

Wednesday
April 18, 1979

Register Federal Reporter

Highlights

NOTE—The Reader Aids section appears at the end of this issue.

- 23192 Biomedical and Behavioral Research** HEW publishes for comment the Belmont Report on ethical principles and guidelines for protection of human subjects; comments by 7-17-79, (Part IV of this issue)
- 23174 Inmate Discipline** Justice/Bureau of Prisons issues interim rules on control, custody, care, treatment, and instruction of inmates; effective 4-15-79, comments by 7-15-79, (Part III of this issue)
- 23093 Alaska Natural Gas Transportation System** DOE/ FERC gives notice that no extensions will be granted for comment period concerning proposed rules on set values for incentive rate of return and established change-of-scope and inflation adjustment procedures; notice of intent to participate by 4-16-79, written comments by 5-4-79, reply comments by 5-16-79
- 23138 Computerized Matching Programs** OMB issues final guidelines used primarily by Federal agencies for detecting or curtailing fraud and abuse in Federal assistance programs, or collecting delinquent loan or benefit payments; effective 3-30-79

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Highlights

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- 23164 Blind and Disabled Children** HEW/PHS establishes rules governing State plan requirements for referral for and provision of services for children receiving benefits under Supplemental Security Income Program; effective 4-18-79, (Part II of this issue)
- 23084 Coal Mines** HEW/PHS amends conditions under which underground coal miners are afforded the option to transfer to a less dusty area of mine; effective 4-18-79
- 23095 Medical Assistance Program** HEW/HCFR proposes reasonable cost-related reimbursement for skilled nursing and intermediate care facility services; comments by 6-18-79
- 23065 Code of Federal Regulations Subscriptions** Administrative Committee of the Federal Register raises annual subscription price; effective 4-18-79
- 23089 Nuclear Power Plant Construction** NRC proposes to make minor procedural amendments to permit use of new staff procedures on a trial basis for system and site safety portions of selected permit applications; comments by 6-4-79
- 23067 Air Force Privacy Act Program** DOD/Air Force rewrites for operation of program to reduce length and complexity for those persons seeking access to records on themselves; effective 4-11-79
- 23092 Leverage Transactions** CFTC makes available and requests comment on petition for rulemaking concerning transactions submitted; comments by 5-11-79
- 23100 Railroad Freight Cars** ICC proposes eliminating rules concerning adequacy of ownership, utilization, and distribution rules and practices; comments by 6-18-79
- 23099 FM Quadraphonic Broadcasting** FCC extends time for filing comments and reply comments; comments by 5-16-79, reply comments by 6-18-79
- 23133 Oleoresins From India** ITC will hold hearing concerning importation of merchandise; hearing 5-22-79, written comments by 6-1-79

23161 Sunshine Act Meetings

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Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

1 CFR Part 3

Services to the Public; Code of Federal Regulations Subscription Rate

AGENCY: Administrative Committee of the Federal Register.

ACTION: Final rule.

SUMMARY: This document raises the annual subscription price of the *Code of Federal Regulations* (CFR) from \$400 to \$450. This increase in price is necessary because of increased production costs.

EFFECTIVE DATE: April 18, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Denise Normandin, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408, 202-523-5240.

SUPPLEMENTARY INFORMATION: The cost of producing the CFR has risen since the last price increase in April 1978 (43 FR 10329). The Superintendent of Documents expects to recover most of this increase by raising the subscription rate \$50 a year.

The prices of individual volumes of the CFR, also set by the Superintendent of Documents under the general direction of the Administrative Committee of the Federal Register, will increase accordingly.

Soon, the CFR will be available at a lower cost in a new form. For the first time the CFR will also be produced on microfiche. On microfiche the CFR will cost—

- \$2 for a single volume,
- \$110 for the last yearly revision of the CFR received in a single delivery,
- \$225 for a year's subscription to the CFR with the subscriber receiving each volume as it is published.

As soon as the CFR on microfiche is ready to be distributed, it will be announced in the *Federal Register*.

Because the increase relates to agency management, it is not necessary to go through notice and comment rulemaking (5 U.S.C. 553(a)(2)).

Accordingly, under the authority vested in the Committee, 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954-1958 Comp. p. 189; the Committee revises § 3.4(b)(4) of 1 CFR as follows:

§ 3.4 Subscriptions and availability of Federal Register publications.

* * * * *

(b) * * *

(4) *Code of Federal Regulations.* A complete bound set of the Code of Federal Regulations will be furnished by mail to subscribers for \$450 per year payable in advance to the Superintendent of Documents. Individual copies of the code volumes are sold by the Superintendent of Documents at prices determined by the Superintendent under the general direction of the Administrative Committee.

* * * * *

James B. Rhoads,
Chairman.

John J. Boyle,
Member.

Mary O. Eastwood,
Member.

Approved: April 4, 1979.

Griffin B. Bell,
Attorney General.

Paul E. Goulding,
Acting Administrator of General Services.
[FR Doc. 79-12001 Filed 4-17-79; 8:45 am]

BILLING CODE 6820-27-M

DEPARTMENT OF AGRICULTURE

7 CFR Part 1068

Agricultural Marketing Service

Milk in the Upper Midwest Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This order suspends a requirement under the Upper Midwest marketing order that handlers make a partial payment for milk received from producers by the 25th day of the month.

The operator of a pool distributing plant indicated that producers supplying the plant want such payment to be made about 8 days later so that their partial payments and final payments for milk will be spaced about 15 days apart. A producer indicated that payments spaced about 15 days apart would allow him to save interest expense on his feed supplies and on his farm mortgage. The suspension would be for the period May 1979 through April 1980.

DATE: Effective May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of proposed suspension issued March 9, 1979, published March 16, 1979 (44 FR 16019).

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

Notice of proposed rulemaking was published in the *Federal Register* (44 FR 16019) concerning a proposed suspension of certain provisions of the order. Interested persons had an opportunity to comment on the proposed suspension in writing. A cooperative association, a handler and a producer filed comments supporting the suspension.

After consideration of all relevant material, including the proposal in the notice, the comments received and other available information, it is found and determined that for the months of May 1979 through April 1980 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1068.73(a), subparagraph (4) in its entirety.

Statement of Consideration

The Upper Midwest milk order, which became effective June 1, 1976, initially required a partial payment to producers and cooperative associations on the 25th day of the month for milk received during the first 15 days of the month. Final payment was due, and still is, by the 18th day of the following month. These were the dates provided in the

prior order for the Minneapolis-St. Paul area.

Many of the producers who were brought under the merged order, particularly those in Wisconsin, had been accustomed to receiving payments 15 days apart. They preferred such payments to being paid on the 18th and 25th of the month. To accommodate this, the pertinent provisions of the order have been suspended since November 1976 (41 FR 51389, 42 FR 22360, 42 FR 59747, and 43 FR 19341). As requested, the suspensions were limited to payments to producers for whom a cooperative was not collecting payments.

A continuation of the suspension through April 1980 is supported by a cooperative association, the operator of a pool distributing plant and by a producer. The pool plant operator indicated that his producers desire receiving payment for their milk on the 3rd and 18th days of the following month. He claimed that assignments against the milk checks of producers are set to correspond with these dates and that any change in them would cause a bookkeeping problem for the producers.

The producer indicated that he would prefer receiving his payment about every 15 days. This, he claimed, would allow him to save interest expense on his feed supplies and on his farm mortgage. With respect to feed supplies, he stated that he receives a credit from his supplier if payment is made in full within 5 days after delivery. He also stated that payments every 15 days would allow him to save 5-7 days interest each month on his farm mortgage because interest is compounded daily.

The suspension should be extended for an additional period of twelve months pending a hearing at which proposals to amend the partial payment provisions may be considered. The suspension will enable handlers to continue to accommodate their producers who request that their payments be spaced about 15 days apart.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that the suspension does not require of persons affected substantial or extensive preparation prior to the effective date and notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning the suspension.

Therefore, good cause exists for making this order effective May 1, 1979.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of May 1979 through April 1980.

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

Effective date: May 1, 1979.

Signed at Washington, D.C., on April 12, 1979.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation Services.

[Milk Order 68]

[FR Doc. 79-12019 Filed 4-17-79; 8:45 am]

BILLING CODE 3410-02-M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 304

Amendments to Regulations Governing Approval of Construction and Regulation of Structures on the Tennessee River System

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: This rule changes the existing delegations of authority by the Board of Directors of the Tennessee Valley Authority (TVA) in connection with the approval of construction in the Tennessee River system and regulation of structures. It delegates to the Director of Land and Forest Resources and the Division of Land and Forest Resources, respectively, all functions and responsibilities under 18 CFR Part 304 formerly delegated to the Director of Property and Services and the Division of Property and Services.

EFFECTIVE DATE: April 18, 1979.

FOR FURTHER INFORMATION CONTACT: Richard L. Morgan, Jr., Director of Land and Forest Resources, Forestry Building, Norris, Tennessee 37828 (615-632-4411).

SUPPLEMENTARY INFORMATION: A recent reorganization of TVA's offices and divisions includes the transfer to the Division of Land and Forest Resources in the Office of Natural Resources the land management functions for which the Division of Property and Services was formerly responsible, including the review and initial approval or disapproval under Section 26a of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831y-1 (1976)), of plans for structures in the Tennessee River system. The changes made by this rule in the delegation of power to approve or disapprove such plans and administration of the handling of applications for such approval reflect this aspect of the reorganization and

simply transfer to the Director and Division of Land and Forest Resources all of the powers and responsibilities under 18 CFR Part 304 formerly vested in the Director and Division of Property and Services.

Accordingly 18 CFR Part 304 is amended as follows:

1. Section 304.1 is amended by changing the definition of Director to read:

§ 304.1 Definitions.

Except as the context may otherwise require, the following words or terms, when used in this Part 304, have the meaning specified in this section.

* * * * *

"Director" means the Director of Land and Forest Resources of TVA.

* * * * *

2. Section 304.101 is amended to read:

§ 304.101 Delegation of authority.

The power to approve or disapprove applications under this part is delegated to the Director, subject to appeal to the Board as provided in § 304.106. In his discretion the Director may submit any application to the Board for its approval or disapproval. Administration of the handling of applications is delegated to the Division of Land and Forest Resources.

3. Section 304.102 is amended to read:

§ 304.102 Application.

Applications shall be addressed to Tennessee Valley Authority, Director of Land and Forest Resources, Norris, Tennessee 37828.

4. Section 304.103 is amended by revising the first sentence of paragraph (c) to read:

§ 304.103 Contents of application.

* * * * *

(c) Detailed information concerning contents of applications, kinds and amounts of information required to be submitted for specific structures, and instructions are available at the address specified in § 304.102 or from the Manager of Properties, Division of Land and Forest Resources, Tennessee Valley Authority, at one of the following district offices:

* * * * *

5. Section 304.105 is amended by revising paragraph (a) to read:

§ 304.105 Determination of application.

(a) The Division of Land and Forest Resources conducts preliminary investigations; coordinates the processing of applications within TVA; notifies the applicant if preparation and review of an environmental statement

are required under NEPA and of what additional information must be submitted to TVA by applicant so that TVA may comply with the requirements of that statute and related legal requirements, and complete its review of the application; and arranges for notification to the Environmental Protection Agency of applications that request approval of plans for structures which may result in a discharge into navigable waters of the United States and are certified in accordance with the requirements of § 304.103(b).

* * * * *

(16 U.S.C. 831-831dd)

Note.—TVA has determined that the amendments of 18 CFR Part 304 contained in this document are not significant within the meaning of Executive Order No. 12044 and under TVA's criteria established pursuant thereto.

Dated: April 5, 1979.

Leon E. Ring,

General Manager.

[FR Doc. 79-11971 Filed 4-17-79; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 207

Multifamily Housing Mortgage Insurance; Mortgagee's Late Charge

AGENCY: Department of Housing and Urban Development.

ACTION: Correction of final rule.

SUMMARY: On December 26, 1978, at 43 FR 60154, the Secretary adopted an amendment to 24 CFR Part 207. Reference was made to a new § 207.252c. Since 24 CFR Part 207 already had a § 207.252c, this reference should have been § 207.252d.

EFFECTIVE DATE: December 26, 1978.

FOR FURTHER INFORMATION CONTACT: T. J. O'Connor, Director, Office of Finance and Accounting, Room 2202, Telephone 202-755-6310 (This is not a toll free number).

Accordingly, 24 CFR Part 207 is amended as follows, effective as of December 26, 1978, the date the final rule was published:

Subpart B—Contract Rights and Obligations

1. The table of contents to Part 207 is amended to add a reference to a new

§ 207.252d and designated "Mortgagee's late charge."

2. A new § 207.252d is added to read as follows:

§ 207.252d Mortgagee's late charge.

* * * * *

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., April 4, 1979.

Morton Baruch,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[Docket R-79-527]

[FR Doc. 79-11967 Filed 4-17-79; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 232

Nursing Homes and Intermediate Care Facilities Mortgage Insurance

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This final rule amends Part 232 with respect to leases executed by a governmental agency, an Indian, an Indian tribe, or such other lessor as the Commissioner may approve.

EFFECTIVE DATE: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Charles P. Storrs, Jr., Office of Multifamily Development, Room 6116, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-9280 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The property requirements in Part 207 of the regulations allow a lease executed by a governmental agency, an Indian, an Indian tribe, or such other lessor that the Commissioner may approve with a term of not less than 50 years to run from the date the mortgage is executed. This provision is contained in the regulations for the Section 207 program, the basic multifamily housing program.

It now becomes necessary to amend Part 232 to include this 50-year leasehold term provision in the nursing home program in order to provide nursing home mortgage insurance to benefit Indian tribes and others. A 50-year leasehold term is the maximum that an Indian tribe may acquire in certain instances, and the present Section 232 requirement of 55 years would exclude most Indian tribes from participating in the program.

Since this amendment would provide a benefit to certain Indian tribes and since it is in the public interest to provide such benefit without delay, the Secretary has found that the delay that would result from notice and public

procedure would be contrary to the public interest. Accordingly, a public comment period is not required, and this amendment is published as a final rule.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspections during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, Part 232 is amended by adding a new paragraph (d) to Section 232.25a, to read as follows:

§ 232.25a Eligibility of property.

* * * * *

(c) * * * ; or

(d) Under a lease executed by a governmental agency, an Indian, an Indian tribe, or such other lessor as the Commissioner may approve for the maximum term consistent with the legal authority for the execution of such lease, provided that the term of any such lease shall run for a period of not less than 50 years from the date the mortgage is executed.

* * * * *

Issued at Washington, D.C., April 6, 1979.

Morton Baruch,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[Docket No. R 79-647].

[FR Doc. 79-11968 Filed 4-17-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

Air Force Privacy Act Program

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force has rewritten its rules for the operation of the Air Force Privacy Act program to reduce their length and complexity. The structure of the rules has been reorganized to follow the process of information collection, maintenance and dissemination. In addition, a section on fees and one on training has been added. This revision is intended to make the program more understandable to persons seeking access to records on themselves which the Air Force is maintaining. It is also

intended to reduce operating costs and improve responsiveness by giving program managers clear and logical instructions on how to operate the program. Except for revising the text, however, these rules do not alter practices and procedures already in effect.

EFFECTIVE DATE: April 11, 1979.

FOR FURTHER INFORMATION CONTACT: Captain Robert N. Veeder, Chief, Air Force Privacy Act Office, HQ USAF/DAAD(S), Washington, D.C. 20330, phone: 202-694-3431.

SUPPLEMENTARY INFORMATION: On February 5, 1979, the Department of the Air Force published a proposed rule (44 FR 6944) to revise Part 806b at 32 CFR, Air Force Privacy Act Program. As stated at that time, the revision adds decision logic tables for processing requests, appeals, time limits, and disclosure accounting and consent requirements; designates the Chief, Office of Civilian Personnel as Denial Authority for civilian records; transfers subpart on Privacy Act requirements for forms and regulations to Forms Management Office and Publications Management Office; and adds a subpart on training. Interested persons were invited to participate in the proposed rulemaking change. Since no public comments were received prior to the expiration date for public comment, Part 806b is revised to read as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

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806b.21 Systems Notice Requirements.
806b.22 General and specific exemptions claimed.

Authority: 5 U.S.C. 552, as amended by Pub. L. 93-501.

Note: This part is derived from Air Force Regulation 12-35, April 11, 1979. Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 806b.0 Purpose.

This part explains policies and outlines procedures that govern collecting personal information and safeguarding, maintaining, using, accessing, amending, and disseminating personal information kept by the Department of the Air Force in systems of records. It implements 5 U.S.C. 552a, Pub. L. 93-579 and DOD Directive 5400.11, August 4, 1975. It is published in Title 32 CFR 806b and applies to all Air Force activities, including the Reserve Components, except for the office of the Chief, National Guard Bureau; Air National Guard technicians; and Army-Air Force Exchange Service activities, including Motion Picture Service Activities. It does not apply to civilian employee records which are maintained by Air Force activities and are covered under the Civil Service Government-wide systems of records, reprinted in AFP 12-36, Part Three. Such records are subject to Parts 293, 294, and 297 of Civil Service Commission regulations and the Federal Personnel Manual and Air Force Supplements. In case of a conflict, this part takes precedence over any existing Air Force directive that deals with the personal privacy and rights of individuals regarding their personal records, except for disclosures of personal information required by the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended by Pub. L. 93-502 and implemented by AFR 12-30.

Subpart A—General Information

§ 806b.1 Air Force policy.

It is Air Force policy to:
(a) Protect the privacy of individuals from unwarranted invasion as required by the Privacy Act of 1974.

Individuals covered by this protection are living citizens of the United States or aliens lawfully admitted for permanent residence. A legal guardian or parent has the same rights as, and may act on behalf of, a minor. (A member of the Armed Forces is not a minor for the purposes of this part.)

(b) Collect, keep, and use only that personal information needed to support Air Force operations and programs as authorized by law or Executive Order. Disclose this information only as authorized by the Privacy Act of 1974 and this part.

(c) Keep only that personal information that is timely, accurate, complete, and relevant to the purpose for which it was collected.

(d) Safeguard personal information to prevent unauthorized use, disclosure, alteration, or destruction.

(e) Let individuals know what records the Air Force is keeping on them, and to let them review or get copies of these records, subject to exemption procedures authorized by law and published in this part.

(f) Let individuals amend records about themselves that they can prove are in error, or are untimely, incomplete, or irrelevant.

(g) Let individuals ask for an administrative review of decisions that deny them access to, or do not let them amend, their records.

(h) Keep personal information only for as long as it is needed to protect the rights of the citizen and the Government, and to provide for the administrative needs of the Air Force.

§ 806b.2 Terms explained.

Terms, and their meanings, used in this part are:

(a) *Access.* Reviewing or obtaining copies by individuals of their own records that are part of a system of records.

(b) *Agency.* For purposes of disclosing records subject to § 806b.15, the Department of Defense is an agency as defined by the Privacy Act. For all other purposes, including applications for access and amendment, appeals from denials, exempting systems of records, etc., the Department of the Air Force is an agency.

(c) *Confidential source.* Any individual or organization that has given information to the Federal Government under:

(1) An express promise that the identity of the source would be withheld, or

(2) An implied promise to withhold the identity of the source made before September 27, 1975.

(d) *Confidentiality.* An explicit promise to withhold the identity of a source. For a promise of confidentiality to be effective, the information furnished must be put into a system of records that is authorized for an exemption under the Privacy Act and for which the Secretary of the Air Force has claimed an exemption.

(e) *Disclosure.* Giving information about an individual, by any means, to an organization or to an individual who is not the subject of the record. In the context of the Privacy Act and this part, this term only applies to personal information that is part of a system of records.

(f) *Individual.* A living citizen of the United States or an alien admitted for permanent residence. The Privacy Act rights of an individual may be exercised by the legal guardian of an incompetent, or by the parent of a minor.

Note.—The Privacy Act confers no rights on deceased persons, nor may their next of kin exercise any rights for them.

(g) *Maintain.* Includes "hold," "collect," "use," "control," or "disseminate."

(h) *Minor.* Any individual under the age of majority as determined by state law that governs the location of the facility where the records are kept. If there is no prevailing state law (for example, overseas), a minor is any individual under 18 years of age.

(i) *Official Use.* Any action by a member or employee of the Department of Defense which is prescribed or authorized by a regulation, and is intended to complete a mission or function of the department.

(j) *Personal Information.* Any item of information about a person that is not a matter of public record and is usually considered to be personal to the individual. It includes, for example, information about the individual's financial, family, social, and recreational affairs; his or her medical, educational (except military training), employment, political, or criminal history; or information that identifies, describes, or gives a basis for inferring personal characteristics, such as voice or fingerprints.

(k) *Privacy Act Request.* A request from an individual for information about the existence of, or for access to or amendment of, a record about him or her that is in a system of records. The request must cite or indicate a knowledge of the existence of the Privacy Act of 1974.

(l) *Record.* Any item, collection, or grouping of information about an

individual that is kept by the Government.

(m) *Routine Use.* Any use or disclosure of information from a system of records that has been listed in a published systems notice and that is consistent with the purpose for which the information was collected.

(n) *System Manager.* The official responsible for the policies and procedures for operating a system of records. The local systems manager operates and has immediate contact with the system.

(o) *Statistical Record.* A record kept for statistical or reporting purposes which is not used by making judgments about individuals. The identity of specific persons must not be discoverable using usual statistical or data manipulation methods.

(p) *System of Records.* Any group of records from which personal information is retrieved by the name of an individual or by some personal identifier, such as the individual's Social Security Number (SSN). If such retrieval is possible but not actually done, the group does not constitute a system of records. Likewise, if retrieval depends on the operator's memory, no system of records exists. However, the creation of a retrieval index, arranged by personal identifier for a system that is filed at random, makes that system a system of records. Notices for all systems must be published in the *Federal Register* and no system may be operated or maintained until this is done.

(q) *Workday or Day.* An official duty day, not including Saturdays, Sundays, and official Federal holidays.

§ 806b.3 Air Force supplements.

Commands will not change, through supplements or other publications, the policies and procedures set by this part. Send copies of each major command (MAJCOM) or separate operating agency (SOA) publication that implements this part to HQ USAF/DAAD(S), Wash DC 20330.

§ 806b.4 Responsibilities assigned.

(a) The Administrative Assistant to the Secretary of the Air Force (SAF/AA) has overall responsibility for the Privacy Act within the Air Force and is the final decision authority on all appeals.

(b) The Director of Administration, HQ USAF, manages and administers the program through the Air Force Privacy Act Office, HQ USAF/DAAD(S).

(c) HQ USAF Deputy Chiefs of Staff (DCS) (and comparable officials) and SAF offices make sure that their deputates or offices comply with this part and name a Privacy Act Officer to

assume the responsibilities in (g) of this subparagraph.

(d) MAJCOM and SOA Commanders implement this part within their commands and ensure compliance with its requirements.

(e) MAJCOM and SOA Directors of Administration monitor and administer the command-wide program. They may give these responsibilities to another staff function, if HQ USAF/DA approves. They name a command Privacy Act Officer within the Documentation staff function, and a Privacy Officer at each installation or tenant unit. They send the name, grade or rank, and telephone number of the current command Privacy Act Officer to HQ USAF/DAAD(S). Privacy Act monitors may be appointed at subordinate organizations and staff elements, if required.

(f) Command Privacy Act Officers:

(1) Serve as the primary point of contact within the command on all Privacy Act matters.

(2) Make sure that appropriate command personnel are trained or oriented in the provisions of the Act.

(3) Develop the command supplement to this part, if required.

(4) Gather material for the annual report and record system notices for HQ USAF/DAAD(S).

(g) Local Privacy Officers:

(1) Act as liaison between the command Privacy Act Officer and individuals who are responsible for operating systems of records.

(2) Implement, administer, and monitor the Privacy Act program within their areas of jurisdiction.

(3) Make sure that personnel are trained or oriented in the provisions of the Act.

(4) Compile material for the annual report, and records system notices for the command Privacy Act Officer.

(h) Record system managers may serve at any level in the Air Force. They determine the content and set rules for operating the system. System managers are responsible for sending public notices for proposed new or changed systems of records to the local Privacy Officer and for evaluating the systems each year, as required by § 806b.13. In many cases, record system managers also operate the system as the local system manager.

(i) Local records system managers or custodians answer requests for information from individuals, keep accountability records of disclosures, and send the Privacy Officer data needed for the annual report.

§ 806b.5 Delegation of authority.

(a) *Access authorities.* (1) The person named or position listed in the record system notice published in the Federal Register, either as the one to whom the request is to be sent or as the system manager.

(2) Reports of the Air Force Office of Special Investigations (AFOSI) released under rules in Part 952. Reports on investigations that are not complete and on which no final action has been made, are released by the commander of the organization that requests the investigation. Reports on completed investigations may only be released by HQ AFOSI.

(3) Inspector General complaint records, released only with the approval of HQ AFISC/IC.

(b) *Denial authorities.* The authority to deny access to, or to refuse to amend records must not be delegated to levels lower than those shown below, unless approved by SAF/AA. Send requests for waiver, with justification, to HQ USAF/DAAD(S), Wash DC 20330. Only the following officials, or their designees, have the authority to refuse to release or amend records:

(1) At SAF or HQ USAF, Deputy Chiefs of Staff and chiefs of comparable offices or higher level.

(2) At MAJCOM or SOAs, Commanders.

(3) For personnel records on civilian employees, Chief, Office of Civilian Personnel Operations (OCPO/MPK), Randolph AFB, TX 78148.

(4) For OSI investigative records, Commander, AFOSI, HQ AFOSI, Wash DC 20314.

Note.—The officials named above may designate one alternate denial authority. Send a copy of the letter of appointment to HQ USAF/DAAD(S), Wash DC 20330.

(c) *Authority to request law enforcement records.* The Commander, AFOSI; the Chief, Air Force Office of Security Police; Base Chiefs of Security Police; and AFOSI District Commanders and their designees are authorized to ask for records from any source for law enforcement activities under 5 U.S.C. 552a(b)(7). These requests must be in writing and indicate the particular part of the record desired and the law enforcement activity that is asking for the record.

§ 806b.6 Judicial sanctions.

The Privacy Act has both civil remedies and criminal penalties for violations of its provisions.

(a) *Civil remedies.* An individual may file a civil suit against the Air Force, if

Air Force personnel fail to comply with the Privacy Act.

(b) *Criminal penalties.* A member or employee of the Air Force may be found guilty of a misdemeanor and fined not more than \$5,000 for willfully:

(1) Maintaining a system of records without first meeting the public notice requirements. (See § 806b.12.)

(2) Disclosing individually identifiable information to one not entitled to have it.

(3) Asking for and getting another's record under false pretenses.

Subpart B—Collecting Personal Information**§ 806b.7 Collecting from the individual.**

Collect personal information, as much as possible, directly from the individual. Do not collect this information from third parties unless:

(a) The accuracy of information supplied by an individual must be verified with a third party.

(b) The information can only be obtained from a third party, such as information about how an employee performed in an earlier job or assignment.

(c) Getting the information from the individual would present exceptional difficulties or would result in an unreasonable cost.

(d) Other compelling and unusual circumstances make third party involvement necessary.

§ 806b.8 Privacy Act statements.

If the information asked for would be releasable under the FOIA, there is no requirement to give the person a Privacy Act Statement (some examples of this kind of information are name, grade, organization, duty assignment, and official telephone number). In all other cases, give individuals who are asked for information about themselves a Privacy Act Statement. This must be done regardless of how you collect or record the information, whether you use a form in the usual sense (that is, a printed document with a control number and edition date) or a blank page. You may advise individuals orally or display a sign in areas where they are frequently required to supply the same type of information; however, printed copies must be available and given to the individual on request. A Privacy Act Statement, whether given orally or placed on a form, must include:

(a) The number of the statute or executive order that authorizes collecting the information.

(b) The principal purposes for which the information will be used (for

example, why the information is requested).

(c) The routine uses to be made of the information (for example, how the information is going to be used).

(d) Whether furnishing the information is mandatory or voluntary. Responding is mandatory, only if the information is essential to the Air Force mission, and if failure to furnish it could make the person liable to some administrative or disciplinary action.

(e) What will happen to the individual, if he or she does not give all or any part of the information requested.

Note.—If you ask an individual for his or her SSN, you must state whether disclosure is voluntary or mandatory, give the statute or authority for requesting it, and state how it will be used.

(1) An individual may not be denied any right, benefit, or privilege provided by law for refusing to give his or her SSN unless disclosure:

- (i) Is required by Federal statutes; or
- (ii) Was required under statute or regulation adopted before January 1, 1975 for a system of records operating before that date.

Note.—Executive Order 9397, November 22, 1943, authorizes the use of the SSN as a system of numerical identification of individuals.

(2) The fact that disclosure of the SSN is not required by Federal statute or is not for a system of records operating before January 1, 1975, does not preclude Air Force officials from asking for it. However, the Privacy Act Statement must make clear that disclosure of the SSN is voluntary. If the individual refuses to disclose it, be prepared to use other means for identification.

Note.—The Forms Management office provides information on preparing and processing forms that should have Privacy Act Statements. The Publications Management office ensures that a Privacy Act warning statement is in the preamble of each regulation that calls for collecting personal information.

§ 806b.9 Promises of confidentiality when collecting information about individuals from third parties.

Give these promises rarely, and only for information that could not be obtained by other means. These promises can only be given for information that is put in an exempt system of records (see Subpart E). In order to exempt information under subsections (k)(2), (k)(5), and (k)(7) of the Privacy Act, sources must be given an express promise that their identities will not be revealed.

Subpart C—Maintaining Information in Systems of Records

§ 806b.10 Air Force standards.

The Air Force must maintain information on individuals with such accuracy, relevancy, timeliness, and completeness as is reasonably necessary to make sure that determinations about them are made fairly.

(a) No record in a system of records will be kept unless it is authorized by statute or by Executive Order and is directed by an Air Force regulation.

(b) No record in a system of records will be kept unless it is relevant and necessary to carry out the mission or a function of the Air Force.

(c) No record will be kept that describes how an individual exercises any right guaranteed by the First Amendment to the Constitution unless expressly authorized by statute, by the individual concerned, or unless authorized for a law enforcement purpose.

(d) No system of records or revised system of records will be operated until the requirements for public notice and report to the Office of Management and Budget have been met. (See § 806b.12.)

(e) An activity must not issue a Request for Proposal or an Invitation to Bid for computer or communications systems and services to support a new or altered system of records until the requirement for a report to the Office of Management and Budget has been met. (See § 806b.12.)

(f) No record from a system of records will be released except according to Subpart D.

§ 806b.11 Protecting records.

Any activity that operates a system of records must set rules of conduct, operating procedures, and physical safeguards to keep the records safe from unauthorized disclosure. The level of protection should be in line with the level of sensitivity of the information.

(a) *Disposition of Records.* Dispose of records that have personal data and are eligible for disposal (as directed by AFM 12-50, Disposition of Air Force Documentation) by tearing into pieces, shredding, pulping, macerating, or burning.

(1) Dispose of magnetic tapes or other magnetic medium by degaussing or erasing.

(2) Activities may dispose of computer cards and printouts in a volume of 5 cubic feet or more without removing information subject to the Privacy Act from the records. This amount is sufficient to make sure that any one item

of information becomes lost in the accumulated whole. It is not a disclosure under the Privacy Act. The carbon paper associated with these products may be disposed of through normal waste disposal methods. Systems managers may ask for a waiver of the required volume from command Privacy Act Officers. Systems Managers must give substantial reasons to justify any reduction. Command Privacy Act Officers review the request in consultation with the Staff Judge Advocate. If there is disagreement, the request may be sent to HQ USAF/DAAD(S) for a final determination.

(b) *Safeguarding personal information in ADP Systems.* See AFR 300-13, Safeguarding Personal Data in Automatic Data Processing Systems.

§ 806b.12 Public notice and reporting requirements.

The Privacy Act requires that a report on all new or altered systems of records be published for public inspection. In addition, the Office of Management and Budget (OMB) requires a report on new systems and certain kinds of altered systems. Instructions on how to prepare both the OMB report and the systems notice are in § 806b.21. New systems notices, changes to current systems notices, and the OMB report, if required, must reach HQ USAF/DAAD(S), Wash DC 20330 at least 90 days before the date an activity will begin to operate a new system, change an existing system, issue any data collection forms or instructions, or issue a request for proposal or invitation to bid for computer or communications systems or services to support the new or altered systems.

(a) A new system of records is one for which no notice has been published in the *Federal Register*. It requires both a systems notice and an OMB report.

(b) An altered system of records, requiring both an OMB report and a systems notice, is one that:

(1) Significantly increases the number or changes the types of individuals on whom records are kept.

(2) Expands the categories of information. For example, a system that has physical training records is expanded to include medical records.

(3) Alters the way in which records are organized or in which they are indexed or retrieved so as to change the nature or scope of the records. For example, combining two or more existing systems as a result of centralizing a unit's responsibilities is an alteration.

(4) Alters the purpose for which the information is used.

(5) Alters the computer environment (for example, equipment configuration, software, or procedures) so as to create the possibility for greater or easier access (for example, adding a remote terminal at an office that did not previously have access to a system).

(c) An altered system of records that requires an amended systems notice but not an OMB report, is one that:

(1) Alters or adds routine uses within the scope of the original purpose for which the information was collected.

(2) Decreases the number of persons on whom records are kept.

(3) Adds a new data element clearly within the scope of the existing categories, or decreases the number of categories.

(d) A systems manager who decides a system of records must be exempted from some or all of the requirements of the Privacy Act must send a letter through the command Privacy Act officer to HQ USAF/DAAD(S) Wash DC 20330, giving specific reasons. This request must be processed by the Air Force Privacy Act Office for Secretarial approval (See Subpart F).

§ 806b.13 Evaluating systems of records.

Each system manager must evaluate the system of records and each category of information in the system at least once a year to make sure they are still relevant and necessary. Send any amendments or deletions as prescribed in § 806b.12. Take into consideration:

(a) How the system and each item of information in it relate to the program it supports and to the statutory purpose of the program.

(b) What the specific adverse consequences of dropping the system or any item of information in it would be.

(c) The possibility of meeting information requirements by using other than personal data.

(d) The possibility of early purging of any item of information.

(e) The cost of running the system as it is, in relation to the result of discontinuing it.

Subpart D—Disclosing Information From Systems of Records

§ 806b.14 Disclosures to the subjects of records.

Individuals may ask whether the Air Force is maintaining records about them. If such records exist within systems of records, the Privacy Act gives the individual a right of access to the record, and a right to request its amendment.

(a) *How to identify a Privacy Act request.* To be considered under the Privacy Act, a request must:

(1) Come from a person whose records are in the system, or who is a designated agent or legal guardian. The request can be either oral or written.

(2) Cite the Privacy Act or at least show an awareness of the Act's requirements. For example, it could be addressed to the Privacy Act Officer, system manager, or FOIA manager, even if it does not cite the Act in the text of the request. Because people sometimes confuse the Privacy Act and FOIA, a request that cites or implies FOIA will be treated as a Privacy Act request, if it meets all the other criteria in this section.

(3) Pertain to records that are in a system of records. If the records the person wants are not in a system of records, the request falls into a category other than Privacy. The request does not have to name the system, but it should be fairly specific. Do not accept blanket requests for "all records about me." Instead, refer the person to AFP 12-37, Access Guide for Making Freedom of Information Act and Privacy Act Requests, and ask for more details.

(b) *How to identify a functional request.* Other Air Force directives give individuals the right to have access to their records. If an individual asks for his or her records and does not cite, or reasonably imply, the Privacy Act or FOIA, and another prescribing directive authorizes the release of the records, use that directive as authority for the release. Apply the schedule of fees in Part 813. Do not count the request as a Privacy Act request. An example is when an officer asks a personnel clerk for a copy of his or her Officer Effectiveness Report (OER). If the officer does not cite Privacy Act or FOIA, the clerk may give him or her the record under AFR 36-10, Officer Evaluations, and charge according to Part 813.

(c) *How to process a Privacy Act request for existence or access that cites Privacy Act, FOIA, or both.* Regardless of whether a person cites or implies the Privacy Act or the FOIA, process the request so as to give the most information possible. This may mean processing part of the request under one Act and part under another.

(1) *Verifying identity.* When local systems managers receive a request for information about the existence of, or for access to, records, they must verify the requester's identity, unless the record sought is available to anyone under the FOIA. The person does not have to state a reason for the request, nor can the request be denied, if the

person does not give his or her SSN, unless disclosure of the SSN is required by Federal Statute or by a regulation adopted before January 1, 1975.

(2) *Notify the requester.* Once the requester's identity is assured, the local system manager or custodian should:

(i) Within 10 working days from the date the request was received, tell the person if the system of records has a record about him or her, and when and where it may be reviewed.

(ii) Within 30 working days from the date the request was received, let the person review the record, or obtain a copy, unless it is exempt and listed in § 806b.22.

(a) If the requester wants to bring another person, the local manager may ask for written authorization for the other person to be present during any discussion of the content of the record.

(b) There is no requirement to create a record to fulfill a request; the record must be in existence at the time of the request. However, do not deny a record just because it is not readily available in a convenient format. Information in a system of records on magnetic or computer tape should be given in a format the requester can read.

(3) *Assessing fees.* When providing documents under the Privacy Act, charge fees for reproduction only.

(i) Use the following fee schedule:

Office copy (per page).....	.10
Microform media (paper copy) (per image).....	.25
Microfiche (per fiche).....	.95

(ii) Do not charge fees for:

(a) Performing record searches.

(b) Reproducing a document for the convenience of the Air Force.

(c) Reproducing a record only in order to let a requester review it. If he or she wants a personal copy, use the fee in (3)(i) of this subpart.

(d) Reproducing a record for a requester who shows that he or she cannot pay the allowable charge.

(iii) Waive the fee, if the total amount is less than \$5.

(4) *Denying access.* If the local systems manager decides the record should not be released, he or she sends a copy of the request, a copy of the record (or records), and the reasons for recommending denial, including the exemption being applied, to the Denial Authority, through the command Privacy Act Officer. This must be done within 5 workdays from the date the request was received.

(i) *Evaluation of record.* No record may be withheld just because it is in an exempt system. Before recommending denial, the local manager must:

(a) Make sure the system is covered by an exemption approved by the Secretary of the Air Force and listed in § 806b.22.

(b) Make sure that each document is, in fact, covered by the exemption, since all documents in a system are not automatically exempt.

(c) Determine that no part of the record could be released, either by careful editing or in the form of a summary. If a record has both releasable and exempt material, the releasable part must be separated and made available.

(ii) *Medical records.* If, in the judgment of a physician, releasing a medical record to the subject could harm the subject's mental or physical health, the system manager may require the requester to name a physician to receive the record. This is a denial of the record, only if the subject refuses to name a physician.

(iii) *Third party information.* A record with personal information about someone else can be released after the third party information has been taken out. If the information is releasable under the FOIA, it is not deleted. If the record is one to which the requester has already had access, such an order or effectiveness report, it is released intact. In all other cases, personal information such as home addresses and SSNs of others should be deleted. If there is information in the record, the disclosure of which would be a clearly unwarranted invasion of someone else's privacy, that information should be withheld.

(iv) *Information compiled for litigation.* Information in a system of records compiled in reasonable anticipation of a civil action or proceeding may be denied. The requester should be informed of his or her right to appeal this denial.

(v) *Denial Authority action.* (a) The Command Privacy Officer reviews the denial recommendation and consults with the servicing Staff Judge Advocate and the office responsible for the program under which the record was created. He or she makes a recommendation to the Denial Authority, consistent with the results of this review.

(b) The Denial Authority, after examining the case, notifies the requester whether or not access will be granted. If the Denial Authority decides to grant access, he or she instructs the local systems manager to release the record. If the Denial Authority denies access, he or she must tell the requester why, and that the decision may be appealed to the Secretary of the Air

Force within 45 days after the denial letter is received. The requester will be told to resubmit the original request and send any supporting material back to the Denial Authority for forwarding to HQ USAF/DA, Wash DC 20330. The requester should be cautioned that failure to follow this procedure may delay the appeal.

(d) *How to process a request for amendment.* Individuals may ask the Air Force to amend records about them that are in a system of records. The amendment sought must change, delete, or add material to make a record factually accurate, timely, relevant, or complete. A request that asks for an amendment of information that is subjective, or involves a matter of opinion or interpretation, is not processed under this part. It is sent back, and the person told to send it to the Air Force Board for the Correction of Military Records under Part 865, Subpart A of this chapter, under grievance procedures in AFR 40-771, Appeal and Grievance Procedures, or any other appropriate directive.

(1) Requests to amend may be made orally or in writing. But, only requests asking for minor corrections are accepted orally. In either case, the local systems manager verifies the identity of the person seeking the amendment.

(2) Local systems managers routinely correct any record, if the requester can conclusively show it is factually in error, or if no lawful purpose would be served by not correcting the record. In these cases, the manager makes the change, notifies all holders of the record, and informs the individual when the correction is made.

(3) If the manager decides not to amend the record, he or she sends a copy of the record, the reasons for denial, and the request to the Denial Authority through the command Privacy Act Officer. The Command Privacy Act Officer reviews the denial recommendation and consults with the servicing Staff Judge Advocate and the office responsible for the program under which the record was created. He or she makes a recommendation to the Denial Authority based on the results of this review. A Denial Authority who decides to support, or partially support denial, sends the requester a letter stating why the request was denied and how to appeal the decision. If a review does not support denial, the system manager must be told to amend the record and notify all subsequent recipients of the change.

TABLE 1

PRIVACY ACT REQUEST PROCESSING

R U L E	A	B	C	D
	If requester cites or implies (see note 1)	and asks for	which are	then process as a
1	Freedom of Information Act (FOIA)	his or her own records	in a system of records	Privacy Act (PA) request under AFR 12-35 (see note 2).
		someone else's records	not in a system of records	FOIA request under AFR 12-30.
			filed anywhere	
2	Privacy Act (PA)	his or her records	in a system of records	PA request under AFR 12-35 (see note 2).
		someone else's records	not in a system of records	FOIA request under AFR 12-30.
			filed anywhere	
3	neither Act	his or her own records	in a system of records	Functional request. If a regulation provides access, use its procedures. Otherwise, use AFR 12-35.
			not in a system of records	Functional request. If a regulation gives access use its procedures. If the functional regulation would deny access, see AFR 12-30.
		someone else's records	filed anywhere	
4	both acts	his or her own record	in a system of records	PA request under AFR 12-35 (see note 2) or FOIA request under AFR 12-30 or both, whichever gives most information.
			not in a system of records	
		someone else's record	filed anywhere	FOIA request under AFR 12-30.

NOTES: 1. Request for information from subject of an AFOSI investigation should be processed under AFR 12-30.

2. Report as Privacy Act Request in Annual Report.

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(e) *Time limits.* Requesters should be told what action will be taken on their request within 10 workdays from the date the first Air Force office receives it. If access is granted or a record is amended, that should usually be done within 30 workdays. Table 2 gives time limits for the persons responsible for these actions. If the 10-day time limit

cannot be met, the requester should be sent a letter telling why a delay is needed and giving an approximate response date. That date should be no more than 20 workdays after the first Air Force office receives the request. Send a copy of this letter to HQ USAF/DAAD(S), Wash DC 20330, through Privacy Act channels.

TABLE 2

TIME LIMITS FOR PROCESSING PRIVACY ACT REQUESTS

R U L E	A	B	C
	If you	and you are	then the time limit is
1	transfer action to another systems manager	Any recipient	2 workdays from receipt.
2	transfer action to Denial Authority	local Systems manager	5 workdays from receipt.
3	acknowledge request and tell requester if record exists		
4	acknowledge request and tell requester access will be granted	local Systems Manager, or Denial Authority	10 workdays*.
5	acknowledge request and tell requester amendment will be made		
6	Tell requester that access is denied		
7	tell requester that amendment is denied	Denial Authority	
8	grant access or amend record	local System Manager	30 workdays*.

NOTE: Time limits for granting access are recommended only; *From initial receipt by an Air Force activity. time limits for amending are required by the Privacy Act.

(f) *Appeals of initial refusals to grant access or to amend records.* (1) *Request for secretarial review.* An individual may request a review of the initial refusal by writing to the Secretary of the Air Force within 45 days of the denial. The request should be addressed to the Secretary of the Air Force (SAF/AA), Wash DC 20330 and sent back to the initial Denial Authority for forwarding to HQ USAF/DA, Wash DC 20330. The Denial Authority sends a complete file in the following order:

- (i) The request for review.
- (ii) The initial request for access or amendment.
- (iii) The initial refusal.
- (iv) A copy of the record or portions involved.
- (v) Any internal records or coordination actions that relate to the initial refusals.

(vi) Denial Authority comments on the appellant's arguments.

(2) *Responsibilities for Review.* (i) The Air Force Privacy Board reviews the initial denial and makes recommendations to the Vice Chief of Staff (CV). Members of the Board are representatives from HQ USAF/DA (Chairperson), the Office of The Judge

Advocate General (HQ USAF/JA), and an Air Staff function not having primary responsibility for the record in question. The Chairperson may also call upon subject matter experts to advise the Board. CV may designate another official to serve as chairperson or, if the record is the primary responsibility of HQ USAF/DA or HQ USAF/JA, may choose a member from another Air Staff organization to sit on the Board instead.

(ii) The Office of the CV considers the recommendations of the Board and decides whether to direct the initial Denial Authority to grant access to or amend the record, or to uphold the denial. If the decision is to uphold, this recommendation is passed to SAF/AA through SAF/GC for a final decision.

(iii) SAF/AA considers HQ USAF/CV recommendations to uphold a denial, decides to grant or deny the appeal, and notifies both the individual and the initial Denial Authority of the decision. If SAF/AA upholds the denial, the individual is advised of his or her right to send a statement of disagreement to the system manager.

(3) *Time limits for appeal.* Table 3 shows the necessary actions and time limits for each part of the appeal process.

TABLE 3				
APPEAL PROCESSING				
R U L E	A	B	C	D
	If	Decides to	then	within
1	AF Privacy Board	uphold denial OR overrule denial of access OR overrule denial of amendment	Pass to HQ USAF/CV with recommendations	15 work days.*
2	HQ USAF/CV	uphold denial	pass to SAF/AA through SAF/GC with recommendations	30 work days*.
		overrule denial of access OR overrule denial of amendment	Notify the Individual and instruct Denial Authority to have access granted or record amended	
3	SAF/AA	uphold denial of access	notify the individual, giving reasons with copy to Denial Authority	45 work days*.
		uphold denial of amendment	Notify individual giving reasons. Invite individual to file statement of disagreement with systems manager stating any reasons for disagreeing with the Air Force's decision. Tell individual that statement will become permanent part of record, shown to all subsequent users and sent to prior recipients.	
		overrule denial of access	Notify individual. Instruct Denial Authority to have access granted or record amended	
overrule denial of amendment	4			

*Time from receipt of appeal by HQ USAF/DA.

(g) *Statements of disagreement.* If an individual submits a statement of disagreement with the Secretary of the Air Force's decision not to amend his or her record, the local system manager:

(1) Flags the record so that the disagreement may be seen by anyone who discloses or gains access to the record.

(2) Files the statement with the record. If this is not possible, maintain it to allow ready retrieval when the disputed portion of the record is used.

(3) Advises previous recipients that the record has been disputed and gives

them a copy of the disagreement statement, if they can be identified.

(4) Lets subsequent users know that the record is disputed and gives them a copy of the statement along with the record. The manager may include a brief summary of the reasons for not amending the record. Summaries are limited to the reasons SAF/AA gives to the individual. The summary is treated as a part of the individual's record, but is not subject to the amendment procedures.

(h) *Privacy Act case files.* Except for the statement of disagreement, do not file documents used in processing notification, access and amendment

requests (including appeals) in or with the system of records to which they pertain. Instead, set up Privacy Act case files. These files should include requests from, and replies to, individuals on whether a system has a record about them; requests for access, approvals, refusals, appeals, and final review action; and coordination actions and related papers. Do not keep a copy of the disputed record in the case file. Use the file solely to process requests and as a source of statistics. Do not use it as a source of precedents for processing similar actions. Do not use it to make any other kind of determination about the individual. Set up Privacy Act case files at each office that processes a request.

§ 806b.15 Disclosures to third parties and organizations.

The fact that the Air Force lets an individual know why we are collecting the information and how it will be used does not mean we have his or her consent to release it. Thus, when we decide to release information as authorized below, we must first consider all the consequences of that disclosure. Before we release any information, we must make a reasonable effort to ensure that it is accurate.

(a) *With subject's consent.* Unless prohibited by other statutes or directives, we may disclose information from a system of records if the subject of the record writes and asks us to, or if he or she has given prior written consent by signing a release form. For example, medical information could be released to an insurance firm with the subject's written authorization. Make sure, however, that there is no statute or directive that prohibits release. For example, drug or alcohol abuse treatment information kept in connection with a drug or alcohol prevention function may be released only as authorized by 21 U.S.C. 1175 and 42 U.S.C. 4582. For this information to be released, the subject's specific consent is needed; general consent is not enough.

(b) *Without subject's consent.* A person's records may be disclosed without his or her consent to:

(1) Department of Defense officials and employees who need the record to perform their duties and who use it for the purpose for which we collected it.

(2) The public, as required by the FOIA. See Part 806 of this chapter.

(i) Some examples of information that can be released for military personnel without an unwarranted invasion of privacy are: name; rank; date of birth; marital status; name, age, number and

sex of dependents; date of rank; gross pay; present and past duty assignments and future assignments which are firm; office and unit address and phone number; source of commission; military and civilian education level, including major area of study, school, year of graduation and degree; promotion sequence number; awards and decorations; duty status at any given time; official photograph; and home of record, without street address. See Federal Personnel Manual Supplement 990-1, Part 294, on release of civilian personnel information.

(ii) Disclosing a person's home address, SSN, or home telephone number without his or her consent is usually considered to be a clearly unwarranted invasion of privacy. Thus, disclosure under FOIA usually should not be made.

(iii) Apply a balancing test to decide whether disclosure would be a clearly unwarranted invasion of the individual's privacy. Weigh the individual's right to privacy versus the public's right to know. Consider the nature of the information to be disclosed; do individuals usually expect this information to be kept private? Are the identities of the subject and the recipient already in the public eye? What is likely to happen to the individual as a result of the disclosure? How old is the information; is it still relevant? To what degree is the information already in the public domain?

(iv) We may release information, if the balancing test described above weighs in favor of disclosure. For example, we may be permitted to disclose home addresses to a requester who wanted to enforce a court order for alimony or child support payments, or to local and state tax authorities to enforce tax laws.

(v) We may not sell or rent lists with individuals' names and home addresses. Likewise we may not, without individuals' consent, release lists of names and home addresses to the public. We must allow individuals to decide if they want their home addresses and phone numbers included in base directories.

(3) Agencies outside the Department of Defense for a routine use which has been listed in the systems notice describing the system of records and has been published in the **Federal Register**. The routine use must be compatible with the purpose for which the information was collected and must be within the expectations of the person when he or she furnished it.

(4) The Bureau of the Census to plan or carry out a census or survey under Title 13, U.S.C.

(5) A recipient for statistical research or reporting. The recipient must give us advance written assurance that the record will be used solely as a statistical research or reporting record. The record must not be used, in whole or part, to make any decisions about the individual's rights, benefits, or entitlements. It must be sent in a form in which the identity of the individual cannot be found out through usual research methods.

(6) The National Archives of the United States has a record with enough value to warrant keeping it, or for evaluation by the Administrator of the General Services Administration to see if the record has such value. However, when we send records to Federal Records Centers for storage, they stay under Air Force control. These transfers are not disclosures under this subpart and do not need an accounting.

(7) An agency outside the Department of Defense for a civil or criminal law enforcement activity authorized by law. The head of the agency or a designee must send a written request to the systems manager. The request must specify the record or part needed and the law enforcement purpose for which it is wanted. A record may also be disclosed to a law enforcement agency by the Air Force office that has it if criminal conduct is suspected. This disclosure is a routine use for all US Air Force records systems and has been published in the **Federal Register**.

(8) Another person or agency under compelling circumstances affecting the health or safety of an individual. The individual whose records are disclosed does not have to be the one in danger. For example, records on several persons could be disclosed to identify individuals injured in an accident. When individual records are disclosed in this way, we must send the subject a notification at the last known address.

(9) Either House of Congress, a congressional committee or subcommittee, for matters within their jurisdictions.

(10) A congressional office acting for a constituent who is the record subject. This disclosure is allowed by a blanket routine use.

(11) The Comptroller General or any authorized representatives on business of the General Accounting Office.

(12) A court of competent jurisdiction that has ordered us to do so. When a record is disclosed under compulsory legal process and the court makes public the fact that it has issued an order or

subpoena for the record, we must make reasonable efforts to notify the individual by mailing a disclosure statement to his or her last known address.

(13) A contractor who is operating a system of records under a contract to perform an Air Force function, such as personnel, payroll, or health systems management. In this case, the contractor is considered an employee of the Air Force and the system of records is considered an Air Force system. Disclosure of records to the contractor does not need the subject's consent nor does it require that an accounting be kept.

(c) *Accounting for disclosures.*

(1) For those disclosures for which an accounting is required, each local record system manager must keep an accurate record showing the date of the release, the specific information released, the basis for making the disclosure, and the name and address of the recipient (see table 4). Accounting is required, even if the subject gives written consent. Systems managers may file the disclosure accounting record in any way they want, as long as they can reconstruct it to:

- (i) Give to the subject on request.
- (ii) Pass corrected or disputed information in the record to previous recipients.
- (iii) Provide a cross-reference to show the basis for making the disclosure.
- (iv) Provide an audit trail for reviews of Air Force compliance with the conditions of disclosure outlined in this subpart.

(2) For some systems of records, subsections (j)(2) and (k) of the Privacy Act permit withholding the accounting record from the subject. § 806b.22 lists those systems. Also, an accounting of disclosures that were made for law enforcement purposes may be withheld.

(3) Dispose of the accounting record according to AFM 12-50.

TABLE 4

DISCLOSURE ACCOUNTING AND CONSENT REQUIREMENTS

R U L E	A	B	C	D	
	If information from a system of records is disclosed to	and pertains to	then it is under the	and requires	
				an accounting	written consent
1	an individual	the individual	Privacy Act (note 1)	No	No
2	any DOD activity	info for official uses	Privacy Act	Yes	No (note 2)
3	any person or organization outside of DOD other than the subject	a published Routine Use in the Systems Notice			
4	anyone but the subject outside DOD	emergencies affecting health or safety			
5	The Congress	official uses			
6	Bureau of the Census	census or survey or related activity			
7	The General Accounting Office	official uses			
8	The National Archives	info to be appraised or accepted for deposit			
9	A Court	an order of the court			No (note 3)
10	anyone but the subject	info releasable under Freedom of Information Act (FOIA)	FOIA	No	No
11	any US agency or instrumentality	civil or criminal law enforcement	Privacy Act	Yes	

NOTES:

1. When a request cites neither PA or FOIA but another Air Force directive authorizes the release of the information, then the release is under that directive.

2. Notify the individual at his or her last known address.

3. Notify the individual as soon as the compulsory legal process becomes a matter of public record at his or her last known address.

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Subpart E—Exempting Systems of Records

The Secretary of the Air Force may exempt Air Force systems of records from certain parts of the Privacy Act. There are two kinds of exemptions: general and specific. The general

exemption relieves systems of records from most requirements of the Act; the specific exemption from only a few.

§ 806b.16 Exemption index and cross reference.

The index below shows for which

parts of the Privacy Act exemptions may be claimed. "No" means that no exemption may be taken; "yes" means that an exemption may be taken. Note that the index provides a cross reference to this part.

EXEMPTIONS		Privacy Act Section	AFR 12-35	
General 3(j)	Specific 3(k)		Paragraph	Page
no	no	3(b)(1-11): conditions of disclosure	15	
no	no	3(c)(1,2): making and keeping disclosure acctg	15	
yes	yes	3(c)(3): individual access to accounting	15	
yes	no	3(c)(4): informing prior recipients of corrections.	14	
yes	yes	3(d)(1-5): access to records.	14	
yes	yes	3(e)(1): restrictions on collection of info	1	
yes	no	3(e)(2,3): collecting from individual	7	
no	no	3(e)(4)(A-F): publishing systems notices	12	
yes	yes	3(e)(4)(G-I): system access & source descrpt.	12,14	
yes	no	3(e)(5): standards of accuracy	10	
no	no	3(e)(6,7): validate before disclosure/no records on 1st Amend ment rights	10,15	
yes	no	3(e)(8): notification of compulsory disclosure	15	
no	no	3(e)(9-11): rules of conduct/safeguards/routine use publication	1,11,12	
yes	yes	3(f)(1-5): agency rules	14	
yes	no	3(g)(1-5): civil remedies	6	
yes	no	3(h): rights of legal guardians	1	
no	no	3(i)(1-3): criminal penalties	6	
—	no	3(j)(1-2): general exemptions.	17	
yes	—	3(k)(1-7): specific exemptions	18	
yes	no	3(l)(1-3): archival records.	15	
yes	no	3(m): Government contractors	15	
yes	no	3(n): mailing lists	15	
yes	no	3(o): report on new systems.	10	
yes	no	3(p): annual report	20	
no	no	7(a,b): restrictions on using SSN.	8	

Figure 1. Exemption Index and Cross-Reference.

§ 806b.17 General exemptions.

Only US Air Force activities actually engaged in law enforcement may claim the general exemption for a system of records. These include the Staff Judge Advocate and correctional activities. This exemption appears in the Privacy Act in subparagraph (j)(2).

(a) To qualify for the exemption, a system must consist of:

(1) Data, compiled to identify individual criminals and alleged criminals, which consists only of identifying data and arrest records; type and disposition of charges; sentencing, confinement, and release records; and parole and probation status;

(2) Data that supports criminal investigations (including efforts to prevent, reduce, or control crime) and reports of informants and investigators that identify an individual; or

(3) Reports on a person, compiled at any stage of the process of law enforcement, from arrest or indictment through release from supervision.

(b) When we claim a general exemption for a system of records, the only parts of the Privacy Act we are required to comply with are subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i). See figure 1.

§ 806b.18 Specific exemptions.

(a) The Secretary of the Air Force has exempted a few systems of records that have the following kinds of information from certain parts of the Privacy Act. The Privacy Act exemption number appears in parentheses after each category below.

(1) Classified information in any Air Force system of records. Before denying a person access to classified information, the Denial Authority must make sure that it was properly classified under the criteria of Executive Order 11652 or 12065, and that it must remain so in the interest of national defense or foreign policy [(k)(1)].

(2) Investigatory data for law enforcement purposes (other than that claimed under the general exemption). But, if this information has been used to deny someone a right, we must release it unless doing so would reveal the identity of a confidential source [(k)(2)].

(3) Data kept to protect the President of the United States and others, as authorized by 18 U.S.C. 3056[(k)(3)].

(4) Statistical data required by statute and used only for statistical purposes and not to make decisions on the rights, benefits, or entitlements of persons [(k)(4)].

(5) Data compiled to determine suitability, eligibility, or qualifications for Federal service, Federal contracts, or

access to classified information. We may withhold this information, only if disclosure would reveal the identity of a confidential source [(k)(5)].

(6) Tests to find out whether to appoint or promote a person in the Federal Service. We may withhold this information, only if disclosure would compromise the objectivity or fairness of the examination process [(k)(6)].

(7) Information to determine promotion potential in the Armed Forces. We may withhold this information, only to the extent that disclosure would reveal the identity of a confidential source [(k)(7)].

(b) We do not have to comply with the following parts of the Privacy Act in operating a system for which we claim a specific exemption: subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) (see figure 1).

Subpart F—Other Administrative Actions**§ 806b.19 Training.**

There are three kinds of training:

(a) *Orientation.* Command and local Privacy Officers must make sure that everyone in their areas of responsibility gets an initial orientation on how the Act works and what are the individual's rights and responsibilities under it. In addition, they must regularly conduct refresher training through Commanders Calls, articles in base bulletins, papers, and so forth.

(b) *Specialized.* This training takes place at USAF technical schools. It is for personnel who actually operate systems of records, or supervise their operation. Training elements that develop new blocks of instruction or alter old blocks must send them to HQ USAF/DAAD (S) for review.

(c) *Management.* Command and local Privacy Officers give commanders and their deputies management training that supplements the basic orientation. This training lets top managers know how the Act affects their operational decisions. For example, managers need to know that they will not be able to operate a system of records until 45 days after it has been published in the *Federal Register* for public comment. Also, this training gives Denial Authorities the information they need to act in this capacity.

§ 806b.20 Annual Privacy Act Report, RCS: DD-A (A & AR) 1379.

(a) Each Command Privacy Act Officer must report the following statistical information to the Air Force Privacy Act Office no later than March 1 of each year. The Report Control Symbol is DD-A (A & AR) 1379. The

report must cover the previous year's activity. Data should be given for each system of records. The data must include the number of:

(1) Requests for existence of records.
(2) Requests for access to records under the Act.

(3) Privacy Act requests returned for lack of sufficient information to identify the records.

(4) Requests for access totally granted and number partially granted.

(5) Requests for amendment of records under the Privacy Act.

(6) Requests for amendment totally granted and number partially granted.

(7) Exemptions used to deny access by citation number (j2, j5, k1-k7, and d5).

b. Each Privacy Act Officer should also keep a record of any unusual problems that arise in the course of the year about the administration of the Act. Report these in narrative form.

c. The Air Force Privacy Act Office provides statistical reporting forms and instructions no later than December 31 of each year.

§ 806b.21 Systems notice requirements.

Each system of records operated by the Air Force must be covered by a systems notice published in the *Federal Register*. You must send two copies of this notice, with a report of a new system, through the command Privacy Act Officer to HQ USAF/DADD (S) at least 90 days before operating the system. All items of information must be completed, and you should be as specific as possible. Use the following format:

How To Prepare Systems Notices and Reports

F01101 MAC ("F" indicates Air Force, the number is the table and rule from AFM 12-50 for records disposition, and the letters show the command or DCS)

System name: (Use a short, specific plain language title for the system)

System location: (Address of primary system and any decentralized elements; if system is Air Force-wide, show functional office)

Categories of individuals covered by the system: (List categories, but be specific; do not say all Air Force officers when the system applies only to officers of one command)

Categories of records in the system: (List specific elements of information; do not list form numbers)

Authority for maintaining the system: (Cite specific statute from the US Code or Executive Order that directs the program the records support; do not use Title 44)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (Show the purpose of the system and all routine users who are not part of the Department of Defense (DOD). Give specific reasons for disclosure to agencies or persons outside of the DOD)

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: (Show how records are stored listing the storage medium and types of containers)

Retrievability: (List all data elements used for retrieval)

Safeguards: (Provide a specific list of safeguards by categories such as guards, alarmed buildings, safes; do not describe any specific safeguards in a way that would jeopardize security)

Retention and disposal (Show length of retention from AFM 12-50 using the table and rule listed in the System Identification)

System manager(s) and address: (List the title and office address of the individual or individuals responsible for the system)

Notification procedure: (Give the title and address of any individuals who can tell people if their records are in the system)

Record Access procedure: (Tell who to contact for access giving title and address)

Contesting record procedure: (Leave blank)

Record source categories: (Show categories of individuals or other records used as sources for the system)

System exempted from certain provisions of the Act: ("None" unless you have filed an exemption, in which case list the sections of the Privacy Act from which the system is exempt)

(a) *Report of a new or altered system of records.* The report of a new or altered system must be sent through the Defense Privacy Board to the Congress and Office of Management and Budget by the Air Force Privacy Act Office. Systems managers must provide HQ USAF/DAAD(S), no later than 90 days before using the system or implementing the reportable change:

- (1) System identification number and title of the system.
 - (2) Reason for creating the new system or for changing an existing system.
 - (3) A description of the change.
 - (4) The estimated number of individuals on whom records are kept in the system.
 - (5) Methods used to ensure accuracy of information in the system.
 - (6) A discussion of alternatives to using the system.
 - (7) The name, title, address and AUTOVON number of the person who knows how the system operates.
- A complete system notice must be attached.

(b) *Nonreportable amendments or deletions.* Any change in the published systems notice that does not require a report to the Congress or to Office of Management and Budget must be sent at once to the Air Force Privacy Act Office. The following changes must be published in the *Federal Register* for public comment and must be sent at least 75 days in advance:

(1) Those that change the nature of or add to the routine uses of the system.

(2) Those that change the notification or access procedures.

§ 806b.22 General and specific exemptions claimed.

(a) *General exemption for criminal investigative files:* The Air Force claims the general exemption for the following systems of records: Counter Intelligence Operations and Collection Records, F12408 07YLNGA; Criminal Records, F12410 07YLNGA; Incident Investigation Files, F12501 SPO I; Investigative Support Records, F12404 07YLNGA.

(b) *Specific exemptions.* These are the systems for which we claim specific exemptions:

(1) *Classified records.* All records in systems of records that are properly classified per Executive Order 11652 or 12065, are exempt from 5 U.S.C. 552a (c)(3); (d); (e)(4) (G), (H), and (I); and (f), regardless of whether the entire system is otherwise exempt.

(2) *Air Force Academy Candidate System (F05302 OBXQPCB).* (i) *Exemption.* This system of records (Candidate Evaluation Record, Liaison Officer Evaluation, Letter of Evaluation from High School or College, and Drug Abuse Certificate) is exempted from 5 U.S.C. 552a (d), (e)(4)(H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* Insure the frankness of information used to determine whether cadets are qualified for graduation and for commissioning as officers in the United States Air Force.

(3) *Air Force Personnel Test 851, Test Answer Cards (F03506 DPMAWA).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a (c)(3); (d); (e)(4) (G), (H), and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the integrity of the promotion testing system by keeping the test questions and answers safe.

(4) *Cadet Personnel Record System (F03502 OBXQPCB).* (i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a (d), (e)(4)(H), and (f), but only insofar as disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate an Air Force Academy cadet for commissioning in the US Air Force:

(5) *Cadet Records (F04501 OKPNQSA).* (i) *Exemption.* Portions of this system (Detachment POC Selection Rating Sheets; AFROTC Form 0-24-

Disenrollment Review; Memoranda for Record and Staff Papers with Staff Advice, Opinions, or Suggestions) are exempt from 5 U.S.C. 552a (c)(3); (d); (e)(4) (G), and (H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of a confidential source who furnished information necessary to make determinations about the qualification, eligibility, and suitability of cadets for graduation and commissioning in the US Air Force, under a promise of confidentiality.

(6) *Child Advocacy Case Files (F16802 SGPCA).* (i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(c) (3) and (d), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k) (2) and (5).

(iii) *Reasons.* To encourage those who know of child abuse or neglect to come forward by protecting their identities. Also, to protect the integrity of on-going and civil law investigations of criminal and civil law violations. Giving subjects access to their files could result in them concealing, altering, or fabricating evidence, could hamper the identification of offenders and alleged offenders; and could jeopardize the safety and well-being of parents and their children.

(7) *Civilian Personnel Occupational and Suitability Employment Examinations (F04002 DPCMS D).* (i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k) (5) and (6).

(iii) *Reasons.* To protect the confidentiality of a source who gives information about whether a person is qualified and suitable for civilian employment in the Federal service. Also, to protect test material used to determine qualifications so as to be fair to all candidates.

(8) *Class Committee Products (F01103XOBXQPCD).* (i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only to the extent that they would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate an Air Force Academy cadet for commissioning in the US Air Force.

(9) *Effectiveness/Performance Reporting Systems (F03501 DPMVO 1).* (i) *Exemption.* The parts of this system that have completed AF Forms 705,

Lieutenant Colonel Promotion Recommendation Report, and AF Forms 706, Colonel Promotion Recommendation Report, are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To make sure that selection boards get candid evaluations of the potential of officers being considered for promotion to the grades of Colonel and Brigadier General.

(10) *Equal Opportunity in Off Base Housing (F03005 PRENC A).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(2).

(iii) *Reasons.* To enforce civil laws, court orders, and the activities of the Departments of Housing and Urban Development and Justice.

(11) *General Officer Personnel Data System (F03501 AFDPG O).* (i) *Exemption.* The parts of this system that have completed AF Forms 78, Air Force General Officer Effectiveness Report, are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that they would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To make sure selection boards get candid evaluations of the potential officers being considered for promotion to Major General, Lieutenant General and General.

(12) *Historical Airman Promotion Master Test File (F03508 DPMAW M).*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the integrity, objectivity, and equity of the promotion testing system by keeping test questions and answers safe.

(13) *Inspector General Records (F12001 IGQ A).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f). But, if a person is denied any right, privilege, or benefit he or she would otherwise be entitled to as a result of keeping this material, we must release the material unless doing so would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(2).

(iii) *Reasons.* Granting individuals access to information collected while an Inspector General inquiry is in progress could interfere with the just, thorough, and timely resolution of the complaint or inquiry and could possibly enable individuals to conceal wrongdoing or

mislead the inquiring officer. Disclosure might also subject sources, witnesses, and their families to harassment or intimidation.

(14) *Investigative Applicant Processing Records (F12401 07YLNGB).*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect those who gave information in confidence during Air Force Office of Special Investigations (AFOSI) applicant inquiries. Fear of retaliation or exposure could cause sources not to make frank and open responses about applicant qualifications. This could compromise the integrity of the AFOSI personnel program that relies on selecting only qualified people.

(15) *Master Cadet Personnel Record (RR/Active) (F03502 OBXQPCE) and Master Cadet Personnel Record (RR/Historical) (F03502 OBXQPCD).* (i) *Exemption.* Parts of these systems are exempt from 5 U.S.C. 552a(d), (e)(4) (H) and (f), but only to the extent that they would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate a cadet for commissioning in the US Air Force.

(16) *Military and Leadership Order of Merit System (F03001XOBXQPCB).* (i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(d), (e)(4) (H) and (f), but only insofar as they reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate AF Academy cadets for commissioning in the US Air Force.

(17) *Personnel Files on General Officers and Colonels Assigned to General Officer Positions (F03501 AFREP T).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To protect the integrity of information used in the Reserve Initial Brigadier General Screening Board, the release of which would compromise the selection process.

(18) *Personnel Security Case Files (F20503 DAI A).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure

would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of retaliation or exposure could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to fully develop or put to rest charges of questionable conduct. It is essential that all such allegations be resolved fairly and quickly.

(19) *Security and Related Investigative Records (F12406 07YLNGA).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of retaliation or exposure could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to fully develop or put to rest charges of questionable conduct. It is essential that all such allegations be resolved fairly and quickly.

(20) *Special Security Files (F20505 SPIC).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of retaliation or exposure could cause them to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to fully develop or put to rest charges of questionable conduct. It is essential that all such allegations be resolved fairly and quickly.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-11991 Filed 4-17-79; 8:45 am]

BILLING CODE 3910-01-M

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 434
**Coal Mining Point Source Category,
Effluent Limitations Guidelines for
Existing Sources**
Correction

In FR Doc. 79-10022, appearing at page 19193, in the issue of Monday, April 2, 1979, on page 19194, in the last column, the last paragraph, the sixth line, correct "show" to read "snow".

[FRL 1087-5]

BILLING CODE 1505-01-M

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**
Public Health Service
42 CFR Part 37
**Chest Roentgenographic
Examinations for Underground Coal
Miners**

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, PHS, HEW.

ACTION: Final rule.

SUMMARY: This rule amends the conditions under which underground coal miners are afforded the option to transfer to a less dusty area of a coal mine. The transfer is based upon a reading of the miner's chest X-ray for evidence of pneumoconiosis. The amendment provides that a miner shall be afforded the option to transfer if his or her X-ray shows evidence of category 1 (1/0, 1/1, 1/2), category 2 (2/1, 2/2, 2/3), or category 3 (3/2, 3/3, 3/4) simple pneumoconiosis or complicated pneumoconiosis regardless of the number of years worked in underground coal mining. Under the previous regulations, underground coal miners with category 1 simple pneumoconiosis could transfer only if they had worked less than 10 years in coal mining. This change protects the health of underground coal miners by preventing the progression of pneumoconiosis in miners who show early evidence of the disease.

DATES: Effective Date—April 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Harlan Amandus, Chief, Examination Processing Branch, or Mrs. Phyllis Popovich, Chief, Receiving Center Section, Division of Respiratory Disease Studies, NIOSH, 944 Chestnut

Ridge Road, Morgantown, WV 26505, Phone: (304) 599-7306 or FTS 923-7306.

SUPPLEMENTARY INFORMATION: On August 1, 1978, a notice of proposed rulemaking was published in the *Federal Register* (43 FR 33762) to amend § 37.7 of the subpart entitled "Chest Roentgenographic Examinations" in Part 37 of Title 42, Code of Federal Regulations. The proposal set forth new conditions under which an underground coal miner will be afforded the option to transfer to a less dusty area of a coal mine under the provisions of section 203 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 843).

Interested persons were invited to comment on the proposed changes to § 37.7, and NIOSH held a public hearing on September 15, 1978, concerning the issues raised by the proposal. Written comments were received from physicians and health-oriented organizations, and testimony was presented by the United Mine Workers of America (UMWA) and the Bituminous Coal Operators Association (BCOA).

Discussion of Comments

Category 1 Simple Pneumoconiosis—In response to the proposal to exclude category 1/0 from the transfer criteria on the basis that physicians frequently disagree on the presence of this category, NIOSH received three comments.

The UMWA, the Cabin Creek Health Association, and Dr. David Wegman of the Harvard School of Public Health commented that category 1/0 is recognized by the ILO-U/C classification system as early evidence of pneumoconiosis and should be included in the conditions for transfer. Dr. Wegman and the Cabin Creek Health Association argued that readers of X-rays frequently disagree on all categories of the disease, not just category 1/0. They further commented that no major capital expenditure is necessary for a coal mine operator to transfer a miner, but a miner's health may be at risk if the miner is not allowed to transfer. The UMWA contended that much of the doubt surrounding the interpretation of X-rays will be reduced because the final interpretation of pneumoconiosis is based on agreement between at least two physicians (42 CFR 37.52). The UMWA also argued that by excluding category 1/0 from the transfer criteria, a miner would be deprived of the right to transfer based on the earliest evidence of disease. The UMWA further stated that miners with category 1/0 who worked less than 10 years in coal mining

were previously acknowledged as being at risk; therefore, miners would not understand the exclusion of category 1/0. As noted by the Cabin Creek Health Association, the Department of Labor recognizes category 1/0 when determining a miner's eligibility for Black Lung Compensation.

In addition to the above comments, NIOSH has considered the following information regarding category 1 simple pneumoconiosis:

(1) Category 1 is, by definition, evidence of pneumoconiosis by the ILO classification system. (1)

(2) Coalworkers' pneumoconiosis is caused by inhalation and retention of coal mine dust and is assumed to be irreversible.

(3) The X-ray categories of profusion are directly proportional to the amount of coal mine dust in the lung and are an estimate of a miner's lifetime dust exposure. (2-6)

(4) Category 1 is a precursor to categories 2, 3, and complicated pneumoconiosis among U.S. coal miners. A report on British miners showed that miners with category 0/0, 0/1, and 1/0 had a markedly lower risk of developing complicated pneumoconiosis than did miners with category 1/1 or higher. (7) However, some miners with category 1/0 did develop complicated pneumoconiosis over a 5-year period.

(5) Significant obstructive airways disease and reduced ventilatory capacities are associated with complicated pneumoconiosis. (8-10)

(6) Significant excess deaths have been attributed to complicated pneumoconiosis while mortality ratios have been shown to be similar among miners without pneumoconiosis and miners with simple pneumoconiosis. (11-14)

NIOSH, therefore, concludes that category 1 simple pneumoconiosis, while not necessarily a disabling condition, is a precursor of complicated pneumoconiosis. Moreover, it is not yet possible to predict which individuals having category 1 will develop complicated pneumoconiosis.

