planning and evaluation activities.

(a) Funds available under § 134b.2(c) may be used for activities by State and local educational agencies in order to assist and stimulate them to enhance their capability to make effective progress, through comprehensive and continuing planning and evaluation, toward the achievement of opportunities for high-quality education for all segments of the population.

(20 U.S.C. 1831(b); 867(a))

(b) Funds available to local educational agencies under paragraph (a) of this section may be used for demonstration projects to plan, develop, test, and improve planning and evaluation systems and techniques consistent with, and to further the purposes of, paragraph (a) of this section.

(20 U.S.C. 1831(b); 867a(b)(5))

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

CERTIFICATION OF PESTICIDE APPLICATORS

State Plans for Certification of Commercial and Private Applicators

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 340-6]

PART 171—CERTIFICATION OF PESTICIDE APPLICATORS

Submission and Approval of State Plans for Certification of Commercial and Private Applicators of Restricted Use Pesticides

On January 13, 1975, notice was published in the FEDERAL REGISTER (40 FR 2528) proposing regulations for State plans for the certification of commercial and private applicators; for a plan to qualify certain Federal employees; and for plans for the certification of applicators on Indian reservations not subject to State jurisdiction. The following regulations are designed to ensure that the State and Indian plans for the certification of applicators and the Government Agency Plan (GAP) to qualify certain Federal applicators for certification satisfy all the requirements of Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973), and the standards for the certification of applicators of restricted use pesticides (40 CFR 171.1–6) which were published on October 9, 1974, in the FEDERAL REGISTER (39 FR 36446).

STATUTORY AUTHORITY

Section 4(a)(2) of the Act provides that:

> If any State at any time, desires to certify applicators of pesticides, the Governor of such State shall submit a State plan for such purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if such plan in his judgment—
>
> (A) designates a State agency as the agency responsible for administering the plan throughout the State;
>
> (B) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary to carry out the plan;
>
> (C) gives satisfactory assurances that the State will devote adequate funds to the administration of the plan;
>
> (D) provides that the State agency will maks such reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and
>
> (E) contains satisfactory assurances that State standards for the certification of applicators of pesticides conform with those standards prescribed by the Administrator under [Section 4(a)(1) of the amended FIFRA].
>
> Any State certification program under this section shall be maintained in accordance with the State plan approved under this section.

Section 4(b) of the Act further provides procedures for the rejection or acceptance of State plans by the Administrator, and for the notification of the State when it is determined that the certification program is not being administered in accordance with the approved State plan.

Section 25(a) of the Act provides that "the Administrator is authorized to prescribe regulations to carry out the provisions of this Act."

COMMENTS

Written comments on the proposed regulations for State plans were invited and received from interested parties. All of the comments have been reviewed and are on file with the Agency. Certain comments have been incorporated into the regulations for State plans. Some of the revisions involved editorial changes for purposes of clarification. Other clarifications are included in the explanatory remarks of the revised Preamble below. Significant comments, modifications, and policy issues are described below.

The comments fall into general comments and specific comments about particular sections of the proposed regulations. The significant comments and the Agency's responses to the comments are described below:

1. GENERAL COMMENTS

Guidelines/Regulations. A few State lead agency officials expressed regret that the proposed State plan requirements were issued as proposed regulations rather than proposed guidelines, as had been considered earlier. Apparently those expressing this view believe that issuance of these rules as guidelines would allow greater flexibility in their application, than would be the case if the rules were issued as regulations. It should be understood that the extent to which rules are flexible or prescriptive is controlled not by how they are titled, but rather by the language of the provisions themselves. Essentially, use of prescriptive language (i.e., "shall", "must") indicates prescription, while use of permissive language (i.e., "should", "may") indicates flexibility. This set of regulations contains provisions of both varieties. However, the Agency cautions that these regulations reflect its best judgment regarding the elements necessary for a well-rounded, State-administered certification program capable of satisfying the intent and purpose of Section 4 of the Act. Accordingly, States submitting plans lacking an element or elements which should be present pursuant to these regulations should be prepared to satisfy the Agency that the missing element or elements are not necessary for an effective applicator certification program in that State, because of special local circumstances, compensating provisions in the Plan, or other convincing reasons.

Private Applicator Certification. Comments from certain organizations expressed concern that the proposed regulations would have an adverse impact on the ability of farmers and ranchers to produce an abundance of healthful food and fiber at a reasonable cost to consumers. There was special concern about the possibility of great numbers of farmers being required to demonstrate their competency by passing a complicated written examination. It should be noted that the present regulations do not address such questions as the type of system to be used in certifying applicators or the standards to be applied in determining the competence of applicators. These subjects were dealt with in an earlier rulemaking proceeding pursuant to section 4(a)(1) of the amended FIFRA, which requires the Agency "to prescribe standards for the certification of applicators of pesticides." That rulemaking proceeding, which was concluded on October 9, 1974, resulted in the promulgation of 40 CFR 171.1–6. The present regulations incorporate these standards and make them elements of State plans. In doing so, however, the Agency is following the mandate of the amended FIFRA that the applicator certification programs described in the State plans must utilize procedures and standards conforming with and at least equal to the applicator certification standards promulgated by the Agency pursuant to section 4(a)(1) of the amended FIFRA.

