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Part I

(Part II begins on page 17287)

Agencies in this issue—

Detailed list of Contents appears inside.

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Contents

(Continued on next page)

List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1970, and specifies how they are affected.

3 CFR

PROCLAMATIONS:
4021 17235

7 CFR

910 17237
991 17237
1136 17238
1806 17238
1810 17243

9 CFR

76 17244
78 17244

10 CFR

PROPOSED RULES:
60 17271

14 CFR

39 (2 documents) 17245, 17246
71 (11 documents) 17246–17249
73 17249
PROPOSED RULES:
221 17273
399 17273

21 CFR

146d 17250

26 CFR

402 17265
PROPOSED RULES:
301 17268

29 CFR

PROPOSED RULES:
462 17270

31 CFR

605 17250

41 CFR

5A–60 17250
5A–76 17252
8–16 17252
101–47 17256

42 CFR

81 (2 documents) 17256

43 CFR

PUBLIC LAND ORDERS:
4936 17257

45 CFR

85 17288

49 CFR

574 17257
1060 17264
PROPOSED RULES:
571 17272

50 CFR

16 17265

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 4021

THANKSGIVING DAY, 1970

By the President of the United States of America

A Proclamation

In 1863 Abraham Lincoln, the 16th President, lifted the downcast view of a war-weary Nation to see the evidence of God's bounty. He proclaimed a day of Thanksgiving to be observed by each American in his own way. President Lincoln wisely knew that a man's declaration of his gratitude to God is, in itself, an act which strengthens the thanksgiver because it renews his own realization of his relationship to his God.

As thanksgiving enriches the individual it must bless his home, community and his country. It is, therefore, appropriate that we set aside such a day this year. All about us, doubts and fears threaten our faith in the principles which are the fiber of our society; we are called upon to prove their truth once again. Such challenges must be seen as opportunities for proof of these verities; such proof can only strengthen our Nation.

Although some may see division, we give thanks that ours is one Nation, of many diverse people, living in unity under the precept *E Pluribus Unum*. The fulfillment of this national principle, every day, is our task and privilege;

Although some may only see strife, we give thanks that this Nation moves each day closer to peace for all its citizens and all the world;

And we give thanks for God's strength and guidance upon which we confidently rely today and every day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, in accordance with the wish of the Congress as expressed in Section 6103 of Title 5 of the United States Code, do hereby proclaim Thursday, November 26, 1970, as a day of national thanksgiving. I call upon all Americans to give thanks in homes and in places of worship for the many blessings our people enjoy.

We should not forget that for many older citizens, Thanksgiving Day may be less meaningful than it should be because it might be spent alone. For this reason I urge all public officials, voluntary organizations, private groups and families in every part of the country to welcome our senior citizens as special participants in their Thanksgiving Day festivities.

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

Richard Nixon

[F.R. Doc. 70-15239; Filed, Nov. 9, 1970; 9:00 a.m.]

Rules and Regulations

Title 7—AGRICULTURE

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

[Lemon Reg. 452]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.752 Lemon Regulation 452.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 3, 1970.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period November 8, 1970, through November 14, 1970, are hereby fixed as follows:

(i) District 1: 13,000 cartons;

(ii) District 2: 48,000 cartons;

(iii) District 3: 114,000 cartons.

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

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

Dated: November 5, 1970.

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

[F.R. Doc. 70-15184; Filed, Nov. 6, 1970; 12:40 p.m.]

PART 991—HOPS OF DOMESTIC PRODUCTION

Subpart—Administrative Rules and Regulations

DISPOSITION OF POOLED RESERVE HOPS

Notice was published in the October 27, 1970, issue of the FEDERAL REGISTER (35 F.R. 16638) of a proposal based upon the unanimous recommendation of the Hop Administrative Committee, which would establish a method governing Committee offers of pooled reserve hops for purchase by handlers for use in normal market outlets. This subpart is operative pursuant to Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were received within the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Committee and other available information, it is hereby found that this action is necessary to meet domestic and export trade requirements not satisfied by salable hops and amendment of the administrative rules and regulations, as hereinafter set forth, will tend to effectuate the declared policy of the act.

Therefore, Subpart—Administrative Rules and Regulations is amended as follows:

1. A new § 991.141 is added reading as follows:

§ 991.141 Disposition of pooled reserve hops under § 991.40(b)(1).

As provided in § 991.40, all offers to sell reserve hops to handlers, extension of offer periods, and withdrawals of offers before an offer period has expired, shall be subject to the disapproval of the Secretary.

(a) *Eligible handlers.* Any handler who handled hops as the first handler thereof during the marketing year preceding the marketing year in which pooled reserve hops are being offered by the Committee for purchase by handlers shall be eligible to participate in such offer.

(b) *Prices.* The Committee shall offer the pooled reserve hops for purchase by eligible handlers at prices determined by the Committee and such prices shall be subject to the disapproval of the Secretary.

(c) *Handlers' shares.* Each eligible handler's share of each variety or category (e.g., Clusters, English, Fuggles, and residues from the preparation of hops for market) of the pooled reserve hops offered by the Committee shall be the same proportion of the quantity offered as the proportion of the quantity so handled by him in the preceding marketing year is to the total quantity of hops so handled by all eligible handlers in such marketing year: *Provided*, That the Committee may adjust the share of any handler by less than one bale to avoid splitting of individual bales.

(d) *Reoffer.* Any pooled reserve hops unpurchased at the end of the offer period shall be reoffered to handlers who accepted their full shares during the offer period. Each such handler's share of the hops reoffered shall be the same proportion as the quantity purchased by him during the offer period is to the total quantity of hops purchased by all such handlers during the offer period. Any hops remaining unpurchased at the end of the reoffer period shall be reoffered to all handlers without regard to shares and approval of handlers' applications to purchase shall be made in the same order in which the applications are received by the Committee.

It is found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Almost all available salable hops have been sold and there is an immediate demand for the quantity of hops contained in the reserve pool; (2) the Hop Administrative Committee is prepared to offer the pooled hops for immediate sale and handlers do not need additional time to prepare for or to conduct operations under this provision; (3) having this action become effective promptly

will permit a continuing availability and an orderly movement of hops for use in normal market outlets; (4) no further regulations are being imposed since all handlers may purchase their pro rata shares of the reserve pool; and (5) no useful purpose will be served by making the effective time later than publication in the FEDERAL REGISTER.

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

Dated November 5, 1970, to become effective upon publication in the FEDERAL REGISTER.

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

[F.R. Doc. 70-15147; Filed, Nov. 9, 1970; 8:49 a.m.]

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

[Docket No. AO 309-A15]

PART 1136—MILK IN GREAT BASIN MARKETING AREA

Order Amending Order; Correction

Correction to order on proposed amendments to marketing agreement and to order.

The tentative order included in the decision issued September 22, 1970 (35 F.R. 15006), and the order issued September 29, 1970 (35 F.R. 15365), are hereby corrected by inserting in § 1136.70(c) immediately following "Add the amount obtained by multiplying" the words "the difference between", which words had inadvertently been omitted from the aforesaid documents.

Signed at Washington, D.C., on November 5, 1970.

RICHARD LYNG,
Assistant Secretary.

[F.R. Doc. 70-15116; Filed, Nov. 9, 1970; 8:46 a.m.]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER A—GENERAL REGULATIONS

[FHA Instruction 426.1]

PART 1806—REAL PROPERTY INSURANCE

Part 1806, Title 7, Code of Federal Regulations (31 F.R. 14120) is revised to read as follows:

Sec.
1806.1 General.
1806.2 Companies and policies.
1806.3 Coverage requirements.
1806.4 Examining and general servicing of insurance.
1806.5 Losses.
1806.6 Failure of borrower to provide insurance.

AUTHORITY: The provisions of this Part 1806 issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 4, 64 Stat. 100, 40 U.S.C. 442; Orders of the Secretary of Agriculture, 29 F.R. 16840, 32 F.R. 6650.

§ 1806.1 General.

(a) *Authority.* This part prescribes the authorizations, methods, and procedures to be followed in obtaining and servicing property insurance on buildings on owned or leased land securing the interest of the Farmers Home Administration (FHA) in connection with Farm Ownership (FO), Rural Housing (RH), Labor Housing (LH), Rural Rental Housing (RRH), Other Real Estate (ORE), Soil and Water (SW), Timber Development (TD), and Land Conservation and Development (LCD) loans secured by real estate mortgages.

(b) *Borrower to furnish insurance.* The real estate mortgage executed by the borrower provides that he will furnish and continually maintain and pay for insurance on buildings situated or constructed on the property in companies, in amounts, and on terms and conditions satisfactory to the FHA until the loan is repaid.

(c) *Borrower's selection of company.* The borrower may select the insurance company provided that the company and insurance policy complies with all of the requirements set forth in this part.

(d) *Responsibility.* The County Supervisor is responsible for taking all actions in connection with insurance as may be necessary to protect the security interest of the FHA. Any unusual situation that may arise with respect to obtaining or servicing insurance should be referred to the State Director. The State Director will refer any questions of a legal nature to the Office of the General Counsel (OGC).