A study of British coal miners found that if a miner is exposed to less than 2 mg of coal mine dust per cubic meter of air, and if the miner's initial X-ray shows category 0/0, 0/1, or 1/0 pneumoconiosis, the miner has a very low risk of developing complicated pneumoconiosis in 35 years. (15) NIOSH believes this finding is most likely true for U.S. coal miners; however, data are not yet available on U.S. miners over a sufficient time period to estimate a similar risk. The prevalence of pneumoconiosis is higher among U.S.

coal miners than among British miners; thus, we may find that the disease progresses more rapidly in U.S. coal miners. McLintock (7) showed that some British miners of various ages with category 1/0, 1/1, and 1/2 developed complicated pneumoconiosis in only 5 years of coal mine dust exposure.

Based on this information and the comments received, NIOSH decided to include category 1/0 as a condition to transfer. To ensure the health of underground coal miners, length of employment in coal mining should not be a factor in conferring transfer rights until adequate data are available to project which individuals will progress to complicated pneumoconiosis or to determine what is a safe period to retain a transferred miner in a low dust atmosphere.

False Positive X-ray Interpretations—The BCOA commented that NIOSH should include provisions in the regulations to guard against transfers based upon false positive X-ray interpretations. The BCOA noted that statistical results from the first two rounds of X-ray examinations of coal miners showed that a significant number of miners had evidence of pneumoconiosis on their first round X-ray, but no evidence on their second round film. The first round was conducted 1970 to 1971, and the second round was conducted 1973 to 1975. The BCOA suggested that this apparent "regression" results from clerical, film quality, or evaluative errors. To remedy this shortcoming, BCOA recommended that the option to transfer be based on the miner's latest X-ray and that any transfer rights to be conferred, or previously conferred, would terminate upon the completion of any round of X-ray examinations during which the miner failed or declined to participate.

NIOSH is aware that false positive interpretations have occurred. However, consideration of a provision that would require miners to submit to an X-ray examination or lose previously granted transfer rights would have to be subject of separate rulemaking. Moreover, the August 1 revision to 42 CFR Part 37 (43 FR 33713) which set forth the procedures for making, classifying, and submitting coal miners' examinations in all future rounds includes provisions to safeguard against false positive interpretations. The revised rule provides that all final interpretations for pneumoconiosis will be based on agreement between two physicians. Provisions have also been made for further interpretations if a miner requests a reevaluation, or if a coal mine operator requests NIOSH to review the medical findings of the most

recent examination of a miner who is awarded the option to transfer under the new regulations (42 CFR 37.70). These procedures are sufficient to ensure that X-rays are classified accurately.

Additional Medical Tests—Dr. Wegman and the Cabin Creek Health Association also recommended that the right to transfer be based on findings from medical tests of lung function such as ventilatory capacity and diffusing capacity in addition to the chest X-ray. In 1973, NIOSH proposed to include such tests in Part 37 (38 FR 4263), but both the UMWA and BCOA opposed their inclusion. Because pulmonary function testing would be a significant addition to the examination program and was not included in this proposed rulemaking, the issue of whether to adopt these tests would have to be the subject of separate rulemaking.

The new transfer criteria set forth in this amendment will be applied to all miners examined under the revised specifications adopted on August 1, 1978, as discussed in the preamble of the proposal to amend § 37.7 (43 FR 33762).

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The subpart entitled "Chest Roentgenographic Examinations" of Part 37, Title 42, Code of Federal Regulations is amended as set forth below.

Dated: February 15, 1979.

Charles Miller,
Acting Assistant Secretary for Health.

Approved: April 7, 1979.

Joseph A. Califano, Jr.,
Secretary.

Section 37.7(a) is revised to read as follows:

§ 37.7 Transfer of affected miner to less dusty area.

(a) Any miner who, in the judgment of the Secretary based upon the interpretation of one or more of the miner's chest roentgenograms, shows category 1 (1/0, 1/1, 1/2), category 2 (2/1, 2/2, 2/3), or category 3 (3/2, 3/3, 3/4) simple pneumoconiosis, or complicated pneumoconiosis (ILO-U/C 1971 Classification) shall be afforded the option of transferring from his or her position to another position in an area of the mine where the concentration of respirable dust in the mine atmosphere is not more than 1.0 mg/m³ of air, or if such level is not attainable in the mine, to a position in the mine where the concentration of respirable dust is the lowest attainable below 2.0 mg/m³ of air.

[FR Doc. 79-11626 Filed 4-17-79; 8:45 am]
BILLING CODE 4110-87-M

DEPARTMENT OF INTERIOR

Office of the Secretary

43 CFR Part 14

Rulemaking; Correction

AGENCY: Department of the Interior.

ACTION: Correction.

SUMMARY: This document corrects errors in FR Doc. 78-34587 the final rule issued by the Department to implement Executive Order 12044.

EFFECTIVE DATE: April 18, 1979.

FOR FURTHER INFORMATION CONTACT: John D. Trezise, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-5216.

SUPPLEMENTARY INFORMATION: 43 CFR Part 14, which contains the Department's rulemaking procedures to implement Executive Order 12044, was published in the *Federal Register* on December 13, 1978 (43 FR 58292). The Department has found some areas in that document which need clarification or correction.

The Office of Management and Budget's approval, pursuant to Sec. 5(b) of the Executive Order, of the Department's final procedures was conditioned on the requirement "that your regulatory analyses will include wherever possible, measures of consumers' willingness to pay." Section 14.3(d)(3)(i) was revised to accommodate OMB's comment. However a discussion of the change was not included in the Preamble (43 FR 58293).

It was never intended that willingness to pay measures be excluded from consideration in regulatory analyses. The procedures do not require consideration of measures of consumer's willingness to pay for which monetary values would have to be imputed in the process of determining whether a regulatory analysis should be prepared. This was done in order to avoid the necessity of doing complex and costly analysis in order to determine the need for regulatory analysis. Once a decision has been made that a regulatory analysis is required, however, measures of consumers' willingness to pay would be made in cases where monetary values would have to be imputed when such benefit measures were of significance to the regulatory decision and such measurement were practical.

The primary authors of this document are John D. Trezise, Office of the Solicitor, 343-5216, Austin Burke, Office of Policy Analysis, 343-7785, and Lois W. Paull, Office of Administrative Services, 343-6191.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Pursuant to the authority of Executive Order 12044, the following revisions to 43 CFR Part 14 are made:

1. 43 CFR Part 14 was issued under the authority of the President's Executive Order on improving Government regulations, E.O. 12044 (March 23, 1978). The "Authority" incorrectly cited several provisions of Title 5 of the United States Code as authority for the Part. To correct this error, 43 CFR Part 14 is amended by modifying the "Authority" line to read:

Authority: E.O. 12044, March 23, 1978

2. To correct typographical errors, 43 CFR 14.1(b) is revised to read:

§ 14.1 Purpose and scope.

* * * * *

(b) *Scope.* The principal sections of this part deal with procedures for development of "significant" rules and preparation of regulatory analyses (§ 14.4); procedures for development of other rules (§ 14.5); the method by which members of the public may petition for rulemaking (§ 14.6); and procedures for periodic review of existing rules (§ 14.7).

* * * * *

3. To correct typographical errors, 43 CFR 14.5(d) is revised to read:

§ 14.5 Development of other rules.

* * * * *

(d) *Rules of Agency organization, procedure and practice.* (1) *Definition.* "Rules of organization, procedure and practice" are: (i) Descriptions of the Department's central and field organization and the methods by which the public may obtain information, make submittals or requests, or obtain decisions; (ii) statements of the general course and method by which the Department's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; and (iii) 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.

* * * * *

Dated: April 10, 1979.

William L. Kendig,

Acting Deputy Assistant Secretary of the Interior.
[FR Doc. 79-11875 Filed 4-17-79; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Auto-Train Corporation Authorized to Transport Automobiles Between Alexandria (Lorton), Virginia, and Sanford, Fla.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1374.

SUMMARY: Service Order No. 1374 authorizes Auto-Train Corporation to transport automobiles between Lorton, Virginia, and Sanford Florida, for Autobus.

DATES: Effective 6:00 p.m., April 12, 1979. Expires 11:59 p.m., May 15, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided April 12, 1979.

The Auto-Train Corporation (Auto-Train) has been authorized to provide a combined rail passenger-automobile transport service between Alexandria (Lorton), Virginia, and Sanford, Florida. Auto-Train was authorized to carry an automobile only if its owner or driver was a passenger on the same train. Auto-Train was later given authority to transport automobiles unaccompanied by their drivers, but only pursuant to a joint booking for the substantially simultaneous transportation of an automobile by Auto-Train and of its owner or driver by an airline.

Central Florida Coach Lines, Inc. (Autobus) has a terminal at Cocoa Beach, Florida, and at Hazelton, Pennsylvania. Autobus transports passengers by bus and automobiles by auto transporters between these points. Because of a shortage of auto transporter equipment, Autobus has over eighty automobiles awaiting shipment and needs to transport these automobiles via Auto-Trains between Virginia and Florida. The passengers will travel by bus between Hazelton and Cocoa Beach. Autobus will transport the private automobiles between Cocoa Beach and Sanford and between Hazelton and Alexandria (Lorton). Use of Auto-Train to transport these automobiles will help alleviate the energy problem and expedite the movement of these private automobiles.

It is the opinion of the Commission that an emergency exists requiring transporting of these automobiles by Auto-Train; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty day's notice.

It is ordered, that:

§ 1033.1374 Service Order No. 1374.

(a) Auto-Train Corporation authorized to transport automobiles between Alexandria (LORTON), Virginia, and Sanford, Florida Auto-Train Corporation (Auto-Train) is authorized to transport automobiles between Alexandria (Lorton), Virginia, and Sanford, Florida for Central Florida Coach Lines, Inc. (Autobus). The only automobiles authorized to be transported are automobiles tendered to Auto-Train by Autobus.

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

(c) *Rates applicable.* The rates applicable for the rail portion of the shipments of automobiles shall be the Auto-Train rates lawfully on file with the Commission.

(d) *Effective date.* This order shall become effective at 6:00 p.m., April 12, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. Homme, Jr.
Secretary.

[Service Order No. 1374]

[FR Doc. 79-12080 Filed 4-17-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

Car Service; Railroads Authorized to Divert Traffic Consigned to ADM Milling Company at North Kansas City, Mo.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1375.

SUMMARY: The milling company owned by ADM Milling Company at North Kansas City, Missouri, was destroyed by fire on April 11, 1979. Service Order No. 1375 authorizes diversion of carloads of grain on hand or enroute to this plant on or before April 13, 1979, to any other ADM plant, without assessment of diversion or reconsigning charges and subject to the through rates from origin to the new destination.

DATES: Effective 6:00 p.m., April 12, 1979. Expires 11:59 p.m., May 31, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided April 12, 1979.

On April 10, 1979, the plant owned by ADM Milling Company at North Kansas City, Missouri, was destroyed by fire. Approximately 150 carloads of wheat are on hand or in transit for unloading by this plant.

Rebuilding of the Milling Company cannot be accomplished within a reasonable time. Other arrangements for the unloading of these cars will require diversion and reconsignment of many of them in a manner prohibited by the applicable tariffs. It is the opinion of the Commission that such diversions and reconsignments are necessary in the public interest to enable the prompt unloading of these cars and their continued use in transportation service; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, that:

§ 1033.1375 Service Order No. 1375.
Railroads authorized to divert traffic consigned to ADM Milling Company at North Kansas City, Missouri.

(a) Any railroad holding a car loaded with grain consigned, reconsigned or intended for unloading by the Milling Company owned by ADM Milling Company, and located at North Kansas City, Missouri, which originated on or

before April 13, 1979, and which cannot be unloaded by ADM Milling Company because of the destruction of its Milling Company, may be reconsigned, diverted or reshipped to any ADM Milling Company plant in the United States.

(b) *Reconsignment and diversion charges.* Carloads of grain reconsigned, diverted, or reshipped under the provisions of this order shall not be subject to reconsignment or diversion charges provided in the applicable tariffs.

(c) *Rates applicable.* The rates applicable to carloads of grain reconsigned, diverted or reshipped under the provisions of this order shall be the rates that would have been applicable on the shipments at the time of shipment had they been originally destined to the point to which reconsigned, diverted or reshipped. When the applicable tariffs provide routes from the origin to the new destination via the line and the point at which the car is held, such routes must be utilized for the rerouting, diversion or reshipment. When no such route exists any available route may be used. In the application of this section cars which have arrived at North Kansas City, Missouri, and which are located on a line performing only terminal or intermediate switching service shall be considered as being held by the inbound line-haul carrier.

(d) *Divisions of Revenues.* In executing the directions of the Commission provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(e) *Waybills to be indorsed.* Waybills authorizing movement of cars reconsigned, diverted or reshipped under this order shall be endorsed as follows:

"(Reconsigned) (Diverted) (Reshipped) authority I.C.C. Service Order No. 1375."

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

(g) *Effective date.* This order shall become effective at 6:00 p.m., April 12, 1979.

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May

31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. Homme, Jr.,
Secretary.

[Service Order No. 1375]

[FR Doc. 79-12069 Filed 4-17-79; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 44, No. 76

Wednesday, April 18, 1979

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.

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 2]

Rules of Practice

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to make minor procedural amendments to permit the use of new staff procedures on a trial basis for the system and site safety portions of selected nuclear power plant construction permit applications.

DATES: Comments are due on or before June 4, 1979.

ADDRESSES: Written comments concerning the proposed amendments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Royal J. Voegeli, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492-8693.

SUPPLEMENTARY INFORMATION: The Commission has implemented new staff procedures to be used on a trial basis for the systems and site safety portions of selected nuclear power plant construction permit applications. The new procedures are based on recommendation Nos. 3, 4 and 5 of NUREG-0292, "Nuclear Power Plant Licensing: Opportunities for Improvement", dated June 1977, and provide for (1) improved coordination and working level communications between the staff and applicant prior to the tendering of an application, (2) an expanded review of the tendered application prior to its being docketed, and (3) an accelerated schedule for issuance of the staff Safety Evaluation Report following the docketing of the

application. The proposed amendments relate to the second and third of these three new procedures.

Under existing regulations, a determination of the completeness and acceptability of an application for a construction permit is generally made within thirty (30) days after the application is tendered. The staff review on which that determination is made is usually limited to a review of whether the application is complete in accordance with Regulatory Guide 1.70, "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants." When the determination that the application is complete and acceptable has been made, the application is docketed and a notice of hearing is issued. Although the regulations do not impose a time limited for issuance of the staff Safety Evaluation Report, the current procedure generally results in an issuance time of approximately eighteen (18) months after the application has been docketed.

Under the new procedures to be used on a trial basis in selected cases, the staff's review on which it bases its determination that the application is complete and acceptable for docketing will be expanded to include a review of the technical adequacy of the application as well as its completeness. Also, since the pretendering coordination and the expanded pre-docketing review should result in greatly improved quality of docketed applications, the new procedures provide for an accelerated schedule for issuance of the staff Safety Evaluation Report within six (6) months following docketing of the application.

Because of the additional time needed to complete the expanded pre-docketing review, the proposals would amend § 2.101(a)(2) to extend the time for determining the acceptability of an application to sixty (60) days from the tendering date. In addition, because of the compressed time scale associated with the accelerated schedule for issuance of the staff Safety Evaluation Report, the proposals would amend § 2.104(a) to provide that the notice of hearing shall be issued as soon as practicable after the application has been tendered. When thus amended, the notice of hearing will be issued as soon as practicable after the application is tendered, and the staff will generally

have sixty (60) days to complete the expanded pre-docketing review of the technical adequacy and completeness of the application and make a determination of its acceptability for docketing. The proposed amendments will also have the effect of assuring that notice of hearing will be issued at the time for staff begins its pre-docketing review of the application.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 2 is contemplated. All interested persons who desire to submit written comments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Attention: Docketing and Service Branch, Washington, D.C. 20555 by June 4, 1979. Copies of comments received will be available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

§ 2.101 [Amended]

1. It is proposed that § 2.101(a)(2) be amended by adding at the end thereof the following:

* * * * *

However, in selected construction permit applications, the Commission may decide to determine acceptability on the basis of the technical adequacy of the application as well as its completeness. In such cases, the Commission, pursuant to § 2.104(a), will direct that the notice of hearing be issued as soon as practicable after the application has been tendered, and the determination of acceptability will generally be made within a period of sixty (60) days.

* * * * *

§ 2.104 [Amended]

2. It is proposed that the second sentence of § 2.104(a) be amended to read as follows:

* * * * *

In addition, in the case of an application for a construction permit for a facility of the type described in § 50.22 of this chapter, or a testing facility, the notice (other than a notice issued pursuant to paragraph (d) of this section) shall be issued as soon as

practicable after the application has been docketed: Provided, that if the Commission, pursuant to § 2.101(a)(2), decides to determine the acceptability of the application on the basis of its technical adequacy as well as completeness, the notice shall be issued as soon as practicable after the application has been tendered.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841)).

Dated at Bethesda, Maryland this 12th day of April 1979.

For the Nuclear Regulatory Commission,
Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79-12027 Filed 4-17-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

J. Walter Thompson Co.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement subject to final approval, among other things, would require a New York City advertising agency to cease disseminating advertisements which contain unsubstantiated performance claims for any "product," as the term "product" is defined in the order.

DATE: Comments must be received on or before June 18, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC-P, Albert H. Kramer, Washington, D.C. 20580. (202) 523-3727.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is

invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

In the matter of J. Walter Thompson Company, a corporation; Agreement containing consent order to cease and desist.

The Agreement herein, by and between J. Walter Thompson Company, a corporation, respondent in the above proceeding initiated by the Federal Trade Commission, is entered into by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission, in accordance with the Commission's rule governing consent order procedure.

1. Respondent J. Walter Thompson Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal offices and place of business located at 420 Lexington Avenue, New York, New York 10017.

2. Respondent has been served with the Commission's Complaint charging it with a violation of Section 5 of the Federal Trade Commission Act, together with a form of order the Commission believes warranted in the circumstances.

3. Respondent admits all jurisdictional facts set forth in the said copy of the Complaint of the Commission to the extent they relate to J. Walter Thompson Company.

4. Respondent waives:

- (a) Any further procedural steps;
- (b) The requirement that the Commission's decision contains a statement of findings of fact and conclusions of law; and
- (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement.

5. This Agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission it, together with the Complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the Order contained in the Agreement is inappropriate, improper, or inadequate.

6. No agreement, understanding, representation or interpretation not contained in the Order. Stipulation attached to the Order or the aforementioned Agreement may be used to vary or to contradict the terms of the Order. However, the Complaint in Docket 9104 may be used in construing the terms of the Order.

7. This Agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the said Complaint of the Commission issued in this proceeding.

8. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by

the Commission pursuant to the provisions of § 3.25(d) of the Commission's Rules, the Commission may, without further notice to respondent, (1) issue its decision containing the following Order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Mailing of the Complaint and decision containing the agreed-to Order to respondent's address as stated in this Agreement shall constitute service.

9. Respondent has read the Complaint, Stipulation and Order contemplated hereby, and it understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order and that it may be liable for a civil penalty of up to \$10,000 for each violation of the Order after it becomes final.

10. In the event that there is no final Commission Order entered against Sears, Roebuck and Co. in this proceeding (Docket 9104), then the Commission shall, upon the application of respondent J. Walter Thompson Company, set aside this Order.

11. If the Federal Trade Commission hereafter promulgates any trade regulation rule or guide governing the advertising or offering for sale of any Product subject to this Order, and such rule or guide concerns practices covered by this Order, and said rule or guide is less restrictive than the corresponding provision(s) of this Order, and J. Walter Thompson Company files a motion with the Commission to modify this Order to correspond to such less restrictive rule or guide, the Commission shall rule upon said motion with 120 days after said motion is filed, or if J. Walter Thompson Company's motion to modify is filed at least sixty (60) days prior to the effective date of such rule or guide, then the Federal Trade Commission shall rule upon respondent's motion within sixty (60) days after effective date of such rule or guide. Should the Federal Trade Commission fail to rule upon J. Walter Thompson Company's motion to modify within such time periods, then such rule or guide shall automatically be deemed to modify and replace the Corresponding provision(s) of this Order.

Part I

It is ordered that respondent J. Walter Thompson Company (hereinafter "J. Walter Thompson" or "JWT"), a corporation, its successors and assigns, either jointly or individually, and its officers, representatives, and agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with advertising, offering for sale, distribution or sale of the Products as defined in Part II, paragraph 3 of this Order, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication that any Product will clean, without prior rinsing or scraping, all dishes, pots and pans used in cooking and baking according to normal consumer recipes and under circumstances normally and expectedly encountered by consumers, unless JWT has a reasonable basis for such representation.

2. Making any statement or representation directly or by implication concerning the performance of the Product, unless JWT has a reasonable basis for such statement or representation.

It shall be an affirmative defense to any compliance action alleging a violation of paragraphs 1 or 2 of Part I of the Order for JWT to show that, prior to disseminating an advertisement containing the statement or representation challenged in such compliance action, JWT submitted to its client in writing all the performance claims which it reasonably believed were contained in the advertising prepared by it and exercised due care to assure itself that the advertiser possessed and relied upon a reasonable basis for those claims.

3. Advertising any such Product by referring to or presenting evidence, including a test, experiment, demonstration, study, survey or report, which evidence is represented, directly or by implication, as showing or proving the performance of the Product, when such evidence does not show or prove such performance.

It shall be an affirmative defense to any compliance action alleging a violation of paragraph 3 of Part I of this Order for JWT to show that, prior to disseminating an advertisement containing the reference or presentation of evidence challenged in such compliance action, JWT submitted to its client in writing all the performance claims which it reasonably believed were shown or proven by the reference or presentation of such evidence in advertising prepared by it and exercised due care to assure itself that this evidence did show or prove such performance claims.

4. Making any statement or representation, directly or by implication, in connection with the advertisement of any such Product which it knows or has reason to know is inconsistent in any material respect with any statement or representation concerning the performance of the Product made, directly or by implication, in post-purchase material(s) supplied to the purchaser of such Product. For purposes of this Order, post-purchase material(s) is defined as any Product operating manuals and other written material typically made available by JWT's client to an individual who purchases the model of Product identified in the advertising prepared by JWT; provided that this paragraph shall only apply to JWT during the time the advertisement is created and first placed by JWT.

Provided, however, that nothing in this Order shall be deemed to deny or limit JWT with respect to any right, defense, or other affirmative defense to which JWT may otherwise be entitled by law in a compliance action or any other action; nor shall any inference adverse to JWT be drawn in any case from its failure to invoke the affirmative

defenses provided in this Part or to rely on the procedures provided herein.

Part II

For purposes of this Order, each of the terms listed below, as applied to an advertising agency, is defined as follows:

1. A "reasonable basis" shall consist of a competent and reliable scientific test or tests, or other competent and reliable evidence including competent and reliable opinions of scientific, engineering, or other experts who are qualified by professional training and experience to render competent judgments in such matters.

2. A competent and reliable "scientific test" is one in which one or more persons, qualified by professional training, education and experience, formulate and conduct a test and evaluate its results in an objective manner using testing procedures which are generally accepted in the profession to attain valid and reliable results. The test may be conducted or approved by (a) a reputable and reliable organization which conducts such tests as one of its principal functions, (b) by an agency or department of the government of the United States, or (c) persons employed or retained by JWT's client if they are qualified (as defined above in this paragraph) and can conduct and evaluate the test in an objective manner.

3. The term "Product" shall be defined as follows:

(a) Dishwashers; and

(b) For paragraphs 2, 3 and 4 of Part I, and for Part II and Part III, the major home appliances identified in the Stipulation of Fact attached hereto, entered on June 7, 1978 (and incorporated herein by reference), but only in the event and to the extent that the Commission hereafter enters an Order to cease and desist against Sears in this matter covering each of these Products and said Order becomes final.

4. The term "performance of the Product" shall be defined as follows:

(a) Cleaning performance; and

(b) For paragraphs 2, 3 and 4 of Part I, and for Part II and Part III, all other performance claims of the major home appliances identified in the Stipulation of Fact attached hereto, entered on June 7, 1978 (and incorporated herein by reference), but only in the event and to the extent that the Commission hereafter enters an Order to Cease and desist against Sears in this matter covering such other performance claims of these Products and said Order becomes final.

Part III

It is further ordered that:

For the period of three years after JWT last placed the advertisements for dissemination, JWT shall retain all test results, data, and other documents on which it relied for advertisements of Products covered by this Order which were in its possession during either creation or placement by JWT of the advertisements.

JWT shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of successor corporation, the

creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the Order.

JWT shall forthwith distribute a copy of this Order to each of its operating divisions, and to each of its officers, agents, representatives, or employees engaged in the preparation and placement of advertisements of the Products covered by this Order.

JWT shall, within sixty (60) days after service upon it of this Order, file with the Commission a written report setting forth in detail the manner and form of its compliance with this Order.

[Docket No. 9104]

In the matter of Sears, Roebuck and Co., a corporation, and J. Walter Thompson Company, a corporation; Stipulation of fact.

Undersigned complaint counsel and counsel for J. Walter Thompson Company ("JWT") stipulate as follows:

(1) Between January 1, 1971 and December 31, 1975, J. Walter Thompson prepared and disseminated advertisements for Sears, Roebuck and Co. ("Sears") featuring the following major home appliances: air conditioning units (room or built-in), disposers, dishwashers and trash compactors.

(2) JWT was not involved in the preparation or dissemination of any other advertisement featuring any other Sears major home appliance between January 1, 1971 and December 31, 1975.

(3) For purposes of Part II, paragraph 3(b) of the Agreement Containing Consent Order To Cease and Desist, covering JWT in this proceeding, the major home appliances are all makes of air conditioning units (room or built-in), disposers, dishwashers and trash compactors.

The above Stipulation of Fact is entered solely and exclusively for purposes of this proceeding and for any Federal Trade Commission order that may issue in this proceeding.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has provisionally accepted an agreement to a Proposed Consent Order from J. Walter Thompson Company (JWT).

The Proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charged the respondent with disseminating and causing the dissemination of advertisements containing several false and misleading representations regarding Sears, Roebuck and Company's dishwashers. In particular, the complaint alleged that representations made in the J. Walter Thompson advertisements about a number of product features, such as, for example, the dishwashers' claimed ability to completely remove baked-on or cooked-on food without

prior rinsing or scraping, were both false and without a reasonable basis. The complaint further alleged that J. Walter Thompson's advertising for the Sears dishwashers was deceptive in that representations contained therein were inconsistent with statements made in post-purchase materials.

The Proposed Consent Order contains the following provisions designed to remedy the advertising violations charged:

Part I(1) prohibits the dissemination of advertising claims by JWT for any dishwasher that the dishwasher will clean, without prior rinsing or scraping, all dishes, pots, and pans used in ordinary cooking and baking unless JWT has a reasonable basis for the claims.

Part I(2) prohibits JWT from making claims about the cleaning performance of any dishwasher, as well as possibly other performance claims about additional products (see Stipulation of Fact), unless JWT has a reasonable basis for the claims.

This paragraph also provides JWT an affirmative defense to any compliance action alleging violations of either Part I(1) or Part I(2) of the Order. JWT will have the defense if, before disseminating the advertisement(s) in question, it has submitted to the advertiser in writing all performance claims which JWT reasonably believed were contained in the advertisement(s) and exercised due care to assure itself that the advertiser had a reasonable basis for those claims.

Part I(3) prohibits JWT from referring to or presenting evidence which is represented to show or prove the cleaning performance of any dishwasher, and also possibly the performance of certain other products (see Stipulation of Fact) when the evidence does not in fact show or prove such performance.

This paragraph also provides JWT an affirmative defense to any compliance action alleging a violation of Part I(3) of the Order. JWT will have the defense if, before disseminating the advertisement(s), it has submitted to the advertiser in writing all performance claims which JWT reasonably believed were shown or proven by presentation of the evidence in the advertisement(s) and exercised due care to assure itself that the evidence did in fact show or prove such performance claims.

Part I(4) prohibits JWT from making any representation concerning dishwashers, and possibly concerning additional products as well (see Stipulation of Fact), which representation is inconsistent in an important respect with any representation that is made in post-purchase material(s) concerning the cleaning performance of dishwashers, as well as possibly concerning performance of certain other products (see Stipulation of Fact). Post-purchase material(s) is defined as operating manuals and other written materials made available to the purchaser of the dishwasher, or possibly other product, model identified in the ad prepared by JWT. Part I(4) only applies during the time when the advertisement is created and first placed by JWT.

The last paragraph of Part I which begins "Provided, however" makes it clear that nothing in the Order should be construed as limiting any right, defense or affirmative

defense to which JWT would otherwise be entitled in a compliance or other future action against it. The paragraph also provides that no adverse inference is to be drawn against JWT for its failure to invoke the affirmative defense provisions of the Order.

II(1) defines "reasonable basis" for purposes of the Order as consisting of a competent and reliable scientific test(s) as well as other competent and reliable evidence which may include opinions of certain experts who are qualified to give their opinions on a particular matter.

II(2) defines "scientific test," for purposes of the Order, to mean a test formulated and conducted by a qualified person(s) using procedures generally accepted for obtaining valid and reliable results and in which the results are evaluated in an objective manner. The test can be conducted or approved by an independent testing organization, some branch of the United States government, or qualified persons employed or retained by JWT's client if these latter persons can conduct and evaluate the test objectively.

II(3) defines "Product" for purposes of the Order, to be dishwashers and, to the extent that any final cease and desist order against Sears, Roebuck and Company includes either disposers, trash compactors, or room and built in air conditioning units in addition to dishwashers (see Stipulation of Fact), then those additional products as well.

II(4) defines "performance of the Product," for purposes of the Order, as cleaning performance of dishwashers, and, if the products covered by the Order are expanded pursuant to a final cease and desist order against Sears, Roebuck and Company, then performance characteristics generally for these other products (see Stipulation of Fact).

III requires, in its first paragraph, that, for three years after it last placed for dissemination advertisements for any of the products covered by the Order, JWT keep all documents on which it relied for the advertisements and which it possessed during either creation or placement of the advertisements.

The second paragraph of Part III requires that JWT notify the Commission at least thirty days prior to any proposed structural change in the corporate respondent which change would affect compliance with the Consent Order.

The third paragraph of Part III requires JWT to distribute a Copy of the Order to each of its divisions which is involved in the advertising of products covered by the Order.

The fourth paragraph of Part III requires JWT to file an initial compliance report within sixty days of the effective date of the Order.

The Stipulation of Fact specifies the Order's product coverage for purposes of Part II(3)(b) to be air conditioning units (room or built-in), disposers, dishwashers and trash compactors.

The purpose of this analysis is to facilitate public comment on the Proposed Consent Order and it is not intended to constitute an official interpretation of the Agreement and

Proposed Consent Order or to modify in any way their terms.

James A. Tobin,
Acting Secretary.

[File No. 9104]
[FR Doc. 79-12059 Filed 4-17-79; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

The Regulation of Leverage Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of petition for rulemaking.

SUMMARY: The Commodity Futures Trading Commission is making available and requesting public comment on a petition for rulemaking concerning leverage transactions recently submitted to the Commission on behalf of two firms engaged in the leverage transaction business.

DATE: Written comments must be received by the Commission at its offices in Washington, D.C., on or before May 11, 1979.

ADDRESS: In order to be considered, written comments must be submitted to: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Attention: Office of the Secretariat (telephone (202) 254-6126).

FOR FURTHER INFORMATION CONTACT: David R. Merrill, Office of General Counsel, 2033 K Street, N.W., Washington, D.C. 20581; telephone (202) 254-9880.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission is currently engaged in two rulemaking proceedings concerning the regulation of what are commonly known as leverage transactions. The first proceeding involves a proposed rule that would prohibit persons from engaging in the business of offering and selling to the public leverage transactions for the delivery of any commodity other than gold and silver bullion and bulk coins (44 FR 8737, February 2, 1979). The period in which written comments could be submitted to the Commission on this proposed rule expired on April 3, 1979; the Commission is currently reviewing the comments it has received. The second rulemaking proceeding involves the consideration of, and the solicitation of public comment on, two possible approaches to the regulation of leverage

transactions for the delivery of gold and silver bullion and bulk coins (44 FR 13494, March 12, 1979). The first approach involves determining whether leverage transactions are contracts for future delivery within the meaning of the Commodity Exchange Act which should be regulated accordingly. The second approach involves a proposed comprehensive regulatory scheme to govern the offer and sale of gold and silver leverage transactions separate from the Commission's system regulating contracts for future delivery. The public comment period on these approaches to the regulation of gold and silver leverage transactions expires on May 11, 1979.

On February 14, 1979, the Commission received a petition for rulemaking submitted on behalf of two leverage transaction firms, Monex International, Ltd. and International Precious Metals Corporation. The petition seeks to have the Commission adopt a comprehensive structure for the regulation of leverage transactions in all commodities that is somewhat similar to the system of regulations which the Commission has proposed for gold and silver leverage transactions. On March 20, 1979, the Commission received a written request from these two firms that the rulemaking petition be published for public comment.

In response to this request, the Commission has determined to make publicly available, and solicit written comments upon, this rulemaking petition in conjunction with its two rulemaking proceedings concerning leverage transactions. Copies of the petition will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City and San Francisco. The Commission will also furnish copies upon request made to its Office of the Secretariat. Copies of all comments received will be available or inspection at the Commission's Washington office.

Issued in Washington, D.C. on April 13, 1979.

Gary L. SeEVERS,

Acting Chairman, Commodity Futures Trading Commission.
[FR Doc. 79-11976 Filed 4-17-79; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Chapter 1]

Determination of Incentive rate of Return, Tariff and Related Issues for the Alaska Natural Gas Transportation System

April 13, 1979.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Policy Respecting Submission of Comments.

SUMMARY: The Acting Secretary of the Federal Energy Regulatory Commission hereby gives notice that no extensions will be granted to the time limits required for the submission of Comments and Reply Comments for the Notice of Proposed Rulemaking issued Friday, April 6, 1979, in Docket No. RM78-12, "Notice of Proposed Rulemaking to Set Values for Incentive Rate of Return and Established Change-of-Scope and Inflation Adjustment Procedures and Request Comments on Filed Tariffs". (44 FR 22090, April 13, 1979)

DATES: Notice of intent to participate by April 16, 1979. Written comments by May 4, 1979. Reply comments by May 16, 1979.

ADDRESSES: All filings should reference Docket No. RM78-12 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: John Adger, Director, Alaska Natural Gas Project Office, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Rm. 3004, Washington, D.C. 20426, (202) 275-3827.

Lois D. Cashell,
Acting Secretary.

[Docket No. RM78-12]

[FR Doc. 79-12074 Filed 4-17-79; 8:45]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 40]

Revised Prescription of Design Standards Pursuant to the Architectural Barriers Act of 1968

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Correction of proposed rule.

SUMMARY: The proposed rule published as FR Doc. 79-5386 at 44 FR 10586, Part V, February 21, 1979 amending the Department's regulations prescribing standards for accessibility by the physically handicapped contained two errors. Those errors are now being corrected.

DATES: The period for comments is now extended from April 23, 1979 to May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Wehrli, Office of Independent Living for the Disabled, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-7367.

NOTE.—This is not a toll free number.

1. On page 10586 under Supplementary Information: Background, the date "September 24, 1979," is corrected to read "September 24, 1969."

2. On page 10587, § 40.1 Purpose, is corrected to read: "This part prescribes standards for design, construction, and alteration of (a) publicly-owned residential structures, and (b) privately-owned residential structures leased by the Federal government for subsidized housing programs, to insure that physically handicapped persons will have ready access to, and use of, such structures, pursuant to the Architectural Barriers Act of 1968, as amended, Pub. L. 90-480, 42 U.S.C. 4151 (hearing after referred to as Pub. L. 90-480)."

(Architectural Barriers Act of 1968, as amended by Pub. L. 90-480, 42 U.S.C. 4151 et seq.)

Issued at Washington, D.C. April 9, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[Docket R-79-624]

[FR Doc. 79-11970 Filed 4-17-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Part 203]**Mutual Mortgage Insurance and Insured Home Improvement Loans—Subpart A Eligibility Requirements; Proposed Mortgage Approval Eligibility Requirement**

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: The proposed rule would provide for mortgagee approval upon application from institutions chartered by the National Credit Union Administration. Following approval by the Department these lending institutions may participate in the financing of mortgages insured under the provisions of the National Housing Act.

COMMENTS DUE DATE: Comments must be received on or before June 18, 1979.

ADDRESS: Written comments should refer to the docket number and date and should be submitted to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. All comments received will be available for public inspection and copying during business hours in the office of the Rules Docket Clerk at the above address. All comments received will be considered before adoption of a final rule.

FOR FURTHER INFORMATION CONTACT: Ernest Sigety, Director, Mortgagee Approval Division, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-5727.

SUPPLEMENTARY INFORMATION: A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the office of the Rules Docket Clerk at the address listed above.

The Department proposes to amend 24 CFR by revising § 203.2 to read as follows:

§ 203.2 Federal Reserve Members, other institutions.

Members of the Federal Reserve System, institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation, institutions whose deposits are insured by the Federal Deposit Insurance Corporation, and institutions chartered by the National Credit Union Administration may be approved as mortgagees upon application.

(Section 3(d) of the Dept. of HUD Act, 42 U.S.C. 3535(d)).

Issued at Washington, D.C. February 28, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[Docket R-79-636]

[FR Doc. 79-12009 Filed 4-17-79; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary**[24 CFR Part 882]****Section 8 Housing Assistance Payments Program—Existing Housing—Special Provisions for Mobile Home Owners**

AGENCY: Office of the Secretary, (HUD).

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication for comment in the *Federal Register*. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking document described below:

24 CFR Part 882—Section 8 Housing Assistance Payments Program—Existing Housing—Special Provisions for Mobile Home Owners.

This proposed rule would amend 24 CFR Part 882, which governs the Section 8 Existing Housing Program. The proposed rule would permit housing assistance payments to be made through Public Housing Agencies to assist lower-income mobile home buyers in paying rent for the spaces on which their mobile homes are located. The proposed rule would implement Section 8(j) of the U.S. Housing Act of 1937, which was added by the Housing and Community Development Amendments of 1978.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing

and Community Development Amendments of 1978).

Issued at Washington, D.C., April 10, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[Docket R-79-646]

[FR Doc. 79-11966 Filed 4-17-79; 8:45 am]

BILLING CODE 4210-01-M

ENVIRONMENTAL PROTECTION AGENCY**[40 CFR Part 180]****Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerances for the Pesticide Chemical Methyl 3-[(dimethoxyphosphinyl)oxy] butenoate**

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the insecticide methyl 3-[(dimethoxyphosphinyl)oxy]butenoate on birdsfoot trefoil forage and hay. The proposal was submitted by the Interregional Research Project No. 4. This amendment to the regulations would establish maximum permissible levels for residues of the subject insecticide on birdsfoot trefoil forage and hay.

DATE: Comments must be received on or before May 18, 1979.

ADDRESS: Send comments to Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA (202/755-2516).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of New York and Vermont, has submitted a pesticide petition (PP 7E1967) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.157 be amended by the establishment of tolerances for residues of the insecticide methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers, in or on the raw agricultural commodities birdsfoot trefoil forage and hay at 1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a two-year rat feeding study with a no-observed-effect level (NOEL) of 0.025 milligram (mg)/kilogram (kg) of body weight (bw); a three-generation rat reproduction study with a NOEL of 1.2 ppm; and a rabbit teratology study, negative to 1 mg/kg bw. The acceptable daily intake (ADI) for this chemical is 0.0025 mg/kg bw/day using a safety factor of 10 based on cholinesterase-inhibition effects. The maximum permissible intake (MPI) for this chemical is 0.150 mg/day. Based on the theoretical maximal residue contribution (TMRC) from existing tolerances, the MPI has been reached. The proposed tolerance on the animal feed, however, does not contribute significantly, if at all, to the TMRC in the human diet.

The nature of the residue is adequately understood, and an adequate analytical method (gas chromatography equipped with a potassium chloride thermionic detector or flame photometric detector) is available for enforcement purposes. Tolerances have previously been established for residues of the subject insecticide on a variety of raw agricultural commodities, including alfalfa at 1 ppm, at levels ranging from 1 ppm to 0.25 ppm. Desirable data that is lacking from the petition are a mouse metabolism study and a delayed neurotoxicity study. However, based on (1) the above information; (2) the finding of no reasonable expectation of residues in meat, milk, poultry, or eggs as delineated in 40 CFR 180.6(a)(3); and (3) the fact that birdsfoot trefoil is not a human dietary food item, it is concluded that the proposed tolerances on birdsfoot trefoil forage and hay at 1 ppm should be established.

The pesticide is considered useful for the purpose for which tolerances are being established, and it is concluded that the tolerances of 1 ppm established by amending 40 CFR 180.157 will protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before May 18, 1979, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP7E1967/P88". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: April 11, 1979.

Douglas D. Campi,
Acting Director, Registration Division.

Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].

It is proposed that Part 180, Subpart C, section 180.157 be revised by reformatting the section into an alphabetized columnar listing and alphabetically inserting birdsfoot trefoil forage and hay at 1 ppm, as follows:

**§ 180.157 Methyl 3-
[[dimethoxyphosphinyl]oxy] butenoate,
alpha and beta isomers; tolerances for
residues.**

Tolerances are established for residues of the insecticide methyl 3-[[dimethoxyphosphinyl]oxy]butenoate, alpha and beta isomers, in or on the following raw agricultural commodities:

Cornmodity:	Parts per million
Alfalfa.....	1
Apples.....	0.5
Artichokes.....	1
Beans.....	0.25
Beets, garden (incl. tops).....	1
Birdsfoot trefoil, forage.....	1
Birdsfoot trefoil, hay.....	1
Broccoli.....	1
Brussels sprouts.....	1
Cabbage.....	1
Carrots.....	0.25
Cauliflower.....	1
Celery.....	1
Cherries.....	1
Clover.....	1
Collards.....	1
Corn, field, forage.....	1
Corn, grain, field.....	0.25
Corn, pop, forage.....	1
Corn, pop, grain.....	0.25
Corn, sweet (K + CWHR).....	0.25
Corn, sweet, forage.....	1
Cucumbers.....	0.25
Eggplant.....	0.25
Grapefruit.....	0.25
Grapes.....	0.5
Kale.....	1
Lemons.....	0.25

Cornmodity:—Continued

Cornmodity:	Parts per million
Lettuce.....	0.5
Melons (incl. cantaloups, honeydew melon, and muskmelon determined on the edible portion with rind removed).....	0.5
Mustard greens.....	1
Okra.....	0.25
Onions (green).....	0.25
Oranges.....	0.25
Parsley.....	1
Peaches.....	1
Pears.....	0.5
Peas.....	0.25
Peavines.....	1
Peppers.....	0.25
Plums.....	1
Potatoes.....	0.25
Raspberries.....	1
Sorghum, forage.....	1
Sorghum, grain.....	1
Spinach.....	1
Squash, summer.....	0.25
Strawberries.....	1
Tomatoes.....	0.25
Turnips.....	0.25
Turnips, tops.....	1
Walnuts (determined on the nut meats with shell removed).....	0.25
Watermelon.....	0.5

[PP7E1967/P88; FRL 1205-3]

[FR Doc. 79-12051 Filed 4-17-79; am]

BILLING CODE 5560-01-M

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Health Care Financing Administration

[42 CFR Part 447]

**Medical Assistance Program;
Reasonable Cost-Related
Reimbursement for Skilled Nursing
and Intermediate Care Facility
Services**

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would clarify current regulations and add new requirements for reasonable cost-related reimbursement methodologies for long-term care facility services under State Medicaid programs. We are amending these rules because of problems and inconsistencies which have been brought to our attention since the cost-related reimbursement rules were first adopted on July 1, 1976. Our intent is to make cost-related reimbursement for long-term care facilities a more effective, more accurate form of payment.

DATES: Consideration will be given to comments received by June 18, 1979.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013.

Please refer to file code MMB-210-P. Agencies and organizations are requested to submit comments in duplicate. Beginning two weeks from

today, the public may review the comments on Monday through Friday of each week, from 8:30 to 5:00 p.m. in Room 5231 of the Department's offices at 330 "C" Street, S.W., Washington, D.C., 202-245-0950.

FOR FURTHER INFORMATION CONTACT: Milton Dezube, 202-245-8990.

SUPPLEMENTARY INFORMATION: Section 1902(a)(13)(E) of the Social Security Act requires States, effective July 1, 1976, to reimburse skilled nursing facilities (SNFs) and intermediate care facilities (ICFs) participating in Medicaid on a reasonable cost-related basis. On July 1, 1976, we published in the *Federal Register* (41 FR 27300) regulations implementing that statutory mandate. As a result of our experience since that date, we believe that certain modifications of the present reasonable cost regulations would ameliorate problems and promote efficiency, particularly in the areas of cost reporting, audits, and payment determinations.

Definitions

Prospective and Retrospective Payment Systems

The current regulations at 42 CFR 447.272 define "retrospective payment system," but not "prospective payment system." On February 6, 1978, we published in the *Federal Register* (43 FR 4861) a supplementary statement to clarify parts of the preamble that accompanied the regulations published on July 1, 1976. The statement further defined the terms "prospective" and "retrospective" as they relate to long-term care facility payment systems. The proposed rule would incorporate the statement's definition of "prospective payment system," one in which a payment rate is based on forecasts and on reports and data from earlier periods. The proposed rule would also incorporate the statement's language to clarify the current definition of "retrospective payment system," one in which a payment rate is based on reports and data from the period covered by the rate.

Cost Finding and Reporting

Providers with Certified Cost Reports

Current Medicaid regulations require every long-term care facility to submit a cost report to the Medicaid agency no later than three months after the close of the cost reporting year. The Medicare program also requires cost reports to be submitted within three months. However, in order to encourage the submission of certified cost reports

(reports audited by an independent auditor who certifies to the accuracy of the Medicare costs claimed in the cost report), Medicare allows hospitals and hospital-based SNFs or home health agencies 120 days to submit certified cost reports. (See Medicare Provider Reimbursement Manual, § 2413). Some states have recommended that a similar extension of time be included for Medicaid. The proposed rule would extend the Medicaid cost reporting time limit to 120 days for long-term care facilities (whether or not hospital-based) which submit certified cost reports. This extension would be at the agency's option. An agency could still require all providers to submit cost reports within 90 days.

Providers Receiving Little Medicaid Reimbursement

The current regulations at 42 CFR 447.274 require Medicaid agencies to have a uniform cost report form to be used by all providers of SNF services, and a uniform cost report form to be used by all providers of ICF services. The cost report may be the same for both classes of providers.

Some Medicaid agencies have suggested to us that they be permitted to exempt providers having minor involvement in the Medicaid program from submitting the uniform cost report. They argue that the amount of time, effort, and cost associated with a uniform cost report is unreasonable for these providers and they should be permitted to submit a simplified cost report. The proposed rule would revise the regulations to allow agencies to use alternative cost reporting methods for facilities that receive little Medicaid reimbursement.

The criteria for defining "little Medicaid reimbursement" would be set by each Medicaid agency as it sees fit, but would have to fall within the limit in the proposed regulation. We have established the limit as follows. Ordinarily, the facility must have received less than \$100,000 a year in Medicaid reimbursement during the previous cost-reporting year. However, in those States where Medicare has chosen to reimburse providers based on Medicaid rates (as authorized under Section 1861(v)(1)(E) of the Social Security Act), the facility must have received less than \$100,000 in combined Medicaid and Medicare reimbursement. This combination of reimbursements is necessary in order to avoid the inaccurate use of rates by Medicare for facilities which had few Medicaid patients and thus were not required to file a full cost report, but which also had

substantial numbers of Medicare patients.

In developing this provision, we considered basing the optional exemption on the number or percentage of Medicaid patients in a facility or on the number or percentage of Medicaid patient days. After consideration of all the options, we decided that the most logical and straightforward basis for determining an exemption from a Medicaid cost report is the dollar amount of Medicaid reimbursement involved. The proposed regulation reflects this decision, but comment is invited on use of this methodology and on whether the suggested reimbursement level of less than \$100,000 during the previous cost reporting year is reasonable for making an exception. We arrived at the \$100,000 figure as an approximation of the cost of care for ten patients for a year.

SNFs Participating in Medicaid and Medicare

Some Medicaid agencies have informed us that they would like the option of using Medicare's SNF cost report in lieu of the agency's cost report in order to simplify reporting requirements for SNFs that also participate in Medicare. The proposed rule would allow agencies to use Medicare's cost reports for SNFs as an alternative to their own uniform cost reports. This provision would be an agency option, not a requirement.

Return on Owner's Net Equity

In the preamble to the regulations published on July 1, 1976, we specified that Medicaid agencies have the option of allowing a return on owners' net equity for proprietary providers. We stated that the "payment of a profit as a return on owners' net equity is optional with the states" and "such a profit factor would not be an appropriate element in the calculation of the reimbursement rate for non-profit and governmental providers." This proposed regulation includes a provision reflecting this policy that (1) the payment of a return on owners' net equity may be made only to proprietary providers, and (2) the payment of a return on owners' net equity is an agency option. The proposed rule would also require that, if the State pays a return on equity capital greater than the return permitted under the Medicare program, its payment for all facility costs, including the return on equity, may not exceed an upper limit determined in accordance with Medicare's principles and standards of cost reimbursement. This allows States

flexibility in fixing the rate of return, while limiting total costs.

Personal Laundry Charges

The current regulations at 42 CFR 447.281 provide that costs of routine services must be included as allowable costs under the State plan and that laundry services other than for personal clothing are routine services. A Medicaid agency may include personal laundry services as an allowable cost if it chooses, but this is not required.

It has been brought to our attention that some nursing homes are charging patients excessive amounts for personal laundry services. To prevent such abuse, many Medicaid agencies have chosen to cover personal laundry services under their payment for routine care. The proposed regulations would require agencies to include personal laundry services as routine services, with costs reimbursed under the program.

Audits

Providers Receiving Little Medicaid Reimbursement

Regulations at 42 CFR 447.292 provide that Medicaid agencies must audit all providers of long-term care. To minimize requirements on providers receiving little Medicaid reimbursement in the previous cost reporting year, the proposed regulations exempt agencies from having to audit this group of providers. This change would be at the option of the agency, which may continue to audit these providers if it wishes. The criteria for determining "little Medicaid reimbursement" in providing exemption from filing full cost reports (see § 447.274(a)(2)) would also be used in determining exemption from these audit requirements.

Audit Standards

Regulations at 42 CFR 447.294 provide that nursing home audits must meet generally accepted auditing standards. The regulation recommends the standards in the Health Insurance Manual (HIM-18), issued by the Medicaid program, but allows the agency to establish its own standards.

Instructions from the Office of Federal Management Policy, General Services Administration, now require us to use, as basic audit criteria, the Standards for Audits of Governmental Organizations, Programs, Activities and Functions, issued by the Comptroller General of the United States. The Medicare program has issued instructions for meeting these audit requirements in the Medicare Intermediary Manual Part 2, Section 2001 (HIM-13-2), effective November 1,

1978. This proposed regulation references this document as containing the standards for audit that Medicaid agencies must now meet. We have deleted the provision that audits must meet generally accepted auditing standards on the basis that these standards go beyond program need. However, the State agency no longer has the option of establishing its own standards.

Accounting for Overpayments

The current regulation at 42 CFR 447.296 require a State agency to account for overpayments no later than the second quarter following the quarter in which the overpayment is found. Some States have insisted that this requirement is unreasonable, since the States themselves are often repaid by providers over a period longer than six months. In addition, the existing § 447.296 is inconsistent with 45 CFR 201.66,* which allows a State to repay Federal funds over a period longer than six months, depending on the size of the overpayment in relation to the State's total Medicaid expenditures. The proposed rule would eliminate the six-month requirement as an absolute limit on repayment and make use of the repayment schedule specified in 45 CFR 201.66.

Recently published Medicare regulations (42 CFR 405.374, issued on December 20, 1978 (43 FR 59380)) authorize the Health Care Financing Administration to compromise Medicare overpayment claims and to suspend or terminate collection of Medicare overpayment claims. If collection action is lengthy and costly, or if the chances of success are small, it can be in the best interest of the Government to compromise. This is equally true with regard to Medicaid overpayments. Therefore, the proposed rule would allow State agencies to compromise overpayment claims or to suspend or terminate the collection of Medicaid overpayments, as long as they meet the conditions specified in § 405.374. Under that section, only claims that do not exceed \$20,000 and in which there is no evidence of fraud may be compromised, suspended, or terminated.

Payment Determination

Cost-Finding Method

The current regulation at 42 CFR 447.276 requires States to specify a uniform cost-finding method for all SNFs, and a uniform cost-finding

method for all ICFs. The current regulation at 42 CFR 447.301 requires a State plan to set forth the methods and standards used by the agency to set reasonable cost-related payment rates, but does not require uniform payment methods. As a matter of fairness between classes of facilities and in order to alleviate administrative burdens, it has been the policy of the Medicaid program to require uniform payment methods in addition to uniform cost-finding methods. The proposed regulation would clarify that States must use the same payment methodology for all SNFs and the same for all ICFs.

Further, in HCFA Action Transmittal to Medicaid State agencies dated December 14, 1977, we announced that intermediate care facilities for the mentally retarded (ICF-MRs) may be treated as a separate class, and may be reimbursed based on a different payment methodology from other ICFs. We gave Medicaid agencies the option of treating ICF-MRs as a separate class because the certification and licensing requirements for these facilities result in much higher costs than for other ICFs. It should be noted, however, that ICF-MRs must still be reimbursed on a reasonable cost-related basis. The proposed regulation reflects this policy by allowing agencies to have different reimbursement methodologies for SNFs, ICFs, and ICF-MRs.

The proposed regulation would also allow a separate reimbursement methodology for providers exempt from filing a full cost report under § 447.274(a)(2). This is proposed to allow States to reduce the administrative burden on these providers.

Reasonable Costs

The regulations at 42 CFR 447.302 state that payment rates shall not be set lower than the level that the State reasonably expects to be adequate to reimburse in full the actual allowable costs of a facility that is economically and efficiently operated. The use of the word "actual" is misleading since actual costs that are not reasonable will not be reimbursed. Therefore, the word "actual" is deleted from these proposed regulations.

Upper Limits: SNFs and ICFs

Intermediate Care Facilities for the Mentally Retarded (ICF-MR)

The current regulations at 42 CFR 447.315 provide that limits on coverage of costs under the Medicaid program for both SNF and ICF routine services are the upper limits established under the Medicare program for costs of routine

* A notice of proposed rulemaking was published in the Federal Register on August 25, 1978 (43 FR 38345) to redesignate 45 CFR 201.66 as 42 CFR 430.240.

services in SNFs. Medicaid agencies contend that Federal standards result in higher costs for services in ICF-MRs than for SNF or general ICF services, and that it is unfair to use the costs of SNF services as a limit on the costs of ICF-MR services. The proposed regulation excludes ICF-MRs from the Medicare upper limit provision. The upper limit remains applicable to other long-term care facilities in the Medicaid program.

Public Facilities Reimbursement

The regulations at 42 CFR 447.315 provide that public facilities rendering service free of charge or a nominal charge may be reimbursed on a reasonable cost-related basis, according to the principles in 42 CFR Part 447, Subpart C. Since Section 1902(a)(13)(E) of the Social Security Act requires payment to all participating facilities on a reasonable cost-related basis, the proposed rule provides that public facilities rendering services free of charge or at a nominal charge must be reimbursed on this basis.

42 CFR Part 447 is amended as follows:

1. The table of contents is revised to read as follows:

PART 447—PAYMENTS FOR SERVICES

Subpart C—Payments Methods and Upper Limits for Specific Services

Cost Finding and Reporting

447.280 Return on owners' net equity.

2. Section 447.272 is amended by correcting a cross-reference, inserting alphabetically a definition of "prospective payment system" and revising the definition of "retrospective payment system" to read as follows:

§ 447.272 Definitions.

For the purposes of §§ 447.271 through 447.316—

"Prospective payment system" means a system in which the payment rate is set for an accounting period entirely on the basis of cost reports of providers and other cost data for earlier accounting periods, and on economic forecasts available before the beginning of the accounting period for which the rate is paid.

"Retrospective payment system" means a system in which the payment rate is set or adjusted for an accounting on the basis of cost reports of providers and other cost data for the accounting period for which the rate is paid.

3. Section 447.274 is amended by revising paragraphs (a) and (d) to read as follows:

§ 447.274 Provider cost reports.

(a) Except as specified in paragraphs (a)(1) and (2) of this section, each provider must submit a full cost report to the agency no later than 90 days after the close of the cost reporting year.

(1) If the provider has its cost report certified by an independent auditor, the agency may allow an additional 30 days for submission of that report.

(2) The agency may require less than a full cost report from a provider if:

(i) Medicare reimbursement in the State is based on Medicaid rates (as permitted by section 1861(v)(1)(E) of the Act) and the combined total amount of Medicare and Medicaid reimbursement to the provider was less than \$100,000 for the previous reporting year; or

(ii) Medicare reimbursement in the State is not based on Medicaid rates and total Medicaid reimbursement to the provider was less than \$100,000 for the previous reporting year.

(d) The agency must require a uniform cost report for all skilled nursing facilities (SNFs), except for those SNFs participating in both Medicare and Medicaid which the agency may allow to use the cost report form for the Medicare program. The agency must require a uniform cost report for all intermediate care facilities (ICFs). The same form may be required for both SNFs and ICFs.

4. A new section 447.280 is added to read as follows:

§ 447.280 Return on owners' net equity.

For proprietary providers, a Medicaid agency may include as an allowable cost a return on owners' net equity, however, where the return exceeds the return permitted under the Medicare program, the agency's payment for all costs, including the return on owners' net equity, may not exceed an upper limit determined in accordance with § 447.316.

5. Section 447.281 is amended by revising paragraph (c)(6) to read as follows:

§ 447.281 Costs of routine services.

(c) The following are examples of expenses that allowable costs for routine services must include:

(6) Laundry services including laundering of personal clothing.

6. Section 447.292 is amended by revising paragraph (a) to read as follows:

§ 447.292 Onsite audits and exemption.

(a) The agency must provide for an onsite audit of the financial and statistical records of all providers within a 3-year period, except providers excluded from filing a full cost report as provided in § 447.274(a)(2).

Section 447.293 is amended by revising paragraph (a)(1) to read as follows:

§ 447.293 Continuing audits.

(a) Each year the agency must provide for onsite audit of the financial and statistical records of at least 15 percent of participating facilities selected as follows:

(1) At least 5 percent of participating facilities selected at random. In selecting the 5-percent random sample, the agency may exclude facilities exempt from filing a full cost report as provided in § 447.274(a)(2).

8. Section 447.294 is amended by revising paragraph (a) to read as follows:

§ 447.294 Audit standards.

(a) The Medicaid agency must use the audit standards in the Health Insurance Manual (HIM-13-2), issued by the Medicare program.

9. Section 447.296 is revised to read as follows:

§ 447.296 Accounting for overpayment found in audits.

(a) The agency must account for overpayments found in audits on the quarterly statement of expenditures in accordance with the schedule specified in 45 CFR 201.66, concerning the repayment of Federal funds by installment.

(b) The agency may enter into compromises with providers, or suspend or terminate collection of claims for overpayments against providers, in accordance with conditions specified in 42 CFR 405.374, concerning collection and compromise of Medicare overpayments.

10. Section 447.301 is amended by revising paragraph (a) to read as follows:

§ 447.301 Methods and standards for setting reasonable cost-related payment rates.

(a) The plan must set forth the methods and standards used by the agency to set reasonable cost-related payment rates. The methods and standards of payment must be the same for all facilities providing skilled nursing care, the same for all facilities providing intermediate care, and the same for all facilities providing intermediate care for the mentally retarded, except as provided in § 447.274(a) for providers exempt from filing a full cost report.

11. Section 447.302 is revised to read as follows:

§ 447.302 Reasonable costs.

(a) Methods and standards for determining payment rates must reasonably take into account costs of the allowable items set forth in §§ 447.278 through 447.284, reported under § 447.274 and as verified by audits under §§ 447.292 and 447.293.

(b) Payment rates must not be set lower than rates that the agency reasonably finds to be adequate to reimburse in full the allowable costs of a facility that is economically and efficiently operated.

12. Section 447.315 is revised to read as follows:

§ 447.315 Upper limits: General provisions.

(a) The agency may not pay more for long-term care facility services than the provider's customary charge.

(b) Public facilities that provide services free or at a nominal charge must be reimbursed on a reasonable cost-related basis under this subpart.

(c) Any limitation on coverage of costs published under §§ 405.460 and 405.461 of this chapter applies to payments for long-term care facility services, except payment for services of intermediate care facilities for the mentally retarded.

(Section 1102 of the Social Security Act (42 U.S.C. 1302).) (Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated: March 5, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: April 11, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-12026 Filed 4-17-79; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

FM Quadraphonic Broadcasting; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving FM Quadraphonic Broadcasting. Petitioners, RCA Corporation, Muzak Corporation, National Research Development Corporation, and General Electric Company, state the additional time is needed so that they may undertake studies, results of which will be submitted in comments.

DATES: Comments must be filed on or before May 16, 1979, and reply comments must be filed on or before June 18, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Wilson LaFollette, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of FM Quadraphonic Broadcasting.

Adopted: April 10, 1979.

Released: April 11, 1979.

By the Chief, Broadcast Bureau:

1. In a *Further Notice of Inquiry* in the above-captioned proceeding, 44 Fed. Reg. 3732, January 18, 1979 the dates for filing comments and reply comments were set at April 16 and May 16, 1979, respectively.

2. The Commission now has before it four requests for extension of time for filing comments and reply comments. RCA Corporation ("RCA") requests a 30-day extension; Muzak Corporation ("Muzak") requests a 45-day extension; General Electric Company ("GE") requests a 60-day extension, and National Research Development Corporation ("NRDC") requests an extension to June 25 for comments and July 25, 1979, for reply comments. The Independent Broadcasting Authority (IBA, England) advises that it needs until the end of April to provide all of its views but has not as yet filed a formal request with the Commission.

3. RCA states that because the Commission emphasized that new preconditions would apply to any recommended FM quadraphonic system standard, participants in this proceeding

must reexamine all related matters in the record, and where appropriate, initiate extensive studies requiring lengthy and detailed analyses. RCA asserts that the task of analysis has been complicated by the recent volume of FCC inquiry and rulemaking proceedings affecting areas of importance to RCA. It states that the availability of RCA personnel to undertake an effective investigation of each of these proceedings has been limited, and therefore comments cannot be prepared in time for filing by April 16.

4. Muzak states that additional time is needed in order to study the impact of the different quadraphonic proposals on its use of SCA's.

5. GE states that in order to answer the questions posed in the *Notice* substantial engineering resources will be required. It notes that the Commission has recently announced approval for funding of a proposal for "A Preliminary Study to Examine the Feasibility of Reducing FM Channel Spacing". Therefore, GE states it isn't clear what the extent of federal policy funding may be, i.e., whether public funds are being committed to an objective study of the very same issues. It asserts that requiring parties to address this issue at this time may result in significant duplication of efforts, particularly if the same parties will be requested to address the result of such a study at a later date. GE states that publication of a work statement for the proposed study is nearing completion and that the requested additional time would assure that the parties and the Commission will have an opportunity to review that work statement to determine if the issues are being sufficiently treated in the context of that study.

6. NRDC states that it is in the process of preparing detailed comments, but a substantial amount of the engineering support material must come from London, England, where NRDC is headquartered. It notes that the scope of the Commission's inquiry is such that additional time is required to insure that the development of an important new FM broadcasting concept is not done without the fullest array of factual data being available to the Commission.

7. The Commission is anxious to resolve this proceeding in an expeditious manner. To grant the extension requests in full would lead to serious delay. Therefore, on the basis of the reasons represented in the above-mentioned requests for extension of time, we are willing to provide a 30-day extension of time so that parties may file any information which might be

helpful to the Commission in reaching a decision in this matter.

8. Accordingly, IT IS ORDERED, that the above motions for extension of time filed by RCA Corporation, Muzak Corporation, General Electric Company and National Research Development Corporation, ARE GRANTED to the extent that the present deadline dates for filing comments and reply comments ARE EXTENDED to and including May 16, and June 18, 1979, respectively, and ARE DENIED in all other respects.

9. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Martin I. Levy.

Acting Chief, Broadcast Bureau.

[Docket No. 21310; RM-1847; RM-1984; RM-2742]

[FR Doc. 79-12055 Filed 4-17-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1033]

Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules and Practices

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is concerned about the serious nature of freight car shortages and the effectiveness of the Commission's mandatory car service rules designed to encourage more efficient operating practices. We are considering the elimination of all rules now in effect, and the repeal in full of 49 CFR Part 1033, Car Service. In the alternative, we are considering the elimination of only some of these rules—in particular Rules 1 and 2 (49 CFR §§ 1033.1 and 1033.2).

DATES: Comments must be received on or before June 18, 1979.

ADDRESSES: An original and 10 copies (if possible) of any comments should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Ginger Levin, Tel. (202) 275-1912.

SUPPLEMENTARY INFORMATION: Efficient use of freight cars has been a major concern to railroad management and the Commission for many years. To cope with this problem, railroad management established a Code of Car Service Rules to be observed by all carriers on a voluntary basis to promote prompt handling, movement, and return of freight cars.

In 323 ICC 48, decided June 18, 1964, the Commission instituted a proceeding to obtain specific and current information on the adequacy of freight car ownership. This investigation found that there was a substantial inadequacy of ownership in more than one category of freight cars throughout the United States. Subsequently, the Commission broadened this proceeding to obtain detailed and precise information on all phases of freight car ownership, utilization, distribution, and rules and practices that in any manner contribute or affect the chronic freight car shortage problem. In 335 ICC 264, decided August 21, 1969, based on this proceeding, certain of these car service rules were changed by Division 3 from voluntary observance to mandatory. Under Car Service Rules 1 and 2, the carrier terminating a general service foreign car must load that car and route it to or via the owner's railroad or the car may be loaded and routed to a destination closer to the owning railroad than the station at which it was loaded. If a load is not available, the car must be returned empty. During periods of car shortage, car owners may request that these rules be amended to be more restrictive to better assure the owning roads an adequate car supply. Car Service Rule 7 prescribes the conditions that must be fulfilled to accomplish the interchange of cars from one line to another. Car Service Rule 15 states the procedures and records necessary for requests for cars for loading (car orders). Car Service Rule 16 governs the exclusive assignment of freight cars to shippers. Car Service Rules 17 and 18 set standards for service performance. On February 18, 1970, 335 ICC 874, the entire Commission affirmed Division Three's earlier findings and added Car Service Rule 19 to these mandatory rules to permit exemption to these rules for the purpose of further improving car supply and utilization.

Several industry initiatives have resulted in improvements in freight car utilization in recent years. Railbox, a subsidiary of the Trailer Train Corporation, was implemented in 1973 as an industry-wide pool of 50-foot general service boxcars. The free-running Railbox equipment generally achieves better car utilization, as measured by the number of loaded car days, than does equipment subject to specific loading restrictions. In September 1974, three railroads began an experiment to improve freight car utilization by reducing the number of empty general service cars cross-hauled between railroads. They formed a Clearinghouse of general service box,

gondola, and flat cars. Participating railroads were encouraged to use each other's cars as though they were their own system cars. Car Service Rules 1 and 2 were waived by the Commission for this project. The Clearinghouse was expanded in the summer and fall of 1976 to ten railroads. Now, eleven railroads are members of the project.

The Clearinghouse approach, plus that of Railbox, have been effective in improving car utilization and demonstrate the advantages associated with relaxation of restrictions imposed by car service rules. The Commission now proposes to eliminate all mandatory car service rules in effect under Part 1033, Car Service, of Title 49 of the Code of Federal Regulations. In the alternative, we are considering the elimination of only some of these rules, in particular Rules 1 and 2 (49 CFR §§ 1033.1 and 1033.2). We also propose to eliminate Form FCS-2, Formula for Determining Freight Car ownership, now submitted to the Commission on an annual basis.

In addition, the Commission would like to determine whether other mechanisms would be more successful in alleviating freight car shortages and request comments from the public concerning methods to improve car utilization. Specifically, the Commission is interested in the following areas:

(1) If the mandatory provision of Car Service Rules 1 and 2 were eliminated, would the car redistribution powers of the Association of American Railroads (AAR) under Note B of Rules 1 and 2 be adequate to alleviate any equipment shortages that might develop? If the AAR's powers are not sufficient, what emergency powers should the Commission retain?

(2) Should the removal of the mandatory provisions of Car Service Rules 1 and 2 be accompanied by the development of a more formal management process administered by the Commission or the AAR to ensure that empty car flows to loading railroads are adequate or equitable? What mechanisms could be used? Would the system need to be mandatory? What are the characteristics of the management process that are essential for success? How would imbalances of equipment types between railroads be resolved? How would the inability of carriers to contribute their proportionate share of equipment to such a nationwide management system be handled? How would commodity contamination be prevented? How would the quality of equipment be maintained? Would the exclusive assignment of cars authorized under Rule 16 still be a valid concept? What would be the best procedures necessary to implement the formal management process? Would the imposition of such a formal management process encourage or discourage the investment in new types of equipment? Should any of the voluntary car

service rules be made mandatory if a different system were used?

(3) How would car hire be affected if the mandatory provisions of Car Service Rules 1 and 2 were removed?

(4) How can contract rates be used to apportion demand? If equipment is tied to contract rates, how could this equipment be insulated from possible Commission car service orders or AAR car service directives used in emergency situations? Should cars supplied under contract rates be excluded from any nationwide management system?

Elimination of Car Service Rules 1 and 2 have been reviewed by the Section of Energy and Environment, and it was determined that the elimination of these rules would not significantly affect the quality of the human environment. No oral hearing is planned at this time.

Decided April 9, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, and Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. Homme, Jr.,
Secretary.

[Ex Parte No. 241 (Sub-No. 1)]
[FR Doc. 79-12070 Filed 4-17-79; 8:45 am]
BILLING CODE 7035-01-M

[49 CFR Part 1047]

Motor Transportation of Passengers Incidental to Transportation by Aircraft; Savannah, Ga., Airport Terminal Area; Petition To Extend Exempt Zone

AGENCY: Interstate Commerce Commission.

ACTION: Notice that a petition has been filed seeking a redefinition of the limits of the zone within which may be performed motor transportation of passengers having an immediately prior or subsequent movement by air, pursuant to 49 U.S.C. 10526(a)(8) [formerly section 203(b)(7a) of the Interstate Commerce Act], within the Savannah, GA, airport terminal area so as to include all points in Beaufort County, SC.

SUMMARY: The purpose of this document is to give notice that this petition has been filed, and to direct petitioners and all other interested persons to make representations in favor of or in opposition to the relief sought in the petition.

DATES: Representations shall be filed with the Commission on or before June 18, 1979.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., 202-275-7292.

SUPPLEMENTARY INFORMATION: Petitioners are Jesse Gurganious, d/b/a Beaufort Cab Company; Maceo Griffin,

d/b/a Griffin Cab Company; Nathan Griffin, d/b/a Courtesy Cab Company; John Morrall, d/b/a Morrall's Cab Company; and Lee Allen, d/b/a Allen Cab Company.

Petitioners' representative is Mr. W. Brantley Harvey, Jr., Esq., of Harvey, Battey, Macloskie & Bethea, 1001 Craven Street, P.O. Drawer 1107, Beaufort, SC 29902, telephone 803-524-3109.

By the instant petition, filed January 8, 1979, petitioners allege the following:

(1) That each petitioner is a holder of a certificate of convenience and necessity from the South Carolina Public Service Commission to perform taxi service in and around the City of Beaufort, Beaufort County, SC, is duly licensed by the City of Beaufort, to perform taxi service, and is performing the service for the traveling public; and that each petitioner is ready, able, and willing to provide service to and from the Savannah, GA, airport.

(2) That the City of Beaufort is located in Beaufort County, SC, and has a population of 14,000 persons; and that the city is the county seat and principal city of the county, which has a population now considerably in excess of its 1970 population of 51,136 persons.

(3) That the City of Beaufort is the principal trade, financial, and transportation center for Beaufort County, where there are located three major military installations: the Marine Corps Recruit Depot at Parris Island, with a strength of 9,000 persons; the Marine Corps Air Station at Beaufort, with a strength of 3,450 persons; and the Naval Hospital at Beaufort, with a strength of 360 persons.

(4) That there is no regularly scheduled air service into Beaufort, and that the attempted service of the community by Air South, a commuter air service, failed for lack of passenger revenue and has been discontinued for more than three years.

(5) That the closest commercial passenger terminal is at Savannah, GA; and that the Savannah airport provides the principal air passenger service for the City of Beaufort, the surrounding area in Beaufort County, and the military bases located in Beaufort County.

(6) That existing public transportation does not provide fast, economical, convenient service for passengers, whose origination or destination point is in Beaufort County, incidental to their transportation by aircraft into or out of the Savannah airport.

(7) That petitioners (and other taxi companies as well) have many requests each week to transport passengers between points in Beaufort County

(including principally the City of Beaufort, the Marine Corps Recruit Depot, the Marine Corps Air Station, and the Naval Hospital), on the one hand, and, on the other, the Savannah airport; but that members of the traveling public are presently denied service by taxi because of the Commission's regulation 49 CFR 1047.45, which provides that the transportation of passengers between the Savannah airport, on the one hand, and, on the other, those points in Beaufort County located within 25 miles of the airport (and all points on Hilton Head Island, even though located more than 25 miles from the airport), is exempt from the Commission's economic regulation, but which also provides that the transportation of passengers between the Savannah airport, on the one hand, and, on the other, those points in Beaufort County located more than 25 miles from the airport (except such points on Hilton Head Island), is not exempt from the Commission's economic regulation.

Petitioners therefore seek a declaration that the transportation by motor vehicle, in interstate or foreign commerce, of passengers, having an immediately prior or subsequent movement by air, between the Savannah, GA, airport, on the one hand, and, on the other, all points in Beaufort County, SC, is partially exempt from this Commission's regulation under 49 U.S.C. 10526(a)(8) [formerly section 203(b)(7a) of the Interstate Commerce Act]. This petition is filed pursuant to the Commission's regulation 49 CFR 1047.45(c), which allows for the individual determination of air passenger exempt zones. Petitioners contend that the convenience and best interests of the public will be served by the granting of this petition.

No oral hearing is contemplated at this time, but any interested person (including petitioners) wishing to make representations in favor of, or in opposition to, the relief sought by the petition may do so by submitting written statements. All persons, including motor carriers, air carriers, and others, whether or not subject to the Commission's jurisdiction, are invited to submit representations setting forth any facts or argument pertinent to the proper scope of the exempt zone surrounding the Savannah, GA, airport, in relation to the transportation of persons moving between that airport, on the one hand, and, on the other, points in Beaufort County, SC.

An original and 15 copies, where possible, of representations containing data, views, or arguments shall be filed

with the Commission on or before the 60th day following the date of publication of this notice in the **Federal Register**. One copy of each representation made by persons other than petitioners shall be served upon petitioners' representative shown above. Petitioners' representative shall serve one copy of any representation hereafter made by petitioners, upon each person serving him with a representation.

All representations submitted will be available for public inspection at the Offices of the Interstate Commerce Commission, 12th St. & Constitution Avenue, Washington, DC 20423, during regular business hours.