The Agency is fully aware of the need to implement the applicator certification program in a manner that is reasonable and which causes minimum disruption to the agricultural community. At the same time, the Agency must assure that State programs adhere fully to the mandates of the amended FIFRA to protect man and the environment from the possible harmful effects of pesticide use. It is essential to understand that the amended FIFRA, if properly implemented, will be beneficial and not detrimental to farmers and the nation in ensuring an abundance of food, feed and fiber for the future, as well as the present. Certification, for example, will allow the use of pesticides that might not otherwise be available if there were no assurances that such highly toxic products are to be used only by individuals who have demonstrated their competence to use them properly and safety. In addition, it is important to realize that the use of pesticides by competent individuals will protect crops, as well as life and the environment. Misuse of pesticides not only threatens life and the environment, but results in damage to crops and may well keep the very products the farmer is trying to protect off the market because of damage and illegal pesticide residues.

The Agency believes that most farmers who are currently using pesticides in a proper, safe manner will experience little difficulty in meeting the certification standards (40 CFR 171.1–6). For example, § 171.5 which established procedures for certifying private applicators, provides that farmers may be certified by a written or oral testing procedure, or such other equivalent system as may be approved as part of a State plan. EPA is currently working with State officials and others to develop acceptable "equivalent" systems. States may also wish to submit, if necessary, procedures for interim certification with specific plans for upgrading on a specific time schedule. Some States have indicated that it may be necessary to take this route. Such procedures could allow for step-by-step implementation which will lessen the impact on both the farmers and the State agencies during the first years of implementing the certification program. It

should be recognized, however, that these interim procedures may in the long run be more costly and troublesome. Nevertheless, the Agency is making every effort to allow States flexibility in developing certification programs that meet their own situations and needs, within the limits of the intent and purpose of section 4 of the amended FIFRA.

Enforcement Provisions. Comments were received expressing the position that the Agency has no authority to include any enforcement provisions as elements of an approvable State plan. Apparently, it is the view of these commenters that Congress intended that State programs under section 4(a)(2) of the Act would only determine competence of applicators and issue credentials, and that the other necessary components of a meaningful regulatory program would be performed by EPA. In the Agency's view, it is clear that Congress intended that State programs under section 4(a)(2) of the Act be full, well-rounded, and meaningful regulatory programs with enforcement elements—not partial programs requiring supplementation by this Agency. Moreover, it is apparent that the enforcement elements set out in these regulations (e.g., provisions for denial, suspension, and revocation of certification, criminal or civil penalties, record keeping, and right-of-entry) are reasonable and necessary for the administration of an applicator certification program which will serve the purpose and the intent of the Act.

Changing Technology and Continuing Competency. Pest control companies and associations expressed objections to § 171.8(a)(2) which requires provisions to ensure that certified applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly. These commenters questioned EPA's authority to include these provisions as an element of an approvable State plan, and voiced even stronger objection to the preamble discussion of "special examinations" or "periodic reexaminations" as optional approaches to meet the needs of changing technology. The concern was that mentioning these approaches as options would "mislead" State officials into thinking they were requirements, notwithstanding the fact that the preamble discussion indicated that other options, including a continuing training program, may be preferable.

The Agency regards as clear its legal authority to require as an element of a State plan some provision to ensure that certified applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

In the discussion of optional approaches in the preamble to the proposed regulations, the Agency was following its policy of providing States with as much flexibility as possible in implementing Section 4 of the amended FIFRA. The Agency regrets industry's expressed concern that the preamble discussions were mistaken by State officials and others as constituting requirements. However, EPA felt an obligation to surface the various optional approaches in the preamble in order to invite a wide range of comments and reactions to assist in making a final decision.

The program of certification under FIFRA is designed to provide a continuing mechanism whereby the country can now and in the future avail itself of a broad spectrum of pesticides. The assumption must be that new types of pesticides, new methods of application, and new precautionary procedures will evolve. It is essential for the maintenance of program quality, in terms of effective use and safety to man and his environment, that applicators continue to keep abreast of their profession and of changing technology. Because of the numerous categories of pesticide applicators, flexibility, both in terms of approach and content of training programs, is needed in planning and implementing this provision of the plan.

The Agency reiterates the previous preamble statement that continuing training programs may well be preferable to reexamination. Properly conducted training programs concurred with and periodically reviewed by the State lead agency may be an effective method of assuring that applicators continue to meet these requirements. There are a number of approaches that a State may encourage and no one approach is expected to suffice for all situations. Between now and October 1976, great emphasis will be placed on training programs. Although the extent and intensity of this training may not remain at this high level, in some cases it may evolve into well conceived programs of continuing education. Proper State coordination at this time will help assure that this occurs. There are a number of options open for meeting the needs of changing technology. These include commercial and other private training programs, ongoing programs of the State Cooperative Extension Service, required attendance at State sponsored conferences and workshops, and the accumulation by the applicator of continuing education units through participation in conferences, closed circuit educational TV programs, correspondence courses, and other identified training programs. It is anticipated that industry will take an active part in providing programs consistent with changing technology. This approach would distribute much of the cost of such training activities to private industry rather than placing the burden upon State governments. In addition, trade associations and certain commercial organizations now offer training programs which could be utilized by commercial applicators who do not have in-house training programs. All such private sector training programs would need to be approved by the State and would be subject to State monitoring.