(e) *Use of Form FHA 426–1, "Valuation of Buildings."* When an appraisal is required in connection with making the loan, Form FHA 426–1 will be prepared by the employee who makes the appraisal of the property. In the case of a loan where no real estate appraisal is required, Form FHA 426–1 will be prepared by the County Supervisor. Revaluation of the buildings will not be made at frequent intervals; however, when the values of buildings increase or decrease materially and a revaluation of the buildings is necessary to protect the security interest of the FHA, the County Supervisor will revise the existing Form FHA 426–1 or prepare a new form to show the current values of the buildings. When a building is added to or removed from the property, the County Supervisor will record the change on the existing Form FHA 426–1. Such changes will be dated and initialed by the County Supervisor and the reason for any deletion will be noted on the Form.

§ 1806.2 Companies and policies.

Property insurance policies or other evidence of insurance will be accepted from borrowers when the requirements outlined herein are complied with fully.

(a) *Companies.* It is desirable that companies be licensed to do business in the particular State or other jurisdiction where the property is located, or that they be otherwise authorized by law to transact business within such State or other jurisdiction (hereinafter called State). If the required insurance is not available locally at comparable rates from an insurance company licensed or otherwise authorized to do business in the State, insurance may be accepted from another company if (1) the OGC advises that policies issued by such company will not be rendered unenforceable by virtue of the company's failure to be licensed or otherwise authorized to transact business in the State and that the company is a legal entity which may be sued in the State where the insured property is located, and (2) the State Director determines that the company is reputable and financially sound. In making the above determinations, the State Director will consider all relevant available information, such as that which may be obtained from financial statements, Best's Insurance Reports, State insurance authorities, and other lending institutions.

(b) *Insurance policies*—(1) *Standard policies.* If a standard fire insurance policy has been adopted for the State it should be used unless State statutes exempt the company from the regulations requiring its use. The standard policy is one containing substantially the same standard provisions adopted or recommended by legislative action or by order of the supervisory insurance authorities of the State in which the security is located.

(2) *Other policies.* Any other insurance policies, to be acceptable, must conform to the requirements of this part.

(i) "Homeowner's" policies, "All Physical Loss" policies, "Broad Form" policies, and other such all-inclusive policies are acceptable if they otherwise meet the requirements of this part.

(ii) A builder's risk policy naming the borrower as the insured or a builder's risk endorsement for a policy issued to the borrower may be accepted during the period a building is under construction if the policy otherwise meets the requirements of this part. If such a policy or endorsement does not automatically convert to full coverage when the building is completed, acceptable insurance must be obtained simultaneously with the expiration of the builder's risk provisions of the policy.

(iii) A builder's risk insurance policy issued to a contractor only may not be substituted for the property insurance the borrower is required to provide.

(3) *State issuances.* If the State Director and the OGC consider it advisable, the State Director will issue regulations to help County Supervisors identify standard insurance policies adopted for the State. The State Office regulations should also furnish a guide to assist in identifying other acceptable insurance policy forms that are commonly used by insurance companies in the State, recognizing that such information is not all inclusive.

(4) *Binders.* Whenever there is a justifiable reason for not issuing a policy or endorsement, as required, a written

binder will be acceptable for a period not to exceed 60 days from the effective date of the insurance. Form FHA 426–7, "Insurance Binder," may be used in lieu of a standard binder form provided by the insurance company or agent. The written binder must have attached thereto the approved form of mortgage clause. Such a binder will be submitted to the County Supervisor in lieu of an insurance policy or endorsement and the insurance policy or endorsement will be submitted on or before the expiration date of the binder. The State Director, with the advice of the OGC and subject to prior approval of the National Office, may issue a State Office regulation authorizing such binders to be accepted for periods longer than 60 days.

(5) *Submission of policies.* The original policy must be delivered to the County Supervisor by the borrower, except that a certificate of insurance, a copy of the policy, or other evidence of insurance is acceptable for loans which are secured by other than first liens if the mortgage clauses include the names of prior mortgagees.

(c) *Name and location.* The name or names of the assured in the policy must be readily identifiable as the owners of the property being insured. If title is vested in the husband and wife, the policy should contain the names of both; however, if the policy, when issued, shows the name of only the husband, it will not be necessary to return it for correction. The location of the property should be described sufficiently to identify it. The complete legal description by metes and bounds of the property is not required.

(d) *Loss or damage covered.* Buildings must be insured against loss or damage by fire, lightning, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, and smoke.

(e) *Effective date of insurance.* If there are insurable buildings located on the property, the borrower will arrange with his agent or company to have adequate insurance in force at the time of loan closing so that the policy will properly insure the borrower and the mortgagees. When new buildings are erected or major improvements are made to existing buildings, such insurance will be made effective as of the date materials are delivered to the property. The County Supervisor will make no payments from loan funds for labor or materials until the borrower has furnished adequate insurance to protect the interest of the FHA in the buildings being erected or improved.

(f) *Term.* The borrower will be required to furnish insurance for a term of at least 1 year unless the insurance policy for a shorter period contains an automatic renewal provision. If the borrower will receive a discount for insuring for a longer period, the County Supervisor will encourage him to obtain a new or renewal insurance policy for a longer term. If the insurance contains an automatic renewal clause its provisions should be substantially the following to be acceptable to the FHA:

> This policy will be automatically extended for successive terms at expiration of the original term and of each extension thereof, upon payment of renewal premium. It is a condition of this policy that if the policy expires or is canceled for nonpayment of premium, or for any other reason, the mortgagee will be given 10 days' notice.

(g) *Mortgage clause.* The standard mortgage clause adopted by the State must be attached to or printed in the policy, or Form FHA 426–2, "Property Insurance Mortgage Clause (Without Contribution)," must be attached to, or the provisions thereof printed, in the policy. A letter signed by an authorized official of an insurance company to the State Director, stating that all insurance policies the company issues in the State and in which the FHA has a mortgage interest incorporates all of the provisions of Form FHA 426–2, may be accepted in lieu of attaching Form FHA 426–2 to each policy. If such a blanket letter is used, the FHA will be named in the loss payable clause and a regulation will be issued by the State Office after prior approval is obtained from the National Office, authorizing the use of such method.

(1) If the use of a mortgage clause, other than the standard mortgage clause (without contribution), has been made mandatory by State laws or insurance regulations, a regulation will be issued by the State Office, after prior approval is obtained from the National Office, authorizing the use or such a form.

(2) When an approved mortgage clause is printed in the policy a Loss Payable Clause is acceptable provided the FHA, as mortgagee, would receive payment in case of loss even though the company would not be liable to the borrower. A Loss Payable Clause which contains the statement that the mortgagee is "subject to all terms and conditions of the policy" is not acceptable.

(3) Whenever a new mortgage clause including the interest of the FHA is issued after the policy has been in force, the new mortgage clause must be signed by an authorized agent or officer of the company that issued the policy. Form FHA 426–6, "Transmittal of Property Insurance Mortgage Clause," may be used to transmit the mortgage clause to the insurance official.

(4) The FHA and all other mortgagees whose interests are insured by the policy will be shown in the mortgage clause in the order of priority of their mortgages.

(i) "United States of America (Farmers Home Administration)" will be named in the mortgage clause for direct and insured loan mortgages naming the FHA as mortgagee, whether in its own right or as trustee under a 2(f) or other agreement, with a State Rural Rehabilitation Corporation.

(ii) "United States of America (Farmers Home Administration), as first mortgagee or as statutory agent and insurer of such mortgagee," will be named in the mortgage clause for insured FO mortgages naming the lender as mortgagee, whether the mortgage is held by the original or a subsequent lender or by the insurance fund or by the FHA under a trust agreement or declaration of trust.

(iii) If the designation is not identical to that set forth in subdivision (i) or (ii) of this subparagraph, whichever is applicable, it will be sufficient if the mortgagee is readily identifiable as the Farmers Home Administration.

(h) *Evidence of premium payment.* (1) When Form FHA 426–2 is attached to or the provisions thereof are printed in the policy, or a blanket letter from an insurance company incorporating the provisions of Form FHA 426–2 in all policies in which the FHA has a mortgagee interest is in effect in accordance with paragraph (g) of this section, no evidence of premium or assessment payment is required.

(2) When a mortgage clause requires the mortgagee to pay the premium if the insured does not, the borrower will be required to furnish, with the policy, proper evidence that the premium has been paid for the full term of the policy, unless a State Office regulation has been issued in accordance with subparagraph (3) of this paragraph or an exception is otherwise authorized by the National Office. The evidence of a premium payment may be (i) a receipted bill, (ii) the policy stamped "Premium Paid," (iii) the endorsement renewing or continuing the policy stamped "Premium Paid," or (iv) a letter or statement signed by the agent or company stating that the premium has been paid. In case the policy is written by an assessment mutual insurance company on an annual assessment basis, proper evidence will accompany the policy to show that the most recent annual assessment has been paid.