All persons (including petitioners) wishing to submit representations in this proceeding are advised that the following cases decided by the Commission have dealt with petitions similar in nature to the instant petition: *Exempt Zone—Dulles and Friendship Airports*, 100 M.C.C. 58 (1965); *Exempt Zone—LaGuardia and Kennedy Airports*, 111 M.C.C. 284 (1970); *Exempt Zone—Philadelphia International Airport*, 113 M.C.C. 189 (1971); *Exempt Zone (Passengers)—Savannah, Ga., Airport*, 114 M.C.C. 804 (1971); and *Exempt Zone (Passengers)—Chicago, Ill., O'Hare*, 126 M.C.C. 332 (1977). See also, in general, *Motor Transp. of Passengers Incidental to Air*, 95 M.C.C. 526 (1964), 128 M.C.C. 938 (1978).

Notice to the general public of the matter under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy with the Director, Office of the Federal Register.

H. G. Homme, Jr.,

Secretary.

[No. MC-C-4000 (Sub-No. 7)]

[FR Doc. 79-12071 Filed 4-17-79; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 44, No. 76

Wednesday, April 18, 1979

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 AGRICULTURE

Commodity Credit Corporation

Sales of Certain Commodities, Monthly Sales List (Period June 1, 1978 Through May 31, 1979); Nonfat Dry Milk and Butter

The CCC Monthly Sales List for the period June 1, 1978 through May 31, 1979, published at 43 FR 29819 (July 11, 1978), as amended at 43 FR 53737 (August 11, 1978), at 43 FR 46354 (October 6, 1978), at 43 FR 51693 (November 6, 1978), at 43 FR 58396 (December 14, 1978), at 44 FR 4748 (January 23, 1979), at 44 FR 8319 (February 9, 1979), at 44 FR 10091 (February 16, 1979) is further amended as follows:

1. Section 27, entitled "Nonfat Dry Milk—Unrestricted Use Sales (instore—Carlot Quantities)", Section 28, entitled "Butter—Unrestricted Use Sales (instore—Carlot Quantities)" are deleted.

2. Section 27 is added which reads as follows:

27. Nonfat Dry Milk—Unrestricted Use Sales (instore—Carlot Quantities).

1. Market price, but not less than 83 cents per pound for U.S. Extra Grade spray process in 50 pound bags. Sales are made under Announcement PV-DS-2.

2. Competitive offer basis: From time to time an invitation will be issued for competitive offers under Announcement PV-DS-1 to purchase nonfat dry milk which is 20 months old or older and/or has moisture content of 4.2 percent but not more than 5.0 percent.

3. Section 28 is added which reads as follows:

28. Butter—Unrestricted Use Sales (instore—Carlot Quantities).

1. U.S. Grade A or higher: Market price, but not less than 6.25 cents per pound over CCC's purchase price at each location in 60 to 68 pounds blocks. Sales are made under Announcement PV-DS-2.

2. U.S. Grade B: Market price, but not less than 4.25 cents per pound over CCC's purchase price for U.S. Grade A butter at each location in 60 to 68 pound blocks. Sales are made under Announcement PV-DS-2.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427))

Effective date: Item 1 2:30 p.m. (EST) March 30, 1979. Items 2 and 3 8:00 a.m. (EST) April 2, 1979.

Signed at Washington, D.C. on April 9, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[Amdt. 8]

[FR Doc. 79-12010 Filed 4-17-79; 8:45 am]

BILLING CODE 3410-05-M

CENTRAL INTELLIGENCE AGENCY

National Environmental Policy Act; Revised Implementation Procedures

April 1, 1979.

AGENCY: Central Intelligence Agency.

ACTION: Proposed Agency implementing procedures.

SUMMARY: These proposed Agency procedures will supplement National Environmental Policy Act (NEPA) implementing procedures as required by the Act.

DATE: Comments should be received on or before May 18, 1979.

ADDRESS: Comments should be forwarded to the Director of Logistics, Central Intelligence Agency, Washington, D.C. 20205.

FOR FURTHER INFORMATION CONTACT: Director of logistics at the above address or telephone (703) 351-1100, ext. 8200.

Pursuant to the provisions of the National Environmental Policy Act of 1969, as amended, (Public Law 91-190 as amended), the Central Intelligence Agency has revised internal procedures to implement the provisions therein for the preparation of environmental impact statements for facility planning programs.

Since this instruction is for intra-Agency use, it will not be codified for publication as a section of the Code of Federal Regulations. The revised implementation procedures follow:

1. Purpose

This Logistics Instruction prescribes procedures for implementing the National Environmental Policy Act (Public Law 91-190 as amended) hereinafter referred to as NEPA within the Central Intelligence Agency.

2. Background

In carrying out national environmental policy and goals, Section 1500.1(a) of the NEPA regulations states that,

The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (Section 101), and provides means (Section 102) for carrying out the policy. Section 102(2) contains "action-forcing" provisions to make sure that Federal agencies act according to the letter and spirit of the Act * * *

The NEPA regulations are designed to ensure that the data and analysis developed during the environmental review process is made available to Agency planners and decisionmakers at the time when it will be of most value to them in formulating, reviewing, and deciding upon proposals for agency action.

3. Implementing Procedures

a. NEPA Section 1500.6, *Agency Authority*, states that,

Each agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to view traditional policies and missions in the light of the Act's national environmental objectives. Agencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to insure full compliance with the purposes and provisions of the Act. The phrase "to the fullest extent possible" in Section 102 means that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible.

(1) The Agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to address traditional activities in view of NEPA's national environmental objectives.

b. NEPA Section 1501.2, *Apply NEPA Early in the Process*, states that,

Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays

later in the process, and to head off potential conflicts.

(1) Types of actions initiated by private parties, state, and local agencies and other non-Governmental entities for which Agency involvement is reasonably foreseeable are as follows:

(a) When an environmental assessment or environmental impact statement is required to be prepared by another Federal agency for a proposed development, demolition, construction, changed use or rezoning of property located up to 500 yards beyond the Agency property line.

(b) When an environmental assessment or environmental impact statement is required to be prepared by another Federal Agency for any proposed activity with the potential for electrical interferences within three miles of an Agency installation.

(c) When an environmental assessment or environmental impact statement is required to be prepared by another Federal agency for proposed mining operations, quarrying, blasting, heavy construction, or tunneling within three miles of an Agency installation having an appreciable manmade seismic disturbance that may interfere with the Agency's operation of precise measuring equipment and the conduct of vibration sensitive research.

(2) This Instruction and the NEPA process form the basic policy for advising potential applicants of requirements for early consultation in cases where Agency involvement is reasonably foreseeable.

(3) The Director of Logistics has been designated the responsible officer for making the identifications and implementing the policies under subsections (1) and (2) above.

c. NEPA Section 1501.4, *Whether To Prepare an Environmental Impact Statement*, states that, "In determining whether to prepare an Environmental Impact Statement the Federal agency shall: Determine under its procedures supplementing these regulations (described in Section 1507.3) whether the proposal is one which: (1) normally requires an environmental impact statement, or (2) normally does not require an environmental impact statement or an environmental assessment (categorical exclusion)."

(1) Projects or actions for which environmental impact statements would normally be made include the following:

(a) Proposed construction of major new facilities by the Agency that have a significant impact on the environment.

(b) Agency acquisition or disposal of real property, by lease, assignment,

purchase, or otherwise, the operation of which have a significant impact on the environment.

(c) Major additions or renovations of existing Agency facilities that alter the basic functions of space and have a significant impact on the environment.

(d) Master plans for facilities and installations which involve a series of actions for long-range planning and improvement having a significant impact on the environment.

(2) Projects or actions for which environmental assessments or environmental impact statements are not normally required (categorical exclusions) include the following:

(a) Repair and improvements to existing facilities that do not alter the functions of the space.

(b) Additions to existing facilities when the present function of the facility is not changed and the addition has no appreciable effect on existing utilities, transportation, or clean air.

(c) New and replacement construction on existing installations or locations when new real estate is not required, existing transportation and utilities are not appreciably affected, no significant change in the skyline occurs when viewed from outside the installation property boundary, and no appreciable increase in noise or air pollution occurs.

(d) Changes in function of existing facilities when no appreciable change or effect to existing utilities, transportation, clean air, or noise occurs.

(e) Acquisition, use, or disposal of real property by lease assignment, purchase, or otherwise when no physical impact occurs to the environment.

(f) Actions that force displacement of personnel, affect the social or economic environment, but have no impact on the physical environment.

(g) New construction covered by an existing and approved Master Plan when the impact was previously assessed during Master Plan preparation and approval.

(3) Projects or actions which are not covered by paragraphs (1) and (2) above or which may be controversial shall have an environmental assessment prepared. This assessment will be the basis for a finding of "no significant impact" or a decision to prepare an environmental impact statement.

d. NEPA Section 1502.5, *Timing*:

The preparation of the Environmental Impact Statement (EIS) shall be started as close to the time the Agency is developing a proposal so that the EIS can be included in any recommendation or final report on the proposal.

e. NEPA Section 1502.9, *Draft, Final, and Supplemental Statements*:

(1) Draft Impact Statements

After a determination has been made that the proposed action is a major Federal action significantly affecting the environment, a draft EIS shall be prepared. At the earliest possible stage of draft EIS preparation, Federal, State, and local agencies shall be contacted to obtain views, comments and information about potential impacts of the proposed action.

(2) Final Environmental Impact Statement

The final EIS must reflect all the site data; and substantive comments submitted by other Federal, State, and local officials, individuals, and groups; and Agency responses to above comments.

(3) Supplemental Statements

A supplemental EIS shall be prepared when the Agency makes substantial changes in the proposed action that are relevant to the environmental concerns. The supplement shall only address those new factors and the conclusions of the original EIS. The supplemental EIS shall be prepared, circulated and filed as an addendum to the original EIS.

f. NEPA Section 1505.1, *Agency Decisionmaking Procedures*:

(1) The Director of Logistics has been designated the Responsible Official, who shall:

(a) Determine if proposed Agency actions require environmental impact statements. (b) Ensure the fullest practicable provision of timely public information relative to Agency plans for actions of the type described in paragraph 3.c. which will impact on the human environment, and he shall obtain views and comments of interested parties before taking final administrative action.

(2) The Chief, Real Estate and Construction Division, will assist the Director of Logistics, as required, including the following:

(a) Provide technical competence for assessment studies of proposed projects and actions.

(b) Develop environmental impact statements when they are deemed necessary.

(c) Maintain a list of actions for which environmental statements are being prepared, revising the list as proposed actions are added or dropped.

(3) The Logistics and Procurement Law Division (Office of General Counsel) shall review and approve all environmental assessments, environmental impact statements, and supplements as well as other matters pertaining to environmental law.

(4) Independent Operating Officials shall review proposed projects with the Director of Logistics at the earliest possible stage of the proposal.

g. NEPA Section 1506.6, *Public Involvement*:

In accordance with NEPA Section 1506.6(e), interested persons can obtain information or status reports on environmental impact statements and other elements of the NEPA process except for classified information provided under NEPA Section 1507.3. This information can be obtained by contacting: Director of Logistics, Central Intelligence Agency, Washington, D.C. 20505. Tel. (703) 351-1100, ext. 8200.

h. NEPA Section 1507.3(b), *Agency Procedures*, states that, "Agency procedures shall comply with these regulations except where compliance would be inconsistent with statutory requirements and shall include:"

(1) Those procedures required by paragraphs 3.b. (NEPA Section 1501.2, Apply NEPA Early in the Process), 3.c.(3) (NEPA Section 1502.9, Supplemental Statements), 3.f. (NEPA Section 1505.1, Agency Decisionmaking Procedures), 3.g. (NEPA Section 1506.6, Public Involvement) above, and NEPA Section 1508.4 (Categorical Exclusions).

(2) Criteria for typical classes of actions are included in paragraphs 3.c.(1), 3.c.(2), and 3.c.(3) above and respectively represent actions which normally require an environmental impact statement, categorical exclusions, and environmental assessments.

(3) NEPA Section 1507.3(c), states, "Agency procedures may include specific criteria for providing limited exceptions to the provisions of these regulations for classified proposals. They are proposed actions which are specifically authorized under criteria established by an Executive Order or statute to be kept secret in the interest of national defense or foreign policy and are, in fact, properly classified pursuant to such Executive Order or statute. Environmental assessments and environmental impact statements which address classified proposals may be safeguarded and restricted from public dissemination in accordance with agencies' own regulations applicable to classified information. These documents may be organized so that classified portions can be included as annexes in order that the unclassified portions can be made available to the public."

(4) The following points are to be covered in draft and final environmental impact statements:

(a) Describe the proposed action and its purpose.

(b) Describe the existing environment to be affected, supplemented with maps, photos, charts, and other graphic media commensurate with the extent of the impact and with amount of information required at the particular level of decisionmaking.

(c) State relationship of proposed action to land use plans, policies, and controls for the affected area.

(d) Describe the probable impact on the environment in both positive and negative aspects. Include primary and secondary consequences which cannot be avoided such as pollution, urban congestion, and threats to environmental goals.

(e) State alternatives to the proposed action and illustrate desirability relative to the recommended course of action proposed. Discuss alternative measures to compensate for losses to wildlife and alternative design approaches that significantly affect consumption of energy or other resources.

(f) Discuss the relationship between local, short-term use, and the maintenance and enhancement of long-term productivity of man's environment.

(g) Identify any irreversible and irretrievable commitments of resources should the action be implemented. This requires identification of the extent to which the action would curtail the range of beneficial use of the environment.

(h) Indicate other interests and considerations of Federal policy which are thought to offset the proposed action's adverse effects.

(i) Where appropriate, discuss problems and objections raised by other Federal, State, and local agencies and by the public during the review process.

(5) Review of Environmental Statements by Federal, State, and Local Agencies:

(a) To meet statutory requirements of making environmental statements available to the President, draft statements and final statements, together with the substance of all comments shall be sent to the Council on Environmental Quality as soon as they are prepared. Transmit statements to the Council in ten copies. Simultaneously, copies being sent to other agencies for review and comment should be issued.

(b) Draft environmental statements should be circulated for review to Federal and State agencies with relevant expertise.

(c) Draft environmental statements should be submitted in all cases to the Environmental Protection Agency for review and written comment.

(d) Final environmental statements shall be published and circulated to all

organizations and individuals that made substantive comments on the draft statement. In all cases, copies shall be sent to the Environmental Protection Agency.

(e) Inquiries regarding these Agency procedures, environmental impact statements, or assessments are to be directed to: Director of Logistics, Central Intelligence Agency, Washington, D.C. 20505. Tel. (703) 351-1100, ext. 8200.

James H. McDonald,

Director of Logistics.

[Instruction LJ-45-16]

[FR Doc. 79-12067 Filed 4-17-79; 8:45 am]

BILLING CODE 6310-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Eastern Sportswear Manufacturing Co., Inc., et al.; Petitions by Fifteen Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from 15 firms: (1) Eastern Sportswear Manufacturing Company, Inc., 94 Sawyer Street, New Bedford, Massachusetts 02746, a producer of children's slacks, blouses, skirts and vests (accepted April 3, 1979); (2) Stephanie Fashions, Inc., 27 Hudson Street, Staten Island, New York 10304, a producer of women's coats (accepted April 3, 1979); (3) R. Fox, Ltd., First and Harrison Streets, Belleville, Illinois 62221, a producer of men's trousers and jackets (accepted April 4, 1979); (4) Button Cutters, Inc., 264 West 35th Street, New York, New York 10001, a producer of buttons (accepted April 5, 1979); (5) Stern Slegman Prins Company, 3122 Gillham Plaza, Kansas City, Missouri 64109, a producer of women's coats, suits, jackets, skirts and pants (accepted April 6, 1979); (6) Lynch Knitting Mills, Inc., 390 Wythe Avenue, Brooklyn, New York 11211, a producer of men's and women's sweaters (accepted April 6, 1979); (7) International Video Corporation, 453 West Maude Avenue, Sunnyvale, California 94086, a producer of video tape recorders and television cameras (accepted April 6, 1979); (8) Haas-Jordan Company, 1447 Summit Street, Toledo, Ohio 43604, a producer of umbrellas (accepted April 6, 1979); (9) C. C. Company, Inc., 318 Cruso Lane, P.O. Drawer DD, Biloxi, Mississippi 39533, a processor of oysters and shrimp (accepted April 9, 1979); (10) Driver-Harris Company, 308 Middlesex Street, Harrison, New Jersey 07029, a producer of speciality alloys (accepted

April 9, 1979); (11) Gibson-Egan Company, 2666 East Huntington Drive, Duarte, California 91010, a producer of integrated circuit carriers and other electronic components (accepted April 9, 1979); and (12) Washington Knitting Mills, 50 Harrison Street, Hoboken, New Jersey 07030, a producer of body-support garments (accepted April 9, 1979); (13) I. Appel Corporation, 99 Madison Avenue, New York, New York 10016, a producer of women's robes (accepted April 9, 1979); (14) Jerome Industries Corporation, 136 Market Street, Kenilworth, New Jersey 07033, a producer of transformers and plug-in adaptors (accepted April 11, 1979); and (15) Crescent Knitting Mills, Inc., 3737 Castor Avenue, Philadelphia, Pennsylvania 19124, a producer of men's, women's and children's sweaters (accepted April 11, 1979). The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with the close produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than those of business of the tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industries Studies.

[FR Doc. 79-12044 Filed 4-17-79; 8:45 am]

BILLING CODE 3510-24-M

National Oceanic and Atmospheric Administration Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Services, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265) and will meet to review status reports on development of fishery management plans; consider

foreign fishing applications, if any; and conduct other fishery management business.

DATES: The meeting will convene on Tuesday, May 1, 1979, at 1:30 p.m., and will adjourn at 5 p.m.; on Wednesday, May 2, 1979, convene at 8:30 a.m., and will adjourn at 5 p.m.; and on Thursday, May 3, 1979, convene at 8:30 a.m., and will adjourn at approximately 12:00 noon. The meeting is open to the public.

ADDRESS: The meeting will be held in the Tampa Room of the Barclay Best Western Hotel, 5303 West Kennedy Boulevard, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: April 12, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-12076 Filed 4-17-79; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Advisory Panels for Two Regional Fishery Management Councils; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App., and Office of Management and Budget Circular A-63 (as revised), the Department of Commerce has determined that the renewal of the Advisory Panels (APs) for the Caribbean and North Pacific Regional Fishery Management Councils is in the public interest in connection with the performance of duties imposed on the Department by law. On April 9, 1979, the General Services Administration's Committee Management Secretariat concurred on this renewal action.

The President signed the Fishery Conservation and Management Act (FCMA) into law on April 13, 1976. The eight councils were established, as directed by the Act, under Charters filed on July 21, 1976, and renewed in 1978. The Act does not establish a termination date for the Councils or the APs. Under the terms of the Federal Advisory Committee Act, new charters for the Councils and Advisory Panels must be filed upon the expiration date of each successive two-year period following the date of enactment of the Act.

The FCMA provides for an exclusive U.S. Fishery Conservation Zone that extends 200 nautical miles from the baseline from which the territorial sea is measured, and mandates the establishment of eight Regional Fishery

Management Councils, each with an Advisory Panel to serve as instruments of Federal-State-private sector interaction in the conduct of fisheries management in the Fishery Conservation Zone.

Under the authority of, and as directed by Section 302 of the FCMA, eight Regional Fishery Management Councils and their respective Advisory Panels have been established. The date of establishment for the two AP's was as follows:

1. The Advisory Panel for the Caribbean Regional Fishery Management Council was established on April 13, 1977.
2. The Advisory Panel for the North Pacific Regional Fishery Management Council was established on April 27, 1977.

The membership of each Advisory Panel is prescribed in Section 302 of the Act. The objectives and duties of the Caribbean and North Pacific Advisory Panels include: offering to the Council, on a continuing basis, advice on assessments and specifications contained in the fishery management plan for each fishery within the Council's geographical area of concern, the preparation and submission of certain reports to the Secretary of Commerce, and other necessary duties as may be required to carry out Council functions under the Act.

Since their establishment, the Advisory Panels have held an average of eleven meetings and have issued an average of eight reports relative to carrying out the functions outlined above.

The Advisory Panels operate in compliance with the provisions of the Federal Advisory Committee Act. Copies of the Advisory Panels' renewed charters will be filed with appropriate committees of the Congress and with the Library of Congress in accordance with the provisions of Section 9(c) of the Federal Advisory Committee Act. Inquiries regarding this notice may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland, 20852.

Dated: April 12, 1979.

Guy Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 79-12045 Filed 4-17-79; 8:45 am]

BILLING CODE 3510-17-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Futures Contracts; Availability for Inspection and Comment

The Commodity Futures Trading Commission ("Commission") is making available and requesting public comment on four proposed futures contracts submitted by the Amex Commodities Exchange, Inc.:

1. A British Pounds futures contract;
2. A Japanese Yen futures contract;
3. A Deutsche Marks futures contract; and
4. A Swiss Francs futures contract.

The Exchange has applied to the Commission pursuant to section 6 of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 8 (1976), for contract market designation to trade futures contracts in these four commodities under sections 5 and 5a of the Act, 7 U.S.C. §§ 7 and 7a (1976).

Copies of these proposed contracts will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City and San Francisco. The commission will also furnish copies upon request made to the Executive Secretariat.

Any person interested in expressing views on the terms and conditions of any of these proposed contracts should send comments by May 18, 1979 to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., 20581. (202) 254-6314. Copies of all comments will be available for inspection at the Commission's Washington Office.

Issued in Washington on April 13, 1979.

Gary L. Seevers,
Acting Chairman.

[FR Doc. 79-11969 Filed 4-17-79; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 10, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Remotely Piloted Vehicles will hold meetings in the Pentagon, Washington, D.C. on May 8 and 9, 1979. The meetings will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The Ad Hoc Committee will review Remotely Piloted Vehicle technology options. The discussions will be

classified and closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1).

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Carol M. Rose,
Air Force Federal Register Liaison Officer.
[FR Doc. 79-11964 Filed 4-17-79; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

April 6, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Missile Basing Verification in Terms of SALT will hold meetings at the Aerospace Corporation, Los Angeles, California, on May 14-16, 1979. The meetings will convene at 8:30 a.m. and adjourn at 4:30 p.m. each day.

The Ad Hoc Committee will receive classified briefings and review previous meetings and new proposed verification techniques for missile basing. The meetings will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically, subparagraph (1).

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Carol M. Rose,
Air Force Federal Register Liaison Officer.
[FR Doc. 79-11965 Filed 4-17-79; 8:45 a.m.]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

William J. O'Connor; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to William J. O'Connor (O'Connor), 1122 United Founders Tower, Oklahoma City, OK 73112. This Proposed Remedial Order charges O'Connor with pricing violations in the amount of \$86,109.76, connected with production and sale of domestic crude oil during the time period September 1, 1973 through June 30, 1976. The overcharges occurred with respect to the Lauderback #1 Bluebell (Lauderback) property located in Seward County, Kansas and the Newman property located in Lipscomb County, Texas. Specifically, the Office of Enforcement of the ERA has found that O'Connor overcharged \$75,688.67 for the oil sold from the Lauderback

property and \$10,420.89 in the sales of condensate from the Newman property.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, TX, 75235, phone number 214-749-7626. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR § 205.193 of the DOE Regulations.

Issued in Washington, D.C., on the 13th day of April 1979.

Barton Isenberg,
Assistant Administrator for Enforcement, Economic Regulatory Administration.

[FR Doc. 79-12046 Filed 4-17-79; 8:45 a.m.]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Area Rate Proceeding, et al.; Further Extension of Time

April 10, 1979.

Area Rate Proceeding, et al., (Texas Gulf Coast Area); Area Rate Proceeding, et al., (Other Southwest Area); Area Rate Proceeding, et al., (Southern Louisiana Area); Area Rate Proceeding, et al., (Permian Basin Area II).

By letter of March 15, 1979, Atlantic Richfield Company filed a motion for a further extension of time to comply with the requirement of Ordering Paragraph (A) of the Commission's November 28, 1978 Order Establishing Procedures For Claiming Recoupment of Excess Refund Payments. The Commission Staff has concurred in this request and suggests a blanket extension for all parties.

Upon consideration, notice is hereby given that the date for complying with Ordering Paragraph (A) is extended for all parties to and including April 30, 1979. Pipelines shall file with the Commission in compliance with Ordering Paragraph (B) on or before June 29, 1979. Producers shall comply with Ordering Paragraph (C) on or before August 31, 1979.

Lois D. Cashell,
Acting Secretary.

[Docket Nos. AR61-2, et al.; AR64-2, et al.; AR67-1, et al.; AR69-1, et al.; AR70-1, et al.]

[FR Doc. 79-11977 Filed 4-17-79; 8:45 am]

BILLING CODE 6450-01-M

Colorado Interstate Gas Co.; Proposed Changes in Gas Tariff

April 12, 1979.

Take notice that Colorado Interstate Gas Company (CIG) on March 29, 1979, tendered for filing certain changes to Rate Schedule X-12 of its FERC Gas Tariff, Original Volume No. 2.

Rate Schedule X-12 is a Gas Purchase and Exchange Agreement dated June 20, 1974, between CIG and Mountain Fuel Supply Company (Mountain Fuel). The exchange was originally certificated in Docket Nos. CP75-37 and CP75-281 on January 26, 1977. Pursuant to an amending order in those dockets issued by the Commission on February 12, 1979, the current revisions to Rate Schedule X-12 provide for two additional delivery points for redeliveries by Mountain Fuel to CIG under the exchange. To provide deliveries to CIG through the delivery points, it is necessary for Mountain Fuel to install additional compression and appurtenant facilities. CIG will pay Mountain Fuel a compression charge of five cents per Mcf for all gas compressed and delivered for the account of CIG through the two delivery points. An effective date of April 30, 1979, was requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 26, 1979. 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.

Lois D. Cashell,
Acting Secretary.

[Docket CP75-281]

[FR Doc. 79-11978 Filed 4-17-79; 8:45 a.m.]

BILLING CODE 6450-01-M

Colorado Interstate Gas Co.; Proposed Changes in Gas Tariff

April 12, 1979.

Take notice that Colorado Interstate Gas Company (Applicant) on March 29, 1979, tendered for filing proposed changes in the FERC Gas Tariff, Original Volume No. 2. Applicant states that the proposed changes will make effective Initial Rate Schedule X-30, which is a

Gas Purchase and Exchange Agreement (Agreement) dated June 20, 1978, between Applicant and Mountain Fuel Supply Company (Mountain Fuel).

Pursuant to the Agreement, Applicant and Mountain Fuel exchange certain volumes of natural gas from the Wamsutter 1-36 Well located in Sweetwater County, Wyoming. Mountain Fuel has acquired 50 percent of the working interest in the well which is remote from its gathering and transmission facilities. CIG will provide gathering services and will redeliver Mountain Fuel's gas to an existing interconnection between Applicant and Mountain Fuel near Green River, Wyoming. In addition to assessing a gathering charge of 4 cents per Mcf, CIG has an option to purchase 25 percent of the volumes it gathers for Mountain Fuel. The volumes not purchased by CIG will be delivered to Mountain Fuel on a thermally equivalent basis.

The Commission's Order issued February 12, 1979, in Docket No. CP79-35 granted Applicant certificate authority for the proposed exchange. Initial Rate Schedule X-30 is proposed to become effective on April 30, 1979.

Copies of this filing have been mailed to Mountain Fuel and certain of Applicant's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before April 26, 1979. 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.

Lois D. Cashell,
Acting Secretary.

[Docket CP79-35]

[FR Doc. 79-11979 Filed 4-17-79; 8:45 am]

BILLING CODE 6450-01-M

County of Tehama, California; Application for Preliminary Permit

April 11, 1979.

Take notice that an application for a preliminary permit was filed on January 19, 1978, under the Federal Power Act (16 U.S.C. §§ 791a-825r) by the County of Tehama, California (applicant) for the proposed Kinetic Energy Plant Project

No. 2836. The project would be located on the Sacramento River at the existing Bureau of Reclamation (BOR) Red Bluff Diversion Dam in the County of Tehama, California, and would affect lands under the jurisdiction of the BOR. Correspondence to applicant should be sent to: Mr. Shan Patterson, Supervisor, District 5, County of Tehama, P.O. Box 250, Red Bluff, California 96080.

Applicant proposes to construct a 36-foot diameter under-shot water wheel, coupled to a generator, in the first bay (left bank) of the Red Bluff Diversion Dam. The facility would be designed to use 13 feet of head to generate a minimum output of 9,364 kW.

Applicant's proposal is in competition with an application for a preliminary permit filed on December 6, 1977, by the City of Redding, California (Project No. 2827). The power developed by the project would be sold to Pacific Gas and Electric Company.

A preliminary permit does not authorize construction. A permit if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license. In this instance, applicant seeks a 24-month permit.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before June 18, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois Cashell,
Acting Secretary.

[Project 2836]

[FR Doc. 79-11980 Filed 4-17-79; 8:45 am]

BILLING CODE 6450-01-M

Florida Power Corp.; Order Accepting for Filing and Suspending Proposed Tariff Revisions, Granting Intervention and Establishing Procedures

(Issued April 10, 1979).

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

On February 9, 1979, Florida Power Corporation (Florida Power) tendered for filing a proposed revision to its transmission service tariff. The principal changes submitted would 1) add a scheduled demand billing provision, 2) require a specific commitment period from customers who request firm transmission service for periods of one or more years, 3) substitute a definition of minimum billing demand which provides that it is to be the greater of metered demand, scheduled demand or contract demand for the duration of the commitment period and 4) extend the applicability of the tariff to electric utilities other than municipalities and cooperatives.¹

Notice of the instant filing was issued on February 22, 1979, with protests or petitions to intervene due on or before March 2, 1979.

On March 2, 1979, the Cities of Alachua, Bartow, Bushnell, Chattahoochee, Fort Meade, Lake Helen, Leesburg, Mount Dora, Newberry, Ocala, Quincy, Williston, Kissimmee, St. Cloud and Tallahassee, Florida and the Gainesville-Alachua County Regional Utilities Board, the New Smyrna Beach Utilities Commission, and the Orlando Utilities Commission ("the Cities") filed a "Protest and Petition to Intervene" based upon their interest as present or potential transmission service customers of Florida Power. Although generally supportive of Florida Power's proposed changes, the Cities challenge the failure of the tariff to provide for remitting charges in the event of transmission or generation source outages. Cities further suggest that transmission loss provisions and certain proposed contractual language may need clarification. The petition, however, expressing optimism about reaching a negotiated settlement on these issues requested no hearing or investigation be set at that time. Although denominated a "Protest and Petition to Intervene," petitioners sought only to preserve the right to supplement their pleading should negotiations not bear fruit.

¹ On March 6, 1979, Florida Power filed in Docket No. ER79-241, an executed service agreement with Florida Power & Light Company under the proposed tariff.

Subsequently, the Cities filed a supplement to their pleading,² protesting Florida Power's tying the minimum billing demand to the commitment period required for firm service of one or more years. Petitioners request that three specified references to the commitment period in the tariff and sample service agreement be suspended for five months and set for investigation.³

Our review indicates that the pleadings submitted raise issues which cannot be satisfactorily analyzed or resolved absent further inquiry. Sound long term planning on the part of electric utility companies is to be encouraged; Florida Power's proposed requirement that customers specify a commitment period and be billed according to the amount of firm capacity reserved may be an appropriate means of achieving this goal. However, it may be the case that the particular requirements proposed by the Company are not suitably tailored to planning needs and, accordingly, would create an unnecessary and unfair restriction on Florida Power's customers.

The proposed tariff revisions have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Therefore, the Commission will accept the submittal for filing and suspend the proposed tariff for one day, to become effective as of April 12, 1979, subject to refund. Florida Power shall be ordered to file, within thirty days, revised executed or unexecuted service agreements in the form proposed by the company.

The Commission finds that participation by the petitioners in this proceeding may be in the public interest.

The Commission orders:

(A) Florida Power Corporation's submittal is hereby accepted for filing and suspended for one day, to become effective as of April 12, 1979, subject to refund.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the

² March 19, 1979.

³ Petitioners, still hopeful of achieving a settlement, do not request that this case be formally set for hearing at this time, but ask only that a Presiding Administrative Law Judge and Staff counsel be appointed to allow for Staff investigation and assistance in settlement endeavors.

tariff proposed by Florida Power Corporation.

(C) The petitioners, Cities of Alachua, Bartow, Bushnell, Chattahoochee, Fort Meade, Lake Helen, Leesburg, Mount Dora, Newberry, Ocala, Quincy, Williston, Kissimmee, St. Cloud and Tallahassee, Florida and the Gainesville-Alachua County Regional Utilities Board, the New Smyrna Beach Utilities Commission, and the Orlando Utilities Commission, are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however*, That participation by such intervenors shall be limited to matters set forth in their petition to intervene; and *Provided further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) Florida Power Corporation shall file, within 30 days, revised executed or unexecuted service agreements in the form proposed.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall, within fifteen (15) days of the issuance of this order, establish a date for a conference in this proceeding to be held in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426. Intervenors shall submit, at that time, their proposed revisions to the transmission service tariff to Florida Power Corporation and Staff Counsel. The designated Law Judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[Docket ER79-195]

[FR Doc. 79-11981 Filed 4-17-79; 8:45 am]

BILLING CODE 6450-01-M

Great Lakes Gas Transmission Co.; Petition for Modification of Tariff Provision

April 12, 1979.

Take notice that on March 23, 1979, in the captioned docket, Michigan Consolidated Gas Company (Mich-Con) filed a petition, pursuant to Section 1.7

of the Commission's Rules of Practice and Procedure, requesting modification of Great Lakes Gas Transmission Company's (Great Lakes) tariff.

The modification proposed by Mich-Con is requested only in the event that the Commission approves a rate design for the Great Lakes' system in Docket No. RP75-94 which increases the zone differential to an amount above 4.0 cents per Mcf. If such a rate design is approved, then Mich-Con requests that the Commission issue an order, in Docket No. RP79-10, modifying the conjunctive billing provision in Great Lakes' FERC Gas Tariff to permit gas delivered to Mich-Con in Great Lakes' Zone 2 to be billed at Zone 2 rates, and grant Mich-Con such other relief, if any, as may be deemed appropriate. Mich-Con further requests that such relief be made effective on the same day that the Commission makes effective the rate design which it approves in Docket No. RP75-94. Mich-Con notes that if the Commission approves a rate design in Docket No. RP75-94 to become effective prior to June 1, 1979, the effective date of the rate increase proposed by Great Lakes in Docket No. RP79-10, then Mich-Con would not object to the requested relief being made effective on June 1, 1976.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before April 27, 1979. 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.

Lois D. Cashell,
Acting Secretary.

[Docket RP79-10]

[FR Doc. 79-11982 Filed 4-17-79; 8:45 a.m.]

BILLING CODE 6450-01-M

Idaho Power Co.; Application for Preliminary Permit

April 11, 1979.

Take Notice that on November 1, 1978, the Idaho Power Company filed an application for preliminary permit [pursuant to the Federal Power Act, 16

U.S.C. Section 791(a)-825(r)] for a proposed water power project to be known as the South Fork of the Payette Project, FERC No. 2884, located on the South Fork of the Payette River in Boise County, Idaho. The proposed project would occupy lands of the United States.

Correspondence with the Applicant should be directed to:

Lee S. Sherline, Leighton & Sherline, Suite 406, 1700 K Street, N.W., Washington, D.C. 20006 and;

Paul L. Jauregui, Secretary and General Counsel, Idaho Power Company, P.O. Box 70, Boise, Idaho 83721

Purpose Of Project

Project energy would be integrated into the Applicants' transmission system for sale to its customers in the States of Idaho, Oregon, Nevada, and Wyoming.

Proposed Scope And Cost Of Studies Under Permit

The Applicant seeks issuance of a preliminary permit for a period of 36 months to study the feasibility of building dams and installing hydroelectric generating capacity at Pine Flat, Big Falls, Black Bear and Grimes Pass sites on the South Fork of the Payette River. The Applicant estimates the cost to undertake the proposed studies at \$360,000.

Project Description

The proposed project would have a total installed capacity of 88,440 kW and would consist of four run-of-the-river developments—Pine Flat, Big Falls, Black Bear and Grimes Pass—located at river miles 100.7, 98.4, 93.6 and 90.2, respectively.

All four dams would be of similar concrete gravity design, with centrally located overflow spillways and flip buckets. Each spillway, less than 60 feet in width, would be controlled by three taintor gates. The dams would provide a gross head of 120 feet at the Pine Flat and Big Falls sites and 85 feet at the Black Bear and Grimes Pass sites, with reservoir elevations at 3,680; 3,560; 3,332 and 3,247 feet, respectively.

The Pine Flat and Big Falls powerhouses would each contain two generating units rated at 14,070 kW and the Black Bear and Grimes Pass powerhouses would each contain two generating units rated at 8,040 kW. Each powerhouse would be built as an integral part of its dam.

The power from the generators would be transmitted by cables to three-phase step-up transformers on the right abutments of each dam and then by overhead lines to a proposed 45 mile

long, 69-kV transmission line from Pine Flat to Horseshoe Bend, Idaho.

Purpose Of Preliminary Permit

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power and all other necessary information for inclusion in an application for license. In this instance, Applicant seeks a 36-month permit.

Agency Comments

Federal, state, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.)

Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made.

If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests, Petitions To Intervene, And Agency Comments

Anyone desiring to be heard or to make a protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before June 22, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois Cashell,
Acting Secretary.

[Project 2884]
[FR Doc. 79-11983 Filed 4-17-79; 8:45 am]
BILLING CODE 6450-01-M

Midwestern Gas Transmission Co.; Petition to Amend

April 9, 1979.

Take notice that on April 4, 1979, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77001, filed in Docket Nos. G-18314, CP66-121, and CP70-25 a petition to amend the orders issued in said dockets pursuant to Section 3 of the Natural Gas Act so as to authorize the continued importation of natural gas purchase from TransCanada Pipeline Limited (TransCanada) at an increased price of \$2.30 (U.S.) per million Btu's equivalent of natural gas effective May 1, 1979, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is indicated that under authorizations granted in the subject dockets, Midwestern imports natural gas purchased from TransCanada at a point near Emerson, Manitoba, at a purchase price of \$2.16 (U.S.) per million Btu's. It is stated that the Canadian government has instructed the National Energy Board to amend existing export licenses to establish a new border price of \$2.30 (U.S.) per million Btu's for the export licenses pertaining to TransCanada's sales to Midwestern, effective May 1, 1979. Accordingly, Midwestern requests that the Commission amend its authorizations in the subject dockets to permit the continued importation of natural gas at the increased sale price. Midwestern alleges that if such requested authorization is not timely issued, it would be faced with the termination of imports of gas from TransCanada, the sole supplier of gas to Midwestern's Northern system.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 17, 1979, file with the Federal Energy Regulatory 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.

Lois D. Cashell,
Acting Secretary.

[Docket Nos. G-18314, CP66-121, CP70-25]
[FR Doc. 79-11984 Filed 4-17-79; 8:45 am]
BILLING CODE 6450-01-M

Natural Gas Pipeline Company of America; Petition to Amend

April 11, 1979.

Take notice that on March 30, 1979, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60613, filed in Docket No. CP73-2109 a petition to amend further the order issued May 6, 1974,¹ as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize:

- (1) an increase in the transportation service by Natural for Trunkline Gas Company (Trunkline);
- (2) the utilization and operation of existing points for delivery and redelivery of gas, and;
- (3) the construction and operation of an additional meter run at the Cameron redelivery point. Natural's proposals are more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Natural states that it requests authorization to receive, transport and redeliver increased volumes of natural gas for Trunkline for a term of fifteen years and from year to year thereafter. Natural would receive such increased volumes for Trunkline's account at the Holly Beach delivery point and at U-T Offshore System (UTOS) connection with Natural located in Cameron Parish, Louisiana, it is further stated.

Natural asserts that redeliveries would be made to Trunkline at existing exchange points between it and Trunkline at the Lakeside meter located in Cameron Parish, Louisiana, and the Montgomery redelivery point in Montgomery County, Texas.

Pursuant to an amendment, dated February 20, 1979, to the transportation agreement Natural would accept for Trunkline's account up to 660,000 Mcf per day from the Holly Beach and UTOS delivery points, of which volumes up to 200,000 Mcf per day would be accepted at the UTOS delivery point, for transportation and redelivery to

¹ This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1) it was transferred to the FERC.

Trunkline at the Cameron redelivery point, it is stated.²

Natural states that it proposes to expand its Lakeside measuring facility by constructing and operating an additional 20-inch meter run. The estimated cost of said facilities is \$87,700, which would be met from funds on hand, it is said.

The natural gas to be transported is to be available to Trunkline under contracts with producer suppliers in the offshore Texas and Louisiana area, and such gas that Trunkline may be authorized to transport for the account of others, and which would be transported onshore through the existing facilities of High Island offshore system (HIOS), UTOS and Stingray Pipeline Company (Stingray), it is asserted.

Natural states that the rate it proposes to charge Trunkline for natural gas delivered to Natural at the Holly Beach delivery point would be:

- (a) a monthly demand charge equal to the product of 460,000 Mcf of reserved daily capacity times 18.9 cents, and
- (b) an additional charge of 0.622 cents per Mcf on any quantities of gas tendered during any day in excess of 460,000 Mcf of reserved daily capacity.

For deliveries to Natural at UTOS delivery point the charge would be:

- (a) a monthly demand charge equal to the product of 63.8 cents times a reserved daily capacity of 200,000 Mcf,
- (b) an additional charge of 2.10 cents per Mcf on any additional quantities of gas tendered during any day in excess of 200,000 Mcf of reserve daily capacity, and

(c) an additional charge of 1.35 cents per Mcf on any quantities of gas which Natural delivers to Trunkline at the Montgomery redelivery point.

Natural proposes to redeliver quantities of gas to Trunkline which are thermally equivalent to the quantities delivered to Natural less 25/100 percent of the quantities received for the account of Trunkline at the UTOS delivery point and delivered to the Cameron redelivery point and less 6/10 percent of the quantities received for the account of Trunkline at the UTOS delivery point and delivered at the Montgomery redelivery point for fuel consumed on Natural's pipeline, it is asserted.³

² Natural, at its option, may deliver to Trunkline at the Montgomery redelivery point during periods when unanticipated operating conditions prevent the redelivery of the full volumes of gas hereunder at the Cameron redelivery point daily quantities of up to a maximum of 100,000 Mcf of gas received at the UTOS delivery point.

³ The increased volumes of gas to be transported by Natural may affect operation of its compressor station 342 and therefore, Natural has filed, in

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 4, 1979, file with the Federal Energy Regulatory 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.

Lois Cashell,
Acting Secretary.
[Docket CP73-219]
[FR Doc. 79-11965 Filed 4-17-79; 8:45 am]
BILLING CODE 6450-01-M

Natural Gas Pipeline Co. of America and Columbia Gulf Transmission Co.; Application

April 11, 1979.

Take notice that on April 2, 1979, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP79-249 and application pursuant to Section 7(c) of the Natural Gas Act authorizing the exchange of up to 15,600 Mcf per day of natural gas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a gas purchase and sales agreement dated January 1, 1973 Natural contracted to purchase natural gas from Shell Oil Company (Shell) from Block 331, Eugene Island Area, offshore Louisiana, it is said. It is asserted that construction of facilities and transportation and/or exchanged agreements with Michigan Wisconsin Pipeline Company (Mich Wis) and Columbia Gulf were required to effect delivery of such gas to Natural's system. The Commission, in Docket Nos. CP74-101 and CP74-195 authorized interim arrangements for delivery of Shell's gas to Mich Wis for transportation onshore for processing at the Calumet processing

plant, and its subsequent redelivery to Natural.¹

It is said that pursuant to a gas exchange agreement dated October 12, 1973, Columbia Gulf agreed to deliver up to 15,600 Mcf per day for Natural's account to Mich Wis for transportation onshore.

Shell now requests by letter dated December 1, 1978, that its natural gas from block 331, Eugene Island, to be transported onshore through the Blue Water Project for processing at the Blue Water processing plant instead of through Mich Wis's line for processing at the Calumet processing plant, it is stated.

Natural states that it proposes to deliver up to 15,600 Mcf of natural gas to Columbia Gulf at the interconnection of the Natural, Columbia Gulf, and Tennessee pipeline and the Blue Water Project in Block 241, Eugene Island area. Columbia Gulf states that it proposes to deliver for Natural's account an equivalent volume of natural gas on an Mcf for Mcf basis at the existing interconnection of Columbia Gulf's and Texas Gas Transmission Corporation's pipeline with Mich Wis's offshore pipeline in Eugene Island, Block 250 for transportation onshore and redelivery by Mich Wis.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 4, 1979, file with the Federal Energy Regulatory 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 jurisdiction conferred upon the Federal

¹Permanent facilities to effect the movement of gas from that area of offshore Louisiana to Columbia Gulf's and Tennessee Gas Pipeline Company, a division of Tenneco Inc.'s (Tennessee) Blue Water Project were constructed jointly by Natural, Columbia Gulf, and Tennessee (CNT pipeline). Columbia Gulf as a part of the CNT pipeline facilities constructed connecting facilities between the CNT pipeline platform and the Eugene Island Block 250 A Platform so that Shell's share of the CNT volumes could be delivered to Mich Wis via a pipeline connecting the Block 250 A Platform to Mich Wis's pipeline facilities.

Energy Regulatory 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 or its designee 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 Natural and Columbia Gulf to appear or be represented at the hearing.

Lois Cashell,
Acting Secretary.
[Docket CP79-249]
[FR Doc. 79-11966 Filed 4-17-79; 8:45 am]
BILLING CODE 6450-01-M

Pacific Power & Light Co.; Modified Rate Schedule Filing

April 12, 1979.

Take Notice that Pacific Power & Light Company (Pacific) on April 9, 1979, tendered for filing, in accordance with Section 35.13 of the Commission's Regulations, an agreement which provides for a change in the emergency interconnection arrangements between Pacific and the United States of America, Bureau of Indian Affairs (Bureau).

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective February 16, 1979, which it claims is the date of commencement of service.

Copies of the filing were supplied to the Bureau.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 4, 1979. 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

Footnotes continued from last page
Docket No. CP79-147, for authorization to install an additional 3500 horsepower compressor to provide increased reliability and to provide additional capacity through the station at peak flows.

Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[Docket ER79-295]

[FR Doc. 79-11987 Filed 4-17-79; 8:45 am]

BILLING CODE 6450-01-M

Public Service Co. of Colorado; Filing of Initial Rate Schedule

April 12, 1979.

Take notice that Public Service Company of Colorado (PSCo), on April 11, 1979, tendered for filing as an initial rate schedule, a contract for the Transmission and Interconnection and License Agreement by and between Platte River Power Authority (Platte River) and PSCo.

This Agreement provides for the interconnection of the Parties' systems, for the accepting and transmitting of power and energy by each party for delivery on the system of the other party, and for the removal of certain PSCo facilities. Included in the Agreement is the establishment of the necessary facilities for the transmission of power and energy.

PSCo states that copies of the filing were served upon all parties and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure before May 4, 1979. 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 proceedings. 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.

Lois D. Cashell,
Acting Secretary.

[Docket ER79-296]

[FR Doc. 79-11988 Filed 4-17-79; 8:45 a.m.]

BILLING CODE 6450-01-M

S. D. Warren Co.; Application for Short-Form License (Minor) for a Constructed Project

April 10, 1979.

Take notice that on December 29, 1978, S. D. Warren Company filed an application for license [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)-825(r)] for an existing water power project known as the Saccarappa Project, FERC No. 2897, located on the

Presumpscot River near Westbrook, in Cumberland County, Maine. The project is located on a navigable waterway of the United States.

Correspondence with the Applicant should be directed to the following persons: Mr. William H. Marra, Vice President, S. D. Warren Company, 225 Franklin Street, Boston, Massachusetts 02101; Mr. John B. Blatz III, Associate Counsel, Scott Paper Company, Scott Plaza Two, Philadelphia, Pennsylvania 19113; and Mr. Bernard A. Foster III and Ms. Nancy J. Hubbard, Ross, Marsh & Foster, 730-15th Street, N.W., Washington, D.C. 20005.

Purpose of the Project—Project energy is used by the Applicant in the operation of its Westbrook Paper manufacturing plant. Applicant states that because of the urban setting, industrial and commercial use of the land at the project, high population density, and the limited availability of open space, recreational opportunities are minimal. The project was constructed in the early 1900's.

Project Description—The Applicant's existing project consists of: (1) a 12-foot-high, 102-foot-long spillway and a 10-foot-high, 220-foot-long spillway, separated by an island midstream, both of concrete construction and each with a crest elevation of 73.43 feet m.s.l.; (2) an intake channel 380 feet long and 36 feet wide cut into bedrock; (3) a forebay; (4) a powerhouse of masonry construction with three horizontal turbines and associated generators with a total installed capacity of 1,350 kW; (5) a 345-foot-long tailrace channel formed by a 33-foot-high guard wall; and (6) appurtenant facilities. The power plant is manually controlled. The annual generation for the project averages 9,331,200 kWh per year which represents about 5% of the paper plant's energy requirements. The project is a run-of-the-river operation.

Agency comments—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not file comments within the time set below,

it will be presumed to have no comments.

Protests, Petitions to Intervene, and Agency Comments—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene or agency comments must be filed on or before June 14, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspections.

Lois Cashell,
Acting Secretary.

[Project 2897]

[FR Doc. 79-11989 Filed 4-17-79; 8:45 am]

BILLING CODE 6450-01-M

Tennessee Gas Pipeline Co., a Division of Tenneco Inc. and Columbia Gulf Transmission Co.; Amendment

April 11, 1979.

Take notice that on April 5, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP77-627 an amendment to its application filed in said docket pursuant to Section 7(c) of the Natural Gas Act requesting authorization to acquire, own and operate a $\frac{2}{3}$ interest in certain compression facilities installed by Continental Oil Company (Continental) on Platform A in East Cameron Block 33, offshore Louisiana (EC33), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Tennessee states that the order of December 14, 1978, issued in the instant docket authorized Tennessee to construct and own an undivided $\frac{2}{3}$ interest in certain compressor and related facilities on Platform A in EC33, which platform is owned jointly by Continental, Cities Service Oil Company (Cities) and Getty Oil Company (Getty). Tennessee did not accept the certificate and filed for rehearing since the order

contained a condition that if any of the costs of compression involved are subsequently requested to be included in the rates, Tennessee would be required to prove that such compression costs have not been compensated for in the applicable national ceiling rate for natural gas, it is said. The Commission granted rehearing for purposes of further consideration.

It is asserted that Continental, Cities, and Getty each owns a 1/3 interest in the gas reserves underlying EC33 and that Continental, as the operator, and Tennessee have determined that compression at Platform A is required in order to recover efficiently the remaining reserves. Therefore, it is stated that subsequent to the issuance of the order of December 14, 1978, and in an effort to recover efficiently the remaining reserves, Continental installed and has commenced operation of two 655 horsepower turbine compressors on Platform A. By the subject amendment, Tennessee requests authorization to acquire, own, and operate a 2/3 interests in such facilities installed by Continental.

The amendment indicates that Tennessee's share of the direct cost of the subject facilities would be \$705,300.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 4, 1979, file with the Energy Regulatory 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.

Lois Cashell,
Acting Secretary.

[FR Doc. 79-11992 Filed 4-17-79; 8:45 am]

BILLING CODE 6450-01-M

Texas Eastern Transmission Corp.; Compliance Filing

April 12, 1979.

Take notice that on March 14, 1979 and April 4, 1979, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing revised and substitute revised tariff sheets to Fourth Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff,

which are proposed to be effective March 1, 1979. Texas Eastern states that these sheets are being filed in compliance with the terms of Opinion No. 21, issued August 9, 1978 as modified by Opinion No. 21-A issued February 16, 1979 in this docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 23, 1979. 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.

Lois D. Cashell,
Acting Secretary.

[Docket RP74-41]

[FR Doc. 79-11998 Filed 4-17-79; 8:45 am]

BILLING CODE 6450-01-M

Town of New Roads, La.; Application for Preliminary Permit

April 10, 1979.

Take notice that on February 16, 1979, the Town of New Roads, Louisiana, filed an application for preliminary permit [pursuant to the Federal Power Act, 16 USC, § 791(a)-825(r)] for proposed Project No. 2908 to be known as the Red River Lock and Dam No. 3 Project, located on the Red River in Rapides and Grant Parishes, Louisiana. The project would be located on U.S. lands administered by the Corps of Engineers and would affect navigable waters of the United States.

Purpose of Project—The power would be used by the Town of New Roads in meeting its load requirements with any surplus power being sold or exchanged with other utilities in the area.

Proposed Scope and Cost of Studies Under Permit—The work proposed under this preliminary permit would include preliminary designs, economic analysis, preparation of preliminary engineering plans, study of environmental assessment and, in coordination with the Corps of Engineers, a study of the plans and operation of the proposed Lock and Dam

No. 3. The work would be coordinated with the Corps investigations already in progress for construction of the proposed Lock and Dam No. 3 as part of the development of the Red River Waterway Project. Based on results of the studies conducted during the preliminary permit, a decision would be made by the Applicant whether to proceed with more detailed studies leading to the preparation of plans and specifications for the construction of the project and the filing of an application for License. It is estimated that the cost of the work performed under this preliminary permit would range from \$10,000 to \$50,000.

Project Description—The project would be operated as run-of-the-river and would consist of: (1) a powerplant built integrally with, or adjacent to, the proposed Corps Lock and Dam facility; (2) 1 to 3 bulb or tube turbine/generators having a total installed capacity of 15 MW and having an average annual generation of 100,000,000 kWh. Power generated by the project would be transmitted to the Town's service area by transmission lines owned by other utilities.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license. In this instance, the Applicant seeks a 36-month permit.

Agency Comments—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the

Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before June 11, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois Cashell,
Acting Secretary.

[Project 2908]
[FR Doc. 79-11994 Filed 4-17-79; 8:45 am]
BILLING CODE 6450-01-M

Town of Springfield, Vt.; Application for Preliminary Permit

April 11, 1979.

Take notice that on October 2, 1978, the Town of Springfield, Vermont, filed an application for preliminary permit, pursuant to the Federal Power Act, 16 U.S.C. § 791(a)-825(r) for proposed Project No. 2872 to be known as the Springfield Project, located on the Black River in Windsor County, Vermont. The entire project would be located on U.S. lands administered by the Corps of Engineers. The area is known as the North Springfield Flood Control Project. Correspondence to Mr. Paul Ruse, Jr., Acting Town Manager, 96 Main Street, Springfield, Vermont 05156, copies sent to Mr. John Parker, Esquire, 52 Elm Street, Springfield, Vermont 05156, and Mr. Frederick D. Palmer, Esquire, Duncan, Brown, Weinberg, & Palmer, P.C., 1775 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

Purpose of Project—The power would be used by the Town of Springfield in meeting its load requirements with any surplus being sold to or exchanged with other utilities in the area.

Proposed Scope and Cost of Studies under Permit—The work proposed under this preliminary permit would include preliminary designs, economic analyses, preparation of preliminary plans, study of power utilization, environmental assessment, and, in coordination with the Corps of Engineers, a study of the operation of the proposed project for multipurpose uses. The work would be coordinated with the Corps' investigations in

progress for a comprehensive development of the Black River for hydroelectric power. It is estimated that the cost of the work performed under this Preliminary Permit would be \$75,000.00.

Project Description—The Applicant seeks a preliminary permit for a period of 36 months to investigate the feasibility of installing hydroelectric generating facilities at the Corps' North Springfield Dam. The North Springfield Dam, an earth and rock dam 2,940 feet long, is 120 feet above stream bed at its highest point. The reservoir has a storage capacity of 50,600 acre-feet and would have a surface area of 1,260 acres when filled to dam crest elevation of 545.5 feet msl. The design capacity of the spillway is 17,200 cfs. Present streamflow is regulated through three slide gates which lead into a 12.75-foot horseshow conduit.

It is estimated that the project would have an installed capacity of 3.0 MW and an average annual output of 4.5 million kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for license. In this instance, the Applicant seeks a 36-month permit.

Agency Comments—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. A copy of the application may be obtained directly from the applicant.

Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made.

If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests, Petitions to Intervene, and Agency Comments—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10

(1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before July 2, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois Cashell,
Acting Secretary

[Project 2872]
[FR Doc. 79-11995 Filed 4-17-79; 8:45 am]
BILLING CODE 6450-01-M

Town of Vidalia, La.; Application for Preliminary Permit

April 10, 1979.

Take notice that on February 16, 1979, the Town of Vidalia, Louisiana, filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C., Section 791(a)-825(r)] for proposed Project No. 2909 to be known as the Red River Lock and Dam No. 4 Project, located on the Red River in Natchitoches Parish, Louisiana. The project would be located on U.S. lands administered by the Corps of Engineers and would affect navigable waters of the United States.

Purpose of Project—The power would be used by the Town of Vidalia in meeting its load requirements with any surplus power being sold or exchanged with other utilities in the area.

Proposed Scope and Cost of Studies Under Permit—The work proposed under this preliminary permit would include preliminary designs, economic analysis, preparation of preliminary engineering plans, study of environmental assessment and, in coordination with the Corps of Engineers, a study of the plans and operation of the proposed Lock and Dam No. 4. The work would be coordinated with the Corps investigations already in progress for construction of the proposed Lock and Dam No. 4 as part of the development of the Red River Waterway Project. Based on results of the studies conducted during the preliminary permit, a decision would be made by the Applicant whether to proceed with more detailed studies leading to the preparation of plans and specifications for the construction of the

project and the filing of an application for license. Applicant estimates that the cost of the work to be performed under this preliminary permit would range from \$10,000 to \$50,000.

Project Description—The project would be operated as run-of-the-river and would consist of: (1) a powerplant built integrally with, or adjacent to, the proposed Corps Lock and Dam facilities; (2) 1 to 4 bulb or tube turbine/generators having a total installed capacity of 25 MW and having an average annual generation of 150,000,000 kWh. Power generated by the project would be transmitted to the Town's service area by transmission lines owned by other utilities.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license. In this instance, the Applicant seeks a 36-month permit.

Agency Comments—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protest and Petitions to Intervene

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission Rules of Practice and Procedure, 18 CFR, Section 1.8 or Section 1.10. (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before June 11, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the commission and is available for public inspection.

Lois Cashell,
Acting Secretary.

[Project 2909]

[FR Doc. 79-11996 Filed 4-17-79; 8:45 am]

BILLING CODE 64050-01-M

United Gas Pipe Line Co.; Order Granting Motion To Lodge Additional Referral Order and for Declaratory Relief

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr. and George R. Hall. Issued April 10, 1979.

On February 16, 1979, United filed a motion to lodge an order of the United States District Court for the District of Columbia. The court's order stays the suit against United for damages arising out of curtailment of deliveries to Texasgulf Inc. ("Texasgulf") pending this Commission's decision on the following three referred questions:

1. Does section 12.1 or any other of United's tariff provisions or any general or specific order of the Commission remove or limit United's potential contract liability to Texasgulf for curtailments?

2. Would the awarding of damages to Texasgulf for United's curtailments grant Texasgulf an undue preference or advantage in contravention of the Natural Gas Act?

3. What would be the effect of Section 12.3 of United's tariff upon United's potential contract liability to Texasgulf for curtailments?

These questions are framed in terms of Texasgulf but are otherwise identical to three of the seven issues set forth in the order issued August 9, 1978, delineating the scope of Phase III.¹

United also requests a declaratory order requiring these questions to be addressed in the Phase III initial decision.²

On March 2, 1979, Texasgulf filed a response opposing United's motion essentially on five grounds:

1. Texasgulf is no longer a customer of United and, in its opinion, any decision

in Phase III can only be prospective in application;

2. Texasgulf's damage suit has already been long delayed;

3. In Texasgulf's opinion, the tariff provisions at issue depend upon the operation of valid curtailment plans, and no United curtailment plans have survived court review or been found lawful by the Commission;

4. Referral of the third issue is not warranted because, in Texasgulf's opinion, it only relates to substitute fuel clauses, and Texasgulf's contract never contained a substitute fuel clause;

5. The second referral question is beyond the scope of Phase III because, in Texasgulf's opinion, the potential preferences or advantages from awarding damages can only be answered in the context of a valid curtailment plan;

6. The previous acceptance of referred questions from the damage suit of Mississippi Power & Light Company against United is no basis for granting the present motion; Texasgulf's case is distinguishable. Mississippi Power & Light Company remains a United customer and, unlike Texasgulf, may benefit from a favorable Phase III result since, in Texasgulf's opinion, Phase III is only prospective in nature.

Texasgulf's objections to United's motion are without merit. With the exception of the delay objection, Texasgulf is inviting us, in the limited context of deciding whether to incorporate the three referred issues into Phase III, to accept its arguments on issues upon whose resolution decisions on the seven ultimate Phase III issues may be dependent. It is urging that we do so without benefit of a Phase III record or full briefing, both of which are necessary for proper disposition of such material issues. Furthermore, the delay objection is presumptuous and misdirected. It is unclear that granting United's motion would result in delay of Texasgulf's suit, but we assume that the court weighed the possibility of delay in issuing its referral order. For these reasons and for those stated in the order issued August 9, 1978, the issues referred by the court are appropriate for inclusion in Phase III.

The Commission finds and orders:

Good cause has been shown for granting United's motion, and the referred questions shall be considered in the Phase III initial decision.

¹ "Order Affirming Ruling of Presiding Judge, Granting in Part and Denying in Part Motions to Lodge, Denying Motion for Initiation of Rulemaking Proceeding, and Clarifying Scope of Proceeding."

² A notice of intention to act extending the time for final action on United's motion beyond 30 days was issued on March 19, 1979.

By the Commission.

Lois D. Cashell,
Acting Secretary.

[Docket No. RP71-29, et al.]
FR Doc. 79-11997 Filed 4-17-79; 8:45 a.m.]
BILLING CODE 6450-01-M

Waste Isolation Pilot Plant; Availability of Draft Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of availability of draft environmental impact statement (DEIS) and public hearings on the DEIS.

SUMMARY: The Department of Energy (DOE) announces the availability of a draft environmental impact statement, DOE/EIS-0026-D, Waste Isolation Pilot Plant (April 1979), on the pending proposal to design, construct and operate a licensed waste isolation pilot plant (WIPP) for the permanent disposal of radioactive transuranic nuclear wastes (TRU), for research and development on various high level waste forms in a mined repository, and for a disposal demonstration in an intermediate scale facility (ISF) of up to a thousand spent fuel assemblies from commercial nuclear power reactors. Written comments are invited and two public hearings will be held with respect to the DEIS.

DATES: Written comments are due by July 6, 1979. Requests to speak are due by May 18, 1979. Hearing dates are: June 5, 1979 in Idaho Falls, Idaho; and June 7-8, 1979 in Albuquerque, New Mexico.

ADDRESS: Send written comments and requests to speak to: Department of Energy, Attention Mr. Eugene Beckett, WIPP Project Office, MS B-107, Washington, DC 20545, 301-353-3253.

HEARING LOCATION: A supplemental notice will be issued with specific information concerning the place and time of each of the two public hearings.

FOR FURTHER INFORMATION CONTACT:

1. Mr. Eugene Beckett, WIPP Project Leader, Department of Energy, MS B-107, Washington, DC 20545, 301-353-3253.
2. Dr. Robert J. Stern, Director, NEPA Affairs Division, Department of Energy, MS E-201, Washington, DC 20545, 202-376-5998.
3. Mr. Stephen H. Greenleigh (Acting) Assistant General Counsel for Environment, Forrestal Building, MS 6A-152, Department of Energy, Washington, DC 20585, 202-252-6947.

4. Mr. Ben E. McCarty, Public Affairs Officer, Forrestal Building, MS 8G-031, Department of Energy, Washington, DC 20585, 202-252-4296.
5. Mr. Don Schueler, Project Manager, WIPP Project Office, Department of Energy, Albuquerque, New Mexico 87115, 505-766-3884.

SUPPLEMENTARY INFORMATION:

I. Previous Notice of Intent

The Department of Energy published a notice of intent (43 FR 30331) on July 14, 1978, regarding the preparation of a draft EIS on a proposed waste isolation pilot plant. The notice of intent indicates that the proposed facility was being considered for siting in Eddy County, New Mexico.

II. Background for the Proposed Project

The proposed WIPP is an integral part of the National program for the permanent disposal of radioactive waste. The role of the proposed project in the Nation's overall program has been examined by an interagency review group (IRG) whose report to the President was issued in March 1979 (TID-29442).

The DEIS examines the WIPP proposal in light of the policy recommendations contained in the IRG report and compares the environmental impacts of a WIPP reference case with other program mission and site alternatives.

III. Purpose of the EIS

The Department of Energy intends to use the WIPP EIS as the environmental input into future decisions concerning the proposed WIPP project. These include, but are not limited to, withdrawal of Federal and State land at the Eddy County site; moving into the next phase of detailed design and construction of the reference repository mission, including selection of a construction contractor and long lead-time equipment procurement; and submission of a comprehensive license application to the NRC, should licensing be authorized by the Congress.

IV. Comment Procedures

A. Availability of Draft EIS

Copies of the DEIS have been distributed to Federal, State and local agencies, organizations, and individuals known to be interested in the WIPP proposal. Additional copies may be obtained from the following locations. WIPP Project Office, Department of Energy, MS B-107, Washington, DC 20545, 301/353-3253.

WIPP Project Office, Department of Energy, Albuquerque, New Mexico 87115, 505/766-3884.

Copies of the DEIS are also available for public inspection at:

Public Reading Room, FOI, Room GA-152, Forrestal Building, 1000 Independence Ave., SW, Washington, DC.

Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, New Mexico.

Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois.

Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Illinois.

Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada.

Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.

Richland Operations Office, Federal Building, Richland, Washington.

Energy Information Center, 215 Fremont Street, San Francisco, California.

Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway, Denver, Colorado.

Carlsbad Public Library, Public Document Room, 101 South Halagueno Street, Carlsbad, New Mexico.

B. Written Comments

Interested parties are invited to submit written comments with respect to the DEIS to the WIPP Project Office at the Washington, DC address listed above. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Draft EIS on WIPP." All comments and related information should be received by DOE by July 6, 1979 in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing. Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

C. Public Hearing

1. Participation procedure—Public hearings on the draft statement will be held in Idaho Falls, Idaho on June 5, 1979 and in Albuquerque, New Mexico on June 7-8, 1979 to receive oral

presentations from interested persons. Hearings may be held at other locations as appropriate. Information on the specific time and place of each meeting will be issued in a subsequent Federal Register Notice and in local news media. A DOE official will be designated as presiding officer to chair the hearing. This will not be a judicial or evidentiary-type hearing.

Any person who has an interest in the DEIS may make a written request for an opportunity to make an oral presentation. Such a request should be directed to the WIPP Project Office at the Washington, DC address listed above before May 18, 1979. The person making the request should provide a concise summary of the proposed oral presentation and a telephone number where he or she can be reached. Each person selected to be heard will be notified by DOE of his or her participation in the hearings before May 23, 1979. After notification each person selected to be heard must submit a copy of his or her proposed statement to the WIPP Project Office at the Washington, DC address listed above five days before the scheduled meeting date.

2. Conduct of Hearings—DOE reserves the right to arrange the schedule of presentations to be heard and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer.

The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, between the hours of 8:00 am and 4:30 pm, Monday through Friday. Additional copies of the complete transcript will also be available at the public document centers noted above. Any person may

purchase a copy of the transcript from the reporter.

Dated at Washington, DC this 9th day of April 1979.

For the United States Department of Energy.

Ruth C. Glusen,

Assistant Secretary for Environment

[DOE/EIS-0026-D]

[FR Doc. 79-12104 Filed 4-17-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL MARITIME COMMISSION

Cargo Revenue Pooling and Sailing Agreement—Argentina/United States Atlantic Trade, U.S. Gulf Trade

On March 23, 1979, the Court of Appeals for the District of Columbia Circuit remanded to the Commission the records in No. 78-2229, *Reefer Express Line Pty., Ltd. v. FMC & USA*, and No. 78-2270, *A/S Ivarans Rederi v. FMC & USA*, proceedings which had challenged the Commission's actions in giving interim approval, *pendente lite*, to cargo revenue pooling and sailing agreements in the Argentina/U.S. Atlantic and Gulf trades which are the subject of the captioned proceedings. (See 43 F.R. 57183-84, 57184-86 (December 6, 1978)). The Court stayed the Commission's orders of interim approval, but in turn delayed the effectiveness of the stay for 60 days. In remanding, the Court directed the Commission to provide for "appropriate expedited notice and hearings under section 15 of the Shipping Act, U.S.C. § 814 (1976)."

On March 27, 1979, Moore McCormack Lines (Mormac), a respondent in Docket No. 78-51, petitioned the Commission for expedited procedure on remand and suggested a schedule designed to allow a decision with respect to interim or final approval to be reached by the Commission within the 60-day period during which the orders of approval *pendente lite* were allowed to remain in effect. Mormac's approach suggests hearing before an Administrative Law Judge on all issues relating to approvability of the Agreements under section 15, in which proponents' case would be presented before protestants, certification of the hearing records to the Commission by the Administrative Law Judge, omission of an initial decision and argument before the Commission, and simultaneous submissions of proposed findings of facts and briefs to the Commission. Copies of the petition were served upon all parties to both Docket Nos. 78-51 and 78-52 as well as upon the State Department and the Department of Justice, which had

commented adversely on the approval of such agreements.

Because of the need for expedition directed by the Court's orders on remand, the time for replies to the Mormac petition was shortened to April 4, 1979. The Commission, in shortening time for replies, also directed that such replies address the application of the expedited procedure suggested by Mormac to Docket No. 78-52. A petition has also been filed by Delta Steamship Lines (Delta), a respondent in Docket No. 78-52, seeking application of the procedure suggested by Mormac to Docket No. 78-52, and, in the alternative, asking "final and unconditional approval to Agreement No. 10346" in accordance with certain "proposed findings and conclusions" which it alleges are supported by "the record as developed to date, including the responses of protestants to the discovery requests * * *". Replies to the suggested expedited procedure have been filed by Empresa Lineas Maritimas Argentinas, S.A. (ELMA), Reefer Express Lines, Pty. Ltd. (REL), A/S Ivarans Rederi (Ivaran), Transportacion Maritima Mexicana, S.A. (TMM), Commission's Bureau of Hearing Counsel (Hearing Counsel), and the Department of Justice (DOJ).¹

ELMA basically supports Mormac, urging that its suggested time schedule be adopted, but, contrary to Mormac, argues that the proceedings on remand be limited to the single issue under section 15 presently before the Administrative Law Judge and that hearings on Dockets 78-51 and 78-52 be held together, and that protestants be required to put on their case first, although at the same time contending that "ELMA feels it has already fulfilled its obligations under the Shipping Act to justify the Approvability of these Agreements * * *".

Ivaran and TMM contend that it is impossible for them to meet the procedural schedule proposed by Mormac. Both TMM and Ivaran maintain that more time is needed for discovery, and that an initial decision and argument before the Commission are necessary. TMM additionally asserts that the week of April 23, 1979 is unacceptable to it for hearing because of prior commitments of its counsel and the unavailability of certain witnesses. Ivaran's main objection to the procedure suggested by Mormac is that it fails to allow adequate time to conduct discovery with respect to "particularly those [issues] dealing with illegal

¹ Because DOJ is not technically a party in these proceedings it has filed its reply together with a Petition for Leave to Intervene.

agreement" it alleges exists between the Argentinian and Brazilian-flag carriers which it asserts "form the heart of Ivaran's case." Ivaran asks that a new order of hearing be issued by the Commission and that scheduling questions be settled at a prehearing conference.

REL, while maintaining that a plan for expeditious hearing "can best be worked out by the parties in consultation with the Administrative Law Judge," objects specifically only to Mormac's suggested omission of an initial decision by the Administrative Law Judge, apparently in reliance upon certain language in the Administrative Procedure Act (5 U.S.C. 553(c), 554(c)(2), 556, 557) relating to hearings which are by statute required to be conducted on the record.

Hearing Counsel does not object to the briefing schedule supported by Mormac and Delta, but objects to the alternative relief, i.e., final decision to approve the pools by adoption of Delta's proposed findings and conclusions.

DOJ supports the principle of expedition in these proceedings but suggests its own time table, which differs basically from that suggested by Mormac in providing a greater period of time for discovery and lesser period of time for rendering of the agency's decision. DOJ also objects to Delta's suggested alternate relief.

The gravamen of the challenge to the Commission's action in granting the interim approvals was that such approvals were made without adequate notice or hearing and that the restriction of the limited hearing provided by the Commission to the single issue of unjust or unfair discrimination as to protesting carriers was improper. It is therefore clear that the "appropriate expedited notice and hearings under section 15" which the Court directed the Commission to hold is intended to cover all questions relating to the agreements' approvability under section 15.

Because Federal Register notice of the filing and contents of the agreements (see 43 FR 33221-22; 37218) and of hearing with respect to the issue now before the Administrative Law Judge (see page 1, *supra*) has already been given, it will not now be necessary to republish such notice. However, notice will be given, by publication of this Order in the Federal Register, of the expanded scope of the proceedings and the procedural approach here ordered. Such notice will also provide an opportunity to interested parties to intervene in these proceedings. We stress, however, in light of the expeditious treatment of these

proceedings ordered by the Court of Appeals and here provided, that any such interventions be made at the earliest possible time.²

The issue of an alleged side agreement between the Brazilian-flag and the Argentinian-flag carriers may be germane to the issue of the approvability of the agreements under consideration. The parties will therefore be permitted to address that matter in the expanded proceeding instituted here.

The matter of the time which must be consumed with respect to discovery and the impact upon discovery of the expanded scope of these proceedings is one which does not necessarily dictate that these proceedings cannot be concluded expeditiously. All parties have, in their pleadings, supported the principle of expedition. In view of this, we are hopeful that matters may proceed more expeditiously.

We will, however, set no dates by which discovery or hearings must be completed because we believe this matter is best left to the parties and the Administrative Law Judge to be worked out in compliance with the spirit of this Order. Moreover, we will not formally either consolidate or sever these proceedings at the present time but direct that, because they are legally and factually related and are subject to the same remand order from the Court, they be heard together to the extent feasible.

Insofar as the order of the presentation of the cases of proponents and protestants is concerned, we believe that Mormac's position should be adopted and that proponents' case should be presented first. Certainly, the anticompetitive character of the agreements is sufficient to require initial justification, and we recognized this fact in our original orders in these proceedings. Moreover, the requirement can hardly be viewed as prejudicial to ELMA, which objects to it, if in fact, as ELMA alleges, "it has already fulfilled its obligations under the Shipping Act to justify the approvability of the Agreements * * *".

Contrary to some protestants' arguments, we find nothing which prevents the utilization of a procedure, supported by Mormac, Delta, ELMA, Hearing Counsel, and DOJ, which omits the issuance of an initial decision by the

²DOJ has, as noted above, moved to intervene now, urging as grounds for its intervention the fact that it has already filed protests to the agreements and the contention that its lack of participation in the hearings to date was based upon the Commission's failure to make it a party to the proceedings and to include the issue of prime concern to it, i.e., the matter of whether the agreements are "contrary to the public interest." In light of DOJ's posture with respect to these proceedings, its intervention will be granted.

Administrative Law Judge. The Court of Appeals for the District of Columbia has held in a recent case involving a section 15 agreement that the provisions of the Administrative Procedure Act relating to the requirement of the issuance of such decisions did not apply. See *U.S. Lines v. FMC*, 584 F. 2d 519, 537 (D.C. Cir. 1978).

The Court's direction to expedite and the postponement of the stay of the Commission's orders for 60 days, presumably designed to provide a time frame in which a decision could be reached, are, in our opinion, sufficient, if such justification were necessary, to justify the omission of the initial decision here.