Government Agency Plan (GAP). The Federal Working Group on Pest Management (FWGPM), as well as some individual Federal agencies, objected to parts of the preamble discussion on § 171.9 which refers to Federal applicators qualified under the Government Agency Plan (GAP). While stressing that the objection is not to the regulations themselves nor to the idea of Federal employees presenting their documentation to State authorities, FWGPM indicated specific objection to the preamble statement that "the Federal form issued to these employees will provide an opportunity for States that have requirements in addition to the GAP to specify other qualifications needed to apply restricted use pesticides in that State. The form would also permit the appropriate State official to indicate acceptance of the applicator's qualifications, thus authorizing the applicator to use restricted use pesticides within the State * * *." Some members of the FWGPM believe that this is an administrative procedure with which Federal agencies are not obliged to comply, according to Executive Order 11752.

This and many other comments concerning the GAP assume that the GAP is a mechanism for certification of applicators. This is *not* the case. Instead, Federal agency employees who satisfy GAP requirements have demonstrated their competence, and are *eligible* for certification. They are not, however, certified, and hence are not authorized to use or supervise the use of restricted use pesticides until a State with an approved State plan accepts them, either on the basis of the GAP acceptance alone, or GAP acceptance plus other State-imposed requirements. Thus, in requiring compliance with its State plan, the State, as the entity authorized to certify applicators pursuant to Section 4 of the amended FIFRA, is implementing the Federal law. For these and other reasons, EPA has concluded that State acceptance of the Federal form (when GAP acceptance alone does not meet all State requirements) constitutes a "substantive" rather than an "administrative" requirement. Further, Executive Order 11752 is concerned with situations at Federal facilities. GAP has been designed to relate in large part to the Federal employee, who in the course of his work, is involved in pesticides use on State and private property.

Some pest control companies and an industry association objected to any special provision for Federal employees, i.e., the GAP. The major concern expressed was that some Federal facilities may use the GAP as an instrument for excluding private industry certified applicators from contracting for pest control service on Federal installations. Although EPA would not attempt to tell another Federal agency that it cannot impose its own higher standards upon any applicators operating on Federal facilities, the Agency wants to make it clear that the GAP was not designed to encourage the build-up of a large cadre of Federal employee certified applicators or to inhibit or prevent private industry applicators from servicing Federal facilities. The GAP was established to accommodate the special needs of certain Fed-

eral employees, primarily those Federal employees who many be called upon to move frequently or on short notice to distant localities to conduct special pest control programs mandated by Congress, or in some cases those Federal employees who apply restricted use pesticides only at Federal facilities. As indicated in the preamble, there is no requirement (and no real or implied pressure from EPA) that Federal agencies utilize the GAP. The appropriateness of GAP for any given situation should be the determining factor.

EPA will continue to work with Federal agencies to resolve remaining differences. This effort, however, should not influence the preparation of State plans and should not, therefore, delay the promulgation of these regulations.

Mandatory Accident Reporting. The preamble to the proposed regulations specifically invited comments on the desirability of including mandatory accident reporting by commercial applicators as an element of an approvable State plan. A number of comments were received in response to this invitation, the majority of which opposed mandatory accident reporting.

As developed in the discussion in the preamble to the proposed regulations, it is important that actual use data about a pesticide be gathered in order to assist the Agency in carrying out its regulatory responsibilities under the amended FIFRA. Such information is useful in a variety of ways. For example, data indicating that a pesticide has or may have adverse effects in actual use alerts the Agency to investigate thoroughly the efficacy and environmental behavior of the product. On the other hand, if information gathered through laboratory research indicated that a pesticide should be suspended or cancelled, reliable data reflecting that the pesticide had not caused problems in use might persuade the Agency that suspension or cancellation was unnecessary.

However, a number of States have commented that it would be extremely difficult for them to implement an accident reporting requirement (including the enactment of necessary legislation) between now and October 21, 1976, because most of their resources must be devoted to the establishment of an applicator certification program during this period. EPA accepts this view, and has decided not to include provisions for a mandatory accident reporting system as a State plan requirement at this time. However, the Agency intends to continue to consider various alternative mechanisms for the gathering of pesticide use data. Part of this inquiry will involve an evaluation of the adequacy of the Agency's voluntary Pesticide Episode Reporting System (PERS). PERS was revised in recent weeks and the Agency is currently seeking the active support of other Federal Agencies, State organizations, and the private sector in order to make it work effectively. In addition, there is a possibility that a few States may institute mandatory accident reporting programs on their own initiative. Such programs could provide useful information concerning the practical problems and pitfalls in administering a mandatory accident reporting system. This inquiry will be completed by November 1976. If it is determined at that time that voluntary accident reporting is not providing the information needed, it may be necessary to reconsider the need for mandatory pesticide episode reporting by commercial applicators.

2. SECTION-BY-SECTION COMMENTS[1]

Section 171.7(a). A State agency suggested that one word ("State") in this provision be changed to ("governmental") to allow for the inclusion of other cooperating agencies. This revision has been made to provide for the naming and describing of other agencies involved in certification programs.

This change is made only to accommodate a State needing the assistance of local authorities in implementing and maintaining its certification programs, and provided that such assistance is uniform throughout the State and is totally responsive to State direction. It is not the intention of the Act or these regulations to authorize political subdivisions below the State level to further regulate pesticides.