(3) In those States in which laws or regulations do not permit the use of Form FHA 426–2, the State Director may issue, with the prior approval of the National Office, a State regulation which sets forth the manner in which premium payment will be handled.

(i) *Policy restrictions.* (1) Any insurance on essential buildings as defined in § 1806.3 having restrictions which limit the amount of collectible insurance to less than FHA requirements, must have such restrictions eliminated or modified to afford the required protection; otherwise, the policy will not be accepted. Objectionable restrictions are usually clauses such as:

(i) *Coinsurance clause.* This clause generally provides that in consideration of a reduced rate, the borrower agrees to maintain insurance on his buildings up to a specified percentage (usually 80 percent) of their value and that the company will not be liable for a greater proportion of any partial loss than the amount of insurance bears to the specified percentage of either the undepreciated replacement value or the depreciated replacement value (actual cash value) of the buildings at the time of the loss. When the buildings are insured for the specified percentage of their value, the company, in the event of a partial loss, will be liable for the full amount of the loss not to exceed the amount of insurance. A coinsurance clause can be

accepted only where the amount of insurance is at least equal to the specified percentage of either the undepreciated replacement value or the depreciated replacement value (actual cash value). For example, an 80 percent coinsurance clause can be accepted only where the amount of insurance on each insured building is at least equal to 80 percent of the appropriate replacement value of the insured building.

(ii) *Three-fourths' value clause.* This clause provides that the liability of the company shall be limited to three-fourths of the depreciated replacement value of the buildings covered at the time of the loss, not to exceed the amount of insurance. This clause may be accepted if the unpaid balance of the loan is not greater than three-fourths of the depreciated replacement value of the building and the amount of insurance is at least equal to the unpaid balance of the loan and any prior liens and no building is insured for more than three-fourths of its depreciated replacement value.

(iii) *Loss deductible clause.* This clause generally provides that loss to each building to the extent of the limitation is not recoverable. The company is liable only for loss to each building in excess of such limitation stated in the clause. This clause may be accepted where the limitation does not exceed $150.

(iv) *Three-fourths' loss clause.* This clause provides that the company will not pay more than three-fourths of any loss, nor more than three-fourths of the amount of insurance in force. This clause is never acceptable and must be eliminated.

(v) *Deferred loss payable clause.* This clause provides that, if the amount payable under the policy for any loss to any building insured shall be in excess of a specified portion (usually 60 percent) of the amount of insurance on such building, the company will withhold from its initial loss payment any sum in excess of the specified portion of the amount of insurance on such building. If the building sustaining such loss is repaired or replaced within 6 months from the date of the fire and at or within 300 feet of the original location, as described in the policy, the company upon receipt of evidence to that effect from the insured will pay the full balance withheld from the initial payment, provided the amount expended in repairing or replacing the building damaged or destroyed will equal or exceed the amount of loss as determined under the terms of the policy. Failure to repair or replace any insured building within the time and within the manner provided will constitute acceptance of the initial payment as full and final settlement under the policy with respect to the loss. This clause may be accepted if the amount of insurance is for the full depreciated replacement value (actual cash value) of the building and the unpaid balance of the loan and any prior lien(s) is not greater than the initial loss payment made by the company.

(vi) *Construction specifications and use conditions.* If the insurance policy contains clauses which specify certain standards of construction or prescribes certain uses of the property for the insurance to be valid, the policy is acceptable only if the property meets such specifications or conditions at the time of acceptance. For example, if the policy provides that the chimney be constructed of a certain type of material, the County Supervisor should be assured that the required material has been used, or if the policy provides that farming operations are not carried out on the premises he should be assured that this condition is met.

(2) Policies will not be accepted if, under the terms of the policies or local laws, contributions or assessments may be made against the FHA, nor when, by the terms of the policy or other conditions, loss payments are contingent upon action by the Board of Directors, the stockholders, or the members.

(j) *Buildings on leaseholds.* The policy will indicate that the insured is the lessee or tenant and not the owner of the buildings securing the FHA loan; or, if he is the owner of the building on the leased land, the policy will indicate that the insured is the owner of the building, but not of the land. State Directors, with the advice of the OGC and prior approval of the National Office, will issue State regulations to meet any other special requirements needed to conform with the State insurance status to enable leaseholders to obtain property insurance for buildings which are security for FHA loans.

§ 1806.3 Coverage requirements.

The County Supervisor should encourage the borrower for his own protection to insure for their depreciated replacement value (actual cash value) all essential buildings. Essential buildings include the dwelling and any other buildings that are necessary for the operation of the property or that provide income to assure orderly repayment of the loan. If insurance is for less than the depreciated replacement value of all essential buildings, the County Supervisor will see that the coverage is obtained on one or more of the most essential buildings. The minimum amount of coverage will be furnished as prescribed below.

(a) *Loans secured by a first lien.* (1) When the unpaid balance of the FHA loan secured by a first lien is equal to or greater than the depreciated replacement value of the essential buildings, or the cost of adequate essential buildings which can be constructed for amounts less than the depreciated replacement value of the existing buildings, the essential buildings will be insured, to the nearest multiple of insurance that is available, for the lesser of their depreciated replacement value, or the cost of constructing adequate essential buildings. For example, if insurance is available in only multiples of $1,000, the minimum insurance required on an essential building valued at $6,600 would be $7,000 and that required on an essential building valued at $6,400 would be $6,000.

(2) When the unpaid balance of the loan is less than the sum of the depreciated replacement value of the essential buildings to be insured, the total amount of insurance must be at least equal to the lesser of the unpaid balance of the loan, or the cost of adequate essential buildings which can be constructed for amounts less than the depreciated replacement values of the existing buildings to be insured.

(3) When, by the use of loan funds or otherwise, buildings are erected or substantial improvements are made to essential buildings, the amount of insurance will be adjusted in accordance with subparagraph (1) or (2) of this paragraph, whichever is applicable.

(b) *Loans secured by other than first liens.* The amount of insurance on buildings in the case of FHA loans secured by other than a first lien will be the same as required in paragraph (a) of this section with the understanding that the unpaid balance of the loan will be deemed for this purpose to be the amount of the total real estate mortgage indebtedness owed all prior mortgagees named in the mortgage clause, plus the debt to the FHA which is secured by the real estate mortgage.

(c) *Exception of buildings from insurance.* (1) Insurance will not be required on a building:

(i) That is not essential.

(ii) In such a state of disrepair that the cost of insurance would be prohibitive.

(iii) Which has a depreciated replacement value of $2,500 or less.

(iv) On LH security property which was not built or repaired with FHA loan funds provided that the State Director determines that the land and other structures adequately secure the FHA loan and any prior liens.

(v) On which the hazards are so slight because of the character and construction of the building, or the cost of the insurance is so high in comparison with the value of the building that, according to common standards of judgment, it should not be insured, including but not limited to windmills, silos, and fire-cured tobacco barns.

(2) In cases where the unpaid balance of the FHA loans and any prior liens have been reduced to $2,500 or less, property insurance need not be required if the borrower wants to discontinue it, provided the County Supervisor determines that the value of the land security itself is sufficient to protect the FHA in its collection of the amount of the outstanding indebtedness.

(3) If insurance for windstorm and hail to meet all FHA requirements is not available in a hurricane area, the County Supervisor may accept from the borrower or applicant the windstorm and hail insurance policy that most nearly conforms to FHA requirements. If such an exception is made, the situation should be fully documented in the borrower's case file. However, if the best insurance policy a borrower or applicant can obtain at the time he receives a loan contains a loss deductible clause for

windstorm and hail damage exceeding $250 or 10 percent of the actual cash value of the buildings, whichever amount is greater, the insurance policy, with an explanation of the reasons more adequate insurance is not available, will be submitted to the National Office for prior approval.

§ 1806.4 Examining and general servicing of insurance.

(a) *Examination by County Office of policies, endorsements, binders, and other evidence of insurance.* Upon receipt in the County Office of a policy, endorsement, binder, or other evidence of insurance, submitted by a borrower, it will be examined promptly for compliance with the requirements of this part. If the evidence of insurance is found to be acceptable, it will be placed in the borrower's case folder.

(1) *Unacceptable policies.* (i) When the borrower furnishes any policy or other evidence of insurance which does not meet the requirements of this part, such policy or other evidence of insurance will be returned to the borrower with the reasons why it is not acceptable.

(ii) If the borrower does not furnish acceptable insurance by the date the previous policy expired or was canceled, the County Supervisor will proceed as provided in § 1806.6.

(2) *Expiration records and notices.* After the insurance has been accepted, the expiration date will be inserted on Form FHA 405–1, "Area Guide Card," for servicing the renewal of the insurance. The County Supervisor will notify the borrower of the expiration of his insurance at least 30 days in advance of such expiration, unless he has received written evidence that the insurance has been renewed. Form FHA 426–3, "Notice of Expiration of Insurance," may be used for this purpose.