Lastly, we foresee no prejudice to anyone by omission of such decision. We have decided matters on evidentiary records in the past without intermediate decisions. See e.g., *Green Hide Weighing Practices*, 7 F.M.C. 699 (1964). We see no reason why such procedure cannot be followed here, particularly since no party appears to contemplate a protracted hearing or creation of an unusually lengthy or complex record.

Generally, in the final analysis, it is the Commission's rather than the Administrative Law Judge's view of a record which, if supportable, will prevail. See e.g., *Transamerican Trailer Transport v. FMC*, 492 F. 2d 617, 626 (D.C. Cir. 1974).

The only conceivable reason for absolute insistence upon the issuance of an initial decision by the one who heard the evidence initially is that for some reason, probably relating to witness credibility or demeanor, the "cold record" may not provide an adequate basis for decision. The occurrence of such a situation is rare in administrative proceedings. To protect against any possible prejudice, however, we will require that the Administrative Law Judge, at the time of his certification of the record to us, represent in such certification that the record as so certified is a full and sufficient basis for agency decision and that there exist no questions of witness demeanor, or of witness credibility not sufficiently reflected by the record, including witness cross-examination, as, in his opinion, to necessitate his issuance of an initial decision. If the Administrative Law Judge is unable to make such certification, he will be ordered to issue such decision promptly.

Moreover, because oral argument before the Commission is a matter within our discretion (see 46 CFR 502.241), and because we see no reason why briefs cannot sufficiently present the parties' positions, we find that the

necessary expedition requires omission of such argument.

We find neither the time schedule suggested by Mormac nor that suggested by DOJ to be satisfactory, the one perhaps allowing insufficient time for discovery, and the other providing insufficient time for our decision (5 days). Because, as explained above, we feel it inappropriate to prescribe the time during which discovery or hearing must be completed, we will not set dates with respect to such matters. Instead we will set May 2, 1979 as the date by which the record should be certified to us³ and May 9, 1979 as the date for filings with us. Although we recognize that these periods may impose some burden on the parties to the proceedings, we feel that we cannot adequately review the record and briefs in less time than the less than two weeks we will here provide.⁴

The type of decision to be issued in a matter upon which we are not in a position to pass at the present time. We may have a sufficient basis to rule on the question of final approval. On the other hand, we may realistically only be able to pass on the matter of approval *pendente lite*. We therefore feel that Mormac's suggestion of alternatives is a good one and will adopt it. In so proceeding, we wish to make some observations for the guidance of the parties to these proceedings.

DOJ, a statutory respondent in the aforementioned review proceedings whose position was adopted by the Court, itself recognized that the Commission might prefer to issue a decision *pendente lite*, and recognized that, even "if its current decisions are stayed or vacated, it would not be prevented from reconsidering approval *pendente lite*, following proper procedures and securing whatever documentary record the parties can make available * * *".

That the Commission has the authority to grant interim approval in an appropriate case has not been challenged here and is recognized in many court decisions. See e.g. *City of Los Angeles v. FMC*, 128 U.S.App.D.C. 326, 388 F.2d 582 (1967); *FMC v. Pacific Maritime Association*, 435 U.S. 40, 59-60 (1978); *Transamerican Trailer Transport, Inc. v. FMC*, 160 U.S.App.

D.C. 351, 365, 492 F.2d 617, 631 (1974); *New York Shipping Assn. v. FMC* 495 F.2d 1215 (2nd Cir. 1974), *cert. den.*, 419 U.S. 964 (1974). As the Court of Appeals for the D.C. Circuit has observed, " * * * in electing to order an interim approval [an agency] * * * is essentially saying that the agreement, or a portion of it, has both good and bad features on its face, and that examination of further data gleaned from practical experience is necessary to an enlightened determination of the public interest * * * [A] significant aspect of the reasonableness of a decision to grant interim approval is the extent and duration of the harm likely to be inflicted upon the opponents of the agreement, in relation to the potential public benefits flowing from approval". *National Air Carrier Association v. CAB*, 141 U.S.App.D.C. 31, 40-41, 436 F.2d 185, 194-195 (1970).

In general, the restrictive features of the agreements, which foreclose participation of non-pool members in the carriage of pool cargo, run counter to that part of the public interest reflected in the antitrust laws favoring free and open competition. On the other hand, the protection of U.S. commerce from disruptive acts stemming from the invocation of cargo preference laws also is a strong public interest consideration. Lastly, the possibility of harm to protestants and others stemming from approval should be examined to determine the likelihood of its occurrence and extent.

Therefore, it is ordered, That expedited hearings shall be held before the Administrative Law Judge before whom these proceedings are now pending with respect to the issues set forth below, and that hearings in Docket Nos. 78-51 and 78-52 shall be conducted together to the extent feasible;

It is further ordered, That the scope of these proceedings shall include the issue of unjust discrimination or unfairness to protestants and the interim or final approvability of Agreement Nos. 10346 and 10349 under all of the standards of section 15 of the Shipping Act, 1916;

It is further ordered, That the proceedings shall also include an examination of whether the agreements submitted constitute "true copies" of the complete understanding of the parties with respect to the pools, or whether there exists, as part of the submitted agreements or as a collateral agreement, an understanding between Brazilian flag and Argentine flag carriers with respect to pool cargo;

It is further ordered, That the record in these proceedings is to be certified to the Commission for decision on or

before May 2, 1979, and that such certification shall contain a statement by the Administrative Law Judge that the record as so certified is a full and sufficient basis for agency decision and that there exist no questions of witness demeanor, or of witness credibility not sufficiently reflected by the record, including witness cross-examination, as, in his opinion, to necessitate his issuance of an initial decision. If the Administrative Law Judge is unable to make such certification, he shall issue such decision promptly;

It is further ordered, That simultaneous filings of proposed findings and briefs shall be made by all parties on May 9, 1979;

It is further ordered, That the parties particularly address the following:

(a) What is the nature and extent of anticompetitive consequences likely to flow from continued *pendente lite* approval or grant of final approval;

(b) What is the nature and extent of possible disruptive effects on the trade and upon international relations of the failure to grant continued *pendente lite* approval or final approval;

(c) What is the nature and extent of possible injury to protestants or other portions of our commerce from continued *pendente lite* approval or grant of final approval;

It is further ordered, That pursuant to 46 CFR § 502.10, our Rules of Practice and Procedure are waived to the extent they are inconsistent with the procedures adopted herein;

It is further ordered, That this Order be published in the *Federal Register* and a copy be served upon all parties and upon protestant Department of State;

It is further ordered, That the petition of the Department of Justice for leave to intervene in these proceedings is granted;

It is further ordered, That any person other than the parties thereto having an interest and desiring to participate in these proceedings, may file a petition for leave to intervene pursuant to the procedures established in § 502.72 of the Commission's Rules.

By the Commission.

Francis C. Hurney,
Secretary.

[Docket Nos. 78-51, 78-52; Agreement Nos. 10346, 10349]
[FR Doc. 79-12005 Filed 4-17-79; 8:45 am]

BILLING CODE 6730-01-M

³ This date should also minimize the time problems peculiar to TMM and its counsel.

⁴ The "alternate approach" of Delta of a final decision at the present time approving the pools based on its proposed findings and conclusions must be rejected as founded on mere allegations as to interpretations of materials received in discovery but not yet in evidence to which no one has had opportunity to address himself and also as not directed to all of the pertinent issues in these proceedings.

FEDERAL MEDIATION AND CONCILIATION SERVICE

Arbitration Services Advisory Committee; Meeting

Notice is hereby given that the Federal Mediation and Conciliation Service Arbitration Services Advisory Committee, in accordance with Section 10 of the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), will meet on Saturday, May 12, 1979 at 9:00 a.m. at the Hyatt Regency Dearborn, Fairlane Town Center, Dearborn, Michigan.

The agenda is as follows:

- I. Discussion between chairman Ron Haughton, Federal Labor Relations Authority, and ASAC Members.
- II. Update on Civil Service Reform Act Provisions Relevant to Arbitration.
- III. Continuing Symposia and Seminars for Arbitrators.
- IV. Revised Rules and Regulations for Office of Arbitration Services, Effective April 15, 1979.
- V. The Arbitrator Review Board: Summary of Actions Taken.
- VI. Highlights of Recent Arbitration Procedural Problems.
- VII. Mid-year Review and Forecast.
- VIII. Labor Arbitrator Development Project Report.
- IX. OAS Budget Report.

This meeting shall be open to the public.

Communications regarding this meeting should be addressed to: Mr. John Canestraight, Associate Director, Office of Arbitration Services, Federal Mediation and Conciliation Service, Washington, D.C. 20427.

Signed at Washington, D.C., this eleventh day of April 1979.

Wayne L. Horvitz,

Director.

[FR Doc. 79-11972 Filed 4-17-79; 8:45 a.m.]

BILLING CODE 6732-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Joint Notice of Proposed Policy Statement

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, and Federal Deposit Insurance Corporation.

ACTION: Proposed statement of interagency policy on classification of delinquent consumer instalment loans.

SUMMARY: The proposed statement of examination policy sets forth uniform procedures which the agencies propose to use in examinations of insured banks.

It is intended that specific standardized procedures will promote improved and uniform treatment for classification of consumer instalment lending activities in commercial banks. Realizing the value of public participation in the formulation of these procedures, the agencies are requesting comments on them and have designated specific issues for comment.

DATE: Comments must be received on or before May 18, 1979.

ADDRESS: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All materials submitted should include the Docket Number R-0217.

FOR FURTHER INFORMATION CONTACT: Rufus Burns, Office of the Comptroller of the Currency (202-447-1684), N. Edwin Demoney, Jr. (202-452-2434), Board of Governors of the Federal Reserve System, or Jack Edgington (202-389-4404), Federal Deposit Insurance Corporation.

SUPPLEMENTARY INFORMATION: This document is intended as a statement of the procedures that the Federal banking agencies involved propose to use in examinations of insured banks for the classification of delinquent consumer instalment loans. At the current time, there is wide variation among the supervisory agencies and throughout the banking industry as to the treatment of such loans. This lack of uniformity has resulted in uneven treatment among classes of banks and has made it particularly difficult for multi-bank holding companies that have subsidiary banks under the supervision of different agencies to adopt consistent policies.

In view of the potential impact and costs associated with the adoption of internal bank policies to conform with the proposed examination procedures, the agencies believe it advisable to solicit public comment to determine what modification might be appropriate, if any, in the procedures.

Proposed Statement of Examination Policy

All outstanding consumer instalment loans, except as indicated below, that are delinquent in excess of 120 days shall be classified as loss unless a recent record of regular contractual payments is evident. In the event of the latter, loans will be classified substandard.

Mobile home loans delinquent in excess of 180 days shall be classified as loss unless there is a record of recent regular contractual payments, or unless collateral pledged to such loans has

been repossessed within the 180-day period. Loans on mobile homes which are essentially real property shall be accorded the same treatment as real estate loans.

The uninsured portion of Federal Housing Authority Title 1 loans shall be classified as loss when claims have been filed, or when delinquent in excess of 180 days where no claims have been filed. Insured portions in such instances shall not be classified.

Credit card loans, check credit and/or overdraft credit shall be treated the same as consumer instalment loans.

In those instances where collateral has been repossessed less than 120 days but not yet liquidated, the anticipated deficiency balance shall be classified as loss and the amount expected to be realized from disposition of collateral as substandard. When repossessed collateral has been held in excess of 120 days, the entire balance of the loan shall be classified as loss, unless State or local laws contain restrictions on disposition.

Consumer instalment loans and mobile home loans shall be considered delinquent 30 days after the date a regular contractual payment is due. A recent record of regular contractual payments is defined as full payment of the two most recent contractual instalments due.

This policy does not apply to business instalment loans. Moreover, deviation from this policy is not encouraged; however, it does not preclude the removal of assets delinquent for a lesser period when a loss classification is warranted.

This policy shall become effective 60 days after the date it is issued.

Designated Issues

1. Are the definitions for "delinquent loans" and "recent record of regular contractual payments" sufficiently clear to provide for uniform treatment? Should the definition of "recent record of regular contractual payments" be broadened to include partial payments when the bank and the borrower have agreed formally on such arrangement?

2. Should credit card loans, check credit and/or overdraft credit be treated the same as other cited types of consumer instalment loans?

3. Early adoption of the proposal is considered desirable in view of the potential impact on earnings in some banks. However, early adoption may impact adversely some banks due to the time required to change computer programs and/or other internal procedures. Does an effective date 60 days after adoption of the policy by the

agencies give banks sufficient flexibility in preparing for implementation?

4. Any comment on the effects of the proposed procedure on consumers would be appreciated, especially with regard to the implications on credit ratings resulting from charge-offs imposed by bank examiners. Should banks be required to correct the consumer's credit record in cases where previously reported charged-off loans are subsequently recovered?

Publication for Comment

The Administrative Procedure Act does not require notice and solicitation of comment in connection with the establishment of examination policies or procedures. However, in consideration of the agencies' desire to solicit public participation on these issues, they have elected to afford an opportunity for comment on this proposed policy.

Board of Governors of the Federal Reserve System, April 11, 1979.

Theodore E. Allison,
Secretary of the Board.

[Docket No. R-0217]

[FR Doc. 79-11799 Filed 4-17-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on April 9, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the *Federal Register* is to inform the public of such receipts.

The notice 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 CAB requests 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 requests, comments (in triplicate) must be received on or before May 7, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Civil Aeronautics Board

The CAB requests clearance of a revision to voluntary Form 2787, Passenger Origin-Destination Survey Report. This revision requires a new data element "Total Dollar Value of the Ticket" to be reported. The Origin-Destination Survey Report is not prescribed by regulation. The reported data are a byproduct of the carriers' statistical systems, and the reports on Form 2787 are filed with the Board by mutual agreement between the Board and the carriers on a quarterly basis. The CAB estimates respondents to number approximately 26 Certificated Route Air Carriers and that reporting burden for Form 2787 will average 1,150 hours per respondent for each report—an increase of 150 hours for reporting the new data element.

The CAB requests clearance of the notice and reporting requirements governing terminations, suspensions and reductions of air transportation contained in new Part 323 of the Board's Procedural Regulations which implements sections 401(j) and 419 of the Airline Deregulation Act of 1978 (P.L. 95-504). The CAB estimates that potential respondents will number approximately 219 and consist of certificated air carriers and persons petitioning the Board to prevent reduction, suspension, or termination of service. The CAB estimates that respondent burden per response will average 8 hours for section 323.4, 16 hours for section 323.9, 16 hours for section 323.11, 8 hours for section 323.14, and 8 hours for section 323.15.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-12035 Filed 4-17-79; 8:45 am]

BILLING CODE 1610-01-M

Regulatory Reports Review; Receipt and Approval of Report Proposal

A request for emergency clearance of a new Part 544—Financial Responsibility for Water Pollution Outer Continental Shelf (OCS), and related Forms FMC-192, Application for Certificate of Financial Responsibility (OSC), and Form FMC-160, Certificate of Financial Responsibility (OCS) was received by the Regulatory Reports Review Staff, GAO, on March 16, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

Federal Maritime Commission

The Federal Maritime Commission (FMC) requested clearance of a new Part 544—Financial Responsibility for Water Pollution Outer Continental Shelf (OCS), and related Forms FMC-192, Application for Certificate of Financial Responsibility (OCS), and Form FMC-160, Certificate of Financial Responsibility (OCS). The Outer Continental Shelf Lands Act Amendments of 1978 was signed into law on September 17, 1978, effective March 17, 1979. That law requires persons who own and operate vessels carrying oil from offshore facilities above the Outer Continental Shelf to establish and maintain evidence of financial responsibility for damage and removal costs resulting from discharges of oil before their vessels may lawfully engage in any segment of the transportation of oil from such offshore facility above the Outer Continental Shelf.

Part 544 sets forth procedures whereby an owner and operator of a vessel subject to the regulations can demonstrate that each is financially able to meet liability for removal costs and damages. Upon the satisfactory demonstration of financial responsibility, the FMC will issued certificate which are to be carried aboard the vessel named on such certificates.

To obtain a certificate, a vessel operator must submit Form FMC-192 accompanied by evidence of financial responsibility and any required fees. If for any reason, including a vessel's demise or transfer to a new operator, a certificate ceases to be the vessel's operator, the certificate must complete the reverse side of Form FMC-160, the vessel's original certificate, and return it to FMC. Section 544.9(e) specifies information to be provided to FMC if the certificate has been lost or destroyed.

GAO agreed to accept FMC's emergency request for clearance due to the exigent need to implement the Outer Continental Shelf Lands Act Amendments of 1978 before its effective date. GAO granted emergency clearances to Part 544 and related Forms FMC-192 and FMC-160 on March 16, 1979, under numbers B-180233 (R0627), B-180233 (R0628), and B-180233 (R0629) respectively. These clearances expire on March 31, 1980.

Norman F. Hely,

Regulatory Reports Review Office.

[FR Doc. 79-12036 Filed 4-17-79; 8:45 am]

BILLING CODE 1610-01-M

Regulatory Reports Review; Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on April 12, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the *Federal Register* is to inform the public of such receipt.

The notice 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 FCC requests 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 requests, comments (in triplicate) must be received on or before May 7, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Communications Commission

The FCC requests an extension without change clearance of Form 303, Application for Renewal for Commercial Television Broadcast Station. Form 303 is required to be filed by licensees applying for renewal of a commercial television station pursuant to Sections 1.511 and 1.539 of the Commission's Rules and Regulations. The FCC estimates approximately 235 renewals are received annually and that respondent burden averages approximately 56 hours per response.

The FCC requests an extension without change clearance of Form 303-R, Application of Renewal for Commercial AM or FM Radio Broadcast Station. Form 303-R is required to be filed by licensees applying for renewal of a commercial AM or FM Radio Broadcast Station pursuant to Sections 1.511 and 1.539 of the Commission's Rules and Regulations. The FCC estimates approximately 2500 renewals are received annually and that respondent burden averages 32 hours per response.

The FCC requests an extension without change clearance of Form 318, Request for Subsidiary Communications Authorization. Form 318 is required to

be filed by licensees or permittees of FM broadcast stations requesting authority to establish or modify a subsidiary communications authorization pursuant to Sections 1.511, 1.533(a), 73.293, 73.294, 73.295, 73.593, and 73.595 of the Commission's Rules and Regulations. The FCC estimates approximately 200 applications are filed annually and that respondent burden averages 40 hours per response.

The FCC requests an extension without change clearance of Form 325, Annual Report of Cable Television Systems. Form 325 is required by Section 76.403 of the Commission's Rules and Regulations. The form is filed annually by each cable television system. The FCC estimates that 4800 reports are received annually and that respondent burden averages four hours and twenty-eight minutes per response.

The FCC requests an extension without change clearance of Form 330-P, Application for Authority to Construct or Make Changes in an Instructional Television Fixed and/or Response Station(s) and Low Power Relay Station(s). Form 330-P is required to be filed when applying for authority to construct a new instructional television fixed and/or response station(s) or to make changes in an existing station pursuant to Sections 1.511 and 1.533 of the Commission's Rules and Regulations. The FCC estimates that approximately 25 applications are received annually and that respondent burden averages 25 hours per response.

The FCC requests an extension without change clearance of Form 330-R, Application for Renewal of an ITFS and/or Response Station(s) and Low Power Relay Station(s) License. Form 330-R is required by Sections 1.539 and 1.511 of the Commission's Rules and Regulations. The form is used to apply for renewal of an ITFS and/or Low Power Relay Station(s). The FCC estimates that approximately 21 applications are filed annually and that respondent burden averages two and one-half hours per response.

The FCC requests an extension without change clearance of Form 340, Application for Authority to Construct or Make Changes in a Noncommercial Educational TV, FM, or Standard Broadcast Station. Form 340 is required by Sections 1.533 and 1.511 of the Commission's Rules and Regulations. The form is used by applicants applying for authority to construct or make changes in a noncommercial educational TV, FM, or standard broadcast station. The FCC estimates that 300 applications are received annually and that

respondent burden averages 1040 hours per response.

The FCC requests an extension without change clearance of Form 342, Application for Renewal of Noncommercial Educational TV, FM, or Standard Broadcast Station License. Form 342 is used when applying for renewal of a license for a noncommercial educational TV, FM, or standard broadcast station license. The FCC estimates that approximately 325 applications are received annually and that respondent burden averages 14 hours per response.

The FCC requests an extension without change clearance of the Broadcast Program Logging Rules required by Sections 73.669 and 73.670 of the Commission's Rules and Regulations. These sections require broadcasters to maintain a program log containing entries for each program for commercial matter, for public service announcements and other announcements. Data is extracted from these logs for the composite week reported to FCC by means of FCC Form 303-A Annual Programming Report. The FCC estimates that there are 988 television broadcasters who maintain these logs and that respondent burden averages 2190 hours annually.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-12037 Filed 4-17-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Board of Scientific Counselors; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the months of May and June 1979:

BOARD OF SCIENTIFIC COUNSELORS, NIMH, May 31-June 1; 9:30 a.m. (May 31), 9:00 a.m. (June 1), Building 36, Conference Room 1B-07, National Institutes of Health, Bethesda, Maryland 20205. OPEN—May 31; 9:30-10:00 a.m. CLOSED—Otherwise. Contact: Dr. John C. Eberhart, Building 36, Room 1A-05, National Institutes of Health, Bethesda, Maryland 20205, 301-496-3501. Purpose: The Board of Scientific Counselors provides expert advice to the Director, NIMH, on the mental health intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of

productivity and performance of staff scientists.

Agenda: The Board will meet in Building 36, Conference Room 1B-07, Bethesda, Maryland, for approximately 30 minutes for a report by the Director and Deputy Director of Intramural Research, NIMH, on recent administrative developments. The remainder of the two-day session will be devoted to the review of intramural research projects from the Laboratory of Socio-environmental Studies, and the evaluation of individual scientific programs, and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Paul Sirovatka, Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4536.

Dated: April 12, 1979.

Elizabeth A. Connolly,
Committee Management Officer, Alcohol, Drug Abuse, and
Mental Health Administration.
[FR Doc. 79-12003 Filed 4-17-79; 8:45 a.m.]
BILLING CODE 4110-88-M

National Advisory Council on Alcohol Abuse and Alcoholism; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of May 1979:

NATIONAL ADVISORY COUNCIL ON ALCOHOL ABUSE AND ALCOHOLISM, May 21-22; 9:00 a.m., Conference Rooms G & H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. OPEN—May 21. CLOSED—May 22.

Contact: Mr. James F. Vaughan, Room 16C-10, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3888.

Purpose: The Council advises the Secretary, Department of Health, Education and Welfare regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: May 21 will be devoted to administrative reports, program

developments, discussion on Institute training, and general business of the Council.

May 22, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5 U.S.C. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIAAA Public Affairs Office will furnish upon request summaries of the meeting and rosters of the committee members; contact Mr. Harry Bell, Associate Director, Office of Public Affairs, NIAAA, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3306.

Dated: April 12, 1979.

Elizabeth A. Connolly,
Committee Management Officer, Alcohol, Drug Abuse, and
Mental Health Administration.
[FR Doc. 79-12002 Filed 4-17-79; 8:45 a.m.]
BILLING CODE 4110-88-M

Rape Prevention and Control Advisory Committee

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the months of April and May 1979:

RAPE PREVENTION AND CONTROL ADVISORY COMMITTEE, April 30-May 1, 1979; 9:00 a.m. Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. OPEN—April 30-May 1.

Contact: Ms. Elizabeth S. Kutzke, Room 10C-03, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-1910.

Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problem of rape.

Agenda: The entire meeting will be open to the public. The two day meeting of the Advisory Committee will be devoted to providing input on the National Center's fiscal year 1979 program activities.

Attendance by the public will be limited to space available.

Substantive information may be obtained from the contact person listed above.

Dated: April 12, 1979.

Elizabeth A. Connolly,
Committee Management Officer, Alcohol, Drug Abuse, and
Mental Health Administration.
[FR Doc. 79-12004 Filed 4-17-79; 8:45 a.m.]
BILLING CODE 4110-88-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Federal Council on the Aging; Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Special Aging Populations Committee of the Council will hold a symposium/hearing on Monday, May 14, 1979 from 10:30 a.m. to 5 p.m.,

Convention and Entertaining Center, Holiday Inn Downtown, 200 East Amite Street, Jackson, Mississippi 39201.

The purpose of the symposium/hearing is to focus on issues concerning the elderly, minorities and other subgroups of the population (Hispanics, American Indians, Blacks, Pacific/Asian Americans), and to identify needs, program deficiencies and alternatives to present policies.

The agenda will consist of an opening statement by the Chairman of the Committee, Dr. Fernando Torres-Gil regarding the Council's role, goals and objectives. Witnesses led by the Commissioner on Aging, Mr. Robert Benedict will address issues concerning training of minorities, employment, housing, advocacy data information. Time will be available for a questions and answers period.

Further information regarding the symposium/hearing and/or the Council may be obtained from Mrs. Mona Negm, Staff, Federal Council on the Aging, 330 Independence Avenue, Room 4260 HEW-North Building, Washington, D.C. 20201, telephone (202) 245-0441, or Dr. Fernando Torres-Gil, Chairman, Special Aging Populations Committee.

FCA meetings are open for public observation.

Dated: April 9, 1979.

Nelson H. Cruikshank,
Chairman, Federal Council on the Aging,
[FR Doc. 79-12063 Filed 4-17-79; 8:45 a.m.]
BILLING CODE 4110-92-M

Public Health Service

Office of the Assistant Secretary for Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (38 FR 18571, July 12, 1973, as amended at 42 FR 61317, December 2, 1977, and most recently amended at 43 FR 42023, September 19, 1978) is amended to reflect the reorganization of the Office of the Assistant Secretary for Health and Surgeon General of the Public Health Service. The objective of the reorganization is to strengthen the Assistant Secretary for Health's management of the Public Health Service. It will result in a heightened emphasis on PHS's disease prevention activities, strengthened coordination of environmental health programs, an improved relationship between PHS and State and local governments, an improved capability to transfer the latest successful developments in health care research and technology into standard medical practices, and better coordination of regional office activities. Functional statements for new or changed organizational elements within the Office of the Assistant Secretary for Health are published in succeeding paragraphs.

Public Health Service

Under Part H, Chapter H, Public Health Service, *Section H-30 Public Health Service—Order of Succession*, make the following changes:

Each place (3) the title "Deputy Assistant Secretary for Health Programs" appears, change the title to read "Deputy Assistant Secretary for Health Operations."

Office of the Assistant Secretary for Health

Under Part H, Chapter HA, Office of the Assistant Secretary for Health, amend *Section HA-00 Mission* as follows:

After the phrase "providing leadership for health systems planning, planning for transition to National Health Insurance," add the following phrase "providing leadership for PHS disease

prevention and health technology assessment and transfer activities and programs:".

Delete *Section HA-10 Organization* in its entirety and substitute the following:

The Office of the Assistant Secretary for Health consists of the:

1. Immediate Office of the Assistant Secretary for Health and Surgeon General of the Public Health Service (HA).
 2. Senior Advisor for Environmental Affairs (HA3).
 3. Office of Public Affairs (HAB).
 4. Office of International Health (HAE).
 5. Office of Health Legislation (HAJ).
 6. Office of Equal Employment Opportunity (HAK).
 7. Office on Smoking and Health (HAG).
 8. Office of Health Maintenance Organizations (HA2).
 9. Office of Population Affairs (HA5).
 10. PHS Executive Secretariat (HA6).
 11. Office of Adolescent Pregnancy Programs (HA4).
 12. Office of Intergovernmental Affairs (HA7).
 13. Office of Disease Prevention and Health Promotion (HA8).
 14. Office of Health Research, Statistics and Technology (HAT).
 15. Office of Planning and Evaluation (HA9).
 16. Office of Management (HAU).
- Under *Section HA-20 Functions*, make the following changes:

Under *The Immediate Office of the Assistant Secretary for Health (HA)*, insert the phrases "coordinates dental affairs' activities throughout PHS; coordinates the activities of the chief professional officers and chief liaison officers;" after the words "health promotion and education;". Insert the phrase "health technology assessment and transfer activities and programs," after the words "provides leadership for;" and before the words "disease prevention". Insert the following as the last sentence of this paragraph:

"The Deputy Assistant Secretary for Health Operations, as the principal deputy, advises and assists the Assistant Secretary for Health and Surgeon General (ASH/SG) by interrelating programmatic activities, and has specific responsibility for directing the Major Initiatives Tracking System (MITS) to assure the accomplishment of selected health objectives, implementing mechanisms to preclude fraud, waste and abuse in PHS operations, and directing the PHS Equal Employment Opportunity Program."

Delete the following organizational statements in their entirety: Senior Advisor For External Relations (HAX)

Office of Special Health Initiatives (HAR) and its Office of Health Information and Health Promotion (HAR-1) and President's Council on Physical Fitness and Sports (HAR-2). Deputy Assistant Secretary (and Special Assistant to the Secretary) for National Health Insurance (HAY).

Office of Health Technology (HA1). Office of Health Programs (HAS) and its Office of Child Health Affairs (HAS1), Office of Population Affairs (HAS3), Office of Health Practice Assessment (HAS5) and its Division of Quality Assurance Policy (HAS51) and Division of Health Technology Assessment and Transfer (HAS52).

Office of Health Policy, Research and Statistics (HAT) and its Office of Health Policy Analysis and Planning (HAT-2) and Office of Statistical Policy (HAT-3).

Under the *Office of Management (HAU)*, delete the statements for the PHS Regional Liaison Staff (HAU-1) and the PHS Executive Secretariat (HAU5) and its Health Communications Management Division (HAU56) and Regulations and Committee Control Division (HAU57).

After the statement for *The Immediate Office of the Assistant Secretary (HA)*, add the following statement:

Senior Advisor for Environmental Affairs (HA3). The Senior Advisor for Environmental Affairs: (1) Serves as the departmental focal point for the development, coordination and implementation of DHEW environmental health efforts conducted independently or in collaboration with other Federal agencies and with States and localities; (2) serves as departmental liaison with the scientific community on environmental health matters; (3) provides direction and coordination to PHS components relative to the planning, implementation, monitoring and evaluation of programs which identify, prevent and control environmental conditions that can adversely affect the Nation's health; (4) advises ASH/SG on actions which should be taken by PHS to improve its capacity to help prevent or control the major environmental causes of morbidity and mortality; and (5) serves as principal agent in the direction and coordination of PHS participation in DHEW collaborative efforts with other Federal departments and agencies relative to the health and environmental effects of energy technologies.

Delete the statement for the *Office of International Health (HAE)* and substitute the following:

Office of International Health (HAE). The Deputy Assistant Secretary for International Health, within the overall policy guidance of the DHEW Office of International Affairs (OIA), OS, and in consultation and cooperation with OIA: (1) Serves as the PHS and departmental focal point for policy guidance, planning, evaluation and program coordination relating to international health; (2) provides staff advice to the Secretary and ASH/SG on international health policies, plans, programs and activities, including recommendation of the overall budget for international health; (3) prepares, directs, and assesses the results of analyses and evaluations of selected international health policy issues and programs for PHS and DHEW, the Department of State and other Federal departments and agencies; (4) maintains liaison with and, as appropriate, represents the Department to international institutions and organizations, the U.S. private sector, other departments and agencies, and representatives of foreign governments on international health matters; (5) facilitates the provision of technical assistance in the health field in cooperation with other departments and agencies, international organizations and requesting countries; (6) recommends and promotes policies in health and health-related areas for implementation by international organizations, especially the World Health Organization (WHO), the Pan American Health Organization (PAHO), and the United Nations Children's Fund (UNICEF); (7) serves as the principal focal point in the Department for relationships with WHO and PAHO and arranges for the provision of technical consultation to these organizations; (8) develops and, as appropriate, implements international activities in cooperation with PHS and other agencies and facilitates their participation in those activities; and (9) provides leadership and staff support in intragovernmental international health policy, planning, and coordination processes.

Division for Bilateral Programs (HAE-3). The Division for Bilateral Programs: (1) Provides overall policy guidance for and coordination of PHS activities related to bilateral agreements and other binational arrangements for health cooperation; (2) serves as the primary focal point in PHS for relationships with other departments and agencies, the private sector, and representatives of foreign governments on health cooperation under bilateral arrangements; (3) provides leadership in the development of activities under

existing bilateral arrangements and develops the programmatic framework and administrative procedures for new bilateral activities; (4) monitors and evaluates activities and facilitates the development of bilateral health programs within PHS and among Federal agencies; (5) provides principal staff support for U.S. health participation on binational joint committees, commissions, working groups, etc.; and (6) monitors international epidemics and disasters and cooperates with the Agency for International Development (AID) in disaster relief planning and deployment of PHS resources for disaster assistance.

Division for Multilateral Programs (HAE-4). The Division for Multilateral Programs: (1) Recommends and promotes policies in health and health-related areas for implementation by international organizations, especially WHO and PAHO; (2) serves as the principal focal point in PHS and the Department in technical matters for relationships with WHO and PAHO; (3) arranges the provision of technical consultation to WHO and PAHO; (4) analyzes policies, strategies and budgets of international organizations as a basis for recommending U.S. policy towards and participation in the health-related programs of the organizations; and (5) facilitates and plans the involvement of PHS and other departments and agencies in the health-related activities of international organizations.

Division for Program and Policy Analysis (HAE-5). The Division for Program and Policy Analysis: (1) Identifies and analyzes key international health and nutrition issues, with emphasis on the poorest and middle-tier developing countries, with a view toward defining policy options for and alternative programmatic approaches to their resolution; (2) analyzes and evaluates selected health and nutrition policies and programs for DHEW, AID, and other Federal departments; (3) develops country-specific and regional studies on health status, problems, resources, and sector programs; and (4) assists in collaborative national health planning exercises and provides technical guidance in formulation of strategies for U.S. health assistance and cooperative activities.

Delete the statement for the *Office of Equal Employment Opportunity (HAK)* and substitute the following:

Office of Equal Employment Opportunity (HAK). The Office of Equal Employment Opportunity (OEEO) is located in the Office of the Assistant Secretary for Health (OASH). The

Deputy Assistant Secretary for Health Operations (DASHO) serves as Director for the PHS Equal Employment Opportunity (EEO) Program, and is the principal advisor to ASH/SG on all equal employment opportunity matters. He is assisted by the Deputy Director for EEO who provides functional supervision for the EEO Program throughout PHS, and directs OEEO activities. The Office: (1) Develops and recommends for adoption PHS-wide EEO policies, goals, and priorities designed to carry out the intent of the Office of Personnel Management, Equal Employment Opportunity Commission, and DHEW equal employment opportunity policies and requirements under Executive Order 11478; (2) provides leadership, direction, and technical guidance to PHS agency EEO Officers for the development of comprehensive EEO programs and plans, and coordinates and evaluates PHS agency EEO operations and plans, including affirmative action plans; (3) develops plans, programs, and procedures designed to assure the prompt receipt, investigation, and resolution of complaints of alleged discrimination by reason of race, sex, age, religion, national origin, or handicap, for PHS; (4) coordinates the development of comprehensive special emphasis programs to assure full recognition of the needs of women, Hispanics, other minorities, and the handicapped in hiring and employment; (5) identifies EEO data needs for the functions of OEEO, and such other organizational entities within PHS as may be required, and assures the development of training courses in EEO for all PHS supervisory personnel; (6) prepares, or coordinates the preparation of, reports and analyses designed to show the status of employment of women and minorities in PHS, and maintains liaison with the Department and other organizations concerned with equal employment opportunity; (7) assures effective coordination of EEO activities with PHS personal and training programs, and with PHS agencies' manpower planning and support programs in the health professions; (8) develops a system of structured reviews and evaluations of PHS EEO activities to assure effective operations and accountability, including the Department's Major Initiatives Tracking System (MITS) for EEO; (9) assist in assuring the adequate allocation of resources for EEO in PHS, including the establishment of guidelines for recruiting, selection, and training of agency EEO personnel and concurrence in selection of key staff;

(10) develops and directs research and evaluation studies to focus and improve effectiveness; and (11) provides direct support for EEO program activities in OASH.

Affirmative Action Staff (HAK-1) is responsible for the overall management of the PHS affirmative action planning and monitoring process for equal employment opportunity, and performs the following functions: (1) Develops and recommends PHS policies regarding affirmative action planning and monitoring; (2) develops and issues PHS guidelines regarding the Affirmative Action Plan (AAP) process and coverage, sets goals and timetables, develops planning methods, and prepares workforce analyses; (3) coordinates the development and preparation of the PHS-wide AAP; (4) recommends to the Deputy Director for EEO, approval or rejection of affirmative action plans for PHS; (5) reviews and makes recommendations to the Deputy Director for EEO regarding the appropriateness of items submitted by agencies for the Secretary's MITS; (6) monitors and evaluates the implementation of the affirmative action program through data analyses, MITS, periodic written reports from agencies, spot-check reviews of subordinate level plans and programs, and on-site visitations; (7) provides training and technical assistance on affirmative action matters to managers and EEO officials throughout PHS; (8) serves as liaison with outside agencies, community groups, professional associations, etc., regarding EEO affirmative action activities in PHS; and (9) coordinates Department activities in personnel, career development, training, and health manpower planning with the affirmative action plans.

Complaints Management and Adjudication Staff (HAK-2) is responsible for all matters pertaining to the discrimination complaints processing system for all PHS personnel, commissioned and civilian, and performs the following functions: (1) Issues operating policies and guidelines; (2) monitors complaints of discrimination to detect indications of discriminatory patterns and practices; (3) prepares final decisions on all complaints when PHS agency heads or PHS, including Commissioned Corps, processes complaints arising within PHS agency EEO managers are named as alleged discriminating officials, and monitors the Commissioned Corps complaints system in order to recommend appropriate changes in regulations and procedures; (4) serves as the focal point for coordinating PHS

administrative matters relating to the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, Justice Department, and DHEW Office of General Counsel participation in PHS complaints; (5) collects, controls, and analyzes all data pertaining to the processing of discrimination complaints in PHS, nationwide, prepares and submits reports, and serves as the official source of information concerning the status of all complaints in PHS; and (6) coordinates the organization and provision of training in EEO counseling, investigation, and complaints management.

Special Emphasis Program Staff (HAK-3) is responsible for developing special programs to meet the needs of women and minorities in PHS, and performs the following functions: (1) Develops PHS operating policies, and is responsible for program planning and implementation to meet the needs of women, Hispanics, Asians, Blacks, Native Americans, and the handicapped; (2) provides guidance and technical assistance to the EEO staff in the health agencies and the PHS regional offices; (3) evaluates the adequacy of EEO Special Emphasis Programs PHS-wide and recommends improvements in Special Emphasis Programs in the health agencies; (4) analyzes, researches, and monitors the employment status of special emphasis groups and recommends actions to increase participation in the PHS workforce; (5) coordinates with other EEO divisions engaged in carrying out special emphasis activities, and serves on departmental, PHS and agency committees and work groups to assure effective coordination of all Special Emphasis Programs, and is the liaison between other governmental offices, educational institutions, and community groups; (6) develops policies and guidelines concerning training in EEO program requirements for agency supervisory and nonsupervisory personnel, EEO staff, and other personnel as appropriate; (7) collaborates with other organizations in PHS in the identification of training needs and training curricula for agency EEO staff, supervisory personnel in health agencies, etc.; and (8) collects data and prepares analyses and reports on training needs at the PHS level as they relate to the full participation and development of minorities and women.

OASH/EEO Operations Staff (HAK-4) provides EEO services to the PHS regional offices and the staff offices reporting directly to ASH/SG, and performs the following functions: (1)

Directs and supervises all EEO activities and programs within OASH and the PHS regional offices; (2) develops goals, plans and procedures for a comprehensive EEO Program in OASH and the PHS regional office; (3) assures the development, assignment and training of a network of EEO officers, counselors, and investigators in the major offices in OASH and the PHS regional offices, and provides functional supervision; (4) prepares a comprehensive AAP for OASH and the PHS regional offices, and evaluates and monitors the OASH AAP; (5) provides for the prompt consideration and disposition of complaints of discrimination within OASH, and the preparation of proposed dispositions of complaints of discrimination arising in OASH and the PHS regional offices; (6) provides technical assistance to OASH staff and PHS regional offices in the preparation of unit affirmative action plans; (7) provides for a comprehensive Special Emphasis Program in OASH to identify barriers to equal employment opportunity for women, Hispanics, Blacks, the handicapped and other minorities, and recommends changes in management policies and practices to eliminate those barriers; (8) directs supervisory EEO training and evaluation; (9) reviews, in coordination with OASH personnel and regional personnel offices, training programs to assure effective implementation of EEO initiatives; (10) establishes effective data base, evaluates progress toward EEO objectives and prepares reports; (11) represents ASH/SG as required; and (12) conducts special recruitment efforts to assure adequate representation of minorities and women in key executive positions.

Delete the statement for the *Office on Smoking and Health (HAG)* and substitute the following:

Office on Smoking and Health (HAG). The Office: (1) Administers a national program to inform Americans about the dangers of smoking and to reduce death and disability due to smoking; (2) promotes and stimulates behavioral and biological research and epidemiological and toxicological studies by government and voluntary agencies on the causes and effects of smoking on health; (3) in conjunction with the Office of Disease Prevention and Health Promotion, coordinates all PHS research and educational programs and other DHEW activities related to smoking and health; (4) establishes and maintains liaison with other Federal agencies, private organizations, and State and local governments on smoking and health matters; (5) develops standards, criteria,

and methodologies for improved information programs related to smoking and health; (6) serves as a focal point for information gathering and as a clearinghouse on the dissemination of information on health education, preventive health, and related matters on smoking and health; (7) coordinates the development of materials on smoking and health; (8) provides assistance for educational programs on smoking and health; (9) coordinates research findings and provides technical writing and staff assistance to produce reports for ASH/SG concerning the effects of tobacco on health; (10) conducts surveys and coordinates and conducts evaluative studies on the effectiveness of programs related to smoking and health; (11) provides leadership and direction to the conduct of a comprehensive program to deter smoking among children and adolescents; and (12) conducts or arranges for the conduct of a study or studies of the relative health risks associated with smoking cigarettes of varying levels of tar, nicotine, carbon monoxide, and other substances added to commercially manufactured cigarettes.

Under the heading *Office of Health Maintenance Organizations (HA2)*, make the following changes:

Amend the statement for the *Division of Development (HA21)* by deleting the "and" before item (7) and adding "and (8) provides technical assistance to HMO's developed through public and private resources, in the fields of medical care organization, quality assurance, financial management, marketing, legal assistance, and health care administration."

Amend the statement for the *Division of Qualification (HA22)* by deleting item (6) and renumbering items (7), (8), and (9) to read items (6), (7), and (8), respectively.

Amend the statement for the *Division of Compliance (HA24)* by deleting item (10) and renumbering items (11), (12), and (13) to read items (10), (11), and (12), respectively.

Insert the following statements after the *Division of Compliance (HA24)*:

Office of Adolescent Pregnancy Programs (HA4). The Office of Adolescent Pregnancy Programs: (1) In accordance with P.L. 95-626, the "Health Services and Centers Amendments of 1978," provides Department-wide leadership for the planning, promotion, development, monitoring and continuing assessment of activities related to the adolescent health, services, and pregnancy prevention and care program; (2) develops requirements for grant

approval, program regulations, and national policy (including long- and short-range program goals and objectives) in coordination with the Deputy Assistant Secretary for Population Affairs and the Deputy Assistant Secretary for Health Planning and Evaluation, and consults with other OASH staff offices, PHS agencies, the Office of Education, and the Office of Human Development Services in order to coordinate related program efforts; (3) implements and administers the grants aspects, including pre- and post-award technical assistance and field legal advice, associated with Titles VI and VII of the Act; (4) effects liaison with the Office of Human Development Services, the Office of Education, and other components within the Department to coordinate Federal policies and programs providing services related to adolescent pregnancies; (5) establishes and maintains liaison with other Federal agencies, private organizations, and State and local governments on adolescent health, services, pregnancy prevention and care matters; and (6) disseminates information to public and nonprofit private agencies and organizations seeking award of funds for community projects to link adolescent health, services, pregnancy prevention and care services and others concerned with aspects of Titles VI and VII of the Act.

Division of Program Development and Monitoring (HA4-1). (1) Conducts all program and business management aspects associated with the review, negotiation, award, and administration of grants awarded under Title VI of the Act; (2) provides pre- and post-award technical assistance to grant applicants and others concerned with adolescent health, services, pregnancy prevention and care; (3) interprets program policies, regulations, guidelines, standards and priorities in determining the qualifications of applicants for funding; and (4) assures continued compliance of grantees with statutory and regulatory requirements associated with Titles VI and VII of the Act.

Division of Program Planning, Evaluation, and Integration (HA4-2). (1) Develops and recommends national long- and short-range objectives and plans to promote the development of projects to link adolescent health, services, pregnancy prevention and care services; (2) develops and recommends national policies and program regulations in accordance with Titles VI and VII of the Act, and assumes responsibility for carrying out the provisions of Title VIII; (3) cooperates with the Assistant Secretary for

Planning and Evaluation in the development and implementation of program evaluation; (4) develops and recommends initiatives to effect program integration; (5) provides technical assistance to assure that coordination by grantees of Federal programs at the local level will be facilitated; and (6) recommends program administration or recommends legislative modifications of programs of the Department that provide pregnancy related services to facilitate the integration of these services to adolescents.

Office of Population Affairs (HA5). In accordance with the Family Planning Services and Population Research Act of 1970 as amended, the Deputy Assistant Secretary for Population Affairs (DASPA), under authorities delegated by the Secretary and ASH/SG and which may be redelegated by DASPA, directs the activities of the Office of Population Affairs and: (1) Serves as the departmental focus for the administration of Federal laws for which the Secretary has administrative responsibility and which provide grants and contracts related to population research and family planning programs; (2) effects liaison to overview Department programs and coordinates matters related to population research and family planning, including issues interrelated with the family planning aspects of Medicaid, and Title V and Title XX Programs under the Social Security Act; (3) assumes responsibility, as the primary official in the delegatory line of authority, for the overall planning, oversight, coordination, monitoring and evaluation of the accomplishments of Population Research and Voluntary Family Planning Programs administered in concert with the delivery of health programs, adolescent pregnancy programs, population education programs, and health-related programs by PHS and other elements of the Department; (4) proposes goals and objectives and provides policy direction and staff direction and coordination of Title X Programs, under the Public Health Service Act, promoting and stimulating population and contraceptive research, encouraging and supporting the training of health manpower, serving as the principal advisory to ASH/SG and the Secretary, DHEW, on the development and implementation of policies for Title X Programs consistent with the policies and objectives of health programs and health-related programs of PHS and the Department, and coordinates and collaborates with other program officials

to assure that their programs are expanded to include the needs and services for women and men throughout the United States concerning fertility related and reproductive health service programs as well as infertility programs to address the problems of couples unable to conceive and bear children; (5) reviews and effects appropriate coordination to assure consistency of regulations and guidelines developed in other program areas with the policies and objectives of family planning programs; (6) provides the policy direction and coordination necessary for the development of informational and educational programs, such as self-awareness education for teens to include such topics as growing up, reproduction, and family life, informational programs for school boards, administrators, teachers and parents on population research and family planning; (7) acts as a clearinghouse for information pertaining to domestic and international population research and family planning programs for use by all interested public and private entities; (8) collaborates with appropriate PHS and Department officials on resources and short- and long-range planning for Title X and other family planning programs; (9) develops or clears reports to Congress on achievements of all family planning programs in the Department; and (10) provides a liaison with the activities carried on by other agencies and instrumentalities of the Federal Government relating to population research and family planning.

PHS Executive Secretariat (HA6). The PHS Executive Secretariat: (1) Monitors activities of interest to ASH/SG and the Office of the Assistant Secretary for Health (OASH), in coordination with OASH staff offices, PHS agencies and regional offices; (2) reports on meetings of ASH/SG and controls action items that result from these meetings; (3) provides substantive reviews of correspondence and action documents involving the Secretary and/or OASH officials to assure quality and consistency with program plans and established policies; (4) relates directly to ASH/SG, as needed, to assure prompt handling of both Secretariat and PHS action documents and correspondence; (5) assigns, monitors, and controls incoming communications including memoranda, reports, staff papers, and priority correspondence; (6) interfaces with the Executive Secretariat/OS, providing periodic information regarding the status of Secretarial action items, i.e., projects, reports, and correspondence; (7) coordinates

committee management activities for PHS; (8) manages the Federal regulations process for PHS, including the coordination and review leading toward the approval of new and revised regulations; (9) clears and controls the timely preparation of congressional reports; and (10) insures that heads of PHS staff offices and agencies are informed of, and given an opportunity to comment on, proposed actions or decisions affecting their organizations or responsibilities.

Health Communications Management Division (HA6-1). (1) Controls, monitors and tracks correspondence and action items involving the Secretary and/or OASH officials; (2) provides substantive reviews of correspondence and action documents to assure quality, responsiveness, timeliness, adequacy of coordination and clearances, clearness and conciseness of presentation, and conformance with established PHS policies; (3) prepares and disseminates reports providing status information on assigned action items/issues; (4) provides agency desk operations for furnishing centralized replies to OS controlled correspondence; (5) coordinates with OASH staff offices and PHS agencies on replies to OS controlled correspondence, including the development of appropriate source materials; (6) provides guidance to PHS on the preparation and management of written communications; (7) provides formal presentations on correspondence processing progress at staff meetings and Management Council Meetings; and (8) provides files maintenance, storage and retrieval system for internal documents, correspondence, and health reference materials.

Regulations and Committee Control Division (HA6-2). (1) Directs the Federal regulations process for PHS, including the coordination and review leading toward the approval of new and revised regulations; (2) develops and monitors implementation of PHS policies and procedures relative to the process for initiating, drafting, and clearing new and revised regulations; (3) coordinates the drafting and clearance of new or revised regulations; (4) brings policy disputes to appropriate OASH officials for resolution as needed to assure prompt drafting of regulations; (5) distributes and insures review of notices of proposed rulemaking and final regulations policy impacting general notices; (6) provides technical assistance in the development and implementation of new and revised regulations; (7) provides advice and guidance on the development of Federal Register notices; (8) coordinates the

drafting and clearance of Federal Register notices; (9) coordinates committee management activities for PHS, including the charter or abolishment of PHS Advisory Committees and the clearance of nominations or changes in membership; (10) develops guidelines and procedures for the timely preparation and clearance of congressional reports; and (11) clears and controls the preparation of congressional reports.

Office of Intergovernmental Affairs (HA7). The Deputy Assistant Secretary for Health Intergovernmental Affairs: (1) Serves as the principal advisor to ASH/SG for facilitating the coordination and implementation of Administration, Secretarial, and ASH/SG health initiatives as they pertain to intergovernmental affairs at the headquarters, regional, State, local and community levels; (2) intervenes on behalf of ASH/SG on critical intergovernmental issues which are beyond the authority of the PHS Regional Health Administrators (RHAs) or which cross program/agency lines; (3) serves as the focal point between ASH/SG and the RHAs; (4) insures a full and timely opportunity for the RHAs to contribute to the planning, development, and implementation of PHS policies; (5) insures the effective policy review of the intergovernmental concerns of PHS and the regional offices; (6) insures consistency of approach, administration, and action of multiagency programs as they impact on State and local governments; (7) represents ASH/SG in contacts with officials of other Federal agencies, congressional committees, Members of Congress, officials of State and local governments, and nongovernmental organizations for functions which cut across program/agency lines; (8) provides advice and counsel to ASH/SG relative to matters of mutual concern to PHS and external professional associations and organizations; (9) provides staff support relative to liaison and interaction between the Office of the Assistant Secretary for Health and the regional offices; and (10) assures that data relative to regional health program monitoring, performance, or assessment are referred to appropriate PHS officials for comments, review, or other action.

Office of Disease Prevention and Health Promotion (HA8). The Deputy Assistant Secretary for Disease Prevention and Health Promotion: (1) Serves as the principal advisor to ASH/SG on policies and procedures concerning disease prevention, health information and health promotion, including physical fitness and sports

medicine activities; (2) provides a Departmentwide focal point for the oversight and coordination of disease prevention, health information, and health promotion activities; (3) collaborates with the Office of Planning and Evaluation, the Office on Smoking and Health, the Office of Health Maintenance Organizations, the PHS agencies and centers and other agencies of the Federal Government and other public and private organizations in the development and implementation of a comprehensive national strategy for disease prevention; (4) through oversight and coordination, assures that the applicable PHS agencies, offices and centers carry out relevant or designated prevention strategy responsibilities; (5) provides project management oversight over special disease prevention or health promotion initiatives, such as immunization, of particular interest to ASH/SG; (6) disseminates information to the public through the National Health Information Clearinghouse relative to prevention activities and steps to reduce the incidence of disease; (7) through the Office of Health Information, Health Promotion, and Physical Fitness and Sports Medicine provides staff support to and receives advice on matters related to physical fitness from the President's Council on Physical Fitness and Sports; and (8) provides direction and conducts a comprehensive national program for health information and health promotion, including physical fitness.

Office of Health Information, Health Promotion, and Physical Fitness and Sports Medicine (HA81). The Office of Health Information, Health Promotion, and Physical Fitness and Sports Medicine: (1) Under the direction of the Office of Disease Prevention and Health Promotion and in accordance with Pub. L. 95-626, the "Health Services and Centers Amendments of 1978," coordinates all activities within the Department which relate to health information and health promotion, preventive health services, and education in the appropriate use of health care; (2) coordinates the above activities with similar activities of organizations in the private sector; (3) coordinates and facilitates collaboration among components of the Department, PHS, Health Care Financing Administration, Office of Education, Office of Human Development Services, and other governmental agencies, and other groups with common interests in health information and health promotion activities, including physical fitness; (4) promotes activities of health information, health promotion, and the

preventive aspects of health care to be integrated into applicable program functions at the operational level; (5) collaborates with the Office of Planning and Evaluation in the development and implementation of the PHS plans and in the planning activities of Medicare, Medicaid, and other Department health programs as they relate to health information, health promotion, preventive health services and education in the appropriate use of health care; (6) prepares a report for submission to Congress on the status of health information, health promotion, preventive health services, and education in the appropriate use of health care; (7) provides for the operation of the National Health Information Clearinghouse to facilitate access to information relating to health information, health promotion, preventive health services and education in the appropriate use of health care and to assist in the analyses of issues and problems relating to such matters; (8) develops and coordinates a comprehensive national program for physical fitness with advice from the President's Council on Physical Fitness and Sports; (9) supports projects, conducts research, and disseminates information in the areas of physical fitness and sports medicine; (10) assists and fosters research, investigations, and model projects on the nature and development of physical fitness and its relation to health; (11) assists and fosters research and investigations into the utilization and application of sports medicine and the development of related techniques; (12) fosters and assists research into the proper role of nutrition in physical fitness programs; (13) promotes the coordination of physical fitness and sports medicine research and model programs conducted by the Office with similar programs conducted by other agencies of the Federal Government and other public and private organizations; (14) disseminates the results of physical fitness studies to the public and to special interest groups with special needs in the development of physical fitness; (15) makes project grants and/or enters into contracts to conduct research and establish model projects with regard to physical fitness improvement; (16) provides for grants to each State for the establishment of a State Council on Physical Fitness or appropriate similar administrative unit; (17) administers a program of project grants to conduct research into the problem of athletic injuries; (18) provides for the operation of a Clearinghouse on Sports Medicine Research to disseminate the results of

athletic injury research to practitioners in relevant fields of health care and physical fitness; and (19) provides staff support to the President's Council on Physical Fitness and Sports and receives advice from that Council on matters related to physical fitness.

Delete the statements for the *Office of Health Policy, Research, and Statistics (HAT)*, *Office of Health Policy Analysis and Planning (HAT-2)* and *Office of Statistical Policy (HAT-3)* and substitute the following:

Office of Health Research, Statistics and Technology (HAT). The Deputy Assistant Secretary for Health Research, Statistics and Technology: (1) Serves as the principal advisor to ASH/SG concerning health services and health technology research, evaluations and demonstrations and health statistical activities; (2) conducts a national program of health services research, development, demonstration, and health services research training; (3) collects, analyzes and disseminates data on vital and health statistics, health status, health resources assessment and utilizations organization and management of health services, health expenditures, environmental health and related matters; (4) conducts a national program of health care technology assessment, research, demonstration, evaluation, and health care technology training; (5) provides leadership and staff support to the U.S. Committee on Vital and Health Statistics; and (6) provides leadership and staff support to the National Council on Health Care Technology.

Office of Policy Planning (HAT-4). The Office: (1) Conducts policy analysis relating to issues in the development of health research, statistics, technology, financing of health care, ethical issues in health care, and issues related to forward and annual plans, and legislative plans for the Centers; (2) analyzes economic issues related to the development of a national health policy and strategy in coordination with the Office of Planning and Evaluation (OPE); (3) represents the Deputy Assistant Secretary for Health Research, Statistics and Technology in health policy analysis and development activities within PHS and the Department; (4) provides a focus for short- and long-range program planning and evaluation of new and existing programs in meeting the mission of the Office of Health Research, Statistics and Technology (OHRST); (5) plans and undertakes research and evaluation at the request of OPE and OHRST where findings have implication for health policies relative to activities of the

Centers; and (6) coordinates the development of the legislative activities for OHRST.

Office of Program Development (HAT-5). The Office: (1) Oversees and coordinates for the Centers the development of programs for research, demonstration, evaluation, and assessment; (2) serves as the Office of Health Research, Statistics and Technology coordinator for interdisciplinary and interprogram activities; (3) advises the Deputy Assistant Secretary for Health Research, Statistics and Technology (DASHRST) on the development of new health research, statistics, and technology programs based on analysis of emerging needs and policy and legislative consideration; (4) monitors the research programs and prepares special reports that describe and assess the results of research, demonstrations, evaluations and assessments undertaken and supported by the Centers; (5) maintains liaison with other Federal agencies, with State and local governments, the research community, particularly with those organizations planning or conducting new initiatives in the area of health services research, statistics and technology; and (6) assists the DASHRST in coordinating the programs of the Office with related activities in PHS and the Department.

Office of Program Support (HAT-6). The Office: (1) Provides management information, expertise, and guidance necessary for the formulation of policies, goals, and objectives, operational strategies, and program and resource allocation decisions which impact on OHRST; (2) advises DASHRS on management tenets, techniques, policies, regulations and procedures; (3) within the framework of PHS management policy, provides direction to the management of OHRST, including the immediate office of the Deputy Assistant Secretary in the areas of financial management, organization and manpower utilization, ADP management, telecommunications management, information systems, delegations of authority, paperwork management, grants and contracts processes, and other logistical operations to support OHRST; (4) reviews and comments on legislative and policy proposals which impact on OHRST authorities and operations; (5) develops and oversees the implementation of methods and procedures for controlling operations of OHRST; (6) coordinates the development of budget proposals and provision of financial management services; (7) conducts continuing

appraisal of center processes, organizational and functional structures, and manpower requirements and allocations to assure optimum utilization of the Centers' resources and advises the Deputy Assistant Secretary on methods for improvement; and (8) maintains liaison with OASH Office of Management on policy and operational issues and matters affecting OHRST.

After the Statement for the *Division of Operations (HAT29)*, insert the following statements:

National Center for Health Care Technology (HAT3). The Center: (1) Provides national leadership, coordination and administration of a comprehensive program for health care technology assessment and transfer to improve the quality and reduce the cost of medical care; (2) establishes priorities, in consultation with the National Council on Health Care Technology, public and private organizations and individuals both within and without the Center, to identify the critical technologies to be assessed; (3) administers a program of research, demonstrations and evaluations respecting the factors that affect the use of, methods for disseminating information on, and the safety, effectiveness, cost effectiveness, and social, ethical, and economic impacts of particular medical technologies; (4) administers a program of assessments of health care technology which take into account their safety, effectiveness, cost effectiveness, and social ethical and economic impacts; (5) assists public and private nonprofit entities in meeting the costs of planning, establishing, and operating centers for assessments and multidisciplinary research, evaluations, and demonstrations; (6) makes recommendations to the Secretary respecting health care technology issues in the administration of the laws under the Secretary's jurisdiction, including recommendations with respect to reimbursement policy; (7) administers and supports health care technology training programs; (8) publishes and disseminates the information obtained as a result of activities supported by the Center and undertakes programs to develop new and improved methods for making such information available; (9) provides technical assistance and consultation to organizations and individuals within and outside the Department engaged or concerned with the results of health care technology assessments, research, evaluations, and demonstrations; (10) supports by means of grants and contracts with public and private entities health care technology

assessment, research, demonstrations and evaluation projects; (11) conducts assessments, research, demonstrations and evaluations through the use of Center staff and facilities; (12) coordinates all research, evaluations, and demonstrations respecting the assessment of health care technology undertaken and supported by DHEW components; and (13) with the National Council, conducts an annual survey among DHEW components to identify technologies under development which are likely to be utilized in medical care.

Office of Planning and Evaluation (HAG). The Deputy Assistant Secretary for Health Planning and Evaluation: (1) Serves as the principal advisor to ASH/SG concerning the development of national health policy (including health data and statistical policy), planning and legislation and the conduct of evaluations and as Special Assistant to the Secretary for National Health Insurance; (2) represents PHS in the above areas within the Department and recommends new approaches and initiatives as required; (3) requests, directs or conducts PHS health policy analysis and evaluation, including selected research projects; (4) directs PHS participation in the Department's planning efforts and serves as liaison with all components of PHS and other related organizations on these matters; (5) analyzes developments outside PHS which may influence health policies; (6) directs and coordinates the efforts of PHS components in legislative development, planning, evaluation, and policy analysis in areas like health care delivery, health statistics, health research, health technology assessment and transfer, and health prevention and protection and provides analytical assistance relative to these efforts; (7) directs the PHS review of plans and strategies for resource development; (8) cooperates and coordinates with the health-related activities of the Assistant Secretary for Planning and Evaluation, OS, and the Health Care Financing Administration (HCFA); (9) coordinates and directs PHS and DHEW activities related to National Health Insurance; (10) coordinates all matters regarding PHS health data standardization and statistical policy development, collaborating with other Federal agencies as appropriate; (11) provides policy oversight to PHS for clearance and inventorying of public use reports; (12) provides leadership and staff support to the DHEW Health Data Advisory Committee on the identification of intermediate and long-range health data needs and in the development and modification of data

policy objectives; (13) reviews all PHS statistical and data gathering plans; (14) serves as statistical policy liaison with PHS components and other health-related organizations; and (15) coordinates with the Division of Policy Planning, Office of Health Research, Statistics and Technology relative to analysis of economic issues impacting national health policies and plans.

Division of Policy Development and Program Review (HA9-1). The Division:

(1) Initiates and conducts policy analysis relating to issues in the development of health resources, and planning and delivery of health care services, environmental factors in health, biomedical research, disease prevention and technology assessment and transfer, ethical issues in health care, quality of and access to health care, consumer protection, and issues related to the development of a national health policy, strategy and plans; (2) represents PHS and ASH/SG in all health policy analysis and development activities within the Department; (3) analyzes the relevancy of current policies on health programs and recommends new approaches and analyzes developments outside PHS which may influence health policies and programs; (4) clears proposed regulations and guidelines for consistency with ASH/SG policy; (5) provides analytical assistance and guides the efforts of PHS components in legislative and policy development and analysis, and planning and evaluation; (6) develops planning issues for analysis by PHS components; (7) reviews planning issues analyses prepared by PHS components and makes planning recommendations to ASH/SG; (8) conducts issues analyses and works closely with the Office of Management concerning PHS planning activities, including submission of the PHS annual budget; (9) reviews legislation for consistency with ASH/SG and PHS policy; (10) initiates policy research relating to health resources, biomedical research, planning and delivery of services, environmental factors in health, consumer protection, and quality of and access to health care, health technology assessment and transfer, and disease prevention; (11) identifies policy research questions and with the Office of Health Research, Statistics and Technology and the agencies, sets priorities for such research and assures that such policy research is undertaken, either by the agencies or this division; (12) arranges for consultation to the agencies on research methodology and design; (13) contracts for policy research as needed; (14) serves as policy liaison

with all components of PHS and other health-related organizations; (15) in cooperation with the PHS staff offices and agencies and the Office of the Assistant Secretary for Planning and Evaluation, OS, sets priorities for evaluation of programs under the one percent PHS Act allocation for evaluation; (16) reviews and approves evaluation plans; (17) conducts or contracts for the conduct of program evaluation, monitors evaluation programs and assesses the results; and (18) initiates and/or conducts analyses relating to evaluation issues concerning health resources, biomedical research, planning and delivery of services, environmental factors in health, consumer protection, quality of and access to health care, health technology assessment and transfer and disease prevention.

Division of Statistical Policy (HA9-2). The Division: (1) Serves as the PHS focal point for coordinating all health data and statistical policy; (2) coordinates all matters regarding PHS health data policy standardization, collaborating with other Federal agencies, as appropriate; (3) provides leadership and staff support to the DHEW Health Data Advisory Committee on the identification of intermediate and long-range health data needs and in the development and modification of data policy objectives; (4) serves as statistical policy liaison with all components of PHS and other health-related organizations; (5) reviews all PHS statistical and data gathering plans; and (6) provides policy oversight to PHS for clearance and inventorying of public use reports.

Amend the statement for the *Office of Management (HAU)* as follows:

In item (1), delete the phrase "under the leadership of the PHS Executive Officer and the Deputy Executive Officer" and after the word "nationwide", change the comma to a semicolon.

In Item (3), delete "and Executive Secretariat functions" and after the word "management", change the comma to a semicolon.

After Item (10), change the semicolon to a period and delete "and (11) serves as the functional manager for management over PHS regional offices".

Delete *Section HA-30 Delegations of Authority* in its entirety and substitute the following:

Section HA-30 Delegations of Authority

Office of the Assistant Secretary for Health officials shall continue to exercise, pending further redelegation, all the authorities delegated to them by

the Assistant Secretary for Health. All other delegations and redelegations of authority to the Office of the Assistant Secretary for Health officials, which were in effect immediately prior to the effective date thereof, are continued in effect pending further redelegations.

The heads of the Alcohol, Drug Abuse, and Mental Administration; Center for Disease Control; Food and Drug Administration; National Institutes of Health; Health Resources Administration; Health Services Administration; and PHS Regional Offices shall continue to exercise, pending further redelegation, all those authorities delegated to them by the Office of the Assistant Secretary for Health officials.

Dated: April 11, 1979.

Joseph A. Califano, Jr.,
Secretary.

[FR Doc. 79-12064 Filed 4-17-79; 8:45 am]
BILLING CODE 4110-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

Privacy Act of 1974; Proposed New System of Records and Amendment of Existing System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed new system of records and amendment of existing system of records.

SUMMARY: The Department is publishing a proposed new system of records it intends to maintain and proposed amendment to an existing system of records. The new system is entitled "Section 8 Program Research Data Files." The proposed amendment is to the "routine uses" section of the records system, entitled "Property and Mobile Home Improvement and Rehabilitation Loans-Delinquent/Default."

EFFECTIVE DATE: Both the new system of records and the amendment to the existing system of records shall become effective without further notice on May 18, 1979, unless comments are received on or before May 18, 1979, which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Rosenthal, Departmental Privacy Act Officer, Room 3180, Telephone 202-755-5192.

SUPPLEMENTARY INFORMATION: The new system of records will result from surveying participants in HUD's Section 8 program in order to evaluate the program and the housing improvements experienced by program participants.

The routine uses are being amended to add financial institutions that serviced Title I and Section 312 loans which went into default and were assigned to HUD by such financial institutions. Because of defaults, the financial institutions would inform credit reporting agencies that the borrowers had defaulted. The balances of the loans assigned to HUD are collected by HUD. Many of these loans are paid off subsequently by borrowers and in order to be fair, the Department reports such payoffs to the financial institutions that assigned the loans so they, in turn, can inform the credit reporting agencies of the payoffs.

A new system report was filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget on February 2, 1979.

The address for the Department's Phoenix, Arizona field office was incorrectly cited at 43 FR 55122 (November 24, 1978). The correct address is: 101 North First Avenue.

The amended routine uses section is to read as follows:

SYSTEM NAME:

Property and Mobile Home Improvement and Rehabilitation Loans—Delinquent/Default
* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to GAO—for audit purposes; to private employers and other Federal agencies—for the purpose of collecting government-owed debts; to the Department of Justice and U.S. Attorney's Offices—for collection purposes; and to financial institutions that serviced Title I loans that were assigned to HUD and subsequently paid off—to inform credit reporting agencies that the loans were paid off; to local agencies that service Section 312 loans—to aid in the collection of delinquent loans; and to counseling agencies—to provide counseling and assistance in the collection of delinquent Section 312 debts in accordance with HUD/Dept-22.
* * * * *

A description of the new system of records follows:

HUD/PD&R-6

SYSTEM NAME:

Section 8 Program Research Data Files.

SYSTEM LOCATION:

Cambridge, Massachusetts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Families selected in a random sample of applicants to and certificate holders in the Section 8 Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, household demographics (age, sex, race, education, income, handicapped/disabled), status/condition of pre-program housing unit, typology of pre-program neighborhood, and program understanding of the respondent.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, address.

SAFEGUARDS:

Manual files will be kept in lockable cabinets in a secured area; computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

RETENTION AND DISPOSAL:

All personal identifiers will be destroyed approximately four months after the system is created.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer

at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject.

AUTHORITY: 5 U.S.C. 552a, 88 Stat. 19896; Section 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., April 9, 1979.

William A. Medina,

Assistant Secretary for Administration,

[Docket N-79-922]

FR Doc. 79-12058 Filed 4-17-79; 8:45 am]

BILLING CODE 4210-01-M

INTERNATIONAL TRADE COMMISSION

Oleoresins From India; Investigation and Hearing

Having received advice from the Department of the Treasury on April 4, 1979, that a bounty or grant is being paid with respect to oleoresins imported from India, entered under item 450.20 of the Tariff Schedules of the United States and accorded duty-free treatment, the United States International Trade Commission on April 13, 1979, instituted investigation No. 303-TA-10 under section 303(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(b)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing in connection with the investigation will be held in the Commission's Hearing Room, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t., on Tuesday, May 22, 1979. All persons shall have the right to appear by counsel or in person, to present evidence and be heard. Requests to appear at the public hearing shall be filed with the Secretary

of the Commission at his office in Washington, D.C. not later than noon, Thursday, May 17, 1979.

In addition to, or in lieu of, an appearance at the hearing, interested persons are requested to submit to the Commission, in writing, any information pertinent to whether an industry in the United States is being or is likely to be injured or is prevented from being established, by reason of the importation of oleoresins from India. Written statements should be addressed to the Secretary of the Commission at the Commission's office in Washington, D.C., and should be submitted not later than June 1, 1979.

By order of the Commission.

Issued: April 13, 1979.

Kenneth R. Mason,
Secretary.

[303-TA-10]

[FR Doc. 79-12066 Filed 4-17-79; 8:45 am]

BILLING CODE 7020-02-M

LEGAL SERVICES CORPORATION

Grants and Contracts

April 13, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: West Texas Legal Services in Ft. Worth, Texas to serve Sterling, Coke, Runnels, Coleman, Irion, Tom Green, Concho, McCulloch, Martin, Howard, Glasscock, Borden, Scurry, Fisher, Mitchell, Callahan, Parmer, Castro, Swisher, Bailey, Cochran, Crosby, Yoakum, Terry, Lynn, Gaines and Dawson Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Alice Daniel,

Acting President.

[FR Doc. 79-12046 Filed 4-17-79; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

April 13, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Legal Services of Eastern Oklahoma in Tulsa, Oklahoma to serve Atoka, Coal, Craig, Nowata, Rogers, Pittsburg, Pawnee, Wagoner and Washington Counties.

Interested persons are hereby invited to submit written comments or recommendation concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Alice Daniel,

Acting President.

[FR Doc. 79-12047 Filed 4-17-79; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA Advisory Council; Meeting

The NASA Advisory Council (NAC) will meet on May 8 and 9, 1979, in room 7002, Federal Building 6, 400 Maryland Avenue SW, Washington, DC 20546. Except as noted below, the meeting will be open to the public up to the seating capacity of the room (approximately 60 persons, including Council members and other participants). Visitors will be requested to sign a visitor's register.

The meeting will be closed to the public from 8:30 a.m. to 10:30 a.m. on May 9, 1979, for a discussion of the qualifications of candidates for membership on the Council and its Life Sciences Advisory Committee. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this session will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this session should be closed to the public.

The NASA Advisory Council was established as an interdisciplinary group to advise NASA senior management on NASA's aeronautics and space

programs. The Council is concerned with providing advice in the substantive areas of aeronautics, life sciences, space and terrestrial applications, space science, space systems and technology, and history as they relate to aeronautics and space programs. The Council is chaired by Dr. William A. Nierenberg and is composed of fifteen other members. Standing committees containing additional members report to the Council.

The following list sets forth the approved schedule for the meeting. For further information, contact the Executive Secretary, Mr. Nathaniel B. Cohen, Area Code 202 755-8383, NASA Headquarters, Washington, DC 20546.

Agenda

May 8, 1979

8:30 a.m.—Introduction.

9:00 a.m.—FY 1980-1984 Five Year Plan.

9:30 a.m.—NAC Involvement in FY 1981-1985 Five Year Planning.

10:00 a.m.—Cross-Cutting Technologies in Future Planning.

1:00 p.m.—Science/Applications Space Platform Study.

2:30 p.m.—NAC Committee and Subcommittee Reports.

4:30 p.m.—Adjourn.

May 9, 1979

8:30 a.m.—Executive Session (NAC Membership).

10:30 a.m.—NAC Committee and Subcommittee Reports (Continued).

2:00 p.m.—New Business.

3:00 p.m.—Adjourn.

Russell Ritchie,

Acting Associate Administrator for External Relations.

April 13, 1979.

[Notice 79-44]

[FR Doc. 79-11962 Filed 4-17-79; 8:45 am]

BILLING CODE 7510-01-M

NASA Advisory Council (NAC), Historical Advisory Committee; Meeting

The Historical Advisory Committee of the NASA Advisory Council will meet from 8:30 a.m. to 3:15 p.m., May 14, 1979, at NASA Headquarters, 400 Maryland Avenue, SW, Washington, DC (room 5026). The public will be admitted up to the seating capacity of the room, which is approximately 40 persons.

The Historical Advisory Committee was established to advise NASA on its history program. The committee, chaired by Dr. Thomas Hughes, has a total of five members, all from the field of the history of science and technology.

The agenda for the meeting is as follows:

Agenda

May 14, 1979

Time and Topic

- 8:30 a.m.—Introductory Remarks.
- 9:00 a.m.—Records Disposition and its Relation to the History Program.
- 1:00 p.m.—Oral History in the NASA History Program.
- 2:00 p.m.—Report Preparation.
- 3:15 p.m.—Adjourn.

For further information, contact Dr. Monte D. Wright, executive secretary of the committee, at (202) 755-3612.

Russell Ritchie,
Acting Associate Administrator for External Relations.
April 12, 1979

[Notice 79-45]
[FR Doc. 79-11963 Filed 4-17-79; 8:45 am]
BILLING CODE 7510-01

NASA Advisory Council (NAC), Space and Terrestrial Applications Advisory Committee (STAAC); Meeting

The *Ad Hoc* Informal Executive Subcommittee of the NAC-STAAC will meet on May 7, 1979 at NASA Headquarters, Room 226A, Federal Office Building 10B, 600 Independence Avenue, S.W., Washington, D.C. 20546. The meeting is open to the public. Members of the public will be admitted to the meeting on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 35 persons.

The Subcommittee, chaired by Dr. John W. Firor, is comprised of the chairpersons of each of the other six subcommittees and is convened to review and discuss the findings of each subcommittee to determine if any common concerns or problems exist and what significant conclusions or recommendations should be reported to the NAC by Dr. Firor.