Section 171.7(b)(1). Several commenters wanted clarification of the provision calling for an opinion by the State Attorney General or Legal Counsel of the designated State Agency that the State has the legal authorities necessary to carry out the Plan. What is desired is a legal opinion reflecting that a State has the legal authorities to carry out the provisions of these regulations, supported by a sufficiently detailed analysis to enable the Agency to understand the reasoning behind the opinion.

Section 171.7(b)(1)(ii). Comments generally endorsed the concept of contingency approval to accommodate the practical problem that some State legislatures, because of the timing of legislative sessions, may not be able to enact the necessary legislation prior to October 21, 1975. However, some commenters were critical of the Agency's attempt in the proposal to set down rigid conditions concerning the terms attached to contingency approval, including the availability of a hearing under section 4 (b) of the amended FIFRA in the event that the requested legislative authorities were not enacted. Other commenters objected to the statement in the preamble which said that contingency approval would lapse if a "special" legislative session were held, and the proposed legislation upon which contingency approval had been granted was not enacted. In support of this objection, it was pointed out that the agenda of special sessions frequently is inflexible, and that it may not be possible to consider pesticide legislation at such a special session. These comments generally point out the difficulty and undesirability of attempting to prescribe the terms and conditions of contingency approval before an actual application for contingency approval is presented. Obviously, there is a wide range of possible circumstances wherein contingency approval would be appropriate, and the terms and conditions which are appropriate to one case may not be appropriate in another. The Agency has, therefore, redrafted this section to allow maximum flexibility in dealing with contingency approval applications. Such applications will be dealt with on a case-by-case basis, and if approval is granted, terms and conditions appropriate to that particular case will be detailed. One of the factors to be considered in acting upon applications for contingency approval shall be the applicability of section 4(b) of the Act in the event that any terms or conditions of approval are not met during the period of contingency approval.

Section 171.7(b)(1)(iii)(A). Several State regulatory officials commented that this section should be changed to require only authority to deny and revoke certifications, and to leave the authority to suspend and to impose criminal or civil penalties optional. After careful consideration, EPA decided not to adopt this suggestion. In the opinion of the Agency, the effective administration of a certification program requires a reasonable range of enforcement options to allow the responsible State agency flexibility to respond appropriately to the wide range of situations which may arise. Lacking authority to suspend certification and to initiate criminal or civil penalty actions, States would be left without an appropriate response in many enforcement situations. The quality of such programs would consequently suffer.

Several changes have been made in the language of this section to eliminate ambiguity. In the proposed regulations, it was unclear whether misuse of a pesticide and falsification of required records should be grounds both for denial, suspension, and revocation of certification, and for the imposition of criminal or civil penalties. This section has been revised to reflect clearly that the State should have authority to take any of the above enforcement actions for misuse or falsification of required records. This section has been further modified to eliminate the reference to other unspecified enforcement mechanisms. The Agency has determined that this provision was unsuitable in a section designed to specifically outline the enforcement procedures which should be included in a State plan. Any additional enforcement procedures which are available to the State should, of course, be described under § 171.7(f), as other regulatory mechanisms contributing to the administration of the State plan.

Section 171.7(b)(1)(iii)(B). Several State lead agency officials objected to this provision on the basis that it required a State to automatically initiate revocation or suspension action after the conclusion of a Federal enforcement proceeding. This was not the intent of this provision. All that is required is that the

[1] Section numbers beginning each new paragraph refer to the original section numbers in the proposed rules unless prefaced with the term "new".

State have authority to suspend or revoke certification in the event that a certified applicator is convicted or is subject to a final order imposing a civil penalty pursuant to section 14 of the amended FIFRA. The decision whether to initiate suspension or revocation procedures will in all cases remain a matter of the State's discretion. In the view of the Agency, this subsection is necessary to ensure effective coordination between Federal and State enforcement of the amended Act.

Section 171.7(b)(1)(iii)(C). The Agency viewed with merit the objections raised on the inclusion of the word "surveillance." The term has been deleted; it has essentially the same intended meaning as "observation" and, therefore, was redundant. Additionally, EPA has inserted the term "sampling" in order to more adequately reflect the purpose and intent of a right-of-entry provision. Sampling authority is a requisite for assuring compliance with the law, in that effective enforcement often hinges on the ability of State officials to sample pesticides before, during, and/or after application.

Section 171.7(b)(1)(iii)(E). Several commenters offered different viewpoints on the provision requiring certified commercial applicators to keep and maintain records for two years. One industry spokesman objected to the provision, describing it as a "monumental economic burden." Another industry commenter questioned the Agency's authority to require record keeping by commercial applicators. On the other hand, certain environmental groups requested that commercial applicators be required to maintain records for three years since this longer holding period would ensure that the records would be available in any resulting litigation. The Agency recognizes that record keeping places some burdens on commercial applicators. However, such burdens are justified by the great need for records on the use of restricted use pesticides in order to manage an effective and meaningful regulatory program. As for the Agency's authority to require record keeping by certified commercial applicators, it is clear that Congress authorized the imposition of such a requirement, although it expressly prohibited the Agency from requiring record keeping by certified private applicators. It is the Agency's feeling that the two year requirement for record keeping is a reasonable provision but that the additional year would be unnecessary. In cases involving litigation, records can be protected for a longer period, if necessary, by court orders or other methods. Thus, the two-year requirement is retained in the final regulations.