(3) *Release of mortgage interest.* When the borrower's loan has been paid in full and the satisfaction or release of the mortgage has been executed, the County Supervisor will execute the following Release of Mortgage Interest on the mortgage clause attached to the policy or other evidence of insurance, and transmit it with the policy or other evidence of insurance, the paid-in-full note, and the satisfaction to the borrower:

It is understood and agreed that the interest of the United States of America in the property insured hereunder ceased as of (Date of Final Payment), and that the Government shall have no interest in any loss or damage to such property occurring thereafter.

(4) *Lost or misplaced policies.* When an unexpired insurance policy or other evidence of insurance is lost or misplaced, it will be necessary to obtain a replacement policy or other evidence of insurance. The County Supervisor is authorized to sign a Lost Policy Receipt on behalf of the FHA.

(5) *Disposition of expired and canceled policies.* An expired or canceled policy or other evidence of insurance will be returned to the borrower, unless there is a loss settlement pending. If a transmittal is used, Form FHA 140–4, "Transmittal of Documents," is prescribed for that purpose.

(b) *Special servicing of insurance*—(1) *Vacancy or unoccupancy—Tenant occupancy—increased hazard.* If the County Supervisor has knowledge that insured property is vacant or unoccupied or that the ownership or occupacny has changed from owner to tenant, or that the hazards otherwise are increased, he will examine the policy to determine whether the policy permits such conditions. Unless the insurance permits such conditions, the County Supervisor will immediately notify, in writing, the company or agent. In any case where there is an additional premium due because of vacancy, unoccupancy, tenant occupancy, or other increased hazard, and upon demand to FHA from the company or agent because the borrower cannot, or will not, pay the additional premium, it may be paid by Standard Form 1034, "Public Voucher for Purchases and Services other than Personal," to the company or agent.

(2) *Transfer of property.* (i) When a borrower or transferee requests the consent of FHA to a transfer of the security property already effective, or when the County Supervisor learns that any such transfer has been made, he will immediately inform the transferee that the mortgage requires the owner to provide and maintain adequate insurance acceptable to and with loss payable to, FHA as mortgagee. The transferee may obtain a new insurance policy or the transferor may have the insurance company or agent issue an endorsement to the current insurance policy changing the name of the assured to that of the transferee. If a new insurance policy is obtained, the old policy or other evidence of insurance will be returned to the transferor unless there is an unsettled loss. If there is an unsettled loss, the policy or other evidence of insurance will not be returned until the claim has been settled. The County Supervisor, with the concurrence of the State Director and the OGC will notify the borrower and transferee that acceptance of the new policy or endorsement will not constitute consent by the Government to the transfer even though the Government is protected by a loss payable clause in such an insurance policy.

(ii) In case of a transfer for which consent is requested before it becomes effective, insurance will be obtained as required in Subpart A of Part 1872 of this chapter for a transfer case.

(3) *Voluntary conveyance of property to Government and foreclosure.* Insurance will not be carried on buildings which the Government has acquired except buildings which represent an asset of a State Rural Rehabilitation Corporation (SRRC) administered by the Government under a 2(f) or other agreement.

(i) After a foreclosure sale has been held, or after a deed of conveyance to the Government in lieu of foreclosure has been filed for record, the County Supervisor will return the insurance policy to the borrower for cancellation; provided (*a*) in a foreclosure case, when the borrower has the right to use the property during the redemption period, the policy will not be returned until the redemption period expires, (*b*) if there is an unsettled loss with respect to the property, the policy will not be returned until such loss has been settled, and (*c*) except as required in subdivision (ii) of this subparagraph, no funds will be advanced by the Government to pay property insurance premiums which become due after the foreclosure sale has been held or the voluntary conveyance deed to the Government has been filed for record. When the borrower receives the policy or other evidence of insurance, he may cancel the insurance and obtain the unearned premium check from the insurance company.

(ii) If the property involved represents an asset of an SRRC administered by the Government under a 2(f) or other agreement, the County Supervisor will obtain insurance in accordance with § 1806.6 for the depreciated replacement value of the insurable buildings, effective as of the date of the cancellation, the date of the foreclosure sale at which the Government was the purchaser, or the date the voluntary conveyance deed to the Government was filed for record.

§ 1806.5 Losses.

(a) *General.* In case of a loss covered by insurance, the County Supervisor is authorized to take such steps as are necessary to protect the interest of the FHA in the property against further damage and to collect the amount of the loss. When serious problems arise with respect to protecting the property from further damage, or an amicable settlement cannot be reached, or when legal action appears to be necessary, the matter will be referred to the State Director. The State Director is authorized to execute Proofs of Loss, and other forms as may be required in connection with Proofs of Loss, for the FHA when borrowers will not, or cannot, execute such forms.

(1) *Reporting loss.* It is the responsibility of the borrower, under his policy, to immediately notify the company or agent of any loss or damage to insured property. The borrower also should notify the County Supervisor. When requested, the County Supervisor will inform the borrower of all insurance in force covering the risk according to FHA records. If the borrower will not, or cannot, report the loss to the insurance company or agent, the County Supervisor will notify the company or agent.

(2) *Protective repairs.* The borrower must immediately take the required steps to protect his property temporarily from further damage from any causes after a loss, regardless of the estimated amount of such loss. It will be the responsibility of the County Supervisor to determine whether the emergency protection is being made. In unusual cases when the borrower cannot, or will not arrange adequate protection for the property, the County Supervisor will arrange for the emergency protection. Such costs will be paid from the

insurance loss funds when received from the company.

(3) *Completing adjustment.* The borrower must complete the adjustment of the loss with the company or its authorized representatives. The County Supervisor, upon request of the borrower, may consult with the borrower regarding the loss adjustment, but will not enter into negotiations with insurance adjusters or company representatives relative to the adjustment or settlement of losses on borrower property, or make any commitments, or sign any forms in connection with the adjustment of the loss. Under no circumstances will the FHA waive any rights which it may have against the company.

(i) The County Supervisor will maintain a proper followup on all losses until satisfactory settlement has been made by the company.

(ii) Where the County Supervisor has evidence that the adjustment agreed to by the borrower is significantly less than the amount of damage to which the borrower is entitled under the terms of the policy, the loss draft accompanied by a report will be sent to the State Director so that he may reopen the adjustment, if he considers it is in the interest of the FHA to do so.

(iii) When it appears evident that the amount of the loss is $1,000 or less, the County Supervisor may rely on estimates of contractors, building supply firms, reliable carpenters, or other evidence rather than personal inspection in determining whether the adjustment is equitable and the Government's interest is protected.

(4) *Reinstatement after loss.* In cases where insurance in the amount of the loss is not reinstated automatically by the provisions of the policy, it will be the responsibility of the County Supervisor to have the borrower reinstate as much of the insurance as may be necessary to fulfill the requirements of the FHA.

(b) *Loss drafts—when loan is secured by a first mortgage.* (1) A loss draft which in the opinion of the County Supervisor represents a satisfactory adjustment of the loss will be endorsed immediately without recourse and deposited in the borrower's supervised bank account to be used in repairing or replacing the damaged building, except:

(i) Where the amount of the loss is $1,000 or less and the borrower will use the funds for repairing or replacing an essential building, the loss draft may be endorsed without recourse and given to the borrower upon satisfactory proof that the repairs or replacements have been made, or upon satisfactory assurance that the work will be performed.

(ii) When the essential buildings are not to be repaired or replaced, and other suitable buildings are not to be erected, or a balance remains after all repairs, replacements, and other authorized disbursements have been made, such insurance funds will be applied on prior liens or as an extra payment to the borrower's loan accounts secured by the real estate unless authorized by the State Director for other disposition in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security under Subpart A of Part 1872 of this chapter.

(iii) When an insurance payment for loss or damage to a nonessential building that the borrower voluntarily insured will be: Applied on prior liens or as an extra payment on the borrower's loan accounts secured by real estate; disposed of as authorized by the State Director in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security under Subpart A of Part 1872 of this chapter; or, used for other purposes as recommended by the State Director, if he obtains approval for such use from the National Office after submitting a complete explanation of the circumstances and a justification to show that it is necessary to use the proceeds otherwise to permit the borrower to accomplish the objectives of the loan.

(iv) When the indebtedness secured by the insured property has been paid in full or the draft is in payment for loss of property on which the FHA has no claim, a loss draft which includes the FHA as a joint payee may be endorsed without recourse.

(c) *Loss drafts—when loan is secured by other than first mortgage.* (1) When the loss draft does not include the interest of a prior mortgagee, it will be processed as provided in paragraph (b) of this section.

(2) When the loss draft includes the interest of a prior mortgagee, the County Supervisor is authorized to endorse and process the draft as follows:

(i) When the prior mortgagee will permit the use of such loss funds to repair or replace the damaged building, the draft may be endorsed without recourse upon satisfactory proof that the repairs or replacements have been made or upon satisfactory assurance that the work will be performed.

(ii) When the amount of the draft does not exceed the amount of the indebtedness then secured by the prior mortgage as stated in writing by the holder of the prior mortgage, and the holder of the prior mortgage has agreed in a written statement to the County Supervisor that he will apply such funds as a payment on the borrower's prior mortgage indebtedness, the draft may be endorsed without recourse.