The approved agenda for the meeting is as follows:

May 7, 1979

Time and Topic

- 8:30 am—Chairperson's Remarks. Report by the *ad hoc* Informal Advisory Subcommittee Chairpersons on the Findings, Conclusions and Recommendations of their Respective Subcommittee.
- 9:00 am—Agriculture, Land Cover and Hydrology.
- 9:45 am—Satellite Communications Applications.
- 10:15 am—Geodynamics and Geology.
- 11:00 am—Materials Processing in Space.
- 11:30 am—Technology Transfer.
- 1:00 pm—Weather, Climate and Oceans.
- 1:45 pm—Strengths, Weaknesses and Issues: Specific Findings to be Reported to NAC.
- 2:45 pm—Peer Review in Office of Space and Terrestrial Applications.

3:30 pm—Adjourn.

For further information regarding the meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, DC 20546, telephone (202) 755-7450.

Russell Ritchie,
Acting Associate Administrator for External Relations.
April 12, 1979.

[Notice 79-43]
FR Doc. 79-11961 Filed 4-17-79; 8:45 am]
BILLING CODE 7510-01-M

Draft Environmental Impact Statement; Public Notice Regarding Availability

Notice is hereby given of the public availability of the draft environmental impact statement for the National Aeronautics and Space Administration (NASA) Kennedy Space Center.

The environmental effects of activities at the Kennedy Space Center (KSC) have been the subject of two previous environmental impact statements. The first, published in 1971, described ongoing institutional operations, and the second, published in 1973, addressed the environmental effects associated with Space Shuttle development and operations. Since that time, new information on the environmental effects discussed in these documents has become available. The present draft has therefore been prepared to bring up to date and supersede the 1971 and 1973 statements, and is being issued at this time.

Comments on the draft environmental impact statement and on matters set forth therein are solicited from and may be submitted by state and local agencies and members of the public. Such comments should be submitted to the Associate Administrator for External Relations, National Aeronautics and Space Administration, Washington, DC 20546. All comments must be received by June 16, 1979, in order to be considered in the preparation of the final environmental impact statement.

Copies of the draft may be obtained from NASA, Code LFF, Washington, DC 20546, or examined at any of the following locations:

- (a) National Aeronautics and Space Administration, Public Documents Room (Room 126), 600 Independence Avenue, SW, Washington, DC 20546.
- (b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, CA 94035.
- (c) Hugh L. Dryden Flight Research Center, NASA (Building 4800, Room 1017), P.O. Box 273, Edwards, CA 93523.
- (d) Goddard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, MD 20771.

(e) Johnson Space Center, NASA (Building 1, Room 136), Houston, TX 77058.

(f) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, FL 32899.

(g) Langley Research Center, NASA (Building 1219, Room 304), Hampton, VA 23365.

(h) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, OH 44135.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G-11), Huntsville, AL 35812.

(j) National Space Technology Laboratories, NASA (Building 1100, Room A-713), Bay St. Louis, MS 39520.

(k) Jet Propulsion Laboratory, (Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, CA 91103.

(l) Wallops Flight Center, NASA (Library Building, Room E-105), Wallops Island, VA 23337.

Done at Washington, DC, this 12th day of April 1979.

By the direction of the Administrator.
April 12, 1979.

Russell Ritchie,
Acting Associate Administrator for External Relations.
[Notice 79-46]
[FR Doc. 79-12000 Filed 4-17-79; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

Public Meeting

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on May 7 and May 8, 1979, in Room 550, 2000 K Street, N.W., Washington, D.C. 20006.

The National Commission on Employment and Unemployment Statistics was established under Section 13 of the Emergency Jobs Program Extension Act of 1975, Public Law 94-444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the procedures, concepts, and methodology involved in employment and unemployment statistics, and suggesting ways and means of improving them.

The meetings will begin each day at 9:00 a.m. to review public comments on the Commission's Preliminary Draft Report. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting: Mr. Wesley H. Lacey,

Administrative Officer, National Commission on Employment and Unemployment Statistics, Suite 550, 2000 K Street, N.W., Washington, D.C. 20006.

Signed at Washington, D.C., this 13th day of April, 1979.

Arvil V. Adams,

Executive Director.

[FR Doc. 79-11960 Filed 4-17-79; 8:46 a.m.]

BILLING CODE 4510-23-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee For Social Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Executive Committee of the Advisory Committee for Social Sciences.

Date & Time: May 4 & 5, 1979; 9:00 a.m.-5:00 p.m. each day.

Place: Room 321, National Science Foundation, 1800 G Street N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Herbert L. Costner, Division Director, Social Sciences, Room 316, National Science Foundation, Washington, D.C. 20550, Telephone No. 202/832-4286.

Purpose of Committee: To provide advice and recommendations concerning support of research in the social sciences.

Agenda: Review and comparison of declined proposals (and supporting documentation) with successful awards under Geography and Regional Science and Measurement Methods and Data Resources programs, including review of peer review materials and other privileged material.

Preparation of a report based upon the above review.

Reason for Closing: The meeting will deal with a review of grants and declinations in which the committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt material and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Director, NSF, in accordance with the provision of

Section 10(d) of P.L. 92-463, the Federal Advisory Committee Act.

April 13, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 79-12038 Filed 4-17-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Duke Power Co.; Notice of Evidentiary Hearing

April 12, 1979.

In the Matter of Duke Power Company (License Amendment for Transportation and Storage of Oconee Spent Fuel at McGuire Nuclear Station).

Please take notice that pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10, Code of Federal Regulations, Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection", Part 70, "Special Nuclear Material", and Part 2, "Rules of Practice", notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (the Board) to consider the application of Duke Power Company (the Applicant) for an amendment to Special Nuclear Material License No. SNM-1773 issued pursuant to 10 CFR Part 70 to authorize the receipt and storage of Oconee Nuclear Station spent fuel at the McGuire Nuclear Station.

The hearing will be held at 9:30 a.m., local time, on June 19-29, 1979 at the Board Room of the Mecklenburg County Administration Building, 720 East Fourth Street, Charlotte, North Carolina. This hearing will be conducted by an Atomic Safety and Licensing Board which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Dr. Emmeth A. Luebke and Dr. Cadet H. Hand, Jr., Members, and Marshall E. Miller, Esq., Chairman.

On July 28, 1978, the Nuclear Regulatory Commission published a notice that it is considering an application filed March 9, 1978, by Duke Power Company for amendment to Special Nuclear Material License No. SNM-1773. In its application for amendment to its license, Applicant seeks authorization for receipt, possession, inspection and storage of irradiated fuel from the Applicant's Oconee Nuclear Facility in Oconee County, South Carolina, at the Applicant's McGuire facility located in Mecklenburg County, North Carolina, including transport of the irradiated fuel by truck between the two sites. The notice was given general public

distribution including the news media and was published in the Federal Register on July 28, 1978 (43 FR 32905).

The notice provided that any member of the public whose interest may be affected by the proceeding may file a request for a public hearing in the form of a petition for leave to intervene with respect to whether the proposed amendment to SNM-1773 should be issues.

Pursuant to the notice, a number of petitions for leave to intervene have been filed. Thereafter, a prehearing conference in this proceeding was held by this Atomic Safety and Licensing Board designated to rule on petitions for leave to intervene (Intervention Board) in Charlotte, N.C. on October 24, 1978. All parties and petitioners were represented and participated in the conference during which the Intervention Board heard oral argument regarding the petitions for leave to intervene and the contentions which petitioners seek to have litigated in this proceeding.

The Order of the Intervention Board granted the petitions filed by Carolina Environmental Study Group (CESG), Safe Energy Alliance (SEA), and Carolina Action in Charlotte (Carolina Action). In addition, the State of South Carolina was admitted to participate as an interested State pursuant to the provisions of 10 CFR § 2.715(c).

Following decisions by the Appeal Board (Order dated February 13, 1979; ALAB-528, February 26, 1979), Natural Resources Defense Council (NRDC) was permitted to intervene in this proceeding on a discretionary basis, and its Contentions 1-6 were admitted as contentions by our Order of March 16, 1979. Davidson College Chapter of the North Carolina Public Interest Research Group (PIRG) was granted leave to intervene by our Order of February 27, 1979, and its participation was consolidated with that of Intervenor Carolina Action, in accordance with the provisions of 10 CFR 2.714(e) and 2.715a.

For further details with respect to the matters under consideration, see the application for amendment dated March 9, 1978, and other documents and correspondence related thereto which are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C., and at the local Public Document Rooms at the Public Library of Charlotte and Mecklenburg County, 310 North Tryon Street, Charlotte, N.C. 28202, and at the Oconee County Library, 201 South Spring Street, Walhalla, S.C. 29691.

Any person who wishes to make an oral or written statement in this

proceeding but who has not filed a petition for leave to intervene may request permission to make a limited appearance pursuant to the provisions of 10 CFR § 2.715 of the Commission's rules of practice. Limited appearances will be permitted in this proceeding at the discretion of the Board, within such limits and on such conditions as may be determined by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, on or before June 1, 1979. A person permitted to make a limited appearance does not become a party, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless granted the right to intervene as a party or the right of limited appearance.

It is so ordered.

Dated at Bethesda, Maryland this 12th day of April 1979.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,
Chairman.

[Docket 70-2823]

[FR Doc. 79-12029 Filed 4-17-79; 8:45 am]

BILLING CODE 7590-01-M

Petitions for Rulemaking; Issuance of Quarterly Report

The Nuclear Regulatory Commission has issued the March 31, 1979, quarterly report on petitions for rulemaking. This report is issued in accordance with 10 CFR 2.802 and is a quarterly summary of petitions for rulemaking that are pending final action.

A copy of this report, designated NRC Petitions for Rulemaking Pending Final Action as of March 31, 1979, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Request for single copies of this report, or request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 15th day of April, 1979.

For the Nuclear Regulatory Commission.

Joseph M. Felton,

Director, Division of Rules & Records, Office of Administration.

[FR Doc. 79-12032 Filed 4-17-79; 8:45 am]

BILLING CODE 7590-01-M

Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants; Report of NRC/EPA Task Force on Emergency Planning; Extension of Comment Period

Announcement of the availability of a report titled "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants" (NUREG-0396, EPA 520/1-78-016) was made December 15, 1978 (43 FR 58658). Public comments were requested by March 30, 1979.

This report was prepared by a joint Task Force from the Environmental Protection Agency and the Nuclear Regulatory Commission in response to a request from the Conference of (State) Radiation Control Program Directors to "make a determination of the most severe accident basis for which radiological emergency response plans should be developed by offsite agencies."

In view of the recent accident at the Three Mile Island Nuclear Power Station, Middletown, Pennsylvania and the need for additional time expressed by some interested parties, I am extending the public comment period on this report to May 15, 1979.

Comments should be forwarded to Harold E. Collins, Assistant Director for Emergency Preparedness, Office of State Programs, Nuclear Regulatory Commission, Washington, D.C. 20555.

Copies of the report and the Federal Register Notice of December 15, 1978 were distributed to State and local officials with responsibilities for radiological emergency response planning, environmental and public interest groups and utility industry groups and associations. Other copies are available in the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Commission's local public document rooms located in the vicinity of existing nuclear power plants. A limited number of copies are available for single distribution at the Division of Technical Information and Document Control, Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 11th day of April 1979.

For the Nuclear Regulatory Commission.

Harold E. Collins,

Assistant Director for Emergency Preparedness, Office of State Programs.

[NUREG-0396, EPA 520/1-78-0160]

[FR Doc. 79-12031 Filed 4-17-79; 8:45 am]

BILLING CODE 7590-01-M

Public Service Company of Indiana, Inc. (Marble Hill Nuclear Generating Station, Units 1 & 2); Request To Reopen Safety Hearings

Notice is hereby given that Save the Valley-Save Marble Hill has requested that the safety hearings be reopened for the Marble Hill Nuclear Generating Station. This request was initially addressed to the Atomic Safety and Licensing Appeal Board in a motion which the Appeal Board denied for lack of jurisdiction on March 19, 1979 (ALAB-530) and then referred to the Director of Nuclear Reactor Regulation for treatment under 10 CFR § 2.206 of the Commission's regulations. Save the Valley-Save Marble Hill has also petitioned the Director of Nuclear Reactor Regulation to suspend or revoke the construction permits issued for the Marble Hill facility. The motion to the Appeal Board and the petition to the Director will be considered together as a request for action under 10 CFR § 2.206.

In accordance with the procedures specified in 10 CFR § 2.206, action will be taken on this request within a reasonable time. Copies of the motion to the Appeal Board and petition to the Director are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Madison-Jefferson County Public Library, 420 West Main Street, Madison, Indiana 47250.

Dated at Bethesda, Maryland this 12th day of April, 1979.

For the Nuclear Regulatory Commission.

Roger S. Boyd,

Acting Director, Office of Nuclear Reactor Regulation.

[Docket Nos. STN 50-546, STN 50-547]

[FR Doc. 79-12030 Filed 4-17-79; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by

the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.43, Revision 1, "Nuclear Criticality Safety in the Storage of Fissile Materials," describes procedures acceptable to the NRC staff for complying with portions of the Commission's regulations with regard to the prevention of criticality accidents in the storage of fissile materials outside nuclear reactors. The guide endorses ANSI N16.5-1975, "Guide for Nuclear Criticality Safety in the Storage of Fissile Material," and was revised as a result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 10th day of April 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 79-12033 Filed 4-17-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards

Ad Hoc Subcommittee on the Three Mile Island Nuclear Station, Unit 2 Accident; Meeting Change

The April 23-24, 1979 meeting of the ACRS Ad Hoc Subcommittee on the Three Mile Island Nuclear Station, Unit

2 Accident, scheduled to be held in Los Angeles, California, has been changed and will be held in Room 1046, 1717 H Street, N.W., Washington, D.C. Notice of this meeting was published on April 12, 1979 (44 FR 21906).

Dated: April 13, 1979.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-12053 Filed 4-17-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act of 1974; Supplemental Guidance for Matching Programs

AGENCY: Office of Management and Budget.

ACTION: Issuance of guidelines for the performance of computerized matching programs.

SUMMARY: This document is the final version of matching guidelines which were issued for comment in August, 1978. The guidelines apply primarily to matching programs conducted by Federal agencies for the purpose of detecting or curtailing fraud and abuse in Federal assistance programs, or collecting delinquent loan or benefit payments owed to the Federal Government.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT: Leslie Borden Greenspan, Information Systems Policy Division, Office of Management and Budget, Room 9002, New Executive Office Building, Washington, D.C. 20503; telephone (202) 395-3785.

SUPPLEMENTARY INFORMATION: The guidelines were published in proposed form on August 4, 1978 (43 FR 34724). Comments were received from 40 Executive Branch agencies, the General Accounting Office, the Congress, and nine non-Federal organizations. In addition, discussions were held between OMB staff and other concerned agency staff members. The final version reflects to the greatest extent possible the comments received.

The Matching Guidelines were signed by the Director of OMB on March 30, 1979, and issued with President Carter's Message to the Congress on Privacy on April 2, 1979. The text of the guidelines is set forth below.

Velma N. Baldwin,

Assistant to the Director for Administration.

To the heads of executive departments and establishments.

SUBJECT: Guidelines for the Conduct of Matching Programs.

This memorandum forwards guidelines for computer matching of personal records by Federal executive agencies. These guidelines are being issued by OMB to aid agencies in balancing the government's need to maintain the integrity of Federal programs with the need to protect an individual's right to privacy. They are not intended to authorize the performance of matching programs, but rather to provide guidance for matching programs which are otherwise justified.

In August 1978 a draft of the guidelines was issued for agency and public comment. Major changes made as a result of the comments received include:

- The guidelines have been extensively restructured and reworded to answer many questions of interpretation which were raised.

- The requirements for agency reporting on matching programs which involve periodic matching of the same kinds of personal records and matching programs for purposes other than curtailing fraud in assistance programs have been simplified to reduce the reporting burden while preserving the opportunity for public comment.

- Criteria for the use of contractors in the conduct of matching programs have been substituted for the stringent limitations on the use of contractors included in the earlier draft.

Any questions regarding these guidelines may be directed to the Information Systems Policy Division (395-3785).

James T. McIntyre, Jr.,
Director.

Matching Guidelines

1. *Purpose*—This document is a supplement to the "OMB Guidelines on the Administration of the Privacy Act of 1974," issued on July 1, 1975 and supplemented on November 21, 1975. It provides guidance to Federal agencies for computerized matching of individuals' records. These guidelines are intended to aid agencies in balancing the government's need to maintain the integrity of Federal programs with the individual's right to personal privacy. These guidelines do not authorize activities which are not permitted by law; nor do they prohibit activities which are not permitted by law; nor do they prohibit activities expressly required to be performed by law. The procedures and limitations set forth in these guidelines apply, even when a statute authorizes or requires a matching program to be carried out, to the extent that these procedures and limitations would not frustrate the

legislative purposes of that statute. Compliance with these guidelines does not relieve a Federal agency of the obligation to comply with the provisions of the Privacy Act, including any provisions not cited in these guidelines.

2. *Scope*—These guidelines apply to all agencies subject to the Privacy Act of 1974 and to all matching programs:

a. Performed by a Federal agency, whether the records used in the match are Federal or non-Federal, or

b. For which a Federal agency discloses any records for use in a matching program performed by any other Federal agency or any non-Federal organization.

3. *Effective date*—These guidelines are effective upon the date of their issuance.

4. *Definitions*

a. All definitions in the Privacy Act and OMB Circular No. A-108 apply to these guidelines.

b. A "personal record" means any information pertaining to an individual, stored in a computer system which is retrieved by his or her name or other personal identifier.

c. A "matching program" is a procedure involving the use of a computer to compare a substantial number of records in a Federal system of records with records in one or more other systems of records, or with a set of non-Federal personal records, for the purpose of identifying individuals whose records appear in more than one of the systems of records or sets of personal records compared. The procedure includes all steps associated with the match, including the acquisition of the records to be matched, the actual use of the computer, and the disposition of information maintained in connection with the match. Checks on specific individuals to verify information provided in an application for benefits, or checks on specific individuals based on information which raises questions concerning the individual's eligibility for benefits which are made reasonably contemporaneously with the application or receipt of the information, are not considered matching programs, regardless of the number of checks made at the same time or that computers are used in making such checks. Matching programs do not include matches performed for the purpose of producing aggregate statistical data which is subsequently used without individual identifiers.

d. An "anti-fraud matching program" is a matching program performed for the purpose of detecting or curtailing fraud or abuse in a Federal assistance program, or for the collection of

delinquent loan or benefit payments owed to the Federal Government.

e. A "matching agency" is the agency which performs or seeks to perform, a matching program.

f. A "matching source" is the agency which discloses records to a matching agency for a matching program.

g. A "hit" is the identification, through a matching program, of a specific individual.

h. The "Act" means the Privacy Act of 1974 (Section 3 of Pub. L. 93-579, 5 U.S.C. 552a).

5. *Guidelines for Agencies Conducting Anti-fraud Matching Programs*—Agencies which conduct anti-fraud matching programs using personal records from any other Federal agency, or from a non-Federal organization, should conduct those matching programs in accordance with the provisions of this section.

a. *Development of matching programs*—A matching program should be undertaken only if a demonstrable financial benefit can be realized which significantly outweighs the costs of the match and any potential harm to individuals that could be caused by the matching program, e.g., public disclosure of information about an individual of improper termination of a benefit. The matching agency should consider alternative means of detecting or curtailing fraud and abuse or collecting debts owed to the Federal Government, and should undertake a matching program only if the alternatives are less effective, or more expensive or would present a greater threat to personal privacy. An analysis of the benefits, costs, potential harm, and alternatives considered should be prepared and documented by the agency proposing to conduct the match. This analysis should, as a minimum include:

(1) Estimated losses resulting from fraud, abuse, error, or loan defaults.

(2) Estimates of the number of individuals who are receiving or have received benefits for which they are ineligible, or who have defaulted on loans.

(3) The amount which could potentially be recovered or saved by identification of those individuals and the termination of improper payments or the collection of delinquent debts.

(4) Potential savings which could be achieved through deterrence of ineligible applicants or through other improvements in the program management (e.g., reduced error rates), based on the matching program.

(5) Estimates of reimbursement costs to be paid to the matching source for the

acquisition of records for the matching programs.

(6) Estimates of any cost involved in the actual matching itself, including costs of planning the match, time or effort necessary to make the sets of personal records compatible and the computer time required for the match.

(7) Estimated costs of follow-up on individual "hits," including verification of individuals' records, locating the individuals, any planned counseling of those individuals, collection efforts, and litigation.

(8) An assessment of the extent to which the conduct of the matching program could discourage individuals from exercising their rights.

(9) An analysis of alternative means for curtailing fraud that were considered and rejected, including a full description of the reasons why they were not considered viable alternatives to conducting a matching program.

b. *Matching reports*—The matching agency should submit a report describing the proposed matching program, consistent with the provisions of this section, to the Director of OMB, the Speaker of the House of Representatives, and the President of the Senate 60 days before a matching program is initiated. If the matching program will involve or result in the establishment or significant alteration of a system of records subject to the Privacy Act, the matching report should be submitted as a part of a Report on New or Altered Systems as required by OMB Circular No. A-108, as amended. If the records to be disclosed by the matching source are to be "maintained" (as defined in subsection (a)(3) of the Privacy Act), by the matching agency, the matching agency must publish a system notice for those records. In addition, the records on "hits" may constitute a system for which a system notice must be published. The advance notice period may be waived by OMB in the same manner as provided in OMB Circular No. A-108. In those cases where the agency determines that compliance with these guidelines would frustrate the purpose of a statute which requires matching of records, the matching report shall set forth the basis for the agency's determination and clearly identify those portions of the guidelines which would frustrate the statutory requirement.

(1) *One time matching programs*—For one time matching programs the report should include a copy of the agency's analysis of benefits, costs and potential harm prepared in accordance with 5. (a) above, and a description of the matching program, including—

(a) The starting and estimated completion dates of the program.

(b) A description of the personal records to be matched.

(c) The system name(s), date(s) and page(s) of the most recent publication in the **Federal Register** of system notices for systems used to perform the matching program. This includes systems of records maintained by both the matching agency and the matching source.

(d) The source(s) from which records will be obtained and a copy of the routine use or description of any other authority by which records will be disclosed.

(e) The procedures to be followed, both in the actual matching, and in following up on "hits."

(f) A discussion of how individuals' privacy and other rights will be protected, for example, limitations on the amount of information maintained, or on improper access to records.

(g) The safeguards to be applied in the design and operation of the matching program to protect against unauthorized access or disclosure of personal records, consistent with the requirements of OMB circular No. A-71, Transmittal Memorandum No. 1 dated July 27, 1978.

(h) The kinds of records which will be disclosed as a result of the match and those to whom records will be disclosed, including the basis for any routine uses.

(i) The plans for disposal of records developed in connection with the conduct of the matching programs, including the records on "hits" and any additional information maintained on the "hits."

(j) An identification of all Federal and non-federal organizations (including contractors) involved in performing the match and the roles to be performed by each organization.

(2) Continuing matching programs—Continuing matching programs (e.g., a monthly or semi-annual match of recipients of a benefit against the Federal payroll, or a series of matches of the Federal payroll against similar personal records from several States) should be reported as follows:

(a) Initial report—In addition to the information required in one-time matching reports specified in 5(b)(1) above, the initial report for a continuing matching program shall include a discussion of the justification for performing periodic matches of the same kinds of records, an indication of how often the matches will be performed, and a discussion of the relationship, if any, between the periodic matches (e.g., whether new files of the "hits" are created and matched against earlier

"hits," and the disposition of those records).

(b) Renewal report—The matching agency should submit a renewal report to OMB and the Congress annually for as long as the program continues. The renewal report should provide justification for continuing the matching program and an evaluation of the previous year's results. The renewal report should describe the results of the previous year's activity, including aggregate data on the number of "hits" in each match, the disposition of those cases, the cost to date of the program, the estimated amounts of money saved or recovered through the program, and the disposition of personal records, consistent with paragraph d. (3) below; and any changes to be made in the matching program as a result of the previous year's experience. The matching agency may submit an annual consolidated renewal report on all continuing matching programs subject to this section, provided that all matching programs initiated within the preceding 12 months are included.

(c) Change report—The matching agency should submit a revised matching report to OMB and the Congress 30 days before obtaining records from a new matching source, changing the kinds of records used, or the kinds of disclosures made. This report should include a description of the changes made and a copy of the initial report. If a system of records is established or significantly altered by the change, a Report on New or Altered Systems must be submitted 60 days before the system is established or altered.

c. *Operating requirements*—Anti-fraud matching programs should be conducted in accordance with the following guidelines:

(1) Use of contractors—Matching programs should, to the maximum extent practicable, be conducted "in-house" by Federal agencies, using agency personnel, rather than by contract. When contractors are used:

(a) The matching agency should, consistent with subsection (m) of the Act, cause the requirements of the Act to be applied to the contractor's performance of the matching program. The contract should include the Privacy Act clause required by FPR Amdt. 155, 41 CFR 1-1.337-5.

(b) The terms of the contract should include appropriate privacy and security provisions consistent with policies, regulations, standards and guidelines issued by OMB, GSA, and the Department of Commerce.

(c) The terms of the contract should preclude the contractor from using, copying, or retaining records associated with the matching program for the contractor's own use.

(d) The contractor personnel involved in the matching program should be explicitly made aware of their obligations under the Act, these guidelines, agency rules and any special safeguards in relation to each specific match performed.

(e) Disclosures of records by the agency to the contractor should be made pursuant to a routine use.

(2) Acquisition of records—The matching agency should not acquire records for use in a matching program other than in accordance with these guidelines. The matching agency should provide the matching source with any information necessary for the source to make an informed decision on the appropriateness of disclosing information for the proposed match. (See section 6.) As a minimum, the matching agency should provide the matching source with copies of the analysis of benefits, costs, potential harm and alternatives developed under 5.a above, and a written statement outlining the plans for the match, including:

(a) A description of the personal records to be disclosed by the source.

(b) A description of the personal records against which they will be matched.

(c) The dates when the records will be disclosed by the source and the dates when they will be returned to the source or destroyed.

(d) A description of additional information which may subsequently be requested of the source in relation to "hits," (e.g., detailed payroll information on "hits").

(e) Subsequent actions expected of the source (e.g., verification of the identity of the "hits" or follow-up with matching source employees who are "hits").

(f) The methodology to be used for allocation of any costs of conducting the matching program between the matching agency and the matching source, and any related understanding in regard to financing or transfer of resources in connection with the match.

(g) Any limitations on redisclosure of information provided to the matching agency by the matching source or to disclosure of any information provided to the matching source as a result of the match.

(3) Disclosure of matching program records—Disclosures of personal records which result from the matching program should be made only under the

conditions specified in subsection (b) of the Privacy Act, the 1975 OMB Guidelines, and these guidelines, unless another statute specifically requires a disclosure which is not provided for in the Privacy Act. While subsection (b) of the Privacy Act establishes various conditions for disclosing records without the advance written consent of the subject, disclosures made in connection with a matching program should be made, to the extent possible, pursuant to the routine use provisions, as outlined in (a), below. Disclosures made pursuant to other provisions of subsection (b) of the Privacy Act, or pursuant to another statute, should be made as outlined (b), below. Disclosures of personal records maintained in connection with the matching program should disclose no more information than necessary, and should disclose information to as few recipients as possible. Disclosures should be made only as necessary to conduct or achieve the purpose of the matching program, and should be made only with the prior written approval of the matching agency official who is responsible for the system of records.

(a) Routine uses—The matching agency shall, consistent with subsection (e)(11) of the Act, publish in the **Federal Register** a notice describing any routine uses of personal records maintained in connection with the matching program. The description of the routine use should clearly indicate that it is associated with a matching program. In addition, the notice should explain the justification for the routine use, including how the disclosure is compatible with the purpose for which the information was collected, and indicate why the records cannot be disclosed without individual identifiers. After publishing the routine use notice in the **Federal Register** and allowing 30 days for public comment, the matching agency should consider any comments which have been received, and revise the routine use as appropriate. After the expiration of the 30 day comment period, the routine use notice should be republished if it has been revised based on comments received. If the routine use is not revised because no comments were received or the comments did not warrant a revision, the matching agency should publish a short notice indicating that the routine use is adopted as originally published, and, if comments were received, indicating the basis for their rejection. The routine use may become effective (i.e., disclosures may be made) immediately following the initial 30-day comment period.

(b) Other disclosure—The matching agency should determine and give notice

of any kinds of disclosures which it will make in relation to the matching program, other than those made pursuant to a routine use. The notice should be published in the **Federal Register**, outlining the conditions under which the disclosures will be made and the justification and legal authority for making those disclosures. This notice should be published prior to the conduct of the match and concurrent with the publication of any new or revised system notices or routine uses when applicable.

(4) Limitations on redisclosure—Whenever the matching agency discloses any records which result from a match program, including but not limited to those pertaining to "hits" which result from a matching program, the agency should as an express condition of the disclosure, provide a statement to the recipient which sets forth:

(a) The use to which the records will be put by the recipient.

(b) A stipulation that the recipient will disclose them further only where required by law or where (e.g., in the case of a law enforcement or administrative agency) such disclosure is compatible with the purpose for which the records were originally disclosed to the matching agency by the matching source.

(c) The date by which the records transferred will be destroyed or returned to the matching agency, or, if it is necessary that the records be retained by the recipient, a written explanation of why they are being retained.

d. Termination of matching programs and disposal of records

(1) Records obtained from the matching source—Personal records obtained from the matching source should be destroyed or returned to the source within six months after the match takes place. However, if the same system of records is used in a continuing matching program, it need not be returned or destroyed until 6 months after the final match takes place.

(2) Records of "hits"—Unless otherwise required by Federal records schedules, any records related to the "hits," including computer printouts listing the "hits" and any additional personal information compiled on the "hits," should be destroyed within six months after the match unless they are necessary for the completion of pending law enforcement or administrative activities consistent with the purposes of the matching program and authorized by law. Any extension of the six month period should be published, and with

appropriate explanation, in the **Federal Register**.

(3) Notification to OMB—The matching agency should notify OMB in writing of the completion of a one-time matching program and the destruction or return of the personal records to the matching source. Disposition of records associated with continuing matching programs should be reported to OMB as a part of the renewal report required by paragraph b(2)(b), above.

6. Guidelines for Matching Source Agencies Participating in Anti-fraud Matching Programs

a. Applicability. Disclosures of personal records to any other Federal agency or non-Federal organization for the purpose of anti-fraud matching programs shall be made in accordance with the provisions of subsection (b) of the Privacy Act, related portions of the 1975 OMB Guidelines, and provisions of this section.

b. 1975 OMB Guidelines. While the 1975 guidelines apply in their entirety, selected portions are restated below to stress matching source responsibilities regarding disclosure of personal records.

(1) The 1975 Guidelines pertaining to disclosures of records without the advance written consent of the subject provide that:

"Disclosure, however, is permissive not mandatory. An agency is authorized to disclose a record (without the advance written consent of the individual to whom the information pertains) when it deems that disclosure to be appropriate and consistent with the letter and intent of the Act and these guidelines.

"Nothing in the Privacy Act should be interpreted to authorize or compel disclosures of records, not otherwise permitted or required, to anyone other than the individual to whom a record pertains pursuant to a request by the individual for access to it.

"Agencies shall not automatically disclose a record to someone other than the individual to whom it pertains simply because such a disclosure is permitted by this subsection. Agencies shall continue to abide by other constraints on their authority to disclose information to a third party including, where appropriate, the likely effect upon the individual of making that disclosure. Except as prescribed in subsection (d)(1), (individual access to records) the Act does not require disclosure of a record to anyone other than the individual to whom the record pertains." (emphasis added) (40 FR 28949, at 28953, July 9, 1975).

(2) The 1975 Guidelines pertaining to intra-agency transfers of information provide that—

"This provision (subsection (b)(1)) is based on a "need to know" concept * * * It is recognized that agency personnel require access to records to discharge their duties. In discussing the conditions of disclosure provision generally, the House Committee said that 'it is not the Committee's intent to impede the orderly conduct of government or delay services performed in the interests of the individual. Under the conditional disclosure provisions of the bill 'routine' transfers will be permitted without the necessity of prior written consent. A 'nonroutine' transfer is generally one in which the personal information on an individual is used for a purpose other than originally intended.'" (House Report 93-1416, p. 12).

"This discussion suggests that some constraints on the transfer of records within the agency were intended, irrespective of the definition of agency. Minimally, the recipient officer or employee must have an official "need to know." The language would also seem to imply that the use should be generally related to the purpose for which the record is maintained." (40 FR 28949 at 28954).

c. Matching source decision on participating in an antifraud matching program. When a Federal agency is asked to disclose personal records to another Federal agency or any non-Federal organization for the purpose of conducting an antifraud matching program, it should carefully review the information provided by the matching agency pursuant to paragraph 5c(2) and determine the appropriateness of disclosing the requested information for the proposed matching program. The review should include consideration of the authority for and purpose of the matching program, the appropriateness of disclosing the records for that purpose the procedures to be followed, and any disclosures of the results of the matching program by the matching agency. The matching source may seek any additional information necessary to make an appropriate disclosure decision. The matching source should indicate in writing its concurrence with the matching agency's statement describing the matching program, as provided for in section 5c(2) of these guidelines.

d. Disclosure of records. While subsection (b) of the Privacy Act establishes various conditions for disclosing personal records without the advance written consent of the subject,

disclosures of personal records by a matching source made for the purpose of conducting a matching program should only be made pursuant to the routine use provisions, as outlined below, unless otherwise required by statute. In those cases where the agency determines that establishment of a routine use would be contrary to other statutory requirements, it should publish a notice in the **Federal Register** outlining the statutory basis for the disclosure in lieu of publishing a routine use notice. In all other cases, the agency should publish a notice in the **Federal Register** describing routine uses associated with proposed matching program(s). The routine use notice should—

- (1) Be as specific and limited as possible.
- (2) Expressly state that the routine use is intended to permit the disclosure of records for a matching program.
- (3) Identify the matching program.
- (4) Set forth any conditions which the matching source has established for the use of the records by the matching agency in addition to those set forth in these guidelines.
- (5) Include an explanation of how the disclosure is compatible with the purpose for which the records were collected or a citation of the statute requiring disclosure.

7. Guidelines for Conducting Other Matching Programs

a. Applicability.—The reporting requirements of this section apply to—

- (1) All matching programs conducted by a Federal agency for other than antifraud purposes, using personal records from any other Federal agency or from a non-Federal organization; and
- (2) All matching programs conducted by a Federal agency which use only personal records maintained by that agency, except—

(a) Matches conducted for internal administrative purposes using personal records pertaining to agency employees and military personnel and their dependents and not conducted for the primary purpose of detecting fraud and abuse; or

(b) Matches conducted for research or statistical purposes which do not affect individual entitlements.

(b) *Reporting requirements.*—All matching programs subject to the provisions of this section should be reported to the Director of OMB, the Speaker of the House of Representatives and the President of the Senate as follows:

- (1) Within 90 days of the effective date of these guidelines, the matching agency should submit a report to OMB and the Congress describing any

matching programs in progress on the effective date, and plans, if any, for continuing these programs. Any current plans for initiating new matching programs within a year after the effective date of these guidelines should also be included in this report. The purpose of this report is to inform OMB and the Congress of the magnitude and nature of matching programs being conducted or planned and determine the need for developing additional guidelines for matching programs. These matching programs need not be suspended before being reported. The report shall include, for each matching program—

- (a) The name and purpose of the program.
- (b) The authority under which it is to be conducted.
- (c) The approximate dates on which the program will begin and end.
- (d) A description of the personal records to be matched; and, if one or both are systems of records subject to the Act, the system name(s) and the date and page of most recent publication in the **Federal Register**.
- (e) The procedures to be followed, including disposition of the records.

(2) A matching report shall be submitted to OMB and the Congress by the agency as soon as practicable before a match is performed for any one-time matching program or before the initial match of a continuing matching program which is not included in the report on matching programs submitted pursuant to paragraph b(1) above. The matching report should contain the information outlined in paragraph (b)(1) above.

(3) For any matching program which necessitates the establishment or significant alteration of a system of records subject to the Privacy Act, a Report on New or Altered Systems must be submitted 60 days before the initial match is performed, and any necessary system notices and routine uses must be published in the **Federal Register**.

(4) A Federal agency which discloses records to a non-Federal organization should report the disclosure to OMB. The report should describe the nature of the disclosure and the agency's basis for making the disclosure.

8. Implementation and oversight.—The Office of Management and Budget will oversee the implementation of and shall review, interpret and advise upon agency proposals and actions under these guidelines, consistent with Section 6 of the Privacy Act.

[FR Doc. 79-12057 Filed 4-17-79; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

Fitler, Mississippi 39070 (Loryce Hown, Petitioner); Notice and Order of Filing of Appeal

Issued April 13, 1979.

On April 11, 1979, the Commission received a handwritten letter from Loryce Hown (hereinafter "Petitioner") on behalf of herself and others similarly situated concerning alleged U.S. Postal Service plans to close the Fitler, Mississippi post office. Although the letter makes an explicit reference to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. § 404(b)], so as to preserve petitioner's right to appeal which is subject to a 30-day time limit.¹ Since the petition was apparently written by a layman rather than an attorney, it does not conform perfectly with the Commission's rules of practice which also require a petitioner to attach a copy of the Postal Service's final determination to the petition.² However, section 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.³

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of proposed post office closing so as to " . . . insure that such persons will have an opportunity to present their views."⁴ The petition requests that the decision to close the Fitler post office be reversed. From the face of the petition it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, and whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioner failed to supply a copy of the Postal Service's final determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.⁵

The Postal Reorganization Act states:

The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities,

¹ 39 U.S.C. § 404(b)(5). 39 U.S.C. § 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 CFR § 3001.110 *et seq.*

² 39 CFR § 3001.111(a).

³ 39 CFR § 3001.1.

⁴ 39 U.S.C. § 404(b)(1).

⁵ 39 CFR § 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.⁶

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. Petitioner asserts that the post office is the identity of the town and that it represents the United States Government to the citizens of Fitler. Petitioner also claims that the post office is the only source of crucial non-postal information and forms. Finally, petitioner asserts that the nearest additional post office is 12 miles away and that the community depends on the existence of the Fitler post office. The effect "on the community" of a post office closing is made a mandatory subject for consideration by section 404(b)(2)(A) of the Act. The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices.⁷

Upon preliminary inspection, the petition appears to raise the following issues of law:

1. Is energy conservation or the cost of travelling to another post office a proper matter for consideration under "other factors" within the meaning of section 404(b)(2)(E)?

2. Should the Postal Service consider the fact that a post office may be the only remaining identifying landmark of the community, in assessing the "effect on the community" under section 404(b)(2)(A)?

3. Is the demise of the small town, in general, a proper consideration in assessing the "effect on the community" under section 404(b)(2)(A)?

4. Is the Postal Service required to consider the fact that the postal office represents the United States Government to the community and that it is the sole source of federal forms and information, in assessing the "effect on the community" under section 404(b)(2)(A)?

5. Should the Postal Service consider the fact that the community is an expanding one, in its review of "the effect on the community" under section 404(b)(2)(A)?

Other issues of law may become apparent when the Commission has had

⁶ 39 U.S.C. 101 (b).

⁷ 42 FR 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. & 404(b)(5).

the opportunity to examine the determination made by the Postal Service. Conversely, the determination may be found to resolve adequately one or more of the issues described above.

In view of the above, and in interest of expedition of this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above, and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 15 days of receiving the determination and record pursuant to § 113 of the rules of practice [39 CFR 3001.113(a)], make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be due within 15 days of its issuance, and a copy of the memorandum shall be served on petitioner by the Service.

In briefing the case, or in filing any motion to dismiss for want of prosecution in appropriate circumstances, the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases, and none is being appointed.⁸

The Commission orders: (A) The letter of April 11, 1979, from Loryce Hown shall be construed as a petition for review pursuant to § 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the *Federal Register*.

(C) The Postal Service shall file the administrative record in this case on or before April 26, 1979, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

David F. Harris,
Secretary.

April 11, 1979—Filing of Petition.

April 13, 1979—Notice and Order of Filing of Appeal.

April 26, 1979—Filing of record by Postal Service [see 39 CFR 3001.113(a)].

May 1, 1979—Last day for filing of petitions to intervene [see 39 CFR 3001.111(b)].

May 10, 1979—Petitioner's initial brief [see 39 CFR 3001.115(a)].

⁸ In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

May 25, 1979—Postal Service answering brief [see 39 CFR 3001.115(b)]

June 11, 1979—(1) Petitioner's reply brief, if petitioner chooses to file such brief [see 39 CFR 3001.115(c)].

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument. August 9, 1979—Expiration of 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)].

[Order No. 262; Docket No. A79-14]
[FR Doc. 79-12060 Filed 4-17-79; 8:45 am]
BILLING CODE 7715-01-M

Clune, Pennsylvania 15727 (Michael Mutchka and Sherry Paterson, Petitioners); Notice and Order of Filing of Appeal

Issued April 12, 1979.

On April 9, 1979, the Commission received handwritten letters from Michael Mutchka and Sherry Paterson, citizens of Clune, Pennsylvania, (hereinafter "Petitioners"), concerning the alleged plans of the United States Postal Service to close the Clune, Pennsylvania post office. Although the letters make no explicit reference to the Postal Reorganization Act, we believe they should be liberally construed as petitions for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)]. We do so in order to preserve petitioners' right to appeal, which is subject to a 30-day time limit.¹ The petitions apparently were written by laymen, rather than by attorneys, and they do not conform exactly to the Commission's rules of practice, which also require that a petitioner attach to the petition a copy of the Postal Service's final determination.² However, § 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.³

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to ". . . insure that such persons will have an opportunity to present their views."⁴ In effect, the petitions can reasonably be construed as requests that the decision to close the Clune post office be reversed. From the faces of the petitions it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, or whether a

determination has been made under 39 U.S.C. 403(b)(3). (Petitioners failed to supply a copy of the Postal Service's final determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.⁵

The Postal Reorganization Act states:

The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.⁶

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

One petition opposes the proposed closing and asserts that the Clune post office is a convenience, that its closing will not save much money and that the post office is the "only thing" that the people have. Both petitions indicate a desire to appeal the Postal Service's determination. The petitions appear to set forth the Postal Service action complained of in sufficient detail to warrant a determination whether the Service complied with its own regulations for the closing of post offices.⁷

The Act does not contemplate appointment of an Officer of the Commission in § 404(b) cases, and none is being appointed.⁸

The Commission Orders: (A) The letters of April 9, 1979, from Michael Mutchka and Sherry Paterson, shall be construed as petitions for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the *Federal Register*.

(C) The Postal Service shall file the administrative record in this case on or before April 24, 1979, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

¹ 39 CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

² 39 U.S.C. 101(b).

³ 42 FR 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

⁴ In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

By the Commission.

David F. Harris,
Secretary.

April 9, 1979—Filing of Petition.

April 12, 1979—Notice and Order of Filing of Appeal.

April 24, 1979—Filing of record by Postal Service [see 39 CFR 3001.113(a)].

April 30, 1979—Last day for filing of petitions to intervene [see 39 CFR 3001.111(b)].

May 9, 1979—Petitioners' initial brief [see 39 CFR 3001.115(a)].

May 24, 1979—Postal Service answering brief [see 39 CFR 3001.115(b)].

June 8, 1979—(1) Petitioners' reply brief, if petitioners choose to file such brief [see 39 CFR 3001.115(c)].

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.

August 7, 1979—Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)]

[Order No. 260; Docket No. A79-12]
[FR Doc. 79-12061 Filed 4-17-79; 8:45 am]
BILLING CODE 7715-01-M

Southfield, Massachusetts 01259 (Elizabeth E. Taylor, Petitioner); Notice and Order of Filing of Appeal

Issued April 12, 1979.

On April 9, 1979, the Commission received a typewritten letter from Elizabeth E. Taylor (hereinafter "Petitioner"), concerning alleged United States Postal Service plans to consolidate the Southfield, Massachusetts, post office. Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)], so as to preserve petitioner's right to appeal which is subject to a 30-day time limit.¹ Since the petition was apparently not written by an attorney, it does not conform perfectly with the Commission's rules of practice which also require a petitioner to attach a copy of the Postal Service's Final Determination to the petition.² However, section 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.³

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office consolidation so as to ". . . ensure that such persons will have an opportunity to present their

¹ 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

² 39 CFR 3001.111(a).

³ 39 CFR 3001.1.

⁴ 39 U.S.C. 404(b)(1).

¹ 39 U.S.C. § 404(b)(5). 39 U.S.C. § 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 CFR § 3001.110 *et seq.*

² 39 CFR § 3001.111(a).

³ 39 CFR § 3001.1.

views.⁴ The petition requests that the decision to consolidate the Southfield post office be reversed. From the face of the petition it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, and whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioner failed to supply a copy of the Postal Service's Final Determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.⁵

The Postal Reorganization Act states:

The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.⁶

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to consolidate post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act. The Petitioner states that the closing would injure the economic growth of the community; the Petitioner also questions the procedure followed by the Postal Service in making its Final Determination to consolidate the Southfield post office. The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices.⁷

Upon preliminary inspection, the petition appears to raise the following issues of law:

1. Did the Postal Service follow the required procedure in making its decision to consolidate the Southfield post office?
2. Is the Postal Service required to consider the effect on the economic life of the community as an effect on the community within the meaning of section 404(a)(2)(A)?
3. Must the Postal Service consider the allegation that the affected area is too

large and too heavily populated to receive effective postal service if the consolidation takes place under the "maximum degree of effective and regular postal services" standard of section 404(b)(2)(C)?

Other issues of law may become apparent when the Commission has had the opportunity to examine the determination made by the Postal Service. Conversely, the determination may be found to resolve adequately one or more of the issues described above.

In view of the above, and in the interest of expedition of this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above, and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 20 days of receiving the determination and record pursuant to section 113 of the rules of practice (39 CFR 3001.113), make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be due within 20 days of its issuance, and a copy of the memorandum shall be served on petitioner(s) by the Service.

In briefing the case, or in filing any motion to dismiss for want of prosecution, in appropriate circumstances, the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases, and none is being appointed.⁸

The Commission Orders: (A) The letter of April 9, 1979, from Elizabeth E. Taylor shall be construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the *Federal Register*.

(C) The Postal Service shall file the administrative record in this case on or before April 24, 1979, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

David F. Harris,
Secretary.

April 9, 1979—Filing of Petition

April 12, 1979—Notice and Order of Filing of Appeal
 April 24, 1979—Filing of record by Postal Service [see 39 CFR 3001.113(a)]
 April 30, 1979—Last day for filing of petitions to intervene [see 39 CFR 3001.111(b)]
 May 9, 1979—Petitioners' initial brief [see 39 CFR 3001.115(a)]
 May 24, 1979—Postal Service answering brief [see 39 CFR 3001.115(b)]
 June 8, 1979—(1) Petitioners' reply brief, if petitioners choose to file such brief [see 39 CFR 3001.115(c)]
 June 9, 1979—(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument
 August 7, 1979—Expiration of 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)]

[Order No. 261; Docket No. A79-13]

[FR Doc. 79-12062 Filed 4-17-79; 8:45 am]

BILLING CODE 7715-01-M

SMALL BUSINESS ADMINISTRATION

Redelegation of Minority Small Business and Capital Ownership Development Activities

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Minority Small Business and Capital Ownership Development by Delegation of Authority No. 16 (44 FR 20530), the following authority is hereby delegated to the specific positions as indicated herein:

A. Deputy Associate Administrator for Minority Small Business and Capital Ownership Development

1. *Section 8(a)(1)(A) Contracting Authority.*—a. To enter into contracts on behalf of the Small Business Administration with the United States Government and by department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, services, or materials to the Government or to perform construction work for the Government.

b. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer.

c. To submit for determination to the Secretary or the head of the appropriate department of agency cases where SBA and the procurement officer fail to agree on terms and conditions of contracts in para. a above.

⁴ 39 U.S.C. § 404(b)(1).

⁵ 39 CFR § 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

⁶ 39 U.S.C. § 101(b).

⁷ 42 FR 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. § 404(b)(5).

⁸ In the Matter of Cresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

2. Section 8(a)(1)(B) Contracting Authority (This is a pilot program and the authority therefor expires on September 30, 1980).—a. To enter into contracts with Department of the Army, to furnish articles, equipment, supplies, services, or materials, or to perform construction work for such agency.

b. To certify to any officer of the Department of Army having procurement powers that the Small Business Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer.

c. To notify, in writing, the Secretary of the Army of disagreement between DA procurement officers and SBA on terms and conditions of proposed contracts. Upon receipt of reply from Secretary of the Army stating the terms and conditions upon which such procurement contract may be let, to accept such procurement contract or withdraw prior certification that SBA is competent and responsible to perform such contract.

3. Subcontracting.—To arrange for the performance of such procurement contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns for the construction work, services or the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

4. Technical or Management Assistance (7j Program).—a. To execute grants, agreements, and contracts to provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of the Small Business Act, as amended, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses eligible to receive contracts pursuant to section 8(a) of the Small Business Act.

Such financial assistance may be provided for projects, including, but not limited to:

- (1) Planning and research, including feasibility studies and market research;
- (2) The identification and development of new business opportunities;

(3) The furnishing of centralized services with regard to public services and Federal government programs including programs authorized under section 7(i), 7(j)(10), and 8(a) of this Act;

(4) The establishment and strengthening of business service agencies, including trade associations and cooperatives; and

(5) The furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using resources of the business community, including the development of management training opportunities in existing business, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

B. Director, Office Business Development

1. Section 8(a)(1)(A) Contracting Authority.—a. To enter into contracts on behalf of the Small Business Administration with the United States Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish article, equipment, supplies, services, or materials to the Government or to perform construction work for the Government.

b. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer.

c. To submit for determination to the Secretary or the head of the appropriate department or agency cases where SBA and the procurement officer fail to agree on terms and conditions of contracts in para. a above.

2. Section 8(a)(1)(B) Contracting Authority (This is a pilot program and the authority therefor expires on a September 30, 1980).—a. To enter into contracts with Department of the Army, to furnish articles, equipment, supplies, services, or materials, or to perform construction work for such agency.

b. To certify to any officer of the Department of Army having procurement powers that the Small Business Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer.

c. To notify, in writing, the Secretary of the Army of disagreement between DA procurement officers and SBA on

terms and conditions of proposed contracts. Upon receipt of reply from Secretary of the Army stating the terms and conditions upon with such procurement contract may be let, to accept such procurement contract or withdraw prior certification that SBA is competent and responsible to perform such contract.

3. Subcontracting.—To arrange for the performance of such procurement contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns for the construction work, services or the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

C. Chief, Government Contracts Division (Contracting Authority.—a. To enter into contracts on behalf of the Small Business Administration with the United States Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, services, or materials, to the Government or to perform construction work for the Government.

b. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer.

c. To submit for determination to the Secretary or the head of the appropriate department or agency cases where SBA and the procurement officer fail to agree on terms and conditions of contract in para. a above.

2. Section 8(a)(1)(B) Contracting Authority (This is a pilot program and the authority therefor expires on September 30, 1980).—a. To enter into contracts with Department of the Army, to furnish articles, equipment, supplies, services, or materials, or to perform construction work for such agency.

b. To certify to any officer of the Department of the Army having procurement powers that the Small Business Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer.

c. To notify, in writing, the Secretary of the Army of disagreement between DA procurement officers and SBA on

terms and conditions of proposed contracts. Upon receipt of reply from Secretary of the Army stating the terms and conditions upon which such procurement contract may be let, to accept such procurement contract or withdraw prior certification that SBA is competent and responsible to perform such contract.

3. *Subcontracting.*—To arrange for the performance of such procurement contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns for the construction work, services or the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

D. Director, Office of Program Assistance

1. *Technical or Management Assistance (7j Program).*—a. To execute grants, agreements, and contracts to provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of the Small Business Act, as amended, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses eligible to receive contracts pursuant to section 8(a) of the Small Business Act.

Such financial assistance may be provided for projects, including, but not limited to:

- (1) Planning and research, including feasibility studies and market research;
- (2) The identification and development of new business opportunities;
- (3) The furnishing of centralized services with regard to public services and Federal government programs including programs authorized under sections 7(i), 7(j)(10), and 8(a) of this Act;
- (4) The establishment and strengthening of business service agencies, including trade associations and cooperatives; and
- (5) The furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community,

including the development of management training opportunities in existing business, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

E. Deputy Director, Office of Program Assistance (Program Manager)

1. *Technical or Management Assistance (7j Program).*—a. To execute grants, agreements, and contracts to provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of the Small Business Act, as amended, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses eligible to receive contracts pursuant to section 8(a) of the Small Business Act.

Such financial assistance may be provided for projects, including, but not limited to:

- (1) Planning and research, including feasibility studies and market research;
 - (2) The identification and development of new business opportunities;
 - (3) The furnishing of centralized services with regard to public services and Federal government programs including programs authorized under sections 7(i), 7(j)(10), and 8(a) of this Act;
 - (4) The establishment and strengthening of business service agencies, including trade associations and cooperatives; and
 - (5) The furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing business, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.
- II. The specific authorities delegated herein may not be redelegated.
- III. All authority delegated herein may be exercised by any SBA employee designated as acting in that position.
- Effective Date: April 18, 1979.

Dated: April 4, 1979.

William A. Clement, Jr.,
Associate Administrator for Minority Small Business and
Capital Ownership Development.

[Delegation of Authority No. 16-A]
[FR Doc. 79-12052 Filed 4-17-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: Chiefs, Technical and Office Compliance Branches are added to the Delegation Order. Technical and Office Compliance Branch represents a consolidation of the Special Procedures and Collection Office functions in some districts. Also, titles have been changed to reflect the establishment of the Compliance Division in the service center and the establishment of the Examination Section in streamlined districts.

EFFECTIVE DATE: April 16, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen M. Roche CP:C:M, 1111 Constitution Ave., N.W., Room 7231, Washington, D.C. 20224, Telephone No. 202-566-6568 (Not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the *Federal Register* for Wednesday, November 8, 1978.

Stephen M. Roche,
Program Analyst, National Office Collection Division.

Date of issue: April 16, 1979.

Effective Date: April 16, 1979.

Authority to Issue Summonses, to Administer Oaths and Certify, and to Perform Other Functions.

1(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602-1(b), 301.7603-1, 301.7604-1 and 301.7605-1(a) to issue summonses; to set the time and place for appearance; to serve summonses; to take testimony under oath of the person summoned; to receive and examine books, papers, records or other data produced in compliance with the summons; and to enforce summonses, are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 1(b), 1(c) and 1(d) of this Order and subject to the limitations stated in paragraphs 1(b), 1(c), 1(d) and 6 of this Order.

(b) The authorities to issue summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order, are delegated to all District Directors, the Director of International Operations, and the

following officers and employees, provided that the authority to issue a summons in which the proper name or names of the taxpayer or taxpayers is not identified because unknown or unidentifiable (hereinafter called a "John Doe" summons) may be exercised only by said officers and employees and by them only after obtaining preissuance legal review by Regional Counsel, Deputy Regional Counsel (General Litigation) or District Counsel, or the Director, General Litigation Division in the case of inspection.

(1) Inspection: Assistant Commissioner and Director, Internal Security Division.

(2) District Criminal Investigation: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(3) International Operational: Chiefs of Divisions.

(4) District Collection Activity: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(5) District Examination: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(6) District Employee Plans and Exempt Organizations: Chief of Division.

(c) The authorities to issue summonses except "John Doe" summonses, and to perform other functions related thereto specified in paragraph 1(a) of this Order, are delegated to the following officers and employees:

(1) Inspection: Regional Inspectors and Assistant Regional Inspectors (Internal Security) and Chief, Investigations Branch.

(2) District Criminal Investigation: Assistant Chief of Division; Chiefs of Branches; and Group Managers.

(3) International Operations: Assistant Director; Chiefs of Branches; Case Managers; and Group Managers.

(4) District Collection Activity: Assistant Chief of Division; Chiefs of Collection Section; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staff; Chiefs, Technical and Office Compliance Branches and Groups and Group Managers.

(5) District Examination: Chiefs of Branches, Case Managers, Group Managers and, in streamlined districts, Chiefs, Examination Sections.

(6) District Employee Plans and Exempt Organizations: Group Managers.

(d) The authority to issue summonses except "John Doe" summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order is delegated to the following officers and employees except that in the instance of a summons to a third party witness, the issuing officers' case manager, group manager, or any supervisory official above that level, has in advance personally authorized the issuance of the summonses. Such authorization shall be manifested by the signature of the authorizing officer on the face of the original and all copies of the summonses or by a statement on the face of the original and all copies of the summons, signed by the issuing officer, that he/she had prior authorization to issue said summons and stating the name and title of the authorizing official and the date of authorization.

(1) International Operations: Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Special Agents; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers, GS-9 and above.

(2) District Criminal Investigation: Special Agents.

(3) District Collection: Revenue Officers, GS-9 and above.

(4) District Examination: Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(5) District Employee Plans and Exempt Organizations: Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(e) Each of the officers and employees referred to in paragraphs 1(b), 1(c), and 1(d) of this Order may serve a summons whether it is issued by him/her or another official.

2. Each of the officers and employees referred to in paragraphs 1(b), 1(c), and 1(d) of this Order authorized to issue summonses, is delegated the authority under 26 CFR 301.7602-1(b) to designate any other officer or employee of the Internal Revenue Service referred to in paragraph 4(b) of this Order, as the individual before whom a person summoned pursuant to Section 7602 of the Internal Revenue Code shall appear. Any such other officer or employee of the Internal Revenue Service when so designated in a summons is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records or other data produced in compliance with the summons.

3. Internal Security Inspectors are delegated the authority under 26 CFR 301.7603-1 to serve summonses issued in accordance with this Order by any of the officers and employees of the Inspection Service referred to in paragraphs 1(b)(1) and 1(c)(1) of this Order even though Internal Security Inspectors do not have the authority to issue summonses.

4(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602-1(a), and 301-7605-1(a) to examine books, papers, records or other data, to take testimony under oath and to set the time and place of examination are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 4(b), 4(c), and 4(d) of this Order and subject to the limitations stated in paragraphs 4(c) and 6 of this Order.

(b) General Designations

(1) Inspection: Assistant Commissioner; Director, Internal Security Division; Director, Internal Audit Division; Regional Inspectors; Internal Auditors; and Internal Security Inspectors.

(2) District Criminal Investigation: Chief and Assistant Chief of Division; Chiefs of Branches; Group Managers; and Special Agents.

(3) International Operations: Director, Assistant Director; Chief of Divisions and Branches; Special Agents; Case Managers; Group Managers; Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Revenue Service, and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers.

(4) District Collection Activity: Chiefs and Assistant Chiefs of Division; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staff; Chiefs, Technical and Office Compliance Branches; Chiefs, Collection Section; Chiefs, Technical and Office Compliance Branches and Groups; Group Managers and Revenue Officers.

(5) District Examination: Chiefs of Division; Chiefs of Examination Sections; Chiefs of Examination Branches; Case Managers; Group Managers; Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(6) District Employee Plans and Exempt Organization: Chief of Division, Chief, Examination Branch; Chief, Technical Staff; Group Managers; Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(7) Service Center: Chief, Compliance Division; Chief, Examination Branch; Chief, Collection Branch; Chief, Criminal Investigation Branch; Revenue Agents; Tax Auditors; Tax Examiners in the correspondence examination function; and Special Agents.

(c) District Directors, Service Center Directors, Regional Inspectors, the Chief of Investigation Branch, and the Director of International Operations may redelegate the authority under 4(a) of this Order to aides or trainees, respectively, for the positions of revenue agent, tax auditor, tax examiner in the service center correspondence examination function, tax law specialists, revenue officer, internal auditor, internal security inspector, and special agent, provided that each such aide or trainee shall exercise said authority only under the direct supervision, respectively, as applicable, of a revenue agent, tax auditor, tax examiner in the service center correspondence examination function, tax law specialist, revenue officer, special agent, internal auditor or internal security inspector.

(d) District Directors may redelegate the authority under 4(a) of this Order to Revenue Representatives and Office Collection Representatives.

5. Under the authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7622-1, the officers and employees of the Internal Revenue Service referred to in paragraphs 1(b), 1(c), 1(d), and 4(b) and 4(c) of this Order are designated to administer oaths and affirmations and to certify to such papers as may be necessary under the internal revenue laws and regulations except that the authority to certify shall not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive. Revenue Representatives and Office Collection Representatives referred to in paragraph 4(d) of this Order are not designated to administer oaths or to perform the other functions mentioned in this paragraph.

6. The authority delegated herein may not be redelegated except as provided in paragraphs 4(c) and 4(d).

7. This Order supersedes Delegation Order No. 4 (Rev. 7), issued January 29, 1979.

William E. Williams,
Acting commissioner.

[Delegation Order No. 4 (Rev. 8)]
[FR Doc. 79-12075 Filed 4-17-79; 8:45 am]
BILLING CODE 4830-01-M

INTERSTATE COMMERCE COMMISSION

Office of Proceedings

Decision-Notice

Corrections

In FR Doc. 78-34489 appearing at page 58129 in the issue for Tuesday, December 12, 1978, make the following changes:

1. On page 58132, third column, "MC 111941 (Sub-52F)" should read "MC 11941 (Sub-28F)".
2. On page 58136, third column, "MC 13226 (Sub-2F)" should read "MC 136226 (Sub-2F)".
3. On page 58137, second column, eighth line of MC 139113 (Sub-13F), "common" should read "contract".

[Decisions Vol. No. 53]
BILLING CODE 1505-01-M

Permanent Authority Applications; Decision-Notice

Corrections

In FR Doc. 78-35086 appearing at page 59197 in the issue for Tuesday, December 19, 1978, make the following changes:

1. On page 59203, second column, "MC 95540 (Sub-1053F)" should read "MC 95540 (Sub-1054F)".
2. On page 59205, third column, "MC 211 (Sub-378F)" should read "MC 114211 (Sub-378F)".

[Decisions Vol. No. 54]
BILLING CODE 1505-01-M

Permanent Authority Applications; Decision-Notice

Correction

In FR Doc. 79-35085 appearing at page 59212 in the issue for Tuesday, December 19, 1978, on page 59218, third column, "MC 1207614 (Sub-45F)" should read "MC 120761 (Sub-45F)". The file line was inadvertently omitted and should read

"[FR Doc. 79-35085 Filed 12-18-79; 8:45 a.m.]"

[Decisions Vol. No. 56]
BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

Office of Proceedings

Permanent Authority Applications; Decision-Notice

Decided: April 4, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of § 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of

record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before May 18, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. Homme, Jr.,
Secretary.

MC 1117 (Sub-17F), filed January 12, 1979. Applicant: M.G.M. TRANSPORT CORPORATION, 70 Maltese Drive, Totowa, NJ 07512. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *New furniture and furniture parts*, from points in NY and NJ, to points in NC and VA. (Hearing site: New York, NY.)

MC 11207 (Sub-467F), filed January 17, 1979. Applicant: DEATON INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing and roofing materials*, (except commodities in bulk), from Green Cove Springs, FL, to points in AL, GA, NC, and SC. (Hearing site: Jacksonville, FL, or Washington, DC.)

MC 26396 (Sub-224F), filed January 17, 1979. Applicant: POPELKA TRUCKING CO., a corporation d.b.a., THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, (1) from Burns Harbor and Gary, IN, to points in Utah County, UT, and (2) from points in Utah County, UT, to points in Natrona County, WY. (Hearing site: Billings, MT.)

MC 30837 (Sub-488F), filed January 15, 1979. Applicant: KENOSHA AUTO TRANSPORT, a corporation, 4200 39th Avenue, Kenosha, WI 53141. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *marine fenders*, between points in AL, CA, CT, DE, FL, GA, IL, ID, LA, ME, MD, MA, MI, MN, MS, MT, NH, NJ, NY, NC, ND, OH, OR, RI, SC, TX,

VT, VA, WA, and WI. (Hearing site: Washington, DC.)

MC 32967 (Sub-3F), filed January 16, 1979. Applicant: ATLANTIC COAST EXPRESS, INC., 2170 North Fleet Street, Elizabeth, NJ 07201. Representative: R.L. McGeorge, Canal Square, 1054 Thirty First Street, N.W., Washington, DC 20007. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting (1) *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), in containers or trailers, between New Haven CT, Baltimore, MD, Boston, MA, New York, NY, Philadelphia, PA, and Norfolk, VA, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, PA, RI, VT, VA, WV, and DC, restricted to the transportation of traffic having a prior or subsequent movement by water, and (2) *chassis, containers, and trailers*, between points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, PA, RI, VT, VA, and WV. (Hearing site: Newark, NJ, or New York, NY.)

MC 33566 (Sub-2), filed January 12, 1979. Applicant: BAY STATE TRANSFER & STORAGE COMPANY, INC., 60 Haynes Circle, Chicopee, MA 01020. Representative: James M. Burns, 1383 Main Street, Suite 413, Johnson's Bookstore Building, Springfield, MA 01103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods* as defined by the Commission, between points in MA, on the one hand, and, on the other, points in DE, MD, WV, OH, and DC. (Hearing site: Springfield, MA, or Boston, MA.)

MC 35807 (Sub-89F), filed December 14, 1978. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (Same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *articles of unusual value*, between Dothan, AL, on the one hand, and, on the other, points in Clay, Early, Miller, Seminole, Decatur, Grady, Mitchell, Baker, and Calhoun Counties, GA, Jackson, Calhoun, Liberty, Washington, and Walton Counties, FL, and AL, under continuing contract(s) with banks and banking institutions. (Hearing site: Dothan, AL, or Atlanta, GA.)

Note.—Dual operation may be involved.

MC 42487 (Sub-897F), filed January 12, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V.R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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, and those requiring special equipment), between Lexington, KY, and Winchester, KY, over U.S. Hwy 60, serving all intermediate points. (Hearing site: Louisville, KY.)

MC 59367 (Sub-135F), filed January 15, 1979. Applicant: DECKER TRUCK LINE, INC., Box 915, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except in bulk), from points in WI, to those points in the United States in and west of FL, GA, TN, KY, and OH (except AK, HI, IA and NE), restricted to the transportation of traffic originating at the facilities of the Larsen Company. (Hearing site: Green Bay, WI.)

MC 60186 (Sub-57F), filed October 12, previously noticed in the *Federal Register* issue of December 28, 1978. Applicant: NELSON FREIGHTWAYS, INC., P.O. Box 356, 47 East Street, Rockville, CT 06066. Representative: Edward G. Villalón, 1032 PA Bldg., PA Ave & 13th St., N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by (a) retail home improvement stores, (b) retail home furnishings stores, and (c) retail lumber stores, (except commodities in bulk), between points in CT, DE, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Wicks corporation. (Hearing site: Washington, DC.)

Note.—This republication is to include the restriction.

MC 65697 (Sub-55F), filed December 8, 1978. Applicant: THEATRES SERVICE COMPANY, a corporation, P.O. Box 1695, Atlanta, GA 30345. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting (1) *newsprint paper*, from points in Laurens County, GA, to points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, and WV, and (2) *waste newspapers, cores, and materials, equipment, and supplies* used in the manufacture and distribution of newsprint paper (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA.)

MC 66807 (Sub-7F), filed January 17, 1979. Applicant: MANUFACTURERS EXPRESS, INC., 294 Kimberly Avenue, New Haven, CT 06519. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages* (except in bulk), from Merrimack, HN, to West Haven, CT. (Hearing site: Hartford, CT or Washington, DC.)

MC 69397 (Sub-52F), filed January 15, 1979. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing and building materials* (except commodities in bulk), from Manville, NJ, to points in WV. (Hearing site: Washington, DC.)

MC 69397 (Sub-53F), filed January 15, 1979. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *gypsum, and roofing and building materials*, and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), between the facilities of Georgia-Pacific Corporation at or near (a) Akron and Buchanan, NY, (b) Milford, VA, (c) Quakertown, PA and (d) Wilmington, DE, on the one hand, on the other, points in CT, DE, GA, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA, WV, and DC. (Hearing site: Washington, DC or Philadelphia, PA.)

MC 70917 (Sub-6F), filed December 8, 1978. Applicant: A.F.D., INC., P.O. Box 517, Route 94, Florida, NY 10921. Representative: Arthur J. Piken, One Lefrak City Plaza, Suite 1515, Flushing, NY 11368. To operate as a *common*

carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printing paper*, on rolls, from the facilities of Conrail, at or near Fair Oaks and Middletown, NY, to the facilities of Watchtower Farm Factory, a division of Watchtower Bible & Tract Society, at or near Pine Bush, NY, restricted to the transportation of traffic having a prior movement by rail. (Hearing site: New York, NY.)

MC 78687 (Sub-57F), filed January 12, 1979. Applicant: LOOT MOTOR LINES, INC., West Cayuga Street, P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal*, from points in McKean County, PA, to points in NY. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 95876 (Sub-263F), filed January 18, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *equipment, materials, and supplies* used in the installation of doors and door suspension systems, (except commodities in bulk), from Archbold, OH, to points in WI, IA, MN, ND, and SD. (Hearing site: Detroit, MI, or Chicago, IL.)

MC 96607 (Sub-13F), filed January 15, 1979. Applicant: RUCKER BROTHERS TRUCKING, INC., 1820 Stewart Street East, Tacoma, WA 98421. Representative: Michael D. Duppenhaler, 211 South Washington Street, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prefabricated sprinkler systems, pipe and pipe fittings, and contractors' equipment*, between Seattle, WA, and points in MT, and ID. (Hearing site: Seattle, WA.)

MC 97127 (Sub-12F), filed January 18, 1979. Applicant: BATESVILLE TRUCK LINE, INC., P.O. Box E, Batesville, AR 72501. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives,

household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Little Rock, AR, and Memphis, TN, over Interstate Hwy 40, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's otherwise authorized regular route operations. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 105656 (Sub-11F), filed January 5, 1979. Applicant: TOM PASQUALE, d/b/a PASQUALE TRUCKING P.O. Box 295, Logansport, IN 46947. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages, and malt beverage dispensing equipment* in mixed loads with malt beverages from the facilities of Olympia Brewing Company, at St. Paul, MN, to points in IN. (Hearing site: Chicago, IL.)

MC 106647 (Sub-44F), filed January 17, 1979. Applicant: CLARK TRANSPORT COMPANY, INC., R.R. No. 1 Box 14C, Jct. Rtes 83 and 30, Chicago Heights, IL 60411. Representative: Anthony E. Young, 29 S. La Salle St., Suite 350, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor vehicles*, in truckaway service, between points in IL, on the one hand, and, on the other, points in MI, MO, and WI. (Hearing site: Chicago, IL or Los Angeles, CA.)

MC 108207 (Sub-494F), filed January 11, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M.W. Smith (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen human blood plasma*, in vehicles equipped with mechanical refrigeration, between points in CO, on the one hand, and, on the other, points in CA. (Hearing site: Los Angeles, CA, or Dallas, TX.)

MC 109397 (Sub-437F), filed January 17, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bottle pasteurizing and bottle washing machinery*, and (2) *attachments, accessories, and parts* for the commodities named in (1) above, from St. Louis, MO, to points in the

United States (except AK and HI). (Hearing site: St. Louis or Kansas City, MO.)

MC 113106 (Sub-68F), filed January 10, 1979. Applicant: THE BLUE DIAMOND COMPANY, a corporation, 4401 East Fairmount Avenue, Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, N.W., Washington, D.C. 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are distributed by manufacturers of glass, plastic products, and chinaware, and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above, between points in NH, ME, MA, RI, CT, NY, NJ, PA, OH, DE, MD, WV, VA, NC, SC, GA, FL, VT, and DC, restricted to transportation of traffic originating at the destined to the facilities of Anchor Hocking Corporation and its subsidiaries in the indicated territory. (Hearing site: Washington, DC.)

MC 115826 (Sub-363F), filed November 1, 1978, previously noticed in the *Federal Register* issue of February 1, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as applicant.) To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *floor coverings*, and (2) *materials, equipment, and supplies* used in the installation of floor coverings, from Madison, IN, and Lancaster and East Hempfield Township, PA, to points in AZ, CA, NV, and OR. (Hearing site: Denver, Co.)

Note.—This republication amends the origin territory by changing Madison, IL, to Madison, IN.

MC 115826 (Sub-374F), filed January 19, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *materials and supplies* used in the manufacture of trunks and traveling bags, from Riverside and Waterbury, CT, Mishawaka and Port Clinton, IN, Canton and Lowell, MA, Columbus, MS, Garfield, Ridgefield, and West Caldwell, NJ, Glen Cove, NY, Philadelphia and Pottstown, PA, Providence and West Warwick, RI, and Newport News and Stuart, VA, to Tucson, AZ, and (2) *trunks and traveling bags*, from Nogales, AZ, to Denver, CO. (Hearing site: Denver, CO.)

MC 118547 (Sub-21F), filed January 18, 1979. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 11104 West Becher Street, West Allis, WI 53227. Representative: David V. Purcell, 111 East Wisconsin Avenue, Milwaukee, WI 53202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tanning materials and supplies* used in the application of tanning materials, in vehicles equipped with mechanical refrigeration (except commodities in bulk), from Salem, Saugus, and Somerville, MA, Wyandotte, MI, Carlstadt, Newark, and Union, NJ, Buffalo, NY, Coudersport, Philadelphia, and Seiple, PA, and Natrium, WV, to the facilities of Gebhardt-Vogel Tanning Co., at Berlin and Milwaukee, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 118457 (Sub-22F), filed January 12, 1979. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 11104 W. Becher Street, West Allis, WI 53227. Representative: Donald S. Mullins, 4704 W. Irving Park Road, Chicago, IL 60641. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *packing house products*, from the facilities of Birchwood Meat & Provision Co. and Kenosha Beef International in Kenosha County, WI, to points in CT, DE, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV, AND DC. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 119777 (Sub-356F), filed January 11, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Box Drawer "L", Madisonville, KY 42431. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asbestos cement pipe, couplings, and fittings*, and (2) *accessories* used in the installation of the commodities named in (1) above, (except commodities in bulk), from the facilities of Certain-Teed Corporation, at Hillsboro, TX, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 119777 (Sub-357F), filed January 11, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Box Drawer "L", Madisonville, KY 42431. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Jacksonville, FL, to

points in the United States (except AK and HI). (Hearing site: Jacksonville, FL.)

Note.—Dual operations may be involved.

MC 121107 (Sub-20F), filed January 10, 1979. Applicant: PITT COUNTY TRANSPORTATION COMPANY, INC., P.O. Box 207, Farmville, NC 20036. Representative: Harry J. Jordan, 1000 16th Street, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *gypsum and roofing and building materials*, and (2) *equipment and supplies* used in the manufacture, installation, and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), between the facilities of Georgia-Pacific Corporation, at or near (a) Buchanan, NY, (b) Milford, VA, (c) Quakertown, PA, and (d) Wilmington, DE, on the one hand, and, on the other, points in DE, MD, NJ, NY, NC, OH, PA, SC, VA, WV, and DC. (Hearing site: Raleigh, NC, or Washington, DC.)

MC 121377 (Sub-3F), filed January 17, 1979. Applicant: LDS TRUCK LINES, a corporation, 2211 Wood Street, Oakland, CA 94607. Representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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, those requiring special equipment, and automobiles), between San Francisco, CA, on the one hand, and, on the other, points in Butte, Colusa, Fresno, Kings, Lake, Madera, Mendocino, Merced, Napa, Placer, San Benito, Santa Clara, Shasta, Solano, Sutter, Tehama, Tulare, Glenn, Yolo, and Yuba Counties, CA, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Los Angeles or San Francisco, CA.)