A few State officials, in commenting further on this provision, requested the addition of alternate procedures for State officials to obtain access to required records. The proposal required that the records be available to State officials at reasonable times, at the commercial applicator's establishment where they are maintained. The commenters suggested that a procedure be included in the regulation requiring the submission of the records to the State agency upon request. The Agency has concluded that the interests of FIFRA, as amended, are served if the records are accessible to the State by some procedure, and that the precise procedure to be used can be left to the State's discretion. The language of the section has been redrafted to achieve this objective.

Section 171.7(b)(2). Several State officials questioned the need for this section which requires the State to supply information concerning the staffing of its program. Pursuant to section 4(a)(2)(B) of the amended FIFRA, the Administrator must determine that the State has given satisfactory assurances that the State agency has qualified personnel necessary to carry out the plan. Section 171.7(b)(2) is designed to provide the information necessary to allow the Administrator to make the determination required of him in the Act. In addition, such information will give both EPA and the State Agency a better grasp on what funds are necessary to carry out the plan.

Section 171.7(c). Several State officials expressed concern over the requirement that they give assurances that the State would devote adequate funds to administer the plan. This requirement comes directly from section 4(a)(2)(C) of the amended FIFRA. As stated in the Preamble to the proposed regulations, in the interest of reducing the volume of required data from the State, budgetary detail will not be required. However, the State should provide sufficient information concerning the proposed funding for its program from both State and Federal sources to give the Administrator a basis upon which to make the finding that the statute requires him to make in this area.

Section 171.7(d). Several State officials expressed concern that this section would be utilized to burden States with numerous requests for non-essential information. Specifically, there was criticism of the requirement that reports shall be submitted "from time to time to meet specific needs", because this wording allowed EPA too much discretion in requesting information. The Agency is well aware that excessive and unnecessary reporting requirements are burdensome and could impede the development of an effective certification program. However, as most State officials agree, the reporting requirements included in these regulations are minimal and reasonable. In addition, the broad language "from time to time" to which objections were made, was taken verbatim from section 4(a)(2)(D) of the amended FIFRA. EPA assures the State that its authority under this provision of the Act will be employed judiciously, and that requests for information will be made with sufficient lead time so as not to interfere unduly with the States' other responsibilities.

Section 171.7(d)(1). Comments from several State officials expressed concern about the purpose of including provisions requiring reports on enforcement aspects of a State plan. The Agency's position is that such information is valuable in evaluating the effectiveness of a State certification program, and could assist in isolating problem areas. Moreover, in order for these purposes to be served, it is necessary to have information concerning a broad range of enforcement activities, such as investigations, monitoring, information concerning administrative and judicial proceedings, and other activities supporting the effective administration of a certification program. The proposed § 171.7(d)(1)(iii) required reports only on enforcement "actions," which would not encompass all relevant information. Accordingly, this section has been revised. In order to broaden the scope of reportable information, §§ 171.7(d)(1)(iii) and 171.7(d)(1)(v) have been revised to place emphasis on the use of restricted use pesticides, rather than on certified applicator conduct.

Section 171.7(e)(2). This section brought objections from several commenters. State officials objected to the idea of indicating how they would certify applicators for special competency standards not now in existence. In addition, they indicated that § 171.7(e)(1) was the logical place to indicate any special State competency standards. The Agency accepts these views, and has omitted this section from the final regulations. If EPA establishes any special standards pursuant to the reserve § 171.4(d), or revises State plan requirements in any other respect, States will be given adequate time to make appropriate amendments to their State plans.

Section 171.7(e)4)(ii). The lead paragraph in this subsection has been changed to reflect the fact that some private applicators may have been certified by procedures "equivalent" to examination that are determined to be acceptable by the Administrator. (New § 171.7(e)(3)(ii)).

Section 171.7(e)(5). State lead agency officials questioned how they would be able to indicate whether or not they accept Federal employees qualified under GAP as fully meeting their certification requirements or to describe any additional requirements they may impose on GAP qualified employees until they have had an opportunity to study the final, approved GAP. This issue, of course, basically involves timing. States which move ahead quickly with the development of their plans and submit them prior to approval of the GAP would rightfully hesitate to indicate their acceptance of a program still in the developmental stage. A subparagraph has been added to clarify this situation. (New § 171.7(e)(4)).

Section 171.7(e)(6). This section was changed by deleting "arrangements a State has made" and substituting "cooperative agreements a State has made with any Indian Governing Body." These modifications were made so this section would conform with changes which have been made in § 171.10, and which are fully discussed in that portion of the preamble. (New § 171.7(e)(6)).

Section 171.7(e)(7). A number of States commended the Agency for providing a place for States to indicate any arrangements they have with other States. On the other hand, several State agencies misinterpreted this provision and criticized the Agency for "requiring" the development of State programs for reciprocity. The Agency reiterates the position it took in the proposed regulations that such provisions are *not* required but that where there is sufficient similarity (among State programs) to warrant it, States are encouraged to develop programs for reciprocity. Development, now or in the future, of such programs, will ease the certification burden on interstate farming operations and commercial businesses involving pesticide applications across State lines. To further the goal of reciprocity, and in response to comments received from Indian groups, this section (New § 171.7(e)(6)) has been revised to permit reciprocal arrangements between a State and an Indian reservation submitting a plan for certification of applicators pursuant to § 171.10.