(iii) When the amount of the draft exceeds the amount of the indebtedness then secured by the prior mortgage, as stated in writing by the holder, and he has agreed in writing to pay such indebtedness from the loss funds, the draft will be endorsed without recourse only after all parties named as payees in the draft have signed an agreement to deliver the draft "in escrow" to a bank acceptable to the named parties. The agreement will specify the manner in which the funds will be disbursed by the bank, as escrow agent, to the several mortgagees named in the draft. After the loss funds have been collected by the bank, it will issue cashier's checks in the manner prescribed in the escrow agreement, a form suggested for this purpose entitled "Escrow Agreement, Real Property Insurance" is available at all FHA offices. If it is found to be impractical to follow this procedure in an individual instance, the State Director may submit an alternative proposal for handling the case to the National Office for consideration and authorization, if appropriate.

(iv) Drafts which have been endorsed by all other payees will be endorsed immediately without recourse. Such drafts or other loss funds will be processed in accordance with the methods described in paragraph (b) of this section.

(d) *Servicing insurance losses under special circumstances—(1) Foreclosures and voluntary conveyances.* The State Director will handle losses on properties in process of foreclosure or voluntary conveyance with the advice of the OGC. If the necessary cooperation of the borrower cannot be obtained, the State Director, with the advice of the OGC, will determine the proper action to be taken. To the extent feasible from a legal and practical standpoint, all loss payments should be received for a damaged or destroyed building and applied on the borrower's real estate indebtedness before title to the property is taken by the Government through foreclosure sale, voluntary conveyance, or otherwise, unless absolute assignment has been made by the borrower to the Government of all loss funds due from the insurance company.

(2) *Subrogation agreements.* When a company claims nonliability to the borrower and subrogation to the rights of the FHA, the County Supervisor will forward a full report of the facts in the case to the State Director. After the State Director obtains a statement from the OGC on the legal aspects involved, he will forward the case with the subrogation agreement, if any, to the National Office. The National Office will instruct the State Director regarding further action to be taken.

(e) *Repairs and replacements.* When any loss payments have been deposited in the borrower's supervised bank account, all repairs and replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in the same manner as improvements financed with loan funds.

§ 1806.6 Failure of borrower to provide insurance.

When a borrower fails to provide and maintain acceptable property insurance, the County Supervisor will immediately make every effort to have the borrower provide with his own funds a policy acceptable to the FHA. The County Supervisor will emphasize that the borrower's liability continues for insurable damage or loss to property even though it is not properly covered by insurance, that his obligation to the Government continues in spite of such damage or loss, and that failure to provide and pay for adequate insurance or damage to the property not insured as required are grounds for foreclosure. If the borrower still fails to provide acceptable insurance, the County

Supervisor will take prompt action to protect the Government's interests. He will determine whether the borrower has reasonable prospects of accomplishing the objectives of the loan or whether liquidation of the loan should be considered. When the borrower fails to provide acceptable insurance the County Supervisor will take the following action:

(a) *Expired policies.* (1) The County Supervisor will request the insurance agency or broker who issued the expired policy to issue a new policy to the borrower as the assured which is acceptable to the FHA.

(i) The new policy will be effective as of the date of the County Supervisor's contact with the insurance agency or broker or as soon thereafter as possible, and will be for a term of 1 year. If State insurance regulations require a longer term, the State Director will issue a State regulation, after obtaining prior approval from the National Office, authorizing County Supervisors to obtain policies for the minimum period permitted by State insurance regulations.

(ii) The FHA will be shown in the loss payable clause and in the mortgage clause in the proper order of priority.

(iii) Insurance coverage on each building usually will be the same as shown on the expired policy if it meets or exceeds FHA requirements. If the coverage shown on the expired policy does not meet FHA requirements, proper coverage will be obtained.

(iv) The County Supervisor will, if possible, have an automatic renewal provision included in the policy.

(2) If the borrower refuses to pay the insurance premium with his own funds or arrange with the agent for subsequent payment by premium note or otherwise, the amount of the premium payment will be charged to the borrower's FHA account with the highest lien priority as a recoverable cost item.

(3) If the insurance agency or broker who issued the expired policy refuses to issue a new policy, the County Supervisor will have the borrower designate in writing another insurance agency or broker from whom the insurance can be obtained.

(4) After the County Supervisor and the borrower exhaust all efforts to obtain acceptable insurance, the County Supervisor will request advice from the State Office as to companies issuing acceptable policies in the State and from which the borrower might be able to obtain an acceptable policy. If the borrower still cannot obtain an acceptable policy from any such company, and continuance of the account with the borrower is appropriate under § 1872.1(b) of this chapter, the County Supervisor will temporarily accept from the borrower the available insurance policy the County Supervisor determines most nearly conforms to the requirements of § 1806.2.

(i) In making this determination, the following deficiencies become more objectionable in the order from (*a*) to (*e*) below:

(*a*) A policy written for an initial term of less than 1 year.

(*b*) A policy which will insure the most essential buildings but will not cover all essential buildings.

(*c*) A policy which covers major risks such as fire and lightning, but does not include one or more of the other risks specified in § 1806.2(d).

(*d*) A policy for a lesser amount of insurance than is required by this § 1806.6.

(*e*) A policy that is issued by a company which is not licensed to do business in the State or otherwise does not meet the requirements of § 1806.3.

(ii) Whenever adequate insurance becomes available, the County Supervisor will require the borrower to deliver to the County Office an acceptable insurance policy. The temporary policy will be returned to the borrower for cancellation after all losses claimed under the policy have been settled.

(iii) If the borrower is unable to furnish a property insurance policy of any kind, he will assume all insurable risks as the owner, and the Government will assume all insurable risks as the mortgagee.

(iv) If the County Supervisor accepts an inadequate insurance policy under these conditions or the borrower fails to furnish any insurance policy, the County Supervisor will include in his report to the State Director, as required by paragraph (d) of this section, an explanation of the efforts he and the borrower made to obtain acceptable insurance and his justification for accepting an inadequate policy, or for not obtaining an insurance policy of any kind.

(b) *Insurance canceled for reasons other than nonpayment of insurance premium.* (1) The County Supervisor, immediately upon receipt of a 10-day notice of cancellation for a policy, will urge the borrower to provide acceptable insurance.

(2) If the borrower fails to provide acceptable insurance before the cancellation is effective, the County Supervisor will contact the insurance agency or broker who issued the insurance policy to determine the reasons for cancellation and, if possible, have the policy reinstated.

(3) If the insurance company will not reinstate the policy, the County Supervisor will attempt to obtain an acceptable insurance policy from another agency or broker in accordance with the provisions of paragraph (a) of this section.

(c) *Insurance canceled for nonpayment of premium.* (1) The County Supervisor, immediately upon receiving a 10-day cancellation notice for a policy, will, if possible, contact the borrower in an effort to have him pay the insurance premium from his own funds or arrange with the agent for subsequent payment by premium note, or otherwise.

(2) If the borrower does not pay or arrange to pay the premium before the policy cancellation is effective, the County Supervisor will, before the cancellation becomes effective, notify the insurance company or broker by certified mail (return receipt requested), that the FHA as mortgagee (or trustee) will pay the premium for 1 year to continue the policy in effect for that period. The amount of the premium will be charged to the borrower's loan account as a recoverable cost item.

(3) If a property insurance mortgage clause other than Form FHA 426–2 is used in connection with the policy and the insurance company or broker refuses to accept payment from the FHA in this manner to reinstate or continue the policy, the County Supervisor will attempt to obtain an acceptable insurance policy from another insurance company, or broker in accordance with the provisions of paragraph (a) of this section.

(d) *Reports.* The County Supervisor will send a written report to the State Director for each case in which a borrower does not provide acceptable insurance, or for which the insurance premium is paid by voucher. The report will include an explanation of the reasons for the default and recommendations for future servicing of the case.

Dated: November 2, 1970.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[F.R. Doc. 70–15114; Filed, Nov. 9, 1970; 8:46 a.m.]

[FHA Instructions 440.1, 440.2]

PART 1810—INTEREST RATES, TERMS, CONDITIONS, AND APPROVAL AUTHORITY

Part 1810, Title 7, Code of Federal Regulations is revised and redesignated as Subpart A of that part. Subpart B is added. The new Part 1810 reads as follows:

Subpart A—Interest Rates, Amortizations, Annual Charge, and Fixed Period

Subpart B—Loan and Grant Approval Authorities, Field Officials

AUTHORITY: The provisions of this Part 1810 issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Orders of the Secretary of Agriculture, 29 F.R. 16840, 32 F.R. 6650.

Subpart A—Interest Rates, Amortization, Annual Charge, and Fixed Period

§ 1810.1 Information concerning interest rates, amortization, annual charge, and fixed period.

(a) Tables for computing the interest rates (including the annual charge rates and length of fixed period for initial repurchase agreement for insured loans), tables for use in determining the amounts

of interest on loans at different rates, and tables providing factors in amortizing loans, may be obtained from any County or State Office of FHA or from its National Office at 14th and Independence Avenue SW., Washington, D.C. 20250.