MC 121517 (Sub-2F), filed January 15, 1979. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, (1) from the facilities of Oklahoma Cement Company at or near Pryor, OK, to points in AR, KS, MO and TX, and (2) from the facilities of Oklahoma Cement Company at or near Woodward and Oklahoma

City, OK, to points in KS and TX. (Hearing site: (1) Oklahoma City, OK (2) Dallas, TX.)

MC 123407 (Sub-521F), filed January 10, 1979. Applicant: SAWYERS TRANSPORT, INC., a Minnesota Corporation, South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from Cincinnati, Dayton, Hamilton, Middletown, Troy, and Urbana, OH, to those points in the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). (Hearing site: Cincinnati, OH.)

MC 126196 (Sub-13F), filed November 1, 1978, previously noticed in the *Federal Register* issue of February 1, 1979. Applicant: BLACHOWSKA TRUCK LINE, INC., R.R. 1, Fairmont, MN 56031. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *limestone and phosphatic feed supplements*, from Alden, IA, to points in IL and WI.

Note.—This republication corrects sub number substituting 13F in lieu of 73F.

(Hearing site: Minneapolis or St. Paul, MN.)

MC 127187 (Sub-47F), filed January 15, 1979. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Blvd., Fergus Falls, MN 56537. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer*, from Minneapolis and Savage, MN, to points in IA, ND, SD and WI, and (2) the port of entry on the international boundary line between the United States and Canada at or near Noyes, MN. (Hearing site: Minneapolis, MN.)

MC 129387 (Sub-85F), filed January 15, 1979. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Charles E. Dye (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from points in WI, to points in the United States (except AK, HI, and WI), restricted to the transportation of traffic originating at the facilities of the Larsen Company. (Hearing site: Green Bay or Milwaukee, WI.)

MC 133877 (Sub-2F), filed January 15, 1979. Applicant: FRACON TRUCKING CO., INC., 1052 Park Lane North, Franklin Square, NY 11010. Representative: Roy A. Jacobs, 550 Mamaroneck Avenue, Harrison, NY 10528. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by wholesale drug companies from points in CT, NJ, NY, and Berks, Bucks, Carbon, Chester, Delaware, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Northampton, Philadelphia, Pike, Schuylkill, Susquehanna, Wayne, and Wyoming Counties, PA, to the facilities of Rogers Wholesalers, Inc., at (a) Lindenhurst, NY, and (b) in Queens County, NY, under continuing contract(s) with Three P Products Corp., of Jamaica, NY. (Hearing site: New York, NY.)

MC 134477 (Sub-272F), filed September 15, 1978, previously noticed in the *Federal Register* issue of November 24, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail department and catalog stores, (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating or destined to facilities of Montgomery Ward. (Hearing site: St. Paul, MN.)

Note.—This republication imposes the facilities restriction.

MC 135797 (Sub-173F), filed January 12, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tripoli and hydrated alumina*, from Rogers, AR, and Seneca, MO, to points in the United States (except AK and HI). (Hearing site: Little Rock, AR.)

MC 138157 (Sub-109F), filed January 18, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC. d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor*

vehicle parts and accessories, from City of Industry, CA, to those points in the United States in and east of ND, SE, NE, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138627 (Sub-54F), filed January 18, 1979. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Union, MO, to points in AR, IL, IN, IA, KS, MI, MN, NE, ND, SD, and WI. (Hearing site: Omaha, NE.)

MC 139906 (Sub-29F), filed January 16, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 W. 2200 South P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *candy, chewing gum, and cough drops*, (except commodities in bulk), from the facilities of Life Savers, Inc., at (1) Canajoharie and Port Chester, NY, (2) Haverton, PA, and (3) North Bergen, NJ, to Atlanta, GA, Holland, MI, Dallas, TX, and Charlotte, NC. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 14077 (Sub-10F), filed January 17, 1979. Applicant: JULIAN MARTIN, INC., Highway 25 West, P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean VA 22101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in Sections A, B, 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 Fremont and Schuyler, NE, to points in AL and MS, under continuing contract(s) with Spencer Foods Inc. of Schuyler, NE. (Hearing site: Omaha, NE or Washington, DC.)

Note.—Dual operations may be involved.

MC 141426 (Sub-16F), filed January 19, 1979. Applicant: WHEATON CARTAGE CO., a corporation, Millville, NJ 08332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign

commerce, over irregular routes, transporting *medical supplies, surgical supplies, and hospital supplies*, from Broken Bow, Holdrege, and Columbus, NE, to points in NJ, NY, CT, GA, FL, SC, and TX, under continuing contract(s) with Becton-Dickinson and Company of Rutherford, NJ. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 142037 (Sub-2F), filed January 15, 1979. Applicant: SCHULTZ BROX., INC., Box 373, Guy, TX 77444. Representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, TX 78701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid livestock feedstuffs*, from points in Harris County, TX, to points in LA and OK. (Hearing site: Houston, TX or New Orleans, LA.)

MC 142848 (Sub-1F), filed January 8, 1979. Applicant: ROYAL COACH TOURS, A CORPORATION, 844 Stockton Avenue, San Jose, CA 95126. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage* in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Santa Cruz and Santa Clara Counties, CA, those points in Alameda County, CA on and south of a line beginning at Airport Access Road and Ninety-Eight Avenue in Oakland, and extending along Ninety-Eighth Avenue to Interstate Hwy 580, then along interstate Hwy 580 to the Alameda County—San Joaquin County, CA borderline and the Oakland International Airport, Castro Valley, and Dublin, CA, and extending to points in the United States, (including AK, but excluding HI). Hearing site: San Francisco or San Jose, CA.)

MC 143267 (Sub-47F), filed January 16, 1979. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, Ohio 44255. Representative: Neal A. Jackson, 1155 15th Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Prefabricated building parts, and accessories* used in the installation of the above named commodities, and (2) *iron and steel articles*, between Connersville, IN, Ambridge and Zelienople, PA, and Batavia, OH, on the one hand, and, on the other, those points in the United States in and east of MN,

IA, NE, KS, OK and TX. (Hearing site: Cleveland, OH or Washington, DC.)

MC 143436 (Sub-25F), filed January 16, 1979. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paint, paint racks, and commodities* used in the distribution and application of paint, from the facilities of United Coatings, Inc., at or near Chicago, IL, to points in IN, KY, MI, OH, and WV. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 143956 (Sub-3F), filed January 17, 1979. Applicant: Gardner Trucking Co., Inc., Drawer 493, Walterboro, SC 29488. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, in vehicles equipped with temperature control, from Waukesha, WI, Navasota, TX, and Albany, GA, and points in Johnson County, KS, to points in the United States (except AK and HI), and (2) *equipment, materials, and supplies* used in the manufacture of foodstuffs, in the reverse direction, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Holsum Foods. (Hearing site: Milwaukee, WI.)

Note.—Dual operations may be involved.

MC 144557 (Sub-1F), filed January 15, 1979. Applicant: HUDSON TRANSPORTATION, INC., Post Office Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from points in WI, to those points in the United States in and east of MN, IA, MO, KS, OK, and TX (except WI); restricted to the transportation of traffic originating at the facilities of the The Larsen Company. (Hearing site: Green Bay, WI.)

Note.—Dual Operations may be involved.

MC 144966 (Sub-1F), filed January 19, 1979. Applicant: T.C.E. Corporation 3370 Highway 35, P.O. Box 128, Hazlet, NJ 07730. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting (1)(a) *electrical goods*, and (b) *parts and accessories* used in the manufacture and distribution of electrical goods, (except commodities in bulk), from South Plainfield, NJ, to points in AL, CA, CO, FL, GA, IL, MD, MA, MN, MO, NV, NC, PA, TN, TX, UT, and WV, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), from points in AL, AR, CA, CO, FL, GA, IL, MD, MA, MI, MN, MO, NV, NC, OH, PA, TN, TX, UT, WV, and WI, to South Plainfield, NJ, all of the transportation in (1) and (2) above to be performed under continuing contracts with Brownell Electro, Inc., of South Plainfield, NJ. (Hearing site: Newark, NJ, or New York, NY.)

MC 145257 (Sub-1F), filed December 5, 1978. Applicant: DUNBAR & SONS, INC., 8929 Grove Tree Way, Elk Grove, CA 95624. Representative: George M. Carr, 235 Montgomery Street, Suite 1620, San Francisco, CA 94104. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prefabricated wooden frame houses, and components and parts* for prefabricated wooden frame houses, from the facilities of Pacific Modern Homes, Inc., at Elk Grove, CA, to points in NV (except Clark County), under continuing contract(s) with Pacific Modern Homes, Inc., of Elk Grove, CA. (Hearing site: San Francisco or Sacramento, CA.)

MC 145286 (Sub-2F), filed January 16, 1979. Applicant: DALLAS HORNEY, d.b.a. BANNER ELK BUS COMPANY, Rt. #1 Licklog Road, Newland, NC 28657. Representative: Dallas Horney, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers*, in special operations, between Hampton and Roan Mountain, TN, and Banner Elk, NC. (Hearing site: Charlotte or Asheville, NC.)

MC 145287 (Sub-2F), filed January 11, 1979. Applicant: NIP KELLEY EQUIPMENT CO., INC., 410 William, Cape Girardeau, MO 63701. Representative: Bernard P. McDonnell, 8015 Forsyth Suite 207, St. Louis, MO 63105. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *machinery and parts and supplies* for machinery, between points in MO, IL, AR, TN, and KY. (Hearing site: St. Louis, MO, or Memphis, TN.)

MC 145916 (Sub-1F), filed December 20, 1979. Applicant: ZELL G.

HENDERSON d.b.a. THE SPA HAULER, 1283 High Street, Auburn, CA 95603. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *uncrated spas and hot tubs*, from points in CA, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture of spas and hot tubs, in the reverse direction. (Hearing site: Santa Ana or San Jose, CA.)

MC 145926 (Sub-2F), filed January 19, 1979. Applicant: HALL BROS. TRANSPORTATION, CO., INC., State Road 37 North, Orleans, IN 47452. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *automobile parts*, from Bedford, IN, to Detroit, MI, Chicago, IL, Louisville, KY, Lorain, OH, and St. Louis, MO, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of automobile parts, (except commodities in bulk), from Detroit and Fowlerville, MI, Chicago, IL, Lorain, OH, and Milwaukee, WI, to Bedford, IN, all of the operations in (1) and (2) above to be performed under continuing contract(s) with Ford Aerospace & Communications Corporation, Division of Ford Motor Company, of Bedford, IN. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 145937 (Sub-2F), filed January 11, 1979. Applicant: CONSOLIDATED DISTRIBUTING COMPANY, a corporation, 750 South Main Street, Tooele, UT 84074. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, between points in UT, NV, AZ, CA, NM, WA, OR, ID, MT, CO, and WY, under continuing contract(s) with Bonus International Corp., of Salt Lake City, UT, and Humboldt Oil Company, of Carson City, NV. (Hearing site: Salt Lake City, UT or Washington, DC.)

Note.—Dual operations may be involved.

MC 146097F, filed January 14, 1979. Applicant: LENNEMAN TRANSPORT, INC., 10 North Michigan Street, Hutchinson, MN 55350. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vehicle*

rims and vehicle wheels, from Armstrong, IA, to points in MN, WI, IL, MI, MO, NE, OH, IN, ND, SD, and KS, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 146097 (Sub-1F), filed January 14, 1979. Applicant: LENNEMAN TRANSPORT, INC., 10 North Michigan Street, Hutchinson, MN 55350. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron or steel bars, iron or steel plates, and iron or steel rods*, from Sterling and Chicago, IL, to Hutchinson, MN restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 146097 (Sub-2F), filed January 14, 1979. Applicant: LENNEMAN TRANSPORT, INC., 10 North Michigan Street, Hutchinson, MN 55350. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *agricultural fertilizing equipment, and parts and accessories* for agricultural fertilizing equipment, from Hutchinson, MN, to points in WI, IA, IL, IN, NE, MI, OH, ND, SD, KS, and MO, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, from Sterling and Chicago, IL, and Yankton, SD, to Hutchinson, MN, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 146127F, filed January 15, 1979. Applicant: COVER MATERIAL SALES, INC., Warehouse Road, Hyannis, MA 02601. Representative: James E. Mahoney, 148 State Street, Boston, MA 02109. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, from points in MA, to Kingsport, TN, and (2) *cloth and paper products*, from Kingsport, TN, to points in RI and MA, all of the operations in (1) and (2) above to be performed under continuing contract(s) with The Holliston Mills, Inc., of Kingston, TN. (Hearing site: Boston, MA, or Providence, RI.)

MC 146166F, filed January 16, 1979. Applicant: TRIANGLE TRANSPORT CO., INC., 74 Sulyma Street, Cumberland, RI 02864. Representative: Phillip Hak, 41 Bea Drive, North Kingstown, RI 02852. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in or used by manufacturers of confectionery and toys, from the facilities of E. Rosen Co., at Pawtucket, RI, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction, all of the operations in (1) and (2) above to be performed under continuing contract(s) with E. Rosen Co., of Pawtucket, RI. (Hearing site: Boston, MA, or Providence, RI.)

MC 146166 (Sub-1F), filed January 16, 1979. Applicant: TRIANGLE TRANSPORT CO., INC., 74 Sulyma Street, Cumberland, RI 02864. Representative: Phillip Hak, 41 Bea Drive, North Kingstown, RI 02852. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *cushions, pads, webbing, hammocks, grill covers, decorations, and ornaments*, and (b) *equipment, parts, and accessories* used in the manufacture and distribution of the commodities named in (1)(a) above, from the facilities of Ortex Industries, at West Warwick, RI, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction, all of the operations in (1) and (2) above to be performed under continuing contract(s) with Ortex Industries, Inc., of Warwick, RI. (Hearing site: Boston, MA, or Providence, RI.)

[Decisions Volume No. 27]

[FR Doc. 79-11918 Filed 4-17-79; 8:45 a.m.]

BILLING CODE 7035-01-M

Permanent Authority Applications; Decision-Notice

Decided: March 27, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*.

Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protests shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its

proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

H. G. Homme, Jr.,
Secretary.

MC 3854 (Sub-48F), filed January 12, 1979. Applicant: BURTON LINES, INC., P.O. Box 11306, East Durham Station, Durham, NC 27703. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th

St., NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pipe, fittings, valves, and hydrants*, from the facilities of Clow Corporation, at or near Buckhannon, WV, to points in VA, NC, SC, GA, AL, and FL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 8544 (Sub-32F), filed January 10, 1979. Applicant: GALVESTON TRUCK LINE CORPORATION, 7415 Wingate, Houston, TX 77011. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, TX 77002. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum Wax* (except in bulk), from Barnsdall, OK, to Kilgore and Houston, TX. (Hearing site: Houston, or Dallas, TX.)

MC 30844 (Sub-637F), filed January 5, 1979. Applicant: KROBLIN REFRIGERATED EXPRESS INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, (except commodities in bulk, in tank vehicles), and *filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX, and (2)(a) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and filters*, and (b) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above, (except commodities in bulk, from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, restricted in (1) and (2) above to the transportation of traffic originating at the named origins or destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 106644 (Sub-271F), filed January 12, 1979. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe, fittings, valves, and fire hydrants*, and (2) *accessories*, used in the installation of the commodities named in (1) above, from

the facilities of Clow Corporation, at or near Buckhannon, WV, to points in CT, DE, FL, GA, IL, IN, IA, KS, MI, MN, NE, MA, ME, MD, NH, NY, NJ, ND, SC, SD, OH, PA, WI, and DC. (Hearing site: Chicago, IL, or Washington, DC.)

MC 106644 (Sub-272F), filed January 11, 1979. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber products*, from the facilities of Kaibab Industries, at or near Fredonia, Payson and Whiteriver, AZ, Panguitch, UT, and Eagle and Craig, CO, to points in AR, IL, IN, KY, OH, TN, and the Lower Peninsula of MI. (Hearing site: Phoenix, AZ, or Washington, DC.)

MC 106674 (Sub-357F), filed January 15, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid fertilizer*, in bulk, in tank vehicles, from Bourbon and Watska, IL, to points in IN. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 106674 (Sub-359F), filed January 11, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, (except commodities in bulk, in tank vehicles), and *filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to those points in the United States in and east of WI, IL, KY, TN, MS, and LA and (2)(a) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and filters*, (b) *materials, supplies, and equipment*, as are used in the manufacture, sale, and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, NY, OH, PA, RI, SC, VA, and WV, to the facilities of Quaker State Oil Refining Corporation in Warren County, MS, restricted to the transportation of traffic originating at or destined to the above-named facilities. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 106674 (Sub-364F), filed December 4, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *acrylonitrile*, in bulk, in tank vehicles, from Lima, OH, to points in IN, IL, MI, and WV. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 109124 (Sub-60F), filed January 10, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: H. David McKnight (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Jones & Laughlin Steel Corp., at Cleveland, OH, to points in IL, IN, MI, and PA. (Hearing site: Columbus, OH, or Pittsburgh, PA)

MC 116254 (Sub-234F), filed January 11, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *titanium dioxide slurry*, in bulk, in tank vehicles, from the facilities of E. I. du Pont de Nemours & Co., at or near New Johnsonville, TN, to points in FL and CA. (Hearing site: Washington, DC, or Wilmington, DE.)

MC 116254 (Sub-235F), filed January 12, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Detroit, MI, to points in AL, GA, IL, IA, KY, MN, MO, OH, PA, IN, TN, WV, and WI. (Hearing site: Detroit, MI, or Washington, DC.)

MC 116254 (Sub-241F), filed January 12, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum and aluminum castings*, from the facilities of Ford Motor Company, at or near Sheffield, AL, and Dearborn, MI, to points in AL, AR, CT, DE, FL, GA, IA, IN, IL, KY, LA, MD, ME, MA, MI, MO, MS, MN, NC, NJ, NY, NH, OH, PA, RI,

SC, TN, VA, VT, WI, WV, and DC; (2) *steel racks*, in the reverse direction; and (3) *glass and glass products*, from the facilities of Ford Motor Company, at or near Nashville, TN, and Dearborn, MI, to points in AL, AR, CT, DE, FL, GA, IA, IN, IL, KY, LA, MD, ME, MA, MI, MO, MS, MN, NC, NJ, NY, NH, OH, PA, RI, SC, TN, VA, VT, WI, WV, and DC. (Hearing site: Nashville, TN, or Washington, DC.)

MC 118474 (Sub-11F), filed January 15, 1979. Applicant: AIR VAN LINES, INC., 8151 Occidental Ave. S., Seattle, WA 98101. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *used household goods*, between points in WA, restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontamination of such shipments. (Hearing site: Seattle, WA.)

MC 119894 (Sub-9F), filed January 9, 1979. Applicant: BOWARD TRUCK LINE, INC., 104 Azar Bldg., Glen Burnie, MD 21061. Representative: M. Bruce Morgan (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, pulpboard, and fibreboard*, between Halltown, WV, on the one hand, and, on the other, points in NC and SC. (Hearing site: Lynchburg, VA.)

MC 124174 (Sub-127F), filed January 10, 1979. Applicant: MOMSEN TRUCKING CO., A Corporation, 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *cabinets*, and (b) *such commodities* as are used in the erection and installation of cabinets, from Auburn, NE, to points in IA, IL, KS, MN, MO, NE, ND, SD, and WI; (2) *material, equipment, and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction; and (3) *materials* used in the manufacture of cabinets, from Nashua, NH, to Auburn, NE, and Union City, IN, restricted in (3) above to the transportation of traffic originating at or destined to the facilities of Triangle

Pacific Corp. (Hearing site: Dallas, TX, or Washington, DC.)

Note.—Dual operations may be involved.

MC 128934 (Sub-1F), filed January 11, 1979. Applicant: WILLIAM D. REPKO d/b/a WILLIAM REPKO TRUCKING, 4 Colonial Ave., Natalie, PA 17851. Representative: John M. Musselman, P.O. Box 1146, 410 North Third St., Harrisburg, PA 17108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic containers, plastic closures, and accessories* for plastic containers, and plastic closures, and (2) *plastic film and plastic sheeting*, from Mt. Carmel and Kulpmont, PA, to points in DE, NM, NY, and, OH, and (3) *materials, equipment and supplies* used in the distribution, production, and storage of the commodities named in (1) above, and *plastic film and plastic sheeting*, in the reverse direction, under continuing contract with Universal Packaging, Division of Kraft, Inc., of Glenview, IL. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 134064 (Sub-19F), filed January 10, 1979. Applicant: INTERSTATE TRANSPORT, INC., 1820 Atlanta Hwy, Gainesville, GA 30501. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver CO 80293. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds* (except commodities in bulk, in tank vehicles), and *filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to those points in the United States in and east of MN, IA, MO, OK, and TX; and (2)(a) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and filters*, and (b) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the above-named facilities. (Hearing site: Pittsburgh, PA, or Atlanta, GA.)

MC 134134 (Sub-34F), filed January 8, 1979. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205,

Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic liquors and wines* (except in bulk, in tank vehicles), from Owensboro, KY, to Des Moines, IA, and Minneapolis, MN. (Hearing site: Louisville, KY, or Chicago, IL.)

MC 134134 (Sub-35F), filed January 8, 1979. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, 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, from the facilities of J.V. Taylor, Inc., at Wyalusing, PA, to Erie, PA, and points in IL, IN, IA, MI, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: New York, NY, or Philadelphia, PA.)

MC 134404 (Sub-46F), filed January 11, 1978. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, (1) between Chester, PA, on the one hand, and, on the other, Columbus, OH, Fort Edward, NY, Indianapolis, IN, Norfolk and Roanoke, VA, Rogers, AR, and Winslow, ME, (2) between Fort Edward, NY, on the one hand, and, on the other, Columbus, OH, and Winslow, ME, and (3) between Jacksonville, FL, on the one hand, and, on the other, Atlanta, GA, and Mobile, AL, under continuing contract with Scott Paper Company, of Philadelphia, PA. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 139434 (Sub-8F), filed January 10, 1979. Applicant: MID-AMERICA EXPRESS, INC., P.O. Box 9, Nebraska City, NE 68401. Representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, 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 the facilities of Armour and Company, at or near Madison, NE, and Sioux City, IA, to points in CT, DE, MA, MD, ME, NC, NH, NJ, NY, PA, RI, SC, VA, VT, WV, and DC. (Hearing site: Omaha, NE.)

MC 140024 (Sub-137F), filed January 10, 1979. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Ave., Commerce City, CO 80022. Representative: Jeffrey A. Knoll (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Foodways National, Inc., at or near Hartford and Wethersfield, CT, to points in CA, ID, IL, IN, IA, KS, MI, MN, MO, OR, PA, TX, and WI, restricted to the transportation of traffic originating at the named origins. (Hearing site: Washington, DC, or Hartford, CT.)

MC 141274 (Sub-10F), filed January 10, 1979. Applicant: C. C. ANKENY, INC., P.O. Box 1034, Whittier, CA 90609. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, D.C. 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *thermal products, weatherproofing products, plastic fibre, plastic sheet, tape sealing, tape masking, insulation, filters, and fiberglass*, from Paterson, NJ, to Los Angeles, CA, under contract with Thermwell Products Company, Inc., of Paterson, NJ. (Hearing site: Washington, DC.)

MC 142864 (Sub-5F), filed January 10, 1979. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Jerry B. Sellman, 50 West Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), between points in IL, IN, MI, NJ, NY, OH, PA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

[Decisions Volume No. 28]

[FR Doc. 79-11919 Filed 4-17-79; 8:45 am]

BILLING CODE 7035-01-M

Decision—Notice*Correction*

In FR Doc. 78-19931 appearing at page 31258 in the issue for Thursday, July 20, 1978, on page 31262, in MC 118159 (Sub 267F), top line of column two, "Scrap rugs * * *" should have read "Scrap rags * * *"

[Decisions Volume No. 13]

BILLING CODE 1505-01-M

Decision—Notice*Correction*

In FR Doc. 78-32780 appearing at page 55030 in the issue for Friday, November 24, 1978, in the third column of page 55036, under MC 134477 (Sub-273F), "MI" was should be inserted as a designation state in the 17th line.

[Decisions Volume No. 48]

BILLING CODE 1505-01-M

Decision—Notice*Correction*

In FR Doc. 78-34028, appearing at page 57373, in the issue of Thursday, December 7, 1978, make the following corrections:

(1) On page 57374, in the second column, the third full paragraph designated as MC 25069 (Sub-146F) should be corrected to read "MC 25869 (Sub-146F)" and in the same paragraph the second line correct "molte" to read "nalte".

(2) On page 57378, in the third column, the first full paragraph, the eighth line, correct "irregular" to read "regular".

[Decisions Volume No. 50]

BILLING CODE 1505-01-M

Petitions, Applications, Finance Matters (Including Temporary Authorities), Railroad Abandonments, Alternate Route Deviations, and Intrastate Applications.

Petitions for Modification, Interpretation or Reinstatement of Operating Rights Authority

Correction

In FR Doc. 78-18661 appearing at page 29215 in the issue for Thursday, July 6, 1978, in the third column of page 29218, under MC 105461 (Sub-No 99F), "Newark, N.J." should have read "Newark, N.Y."

BILLING CODE 1505-01-M

Motor Carrier, Broker, Water Carrier and Freight Forwarder Operating Rights Applications

Correction

In FR Doc. 78-20685 appearing at page 32494 in the issue for Thursday, July 27, 1978, in the second column of page 32497, under MC 117815 (Sub-289F), "MI" should be included as a designation state.

[Vol. No. 105]

BILLING CODE 1505-01-M

Assignment of Hearings

April 13, 1979.

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 124692 (Sub-200F), Sammons Trucking, now assigned April 18, 1979, at Billings, Montana is canceled transferred to Modified Procedure.

MC 124211 (Sub-326F), Hilt Truck Lines, Inc., now assigned May 15, 1979, at Los Angeles, California is canceled transferred to Modified Procedure.

H. G. Homme, Jr.,

Secretary.

[Notice No. 89]

[FR Doc. 79-12039 Filed 4-17-79; 8:45 am]

BILLING CODE 7035-01-M

Assignment of Hearings

April 13, 1979.

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.

Correction¹

MC 2202 (Sub-568F), (44 FR 18132) Roadway Express Inc., now assigned for Pre-Hearing Conference on April 17, 1979, at Dallas, Texas and will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

H. G. Homme, Jr.,

Secretary.

[Notice No. 70]

[FR Doc. 79-12040 Filed 4-17-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Applications for Relief

April 13, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before May 3, 1979.

FSA No. 43685, Sea-Land Service, Inc. No. 105, on joint water-rail rates on general commodities, in containers, from Ports in The Peoples Republic of China, to Rail Carrier's Terminals at U.S. Atlantic & Gulf Seapoint Cities, in its Tariff ICC SEAU 341, to become effective May 3, 1979. Grounds for relief—water competition.

FSA No. 43684, Lykes Bros. Steamship Co., Inc. No. 9, on joint rail-water rates on general commodities, in containers, from Rail Carrier's Terminals on the U.S. Atlantic and Gulf Seaboard, to Ports in Indonesia, Singapore and Malaysia, in Pacific Indonesian Conference, Westbound Intermodal Freight Tariff ICC PIC 703, and Pacific Straits Conference, Westbound Intermodal Freight Tariff ICC PSC 703, to become effective May 4, 1979. Grounds for relief—water competition.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-12041 Filed 4-17-79; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Board Transfer Proceedings

April 18, 1979.

Synopses of orders entered by Division 3 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 general rules of practice any interested person may file a petition

¹ This notice corrects the proceeding from a hearing to a pre-hearing.

seeking reconsideration of the following numbered proceedings on or before May 7, 1979. 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.

MC-FC-77963 filed December 15, 1978. Transferee: Pitt-Ohio Express, Inc., 1014 Osage Road, Pittsburgh, PA 15243. Transferor: Vincent White, d.b.a. White Motor Express Company, 2525 Railroad St., Pittsburgh, PA 15222. By decision entered March 29, 1979, the Motor Carrier Board approved the purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 30136, issued September 27, 1955. The rights authorize the transportation of *general commodities*, with exceptions, over irregular routes, between Pittsburgh, PA, on the one hand, and, on the other, points in defined portions of Pennsylvania, West Virginia, and Ohio. Transferee presently holds no authority from the Commission. Application has not been filed for temporary authority under Section 210a(b). This notice is being given so that interested parties may file a petition for reconsideration of the Board's decision.

H.G. Homme, Jr.,
Secretary.

[Notice No. 5]
[FR Doc. 79-12042 Filed 4-17-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Transfer Proceedings

April 18, 1979.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

MC-FC 78034. By application filed February 13, 1979, THE OHIO RIVER TRUCKING COMPANY, 1020 Second National Bank Bldg., Ashland, KY 41101, seeks temporary authority to transfer the operating rights of LAWRENCE MCKENZIE, AN INDIVIDUAL, dba. MCKENZIE TRUCKING COMPANY, Winchester, KY 40391, under section 210a(b). The transfer to THE OHIO RIVER TRUCKING COMPANY of the operating rights of LAWRENCE MCKENZIE, an individual, dba. MCKENZIE TRUCKING COMPANY, is presently pending.

MC-FC 78077. By application filed April 9, 1979, TOLEDO-DETROIT EXPRESS, INC., 6180 Benora Road, Toledo, OH 43612, seeks temporary

authority to transfer a portion of the operating rights of THE SERVICE TRANSPORT CO., 114½ East Main Street, Ravenna, OH 44266, under section 210a(b). The transfer to TOLEDO-DETROIT EXPRESS, INC., of a portion of the operating rights of THE SERVICE TRANSPORT CO., is presently pending.

MC-FC 78082. By application filed March 21, 1979, JOSEPH T. LANGLAND, JR., AN INDIVIDUAL, of Lansing, IA 52151, seeks temporary authority to transfer the operating rights of BULMAN TRUCKING SERVICE, INC., of Waukon, IA 52172, under section 210a(b). The transfer to JOSEPH T. LANGLAND, JR., of the operating rights of BULMAN TRUCKING SERVICE, INC., is presently pending.

By the Commission.
H. G. Homme, Jr.,
Secretary.

[Notice No. 6]
[FR Doc. 79-12043 Filed 4-17-79; 8:45 am]
BILLING CODE 7035-01-M

Finance Applications

The following application seeks approval to acquire control through ownership of stock of motor carriers pursuant to sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protest against the granting of the requested authority must be filed with the Commission on or before May 18, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F13985F. Authority sought for acquisition of control by LAIDLAW TRANSPORTATION LIMITED, 65 Guise Street, Hamilton, Ontario, CD L8L 7X7, and Michael G. DeGroote, 65 Guise Street, Hamilton, Ontario, CD L8L 7X7, of the stock of TRAVELWAYS LTD., 30 Heritage Road, Markham, Ontario, CD L3T 1M4, and the operating rights of its subsidiary TRAVELWAYS TOURS LTD. Representative: David A. Sutherland, Suite 400, 1150 Connecticut Avenue NW, Washington, DC 20036. The

operating rights to be controlled authorize transportation of passengers and their baggage in the same vehicle with passengers as a common carrier over irregular routes (a) in round trip charter operations (i) from ports of entry on the International Boundary between the United States and Canada in MI and NY to points in MI, NY, PA, and OH and return, and (ii) from ports of entry on the International Boundary between the United States and Canada to points in the remaining lower 44 States and the District of Columbia, and return, and (b) in special operations in round trip sightseeing and pleasure tours, beginning and ending at ports of entry on the International Boundary between the United States and Canada and extending to points in the United States (except AL and HI). LAIDLAW TRANSPORTATION LIMITED is a noncarrier holding company, however it is affiliated with LAIDLAW TRANSPORT LIMITED (MC 113784) and GREY GOOSE BUS LINES LTD. (MC 108219). LAIDLAW TRANSPORT LIMITED, is authorized to operate as a common carrier between various points in the eastern half of the US and points on the United States-Canada Boundary. GREY GOOSE BUS LINES LTD. is a Canadian corporation regulated by the ICC as a motor common carrier, which is authorized to operate in MN and between the United States and Canada and points in the United States. Approval of this application may result in some duplication of authority from ports of entry on the International Boundary. Common control may be involved. Application for temporary authority under section 210a(b) has not been filed. Hearing site: Washington, D.C.

H. G. Homme, Jr.,
Secretary.
[FR Doc. 79-12201 Filed 4-17-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 76

Wednesday, April 18, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act", (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., April 19, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Comments on H.R. 2—The Sunset Act of 1979, H.R. 544—The Government Economy and Spending Reform Act, H.R. 688—The Regulatory Agency Abolition Act, H.R. 1059—The Sunset Program Evaluation and Reauthorization Act, and H.R. 1312—The Regulatory Reform Act (memo 8685, OGC).
3. Docket 33348, Disclosure of Oversales Rules by Foreign Air Carriers. (OGC, BPDA).
4. Docket 19923, Liability and Claims Rules and Practices Investigation. Petition for reconsideration of Order 78-7-100, which refused to vacate the investigation's findings or to free the carriers from complying with them in non-interstate cargo air transportation (memo 7755-B, OGC).
5. Draft Order to Show Cause why Rule 380(H), CAB No. 142 should not be cancelled. This provision limits carrier liability for any schedule change or schedule irregularity (BCP, BPDA, OGC, OEA).
6. Docket 32466, Expedited Procedures for Licensing and Rates Cases (OGC).
7. Docket 33418, Application of the Airline Tariff Publishing Company (ATPCO) to engage in carrier discussions on joint fares (memo 8680, BPDA, OGC).
8. Docket 30226, Final Future Subsidy Mail Rate for Kodiak-Western Alaska Airlines, Inc. (BPDA, OCCR, OC, OGC).
9. Petition of I.L.T.A., Inc. requesting review and reversal of staff action permitting United Air Lines, Inc. to implement changes in charter payment rules on short notice (memo 8684, BPDA).
10. Dockets 33133, 33972, 33973, 33974, 33977, 34028, and 34031; Trans Continental Airlines, Conner Air Lines, Rosenbalm Aviation, Emery Air Freight, Pacific Alaska Airlines, Air Express International Airlines, and Fleming International Airways—Certification as section 418 all-cargo air carriers (BPDA, OGC, BLJ).

11. Docket 34650, Procedures and Policy for Determining Essential Air Transportation (OGC, BPDA).

12. Dockets 33690, 33530, 33591, 33677, 34011, 34080, 34093, 34897, 34947, 34948, 34949, 34012, 34950, 34954, 34964, 34994, and 35025; Applications for Dallas/Fort Worth-Denver/Seattle/Portland authority (memo 8463-B, BPDA).

13. Dockets 33516, 33623, 33645, 33737, and 34001; Braniff's Motion for hearing on its certificate application for Dallas/Fort Worth-Boston nonstop authority Northwest's, Allegheny's, Continental's, and Ozark's applications requesting similar authority and motions to consolidate; Continental also requests the Houston-Boston market be heard in the same proceeding (memo 8686, BPDA, OGC, BLJ).

14. Dockets 33542, 33653, 33675, 34090, 34202, and 34219; applications of TXI, Braniff, Northwest, Allegheny, Continental and Ozark for authority between New Orleans and Baltimore, Washington (National) and Washington (Dulles) (memo 8696, BPDA, OGC, BLJ).

15. Dockets 31259, 33176, 33197, 33638, and 33853; Delta's motion for expedited hearing on its application for a certificate amendment authorizing nonstop service in the Atlanta-Raleigh and Atlanta-Greensboro markets; Northwest's and Braniff's applications requesting similar authority, and motions to consolidate; Piedmont's application for a certificate amendment to eliminate a one-stop restriction between Atlanta and Raleigh (and motion to consolidate); Delta's motion, filed February 1, 1979, to withdraw its application; and Piedmont's motion, filed March 23, 1979, to withdraw its application (memo 8697, BPDA, OGC, BLJ).

16. Docket 34781, Frontier's request for a two year exemption commencing no later than April 10, 1979 to provide nonstop service between Fargo, North Dakota and Denver, Colorado (BPDA, OGC, BLJ).

17. Dockets 33115, 33298, 33202, 33315, 33524, 33543, 33607, 34673, 33674, 33671, 33996, 34067, 34746, 33724, 34689, 34722, and 34012; Braniff, Airwest, American, Western, TWA, Continental, Northwest, Allegheny, Ozark, Delta, Eastern, Frontier, Southern, and TXI; Applications requesting authority between Salt Lake City and various points (memo 8412-E, BPDA).

18. Dockets 31213, 31529, 33222, 34678, 34699, 34701, 34702, and 34703; Fort Myers-Atlanta/Tampa authority portion (memo 8233-B, BPDA, BLJ, OGC).

19. Dockets 33115, 33298, 33315, 33524, 33562, 33581, 33671, 33674, 33876, 34019, 34570, and 34067, 34776; Applications for various Salt Lake City markets (memo 8412-D, BPDA).

20. Docket 34894, United's notice to suspend service in 12 city pair markets (memo 8683, BPDA, OCCR).

21. Docket 34853, petition filed by Islip, New York for an order to show cause proposing to amend the certificates of Allegheny and American to redesignate Islip as Long Island MacArthur (memo 8695, BPDA).

22. Docket 34926, National's application for an exemption to provide one daily long-haul restricted flight between Los Angeles and San Francisco (memo 8689, BPDA).

23. Docket 34110, Allegheny/Ransome replacement service agreement (BPDA, OGC, BCP).

24. Docket 34832, Airwest's notice of intent to suspend service at Crescent City, California (memo 8688, BPDA, OCCR).

25. Docket 35057 and 35085; Piedmont Aviation's notice of intent to suspend service in 23 markets under section 401(j)(2) and application for an exemption to terminate service on less than 60 days notice (memo 8694, BPDA, OCCR).

26. Docket 34876, Eastern's 401(j)(2) Notice of Intent to Terminate Service in fifteen markets in 60 days (memo 8693, BPDA, OCCR).

27. Docket 34829, Piedmont's 401(j)(2) notice of intent to terminate service in 28 markets in 60 days (memo 8692, BPDA, OCCR).

28. Docket 29789, *Houston/New Orleans-Yucatan Route Proceeding* (OGC).

29. Docket 32153, application of Atlantida Linea Aerea Sudamericana, S.A. (A.L.A.S.) for issuance of a foreign air carrier permit to provide nonscheduled transportation of property between a point or points in Uruguay; intermediate points in Paraguay, Bolivia, Peru, Brazil, Venezuela, Colombia, and Panama; and the coterminal points Miami, Florida; New York, New York; and Houston, Texas (BIA, OGC, BLJ).

30. Docket 34893, Application of Aerolinas Territoriales de Colombia Ltda. (Aerotol) for a 402/403 exemption (memo 8699, BIA, OGC, BLJ).

31. Docket 34204, Application of Jetsave Ltd. (United Kingdom), a foreign indirect air carrier, for an exemption and waiver to permit it to subcontract air transportation to other independent tour operators (memo 8700, BIA, OGC, BPDA, BLJ).

32. Docket 34644, Application of Southeast Airlines for exemption to conduct with B-707 aircraft a year-long charter program between Miami and Havana, transporting recently released Cuban political prisoners and their families (memo 8686, BIA, OGC, BPDA, BCP, BLJ).

33. Docket 33949, Statement of Objections by World Airways, Inc. to show cause Order 79-2-56 proposing issuance of a foreign air carrier permit to Ontario Worldair Limited (Canada) (BIA, OGC, BLJ).

34. Deregulation of Foreign Air Freight Forwarders (memo 8698, BIA, OGC, BPDA, BLJ, BCP).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor,
the Secretary (202) 673-5068.

[M-213; April 12, 1979]

[S-745-79 Filed 4-16-79; 8:51 am]

BILLING CODE 6320-01-M

2

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Friday, April 13, 1979.

PLACE: Chairman's Conference Room,
1717 H St., N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

9:30 a.m. Discussion of incident at Three
Mile Island (approximately ½ hour) (exempt
session—meeting lacked Quorum).

11 a.m. Continuation of Discussion of
Commission Investigation of TMI Incident
(approximately 2 hours) (closed—exemptions
5, 6 & 9).

**CONTACT PERSON FOR MORE
INFORMATION:**

Walter Magee, 202-634-1410.

Walter Magee.

Office of the Secretary.

April 13, 1979.

[S-746-079 Filed 4-16-79; 9:24 am]

BILLING CODE 7590-01-M

Wednesday
April 18, 1979

Federal Register

Part II

**Department of
Health, Education,
and Welfare**

Public Health Service

**Referral and Services for Blind and
Disabled Children Receiving Supplemental
Security Income Benefits**

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Public Health Service

42 CFR Part 51a

**Referral and Services for Blind and
Disabled Children Receiving
Supplemental Security Income
Benefits; Final Rule**

AGENCY: Public Health Service, HEW.

ACTION: Final rule.

SUMMARY: This document establishes regulations governing State plan requirements for the referral for and provision of services for blind and disabled children receiving benefits under the Supplemental Security Income (SSI) Program of the Social Security Act.

EFFECTIVE DATE: April 18, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Vince L. Hutchins, Associate Bureau Director, Office of Maternal and Child Health, Bureau of Community Health Services, Health Services Administration, Room 7-39, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-2170.

SUPPLEMENTARY INFORMATION:

These regulations govern the program established by Section 1615(b) of the Social Security Act ("the Act") (42 U.S.C. 1382d). Essentially this program provides for the referral by the Social Security Administration (SSA) of blind or disabled Supplemental Security Income (SSI) recipients who are under age 16 to a designated State agency, which is either the State Crippled Children's Agency funded under Title V of the Act, or another State agency which administers programs for disabled children. This designated State agency is responsible for the administration of a State plan which provides for counseling, establishment and monitoring of individual service plans, and service referrals for disabled children under 16 years of age. The State plan must also provide for the provision of medical, social, developmental, and rehabilitative services for disabled children under 7 years of age and those who have never attended public school.

Interim regulations governing this program appeared in the *Federal Register* on December 16, 1977 (42 FR 63568). Public comment was invited at that time. (See below for discussion of public comments.) The major changes included in the final regulations are as follows:

a. *Public participation.* If a State plan is disapproved, a State may request that

the Secretary reconsider this determination, and may request a hearing on the matter. Under the final regulations, the State must now notify the public of the Secretary's action and the State's petitions, and hearings on this issue must be open to the public.

b. *Grievance procedures.* Under the interim regulations, a disabled child receiving services under the plan and, as appropriate his parent, guardian, or other representative, who is dissatisfied with any action with regard to furnishing these services, may file a request for an administrative review and redetermination by the supervisory staff of the State agency. A requirement has been added that a grievance procedure must be provided, should there be dissatisfaction with the review and redetermination.

c. *Parental involvement.* Recognizing the importance of parental involvement in carrying out an individual service plan, a requirement was added to provide for parental involvement, whenever a significant change in the child's individual service plan is considered.

Summaries of the substantive comments received on the interim regulations and the Department's responses to these comments follow.

1. Four comments dealt with the rule which specifically limits the provision of treatment services to disabled children under 7 years of age or those who have never attended public school (see Sec. 1615(b)(1)(D) of the Social Security Act).

One person stated that this rule would eliminate from receiving needed services those children who had once been enrolled in a public school program as "normal children" but who had become disabled or blind between age 7 and 16. Because of the limitation on services imposed by the statute, the regulations cannot be changed on this point. Children such as those described in this comment will, however, have an individual service plan established for them and will be referred promptly to appropriate medical, educational, and social services (see § 51a.306(c)).

Another comment stated that this limitation creates an ambiguity about the availability of services for children who attend private schools. As noted above, the statute explicitly limits the provision of services to disabled children under age 7 and to children "who have never attended public school." Consequently, there can be no change in the regulations.

Another person suggested that accredited private institutions be considered equivalent to public schools. Inasmuch as the term "public school"

used in the statute is generally recognized not to include such institutions, this recommendation was not accepted.

In addition, questions were asked as to whether educational programs conducted in State or other public residential institutions are considered to be "public schools." To clarify this point, a definition of "public school" has been added (see § 51a.302). The definition is consistent with that used by the Social Security Administration in administering Section 1615 of the Social Security Act. Although the total institutional program would not be considered as a public school, an educational program that meets the conditions of this definition would be so considered.

2. Two comments recommended the expansion and strengthening of § 51a.303(a) to facilitate greater public participation in the development of State plans, and recommended that public hearings be held to afford interested parties an opportunity to testify about a proposed plan. The interim regulations required that the State plan be made available to the public with an opportunity for comments, and provided for the submission to the Secretary of such comments with the plan. The Department believes that this requirement offers sufficient opportunity for public participation since comments received will be considered by the Secretary in reviewing the State plan. For this reason, the recommendation that an opportunity for a public hearing be added was not accepted (see § 51a.303(a)).

3. One respondent was of the opinion that, in order for public participation to be effective whenever significant Federal action is taken regarding a State's plan, the public should be informed, especially when a State plan is disapproved, and an administrative review is requested by the State agency (see § 51a.303(e)). It was recommended that if a State files a petition asking for reconsideration of whether the plan or an amendment meets the requirements for approval, it should be required, within 5 days to notify the public of the Secretary's action and the State's petition for review, and make copies of both available to interested parties. Hearings on the issue should be open to the public, with interested persons having the right to submit written testimony for the hearing officer. Within 5 days of the fixing of the time and place of the hearing, the State should publish a notice of the hearing and the public's rights at the hearing. In keeping with the

Department's interest in increased public participation, this recommendation was accepted and, accordingly, § 51a.303(e) has been revised.

4. § 51a.305(b)(3) provides generally for an administrative review by the State agency supervisory staff when a disabled child, his parent, guardian, or other representative is dissatisfied with the services which the child is receiving under the State plan. One respondent contended that such a provision does not ensure a formal, fair hearing proceeding, nor does it ensure that the child and his parent, guardian, or other representative will receive basic due process protections. At a minimum, the respondent stated, the recipients of services under this program should have the right to the wide range of administrative procedures, similar to those set forth in 45 CFR 205.10, and the child, his parent, guardian, or other representative should be entitled to a hearing to appeal denial, reduction, or termination of service, or failure to act upon a request for service with reasonable promptness.

Eligibility of a blind or disabled child for services under Section 1615 of the Act is determined by the SSA, and that agency, in determining eligibility, decides questions regarding denial, or termination of services. With respect to these decisions, the provisions and procedures set forth in 45 CFR 205.10 apply. However, in considering the recommendation, the Department has reexamined the provisions of § 51a.305(b)(3). This section is designed to provide some redress with regard to the services actually performed, analogous to grievance procedures in other health care delivery systems. Specifically, a disabled child, his parent, guardian, or designated representative who is dissatisfied with any actions regarding the furnishing of services may have a member or members of the supervisory staff of the State agency review those actions. However, review by supervisory staff could be inadequate with respect to furnishing of services. The regulation has therefore been amended, by the addition of § 51a.305(b)(4), to require that each State plan set forth a grievance procedure for service complaints.

5. One respondent recommended adding the word "rehabilitation" to § 51a.306(a)(3) in order to require that individuals employed as counselors under the plan have knowledge of rehabilitation resources in addition to the medical, educational, and social services resources available to assist disabled children. It was also

recommended that in § 51a.306(c), the word "rehabilitation" be added to the list of the kinds of services to which children should be referred. Since Section 1615(b)(1)(D) of the Social Security Act requires that State plans provide services for eligible children who require preparation to take advantage of various services, including rehabilitative services, the recommendations were accepted, and these two sections have been amended.

6. A respondent expressed concern that omission of the adjective "psychological" in § 51a.306(b)(1)(ii), (b)(2)(i), and (b)(2)(iii) in describing the needs of the child, allows for less than professional attention to a child's psychological needs. Section 1615(b)(1)(D) of the Social Security Act authorizes the provision of, or referral for, medical, educational, social, developmental, and rehabilitative services. These categories of services and the identical categories of needs are broad, and the Department views psychological needs as an essential component of these categories. Consequently, the Department believes that it is not necessary to add the adjective "psychological" to this list.

7. The same respondent recommended adding provision for the preventive, diagnostic, and treatment services of a licensed or certified psychologist to § 51a.307(d), which states that the services in the program for disabled children "may include, but need not be limited to * * * (1) Preventive, diagnostic, and treatment services of a physician and, as appropriate, physician extenders" (emphasis supplied). This list of services is illustrative rather than inclusive, and permits inclusion of the services of many health professionals that are not explicitly mentioned. Thus, this section need not be revised in order to include services of psychologists.

8. One commenter proposed that § 51a.306(b)(1)(iii) be revised to provide that the professionals responsible for the medical, educational, social, developmental, and rehabilitative assessment of the child be involved in the individual service plan development process. The process required by this section for the State agency's development of the service plan includes these professionals; thus, there is no need for this explicit requirement in the regulations.

9. A further revision of § 51a.306(b)(1) was recommended which would add a requirement that the State agency take steps to ensure that one or both parents of the disabled child, and/or a representative designated by a parent, be present and afforded the right to

participate in each meeting affecting the disabled child's individual service plan. The Department agrees with the respondent regarding the importance of parental participation in the revision of individual service plans as well as in their initial development and, therefore, has amended this section to require provision for involvement of the disabled child or his parent, guardian, or designated representative in any significant revision of the plan (see § 51a.306(b)(1)(iv)).

10. One commenter advocated a revision of § 51a.306(d)(2) to provide for participation by the parent, guardian, or other representative in the periodic review of service plans, as he thought it as important for parents to be involved in the periodic review of their child's program as in the initial development of the service plan. It was pointed out that parents would have a great deal of information to offer about their child's program and about new problems that may have developed.

The periodic review of service plans by professionals not involved in the preparation or implementation of the plans is intended to be an objective assessment of the quality of the program. Sampling techniques may be used, rather than the review of each individual service plan. However, it is anticipated that in conducting this review, the views of the parent, guardian, or designated representative, as well as the views of various professionals, would be considered. Although the recommendation for parental participation in the periodic review was not accepted, § 51a.306(b)(1) has been revised to require the involvement of parent, guardian, or designated representative in any significant revisions of the service plans. (See item 9, above.)

11. One respondent pointed out that § 51a.306(b)(2) lacks an accountability provision in the list of minimum information to be included in every individual service plan. The respondent thought a plan should list not only the necessary services a beneficiary is entitled to receive, but also designate the agencies responsible for providing those services, and thereby facilitate an effective monitoring and review process. It was proposed that this section be revised to require designation of specific agency responsibilities for provision of services with respect to each individual service plan. No change has been made in the regulation, because the designation of agency responsibility has been provided for adequately in § 51a.306(b)(2)(iv), which requires that the individual service plan include a

"description of the major activities to be undertaken to reach the objectives and the agency or agencies responsible for each of these activities."

12. One person pointed out that Head Start programs are the primary providers of child development and related services to preschoolers (3 to 5 years of age) with handicaps, and should therefore be added to the list of Federal programs in § 51a.306(b)(3). Although this list was intended to be illustrative rather than exclusive, the recommendation has been accepted, and the Head Start program has been added (see § 51a.306(b)(3)(iv)).

13. One person proposed that § 51a.306 include a requirement that individual service plans developed under §§ 51a.306 and 51a.307 be made binding on the designated State agency, which would thereby be required to provide or arrange for the provision of all the services listed. The commenter said that the State plan should describe in detail the timetable and the enforcement procedures which would be instituted against any agency found to be out of compliance with an individual service plan requirement or with any other provision of the Act.

The ability of the State agency and the other agencies to carry out the individual service plan is subject to the various limitations of these agencies, which include financial and staff resources. To require enforcement of individual service plans regardless of agency resources is not realistic; nor would the State agency have authority to do so. It is anticipated that cooperative arrangements developed between agencies usually will be sufficient to implement the service plan. For these reasons, no change has been made in the regulation.

14. One person advocated the elimination of references in § 51a.307(a)(2), and elsewhere, to long-range prognosis for self-sufficiency or self-support as an adult, since there was no valid scientific criteria for making such a determination and there is great danger that the children most in need of expensive long-term services will be deprived of them. Section 1615(b)(1)(D) of the Social Security Act specifically limits the provision of services to those services which "reasonably promise to enhance the child's * * * opportunities for self-sufficiency or self-support as an adult;" thus, there has been no change in the regulation. It is expected, however, that in consideration of the interest of the child, the law and the regulations will be as liberally administered as professional judgment and financial resources will allow.

15. Two respondents suggested that § 51a.307(c)(2), which requires that the services provided "be reasonably expected to ameliorate the condition which forms the basis for the child's disability under the SSI program," be revised to require that the services be specifically designed to address the condition. For example, it was pointed out that, in the case of a child whose blindness cannot be helped by medical or surgical intervention, the condition of blindness itself can be addressed in the form of orientation and mobility training, and other compensatory techniques. Such a restrictive reading of § 51a.307(c)(2) was not intended, but, to avoid any confusion on this point, this paragraph has been deleted.

16. Two comments recommended modification of § 51a.307(d), which lists the services that *may* be included in the program, but does not limit the agency to providing only these services. One person recommended that the State agency be required to make all of the listed services available to eligible children who need them, and also recommended that day care be added to the list. The other person suggested that residential care be added to the list. Due to limited resources, it would be inappropriate to require that all of the listed services be available. Since other services necessary to facilitate the implementation of the individual plan are generally authorized under this section, additional services need not be specifically listed.

17. One respondent recommended that § 51a.309, dealing with coordination with other agencies, be revised to include departments or divisions of mental retardation in addition to departments of mental health, since this responsibility is divided in some States, and mentally retarded children have been deprived of crippled children's services if they lack physical disabilities. Another person suggested that the Head Start agencies be added to the illustrative list of Federal, State, and local agencies in § 51a.309, so that the State agency, when developing individual service plans, will be made more aware of this additional resource. These suggestions have been accepted, and this section has been amended.

18. It was recommended that the word "great" be deleted from § 51a.311(a)(2), which authorizes the continuation of service for a certain period after receipt of a notice from SSA that a disabled child's eligibility for SSI benefits has terminated, if termination of service would cause "great" hardship to the child. The Department accepts this recommendation. It would be contrary

to good medical practice to require a disabled child to suffer "great" hardship before services are continued. Therefore, the word "great" has been deleted from § 51a.311(a)(2).

19. One person recommended that instead of requiring "reasonable" efforts to refer for needed services children whose eligibility for SSI benefits has terminated, as stated in § 51a.311(c), it should be mandatory for the State agency to make such referral and to follow it up. Under the interim regulations, State agencies are required to make all reasonable efforts to refer children who need additional services to other agencies which can provide those services and to require more would be unrealistic. (See item 13, above.) Consequently, this recommendation has not been accepted.

20. Several questions were raised concerning eligibility and termination. The basic issue is whether a blind or disabled child is and continues to be eligible to receive services under section 1615(b) once referred by the SSA, regardless of the child's eligibility for SSI payments. One view of this section is that the program provides a mechanism for referral of blind and disabled children who, once referred, should continue to receive services regardless of continued SSI financial eligibility, and, even if referred under the erroneous belief of SSI eligibility, should continue to receive services after the error is detected.

Although there is no legislative history on this point, the statute clearly provides referral only for those receiving SSI payments or for those on whose behalf SSI payments are made (see section 1615(a) of the Social Security Act). It seems clear from the linkage of section 1615(b) to the SSI program that a general program to benefit blind and disabled children without regard to income was not intended. Therefore, the Department concludes that continued eligibility to receive SSI benefits is required in order to continue to receive services under section 1615(b); thus, the regulations have not been revised.

One comment raised a question about the validity of the limitation of treatment to 4 months following termination of SSI benefits. Elimination of this arbitrary period was recommended where termination would cause hardship to the child. The precedent for a 4-month phase-out period was established under the vocational rehabilitation regulations. This length of time, however, which might be appropriate in the context of vocational rehabilitation, may not be appropriate with respect to provision of medical services; therefore § 51a.311(b),

which contains the 4-month time limit, has been deleted.

Another question was raised as to whether treatment services must be terminated precisely at age 7. The Department concludes that the same principles as apply to termination, described above, should apply with respect to the age limitation. Treatment services may be continued to be provided by the State agency if abrupt termination of treatment would cause hardship, e.g., would be contrary to good medical practice. A new § 51a.311(b) has been added to clarify this point.

21. A respondent from one State agency objected to the restriction to 10 percent of the Federal money available for counseling, referral, and establishing and monitoring individual service plans (§ 51a.312(a)) on the basis that this limits the States to an extremely small amount for start-up costs, and thus makes it difficult for smaller States to implement the program. This question has also been raised by a number of State agency representatives in discussions held since issuance of the interim regulations.

The statute states that no more than 10 percent of the Federal money available to the program can be used for the provision of counseling and referral services, and for establishing and monitoring individual service plans. The remaining 90 percent is intended for implementation of all other aspects of the program, including necessary administrative costs, and, since the present regulations permit such expenditures, no change is necessary.

In this regard, we note that if diagnostic costs are described as part of the development costs of the service plan, such costs, even for those children under age 7, must be included in the 10 percent portion. Therefore, the Department concluded that diagnostic costs associated with the care plan should be considered as part of treatment services, so that the 90 percent portion of Federal funds could be used to support diagnoses for children under 7 and for children who have never attended public school. However, it should be noted that, as a consequence, diagnostic workup costs would also be considered as a part of treatment for children over 7 who have attended public school, and treatment services for this group cannot be supported by these funds. Accordingly, diagnostic services will not be supported under this program for children over 7 who have attended public school. The Department is considering proposing a legislative change to correct this problem.

22. Two respondents complained that the allocation of funds among the States, described in § 51a.312(e), is based on the total child population under age 7, rather than on the number of children actually receiving benefits from SSL. The statute requires this method of allocation; therefore, the regulation was not revised.

23. One person recommended that § 51a.315 be strengthened to base payment on the actual cost of service in order to encourage the delivery of adequate services to eligible children. It is the Department's policy that payment for services provided under the State plan be reasonable and sufficient to maintain high standards relating to personnel and facilities. This policy does not preclude payment of actual costs when they are reasonable and necessary. Rates for payment of costs for inpatient services should not differ from payments made by the State crippled children's agency for similar services. Thus, the regulation was not revised.

24. One respondent recommended that § 51a.317 be extended to allow physician and medical services covered in the State plan to be provided by health professionals other than licensed physicians, if such services may be provided under applicable State law by such other health professionals. A person covered by the State plan could then select either a physician or another duly licensed health professional to deliver the services. No such limitation is contained in that section. Moreover, many of the services listed in § 51a.307, and others not specifically listed in that section, may be provided by persons other than physicians or by nonmedical personnel. It is implicit that, to the extent feasible, patients, or their parents or guardians may exercise freedom of choice in selection of a provider. Therefore, no revision in the regulation is necessary.

25. One person recommended that the qualifying word "reasonably" be deleted from § 51a.317(b), which requires that the standards for personnel and facilities assure a reasonably high standard of care. The person also suggested that § 51a.317(d) be modified to require that these standards be in accord with national standards as accepted or prescribed by the Secretary. The two recommendations were accepted and the regulation has been so revised, since there is no question that standards should aim at a high quality of care and, at a minimum, meet national standards.

26. In addition to the above revisions, made in response to comments, minor

technical changes have been made, several to simplify the text in accordance with Executive Order 12044, regarding the improvement of government regulations.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby revises Subpart C of 42 CFR Part 51a, as set forth below.

Dated: December 8, 1978.

Julius B. Richmond,
Assistant Secretary for Health.

Approved: April 9, 1979.

Joseph A. Califano, Jr.,
Secretary.

Subpart C—Referral and Services for Blind and Disabled Children Receiving Supplemental Security Income Benefits

Sec.

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- 51a.320 Which Department-wide regulations apply?

Authority: Sec. 1615, Social Security Act, 90 Stat. 2663 (42 U.S.C. 1382d); sec. 1102, Social Security Act, 49 Stat. 647 (42 U.S.C. 1302).

Subpart C—Referral and Services for Blind and Disabled Children Receiving Supplemental Security Income Benefits

§ 51a.301 What is the purpose and scope of this program?

(a) This program, under the authority of Section 1615 of the Social Security Act (the Act), provides for the referral by the Social Security Administration of blind or disabled Supplemental Security Income recipients who are under age 16 to a designated State agency which is either the State crippled children's agency funded under Title V of the Act or another appropriate State agency which administers programs for disabled children.

(b) This designated agency is responsible for the administration of a State plan which provides for counseling, development of individual service plans, and referrals for disabled children under 16 years of age, and provides medical, social, developmental, and rehabilitative services for disabled children under 7 years of age and those who have never attended public school. Federal financial assistance is available to pay the State agency for the costs of carrying out the State plan. The regulations of this subpart contain the State plan requirements and other conditions which must be met by the State in order to receive funding under Section 1615(e) of the Act.

§ 51a.302 Definitions.

As used in this subpart:

"Act" means the Social Security Act as amended (42 U.S.C. Chap. 7);

"Department" means the Department of Health, Education, and Welfare;

"Disabled child" means an individual under age 16 who is blind or disabled and who is receiving benefits under the Supplemental Security Income Program;

"Family" means any relative by blood or marriage of a disabled child and other individuals living in the same household with whom the disabled child has a close interpersonal relationship;

"Public school" means any educational program operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly with the use of governmental funds or property received from a governmental source.

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated;

"SSA" means the Social Security Administration;

"SSI" means the Supplemental Security Income Program established under Title XVI of the Social Security Act (42 U.S.C. 1381);

"SSI Disabled Children's Program" means the program for referral and services for blind and disabled children receiving supplemental security income benefits under Section 1615(e) of the Act and the regulations of this subpart;

"State" means a State of the United States or the District of Columbia; and

"State agency" means the agency which has been designated to administer the SSI Disabled Children's Program, as provided for in § 51a.310.

§ 51a.303 How are State plans to be submitted and approved?

(a) *Public participation.* The State plan shall be made available to the public, and interested persons given an opportunity to comment on any State plan developed under this subpart; any comments received shall be submitted with the State plan.

(b) *Submission of plans.* In order to receive funds under this subpart for the first year of operation of the SSI Disabled Children's Program, a State shall submit to and have approved by the Secretary a State plan which is a comprehensive statement of the nature and scope of the program and contains all necessary information and assurances of compliance to meet the requirements specified in Section 1615 of the Act and the regulations of this subpart. In order to receive funds under this subpart in subsequent years, a State shall submit to and have approved by the Secretary a State plan which contains or incorporates by reference the information and meets the requirements specified in Section 1615 of the Act and the regulations of this subpart. Documents incorporated by reference become a part of the State plan as though fully contained in it. These documents must be (1) clearly identified as to subject, date, and location, (2) officially adopted and distributed in accordance with applicable procedures, and (3) made available to the Secretary and to the public for inspection.

(c) *Prompt approval of State plans.* Under Section 1116 of the Act, the determination as to whether a State plan submitted for approval conforms to the requirements for approval under the Act and these regulations shall be made promptly and not later than the 90th day following the date on which the plan submitted is received by the Department, unless the Secretary has

received from the State agency a written agreement to extend that period.

(d) *Prompt approval of plan amendments.* Any amendment of an approved State plan may, at the option of the State, be considered as a submission of a new State plan. If the State requests that the amendment be considered as a new State plan, the decision as to its conformity with the requirements for approval shall be made promptly and not later than the 90th day following the date on which the State's request is received by the Department, unless the Secretary has received from the State agency a written agreement to extend that period.

(e) *Administrative review.* Under Section 1116 of the Act, any State dissatisfied with a determination of the Secretary under paragraph (c) or (d) of this section with respect to any plan or amendment may within 60 days after the date of receipt of the determination, file a petition with the Secretary asking for reconsideration of the issue of whether the plan or amendment conforms to the requirements for approval under the Act and pertinent Federal requirements. Within 5 days of filing the petition, the State agency shall notify the public of the Secretary's action and the State's petition for review, and make copies available to interested persons. Within 30 days after receipt of the petition, the Secretary will notify the State of the time and place at which the hearing for the purpose of reconsidering the issue will be held. This hearing shall be held not less than 30 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing on another time. The hearing shall be open to the public and interested persons shall have the right to submit written testimony for the hearing record. Oral testimony may be taken at the discretion of the hearing officer. Within 5 days of the fixing of the time and place of the hearing, the State agency shall give reasonable public notice of the hearing and of the public's rights at the hearing.

A determination upholding, modifying, or reversing the Secretary's original decision will be made within 60 days of the conclusion of the hearing, and shall within 5 days be made available to the public. The denial of Federal funds resulting from an initial determination by the Secretary that a plan or amendment is not approvable shall not be delayed until the reconsideration has been completed, but in the event that the Secretary subsequently determines that his original decision was incorrect he shall arrange to pay immediately in a

lump sum any funds incorrectly withheld or otherwise denied.

(f) *Judicial review.* Section 1116(a)(3) of the Act provides that any State dissatisfied with a final determination by the Secretary under paragraph (d) of this section may, within 60 days after it has been notified of this determination, file with the U.S. Court of Appeals for the circuit in which the State is located a petition for review of this determination. The procedural and standard-of-review requirements in § 1116(a)(3)-(5) apply.

§ 51a.304 What requirements must a State plan meet?

In order to receive approval by the Secretary, a State plan must meet the requirements of §§ 51a.305 through 51a.321.

§ 51a.305 What is the relationship between the State agency and SSA?

(a) The SSA will be responsible for determining the eligibility of disabled children for SSI benefits. The SSA will refer eligible children to the State agency designated under § 51a.310. That agency shall determine:

(1) Which services will be provided to each eligible child, and

(2) The child's need for and use of the services made available under the plan.

(b) The State plan shall:

(1) Describe the method by which disabled children will be referred from SSA to the State agency;

(2) Provide for the exchange between the State agency and SSA of all relevant information concerning the children referred, including the need for and use of the services provided under the individual service plans required by § 51a.306(b);

(3) Provide that a disabled child receiving services under the State plan, or, as appropriate, his parent, guardian or designated representative who is dissatisfied with any action with regard to the furnishing of services, may file a request for an administrative review and redetermination of that action, to be made by a member or members of the supervisory staff of the State agency; and

(4) Provide for and describe a grievance procedure which will be available to a disabled child, his parent, guardian or designated representative, who is dissatisfied with the review and redetermination required in paragraph (3).

§ 51a.306 What are the program requirements for disabled children under 16 years of age?

The State plan shall describe the methods to be used to provide the following services for disabled children

under 16 years of age who are referred by SSA to the State agency:

(a) *Counseling.* (1) A counseling program shall be provided for disabled children and their families in order to:

(i) Explain the rehabilitation process, the services available to the child, and the rights and responsibilities of the child and his family under the SSI Disabled Children's Program, and

(ii) Assist the child's family in its efforts to cope with the child's disability and in its efforts to enable the child to lead as normal a life as possible.

(2) Counseling shall be provided at any time when a change is made in the individual service plan required by § 51a.306(b) which could affect the individual's SSI eligibility or the rights and responsibilities of the child or his family.

(3) Individuals employed as counselors under the plan shall, as a minimum, be skilled in techniques of human relations counseling and have knowledge of the relevant policies and procedures of SSI and the State agency as well as the medical, educational, rehabilitative, and social service resources available to assist disabled children.

(b) *Establishment of individual service plans for each disabled child.* (1)

An individual service plan shall be established for each disabled child referred by the SSA to the State agency. The service plan shall be:

(i) In writing;

(ii) Developed on the basis of a multidisciplinary evaluation of the medical, educational, social, developmental, and rehabilitative needs of the child;

(iii) Developed by the State agency with the participation of representatives of other agencies (responsible for carrying out the service plan) and the disabled child or, as appropriate, his parent, guardian, or designated representative; and

(iv) Revised as necessary by the State agency, with participation of representatives of other agencies (responsible for carrying out the service plan) when the other agency is affected by the revision, and with the involvement of the disabled child or his parent, guardian, or designated representative, when any significant revision is made to the service plan.

(2) Each individual service plan must contain, at a minimum, the following information:

(i) A statement of the medical, educational, developmental, social, and rehabilitative needs of the child including the diagnosis which formed the basis for the initial referral and the

final diagnosis established as a result of the multidisciplinary evaluation made under subparagraph (1)(ii) of this paragraph;

(ii) Evidence that a case history has been compiled and used in the development of the plan, if a complete record is not included with the individual service plan;

(iii) A statement of specific short-term and long-term objectives for meeting the medical, educational, social, developmental, and rehabilitative needs of the child and a description of the methods to be used to measure the child's progress in reaching the objectives;

(iv) A description of the major activities to be undertaken to reach the objectives and the agency or agencies responsible for each of these activities;

(v) The date on which the activities will begin and, to the extent possible, an estimate of the duration and frequency of each activity;

(vi) A statement of the anticipated outcomes for each activity;

(vii) A description of the mechanisms to be used to assure that the services which are provided are of a high quality, including a description of the personnel needed to carry out the activities and their qualifications;

(viii) A schedule for reviewing elements of the service plan to determine their effectiveness in meeting the established objectives; and

(ix) The estimated cost of carrying out the service plan.

(3) To the extent appropriate, as determined by the State agency, service plans which have been developed for the child in connection with other Federal programs shall be included in the service plan developed under this paragraph. These other Federal programs include:

(i) Services developed for crippled children under Title V of the Act (42 U.S.C. 701-707, regulations at 42 CFR Part 51a, Subpart A);

(ii) Individualized education programs developed for the handicapped child under Part B of the Education of the Handicapped Act (20 U.S.C. 1412(4); 1414(a)(5), regulations at 45 CFR 121a.220-121a.226);

(iii) Habilitation plans for developmentally disabled children developed under the Developmental Disabilities Services and Facilities Construction Act (42 U.S.C. 611(b), regulations at 45 CFR 1386.1(b)(x), 1386.47);

(iv) Individual written rehabilitation program developed for handicapped individuals under the Rehabilitation Act

of 1973 (29 U.S.C. 721(a)(9); 42 U.S.C. 722, regulations at 45 CFR 1361.39);

(v) Other individual service plans developed under the Medicaid program, Title XIX of the Act (42 U.S.C. 1396 *et seq.*, regulations at 42 CFR Part 435), Title XX of the Act (42 U.S.C. 1397 *et seq.*, regulations at 45 CFR Part 228) and the Community Mental Health Centers Program (42 U.S.C. 2689, regulations at 42 CFR Part 54); and

(vi) Services being provided to handicapped pre-schoolers in Head Start programs under Pub. L. 93-644, the Head Start, Economic Opportunity, and Community Partnership Act of 1974 (42 U.S.C. 2701).

(4) Requirements for cooperative agreements among agencies providing referrals and services under individual service plans are described in § 51a.309.

(c) *Referrals.* The State plan shall provide for the prompt referral of the disabled children for medical, educational, rehabilitative, and social services based on the requirements of each child's service plan and the cooperative agreements described in § 51a.309.

(d) *Monitoring.* The State plan shall describe the methods to be used to monitor the carrying out of the service plans by the agencies providing services and by the disabled children and their families. The purpose of the monitoring shall be to determine the extent to which services are used, the appropriateness and quality of the services, the extent to which coordination with other agencies has been achieved, and the reasonableness of the expenditures for services provided under § 51a.307. In addition, the State plan shall provide for the:

(1) Designation of a program coordinator responsible for ensuring the carrying out of the service plan and for evaluating its impact on the disabled child; and

(2) Periodic review, at least annually, of service plans by appropriate professionals not involved in the preparation or carrying out of the plans. The results of the periodic review shall be submitted in writing to the State agency.

§ 51a.307 What are the program requirements for disabled children under 7 years of age and those who have never attended public school?

(a) The State plan shall provide for the delivery of a full range of medical, social, developmental, and rehabilitative services to disabled children:

(1) Who are under 7 years of age or have never attended public school and

require preparation to take advantage of public educational services; and

(2) For whom these services reasonably promise to improve the child's ability to benefit from subsequent education or training, or otherwise improve his opportunities for self-sufficiency or self-support as an adult.

(b) The services included in the State plan may be provided by the State agency directly, by contract with other agencies, or under a cooperative agreement as described in § 51a.309.

(c) The services must be provided under an individual service plan as described in § 51a.306(b).

(d) Services may include, but need not be limited to, the following:

(1) Preventive, diagnostic, and treatment services of a physician and, as appropriate, physician extenders;

(2) Inpatient and outpatient hospital services;

(3) Dental services;

(4) Nursing services;

(5) Home health services;

(6) Social services;

(7) Rehabilitative services including long-term and short-term physical and occupational therapy;

(8) Speech and hearing services;

(9) Vision services;

(10) Child development services;

(11) Mental health services;

(12) Counseling services, including rehabilitative, developmental, social, occupational, and educational counseling;

(13) Allied health services;

(14) Pharmaceutical services including the provision of drugs;

(15) Medical device and related services;

(16) Transportation services needed to carry out the individual service plan;

(17) Emergency medical services;

(18) Nutrition services as needed to assist in carrying out the individual service plan;

(19) Reading and interpreter services for the deaf and blind; and

(20) Other services necessary to assist in carrying out the individual service plan.

(e) No funds may be used to pay for the costs of construction of a facility.

(f) The plan shall define the criteria to be used to determine which disabled children will receive priority for services, taking into consideration items 1 through 3 below. When resources are available, however, a State may not use the criteria to limit the delivery of services to eligible children.

(1) The relationship between the geographic location of the disabled child

and the location of resources needed to provide services to the child;

(2) The availability of other Federal and non-Federal resources; and

(3) The degree to which the services will improve the child's ability to benefit from subsequent education or training, or improve his opportunities for self-sufficiency or self-support as an adult.

§ 51a.308 How must the State plan describe program objectives?

The State plan shall contain statements of measurable objectives for activities undertaken during the program year in accordance with §§ 51a.305 through 51a.309.

§ 51a.309 What programs must be coordinated?

The State plan shall assure that cooperative agreements are made with each Federal, State, or local public agency which provides services to disabled children including, but not limited to, the State programs for: Developmental Disabilities; Vocational Rehabilitation; medical assistance (Title XIX, Social Security Act) including the Early and Periodic Screening, Diagnosis and Treatment Program; social services (Title XX, Social Security Act); Education of the Handicapped; Head Start; Maternal and Child Health and Crippled Children's Services; mental health; mental retardation; and services for the blind. The purpose of the cooperative agreements is to assure that services under the plan are coordinated with all principal public and private State and local agencies providing services to disabled children and that all reasonable efforts are made to use existing services and to obtain financial support from these agencies. The agreements must in writing and include as a minimum the following:

(a) A statement of the mutual objectives and respective responsibilities of each agency including a description of the services the agency is to provide at the State and local level;

(b) A system for referrals between agencies;

(c) A mechanism for financing services provided;

(d) A system to ensure the exchange of reports on services provided;

(e) The joint evaluation of services as well as policies and activities that affect the cooperative work of the parties;

(f) Periodic reviews of the agreement; and

(g) A mechanism for ensuring continuing and close cooperation, including the designation of staff members responsible for activities

involving other agencies, at both the State and local levels.

§ 51a.310 What State agency must be designated to administer the State plan?

(a) The State plan shall designate a State agency to administer the plan that is either the agency which administers the State Crippled Children's Program under Title V of the Act or an alternate agency designated by the Governor. The alternate agency must administer programs providing services to disabled children and be one which the Governor has determined is capable of administering the State plan in a more efficient and effective manner than the State Crippled Children's Program. If an alternate agency is designated, the plan shall set forth the reasons for the Governor's determination that the alternate agency will administer the plan more efficiently and effectively than the State Crippled Children's Program.

(b) The State plan shall:

(1) Provide for the establishment within the State agency of an identifiable unit responsible for carrying out the plan; and

(2) Provide for a full-time or part-time administrator to direct the organizational unit as well as other staff necessary to carry out the plan.

§ 51a.311 When must services under the State plan be terminated?