Section 171.7(e)(7)(ii). The word "examined" was deleted, and the phrase "determined to be competent" was substituted to reflect the fact that some private applicators may have been certified by procedures "equivalent" to examination. (New § 171.7(e)(6)(ii)).

Section 171.10. A State with a large number of Indian reservations objected to the wording of this section and the preamble discussion on the basis that it implies that an Indian Governing Body can make a unilateral decision as to whether or not it will utilize a particular State's certification program or develop its own plan and program. It was pointed out that the State involved should have a voice in the matters since it would have to expend funds for the certification program and would also need the proper authority for enforcement purposes. This section has been revised to indicate that the concurrence of the State (by way of a cooperative agreement) would be needed in the event that the Indian Governing Body of an Indian Reservation not subject to State jurisdiction desires to utilize a State's certification program to certify Indian applicators. EPA emphasizes that the development of State plans should not be delayed because the cooperative agreements have not been completed. The latter can be submitted as amendments to the State plan at a later date.

Section 171.10(b) has been modified to substitute the language "where the State has assumed jurisdiction under other Federal laws," for the language "subject to the jurisdiction of a State." This change brings this regulation into conformity with the treatment of this subject in regulations issued by EPA in other substantive areas (see 40 CFR 52.21(c)(3)(v)).

Some State officials also objected to § 171.10(d) (New § 171.10(c)), which states that non-Indian employees contracted to apply restricted use pesticides on Indian Reservations not subject to State jurisdiction shall be certified either under a State certification plan accepted by the Indian Governing Body or under the Indian Reservation certification plan. These officials felt that non-Indian applicators not living on such a Reservation should be required to have State certification. While some aspects of the legal relationships between States and Indian Reservations remain to be resolved, it is the Agency's position that in those instances where a State has not assumed jurisdiction over a reservation under other Federal laws, that the Indian Governing Body should have the opportunity to choose a certification plan covering all applicators on the reservation. This procedure should provide adequate coverage of all restricted use pesticide applicators on such Indian Reservations pending final resolution of any outstanding legal questions. To further clarify the Agency's intent, § 171.10(d) (New § 171.10(c)) has been modified to cover all non-Indians applying pesticides on Indian Reservations not subject to State jurisdiction, and appropriate changes have been made in other subsections of § 171.10. In addition, § 171.10(c) in the proposal has been deleted from the final regulations. This section provided that Indians applying restricted use pesticides outside a reservation must be certified under the appropriate State certification plan. In the Agency's view, this section was unnecessary, as certifications issued pursuant to Indian plans necessarily are valid only within the limits of the territorial jurisdiction of the Indian Governing Body, just as in the case with certifications issued by States. EPA will, of course, encourage reciprocity between all certifying entities to reduce the administrative burden and to facilitate interstate commerce. Finally, the Agency observes that most, if not all, non-Indian applicators contracted to apply restricted use pesticides on Indian Reservations will also be conducting such applications outside the reservation. In those instances, State certification plan requirements would have to be met, providing the States with adequate procedures with which to regulate these applicators.

Effective Date

Pursuant to section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d) the effective date of a regulation must be at least 30 days after its publication, unless the Agency finds "good cause" for specifying an earlier date. The Agency finds that in this case there is good cause for providing that these regulations are effective immediately upon publication. Any delay in the effectiveness of the regulations may severely prejudice the efforts of some states with legislative sessions currently in progress to pass legislation necessary to implement programs for applicator certification. In addition, it is apparent that no prejudice will result to anyone if these regulations are effective immediately, as they do not either directly or indirectly impose any duties or obligations on anyone. Finally, the Agency notes that the final regulations do not differ substantially or materially from the proposed regulations, which were published more than thirty days previous to the publication of the final regulations.

Accordingly, effective on March 12, 1975, Part 171 is amended by adding §§ 171.7 through 171.10.

Dated: March 3, 1975.

RUSSELL E. TRAIN,
Administrator.

40 CFR Part 171 is amended by adding §§ 171.7 through 171.10 to read as follows:

Sec.
171.7 Submission and approval of State plans for certification of commercial and private applicators of restricted use pesticides.
171.8 Maintenance of State plans.
171.9 Submission and approval of Government Agency Plan.
171.10 Certification of Applicators on Indian Reservations.

AUTHORITY: Secs. 4, 25(a), Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 86 Stat. 973.

§ 171.7 Submission and approval of State plans for certification of commercial and private applicators of restricted use pesticides.

If any State, at any time, desires to certify applicators of restricted use pesticides, the Governor of that State shall submit a State plan for that purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if the plan in his judgment—

(a) Designates a State agency as the agency responsible for administering the plan throughout the State. Since several other agencies or organizations may also be involved in administering portions of the State plan, all of these shall be identified in the State plan, particularly any other agencies or organizations responsible for certifying applicators and suspending or revoking certification. In the extent that more than one governmental agency will be responsible for performing certain functions under the State plans, the plans shall identify which functions are to be performed by which agency and indicate how the program will be coordinated by the lead agency to ensure consistency of programs within the State. The lead agency will serve as the central contact point for the Environmental Protection Agency in carrying out the certification program. The numbers and job titles of the responsible officials of the lead agency and cooperating units shall be included.