(b) In the event that the tables provided for in paragraph (a) of this section do not furnish adequate information, questions should be directed to the Director, Finance Office, Farmers Home Administration, 1520 Market Street, St. Louis, Mo. 63103.

Subpart B—Loan and Grant Approval Authorities, Field Officials

§ 1810.11 General.

This subpart prescribes the loan and grant approval authorities delegated to field officials of the Farmers Home Administration (FHA). The delegations to District and County Office personnel are based on the General Schedule (GS) grade of the position, and each grade will exercise the designated maximum authority. A table containing the loan and grant approval authorities by position and grade for all FHA programs may be obtained from any County or State Office of FHA or from its National Office at 14th Street and Independence Avenue SW., Washington, D.C. 20250.

§ 1810.12 Authority of supervising officials.

In addition to the authority delegated to him in his position and grade, each supervising official has the same approval authorities as are delegated to the officials he supervises.

§ 1810.13 Authority of acting officials.

In addition to the authorities and responsibilities of their regular positions, each properly authorized official serving in an acting capacity has the same responsibilities and authorities of the position in which he is acting unless limited by the designation document.

§ 1810.14 Redelegations of authority by State Directors.

State Directors may redelegate approval authority to qualified State Office employees other than District Supervisors whose approval authorities are prescribed in the table of approval authorities provided in § 1810.11. State Directors will issue a State regulation redelegating such authority on a position basis.

§ 1810.15 Restrictions by State Directors.

State Directors are authorized to restrict or revoke approval authorities when necessary to administer a sound program. Such restrictions and revocations will be on an individual basis and in writing, but may not exceed a period of 6 months.

§ 1810.16 Relationship of appraisal authority to approval authority.

(a) *For farm tracts.* An employee who has been delegated authority in writing to appraise real estate is not authorized to approve any real estate loan made in connection with property he has appraised. An Assistant County Supervisor may not approve a loan on property appraised by the County Supervisor in his office.

(b) *For nonfarm tracts.* A County Supervisor who has been delegated authority in writing to appraise real estate is authorized to approve real estate loans made in connection with property he has appraised. An Assistant County Supervisor may not, however, approve a loan on property appraised by himself or by the County Supervisor in his office.

§ 1810.17 Program limitations.

Each program contains certain modifications limiting the amount of loan or assistance which may be given an applicant, such as value of security offered, amount of indebtedness, contributions made by the applicant, and other factors. These limitations are contained in the particular loan or grant program regulations and must be observed in exercising approval authorizations.

Dated: November 2, 1970.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[F.R. Doc. 70-15115; Filed, Nov. 9, 1970; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-293]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, the introductory portion of paragraph (e) is amended by adding the name of the State of Connecticut; paragraph (f) is amended by deleting the name of the State of Connecticut; and a new paragraph (e)(18) relating to the State of Connecticut is added to read:

(e) * * *

(18) *Connecticut.* That portion of Windham County comprised of Putnam, Pomfret, and Brooklyn Townships.

* * * * *

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

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

The amendment quarantines portions of Windham County, Conn., because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portions of such county.

The amendment also deletes Connecticut from the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from and to such eradication States under Part 76 are no longer applicable to Connecticut.

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

Done at Washington, D.C., this 5th day of November 1970.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-15145; Filed, Nov. 9, 1970; 8:49 a.m.]

PART 78—BRUCELLOSIS

Subpart D—Designation of Modified Certified Brucellosis Areas, Public Stockyards, Specifically Approved Stockyards and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended; sections 1 and 2 of the Act of February 2, 1903, as amended; and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111-113, 114a-1, 120, 121, 125), § 78.13 of said regulations designating Modified Certified Brucellosis Areas is hereby amended to read as follows:

§ 78.13 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

Alabama. The entire State;
Alaska. The entire State;
Arizona. The entire State;
Arkansas. The entire State;
California. The entire State;
Colorado. The entire State;
Connecticut. The entire State;
Delaware. The entire State;
Florida. Alachua, Baker, Bay, Bradford, Brevard, Broward, Calhoun, Charlotte, Citrus, Clay, Collier, Columbia, Dade, De Soto, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hendry, Hernando, Highlands, Holmes, Indian River, Jackson, Jefferson, Lafayette, Lake, Lee, Leon, Levy, Liberty, Madison, Manatee, Marion, Martin, Monroe, Nassau, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Putnam, St. Johns, St. Lucie, Santa Rosa, Sarasota, Seminole, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, and Washington Counties;
Georgia. The entire State;
Hawaii. The entire State;
Idaho. The entire State;
Illinois. The entire State;
Indiana. The entire State;
Iowa. The entire State;
Kansas. The entire State;
Kentucky. The entire State;
Louisiana. Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, Concordia, De Soto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson, Jefferson Davis, Lafayette, Lafourche, La Salle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Plaquemines, Pointe Coupee, Rapides, Red River, Richland, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Mary, St. Tammany, Tangipahoa, Tensas, Terrebonne, Union, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, and Winn Parishes;
Maine. The entire State;
Maryland. The entire State;
Massachusetts. The entire State;
Michigan. The entire State;
Minnesota. The entire State;
Mississippi. The entire State.
Missouri. The entire State;
Montana. The entire State;
Nebraska. The entire State;
Nevada. The entire State;
New Hampshire. The entire State;
New Jersey. The entire State;
New Mexico. The entire State;
New York. The entire State;
North Carolina. The entire State;
North Dakota. The entire State;
Ohio. The entire State;
Oklahoma. Adair, Alfalfa, Atoka, Beaver, Beckham, Blaine, Bryan, Caddo, Canadian, Carter, Cherokee, Cimarron, Cleveland, Coal, Comanche, Cotton, Craig, Creek, Custer, Delaware, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harman, Harper, Haskell, Hughes, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Latimer, Le Flore, Lincoln, Logan, Love, McClain, McCurtain, McIntosh, Major, Marshall, Mayes, Murray, Muskogee, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Roger Mills, Rogers, Seminole, Sequoyah, Stephens, Texas, Tillman, Tulsa, Wagoner, Washington, Washita, Woods, and Woodward Counties;
Oregon. The entire State;
Pennsylvania. The entire State;
Rhode Island. The entire State;
South Carolina. The entire State;
South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lincoln, Lyman, McCook, McPherson, Marshall, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Stanley, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, and Ziebach Counties; and Crow Creek Indian Reservation;
Tennessee. The entire State;
Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Denton, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Freestone, Gaines, Garza, Gillespie, Glasscock, Goliad, Gray, Grayson, Gregg, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Houston, Howard, Hudspeth, Hutchinson, Irion, Jack, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufmann, Kendall, Kent, Kerr, Kimble, King, Kinney, Knox, Lamb, Lampasas, Lee, Leon, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Mason, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Moore, Morris, Motley, Nacadoches, Navarro, Newton, Nolan, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Ward, Washington, Webb, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, and Zevala Counties;
Utah. The entire State;
Vermont. The entire State;
Virginia. The entire State;
Washington. The entire State;
West Virginia. The entire State;
Wisconsin. The entire State;
Wyoming. The entire State;
Puerto Rico. The entire area;
Virgin Islands of the United States. The entire area.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 2, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 121, 125; 29 F.R. 16210, as amended, 9 CFR 78.16)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The amendment adds the following additional areas to the list of areas designated as Modified Certified Brucellosis Areas because it has been determined that such areas come within the definition of § 78.1(i): Polk and San Jacinto Counties in Texas.

Oldham County in Texas was deleted from the list of Modified Certified Brucellosis Areas on October 14, 1970. Since said date, it has been determined that such county again comes within the definition of § 78.1(i); and, therefore, it has been redesignated as a Modified Certified Brucellosis Area.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedures provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 5th day of November 1970.

R. S. SHARMAN,
Acting Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 70-15146; Filed, Nov. 9, 1970; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 70-WE-34-AD; Amdt. 39-1106]

PART 39—AIRWORTHINESS DIRECTIVES

DeHavilland Model D.H. 104 Dove Series 7A, 8A, 7AXC, 8AXC Airplanes

Pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), an airworthiness directive was adopted on October 14, 1970, and made effective immediately as to all known U.S. operators of DeHavilland Model D.H. 104 Dove Series 7A, 8A, 7AXC, 8AXC airplanes modified per STC SA1554WE or SA1747WE. This AD was superseded by telegram, dated October 23, 1970, effective immediately as to all known U.S. operators of said aircraft. The telegraphic AD, dated October 23, 1970, requires visual inspection of the main spar lower cap for cracks at intervals of 20 hours; and removal of the tank doors for inspection and rework if necessary, at intervals of 1,000 hours.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public

interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of these airplanes by individual telegram dated October 23, 1970. These conditions still exist, and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

DEHAVILLAND. DeHavilland Aircraft Co., Ltd. Applies to all DeHavilland Model D.H. 104 Dove Series 7A, 8A, 7AXC, 8AXC airplanes modified per STC SA1554WE or SA1747WE.