(a) No funds under this subpart may be used for services after receipt by the State agency of notice from SSA that a disabled child's eligibility for SSI benefits has terminated, except:

(1) When services have been started and the individual service plan indicates that the commitment of funds was made for the service prior to the receipt of the notice of the termination, i.e., written contracts, purchase orders, or equivalent authorization have been issued, or lump sum payments were made (such as those required to be made in advance, as in the case of training expenses); or

(2) When abrupt termination of the services being provided under the individual service plan would be contrary to good medical practice.

(b) No funds under this subpart may be used for services for a disabled child 7 years of age or over, except:

(1) For those who have never attended public school; or

(2) When abrupt termination of the services being provided under the individual service plan would be contrary to good medical practice.

(c) All reasonable efforts shall be made to refer children whose eligibility is terminated and who require

additional services to other agencies which can provide such services.

§ 51a.312 What requirements must be met before payments to States may be made?

Payments to States for the costs of carrying out the State plan must meet the requirements set forth below:

(a) Not more than 10 percent of the funds available under this subpart shall be used for counseling, referral, and establishing and monitoring of individual service plans as described in § 51a.306.

(b) Funds available under this subpart shall be used only after all other Federal funds available to deliver the services provided for under the State plan have been spent.

(c) Funds available under this subpart may not be used for so much of the services as would ordinarily be provided children who are not disabled.

(d) Funds available under this subpart shall be used to supplement the level of funds that would otherwise be made available for services provided under the plan and not in place of other public funds available for the same purposes. If the total amount of non-Federal public funds spent in subsequent years for services is less than the amount expended during the fiscal year ending June 30, 1976, then a sum equal to the amount of the reduction in the non-Federal funds will be subtracted from the payments to the State under this plan for the current fiscal year.

(e) Funds available under this subpart shall be allotted to the States in proportion to each State's part of the population in the 50 States and the District of Columbia which is under the age of 7 years.

(f) Whenever the Secretary determines that any item or class of items for which payment is claimed under this subpart shall be disallowed, the State shall be entitled to and upon request shall receive a reconsideration of the disallowance. The reconsideration shall be conducted in accordance with the hearing procedures of 45 CFR Part 16.

§ 51a.313 Confidential information.

The State plan shall contain an assurance that all personal information about recipients of services obtained by State or local staff will be held confidential, and will not be disclosed without the individual's consent, except as may be necessary to notify SSA as to whether a child's disability is continuing under the SSI program or as may be necessary to provide service to the individual or to provide for medical or financial audits by the Secretary with

appropriate safeguards for confidentiality of patient records. Otherwise, information will be disclosed only in summary, statistical, or other form which does not identify particular individuals. In addition, the records of alcohol and drug abuse patients are subject to the requirements of 42 CFR Part 2.

§ 51a.314 When must budgets be submitted by State agencies?

Prior to the beginning of each Federal fiscal year, the State agency shall submit, upon official forms and in accordance with procedures established by the Secretary, an annual budget, appropriately documented and supported, of all funds to be spent under the State plan during that fiscal year.

§ 51a.315 What rates will be used for payment for medical care, appliances, and convalescent and foster home care?

The State plan shall incorporate by reference the schedule of rates and the methods used by the State agency in establishing and proving that rates of payment for services provided under the State plan are reasonable and necessary to maintain the standards relating to personnel and facilities established under § 51a.317.

§ 51a.316 What rates will be used for payment for inpatient hospital services?

The State plan shall contain an assurance that payment for inpatient hospital services provided under the plan shall be the reasonable cost of the services which shall be developed by the State and included in the plan. The reasonable cost of the services shall not exceed the amount which would be determined under Section 1861(v) of the Act as the reasonable cost of the same services for purposes of title XVIII.

§ 51a.317 What standards will be required for personnel and facilities?

The State plan shall incorporate by reference the standards required for personnel and facilities to be used in the provision of services under the plan. These standards for personnel and facilities must be those which (a) are found, upon investigation by the State agency, to be best suited to carry out the specific purpose; (b) assure a high standard of care; (c) meet State and local licensing laws; and (d) are in accordance with national standards as accepted or required by the Secretary.

§ 51a.318 Must services provided under the State plan have prior authorization?

The State plan shall contain an assurance that all services purchased for individuals under the plan will be

authorized by employees of the State agencies, or by employees of the local public agency administering a part of the plan locally under the supervision of the State agency, before the services are provided; and that records of these authorizations will be retained by the State or local public agency as part of the individual's case record.

§ 51a.319 What are the requirements for custody of and accounting for Federal funds?

(a) The State Treasurer or official carrying out similar functions for the State shall receive and provide for the holding of all funds paid to the State under this subpart, subject to their use by the State agency for State plan purposes.

(b) The State plan shall incorporate by reference written fiscal control and fund accounting procedures which are necessary to assure the proper use of and accounting for funds paid to the State under this subpart. These procedures shall provide for an accurate and timely recording of receipts of Federal funds paid to the State for costs of carrying out the approved plan, of the amounts and purposes of payments made in carrying out the State plan, and of any unearned balances of Federal funds paid to the State. In addition, the State plan must include information to show that funds available under this subpart have not been or will not be used to pay for costs covered by other Federal grants or contracts or which are required or used to match other Federal funds.

§ 51a.320 Which Department-wide regulations apply?

Attention is drawn to the following HEW Department-wide regulations which apply to grants under this subpart, except as otherwise provided by this subpart:

45 CFR Part 19—Limitation on Payments or Reimbursements for Drugs

45 CFR Part 74—Administration of Grants

45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare's implementation of Title VI of the Civil Rights Act of 1964

45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

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Part III

Department of Justice

Bureau of Prisons

Control, Custody, Care, Treatment, and
Instruction of Inmates

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 541

Control, Custody, Care, Treatment, and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Interim rules.

SUMMARY: This document contains interim final rules relating to Inmate Discipline (including withholding and forfeiture of special good time credits) and Special Housing Units. This document is intended to give the public notice of the rules in this area, not just changes from prior policy.

DATES: Effective Date: April 15, 1979, and until final rules are issued. Comment Date: Written comments will be considered if received on or before July 15, 1979.

ADDRESS: Send written comments to the Office of General Counsel, Bureau of Prisons, Room 910, 320 1st Street, NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone, 202/724-3062.

SUPPLEMENTAL INFORMATION: On August 2, 1978, the Bureau of Prisons republished proposed rules (at 43 FR 34062 et seq.) relating to Inmate Discipline and Special Housing Units. Interested persons were invited to submit comments on the proposed rules. On the basis of comments received and internal staff review, some changes have been made. The most significant of these is the categorization of prohibited acts committed by inmates and a disciplinary severity scale. Rules relating to this aspect are intended to provide inmates within Bureau of Prisons institutions with a fuller understanding of the prohibited acts, the severity they carry, and the range of permissible sanctions when an inmate is determined to have committed a prohibited act. A fuller discussion of sanctions is provided within the rule.

On December 21, 1977, the Bureau of Prisons published its proposed rules (at 42 FR 64083) relating to Close Supervision Cases. Interested persons were invited to submit comments on the proposed rules. On the basis of these comments and internal staff review, changes have been made. Of special note is the Bureau of Prisons' inclusion of Close Supervision Cases, now entitled Protection Cases, within the scope of the rules on Inmate Discipline

and Special Housing Units. This change was made in recognition of the fact that inmates identified as protection cases are confined in a special housing unit (administrative detention).

Changes in the final rules on Inmate Discipline and Special Housing Units are either of a minor nature or their substance is generally less restrictive than the proposed rules. Thus no republication for comments prior to their adoption is necessary. Members of the public may, of course, submit further comments concerning these rules by writing to the Bureau of Prisons. The Bureau plans to conduct an assessment of these rules on Inmate Discipline and Special Housing Units during the Fall of this year. Comments of the public are invited and will be considered within the context of this assessment.

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

Summary of Changes

1. Section 541.10—Proposed § 541.10(b)(2) is expanded to recognize that one reason staff takes disciplinary action is "to promote a safe and orderly institution environment".

Proposed § 541.10(b)(6) is expanded in the final rule, by new language requiring determination by a mental health professional as to whether the inmate is responsible for his conduct or whether the inmate is incompetent. The final rule specifies that disciplinary action may not occur where the inmate is determined to be either incompetent or not responsible for his conduct. An explanation of these terms comprises a new second paragraph. The phrase "mental health professional" is substituted for "medical staff" to more clearly recognize those persons with the expertise necessary to prepare the evaluation.

2. Section 541.11—Proposed § 541.11 required that staff advise each inmate of institution rules "at the time of arrival at an institution". The final rule amends this language and requires the inmate receive this notice "promptly after arrival". The new language emphasizes the priority attached to this aspect.

Proposed § 541.11(b) is expanded to require that the inmate receive notice of both the disciplinary system within the institution "and the time limits thereof". Proposed Table 1 (Summary of Disciplinary System) becomes final Table 2. Proposed Table 2 (Time Limits in Disciplinary Process) becomes final Table 3 and is referenced in final § 541.11(b).

Proposed § 541.11(c) is expanded to list specifically the inmate's rights and

responsibilities. The rights encompass various aspects of institution life, including right to visit and correspond, the right to freedom of religious affiliation, the right to health care, etc. For each right, a corresponding responsibility is provided.

Section 541.11(d) is substantially revised. The Bureau has established four categories of prohibited acts: Greatest, High, Moderate and Low Moderate. Each category lists sanctions appropriate for an inmate found to have committed a prohibited act in that category.

The Bureau's intent in § 541.11(d) is to ensure a greater consistency of use of discipline throughout the Federal Prison System. Heretofore, there has been some concern that the disciplinary system allowed for a variety of interpretation on the degree of severity of the prohibited act and on sanctions that could be imposed. Factors which may have contributed to this disparity include type of institution and composition of the discipline committee.

In development of the present system, the Bureau had both administrative and line staff (including persons who sit on the discipline committees) rank the prohibited acts by degree of severity. These responses were categorized. Information collected from inmates also played a role in arriving at a final decision. A similar procedure existed in the determination of sanction levels, since all possible sanctions were listed and ranked. The submitted information was compiled and evaluated by Bureau staff. Categories of prohibited acts and appropriate sanctions were prepared and submitted for review of the Bureau's executive staff. This rule is a result of that process.

The prohibited acts in § 541.11(d) have been renumbered. Except as noted below they are similar in language to those in the proposed rule. Proposed prohibited act 801 is deleted as a specific act and is inserted in the general discussion of final § 541.11(d)

Prohibited Acts—Summary of Changes

New #	Proposed #	Changes
101	002	New act includes sexual assault.
102, 200	101, 102	New acts of escape categorized and charged by type of escape.
103	151	New act specifies conditions necessary for the use of this charge.
104	201, 202	New act adds "dangerous chemicals", excludes unauthorized tool (becomes new prohibited act 202).
107		New.
199/299/399	306	New acts, of disruptive conduct, categorized and charged in terms of severity.
202		See comment for New 104 above.
205	051	New act excludes language "with others."
210	203	Excludes intoxicants (becomes new prohibited acts 215—introduction—and 322—possessing or using).
214	259	New act excludes breathalyzer or alcohol abuse test (becomes new prohibited act 323).
215	203	See comment for New 210 above.
218	152, 211	Sets monetary value to qualify for High Category; incorporates mutilation or altering clothing issued by government.
307	256	New act categorized and charged in terms of severity.
309	258	New act substitutes the broader term "community program" for work or study release.
314	351	New act categorized and charged in terms of severity.
322	203, 551, 552	See comment for New 210 above—new act encompasses making intoxicants; incorporates being intoxicated.
323	259	See comment for New 214 above.
328	752	New act amends language to say "or any other person without staff authorization."
329	152, 211	Sets monetary value to qualify for Moderate Category; incorporates mutilating or altering clothing issued by government.
406	701	New act discusses when restriction of these privileges may be appropriate.
407	703	New act omits reference to correspondence; discusses when restriction of these privileges may be appropriate.

Table 1 is new and consists of a discussion of the various sanctions. Sanctions A-F may be imposed only by the Institution Discipline Committee (IDC). Sanctions G-P are of lesser severity and may be imposed by either the IDC or Unit Discipline Committee (UDC). Special notice is drawn to sanctions B and F which specify that authority for restoration of forfeited and withheld statutory good time is delegated only to the IDC of each institution. This action cancels those provisions in the proposed rule providing the initial hearing officer with authority to restore forfeited or withheld good time (proposed § 541.16 (d) and (e)). Sanction C of Table 1 cancels proposed § 541.12(c) with a disciplinary transfer again considered a sanction which may only be imposed following an IDC hearing. The final rule requires the Regional Director's approval for the transfer of an inmate for disciplinary reasons prior to the inmate's appearance before the IDC. Sanction D relates to disciplinary segregation. There is a discussion here of those limited occasions when consecutive disciplinary segregation sanctions may be imposed and executed.

Section 541.11(e) is new and presents a summary of sanctions by severity of prohibited act, along with time eligibility for restoration of forfeited and withheld statutory good time. Also included are limits on the amount of statutory good time subject to being withheld or forfeited, and on the maximum stay permissible in disciplinary segregation.

Proposed Table 1, new final Table 2, is amended in several ways. The term "Unit Discipline Committee" replaces "initial hearing officer" and the word "sanctions" replaces "dispositions" in discussion of actions available to the UDC and IDC. The authority of the UDC is amended to reflect provisions in the narrative which authorize the UDC to informally resolve any High, Moderate or Low Moderate charge. The authority of the IDC is amended to delete the reference to "informal resolution", since this action is not considered appropriate when both the investigation and initial hearing process previously have rejected its use.

Proposed Table 2, now final Table 3, is also amended to reflect changes in the rule narrative. Point 1 is amended by insertion of the phrase "inmate's involvement in" to reflect when the time limits begin. The provision that an

inmate receive a minimum of 24 hours notice prior to the IDC hearing is amended to allow the inmate, if he or she desires, to waive this requirement. A second paragraph is added to the "Note" section of this Table. This paragraph provides for the suspension of disciplinary proceedings for a period not to exceed 2 weeks while informal resolution is attempted. It further specifies that, if informal resolution is unsuccessful, staff may reinstitute disciplinary proceedings at the same stage at which suspended, with time requirements resuming at the point at which they were suspended.

3. Sections 541.12-541.12(a) is amended to specify that informal resolution requires the consent of both parties. A second amendment authorizes preparation of an Incident Report when staff considers efforts at informal resolution unsuccessful.

Section 541.12(b) is amended to recognize that agencies other than the FBI may conduct a criminal investigation in a federal institution. This section now provides for the inmate to receive a copy of the Incident Report prior to being interviewed by the investigating agency.

A commentator to this section expressed concern that the advisement of the inmate's right to remain silent may lead the inmate to believe that silence alone may be sufficient to support a finding that the inmate committed the prohibited act. This was not the intent, and the final rule requires the Bureau of Prisons' investigator to inform the inmate that silence alone may not be used to support a finding that the inmate has committed a prohibited act. A final amendment to § 541.12(b) provides that, if a case is forwarded to the IDC, the staff representative shall receive a copy of both the investigation and "other relevant materials". This provision expands the proposed rule and provides the staff representative with additional information for use in representation of the inmate.

Several commenters to § 541.12(c) objected to the proposal that transfer for disciplinary reasons is a minor disposition available to the initial hearing officer(s). We have reconsidered this provision and we agree this is a sanction best left to the IDC. In a related aspect, we have indicated in our discussion of the disciplinary transfer sanctions (Table 1) that, where the Warden believes a present or impending emergency requires immediate action, the Warden may recommend for approval of the appropriate Regional Director the transfer of an inmate prior

to the IDC hearing. The IDC at the receiving institution shall then provide the inmate with a hearing. As a consequence of these amendments, § 541.12(c) is deleted from the final rule and § 541.12 is retitled Incident Report and Investigation.

4. Section 541.13—This section is amended in several ways. Throughout the proposed rules, the authority to conduct initial hearings was delegated to the initial hearing officer(s) with a recognition that this encompassed the unit discipline committee. At the present time, most Bureau institutions employ the Unit Management concept, including the use in those institutions of Unit Discipline Committees. Accordingly, we have decided to replace through the rule the term "initial hearing officer(s)" with "Unit Discipline Committee (UDC)", as this term reflects persons conducting the majority of initial hearings. For a similar reason, the first sentence of § 541.13, omits the word "term" from "unit or term discipline committee".

As a result of the identification of sanctions available to the IDC and UDC, the final rule inserts language to authorize the UDC to impose sanctions G through P and deletes that portion of proposed § 541.13 which discussed minor and major sanctions. A final amendment to the first paragraph of § 541.13 is accomplished by substituting (in the fourth sentence of this paragraph) the phrase "further hearing" for "rehearing" as this more clearly indicates what occurs.

Section 541.13(a) is amended by insertion of the phrase "inmate's involvement in" to indicate the beginning of the 24-hour time frame for delivery of a written copy of the charges to the inmate. The same phrase is added in § 541.13(b) to indicate the beginning of the 48-hour time constraint. Reference to the reporting or investigating officer is deleted as this information is stated in the first paragraph of § 541.13.

Section 541.13(c) is amended to recognize the inmate's right to waive appearance at the hearing. The new language requires that the waiver be documented by staff and reviewed by the UDC. The proposed language "refuses to appear" is replaced in the final rule with "waives the right to appear".

As a result of the categorizing of prohibited acts, § 541.13(e) is amended to reflect that the UDC may informally resolve any High, Moderate or Low Moderate charge.

The term "decision" replaces "final judgment" in § 541.13(f), since this more accurately reflects the nature of the action. Two additions are made in this

section. The phrase "supported by substantial evidence" is added to the first sentence of this section. The phrase "if reflected in the Incident Report" is added to both (f)(1) and (f)(2). These changes are made to emphasize that the decision of the UDC is based on substantial information.

Section 541.13(g) is amended by insertion of the applicable minor sanctions (G through P).

Section 541.13(h) requires the inmate to indicate what testimony the witnesses are expected to provide. This information is relevant in assisting the IDC to determine whether the requested witnesses will be repetitive or have information relevant to the charge.

Section 541.13(i) is amended to specify that the UDC may expunge a High, Moderate or Low Moderate Incident Report and related documents when the inmate is found not to have committed the prohibited act. This section requires referral to the IDC of all acts of Greatest severity.

5. Section 541.14—Throughout the proposed rule, the Institution Discipline Committee was identified by its full name or by the term "Committee". In addition to these terms, the final rule refers to the Institution Discipline Committee by the abbreviation IDC.

Section 541.14(c) is amended by deletion of the cross reference to proposed § 541.16(d), as the latter section is deleted from the final rule. Based on the delineation of sanctions as provided in § 541.11(d), final § 541.14(c) specifies that the IDC has the authority to impose or suspend sanctions A through F. Deleted from the proposed rule are those provisions which discuss sanctions heretofore available to the IDC. Proposed § 541.14(d) is now included as part of final § 541.14(c).

6. Sections 541.15-541.15(c) is amended by deletion of the phrase "are necessary for an appreciation of the circumstances surrounding the charge". In an effort to clarify the intent of this section, the new language authorizes the calling of witnesses "who have information directly relevant to the charge(s) and who are reasonably available". This includes outside witnesses, who may appear under conditions specified in the rules.

Final § 541.15(c) authorizes the staff representative to ask questions of a witness; where the inmate waives staff representation, the inmate may submit questions for requested witnesses in writing to the IDC. To avoid the possibility of disruptive or confrontational behavior, the final rule states that an inmate may not question any witnesses at the hearing and

specifies that the IDC need not call the reporting officer and other adverse witnesses if their knowledge of the incident is adequately summarized in the material submitted to the Committee.

Section 541.15(d) is amended to recognize the inmate's right to waive appearance at the IDC hearing. The new language requires the waiver be documented by staff and reviewed by the IDC. The proposed language of "refuses to appear" is amended in the final rule to "waives the right to appear". This section is further amended to provide that when an inmate escapes or is otherwise absent from custody, the Warden shall have the charge reheard before the IDC at the institution to which the inmate is "designated" as opposed to "returned". This clarification eliminates the possibility that an inmate in holdover status (en route during transfer, etc.) will be required to receive an IDC hearing prior to arriving at the designated facility. Final § 541.15(d) provides for the inmate to receive a UDC hearing at the designated institution and requires the UDC to ensure that the inmate has all rights required for appearance at the IDC. Later in this section, the term "in-person" is substituted for "live" witnesses.

Sections 541.15 (e) and (f) are amended by substitution of the term "decision" for "final judgment", the change reflecting the fact-finding nature of the IDC. In response to a comment pointing out the disparity in terms as evident in proposed §§ 541.15(f) and 541.17(b), final § 541.15(f) is amended by stating that the IDC's decision must be supported by "substantial evidence manifested in the record of the proceedings". The phrase "if reflected in the Incident Report" is added to both (f)(1) and (f)(2). These changes emphasize that the decision of the IDC is based on substantive information.

Section 541.15(g) places into the rule the existing practice of providing the inmate with a written copy of the IDC decision and disposition.

7. Section 541.16—Proposed §§ 541.16 (b)-(g) are deleted as a result of the disciplinary severity scale presented in § 541.11(d). Final §§ 541.16 (b) and (c) are new. These respectively concern the imposition of sanctions A through P, and the IDC's authority to suspend the execution of a sanction it imposes. A cross reference to § 541.11(d) is inserted in both § 541.16(b) and § 541.16(c).

8. Section 541.17—Proposed § 541.17 is amended to encompass appeals from both UDC and IDC hearings. The means of appeal is unchanged. § 541.17(c) is

amended to read "whether an appropriate sanction was imposed according to the severity of the prohibited act". This change of language occurs as a result of the Bureau's establishment of a disciplinary severity scale.

9. Section 541.18—Based on the disciplinary severity scale, § 541.18(a) is amended by insertion of the phrase "prohibited act in the Greatest, High or Moderate category" for "a serious act of misconduct which warrants this sanction". The last sentence of § 541.18(a) is amended by substitution of the more relevant phrase "necessary for the control and management of behavior" for "when his presence in the general population poses a serious threat to life, property, himself, staff or other inmates or to the security or orderly running of the institution".

Section 541.18(b) is expanded to include additional situations which may warrant placement in a more secure cell prior to a hearing before the IDC. This section acknowledges that this type of housing may occur in an area ordinarily set aside for disciplinary segregation and which requires the withdrawal of privileges ordinarily afforded in administrative detention status. The maximum stay in this status is increased from 3 to 5 days. The primary reason for this is to cover those cases, such as 3-day holiday weekends, when the IDC does not meet within 3 days.

Section 541.18(c) is amended to recognize the inmate's right to waive appearance at the formal review. The new language requires the waiver be documented by staff. The final rule provides for the inmate to receive a psychiatric or psychological "assessment" as opposed to "interview" when disciplinary segregation continues beyond 30 days. The assessment is submitted to the IDC in a written report and is to include a personal interview. To better monitor the inmate's mental health while the inmate is confined in disciplinary segregation, final § 541.18(c) requires subsequent assessments and reports at one-month intervals, as opposed to the two-month intervals stipulated in the proposed rules, if segregation continues for this extended period.

Section 541.18(d) authorizes the IDC to release an inmate from disciplinary segregation earlier than the sanction initially imposed when the IDC finds continuation in this status "is no longer necessary * * * for the control and management of behavior". This language replaces "poses a threat to himself or others or to institution security". The final rule states that the

IDC may not increase any previously imposed sanction.

10. Section 541.19—This section has been renumbered final § 541.22. Specific reference to §§ 541.10-541.19 is deleted as all provisions of this rule are applicable to Federal Community Treatment Centers (CTCs) unless otherwise specified. For example, proposed § 541.20 is not necessarily relevant to Federal CTCs, since these facilities ordinarily do not have Special Housing Units.

Other amendments include a provision in final § 541.22(a) that no member of the IDC may be the reporting or investigating officer or have played any significant part in having the charge(s) referred to the IDC. The reference to "team" discipline committee is deleted; the rule recognizes the "UDC" as the title of the committee.

Final § 541.22(b) expands proposed § 541.19(b) by specifying that the IDC need not call witnesses whose testimony would be repetitious or irrelevant to the charge(s) or disposition(s). This language reflects the procedure applicable for IDC hearings. IDC documentation of the reasons for refusal to call a witness is required.

Final § 541.22(c) amends proposed § 541.19(c) by substitution of the term "immediate notification" for "promptly forward this report" in the discussion of staff requirements, in the event the inmate's misconduct is serious and arrangements for removal from the Center are necessary for the protection of life or property.

Final § 541.22(d) amends proposed § 541.19(d) by insertion of the word "Federal" into the title of this section. The change is for clarification of the fact that the section concerns only Federal Community Treatment Centers.

Due to the reassignment of this section from § 541.19 to § 541.22, proposed § 541.20 and § 541.21 are renumbered final §§ 541.19 and 541.20 respectively.

11. Section 541.20—This section is renumbered final § 541.19. Section 541.19(a) amends the proposed rule by deletion of the word "individual" in describing the type of cell in which the inmate may be housed. This specificity was considered unnecessary as the remainder of § 541.19(a) and § 541.19(c)(2) describe provisions of cell occupancy.

Section 541.20(b) contains a substantial amendment to proposed § 541.19(b). The proposed rule authorized the Warden to add privileges, for purposes of reinforcing acceptable behavior, to the living conditions of inmates in segregation

status. The final rule deletes this section and states that living conditions may not be modified for the purpose of reinforcing acceptable behavior and that different levels of living arrangements may not occur. The rule requires documentation signed by the Warden in any instance where it is determined necessary to deprive an inmate of a specifically authorized item. As limits are now placed on the length of time an inmate may stay in disciplinary segregation, and the purpose of such segregation as a sanction for misbehavior is clarified, there is no basis for the establishment of different levels of living arrangements.

Final § 541.20(c)(4) deletes the phrase (from proposed § 541.19(c)(4)) "selected food items from the standard ration" and inserts "nutritionally adequate meals". The amendment is intended to eliminate any possibility that the inmate will receive selected or reduced items, with no consideration of nutritional value. The latter is the essential consideration.

Section 541.20(c)(5) expands proposed § 541.19(c)(5) by increasing to at least 3 times a week the inmate's opportunity to shower and shave. Deleted from the final rule is the statement that the inmate has the "right and responsibility", and inserted in its place is "shall have the opportunity". This revision recognizes staff's responsibility to provide the inmate with opportunity to shower and shave, while recognizing the inmate's right to decide whether or not to accept. The final rule requires that any restriction by staff of this provision for reason of undue security hazard must be documented and signed by the Warden.

Final § 541.20(c)(6) expands proposed § 541.19(c)(6) by requiring that the exercise in the Unit be provided on 4 different days. A second paragraph, added to the final rule, authorizes the withholding of exercise periods, not to exceed one week, when the action of the segregated inmate is determined to pose a threat to the safety or health conditions of the unit. Only the Warden may authorize this withholding and then only following a recommendation by the IDC, after a hearing in accordance with the provisions of § 541.15.

Section 541.20(c)(8) expands the proposed rule (§ 541.19(c)(8)) by recognizing two types of reading material, legal and non-legal. A cross reference to Part 543, Subpart B (as opposed to the specific reference § 543.12(i) in the proposed rules) is inserted to ascertain limits on legal material. The authorized amount of non-legal reading material is set in the final

rule so as not to exceed five volumes. This is considered to be a maximum, for housekeeping and safety purposes, in all institutions.

Section 541.20(c)(9) deletes (from proposed § 541.19(c)(9)) the phrase "but subject to staff availability", since inmates in segregation status are deprived of the opportunity for interaction available to inmates in the general population; daily visits to special housing units by the medical staff and other persons designated by the Warden are considered necessary.

Section 541.20(c)(10) has amended proposed § 541.19(c)(10) by deleting references to § 540.14(c) and § 540.48(d) and inserting cross references to Part 540, Subpart B and Part 540, Subpart D. This change is made, recognizing that the correspondence and visiting rules are in proposal stage and their numbering sequence may be changed prior to final publication.

12. Section 541.21—This section is renumbered final § 541.20. The word "individual" is deleted from the first paragraph of proposed § 541.21, because it is misleading to imply that an inmate is placed in an individual cell with other inmates. Final § 541.19(c)(2) is the prevailing reference on cell occupancy.

Final § 541.20(a) adds the word "staff" to "members of an inmate's unit or team" to delineate the delegated authority for placement of an inmate in administrative detention. Final § 541.20(a)(5) contains a cross reference to new § 541.21, discussed in item 13 of this preamble.

Final § 541.20(a)(6) is new. It authorizes the Warden to place in administrative detention an inmate who has completed the specified stay in disciplinary segregation and for whom the Warden determines that placement in the general population is not prudent. Frequent use of this section is not anticipated. Its applicability is limited to the inmate unable to immediately return to the general population (for example, an inmate placed in segregation for assaulting another person and threats are now being received promising revenge), and for whom arrangements for transfer have not been completed. Section 541.20(a)(6) sets time limitations on an inmate's stay in this status. The final rule designates either the Assistant Director, Correctional Programs Division or the appropriate Regional Director together with this Assistant Director in the case of Security Level 6 inmates, as officials authorized to make a disposition when the inmate is not transferred from post-disciplinary detention within the time frame specified.

Final § 541.20(b) amends proposed § 541.21(b) by providing that the inmate receive, within 24 hours of placement in administrative detention, unless delivery is precluded by exceptional circumstances, a copy of the memorandum detailing the reasons for this placement.

Final § 541.20(c) makes several amendments to proposed § 541.21(c). First, it recognizes the inmate's right to waive appearance before the reviewing authority. The new language requires the waiver be documented by staff. The proposed language of "refuses to appear" is amended in the final rule to read "waives the right to appear". The final rule contains a new provision requiring psychiatric or psychological assessment when administrative detention continues beyond 30 days, and at subsequent one-month intervals if detention continues for this extended period. This requirement is added to help ensure the mental health of each inmate.

Proposed § 541.21(c) specifies that administrative detention is to be used only for short periods of time, except where an inmate needs long term protection. As new § 541.21 concerns protection cases, a cross reference to this part is inserted in final § 541.20(c). The final rule provides for the inmate to receive, provided institutional security is not compromised, a written copy of staff's decision at each formal review and the basis for this finding.

There are two amendments to proposed § 541.21(d), now final § 541.20(d). The first changes from § 541.20 to § 541.19 the cross-reference to disciplinary segregation conditions. The second specifies that exercise periods shall meet at a minimum the level established for disciplinary segregation and exceed that level where resources are available.

13. The language of final § 541.21 is new to the discipline policy. It was first published as a proposed rule on Close Supervision Cases December 21, 1977 (at 42 FR 64083). At that time, it was carried as Part 524, Subpart H.

Final § 541.21(a) contains the six categories of protection cases discussed in proposed § 524.81, with one modification: § 541.21(a)(3) substitutes "sexual" for the more restrictive term "homosexual" used in the proposed rule. Two new categories are included in the final rule: "Inmates who have previously served as gun guards, dog caretakers, or in similar positions in state or local correctional facilities;" and "Inmates about whom staff has good reason to believe the inmate is in serious danger

of bodily harm". The remainder of proposed § 541.81 is deleted.

Final § 541.21(b) provides for a hearing for an inmate in administrative detention for protection, but whose confinement in this status is not at the inmate's own request or is beyond the time when the inmate feels the need to be detained for reasons of protection. This section specifies the hearing is to be conducted in accordance with the applicable procedural requirements of § 541.15.

Final § 541.21(c) sets the length of stay permissible in administrative detention for an inmate requiring protection status. Inmates in this status are provided the same review given other inmates in administrative detention (§ 541.20(c)). Final § 541.21(d) establishes methods for release of an inmate from protective status and requires that staff first attempt to place the inmate in the general population of their particular facility. This section establishes the Regional Director as the authorizing official in those instances where transfer of a protection case is warranted. On the basis of these provisions, proposed §§ 524.80 and 524.82 are deleted.

Part 541—Inmate Discipline and Special Housing Units

Other Comments

1. Section 541.12—One comment on § 541.12(b) requested a time limit for completion of the investigation. As stated in our August 2, 1978 preamble, the specific time constraints for completion of an investigation are eliminated, because this is insignificant in regard to the due process rights of the inmate and its presence has served to confuse more than to clarify. We will retain these time frames as suggested guidelines, rather than strict requirements. The Bureau still expects investigations to be concluded without undue delay, but recognizes that the time frame is dependent on the nature of the incident under investigation, and sometimes other, uncontrollable circumstances. The time limits contained in Table 3 do require that an inmate receive an initial hearing within a maximum of 48 hours after staff becomes aware of the inmate's involvement in the incident. The investigation is completed prior to this hearing.

We believe we adhere to another comment that calls for no unreasonable delay in ascertaining the validity of information received from an anonymous source, and that

investigative and fact-finding instructions insure this.

A suggestion that the inmate receive either a copy of the investigation report or (where security considerations dictate) a summary thereof has been taken under consideration. Release of investigative materials will be further reviewed.

2. Section 541.13—One commenter expressed concern that the unit or team discipline committee was not required to meet the *Wolff v. McDonnell* standards for written statement of findings of fact, evidence relied upon, and reasons for the disciplinary action taken. Also of concern was the fact that there were no provisions for witnesses to appear at the initial hearing. The commenter added that these protections would not be so important if the Bureau was not proposing to make disciplinary transfers a minor sanction.

The UDC is empowered only to impose minor sanctions. Authority to impose major sanctions is left to the IDC, and the procedures at this Committee exceed the requirements of *Wolff v. McDonnell*. As noted in our earlier comments, disciplinary transfer is retained as a major sanction; the thrust of this comment is therefore accommodated.

A comment to § 541.13(f) stated that, without standards or rules regarding what constitutes evidence, both UDC and IDC decisions will be arbitrary and unfair. We do not consider it appropriate to define evidence. This would unnecessarily limit what the IDC and UDC, which are administrative as opposed to judicial bodies, may consider.

Another comment on § 541.13 expressed concern that confidential information is not provided the accused for review, comment, or challenge. Prior to the Bureau's use of any confidential information, the Bureau's own staff has evaluated its validity. To provide the inmate with confidential information may endanger both the safety of the informant and the security and orderly operation of the institution.

3. Section 541.15—A comment called for the inmate to have at least a conditional right to question witnesses, stating that § 541.15(c) fails to authorize the inmate to question witnesses when there is no reasonable potential for disruption or breach of security.

The final rule allows an inmate who has waived staff representation to submit questions for requested witnesses in writing to the IDC. We do not consider it feasible to allow direct questioning. As recognized by the U.S. Supreme Court in *Wolff v. McDonnell*, it

is desirable to avoid situations which trigger deep emotions and animosity. Our present rule respects such considerations without depriving the inmate of any recognized rights.

4. Section 541.16—A comment called for identical forfeiture penalties for inmates found to have committed the same prohibited act. Although the new disciplinary severity scale sets limits on the amount of forfeiture which may occur, we do not concur with the commenter that the sanction on days forfeited should be identical for commission of the same offense. General consistency rather than rigid identity is desirable. For example, we do not necessarily agree that a first time violator of a prohibited act needs to receive a sanction identical to an inmate who has had multiple violations. Rather, the imposition of any given sanction is dependent on the prohibited act and the facts surrounding it. Misconduct may be mitigated or aggravated by a wide range of circumstances which may surround it. Once it is determined that the inmate did commit an act of misconduct, imposition of sanction is based on the severity of the incident and the individual's background.

5. Section 541.20—One comment on proposed § 541.20 suggested that an inmate sign a record each time the inmate is authorized a shower and exercise. We do not see the need for this, since staff presently records this information. Opportunity for additional confrontation and proliferation of documentation are not desirable.

In a related comments, a suggestion was made that the inmate receive daily time out of the cell for shower and exercise, or both, with an appropriate entry made once a week. While we agree daily exercise and showers are desirable, staff and physical resources often do not allow for this. Final § 541.19 provides that an inmate shall receive a minimum of 4 hours exercise per week, and this to occur over a space of 4 different days. As for access to showers, we require that an inmate receive the opportunity for a minimum of three showers per week.

6. Section 541.21—A comment was received on proposed § 541.21 stating that, when an inmate is placed in administrative detention, there should be no delay in his receiving his personal property. We agree with the comment. Following placement in administrative detention, an inmate's personal property is picked up and inventoried. A reasonable amount of this property is then provided the inmate, with the remainder stored until release from detention. Under normal circumstances,

an inmate receives the personal property shortly after placement in detention status. Precise regulation of the time period is not practical.

7. Sections 524.80-82—Proposed §§ 524.80-82 (Close Supervision Cases) are substantially revised and incorporated into final § 541.21 (Protection Cases). Its inclusion into Part 541 is not to imply that these cases are disciplinary cases. Rather, Part 541, Subpart B relates to both Inmates Discipline and Special Housing Units (administrative detention and disciplinary segregation). Since protection cases are housed in the administrative detention unit, it is considered appropriate to include them within the context of this rule.

Public comments on the proposed rules suggested 30-day review of inmates placed in administrative detention, for reviews to be conducted in accordance with published guidelines, and for inmates to receive written notice of the specific reasons for which they are retained in administrative detention. These provisions are addressed in the final rules. One commenter believed that the refusal of Wardens to accept protection cases on transfer is one reason inmates spend so much time in administrative detention. The final rule addresses this concern in two ways. First, the rule provides time limitations on an inmate's stay in administrative detention; second, where staff is unable to return the inmate to the general population, the final rule authorizes the Regional Director to review the material and order the transfer of a protection case.

A comment suggested that the final rule expressly state that close supervision (protection) cases are not confined in administrative detention for punishment and that inmates in this housing may not be punished for failure to participate in a program. We believe final § 541.20, with its discussion of reasons for placement, adequately addresses the first issue. As to the second, the Bureau of Prisons adheres to the optional programming concept and leaves determination of program participation to the individual inmate. Other comments called for the inmate in protective status to receive equal access to activities such as library, recreation, and education, as if they were in general population. One commenter believed that inmates who do not wish to participate generally in activities and benefits granted to the general inmate population should receive the opportunity to participate separately. Final § 541.20(d) recognizes the thrust of these suggestions with its language, "If

consistent with available resources and the security needs of the institution, the Warden shall give * * * the same general privileges given to inmates in the general population". Any further determination as to exactly what may be offered is best left to the Warden of each institution.

A comment suggested that, where inmates in administrative detention are subjected to reduced benefits (on matters including food, exercise, medical facilities, work, and educational opportunities), the Warden must provide a written explanation of the reasons. The commenter proposed that an inmate dissatisfied with the Warden's response receive an informal hearing before a Regional Office staff member.

The nature of administrative detention anticipates some restriction on inmate movement within the general population. To require that the inmate receive prior written explanation of any reduced benefits is impractical. We do not believe that all matters can, or should, be resolved by hearings. The final rule provides basic living standards for inmates in special housing status and stipulates that deprivation of any item usually authorized in the special housing unit requires written documentation signed by the Warden, indicating his review and approval. We do not see the need for the informal hearing; an inmate who is dissatisfied may file an appeal under the Administrative Remedy Procedure.

We agree with a comment that calls for close supervision cases to initially be considered for return to the general inmate population. Final § 541.21(d) reflects this intent. If a transfer is considered warranted, the final rule authorizes the Regional Director to effect the transfer, following a review of all relevant material. We do not agree that the inmate's consent on the transfer is required, or failing the obtaining of consent that the inmate must receive a hearing. In effecting an administrative transfer, the Bureau of Prisons is exercising responsibility delegated to it by the Attorney General for placement of the inmate in the most appropriate institution. An inmate who is dissatisfied with his transfer may file an appeal under the Administrative Remedy Procedure.

Other comments expressed the view that an inmate may be placed in protection status only at the inmate's own request or after a hearing at the Regional level with appeal to the Director. While we recognize that voluntary placement in protective status occurs in the majority of instances, it is necessary for the Bureau to retain the

authority to house an inmate in administrative detention for protection reasons when staff has good reason to believe the inmate is in serious danger of bodily harm. The final rule specifies that an inmate placed in administrative detention for protection, but not at the inmate's request or beyond the time when the inmate feels the need to be detained for protection, is entitled to a hearing conducted in accordance with the procedural requirement of § 541.15. This comment is substantially accommodated.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 USC 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), a new 28 CFR, Chapter V, is added as set forth below. The effective date of these rules is April 15, 1979.

Dated: April 13, 1979.

Norman A. Carlson,
Director.

CHAPTER V—BUREAU OF PRISONS, DEPARTMENT OF JUSTICE

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

Subpart A [Reserved]

Subpart B—Inmate discipline

Sec.

- 541.10 Purpose and Scope.
- 541.11 Notice to Inmate of Institution Rules.
- 541.12 Incident Report and Investigation.
- 541.13 Initial Hearing.
- 541.14 Establishment and Functioning of Institution Discipline Committee.
- 541.15 Procedures in Institution Discipline Committee Hearings.
- 541.16 Dispositions of the Institution Discipline Committee.
- 541.17 Appeals from Unit Discipline Committee or Institution Discipline Committee Actions.
- 541.18 Justification for Placement in Disciplinary Segregation and Review of Inmates in Disciplinary Segregation.
- 541.19 Conditions of Disciplinary Segregation.
- 541.20 Administrative Detention.
- 541.21 Protection Cases.
- 541.22 Disciplinary Procedures for Federal Community Treatment Centers.

Authority.—5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A [Reserved]

Subpart B—Inmate Discipline

§ 541.10 Purpose and Scope.

(a) So that inmates may live in a safe and orderly environment, it is necessary

for institution authorities to impose discipline on those inmates whose behavior is not in compliance with institution rules.

(b) The following general principles apply in every disciplinary action taken:

(1) Only institution staff may take disciplinary action.

(2) Staff shall take disciplinary action at such times and to the degree necessary to regulate an inmate's behavior within institution rules and to promote a safe and orderly institution environment.

(3) Staff shall control inmate behavior in a completely impartial and consistent manner.

(4) Disciplinary action may not be capricious or retaliatory.

(5) Staff may not impose or allow imposition of corporal punishment of any kind.

(6) If it appears at any stage of the disciplinary process that an inmate is mentally ill, staff shall refer the inmate to a mental health professional for determination of whether the inmate is responsible for his conduct or incompetent. Staff may take no disciplinary action against an inmate whom mental health staff determines to be incompetent or not responsible for his conduct. A person is not responsible for his conduct if, at the time of the conduct, he lacks substantial capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the rules of the institution, because of a mental disease or defect. A person is incompetent if he lacks the ability to understand the nature of the disciplinary proceedings, or to assist in his defense at the proceedings.

§ 541.11 Notice to Inmate of Institution Rules.

Staff shall advise each inmate in writing promptly after arrival at an institution of:

- (a) The types of disciplinary action which may be taken by institution staff;
- (b) The disciplinary system within the institution and the time limits thereof (see Tables 2 and 3);
- (c) The inmate's rights and responsibilities;

Rights	Responsibilities
1. You have the right to expect that as a human being you will be treated respectfully, impartially, and fairly by all personnel.	1. You have the responsibility to treat others, both employees and inmates, in the same manner.
2. You have the right to be informed of the rules, procedures, and schedules concerning the operation of the institution.	2. You have the responsibility to know and abide by them.
3. You have the right to freedom of religious affiliation, and voluntary religious worship.	3. You have the responsibility to recognize and respect the rights of others in this regard.
4. You have the right to health care, which includes nutritious meals, proper bedding and clothing, and a laundry schedule for cleanliness of the same, an opportunity to shower regularly, proper ventilation for warmth and fresh air, a regular exercise period, toilet articles and medical and dental treatment.	4. It is your responsibility not to waste food, to follow the laundry and shower schedule, to maintain neat and clean living quarters, and to seek medical and dental care as you may need it.
5. You have the right to visit and correspond with family members, and friends, and correspond with members of the news media in keeping with the facility rules.	5. It is your responsibility to conduct yourself properly during visits, not to accept or pass contraband, and not to violate the law or institution rules through your correspondence.
6. You have the right to unrestricted and confidential access to the courts by correspondence (on matters such as the legality of your conviction, civil matters, pending criminal cases, and conditions of your imprisonment).	6. You have the responsibility to present honestly and fairly your petitions, questions, and problems to the court.
7. You have the right to legal counsel from an attorney of your choice by interviews and correspondence.	7. It is your responsibility to use the services of an attorney honestly and fairly.
8. You have the right to participate in the use of law library reference materials to assist you in resolving legal problems. You also have the right to receive help when it is available through a legal assistance program.	8. It is your responsibility to use these resources in keeping with the procedures and schedule prescribed and to respect the rights of other inmates to the use of the materials and assistance.
9. You have the right to a wide range of reading material for educational purposes and for your own enjoyment. These materials may include magazines and newspapers sent from the community, with certain restrictions.	9. It is your responsibility to seek and utilize such materials for your personal benefit, without depriving others of their equal rights to the use of this material.
10. You have the right to participate in education, vocational training and employment as far as resources are available, and in keeping with your interests, needs, and abilities.	10. You have the responsibility to take advantage of activities which may help you live a successful and law abiding life within the institution and in the community. You will be expected to abide by the regulations governing the use of such activities.

(d) Prohibited acts and disciplinary severity scale:

There are four categories of prohibited acts—Greatest, High, Moderate, and Low Moderate. Specific sanctions are authorized for each category (see Table 1 for a discussion of each sanction). Imposition of a sanction requires that the inmate first is found to have committed a prohibited act. *Aiding* another person to commit any of these offenses, *attempting* to commit any of these offenses, and *making plans* to commit any of these offenses, in all categories of severity, *shall be considered the same as a commission of*

the offense itself. In these cases, the letter "A" is combined with the offense code. For example, planning an escape would be considered as Escape and coded 102A. Likewise, attempting the adulteration of any food or drink would be coded 209A. Suspensions of any sanction cannot exceed six months. Revocation and execution of a suspended sanction require that the inmate first is found to have committed any subsequent prohibited act. Only the Institution Discipline Committee (IDC) may execute, suspend, or revoke and execute suspension of sanctions A through F. The Institution Discipline Committee or Unit Discipline Committee

(UDC) may execute, suspend or revoke and execute suspensions of sanctions G through P. Revocations and execution of suspensions may be made only at the level (IDC or UDC) which originally imposed the sanction.

(1) Greatest category offenses: The Institution Discipline Committee shall impose and execute one or more of sanctions A through E. The Committee may also suspend one or more additional sanctions A through F. The Committee may impose and execute sanction F only in addition to execution of one or more of sanctions A through E.

(2) High category offenses: The appropriate committee shall impose and execute one or more of sanctions A through M. They may also suspend one or more additional sanctions A through M.

(3) Moderate category offenses: The appropriate committee shall impose at least one sanction A through N, but may suspend any sanction or sanctions imposed.

(4) Low moderate category offenses: The appropriate committee shall impose at least one sanction E through P, but may suspend any sanction or sanctions imposed.

If the Unit Discipline Committee has previously imposed a suspended sanction and subsequently refers a case to the Institution Discipline Committee, the referral shall include an advisement to the IDC of any intent to revoke that suspension if the IDC finds that the prohibited act was committed. If the Institution Discipline Committee then finds that the prohibited act was committed, they shall so advise the Unit Discipline Committee who may then revoke the previous suspension.

MODERATE CATEGORY

The Unit Discipline Committee shall refer all Greatest Severity Prohibited Acts to the Institution Discipline Committee with findings and recommendations as appropriate.

GREATEST CATEGORY

Code	Prohibited Acts	Sanctions
100	Killing	A. Recommend parole date rescission or retardation.
101	Assaulting any person (includes sexual assault)	B. Forfeit earned statutory good time (up to 100%) and/or terminate or disallow extra good time.
102	Escape from escort, escape from a secure institution (Security Level 2 through 6); or escape from a Security Level 1 institution	C. Disciplinary Transfer (recommend).
103	Setting a fire (charged with this act in this category only when found to pose a threat to life or a threat of serious bodily harm or in furtherance of a prohibited act of Greatest Severity, e.g., in furtherance of a riot or escape; otherwise the charge is properly classified Code 218, or 329)	D. Disciplinary segregation (up to 60 days). E. Make monetary restitution. F. Withhold statutory good time. ¹
104	Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, dangerous chemical, explosive or any ammunition	
105	Rioting	
106	Encouraging others to riot	
107	Taking hostages(e)	
199	Conduct which disrupts or interferes with the security or orderly running of the institution (Conduct must be of the Greatest Severity nature)	

HIGH CATEGORY

200	Escape from unescorted Community Programs and activities and Open Institutions (Security Level 1) and from outside secure institutions— <i>without</i> violence	A. Recommend parole date rescission or retardation. B. Forfeit earned statutory good time up to 50% or up to 60 days, whichever is less, and/or terminate or disallow extra good time.
201	Fighting with another person	C. Disciplinary transfer (recommend).
202	Possession or introduction of an unauthorized tool	D. Disciplinary segregation (up to 30 days).
203	Threatening another with bodily harm or any other offense	E. Make monetary restitution.
204	Extortion, blackmail, protection: Demanding or receiving money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing	F. Withhold statutory good time.
205	Engaging in sexual acts	G. Loss of privileges: commissary, movies, recreation, etc.
206	Making sexual proposals or threats to another	H. Change housing (quarters).
207	Wearing a disguise or a mask	I. Remove from program and/or group activity.
208	Tampering with or blocking any lock device	J. Loss of job.
209	Adulteration of any food or drink	K. Impound inmate's personal property.
210	Possession, introduction, or use of any narcotics, narcotic paraphernalia, or drugs not prescribed for the individual by the medical staff	L. Confiscate contraband. M. Restrict to quarters.
211	Possessing any officer's or staff clothing	
212	Engaging in, or encouraging, a group demonstration	
213	Encouraging others to refuse to work, or to participate in a work stoppage	
214	Refusing to provide a urine sample or to take part in other drug-abuse testing	
215	Introduction of alcohol into BOP facility	
216	Giving or offering an official or staff member a bribe, or anything of value	
217	Giving money to, or receiving money from, any person for purposes of introducing contraband or for any other illegal or prohibited purposes	
218	Destroying, altering, or damaging government property, or the property of another person, having a value in excess of \$100.00	
299	Conduct which disrupts or interferes with the security or orderly running of the institution (Conduct must be of the High Severity nature)	

¹Can be in addition to A through E—cannot be the only sanction executed.

Prohibited Acts

Code

Sanctions

300	Indecent exposure	A. Recommend parole date rescission or retardation.
301	Stealing (theft)	B. Forfeit earned statutory good time up to 25% or up to 30 days, whichever is less, and/or terminate or disallow extra good time.
302	Misuse of authorized medication	C. Disciplinary segregation (up to 15 days).
303	Possession of money or currency, unless specifically authorized	D. Disciplinary segregation (up to 15 days).
304	Loaning of property or anything of value for profit or increased return	E. Make monetary restitution.
305	Possession of anything not authorized for retention or receipt by the inmate, and not issued to him through regular channels	F. Withhold statutory good time.
306	Refusing to work, or to accept a program assignment	G. Loss of privileges: commissary, movies, recreation, etc.
307	Refusing to obey an order of any staff member (May be categorized and charged in terms of greater severity, according to the nature of the order being disobeyed; e.g., failure to obey an order which furthers a riot would be charged as 105; rioting, refusing to obey an order which furthers a fight would be charged as 201; fighting, refusing to provide a urine sample when ordered would be charged as Code 214)	H. Change housing (quarters). I. Remove from program and/or group activity. J. Loss of job. K. Impound inmate's personal property. L. Confiscate contraband. M. Restrict to quarters. N. Extra duty.
308	Violating a condition of a furlough	
309	Unexcused absence from work or any assignment	
310	Unexcused absence from work or any assignment	
311	Failing to perform work as instructed by the supervisor	
312	Insolence towards a staff member	
313	Lying or providing false statement to a staff member	
314	Counterfeiting, forging or unauthorized reproduction of any document, article of identification, money, security, or official paper. (May be categorized in terms of greater severity according to the nature of the item being reproduced; e.g., counterfeiting release papers to effect escape, Code 102 or Code 200)	
315	Participating in an unauthorized meeting or gathering	
316	Being in an unauthorized area	
317	Failure to follow safety or sanitation regulations	
318	Using any equipment or machinery which is not specifically authorized	
319	Using any equipment or machinery contrary to instructions or posted safety standards	
320	Failing to stand court	
321	Interfering with the taking of court	
322	Making, possessing, or using intoxicants	
323	Refusing to breathe into a breathalyzer or take part in other alcohol abuse testing	
324	Gambling	
325	Preparing or conducting a gambling pool	
326	Possession of gambling paraphernalia	
327	Unauthorized contacts with the public	
328	Giving money or anything of value to, or accepting money or anything of value from, another inmate, or any other person without staff authorization	
329	Destroying, altering, or damaging government property, or the property of another person, having a value of \$100.00 or less	
330	Being unsanitary or untidy; failing to keep one's person and one's quarters in accordance with posted standards	
399	Conduct which disrupts or interferes with the security or orderly running of the institution (Conduct must be of the Moderate Severity nature)	

LOW MODERATE CATEGORY

400	Possession of property belonging to another person	E. Make monetary restitution.
401	Possessing unauthorized clothing	F. Withhold statutory good time.
402	Malingering, feigning illness	G. Loss of privileges: commissary, movies, recreation, etc.
403	Smoking where prohibited	H. Change housing (quarters).
404	Using abusive or obscene language	I. Remove from program and/or group activity.
405	Tattooing or self-mutilation	J. Loss of job.
406	Unauthorized use of mail or telephone (Restriction, or loss for a specific period of time, of these privileges may often be an appropriate sanction G)	K. Impound inmate's personal property.
407	Conduct with a visitor in violation of institution regulations (Restriction, or loss for a specific period of time, of these privileges may often be an appropriate sanction G)	L. Confiscate contraband. M. Restrict to quarters. N. Extra duty.
408	Conducting a business	O. Reprimand. P. Warning.

Sanctions

Table 1

1. *Sanctions of the Institution Discipline Committee:* (upon finding the inmate committed the prohibited act)

A. *Recommend parole date rescission or retardation.* The IDC may make recommendations to the U.S. Parole Commission for retardation or rescission of parole grants. This may require holding fact-finding hearings upon request of or for the use of the Commission.

B. *Forfeit earned statutory good time and/or terminate or disallow extra good time.* The statutory good time available for forfeiture is limited to an amount computed by multiplying the number of months served at the time of offense for which forfeiture action is taken, by the applicable monthly rate specified in 18 U.S.C., Section 4161 (less any previous forfeiture or withholding outstanding). Disallowance of extra good time is limited to the extra good time for the calendar month in which the violation occurs. It may not be withheld or restored. Authority to restore forfeited statutory good time is delegated to *only* the Institution Discipline Committee of each institution. Limitations on this sanction and eligibility for restoration are based on the severity scale. (See § 541.11e)

C. *Recommend disciplinary transfer.* The IDC may recommend that an inmate be transferred to another institution for disciplinary reasons.

Where a present or impending emergency requires immediate action, the Warden may recommend for approval of the receiving Regional Director the transfer of an inmate prior to an IDC hearing. Transfers for disciplinary reasons prior to a hearing before the IDC may be used only in emergency situations and only with approval of the receiving Regional Director. When an inmate is transferred under these circumstances, the sending institution shall forward copies of incident reports and other relevant materials with completed investigation to the receiving institution's Institution Discipline Committee. The inmate shall receive a hearing before the IDC at the receiving institution as soon as practicable under the circumstances to consider the factual basis of the charge of misconduct and the reasons for the emergency transfer. All procedural requirements applicable to IDC hearings contained in this rule are appropriate, except that written statements of unavailable witnesses are liberally accepted instead of live testimony.

D. *Disciplinary segregation.* The IDC may direct that an inmate be placed or retained in disciplinary segregation pursuant to guidelines contained in this rule. Consecutive disciplinary segregation sanctions can be imposed and executed for inmates charged with and found to have committed offenses that are part of different "episodes" only. For example, if an inmate was in an unauthorized area and set a fire, the inmate could be charged with both offenses, but if found to have committed the prohibited act, the individual would only be able to receive up to 60 days in disciplinary segregation, which is the maximum segregation sanction for setting a fire. However, if the inmate was in an unauthorized area and set a fire and later, on the way to administrative detention, struck an officer, the inmate could be charged with assaulting any person, and combined with the first two charges, could receive a maximum of 120 days in disciplinary segregation. Similarly, an inmate may be serving a 60-day sanction in disciplinary segregation and commit a High Severity Prohibited Act, whereupon the person can be given an additional, consecutive 30 days by the IDC. Specific limits on time in disciplinary segregation are based on the severity scale. (See § 541.11e)

E. *Make monetary restitution.* The IDC may direct that an inmate reimburse the U.S. Treasury for any damages to U.S. Government property that the individual is determined to have caused or contributed to.

F. *Withholding statutory good time.* The IDC may direct that an inmate's good time be withheld. Withholding of good time should not be applied as a universal punishment to all persons in disciplinary segregation status. Withholding is limited to the good time creditable for the single month during which the violation occurs.

Some offenses, such as refusal to work at an assignment, may be recurring, thereby permitting, when ordered by the Institution Discipline Committee, consecutive withholding actions. For this to occur, the Committee shall review, near the beginning of the month or at the 30-day review, the offense with the inmate. For an on-going offense, staff need not prepare a new Incident Report or conduct an investigation or initial hearing. The Committee shall provide the inmate an opportunity to appear in person and to present a statement orally or (if he prefers) in writing. The Institution Discipline Committee shall document its action on, or by an attachment to, the initial IDC report. If further withholding is ordered, the Committee shall advise

the inmate of his right to appeal through the Administrative Remedy Procedure (Part 542).

Only the Institution Discipline Committee may restore withheld statutory good time. Restoration eligibility is based on the severity scale. (See § 541.11e).

2. *Sanctions of the Institution Discipline Committee/Unit Discipline Committee:* (upon finding the inmate committed the prohibited act)

G. *Loss of privileges: commissary, movies, recreation, etc.* The IDC or UDC may direct that an inmate forego specific privileges for a specific period of time. Ordinarily, loss of privileges is used as a sanction in response to an abuse of that privilege: e.g., loss of telephone privileges for a specified period of time for an abuse of the telephone privileges. However, loss of leisure privileges, such as movies, television, and recreation, may be appropriate sanctions for misconduct which is not related to the privilege.

H. *Change housing (quarters).* The IDC or UDC may direct that an inmate be removed from current housing and placed in other housing.

I. *Remove from program and/or group activity.* The IDC or UDC may direct that an inmate forego participating in any program or group activity for a specified period of time.

J. *Loss of job.* The IDC or UDC may direct that an inmate be removed from present job and/or be assigned to another job.

K. *Impound inmate's personal property.* The IDC or UDC may direct that an inmate's personal property be stored in the institution (when relevant to offense) for a specified period of time.

L. *Confiscate contraband.* The IDC or UDC may direct that any contraband in the possession of an inmate be confiscated and disposed of appropriately.

M. *Restrict quarters.* The IDC or UDC may direct that an inmate be confined to quarters or in its immediate area for a specified period of time.

N. *Extra duty.* The IDC or UDC may direct that an inmate perform tasks other than those performed during regularly assigned institutional job.

O. *Reprimand.* The IDC or UDC may reprimand an inmate either verbally or in writing.

P. *Warning.* The IDC or UDC may verbally warn an inmate regarding committing prohibited act(s).

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and (e) Sanctions by severity of prohibited act, with eligibility for restoration of forfeited and withheld statutory good time.

Severity of Act	Sanctions	Max. Amt. Forf. SGT	Max. Amt. W/hd SGT	Elig. Restoration Forf. SGT	Elig. Restoration W/hd SGT	Max. Dis Seg
Greatest	A-F	100%	Good time creditable for single month during which violation occurs.	24 mos	18 mos	60 dys
High	A-M	50% or 60 days, whichever is less	Applies to all categories	18 mos	12 mos	30 dys
Moderate	A-N	25% or 30 days, whichever is less		12 mos	6 mos	15 dys
Low Moderate	E-P	N/A		N/A	3 mos	N/A

SUMMARY OF DISCIPLINARY SYSTEM

TABLE 2

Procedures	Dispositions
1. Incident involving possible commission of prohibited act.	Observing officer may resolve informally or drop the charges.
2. Officer prepares Incident Report and forwards it to supervisor.	Supervisor may resolve informally or drop charges.
3. Appointment of investigator who conducts investigation and forwards material to Unit Discipline Committee.	
4. Initial hearing before Unit Discipline Committee.	Unit Discipline Committee may drop or resolve informally any High, Moderate or Low Moderate charge, impose minor sanctions or refer to Institution Discipline Committee.
5. Hearing before Institution Discipline Committee.	Institution Discipline Committee may impose major or minor sanctions, or drop the charges.
6. Appeals through Administrative Remedy Procedures.	The Warden, Regional Director, or General Counsel may approve, modify or reverse, but may not increase any disciplinary action taken.

TIME LIMITS IN DISCIPLINARY PROCESS

TABLE 3

1. Staff becomes aware of inmate's involvement in incident.	maximum of 24 hours
2. Staff gives inmate notice of charges by delivering Incident Report.	maximum of 48 hours (excluding weekends and holidays.)
3. Initial hearing.	minimum of 24 hours (unless waived)
4. Institution Discipline Committee hearing.	

NOTE: These time limits are subject to exceptions as provided in the rules.

Staff may suspend disciplinary proceedings for a period not to exceed two weeks while informal resolution is attempted. If informal resolution is unsuccessful, staff may reinstitute disciplinary proceedings at the same stage at which suspended. The time requirements then begin running again, at the same point at which they were suspended.

§ 541.12 Incident Report and Investigation.

(a) *Incident Report.* The Bureau of Prisons encourages informal resolution (requiring consent of both parties) of incidents involving violations of institution regulations. However, when staff witnesses or has a reasonable belief that a violation of institution regulations has been committed by an inmate, and when staff considers informal resolution of the incident inappropriate or unsuccessful, staff shall prepare an Incident Report and promptly forward it to the appropriate correctional supervisor. The supervisor may informally dispose of the Incident Report or forward the Incident Report for investigation consistent with this section. The correctional supervisor shall expunge the inmate's file of the Incident Report if informal resolution is accomplished.

(b) *Investigation.* Staff shall conduct the investigation promptly unless circumstances beyond the control of the investigator intervene. The investigating officer should be an employee of supervisory level and may not be the employee reporting the incident in question. When it appears likely that the incident may be the subject of a criminal prosecution, the investigating officer shall suspend the investigation, and staff may not question the inmate until the Federal Bureau of Investigation or other investigative agency interviews have been completed or until the agency responsible for the criminal investigation advises that staff questioning may occur. The inmate may receive a copy of the Incident Report prior to being seen by the investigating agency. The investigating officer (Bureau of Prisons) shall give the inmate a copy of the Incident Report at the beginning of the investigation, unless there is good cause for delivery at a later date, such as absence of the inmate from the institution, a medical condition militating against delivery, or the pendency of certain criminal proceedings. If the investigation is delayed for any reason, any employee may deliver the charge(s) to the inmate. The staff member shall note the date and time the inmate received a copy of the Incident Report. The investigator shall also read the charge(s) to the inmate and ask for his statement concerning the incident unless it appears likely that the incident may be the subject of criminal prosecution. The investigator shall advise the inmate that he has the right to remain silent at all stages of the disciplinary process but that his silence may be used to draw and adverse inference against him at

any stage of the institutional disciplinary process. The investigator shall also inform the inmate that his silence alone may not be used to support a finding that he has committed a prohibited act. The investigator shall then thoroughly investigate the incident. He shall record all steps and actions taken on the Incident Report and forward all relevant material to the staff holding the initial hearing. The inmate does not receive a copy of the investigation. However, if the case is ultimately forwarded to the Institution Discipline Committee, the Committee shall give a copy of the investigation and other relevant materials to the inmate's staff representative for use in presentation on the inmate's behalf.

§ 541.13 Initial Hearing.

The Warden shall delegate to one or more institution staff members (usually a unit discipline committee) the authority and duty to hold an initial hearing upon completion of the investigation. The Warden shall authorize these staff members to impose minor sanctions (G through P) for violation of prohibited act(s). In order to insure impartiality, the appropriate staff member(s) (hereinafter usually referred to as the Unit Disciplinary Committee (UDC)) may not be the reporting or investigating officer or a witness to the incident. However, a staff member witnessing an incident may serve on the UDC where virtually every staff member in the institution witnesses the incident in whole or in part. If the UDC finds at the initial hearing that an inmate has committed a prohibited act, the UDC may impose minor dispositions and sanctions or refer the charge(s) to the Institution Discipline Committee for further hearing. The following minimum standards apply to initial hearings in all institutions.

(a) Staff shall give each inmate charged with violating an institution rule a written copy of the charge(s) against the inmate within 24 hours of the time staff became aware of the inmate's involvement in the incident.

(b) Each inmate so charged is entitled to an initial hearing before the UDC, held within 48 hours (excluding weekends and holidays) of the time staff became aware of the inmate's involvement in the incident to consider the charge(s) brought against the inmate.

(c) The inmate is entitled to be present at the initial hearing except during deliberations of the decision maker(s) or when institutional security would be jeopardized by his presence. The UDC shall clearly document in the record of the hearing reasons for excluding an

inmate from the hearing. An inmate may waive the right to be present at this hearing, provided that the waiver is documented by staff and reviewed by the UDC. A waiver may be in writing, signed by the inmate, or if the inmate refuses to sign a waiver, it may be shown by a memorandum signed by staff and witnessed by a second staff member indicating the inmate's refusal to appear at the hearing. The UDC may conduct a hearing in the absence of an inmate when the inmate waives the right to appear. When an inmate escapes or is otherwise absent from custody, the UDC shall conduct a hearing in the inmate's absence at the institution in which the inmate was last confined.

(d) The inmate is entitled to make a statement and to present documentary evidence in his own behalf.

(e) The Unit Discipline Committee may informally resolve any High, Moderate, or Low Moderate charge. The UDC shall expunge the inmate's file of the Incident Report if informal resolution is accomplished.

(f) The Unit Discipline Committee shall consider all evidence presented at the hearing and shall make a decision in accordance with the greater weight of the evidence and supported by substantial evidence. The UDC shall find that the inmate either:

- (1) Committed the prohibited act charged or a similar prohibited act if reflected in the Incident Report, or
- (2) Did not commit the prohibited act charged or a similar prohibited act if reflected in the Incident Report.

The UDC shall give the inmate a written copy of the decision and disposition. Any action taken as a minor disposition is reviewable under the Administrative Remedy Procedure (Part 542 of this chapter).

(g) When an alleged violation of institution rules is serious and warrants consideration for other than minor sanctions (G through P), the UDC shall refer the charge(s) to the Institution Discipline Committee (IDC) for hearing and disposition. The UDC shall forward copies of all relevant documents to the chairman of the IDC with a brief statement of reasons for the referral along with any recommendations for appropriate disposition if the IDC finds the inmate has committed the act charged or a similar prohibited act. The inmate whose charge is being referred to the Institution Discipline Committee may be retained in administrative detention or other restricted status, but the UDC may not impose a final disposition if the matter is being referred to the IDC.

(h) When charges are to be referred to the Institution Discipline Committee, the UDC shall advise the inmate of the rights afforded at a hearing before the IDC. The UDC shall ask the inmate to indicate a choice of staff representative, if any, and the names of any witnesses the inmate wishes to be called to testify at the hearing and what testimony they are expected to provide.

(i) When the Unit Discipline Committee holds a full hearing and determines that the inmate did not commit a prohibited act of High, Moderate or Low Moderate Severity, the UDC shall expunge the inmate's file of the Incident Report and related documents. The UDC must refer to the Institution Discipline Committee all incidents involving prohibited acts of Greatest Severity.

(j) The UDC may extend time limits imposed in this section for a good cause shown by the inmate or staff and documented in the record of the hearing.

§ 541.14 Establishment and Functioning of Institution Discipline Committee.

(a) The Warden shall establish a single Institution Discipline Committee. In the event of a serious disturbance or other emergency, or if an inmate commits an offense in the presence of the IDC, the Warden may establish more than one Institution Discipline Committee with approval of the appropriate Regional Director.

(b) The Warden may appoint as many members to the Institution Discipline Committee as are appropriate. At least three members, including the chairman, shall be present at any hearing to constitute a quorum. The chairman and at least one member present at the hearing must be of the department head level or higher. The third member and additional members of the Committee need not be of department head level. For the purpose of this section, "department head" includes acting department head. In order to insure impartiality, no member of the IDC may be the reporting officer, investigating officer, or UDC member or a witness to the incident or play any significant part in having the charge(s) referred to the IDC. However, a staff member witnessing an incident may sit as a member of the IDC where virtually every staff member in the institution witnessed the incident in whole or in part.

(c) The Institution Discipline Committee shall conduct hearings, make findings, and impose appropriate sanctions for incidents of inmate misconduct referred to it for disposition following the hearing required by

§ 541.13 before the UDC. The IDC may not hear any case or impose any sanctions in a case not heard and referred by the UDC. Only the Institution Discipline Committee shall have the authority to impose or suspend sanctions A through F. This Committee shall conduct reviews of inmates placed in disciplinary segregation in accordance with the requirements of § 541.18.

§ 541.15 Procedures in Institution Discipline Committee Hearings.

The Institution Discipline Committee shall proceed as follows:

(a) The Warden shall give an inmate advance written notice of the charge(s) against the inmate no less than 24 hours before his appearance before the Institution Discipline Committee unless the inmate is to be released from custody within that time. An inmate may waive in writing the 24-hour notice requirement.

(b) The Warden shall provide an inmate the service of a full time staff member to represent the inmate at the hearing before the Institution Discipline Committee should the inmate so desire. The Warden, the members of the IDC, and the reporting officer, investigating officer, and UDC members involved in the case may not act as staff representative. The Warden may exclude other staff from acting as staff representative when there is a potential conflict in roles. The staff representative shall be available to assist the inmate if the inmate desires by speaking to witnesses and by presenting favorable evidence to the IDC on the merits of the charge(s) or in extenuation or mitigation of the charge(s). The chairman shall arrange for the presence of the staff representative selected by the inmate. If the staff member selected declines or is unavailable because of absence from the institution, the inmate has the option of selecting another representative, or in the case of an absent staff member of waiting a reasonable period for the staff member's return, or of proceeding without a staff representative. When several staff members decline this role, the Warden shall appoint a staff representative to assist the inmate. The IDC shall afford a staff representative adequate time to speak with the inmate and interview requested witnesses where appropriate. While it is expected that a staff member will have had ample time to prepare prior to the hearing, delays in the hearing to allow for adequate preparation may be ordered by the chairman of the Institution Discipline Committee.

(c) The inmate is entitled to make a statement and to present documentary evidence in his own behalf. An inmate has the right to submit names of requested witnesses and have them called to testify and to present documents in the inmate's behalf, provided the calling of witnesses or the disclosure of documentary evidence does not jeopardize or threaten institutional or an individual's security. The chairman shall call those witnesses who have information directly relevant to the charge(s) and who are reasonably available. This may include witnesses from outside of the institution. The inmate charged may be excluded during the appearance of the outside witness. The appearance of the outside witness should be in an area of the institution in which outside visitors are usually allowed. The chairman need not call repetitive witnesses. The reporting officer and other adverse witnesses need not be called if their knowledge of the incident is adequately summarized in the Incident Report and other investigative materials supplied to the IDC. The chairman shall request submission of written statements from unavailable witnesses when necessary for an appreciation of the circumstances surrounding the charge(s). The chairman shall document reasons for declining to call requested witnesses in the IDC report. The inmate's staff representative, or when the inmate waives staff representation members of the Committee, shall question witnesses requested by the inmate who are called before the IDC. The inmate who has waived staff representation may submit questions for requested witnesses in writing to the Committee. The inmate may not question any witness at the hearing.

(d) An inmate has the right to be present throughout the Institution Discipline Committee hearing except during deliberations of the Committee or when institution security would be jeopardized. The chairman must document in the record the reason(s) for excluding an inmate from the hearing. An inmate may waive the right to be present at the hearing, provided that the waiver is documented by staff and reviewed by the IDC. A waiver may be in writing, signed by the inmate, or if the inmate refuses to sign a waiver, it may be shown by a memorandum signed by staff and witnessed by a second staff member indicating the inmate's refusal to appear at the hearing. The Committee may conduct a hearing in the absence of an inmate when the inmate waives the right to appear. When an inmate escapes or is otherwise absent from

custody, the Institution Discipline Committee shall conduct a hearing in the inmate's absence at the institution in which the inmate was last confined. When an inmate who has had any sanctions imposed by the IDC while absent from custody returns to custody, the Warden shall have the escape charge reheard before the Institution Discipline Committee at the institution to which the inmate is designated after return to custody, and following appearance before the Unit Discipline Committee at that institution. The UDC shall ensure that the inmate has all rights required for appearance at the Institution Discipline Committee including delivery of charge(s), advisement of the right to remain silent and other rights to be exercised at the IDC. All the applicable procedural requirements of Institution Discipline Committee hearings apply to this rehearing, except that written statements of witnesses not readily available may be liberally used instead of in-person witnesses. The IDC upon rehearing may dismiss the charge(s), or may modify but may not increase the sanctions previously imposed in the inmate's absence.

(e) The IDC, at any time prior to making a decision as to whether or not a prohibited act was committed, may continue the hearing until a later date whenever further investigation or more evidence is needed.

(f) The IDC shall consider all evidence presented at the hearing and shall make a decision in accordance with the greater weight of the evidence and which is supported by substantial evidence manifested in the record of the proceedings. The Committee shall find that the inmate either:

(1) Committed the prohibited act charged or a similar prohibited act if reflected in the Incident Report, or

(2) Did not commit the prohibited act charged or a similar prohibited act if reflected in the Incident Report.

(g) The Institution Discipline Committee shall prepare a record of its proceedings which need not be verbatim. This record must be sufficient to document the advisement of inmate rights, the Committee's findings, the Committee's decision and the specific evidence relied on by the Committee, and must include a brief statement of the reasons for the sanctions imposed. The evidence relied upon, the decision, and the reasons for the actions taken must be set out in specific terms unless doing so would jeopardize institutional security. The IDC shall give the inmate a written copy of the decision and disposition.

(h) The Institution Discipline Committee shall expunge an inmate's file of the Incident Report and related documents whenever the Committee finds the inmate did not commit a prohibited act. The requirement for expunging the inmate's file does not preclude maintaining for research purposes copies of disciplinary actions resulting in "not guilty" findings in a master file separate from the inmate's institution file. However, institution staff may not use or allow the usage of the contents of this master file in a manner which would adversely affect the inmate. Likewise, the expungement requirement does not require the destruction of medical reports or other reports relating to a particular inmate which must be maintained to document medical or other treatment given in a special housing unit. If an inmate's conduct during one continuous incident may constitute more than one prohibited act, and if the incident is reported in a single Incident Report, and if the IDC finds the inmate has not committed every prohibited act charged, then the Committee shall record its findings clearly and shall mark out on the Incident Report the incident and code references to charges which were not proved. Institution staff may not use the existence of charged but unproved misconduct against the inmate.

§ 541.16 Dispositions of the Institution Discipline Committee.

The Institution Discipline Committee has available a broad range of sanctions and dispositions when it has completed a hearing. The Institution Discipline Committee may do any of the following:

(a) Dismiss any charge(s) before it upon a finding that the inmate did not commit the prohibited act(s). The Committee shall order the record of charge(s) expunged upon such finding.

(b) Impose sanctions A through P as provided in § 541.11(d).

(c) Suspend the execution of a sanction it imposes as provided in § 541.11(d).

§ 541.17 Appeals from Unit Discipline Committee or Institution Discipline Committee Actions.