(b) Contains satisfactory assurances that such lead agency has or will have the legal authority and qualified personnel necessary to carry out the plan:

(1) Satisfactory assurances that the lead agency or other cooperating agencies have the legal authority necessary to carry out the plans should be in the form of an opinion of the Attorney General or the legal counsel of the lead agency. In addition:

(i) The lead agency should submit a copy of each appropriate State law and regulation.

(ii) In those States where any requisite legal authorities are pending enactment and/or promulgation, the Governor (or Chief Executive) may request that a State plan be approved contingent upon the enactment and/or promulgation of such authorities. Plans approved on a contingency basis will be subject to such reasonable terms and conditions, concerning the duration of the contingency approval and other matters, as the Administrator may impose. During the period of the contingency approval, the State will have an approved certification program and may proceed to certify applicators, who will then be permitted to use or supervise the use of pesticides classified for restricted use under FIFRA, as amended.

(iii) The State plan should indicate by citations to specific laws (whether enacted or pending enactment) and/or regulations (whether promulgated or pending promulgation) that the State has legal authorities as follows:

(A) Provisions for and listing of the acts which constitute grounds for denying, suspending, and revoking certification of applicators, and for assessing criminal and/or civil penalties. Such grounds should include, at a minimum, misuse of a pesticide and falsification of any records required to be maintained by the certified applicator.

(B) Provisions for reviewing an applicator's certification to determine whether suspension or revocation of the certification is appropriate in the event of criminal conviction under section 14 (b) of the amended FIFRA, a final order imposing civil penalty under section 14 (a) of the amended FIFRA, or conclusion of a State enforcement action.

(C) Provisions for right-of-entry by consent or warrant by appropriate State officials at reasonable times for sampling, inspection, and observation purposes.

(D) Provisions making it unlawful for persons other than certified applicators or persons working under their direct supervision to use restricted use pesticides.

(E) Provisions requiring certified commercial applicators to keep and maintain for the period of at least two years routine operational records containing information on kinds, amounts, uses, dates, and places of application of restricted use pesticides; and for ensuring that such records will be available to appropriate State officials.

(2) Satisfactory assurances that the lead agency and any cooperating organizations have qualified personnel necessary to carry out the plan will be demonstrated by including the numbers, job titles and job functions of persons so employed.

(c) Gives satisfactory assurances that the State will devote adequate funds to the administration of the plan.

(d) Provides that the State agency will make reports to the Administrator in a manner and containing information that the Administrator may from time to time require, including:

(1) An annual report to be submitted by the lead agency, at a time to be specified by the State, to include the following information:

(i) Total number of applicators, private and commercial, by category, currently certified; and number of applicators, private and commercial, by category, certified during the last reporting period.

(ii) Any changes in commercial applicator subcategories.

(iii) A summary of enforcement activities related to use of restricted use pesticides during the last reporting period.

(iv) Any significant proposed changes in required standards of competency.

(v) Proposed changes in plans and procedures for enforcement activities related to use of restricted use pesticides for the next reporting period.

(vi) Any other proposed changes from the State plan that would significantly affect the State certification program.

(2) Other reports as may be required by the Administrator shall be submitted from time to time to meet specific needs.

(e) Contains satisfactory assurances that the State standards for the certification of applicators of pesticides conform to those standards prescribed by the Administer under §§ 171.1–171.6. Such assurances should consist of:

(1) A detailed description of the State's plan for certifying applicators and a discussion of any special situations, problems, and needs together with an explanation of how the State intends to handle them. The State plan should include the following elements as a minimum:

(i) For commercial applicators:

(A) A list and description of categories and subcategories to be used in the State, such categories to be consistent with those defined in § 171.3.

(B) An estimate of the number of commercial applicators by category expected to be certified by the State.

(C) The standards of competency elaborated by the State. These shall conform and be at least equal to those prescribed in § 171.4 for the various categories of applicators utilized by the State. The standards shall also cover each of the points listed in the general standards in § 171.4(b) and the points covered in the appropriate specific standards set forth in § 171.4(c).

(D) For each category and subcategory listed under § 171.7(e)(1)(i)(A), either submission of examinations or a description of the types and contents of examinations (e.g., multiple choice, true-false) and submission of sample examination questions; and a description of any performance testing used to determine competency of applicators.

(ii) For private applicators:

(A) An estimate of the number of private applicators expected to be certified by the State.

(B) The standards of competency elaborated by the State. These shall conform and be at least equal to those prescribed in § 171.5(a), including the five requirements listed in § 171.5(a)(1)–(5).

(C) Types and contents of examinations and/or submission of detailed description of methods other than examination used to determine competency of private applicators.

(D) A description of any special procedure of testing that a State develops to determine the competency of a private applicator who is unable to read the label as prescribed in § 171.5(b)(1).

(2) A provision for issuance by the State of appropriate credentials or documents verifying certification of applicators.

(3) If appropriate, a description of any existing State licensing, certification or authorization programs for private applicators or for one or more categories of commercial applicators may be included. If these programs are determined by EPA to meet standards of competency prescribed by §§ 171.1 through 171.6, States may certify applicators so licensed, certified or authorized without any additional demonstration of competency provided:

(i) The commercial applicators who were licensed, certified, or authorized have demonstrated their competency based on written examinations and, as appropriate, performance testing, conforming to the standards set forth in § 171.4, and

(ii) The private applicators who were licensed, certified, or authorized have demonstrated their competency by written or oral testing procedures or other acceptable equivalent system, conforming to the standards set forth in § 171.5.