(a) Within the next 10 hours time in service after receipt of this telegram, unless already accomplished within the last 10 hours time in service, and thereafter at intervals not to exceed 20 hours time in service from the last inspection, accomplish the following:

(1) With wing weight relieved, visually inspect lower main spar cap in region of rib 4 using a 4-power glass and/or dye penetrant methods.

If cracks are found, repair prior to further flight in a manner approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(2) Determine that all tank door attachment bolts (Wing Sta. 0-40) are tight. If any bolts are found to have loosened, remove the door, check for hole elongation in the door and supporting structure, and replace the nut plates for the loose bolts. If any hole elongation is found, repair in accordance with section (b)(2) below.

(b) Within the next 200 hours time in service after receipt of this telegram, unless already accomplished within the last 800 hours time in service, and thereafter at intervals not to exceed 1,000 hours time in service from the last inspection, accomplish the following:

(1) Remove all tank doors (Wing Sta. 0-40) and inspect attachment bolt holes in doors and supporting structure in accordance wtih section 3.0 of Strato Engineering Co., Inc. Service Bulletin No. APA-3, Revision A, dated October 23, 1970, or later FAA approved revision, or an equivalent inspection procedure approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(2) Accomplish modification to all out-of-tolerance holes and nutplates in accordance with section 4.0 of Strato Engineering Co., Inc. Service Bulletin No. APA-3, Revision A, dated October 23, 1970, or later FAA approved revision, or an equivalent procedure approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This supersedes the telegraphic AD dated October 14, 1970, concerning this problem.

This amendment is effective November 16, 1970, for all persons except those to whom it was made effective by telegram dated October 23, 1970, which contained this amendment.

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

Issued in Los Angeles, Calif., on November 2, 1970.

LEE E. WARREN,
Acting Director,
FAA Western Region.

[F.R. Doc. 70-15155; Filed, Nov. 9, 1970; 8:49 a.m.]

[Airworthiness Docket No. 70-WE-31-AD; Amdt. 39-1107]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8 Series Airplanes

Amendment 39-1079 (35 F.R. 14381), AD 70-19-1, requires deactivation of the auxiliary engine starting system high-pressure air storage system in accordance with McDonnell Douglas All Operators Telegraphic Maintenance Campaign No. C1-SVC-DC8-COM-21 and/or Supplement C1-SVC-DC8-COM-22. Since issuing Amendment 39-1079, the agency has determined that satisfactory procedures of inspection and rework have been developed to allow reactivation of the air storage systems. Therefore, the AD is being amended to permit reactivation of the air storage systems following completion of certain inspection and/or rework procedures.

Since this amendment relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1079 (35 F.R. 14381), AD 70-19-1, is amended by adding the following paragraphs at the end thereof:

To reactivate the auxiliary engine starting system high pressure air storage system, accomplish the following as applicable:

(a) For all aircraft which have complied with McDonnell Douglas DC-8 Service Bulletin 80-15, dated August 28, 1970, remove the protective coating which was installed within the air chambers per section 2.E(1)(a) and 2.E(1)(c) of Option I and/or section 2.G of Option II of the service bulletin.

(b) Visually and ultrasonically inspect the MLG strut air storage chambers in accordance with McDonnell Douglas DC-8 Service Bulletin 80-15, paragraph 2.D and paragraph 2.E(3), dated August 28, 1970, or later FAA approved revision or an equivalent inspection procedure approved by the Chief, Aircraft Engineering Division, FAA Western Region.

If no cracks or corrosion are found in either MLG strut air storage chamber, the air storage system may be reactivated. If cracks or corrosion are found in either air chamber, the reactivation of the air storage system must be held in abeyance until the strut is overhauled in accordance with the McDonnell Douglas DC-8 Overhaul Manual or other FAA approved procedures.

(c) For all DC-8-62, -62F, -63, and -63F airplanes with the auxiliary spherical air reservoir, P/N 7755213-1, prior to reactivation, visually inspect the reservoir per McDonnell Douglas All Operators Letter AOL 8-476 (C1-7-92/TS/JED), dated September 22, 1970, or an equivalent inspection procedure approved by the Chief, Aircraft Engineering Division, FAA Western Region. If corrosion is found in the reservoir, it must be replaced prior to reactivation of the system.

(d) Following reactivation of the air start system, the chemical air dryer cartridge must be replaced with a new cartridge at intervals not to exceed 25 hours of compressor operation and whenever the water separator malfunctions. To determine compressor operation time, the compressor must be controlled manually and a record of time of operation must be maintained. A placard shall be installed adjacent to the air compressor control and water separator circuit breaker on the electrical power center panel (28 V. DC Buss No. 4) which requires the flightcrew to record the compressor operation time in the aircraft log.

As an alternate procedure to manual compressor regulation and operating time recording, the air start compressor system may be returned to normal automatic operation, provided the chemical air dryer cartridge is replaced at intervals not to exceed 250 flight hours.

(e) Water separator operation, for those airplanes so equipped, must be checked at intervals not to exceed 250 flight hours. A minimum of three overboard water discharge cycles at five to eight minute intervals indicates satisfactory water separator functioning. Unsatisfactory water separator operation must be rectified prior to further operation of the aircraft with the pressurized air start system activated. The air start system may be temporarily deactivated by opening and securing the air compressor control and water separator circuit breaker on the electrical power center panel (28 V. DC Buss No. 4), or any equivalent FAA approved procedure. To preserve the integrity of the air start system, the aircraft must not be operated for more than 50 flight hours with both unsatisfactory water separator operation and a temporarily deactivated air start system.

NOTE: Paragraphs (d) and (e) apply to only those aircraft utilizing the on-board air start compressor system.

(f) At intervals not to exceed 1,200 flight hours, visually inspect the interior of each air chamber for the presence of water. If water is found, repeat section (b), above.

(g) When a ground source is used for recharging the air storage system or for direct engine start on the air combustion system, use dry air having a dew point of −65° F. or lower. For airplanes with the hi-low starting system, use of dry nitrogen as an alternate to dry air is satisfactory.

This amendment becomes effective November 13, 1970.

(Secs. 313(a), 601, and 608, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 2, 1970.

ARVIN O. BASNIGHT,
Director,
FAA Western Region.

[F.R. Doc. 70-15156; Filed, Nov. 9, 1970; 8:49 a.m.]

[Airspace Docket No. 70-SW-62]

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

Alteration of Transition Area Description

The purpose of this amendment is to alter the description of the Batesville, Ark., transition area.

The present Batesville, Ark., transition area description includes specific reference to the Batesville Municipal Airport:

however, the name of this airport has now been changed to Batesville Regional Airport.

As this amendment imposes no additional burden on any person, notice and public procedures hereon are unnecessary and the amendment may be effective immediately.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the Batesville, Ark., transition area is amended by deleting "Batesville Municipal Airport" and substituting "Batesville Regional Airport" therefor wherever it appears.

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

Issued in Forth Worth, Tex., on October 30, 1970.

GEO. W. IRELAND,
Acting Director, Southwest Region.

[F.R. Doc. 70-15157; Filed, Nov. 9, 9170; 8:50 a.m.]

[Airspace Docket No. 70-SW-63]

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

Alteration of Control Zone Descriptions

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the descriptions of the Lubbock, Tex. (West Texas Air Terminal of Lubbock), and the Lubbock, Tex. (Reese AFB), control zones which include reference to the West Texas Air Terminal of Lubbock. This action is necessary since the name of the Lubbock airport has been changed to Lubbock Regional Airport.

Since this amendment is editorial in nature and imposes no additional burden on any person, notice and public procedures hereon are unnecessary and the amendment may be made effective immediately.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (35 F.R. 2054), the Lubbock, Tex. (West Texas Air Terminal of Lubbock), control zone and the Lubbock, Tex. (Reese AFB), control zone are amended by deleting "West Texas Air Terminal of Lubbock" and substituting "Lubbock Regional Airport" therefor wherever it appears.

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

Issued in Fort Worth, Tex., on October 30, 1970.

GEO. W. IRELAND,
Acting Director, Southwest Region.

[F.R. Doc. 70-15158; Filed, Nov. 9, 1970; 8:50 a.m.]

[Airspace Docket No. 70-AL-8]

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

Alteration of Control Zone and Transition Area

On April 28, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 2054) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the controlled airspace in the vicinity of Deadhorse, Alaska.

The proposal also stated that hourly and special weather observations would be available only between the hours of 0700 a.m. and 1100 p.m. local time daily when the Deadhorse FSS is in operation and that the proposed control zone and transition area would be effective at all times.

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

The proposal to waive agency policy which requires that aviation weather be reported during times when a control zone is effective is still in coordination. Pending a formal change in agency policy it will be necessary for the effective times of the control zone to coincide with the hours the Deadhorse Flight Service Station will be in operation.

The proposal has been reviewed and the effective times of the control zone will coincide with the hours of operation of the Deadhorse FSS so that hourly and special weather observations will be available.

Since this decision is in accord with well known agency policy and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

The transition area will be effective at all times.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 7, 1971, as hereinafter set forth.

Section 71.171 (35 F.R. 2054) is amended as follows:

The Prudhoe Bay, Alaska, control zone is hereby revoked.