At the time the Unit Discipline Committee or Institution Discipline Committee gives an inmate notice of its decision, they shall also advise the inmate that the inmate may appeal the decision under Administrative Remedy Procedures (see Part 542 of this chapter). On appeals, the Warden, Regional Director, or General Counsel may approve, modify, or reverse any disciplinary action of the Unit Discipline

Committee or Institution Discipline Committee but may not increase the sanctions imposed. On appeals, the Warden, Regional Director, or General Counsel shall consider:

(a) Whether the Unit Discipline Committee or the Institution Discipline Committee substantially complied with the regulations on inmate discipline;

(b) Whether the Unit Discipline Committee or Institution Discipline Committee based its decision on substantial evidence; and

(c) Whether an appropriate sanction was imposed according to the severity level of the Prohibited Act.

§ 541.18 Justification for Placement in Disciplinary Segregation and Review of Inmates in Disciplinary Segregation.

(a) Except as provided in paragraph (b) of this section, an inmate may be placed in disciplinary segregation only by order of the Institution Discipline Committee following a hearing in which the inmate has been found to have committed a prohibited act in the Greatest, High, or Moderate Category. The IDC may order placement in disciplinary segregation only when other available dispositions are inadequate to regulate an inmate's behavior within acceptable limits and when necessary for the control and management of behavior.

(b) The Warden may temporarily (not exceeding five days) move to a more secure cell, which may be in an area ordinarily set aside for disciplinary segregation and which therefore requires the withdrawal of privileges ordinarily afforded in administrative detention status, until a hearing before the Institution Discipline Committee can be held, an inmate who (1) is causing a serious disruption (threatening life, serious bodily harm, or property) in administrative detention, (2) cannot be controlled within the physical confines of administrative detention, and (3) upon advice of appropriate medical staff, does not require confinement in the institution hospital for mental or physical treatment, or who would ordinarily be housed in the institution hospital for mental or physical treatment, but who cannot safely be housed there because the hospital does not have a room or cell with adequate security provisions. The Warden may delegate this authority no further than to the official in charge of the institution at the time the move is necessary.

(c) The Institution Discipline Committee shall conduct a hearing and formally review the status of each inmate who spends seven continuous days in disciplinary segregation and

thereafter shall review these cases on the record in the inmate's absence each week and shall conduct a hearing and formally review these cases at least once every 30 days. The inmate appears before the IDC at the 30-day hearings, unless the inmate waives the right to appear. A waiver may be in writing, signed by the inmate, or if the inmate refuses to sign a waiver, it may be shown by a memorandum signed by staff and witnessed by a second staff member indicating the inmate's refusal to appear at the hearing. Staff shall conduct a psychiatric or psychological assessment, including a personal interview, when disciplinary segregation continues beyond 30 days. The assessment, submitted to the Committee in a written report, shall address the inmate's adjustment to surroundings and the threat the inmate poses to self, staff and other inmates. Staff shall conduct a similar psychiatric or psychological assessment and report at subsequent one-month intervals if segregation continues for this extended period.

(d) The Institution Discipline Committee may release an inmate from disciplinary segregation earlier than the sanction initially imposed when the Committee finds that continuation in disciplinary segregation is no longer necessary to regulate the inmate's behavior within acceptable limits or for the control and management of behavior. The Committee may not increase any previously imposed sanction.

§ 541.19 Conditions of Disciplinary Segregation.

(a) Disciplinary segregation is the status of confinement of an inmate housed in a special housing unit in a cell either alone or with other inmates, separated from the general population. Inmates housed in disciplinary segregation have significantly fewer privileges than those housed in administrative detention.

(b) The Warden shall maintain for each segregated inmate basic living levels of decency and humane treatment, regardless of the purpose for which the inmate has been segregated. Living conditions may not be modified for the purpose of reinforcing acceptable behavior and different levels of living arrangements will not be established. Where it is determined necessary to deprive an inmate of a usually authorized item, staff shall prepare written documentation as to the basis for this action, and this document will be signed by the Warden, indicating his review and approval.

(c) The basic living standards for segregation are as follows:

(1) *Segregation Conditions.* The quarters used for segregation must be well ventilated, adequately lighted, appropriately heated and maintained in a sanitary condition at all times. All cells must be equipped with beds. Strip cells may not be a part of the segregation unit. Any strip cells which are utilized must be a part of the medical facility and under the supervision and control of the medical staff.

(2) *Cell Occupancy.* Except in emergencies, the number of inmates confined to each cell or room may not exceed the number for which the space was designated. The Warden may approve temporary excess occupancy if he finds there is an emergency requiring this action.

(3) *Clothing and Bedding.* An inmate in segregation may wear normal institution clothing but may not have a belt. Staff shall furnish a mattress and bedding. Cloth or paper slippers may be substituted for shoes at the discretion of the Warden. An inmate may not be segregated without clothing, mattress, blankets and pillow, except when prescribed by the medical officer for medical or psychiatric reasons.

(4) *Food.* Staff shall ordinarily give a segregated inmate nutritionally adequate meals from the menu of the day for the institution. Staff may dispense disposable utensils when necessary.

(5) *Personal Hygiene.* Segregated inmates shall have the opportunity to maintain an acceptable level of personal hygiene. Staff shall provide toilet tissue, wash basin, tooth brush, eye glasses, shaving utensils, etc., as needed. Staff may issue a retrievable kit of toilet articles. Each segregated inmate shall have the opportunity to shower and shave at least three times a week, unless these procedures would present an undue security hazard. This security hazard will be documented and signed by the Warden, indicating his review and approval.

(6) *Exercise.* Staff shall permit each segregated inmate no less than four hours exercise each week. Exercise should be provided in four one-hour periods, on four different days, but if circumstances require, one-half hour periods are acceptable if the four-hour minimum and different days schedule is maintained. These provisions must be carried out unless compelling security or safety reasons dictate otherwise. Institution staff shall document these reasons. Exercise periods, not to exceed one week, may be withheld from an

inmate by order of the Warden, upon recommendation of the Institution Discipline Committee. This recommendation may be made only following a hearing before the Committee, the hearing to be held in accordance with the provisions of § 541.15, following those provisions which are appropriate to these circumstances, and only upon a finding by the Committee that the actions of the segregated inmate pose a threat to the safety or health conditions of the unit.

(7) *Personal Property.* Institution staff shall ordinarily impound personal property.

(8) *Reading Material.* Staff may provide a reasonable amount of non-legal reading material, not to exceed five volumes at any one time, on a circulating basis. As to legal materials, see Part 543, Subpart B.

(9) *Supervision.* In addition to the direct supervision afforded by the unit officer, a member of the medical department and one or more responsible officers designated by the Warden shall see each segregated inmate daily, including weekends and holidays.

(10) *Correspondence and Visits.* As to correspondence privileges, see Part 540, Subpart B. Staff shall make reasonable effort to notify approved social visitors of any necessary restriction on ordinary visiting procedures so that they may be spared disappointment and unnecessary inconvenience. If ample time for correspondence exists, staff may place the burden of this notification to visitors on the inmate. As to general visiting privileges, see Part 540, Subpart D. In respect to legal, religious, and privileged out-going mail, the relevant regulations must be followed by institution staff (see Parts 540, 543, and 548 of this chapter).

§ 541.20 Administrative Detention.

Administrative detention is the status of confinement of an inmate in a special housing unit in a cell either by himself or with other inmates which serves to remove the inmate from the general population.

(a) *Placement in Administrative Detention.* The Warden may delegate authority to place an inmate in administrative detention to correctional supervisors, shift supervisors, or staff members of an inmate's unit or team. The Warden may place an inmate in administrative detention when the inmate is in holdover status (i.e., en route to a designated institution) during transfer, or is a new commitment pending classification. The Warden may also place an inmate in administrative detention when his continued presence

in the general population poses a serious threat to life, property, self, staff, other inmates or to the security or orderly running of the institution and when the inmate:

(1) Is pending a hearing for a violation of institution regulations;

(2) Is pending investigation of a violation of institution regulations;

(3) Is pending investigation or trial for a criminal act;

(4) Is pending transfer;

(5) Requests admission to administrative detention for his own protection, or staff determines that admission to or continuation in administrative detention is necessary for the inmate's own protection (see § 541.21); or

(6) Is terminating confinement in disciplinary segregation and placement in general population is not prudent.

(i) In Security Level 1 through 5 and Administrative type (exception pre-trial inmates) institutions, staff within 90 days of an inmate's placement in post-disciplinary detention shall either return the inmate to the general inmate population or effect a transfer to a more suitable institution.

(ii) In Security Level 6 institutions, staff is expected to adhere to the 90 day limit for an inmate's placement in post-disciplinary detention; however, the appropriate Regional Correctional Administrator for good and documented cause may approve two 30-day extensions.

(iii) The Assistant Director, Correctional Programs Division, shall review for purpose of making a disposition, the case of an inmate not transferred from post-disciplinary detention within the time frame specified in paragraph (a) of this section.

(iv) The appropriate Regional Director and the Assistant Director, Correctional Programs Division, shall review for purpose of making a disposition, the case of an inmate not transferred from post-disciplinary detention within the time frame specified in paragraph (b) of this section.

(b) *Memorandum Detailing Reasons for Placement.* The Warden shall prepare a memorandum detailing the reasons for placing an inmate in administrative detention, with a copy given to the inmate, provided institutional security is not compromised thereby. Staff shall deliver this memorandum to the inmate within 24 hours of his placement in administrative detention, unless this delivery is precluded by exceptional circumstances.

(c) *Review of Inmates Housed in Administrative Detention.* The Warden shall designate appropriate staff to

review the status of inmates housed in administrative detention. The reviewing authority shall hold a hearing and formally review the status of each inmate who spends seven continuous days in administrative detention, and thereafter shall review these cases on the record (in the inmate's absence) each week, and shall hold a hearing and review these cases formally at least every 30 days. The inmate appears before the reviewing authority at the hearing unless the inmate waives the right to appear. A waiver may be in writing, signed by the inmate, or if the inmate refuses to sign a waiver, it may be shown by a memorandum signed by staff and witnessed by a second staff member indicating the inmate's refusal to appear at the hearing. Staff shall conduct a psychiatric or psychological assessment, including a personal interview, when administrative detention continues beyond 30 days. The assessment, submitted to the reviewing authority in a written report, should address the inmate's adjustment to his surroundings and the threat the inmate poses to self, staff and other inmates. Staff shall conduct a similar psychiatric or psychological assessment and report at subsequent one-month intervals should detention continue for this extended period. Administrative detention is to be used only for short periods of time except where an inmate needs long-term protection (see § 541.21). An inmate may be kept in administrative detention for longer term protection only if the need for such protection is documented by the reviewing authority. Provided institutional security is not compromised, the inmate shall receive at each formal review a written copy of staff's decision and the basis for this finding. The reviewing authority shall release an inmate from administrative detention when reasons for placement cease to exist.

(d) *Conditions of Administrative Detention.* The basic level of conditions as described in § 541.19 for disciplinary segregation also apply to administrative detention. If consistent with available resources and the security needs of the unit, the Warden shall give an inmate housed in administrative detention the same general privileges given to inmates in the general population. Unless there are compelling reasons to the contrary, institutions shall provide commissary privileges and reasonable amounts of personal property. Exercise periods, at a minimum, will meet the level established for disciplinary segregation and will exceed this level where resources are available. The Warden

shall give an inmate in administrative detention visiting and correspondence privileges in accordance with Part 540 of this chapter.

§ 541.21 Protection Cases.

(a) Staff may consider the following categories of inmates as protection cases.

(1) Victims of inmate assaults;

(2) Inmate informants;

(3) Inmates who have received inmate pressure to participate in sexual activity;

(4) Inmates who seek protection through detention, claiming to be former law enforcement officers, informants, or others in sensitive law enforcement positions, whether or not there is official information to verify the claim;

(5) Inmates who have previously served as inmate gun guards, dog caretakers, or in similar positions in state or local correctional facilities;

(6) Inmates who refuse to enter the general population because of alleged pressures from other unidentified inmates;

(7) Inmates who will not provide, and as to whom staff cannot determine, the reason for refusal to return to the general population;

(8) Inmates about whom staff has good reason to believe the inmate is in serious danger of bodily harm.

(b) Inmates who are placed in administrative detention for protection, but not at their own request or beyond the time when they feel they need to be detained for their own protection, are entitled to a hearing, no later than seven days from the time of their admission (or from the time of their detention beyond their own consent). This hearing is conducted in accordance with the procedural requirements of § 541.15, as to advance written notice, staff representation, right to make a statement and present documentary evidence, to request witnesses, to be present throughout the hearing, and as to making a record of the proceedings.

(c) Ordinarily, staff may place an inmate in administrative detention as provided in paragraph (a) of this rule relating to protection cases, for a period not to exceed 90 days. Staff shall clearly document in the record the reasons for any extension beyond this 90 day period.

(d) Where appropriate, staff shall first attempt to place the inmate in the general population of their particular facility. Where inappropriate, staff shall clearly document the reason(s) and refer the case, with all relevant material, to their Regional Director, who, upon

review of the material, may order the transfer of a protection case.

§ 541.22 Disciplinary Procedures for Federal Community Treatment Centers.

The following exceptions to the general disciplinary procedures for Bureau of Prisons institutions apply solely to Federal Community Treatment Centers.

(a) *Institution Discipline Committee.* Each Federal Community Treatment Center must have a single Institution Discipline Committee composed of at least one staff member appointed by the director of the center. No member need be of department head level. No member of the Institution Discipline Committee may be the reporting or investigating officer or have played any significant part in having the charge(s) referred to the Institution Discipline Committee. Federal Community Treatment Centers need not hold initial hearings or establish unit discipline committees with initial hearing authority but may have only one discipline committee, the Institution Discipline Committee.

(b) *Witnesses.* The Institution Discipline Committee shall permit an inmate appearing before the Committee to request the Committee to call witnesses from outside the Center who are willing to appear before the Committee at their own expense and whose presence at the hearing would not pose a serious threat to the security of the Center. Witnesses whose testimony would be repetitious or irrelevant to the charge(s) or disposition(s) need not be called. When the Committee refuses a request for an outside witness, the Committee shall clearly document the reason(s) for refusing this requested witness. The Committee shall liberally accept written statements from requested witnesses who do not appear.

(c) *Offenders Programmed in the Center Pursuant to Pub. L. 91-492 (Probationers, Parolees, or Mandatory Releases).* Center staff shall forward reports of misconduct by an offender programmed in the center pursuant to Pub. L. 91-492 to the appropriate agency (Probation Officer or Parole Commission) for disposition which that agency considers appropriate. This offender may not be the subject of disciplinary action within the center until the appropriate agency has been contacted. Center staff shall make immediate notification when the misconduct is serious and arrangements for removal from the center may be necessary for the protection of life or property.

(d) *Escapes or Disappearances from Federal Community Treatment Centers.*

When an inmate is not where he is scheduled to be, and when the center staff has made reasonable efforts to contact the inmate, center staff shall declare the inmate to be in escape status. Staff shall take further action following the guidelines under § 541.12. Staff shall effect total resolution of the incident, to the point of holding the hearing in the inmate's absence.

(e) *Use of Part Time Employees or Other Federal Employees in the Disciplinary Process.* With the exception of sitting as a member of the Institution Discipline Committee, part time employees or other federal employees (U.S. Probation Officer, U.S. Marshal, etc.) may be used in any stage of the disciplinary process where there is an insufficient number of full time staff available.

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Part IV

Department of
Health, Education,
and Welfare

Office of the Secretary

Protection of Human Subjects; Notice of
Report for Public Comment

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

Protection of Human Subjects;

Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research, Report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of Report for Public Comment.

SUMMARY: On July 12, 1974, the National Research Act (Pub. L. 93-348) was signed into law, thereby creating the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. One of the charges to the Commission was to identify the basic ethical principles that should underlie the conduct of biomedical and behavioral research involving human subjects and to develop guidelines which should be followed to assure that such research is conducted in accordance with those principles. In carrying out the above, the Commission was directed to consider: (i) the boundaries between biomedical and behavioral research and the accepted and routine practice of medicine, (ii) the role of assessment of risk-benefit criteria in the determination of the appropriateness of research involving human subjects, (iii) appropriate guidelines for the selection of human subjects for participation in such research, and (iv) the nature and definition of informed consent in various research settings.

The Belmont Report attempts to summarize the basic ethical principles identified by the Commission in the course of its deliberations. It is the outgrowth of an intensive four-day period of discussions that were held in February 1976 at the Smithsonian Institution's Belmont Conference Center supplemented by the monthly deliberations of the Commission that were held over a period of nearly four years. It is a statement of basic ethical principles and guidelines that should assist in resolving the ethical problems that surround the conduct of research with human subjects. By publishing the Report in the *Federal Register*, and providing reprints upon request, the Secretary intends that it may be made readily available to scientists, members of Institutional Review Boards, and

Federal employees. The two-volume Appendix, containing the lengthy reports of experts and specialists who assisted the Commission in fulfilling this part of its charge, is available as DHEW Publication No. (OS) 78-0013 and No. (OS) 78-0014, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Unlike most other reports of the Commission, the Belmont Report does not make specific recommendations for administrative action by the Secretary of Health, Education, and Welfare. Rather, the Commission recommended that the Belmont Report be adopted in its entirety, as a statement of the Department's policy. The Department requests public comment on this recommendation.

DATES: The Secretary invites comment on the Belmont Report. The comment period will close July 17, 1979.

ADDRESSES: Please send comments or requests for additional information to: F. William Dommel, Jr., J.D., Assistant Director for Regulations, Office for Protection from Research Risks, National Institutes of Health, 5333 Westbard Avenue, Room 303, Bethesda, Maryland 20205, telephone: 301-496-7005 where all comments received will be available for inspection weekdays (Federal holidays excepted) between the hours of 9 a.m. and 4:30 p.m.

DATED: March 30, 1979.

Charles Miller,
Acting Assistant Secretary for Health.

Approved: April 12, 1979.

Joseph A. Califano, Jr.,
Secretary.

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Belmont Report

Ethical Principles and Guidelines for Research Involving Human Subjects

Scientific research has produced substantial social benefits. It has also posed some troubling ethical questions. Public attention was drawn to these questions by reported abuses of human subjects in biomedical experiments, especially during the Second World War. During the Nuremberg War Crime Trials, the Nuremberg Code was drafted as a set of standards for judging physicians and scientists who had conducted biomedical experiments on concentration camp prisoners. This code became the prototype of many later codes* intended to assure that research

*Since 1945, various codes for the proper and responsible conduct of human experimentation in medical research have been adopted by different organizations. The best known of these codes are the Nuremberg Code of 1947, the Helsinki Declaration of 1964 (revised in 1975), and the 1971

Footnotes continued on next page

involving human subjects would be carried out in an ethical manner.

The codes consist of rules, some general, others specific, that guide the investigators or the reviewers of research in their work. Such rules often are inadequate to cover complex situations; at times they come into conflict, and they are frequently difficult to interpret or apply. Broader ethical principles will provide a basis on which specific rules may be formulated, criticized and interpreted.

Three principles, or general prescriptive judgements, that are relevant to research involving human subjects are identified in this statement. Other principles may also be relevant. These three are comprehensive, however, and are stated at a level of generalization that should assist scientists, subjects, reviewers and interested citizens to understand the ethical issues inherent in research involving human subjects. These principles cannot always be applied so as to resolve beyond dispute particular ethical problems. The objective is to provide an analytical framework that will guide the resolution of ethical problems arising from research involving human subjects.

This statement consists of a distinction between research and practice, a discussion of the three basic ethical principles, and remarks about the application of these principles.

A. Boundaries Between Practice and Research

It is important to distinguish between biomedical and behavioral research, on the one hand, and the practice of accepted therapy on the other, in order to know what activities ought to undergo review for the protection of human subjects of research. The distinction between research and practice is blurred partly because both often occur together (as in research designed to evaluate a therapy) and partly because notable departures from standard practice are often called "experimental" when the terms "experimental" and "research" are not carefully defined.

For the most part, the term "practice" refers to interventions that are designed solely to enhance the well-being of an individual patient or client and that have a reasonable expectation of success. The purpose of medical or

behavioral practice is to provide diagnosis, preventive treatment or therapy to particular individuals.* By contrast, the term "research" designates an activity designed to test an hypothesis, permit conclusions to be drawn, and thereby to develop or contribute to generalizable knowledge (expressed, for example, in theories, principles, and statements of relationships). Research is usually described in a formal protocol that sets forth an objective and a set of procedures designed to reach that objective.

When a clinician departs in a significant way from standard or accepted practice, the innovation does not, in and of itself, constitute research. The fact that a procedure is "experimental," in the sense of new, untested or different, does not automatically place it in the category of research. Radically new procedures of this description should, however, be made the object of formal research at an early stage in order to determine whether they are safe and effective. Thus, it is the responsibility of medical practice committees, for example, to insist that a major innovation be incorporated into a formal research project.*

Research and practice may be carried on together when research is designed to evaluate the safety and efficacy of a therapy. This need not cause any confusion regarding whether or not the activity requires review; the general rule is that if there is any element of research in an activity, that activity should undergo review for the protection of human subjects.

* Although practice usually involves interventions designed solely to enhance the well-being of a particular individual, interventions are sometimes applied to one individual for the enhancement of the well-being of another (e.g., blood donation, skin grafts, organ transplants) or an intervention may have the dual purpose of enhancing the well-being of a particular individual, and, at the same time, providing some benefit to others (e.g., vaccination, which protects both the person who is vaccinated and society generally). The fact that some forms of practice have elements other than immediate benefit to the individual receiving an intervention, however, should not confuse the general distinction between research and practice. Even when a procedure applied in practice may benefit some other person, it remains an intervention designed to enhance the well-being of a particular individual or groups of individuals; thus, it is practice and need not be reviewed as research.

* Because the problems related to social experimentation may differ substantially from those of biomedical and behavioral research, the Commission specifically declines to make any policy determination regarding such research at this time. Rather, the Commission believes that the problem ought to be addressed by one of its successor bodies.

B. Basic Ethical Principles

The expression "basic ethical principles" refers to those general judgments that serve as a basic justification for the many particular ethical prescriptions and evaluations of human actions. Three basic principles, among those generally accepted in our cultural tradition, are particularly relevant to the ethics of research involving human subjects: the principles of respect for persons, beneficence and justice.

1. *Respect for Persons.*—Respect for persons incorporates at least two ethical convictions: first, that individuals should be treated as autonomous agents, and second, that persons with diminished autonomy are entitled to protection. The principle of respect for persons thus divides into two separate moral requirements: the requirement to acknowledge autonomy and the requirement to protect those with diminished autonomy.

An autonomous person is an individual capable of deliberation about personal goals and of acting under the direction of such deliberation. To respect autonomy is to give weight to autonomous persons' considered opinions and choices while refraining from obstructing their actions unless they are clearly detrimental to others. To show lack of respect for an autonomous agent is to repudiate that person's considered judgments, to deny an individual the freedom to act on those considered judgments, or to withhold information necessary to make a considered judgment, when there are no compelling reasons to do so.

However, not every human being is capable of self-determination. The capacity for self-determination matures during an individual's life, and some individuals lose this capacity wholly or in part because of illness, mental disability, or circumstances that severely restrict liberty. Respect for the immature and the incapacitated may require protecting them as they mature or while they are incapacitated.

Some persons are in need of extensive protection, even to the point of excluding them from activities which may harm them; other persons require little protection beyond making sure they undertake activities freely and with awareness of possible adverse consequences. The extent of protection afforded should depend upon the risk of harm and the likelihood of benefit. The judgment that any individual lacks autonomy should be periodically reevaluated and will vary in different situations.

Footnotes continued from last page
Guidelines (codified into Federal Regulations in 1974) issued by the U.S. Department of Health, Education, and Welfare. Codes for the conduct of social and behavioral research have also been adopted, the best known being that of the American Psychological Association, published in 1973.

In most cases of research involving human subjects, respect for persons demands that subjects enter into the research voluntarily and with adequate information. In some situations, however, application of the principle is not obvious. The involvement of prisoners as subjects of research provides an instructive example. On the one hand, it would seem that the principle of respect for persons requires that prisoners not be deprived of the opportunity to volunteer for research. On the other hand, under prison conditions they may be subtly coerced or unduly influenced to engage in research activities for which they would not otherwise volunteer. Respect for persons would then dictate that prisoners be protected. Whether to allow prisoners to "volunteer" or to "protect" them presents a dilemma. Respecting persons, in most hard cases, is often a matter of balancing competing claims urged by the principle of respect itself.

2. Beneficence.—Persons are treated in an ethical manner not only by respecting their decisions and protecting them from harm, but also by making efforts to secure their well-being. Such treatment falls under the principle of beneficence. The term "beneficence" is often understood to cover acts of kindness or charity that go beyond strict obligation. In this document, beneficence is understood in a stronger sense, as an obligation. Two general rules have been formulated as complementary expressions of beneficent actions in this sense: (1) do not harm and (2) maximize possible benefits and minimize possible harms.

The Hippocratic maxim "do no harm" has long been a fundamental principle of medical ethics. Claude Bernard extended it to the realm of research, saying that one should not injure one person regardless of the benefits that might come to others. However, even avoiding harm requires learning what is harmful; and, in the process of obtaining this information, persons may be exposed to risk of harm. Further, the Hippocratic Oath requires physicians to benefit their patients "according to their best judgment." Learning what will in fact benefit may require exposing persons to risk. The problem posed by these imperatives is to decide when it is justifiable to seek certain benefits despite the risks involved, and when the benefits should be foregone because of the risks.

The obligations of beneficence affect both individual investigators and society at large, because they extend both to particular research projects and to the

entire enterprise of research. In the case of particular projects, investigators and members of their institutions are obliged to give forethought to the maximization of benefits and the reduction of risk that might occur from the research investigation. In the case of scientific research in general, members of the larger society are obliged to recognize the longer term benefits and risks that may result from the improvement of knowledge and from the development of novel medical, psychotherapeutic, and social procedures.

The principle of beneficence often occupies a well-defined justifying role in many areas of research involving human subjects. An example is found in research involving children. Effective ways of treating childhood diseases and fostering healthy development are benefits that serve to justify research involving children—even when individual research subjects are not direct beneficiaries. Research also makes it possible to avoid the harm that may result from the application of previously accepted routine practices that on closer investigation turn out to be dangerous. But the role of the principle of beneficence is not always so unambiguous. A difficult ethical problem remains, for example, about research that presents more than minimal risk without immediate prospect of direct benefit to the children involved. Some have argued that such research is inadmissible, while others have pointed out that this limit would rule out much research promising great benefit to children in the future. Here again, as with all hard cases, the different claims covered by the principle of beneficence may come into conflict and force difficult choices.

3. Justice.—Who ought to receive the benefits of research and bear its burdens? This is a question of justice, in the sense of "fairness in distribution" or "what is deserved." An injustice occurs when some benefit to which a person is entitled is denied without good reason or when some burden is imposed unduly. Another way of conceiving the principle of justice is that equals ought to be treated equally. However, this statement requires explication. Who is equal and who is unequal? What considerations justify departure from equal distribution? Almost all commentators allow that distinctions based on experience, age, deprivation, competence, merit and position do sometimes constitute criteria justifying differential treatment for certain purposes. It is necessary, then, to explain in what respects people should be treated equally. There are several

widely accepted formulations of just ways to distribute burdens and benefits. Each formulation mentions some relevant property on the basis of which burdens and benefits should be distributed. These formulations are (1) to each person an equal share, (2) to each person according to individual need, (3) to each person according to individual effort, (4) to each person according to societal contribution, and (5) to each person according to merit.

Questions of justice have long been associated with social practices such as punishment, taxation and political representation. Until recently these questions have not generally been associated with scientific research. However, they are foreshadowed even in the earliest reflections on the ethics of research involving human subjects. For example, during the 19th and early 20th centuries the burdens of serving as research subjects fell largely upon poor ward patients, while the benefits of improved medical care flowed primarily to private patients. Subsequently, the exploitation of unwilling prisoners as research subjects in Nazi concentration camps was condemned as a particularly flagrant injustice. In this country, in the 1940's, the Tuskegee syphilis study used disadvantaged, rural black men to study the untreated course of a disease that is by no means confined to that population. These subjects were deprived of demonstrably effective treatment in order not to interrupt the project, long after such treatment became generally available.

Against this historical background, it can be seen how conceptions of justice are relevant to research involving human subjects. For example, the selection of research subjects needs to be scrutinized in order to determine whether some classes (e.g., welfare patients, particular racial and ethnic minorities, or persons confined to institutions) are being systematically selected simply because of their easy availability, their compromised position, or their manipulability, rather than for reasons directly related to the problem being studied. Finally, whenever research supported by public funds leads to the development of therapeutic devices and procedures, justice demands both that these not provide advantages only to those who can afford them and that such research should not unduly involve persons from groups unlikely to be among the beneficiaries of subsequent applications of the research.

C. Applications

Applications of the general principles to the conduct of research leads to

consideration of the following requirements: informed consent, risk/benefit assessment, and the selection of subjects of research.

1. *Informed Consent.*—Respect for persons requires that subjects, to the degree that they are capable, be given the opportunity to choose what shall or shall not happen to them. This opportunity is provided when adequate standards for informed consent are satisfied.

While the importance of informed consent is unquestioned, controversy prevails over the nature and possibility of an informed consent. Nonetheless, there is widespread agreement that the consent process can be analyzed as containing three elements: information, comprehension and voluntariness.

Information. Most codes of research establish specific items for disclosure intended to assure that subjects are given sufficient information. These items generally include: the research procedure, their purposes, risks and anticipated benefits, alternative procedures (where therapy is involved), and a statement offering the subject the opportunity to ask questions and to withdraw at any time from the research. Additional items have been proposed, including how subjects are selected, the person responsible for the research, etc.

However, a simple listing of items does not answer the question of what the standard should be for judging how much and what sort of information should be provided. One standard frequently invoked in medical practice, namely the information commonly provided by practitioners in the field or in the locale, is inadequate since research takes place precisely when a common understanding does not exist. Another standard, currently popular in malpractice law, requires the practitioner to reveal the information that reasonable persons would wish to know in order to make a decision regarding their care. This, too, seems insufficient since the research subject, being in essence a volunteer, may wish to know considerably more about risks gratuitously undertaken than do patients who deliver themselves into the hand of a clinician for needed care. It may be that a standard of "the reasonable volunteer" should be proposed: the extent and nature of information should be such that persons, knowing that the procedure is neither necessary for their care nor perhaps fully understood, can decide whether they wish to participate in the furthering of knowledge. Even when some direct benefit to them is anticipated, the subjects should

understand clearly the range of risk and the voluntary nature of participation.

A special problem of consent arises where informing subjects of some pertinent aspect of the research is likely to impair the validity of the research. In many cases, it is sufficient to indicate to subjects that they are being invited to participate in research of which some features will not be revealed until the research is concluded. In all cases of research involving incomplete disclosure, such research is justified only if it is clear that (1) incomplete disclosure is truly necessary to accomplish the goals of the research, (2) there are no undisclosed risks to subjects that are more than minimal, and (3) there is an adequate plan for debriefing subjects, when appropriate, and for dissemination of research results to them. Information about risks should never be withheld for the purpose of eliciting the cooperation of subjects, and truthful answers should always be given to direct questions about the research. Care should be taken to distinguish cases in which disclosure would destroy or invalidate the research from cases in which disclosure would simply inconvenience the investigator.

Comprehension. The manner and context in which information is conveyed is as important as the information itself. For example, presenting information in a disorganized and rapid fashion, allowing too little time for consideration or curtailing opportunities for questioning, all may adversely affect a subject's ability to make an informed choice.

Because the subject's ability to understand is a function of intelligence, rationality, maturity and language, it is necessary to adapt the presentation of the information to the subject's capacities. Investigators are responsible for ascertaining that the subject has comprehended the information. While there is always an obligation to ascertain that the information about risk to subjects is complete and adequately comprehended, when the risks are more serious, that obligation increases. On occasion, it may be suitable to give some oral or written tests of comprehension.

Special provision may need to be made when comprehension is severely limited—for example, by conditions of immaturity or mental disability. Each class of subjects that one might consider as incompetent (e.g., infants and young children, mentally disabled patients, the terminally ill and the comatose) should be considered on its own terms. Even for these persons, however, respect requires giving them the opportunity to choose to

the extent they are able, whether or not to participate in research. The objections of these subjects to involvement should be honored, unless the research entails providing them a therapy unavailable elsewhere. Respect for persons also requires seeking the permission of other parties in order to protect the subjects from harm. Such persons are thus respected both by acknowledging their own wishes and by the use of third parties to protect them from harm.

The third parties chosen should be those who are most likely to understand the incompetent subject's situation and to act in that person's best interest. The person authorized to act on behalf of the subject should be given an opportunity to observe the research as it proceeds in order to be able to withdraw the subject from the research, if such action appears in the subject's best interest.

Voluntariness. An agreement to participate in research constitutes a valid consent only if voluntarily given. This element of informed consent requires conditions free of coercion and undue influence. Coercion occurs when an overt threat of harm is intentionally presented by one person to another in order to obtain compliance. Undue influence, by contrast, occurs through an offer of an excessive, unwarranted, inappropriate or improper reward or other overture in order to obtain compliance. Also, inducements that would ordinarily be acceptable may become undue influences if the subject is especially vulnerable.

Unjustifiable pressures usually occur when persons in positions of authority or commanding influence—especially where possible sanctions are involved—urge a course of action for a subject. A continuum of such influencing factors exists, however, and it is impossible to state precisely where justifiable persuasion ends and undue influence begins. But undue influence would include actions such as manipulating a person's choice through the controlling influence of a close relative and threatening to withdraw health services to which an individual would otherwise be entitled.

2. *Assessment of Risks and Benefits.*—The assessment of risks and benefits requires a careful arrayal of relevant data, including, in some cases, alternative ways of obtaining the benefits sought in the research. Thus, the assessment presents both an opportunity and a responsibility to gather systematic and comprehensive information about proposed research. For the investigator, it is a means to examine whether the proposed research

is properly designed. For a review committee, it is a method for determining whether the risks that will be presented to subjects are justified. For prospective subjects, the assessment will assist the determination whether or not to participate.

The Nature and Scope of Risks and Benefits. The requirement that research be justified on the basis of a favorable risk/benefit assessment bears a close relation to the principle of beneficence, just as the moral requirement that informed consent be obtained is derived primarily from the principle of respect for persons. The term "risk" refers to a possibility that harm may occur. However, when expressions such as "small risk" or "high risk" are used, they usually refer (often ambiguously) both to the chance (probability) of experiencing a harm and the severity (magnitude) of the envisioned harm.

The term "benefit" is used in the research context to refer to something of positive value related to health or welfare. Unlike "risk," "benefit" is not a term that expresses probabilities. Risk is properly contrasted with harms rather than risks of harm. Accordingly, so-called risk/benefit assessments are concerned with the probabilities and magnitudes of possible harms and anticipated benefits. Many kinds of possible harms and benefits need to be taken into account. There are, for example, risks of psychological harm, physical harm, legal harm, social harm and economic harm and the corresponding benefits. While the most likely types of harms to research subjects are those of psychological or physical pain or injury, other possible kinds should not be overlooked.

Risks and benefits of research may affect the individual subjects, the families of the individual subjects, and society at large (or special groups of subjects in society). Previous codes and federal regulations have required that risks to subjects be outweighed by the sum of both the anticipated benefit to the subject, if any, and the anticipated benefit to society if the form of knowledge to be gained from the research. In balancing these different elements, the risks and benefits affecting the immediate research subject will normally carry special weight. On the other hand, interest other than those of the subject may on some occasions be sufficient by themselves to justify the risks involved in the research, so long as the subjects' rights have been protected. Beneficence thus requires that we protect against risk of harm to subjects and also that we be concerned about the

loss of the substantial benefits that might be gained from research.

The Systematic Assessment of Risks and Benefits. It is commonly said that benefits and risks must be "balanced" and shown to be "in a favorable ratio." The metaphorical character of these terms draws attention to the difficulty of making precise judgments. Only on rare occasions will quantitative techniques be available for the scrutiny of research protocols. However, the idea of systematic, nonarbitrary analysis of risks and benefits should be emulated insofar as possible. This ideal requires those making decisions about the justifiability of research to be thorough in the accumulation and assessment of information about all aspects of the research, and to consider alternatives systematically. This procedure renders the assessment of research more rigorous and precise, while making communication between review board members and investigators less subject to misinterpretation, misinformation and conflicting judgments. Thus, there should first be a determination of the validity of the presuppositions of the research; then the nature, probability and magnitude of risk should be distinguished with as much clarity as possible. The method of ascertaining risks should be explicit, especially where there is no alternative to the use of such vague categories as small or slight risk. It should also be determined whether an investigator's estimates of the probability of harm or benefits are reasonable, as judged by known facts or other available studies.

Finally, assessment of the justifiability of research should reflect at least the following considerations: (i) Brutal or inhumane treatment of human subjects is never morally justified. (ii) Risks should be reduced to those necessary to achieve the research objective. It should be determined whether it is in fact necessary to use human subjects at all. Risk can perhaps never be entirely eliminated, but it can often be reduced by careful attention to alternative procedures. (iii) When research involves significant risk of serious impairment, review committees should be extraordinarily insistent on the justification of the risk (looking usually to the likelihood of benefit to the subject—or, in some rare cases, to the manifest voluntariness of the participation). (iv) When vulnerable populations are involved in research, the appropriateness of involving them should itself be demonstrated. A number of variables go into such judgments, including the nature and degree of risk, the condition of the particular

population involved, and the nature and level of the anticipated benefits. (v) Relevant risks and benefits must be thoroughly arrayed in documents and procedures used in the informed consent process.

3. Selection of Subjects.—Just as the principle of respect for persons finds expression in the requirements for consent, and the principle of beneficence in risk/benefit assessment, the principle of justice gives rise to moral requirements that there be fair procedures and outcomes in the selection of research subjects.

Justice is relevant to the selection of subjects of research at two levels: the social and the individual. Individual justice in the selection of subjects would require that researchers exhibit fairness: thus, they should not offer potentially beneficial research on to some patients who are in their favor or select only "undesirable" persons for risky research. Social justice requires that a distinction be drawn between classes of subjects that ought, and ought not, to participate in any particular kind of research, based on the ability of members of that class to bear burdens and on the appropriateness of placing further burdens on already burdened persons. Thus, it can be considered a matter of social justice that there is an order of preference in the selection of classes of subjects (e.g., adults before children) and that some classes of potential subjects (e.g., the institutionalized mentally infirm or prisoners) may be involved as research subjects, if at all, only on certain conditions.

Injustice may appear in the selection of subjects, even if individual subjects are selected fairly by investigators and treated fairly in the course of research. This injustice arises from social, racial, sexual and cultural biases institutionalized in society. Thus, even if individual researchers are treating their research subjects fairly, and even if IRBs are taking care to assure that subjects are selected fairly within a particular institution, unjust social patterns may nevertheless appear in the overall distribution of the burdens and benefits of research. Although individual institutions or investigators may not be able to resolve a problem that is pervasive in their social setting, they can consider distributive justice in selecting research subjects.

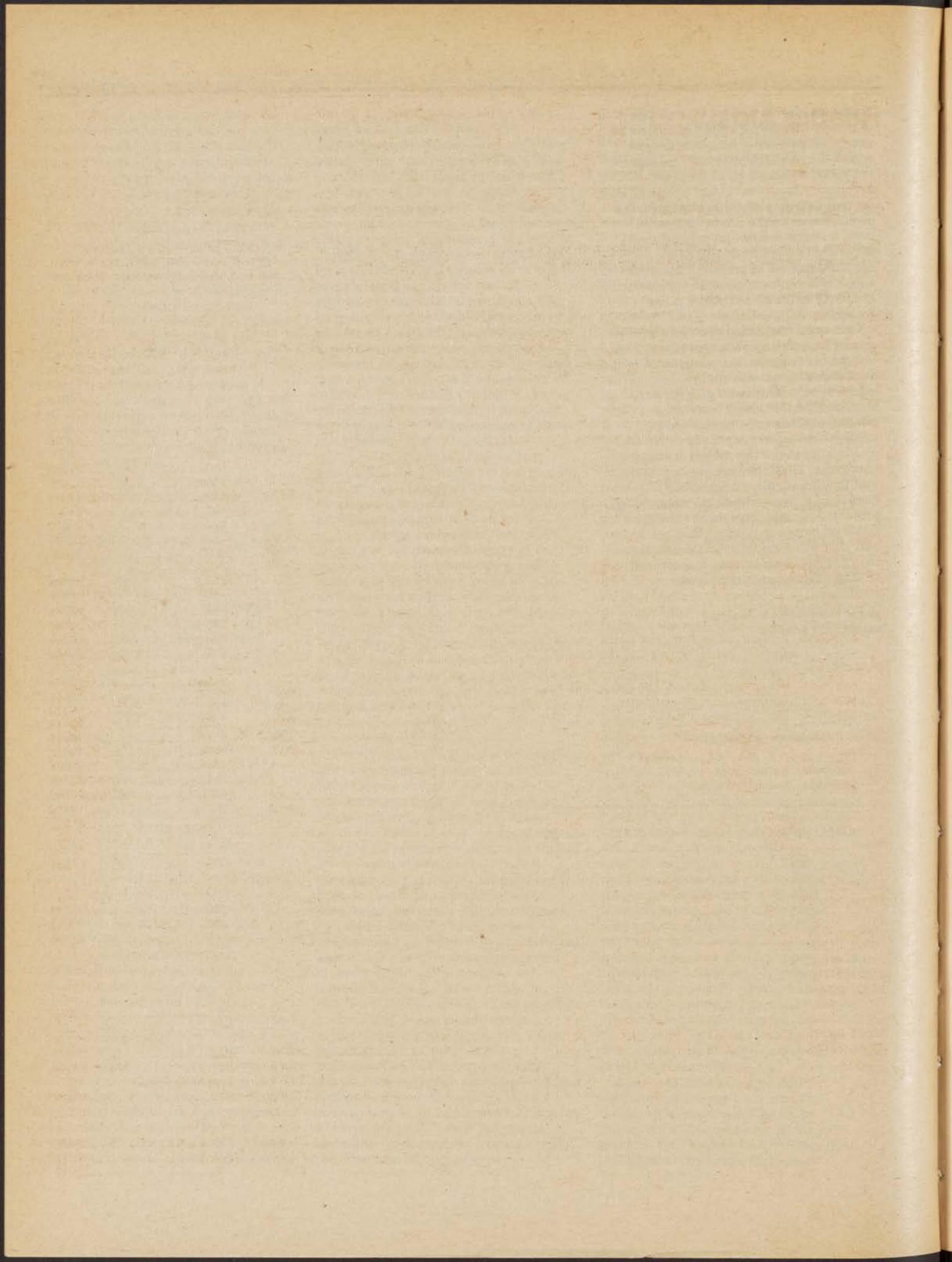
Some populations, especially institutionalized ones, are already burdened in many ways by their infirmities and environments. When research is proposed that involves risks and does not include a therapeutic

component, other less burdened classes of persons should be called upon first to accept these risks of research, except where the research is directly related to the specific conditions of the class involved. Also, even though public funds for research may often flow in the same directions as public funds for health care, it seems unfair that populations dependent on public health care constitute a pool of preferred research subjects if more advantaged populations are likely to be the recipients of the benefits.

One special instance of injustice results from the involvement of vulnerable subjects. Certain groups, such as racial minorities, the economically disadvantaged, the very sick, and the institutionalized may continually be sought as research subjects, owing to their ready availability in settings where research is conducted. Given their dependent status and their frequently compromised capacity for free consent, they should be protected against the danger of being involved in research solely for administrative convenience, or because they are easy to manipulate as a result of their illness or socioeconomic condition.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—

- 16848 3-19-79 / Section 8—Housing Assistance Payments Program—Existing housing agency management services

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

- 20444 4-5-79 / Peaches grown in Ga.; comments by 4-23-79
Office of the Secretary—
12428 3-7-79 / Essential agricultural uses of natural gas; draft environmental impact statement; comments by 4-23-79
4620 1-22-79 / Nondiscrimination on the basis of handicap; comments by 4-23-79

COPYRIGHT ROYALTY TRIBUNAL

- 20220 4-4-79 / Cable royalty fees, supplemental rule with respect to filing of claims; comments by 4-25-79

DEFENSE DEPARTMENT

Air Force—

- 12064 3-5-79 / Weather modification activities; proposed establishment of policy, procedures, responsibility and reporting requirements; comments by 4-23-79

Army Department—

- 18527 3-28-79 / Personal privacy and rights of individuals regarding their personal records; comments by 4-27-79

ENERGY DEPARTMENT

- 16031 3-16-79 / Automotive propulsion research and development, contractor coordination, Dearborn, Mich. (open), 4-24 through 4-26-79

Economic Regulatory Administration—

- 11237 2-28-79 / Mandatory petroleum price regulations, retailers—deletion of DOE octane posting requirements; comments by 4-25-79

Federal Energy Regulatory Commission—

- 21586 4-10-79 / Investigation rules; comments by 4-25-79

ENVIRONMENTAL PROTECTION AGENCY

- 18528 3-28-79 / Air programs; approval and promulgation; State plans for designated facilities and pollutants; Louisiana and Arkansas; comments by 4-27-79
18534 3-28-79 / Air quality implementation plans, delayed compliance orders; various States; Louisiana; comments by 4-27-79
18523 3-28-79 / Air quality implementation plans, delayed compliance orders; various States; Minnesota; comments by 4-27-79
17758 3-23-79 / Air quality implementation plans, various States; approval of delayed compliance orders; Ohio; comments by 4-23-79
18530 3-28-79 / Air quality implementation plans, delayed compliance orders; various States; Utah (2 documents); comments by 4-27-79
10781 2-23-79 / Air quality implementation plans, various States; Tennessee; comments by 4-26-79
18535 3-28-79 / Proposed tolerance for the chemical linuron; comments by 4-27-79
17194 3-21-79 / Secondary treatment requirements for discharges into marine waters; draft technical support document, availability; comments by 4-23-79

FEDERAL COMMUNICATIONS COMMISSION

- 4744 1-23-79 / FCC monitoring stations; protection from radio interference; reply comments by 4-23-79
8903 2-12-79 / Radio station table of assignments, Florida; reply comments by 4-23-79

FEDERAL MARITIME COMMISSION

- 15517 3-14-79 / Fees for services rendered to individual citizens; comments by 4-27-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

- 13048 3-9-79 / Grants provisions for environmental education projects; comments by 4-23-79

- Food and Drug Administration—
- 10377 2-20-79 / Antibiotic drugs; miscellaneous amendments for certification for human use; comments by 4-23-79
- 10751 2-23-79 / Affirmation of GRAS status for cellulose derivatives; comments by 4-24-79
- 10718 2-23-79 / Intent to establish standard for edible acid casein; comments by 4-24-79
- 10733 2-23-79 / Intent to establish standard for quick frozen bilberries; comments by 4-24-79
- 10720 2-23-79 / Intent to establish standard for butteroil and anhydrous milkfat; comments by 4-24-79
- 10721 2-23-79 / Intent to establish standard for canned mandarin oranges; comments by 4-24-79
- 10719 2-23-79 / Intent to establish standard for edible caseinates; comments by 4-24-79
- 10729 2-23-79 / Intent to establish standard for grape juice; comments by 4-24-79
- 10738 2-23-79 / Intent to establish standard for quick frozen gutted Pacific salmon; comments by 4-24-79
- 10747 2-23-79 / Intent to establish standard for soft sugars; comments by 4-24-79
- 10736 2-23-79 / Intent to establish standard for citrus marmalade; comments by 4-24-79
- 10732 2-23-79 / Intent to establish standard for sweetened concentrated labrusca type grape juice; comments by 4-24-79
- 10742 2-23-79 / Intent to establish standard for virgin and refined olive oil and refined olive-residue oil; comments by 4-24-79
- Health Care financing Administration—
- 4741 1-23-79 / Health Services Facilities and Organizations; uniform reporting systems; comments by 4-23-79
- Public Health Service—
- 10404 2-20-79 / Consolidation of grants to insular areas; proposed implementation regulations; comments by 4-23-79
- 18536 3-28-79 / Foreign quarantine, disinsection of aircraft; comments by 4-27-79 [Corrected at 44 FR 21044; 4-9-79]
- 10602 2-22-79 / Loans and loan guarantees for initial operating costs; interim regulations; comments by 4-23-79
- HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
- Federal Housing Commissioner—
- 10586 2-21-79 / Architectural barriers, revised prescription of design standards; comments by 4-23-79
- 10590 2-21-79 / Implementation of enforcement of the Architectural Barriers Act of 1968; comments by 4-23-79
- INTERIOR DEPARTMENT**
- Fish and Wildlife Service—
- 17762 3-23-79 / Establishment of Manatee Protection Areas; comments period extended to 4-24-79
- INTERSTATE COMMERCE COMMISSION**
- 18459 3-27-79 / Entry of controlled brokers; comments by 4-26-79
- 18465 3-27-79 / Lease and interchange of vehicles; new leasing regulations; comments by 4-26-79
- INTERSTATE COMMERCE COMMISSION**
- 18464 3-27-79 / Lease and interchange of vehicles; decision on petitions for stay on final rules; comments by 4-26-79
- 12718 3-8-79 / Tariffs and schedules; comments by 4-23-79
- NUCLEAR REGULATORY COMMISSION**
- 10388 2-20-79 / Radiation exposure; notices, instructions, and reports to workers; inspection standards; comments by 4-23-79
- 12428 3-7-79 / Rules of Practice; *ex parte* communications and the separation of adjudicatory and non-adjudicatory functions; comments by 4-23-79
- POSTAL SERVICE**
- 17758 3-23-79 / Official mail; restrictions on use of penalty indicia; comments by 4-23-79
- STATE DEPARTMENT**
- Bureau of Consular Affairs—
- 17720 3-23-79 / Execution of passport application; change in fee; comments by 4-23-79
- TENNESSEE VALLEY AUTHORITY**
- 17715 3-23-79 / Contract Disputes Act of 1978; implementation; comments by 4-23-79
- TRANSPORTATION DEPARTMENT**
- Federal Aviation Administration—
- 4572 1-22-79 / General Operating and Flight Rules; comments by 4-23-79
- 18038 3-28-79 / Lithium sulfur dioxide batteries; technical standard order; comments by 4-25-79
- TREASURY DEPARTMENT**
- Internal Revenue Service—
- 10396 2-20-79 / Dividend or interest information returns; time for filing; comments by 4-23-79
- 10397 2-20-79 / Employee stock purchase plan; definition; comments by 4-23-79
- VETERANS ADMINISTRATION**
- 17531 3-22-79 / Home improvement loans; comments by 4-23-79
- Next Weeks Meetings:**
- AGRICULTURE DEPARTMENT**
- Agricultural Marketing Service—
- 18540 3-28-79 / Meat Pricing Task Force, Omaha, Neb. (open), 4-23-79
- 18540 3-28-79 / Meat Pricing Task Force, Amarillo, Tex. (open), 4-26-79
- Forest Service—
- 16027 3-16-79 / Fremont National Forest Grazing Advisory Board, Lakeview, Ore. (open), 4-27-79
- Rural Electrification Administration—
- 19004 3-30-79 / United Power Association transmission facilities, environmental impact, Foley, Minn. (open), 4-25-79
- ARTS AND HUMANITIES, NATIONAL FOUNDATION**
- 21905 4-12-79 / Humanities Panel, Washington, D.C. (closed), 4-27-79
- CIVIL RIGHTS COMMISSION**
- 19218 4-2-79 / Illinois Advisory Committee, Chicago, Ill. (open), 4-23-79
- 13058 3-9-79 / New Jersey Advisory Committee, Newark, N.J. (open), 4-23-79
- COMMERCE DEPARTMENT**
- Census Bureau—
- 21693 4-11-79 / Census Advisory Committee, Advisory Committee of the American Economic Association, Suitland, Md. (open), 4-27-79
- Industry and Trade Administration—
- 16948 3-20-79 / Importers' Textile Advisory Committee, Washington, D.C. (open), 4-26-79
- National Oceanic and Atmospheric Administration—
- 20736 4-6-79 / South Atlantic Fishery Management Council, Savannah, Ga. (open), 4-24-79

- CONSUMER PRODUCT SAFETY COMMISSION**
- 20241 4-4-79 / Poison Prevention Packaging Technical Advisory Committee, Washington, D.C. (open), 4-23-79
- DEFENSE DEPARTMENT**
- Air Force Department—
- 19224 4-2-79 / USAF Scientific Advisory Board, Washington, D.C. (closed), 4-24 and 4-25-79
- Army Department—
- 19503 4-3-79 / Coastal Engineering Research Board, Palm Beach and Miami Beach, Fla. (open), 4-24 through 4-26-79
- 20243 4-4-79 / The Judge Advocate General's School Board of Visitors, Charlottesville, Va. (open), 4-23 through 4-25-79
- 21695 4-11-79 / U.S. Army Medical Research and Development Advisory Panel ad hoc Study Group on Medicinal Chemistry, Washington, D.C. (closed), 4-26-79
- Navy Department—
- 21062 4-9-79 / Technology Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee, Washington, D.C. (closed), 4-25 and 4-26-79
- Office of the Secretary—
- 18725 3-29-79 / Defense Intelligence Agency Advisory Committee, Rosslyn, Va. (closed), 4-27-79
- 11268 2-28-79 / Department of Defense Wage Committee, Washington, D.C. (closed), 4-24-79
- 17546 3-22-79 / DOD Advisory Group on electron Devices, New York, N.Y. (closed), 4-27-79
- ENERGY DEPARTMENT**
- Economic Regulatory Administration—
- 21324 4-10-79 / Fuel Oil Marketing Advisory Committee, Boston, Mass. (open), 4-23 and 4-24-79
- Office of the Secretary—
- 20307 4-4-79 / National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources, Dallas, Tex. (open), 4-26-79
- 18057 3-26-79 / National Petroleum Council, Refinery Capability Task Group (open), 4-26-79
- 21844 4-12-79 / National Petroleum Council, Task Groups of the Committee on Materials Manpower Requirements, Houston, Tex. (open), 4-25 and 4-26-79
- 20744 4-6-79 / Voluntary agreement and plan of action to implement the international energy program, Industry Working Party, Paris, France (closed), 4-24 and 4-25-79
- 21701 4-11-79 / Waterborne Transportation Task Group, St. Louis, Mo., (open) 4-26-79
- ENVIRONMENTAL PROTECTION AGENCY**
- 20785 4-6-79 / Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel, Arlington, Va. (open), 4-25 and 4-26-79
- 20290 4-4-79 / Science Advisory Board Mobile Sources Subcommittee, San Antonio, Tex. (open), 4-23 and 4-24-79
- FEDERAL PREVAILING RATE ADVISORY COMMITTEE**
- 15537 3-14-79 / Federal wage system pay matters, Washington, D.C. (open), 4-26-79
- GENERAL SERVICES ADMINISTRATION**
- 13583 3-12-79 / Automated Data and Telecommunications Service, ADP procurement, Washington, D.C. (open), 4-25-79
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
- Education Office—
- 21710 4-11-79 / Education of Disadvantaged Children National Advisory Council, Arlington, Va. (partially open), 4-27 and 4-28-79
- Food and Drug Administration—
- 21365 4-10-79 / Activated factor IX concentrate discussion, Bethesda, Md. (open) 4-27-79
- 16039 3-16-79 / Advisory committees, Rockville and Bethesda, Md. (open), 4-27 and 4-28-79
- National Institutes of Health—
- 9427 2-13-79 / Arteriosclerosis and Hypertension Advisory Committee, Bethesda, Md. (open), 4-23 and 4-24-79
- 18740 3-29-79 / Biomedical Library Review Committee, Bethesda, Md. (open and closed), 5-1 to 5-3-79
- 16499 3-19-79 / Biometry and Epidemiology Contract Review Committee, Bethesda, Md. (partially open), 4-25-79
- 11126 2-27-79 / Biotechnology Resources Review Committee, Bethesda, Md. (open), 4-26 and 4-27-79
- 10550 2-21-79 / Board of Scientific Counselors, Division of Cancer Biology and Diagnosis, Bethesda, Md. (partially open), 4-27 and 4-28-79
- 14642 3-13-79 / Board of Scientific Counselors, National Heart, Lung, and Blood Institute, Bethesda, Md. (partially open), 4-25 and 4-26-79
- 18740 3-29-79 / Board of Scientific Counselors, Division of Cancer Cause and Prevention, Bethesda, Md. (open and closed), 4-26 and 4-27-79
- 12763 3-8-79 / Cardiology Advisory Committee, Bethesda, Md. (open), 4-23 and 4-24-79
- 16497 3-19-79 / Clinical Applications and Prevention Advisory Committee, Bethesda, Md. (open), 4-26 and 4-27-79
- 18741 3-29-79 / Microbiology and Infectious Diseases Advisory Committee, Bethesda, Md. (open and closed), 4-24 and 4-25-79
- 18741 3-29-79 / National Cancer Advisory Board Subcommittee, Bethesda, Md. (open), 4-26-79
- 5003 1-24-79 / Division of Research Services, Bethesda, Md. (open) 4-24 through 4-26-79
- 9429 2-13-79 / Somatic Cell Genetics Workshop, Bethesda, Md. (open), 4-23 through 4-25-79
- Office of the Secretary—
- 20800 4-6-79 / Federal Education Data Acquisition Council, Washington, D.C. (open), 4-26-79 (See also 44 FR 17793, 3-23-79)
- INTERIOR DEPARTMENT**
- Indian Affairs Bureau—
- 16964 3-20-79 / Mount Tolman Copper-Molybdenum Mine; environmental statement, Keller, Wash. (open), 4-26-79
- Land Management Bureau—
- 16965 3-20-79 / Burley District Grazing Advisory Board, Burley, Idaho (open), 4-26-79
- 17592 3-22-79 / California Desert Conservation Area Advisory Committee, Lake Arrowhead, Calif. (open), 4-23 and 4-24-79
- 11275 2-28-79 / Idaho Falls District, Grazing Advisory Board, Idaho Falls, Idaho (open), 4-25-79
- INTERIOR DEPARTMENT**
- National Park Service—
- 19049 3-30-79 / National Park System Advisory Board, Lowell and Boston, Mass. (open), 4-23 through 4-26-79
- NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**
- 19076 3-30-79 / Space and Terrestrial Applications Steering Committee, Proposal Evaluation Advisory Subcommittee, Greenbelt, Md. (closed), 4-23 through 4-27-79
- 21402 4-10-79 / Space and Terrestrial Applications Advisory Council, Washington, D.C. (open), 4-26 and 4-27-79

NATIONAL SCIENCE FOUNDATION

- 17600 3-22-79 / Advisory Committee for Applied Sciences and Research Applications Policy, Subcommittee for Applied Social and Behavioral Sciences, Washington, D.C. (closed), 4-23 and 4-24-79
- 17600 3-22-79 / Advisory Committee for Earth Sciences, Washington, D.C. (closed), 4-23 and 4-24-79
- 17601 3-22-79 / Advisory Committee for Environmental Biology Subcommittee on Population Biology and Physiological Ecology, Washington, D.C. (closed), 4-23 and 4-24-79
- 17601 3-22-79 / Advisory Committee for Environmental Biology, Subcommittee on Systematic Biology, Washington, D.C. (closed), 4-26 and 4-27-79
- 21402 4-10-79 / Physics Advisory Committee, Subcommittee to Review NSF-Supported Laboratories, Washington, D.C. (closed), 4-26 and 4-27-79

NUCLEAR REGULATORY COMMISSION

- 21906 4-12-79 / Advisory Committee on Reactor Safeguards; Ad Hoc Subcommittee on Three Mile Island Nuclear Station, Unit 2 Accident, Los Angeles, Calif. (open), 4-23 and 4-24-79
- 21720 4-11-79 / Reactor Safeguards Advisory Committee, Subcommittee on Evaluation of Licensee Event Reports, Washington, D.C. (open), 4-26 through 4-28-79

PRESIDENT'S COMMISSION ON THE HOLOCAUST

- 21917 4-12-79 / Meeting, Washington, D.C. (open), 4-24-79

SMALL BUSINESS ADMINISTRATION

- 21724 4-11-79 / Region I Advisory Council, Providence, R.I. (open), 4-26-79
- 18579 3-28-79 / Region I Advisory Council, Augusta, Maine (open), 4-27-79
- 18579 3-28-79 / Region II Advisory Council, Freehold, N.J. (open), 4-25-79
- 18762 3-29-79 / Regional II Advisory Council, Ithaca, N.Y. (open), 4-27-79
- 18579 3-28-79 / Region IV Advisory Council, Charlotte, N.C. (open), 4-25 and 4-26-79
- 21723 4-11-79 / Region VII Advisory Council, Omaha, Nebr. (open), 4-27-79
- 15553 3-14-79 / Region VIII Advisory Council, Fargo, N. Dak. (open), 4-26-79
- 18580 3-28-79 / Region VIII Advisory Council, Salt Lake City, Utah, (open), 4-27-79
- 18580 3-28-79 / Region VIII Advisory Council, Sioux Falls, S. Dak. (open), 4-27-79

STATE DEPARTMENT

Office of the Secretary—

- 20329 4-4-79 / Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT), Washington, D.C. (open), 4-24-79

TRANSPORTATION DEPARTMENT

Coast Guard—

- 18764 3-29-79 / Coast Guard Academy Advisory Committee, New London, Conn. (open), 4-23 through 4-25-79
- Federal Aviation Administration—
- 20531 4-5-79 / Radio Technical Commission for Aeronautics, Special Committee 136, Washington, D.C. (open), 4-24 through 4-26-79
- 19264 4-2-79 / RTCA Special Committee 136 on Installation of Emergency Locator Transmitters in Aircraft (ELT), Washington, D.C. (open), 4-24 through 4-26-79

- National Highway Traffic Safety Administration—
- 15822 3-15-79 / Conference to Review 5 Year Traffic Safety Research, Development and Demonstration Plan, 4-22 through 4-26-79
- 15822 3-15-79 / Regional Child Restraint Workshops, Philadelphia, Pa. (open), 4-23 and 4-24-79
- 15822 3-15-79 / Regional Child Restraint Workshops, Newark, N.J. (open), 4-26 and 4-27-79
- TREASURY DEPARTMENT**
- Office of the Secretary—
- 17852 3-23-79 / Debt Management Advisory Committees, Washington, D.C. (closed), 4-24 and 4-25-79
- VETERANS ADMINISTRATION**
- 18131 3-26-79 / Medical Research Service Merit Review Boards (partially open), 4-22 through 4-24-79

Next Week's Public Hearings**AGRICULTURE DEPARTMENT**

Office of the Secretary—

- 17507 3-22-79 / Reimbursement of participants in rulemaking proceedings, San Francisco, Calif., 4-26-79
- 17507 3-22-79 / Reimbursement of participants in rulemaking proceedings, Denver, Colo., 4-24-79

ENERGY DEPARTMENT

- 16546 3-19-79 / Residential Conservation Service Program, Washington, D.C., 4-24 through 4-26-79

INTERIOR DEPARTMENT

Office of the Secretary—

- 18747 3-29-79 / Land withdrawals in Alaska, Artic Village and Dillingham, Alaska, 4-26-79
- 18746 3-29-79 / Land withdrawals in Alaska, Galena and Kotzebue, Alaska, 4-24-79
- 18747 3-29-79 / Land withdrawals in Alaska, Kaktovik and Bethel, Alaska, 4-25-79

PRESIDENT'S COMMISSION ON COAL

- 21917 4-12-79 / Seminar on Factors Affecting Wildcat Strikes, Washington, D.C., 4-27-79

TENNESSEE VALLEY AUTHORITY

- 21925 4-12-79 / Chickamauga Reservoir, environmental impact statement, Dayton, Tenn. (open), 4-23-79

TRANSPORTATION DEPARTMENT

Coast Guard—

- 18765 3-29-79 / Proposed highway bridge across Turner Cut, near Stockton, Calif., Stockton, Calif., 4-27-79

WORLD HUNGER, PRESIDENTIAL COMMISSION

- 21406 4-10-79 / Hearing, Chicago, Ill., 4-25-79

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing Apr. 12, 1979

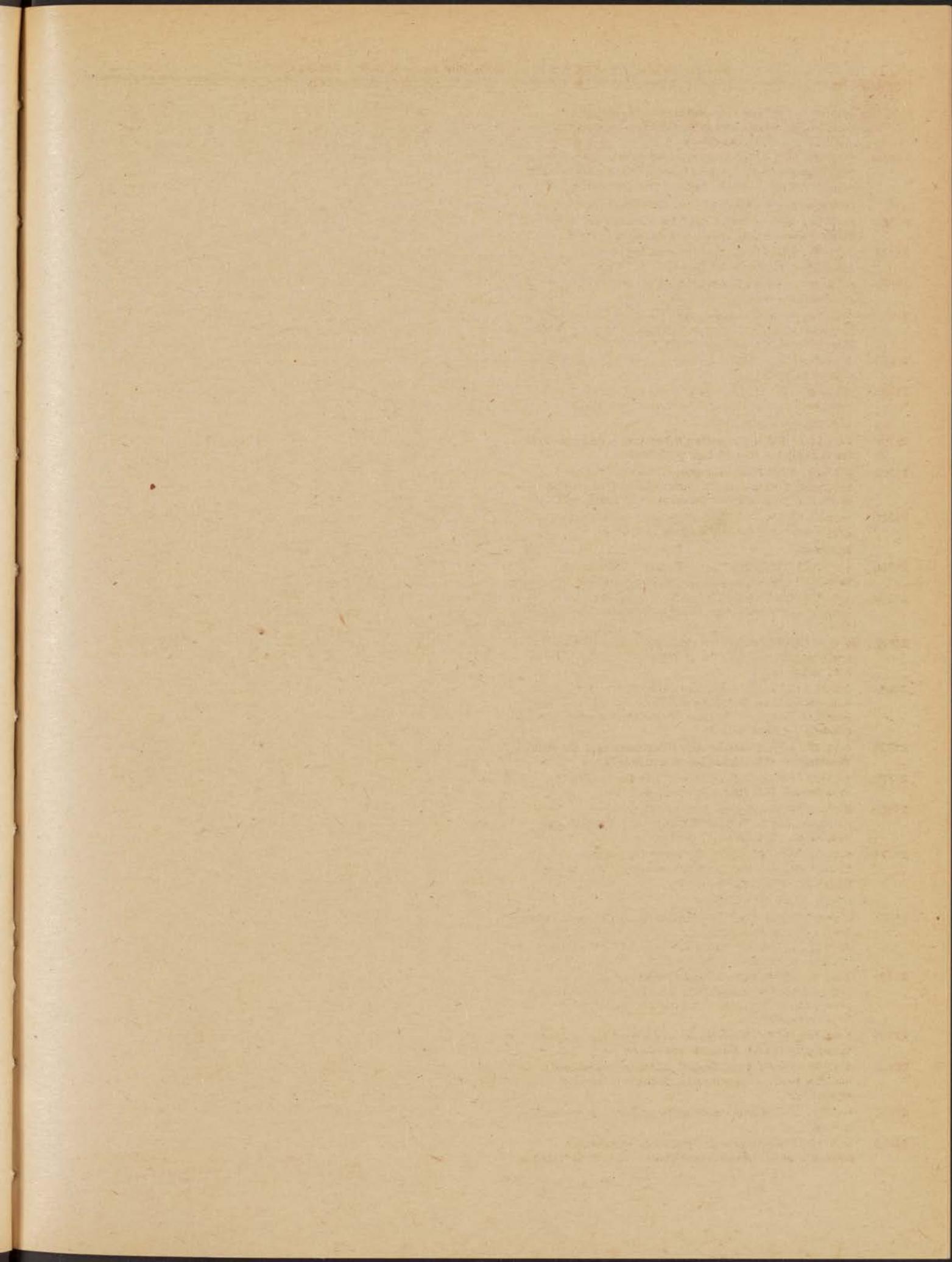
Documents Relating to Federal Grant Programs

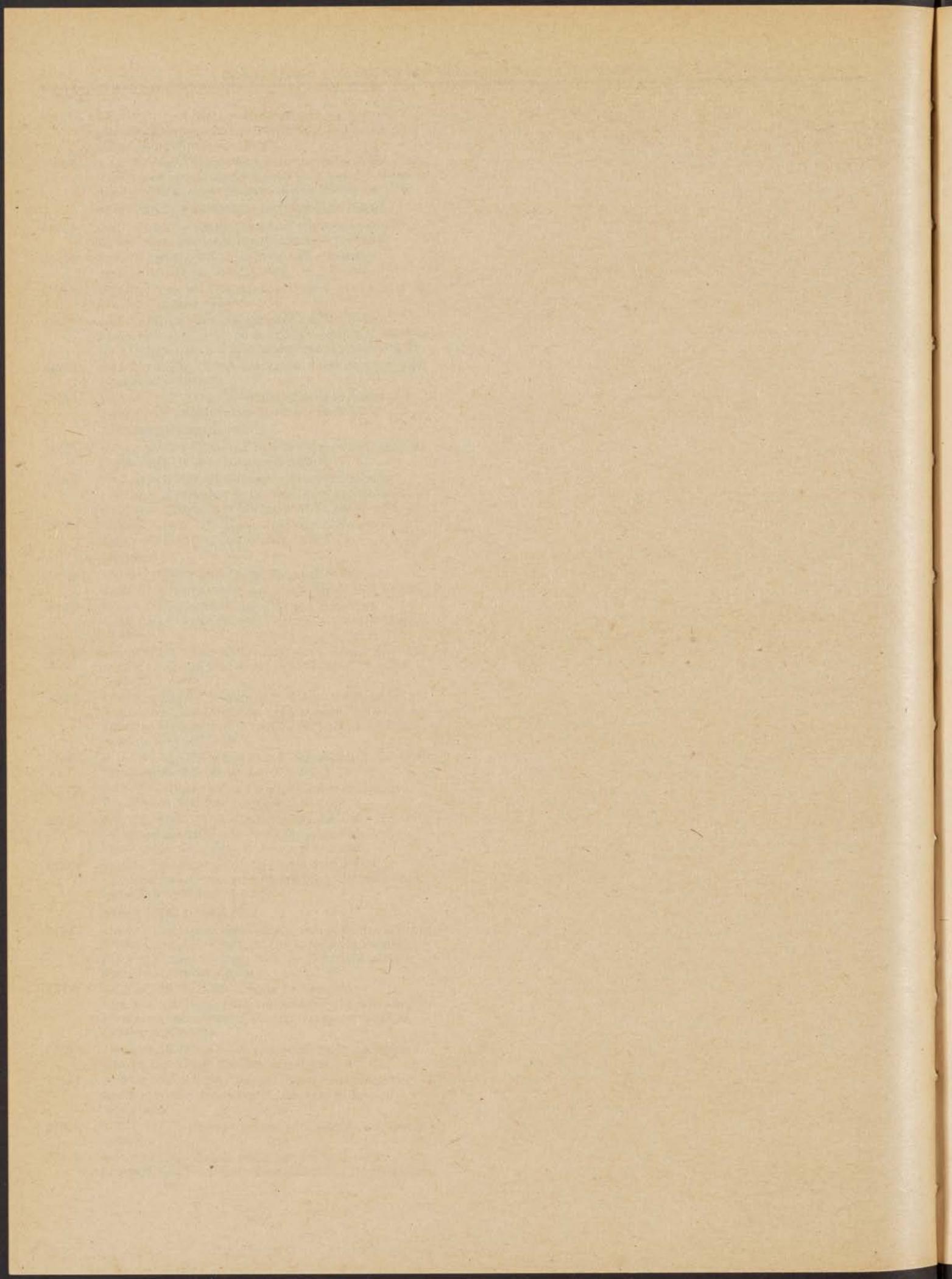
This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.

RULES GOING INTO EFFECT

- 21005 4-9-79 / DOE—Energy measures and energy audits; grant programs for schools, hospitals, and buildings owned by units of local government and public care institutions; correction to document appearing at 44 FR 19339, 4-2-79 (effective 4-2-79)

- 21761 4-12-79 / USDA/FmHA—Rural rental housing loan policies, procedures and authorizations, deletion and clarification; effective 4-12-79
- 21607 4-11-79 / USDA/Secy—Education programs or activities receiving or benefitting from Federal financial assistance; nondiscrimination on the basis of sex; effective 4-1-79
- DEADLINES FOR COMMENTS ON PROPOSED RULES**
- 21829 4-12-79 / CSA—Grantee financial management, non-Federal share requirements, comments by 6-11-79
- 21738 4-11-79 / HUD/CPD—Comprehensive planning assistance; comments by 5-11-79
- 22372 4-13-79 / Interior—Nondiscrimination on the basis of handicap; comments by 6-12-79
- 21661 4-11-79 / State—Nondiscrimination on the basis of handicap in programs and activities receiving or benefitting from Federal financial assistance; comments by 6-11-79
- 21801 4-12-79 / USDA/FmHA—Industrial development grants, comments by 6-11-79
- 21994 4-12-79 / USDA/FmHA—Rural housing technical and supervisory assistance grants, comments 5-14-79
- APPLICATIONS DEADLINES**
- 21709 4-11-79 / HEW/IHS—Indian tribes, grants and contracts; funds available 10-1-78 through 9-30-79
- 21369 4-10-79 / HEW/OE—Bilingual Education Training Programs; closing date for transmittal of applications; correction (originally published at 44 FR 18916; 3-29-79)
- 21369 4-10-79 / HEW/OE—Noncompeting continuation; additional fiscal year 1979; apply by 6-4-79
- MEETINGS**
- 21080 4-9-79 / HEW/NIH—Cancer Research Manpower Committee, New Orleans, La. (partially open), 5-13-79
- 21080 4-9-79 / HEW/NIH—Clinical Cancer Education Committee, Washington, D.C. (partially open), 6-11 and 6-12-79
- 21080 4-9-79 / HEW/NIH—Subcommittee on Cancer Etiology and Prevention of the Cancer, New Orleans, La. (closed), 5-11 and 5-12-79
- 21080 4-9-79 / HEW/NIH—Subcommittee on Treatment and Restorative Care, Detection and Diagnosis of the Cancer Research Manpower Review Committee, New Orleans, La. (closed), 5-11 and 5-12-79
- 21720 4-11-79 / NFAH—Media Arts (Programming in the Arts), Washington, D.C. (closed), 4-30 and 5-1-79
- 21720 4-11-79 / NFAH—Music Panel (Chamber Ensembles), Washington, D.C. (partially open), 4-30-79
- 21402 4-10-79 / NSF—Physics Advisory Committee, Subcommittee to Review NSF-Supported Laboratories, Washington, D.C. (closed), 4-26 and 4-27-79
- 21721 4-11-79 / White House Fellowships, President's Commission—Annual selection meeting, Columbia, Md. (closed), 5-18 through 5-20-79
- OTHER ITEMS OF INTEREST**
- 21058 4-9-79 / Commerce/EDA—Round two of the Local Public Works Capital Development and Investment Program; grantees failing to comply with the 10-percent minority business enterprise clause
- 22133 4-13-79 / HEW/CDC—Grants for research, demonstrations, and public information and education for prevention and control of venereal disease; decision to develop regulations
- 22133 4-13-79 / HEW/HSA—Hospital-affiliated primary care centers; decision to develop regulations
- 22132 4-13-79 / HEW/HSA—Project grants for preventative health services—hypertension; decision to develop regulations
- 21088 4-9-79 / LSC—Grants and contracts; Kansas; comments invited
- 21719 4-11-79 / LSC—Grants and contracts; Minnesota, Missouri, and Tennessee; comments invited (3 documents)





CODE OF FEDERAL REGULATIONS

(Revised as of October 1, 1978)

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