(4) A statement that the State accepts Federal employees qualified under the Government Agency Plan (GAP) as fully meeting the requirements for certification by that State; or a description of any additional requirements these employees must meet to apply restricted use pesticides in that State. Any such additional requirements shall be consistent with and shall not exceed standards established for other comparable applicators in that State.

(i) Until such time as the GAP has been fully developed and approved by EPA, this statement (§ 171.7(e)(4)) is not required. However, within 60 days after final approval of the GAP, the State should forward such a statement for inclusion in its State plan.

(5) A description of any cooperative agreements a State has made with any Indian Governing Body to certify or assist in the certification of applicators not subject to State jurisdiction. (§ 171.10).

(6) A description of any arrangements that a State has made or plans to make relating to reciprocity with other States or jurisdictions for the acceptance of certified applicators from those States or jurisdictions. However, those arrangements should meet these conditions:

(i) The State according reciprocity should provide for issuance of an appropriate document verifying certification based upon the certifying document issued by the other States or jurisdictions.

(ii) The State according reciprocity should have enforcement procedures that

cover out-of-State applicators determined to be competent and certified within the State or jurisdiction.

(iii) The detailed State or jurisdiction standards of competency, for each category identified in the reciprocity arrangement should be sufficiently comparable to justify waiving an additional determination of competency by the State granting reciprocity.

(f) In responding to the preceding requirements, a State may describe in its State plan other regulatory activities implemented under State laws or regulations which will contribute to the desired control of the use of restricted use pesticides by certified applicators. Such other regulatory activities, if described, will be considered by the Administrator in evaluating whether or not a State's certified applicator program satisfies the requirements of § 171.7 (a) through (e).

§ 171.8 Maintenance of State plans.

(a) Any State certification program approved under § 171.7 shall be maintained in accordance with the State plan approved under that section. Accordingly, the State plan should include:

(1) Provisions to assure that certified applicators comply with standards for the use of restricted use pesticides and carry out their responsibility to provide adequate supervision of noncertified applicators.

(2) Provisions to ensure that certified applicators continue to meet the requirements of changing technology and to assure a continuing level of competency and ability to use pesticides safely and properly.

(b) An approved State plan and the certification program carried out under such plan may not be substantially modified without the prior approval of the Administrator. A proposed change may be submitted for approval at any time but all applicable requirements prescribed by these Regulations must be satisfied for the modification to be eligible for approval by the Administrator.

(c) Whenever the Administrator determines that a State is not administering the certification program in accordance with the State plan approved under § 171.7, he shall so notify the State and provide for a hearing at the request of the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of the plan.

§ 171.9 Submission and approval of government agency plan.

This section is included to provide for certain Federal employees including those whose duties may require them to use or supervise the use of restricted use pesticides in a number of States.

(a) Sections 171.1 through 171.8 will, with the necessary changes, apply to the Government Agency Plan (GAP) for determining and attesting to the competency of Federal employees to use or supervise the use of restricted use pesticides.

(b) Federal employees qualified under the GAP shall:

(1) Be prepared to present the Federal form issued to them attesting to their competency to appropriate State officials.

(2) Fulfill any additional requirements States may have enumerated in their State plans as provided for under § 171.7 (e) (4).

(c) The employing Federal agency shall ensure that certified employees using or supervising the use of restricted use pesticides within a Federal facility are subject to the same or equivalent provisions prescribed under § 171.7(b) (1) (iii) (A)–(E).

§ 171.10 Certification of Applicators on Indian Reservations.

This section applies to applicators on Indian Reservations.

(a) On Indian Reservations[1] not subject to State jurisdiction the appropriate Indian Governing Body[2] may choose to utilize the State certification program, with the concurrence of the State, or develop its own plan for certifying private and commercial applicators to use or supervise the use of restricted use pesticides.

(1) If the Indian Governing Body decides to utilize the State certification program, it should enter into a cooperative agreement with the State. This agreement should include matters concerning funding and proper authority for enforcement purposes. Such agreement and any amendments thereto shall be incorporated in the State plan, and forwarded to the Administrator for approval or disapproval.

(2) If the Indian Governing Body decides to develop its own certification plan, it shall be based on either Federal standards (§§ 171.1 through 171.8) or State standards for certification which have been accepted by EPA. Such a plan shall be submitted through the United States Department of the Interior to the EPA Administrator for approval.

(b) On Indian Reservations where the State has assumed jurisdiction under other Federal laws, anyone using or supervising the use of restricted use pesticides shall be certified under the appropriate State certification plan.

(c) Non-Indians applying restricted use pesticides on Indian Reservations not subject to State jurisdiction shall be certified either under a State certification plan accepted by the Indian Governing Body or under the Indian Reservation certification plan.

(d) Nothing in this section is intended either to confer or deny jurisdiction to the States over Indian Reservations not already conferred or denied under other laws or treaties.

[FR Doc.75-6105 Filed 3-11-75;8:45 am]

[1] The term "Indian Reservation" means any federally-recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

[2] The term "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.