The Deadhorse, Alaska, control zone is designated as follows:

DEADHORSE, ALASKA

Within a 5-mile radius of the Deadhorse Airport (latitude 70°11'37" N., longitude 148° 29'10" W.); within 3 miles south and 8 miles north and parallel to the 082° True (050° Magnetic) bearing of the Deadhorse RBN (latitude 70°11'49" N., longitude 148°27'53" W.), extending from the Deadhorse RBN to 10 miles east of the Deadhorse RBN; and within 3 miles south and 8 miles north and parallel to the 250° True (218° Magnetic) bearing of the Deadhorse RBN, extending from the Deadhorse RBN to 8 miles west of the Deadhorse RBN.

This control zone will be effective from 0645 to 2145 local time daily.

Section 71.181 (35 F.R. 2134) is amended as follows:

The Prudhoe Bay, Alaska, transition area is hereby revoked.

The Deadhorse, Alaska, transition area is designated as follows:

DEADHORSE, ALASKA

That airspace extending upward from 700 feet above the surface within 5 miles south and 10 miles north and parallel to the 082° True (050° Magnetic) bearing of the Deadhorse RBN (latitude 70°11'49" N., longitude 148°27'53" W.) extending from the RBN to 24 miles northeast; within 5 miles south and 10 miles north and parallel to the 250° True (218° Magnetic) bearing of tht RBN extendtending from the RBN to 25 miles southwest.

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

Issued in Anchorage, Alaska, on November 2, 1970.

WILLIAM P. COMSTOCK,
Brigadier General, U.S. Air Force, Acting Director, Alaskan Region.

[F.R. Doc. 70-15159; Filed, Nov. 9, 1970; 8:50 a.m.]

[Airspace Docket No. 70-EA-67]

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

Designation of Transition Area

On page 14089 of the FEDERAL REGISTER for September 4, 1970, the Federal Aviation Administration published proposed regulations which would designate a Port Clinton, Ohio, transition area.

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

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., January 7, 1971.

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

Issued in Jamaica, N.Y., on October 27, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Port Clinton, Ohio, transition area described as follows:

PORT CLINTON, OHIO

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 41°30'55" N., 82°52'00" W. of Carl R. Keller Field, Port Clinton, Ohio.

[F.R. Doc. 70-15160; Filed, Nov. 9, 1970; 8:50 a.m.]

[Airspace Docket No. 70-EA-66]

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

Designation of Transition Area

On Page 13889 of the FEDERAL REGISTER for September 2, 1970 the Federal Aviation Administration published proposed

regulations which would designate a Connellsville, Pa., transition area.

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

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., January 7, 1971.

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

Issued in Jamaica, N.Y., on October 26, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Connellsville, Pa., transition area described as follows:

CONNELLSVILLE, PA.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center 39°57'35" N., 79°39'25" W. of Connellsville Airport and within 9.5 miles northwest and 4.5 miles southeast of the 230° bearing from the Connellsville, Pa. RBN 39°57'37" N., 79°39'16" W., extending from the RBN to 19.5 miles southwest of the RBN, excluding the portion that coincides with the Morgantown, W. Va., transition area.

[F.R. Doc. 70-15161; Filed, Nov. 9, 1970; 8:50 a.m.]

[Airspace Docket No. 70-EA-79]

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

Alteration of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the New Philadelphia, Ohio, transition area (35 F.R. 2232).

A change in the name of the New Philadelphia Airport, New Philadelphia, Ohio, to Harry Clever Field requires a change in the description of the transition area to reflect such change. Since the amendment involves an editorial change, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of New Philadelphia, Ohio, the amendment is herewith made effective upon publication in the FEDERAL REGISTER as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the New Philadelphia, Ohio transition area the words "New Philadelphia Airport", and insert in lieu thereof "Harry Clever Field".

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

Issued in Jamaica, N.Y., on October 14, 1970.

MARTIN J. WHITE,
Acting Director, Eastern Region.

[F.R. Doc. 70-15162; Filed, Nov. 9, 1970; 8:50 a.m.]

[Airspace Docket No. 70-WE-61]

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

Alteration of Control Zone

On October 9, 1970, F.R. Doc. 70-13523 (35 F.R. 15904) was published in the FEDERAL REGISTER which altered the description of the Seattle, Wash. (Boeing Field International), control zone. It was noted that a set of geographical coordinates were inadvertently omitted and one set was in error. Action is taken herein to correct these discrepancies.

Since this action is minor in nature and imposes no additional burden on any person, notice and public procedure hereon is unnecessary.

In consideration of the foregoing, F.R. Doc. 70-13523 (35 F.R. 15904), Seattle, Wash. (Boeing Field International), control zone is amended as follows:

1. After the geographical coordinates beginning in line 16, insert "* * * latitude 47°29'20" N., longitude 122°13'33" W., * * *"

2. In line 17, delete "* * * latitude 49°-29'20" N., * * *" and substitute "* * * latitude 47°29'20" N., * * *" therefor.

Effective date. The effective date as originally established may be retained

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

Issued in Los Angeles, Calif., on October 27, 1970.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.171 (35 F.R. 2054) the description of the Seattle, Wash. (Boeing Field International), control zone is amended to read as follows:

SEATTLE WASH. (BOEING FIELD INTERNATIONAL)

That airspace bounded by a line beginning at latitude 47°34'10" N., longitude 122°12'-40" W., to latitude 47°32'10" N., longitude 122°12'40" W., thence clockwise via an arc of a 3-mile radius circle centered on Renton Municipal Airport (latitude 47°29'35" N., longitude 122°12'50" W.) to latitude 47°27'-59" N., longitude 122°09'46" W., to latitude 47°27'38" N., longitude 122°09'24" W., to latitude 47°26'24" N., longitude 122°12'06" W., thence counterclockwise via an arc of a 5-mile radius circle centered on Seattle-Tacoma International Airport (latitude 47°-26'50" N., longitude 122°18'30" W.) to latitude 47°27'00" N., longitude 122°11'50" W., to latitude 47°28'09" N., longitude 122°13'-33" W., to latitude 47°29'20" N., longitude 122°13'33" W., to latitude 47°29'20" N., longitude 122°23'10" W., thence clockwise along an arc of a 5-mile radius circle centered on Boeing Field International Airport (latitude 47°31'45" N., longitude 122°18'00" W.) to point of beginning; within 2 miles each side of the 150° bearing from the Magnolia LOM, extending from the 5-mile radius arc to 2 miles southeast of the Magnolia LOM, excluding the portion within the Seattle, Wash. (Seattle-Tacoma International Airport), control zone, and the portion within the Renton, Wash., control zone when the Renton control zone is effective.

[F.R. Doc. 70-15163; Filed, Nov. 9, 1970; 8:50 a.m.]

[Airspace Docket No. 70-WE-70]

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

Alteration of Control Zone and Transition Area

On September 26, 1970 a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 15020) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Portland, Oreg., control zone and transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted subject to the following changes:

1. In line 18 of the transition area description, insert "area" after "* * * 23-mile radius * * *"

2. In line 21, delete "* * * 199° * * *" and insert "* * * 119° * * *"

Effective date. This amendment shall be effective 0901 G.m.t., January 7, 1971.

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

Issued in Los Angeles, Calif., on October 27, 1970.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.171 (35 F.R. 2054) the description of the Portland, Oreg., control zone is amended to read as follows:

PORTLAND, OREG.

Within a 5-mile radius of Portland International Airport (latitude 45°35'20" N., longitude 122°35'35" W.); within a 3-mile radius of the Troutdale Airport (latitude 45°33'00" N., longitude 122°23'50" W.); within 2 miles each side of the Portland VORTAC 180° radial, extending from the 5-mile radius zone to 3.5 miles south of the VORTAC; within 2.5 miles each side of the Portland Runway IOR ILS localizer northwest course, extending from the 5-mile radius zone to 1 mile northwest of the LOM, and within 3 miles each side of the 119° and 299° bearings from the Lake LOM, extending from the 5-mile radius to 8 miles southeast of the LOM, excluding the portion within the Troutdale, Oreg., control zone when the Troutdale control zone is effective.

In § 71.181 (35 F.R. 2134) the description of the Portland, Oreg., transition area, as amended by (35 F.R. 9921), is further amended by deleting all before "* * *; that airspace extending upward from 1,200 feet * * *" and substituting

therefor: "That airspace extending upward from 700 feet above the surface within a 23-mile radius of the Portland International Airport (latitude 45°35'20" N., longitude 122°35'35" W.), within a 5-mile radius of Kelso-Longview, Washington Airport (latitude 46°07'12" N., longitude 122°53'58" W.), within 2 miles each side of the 012° bearing from the Kelso, Wash., RBN (latitude 46°09'14" N., longitude 122°54'40" W.), extending from the 5-mile radius area to 8 miles north of the RBN, within 5 miles northeast and 11 miles southwest of the 299° bearing from the Sauvies RBN, extending from the 23-mile radius area to 25 miles northwest of the RBN, and within 4.5 miles northeast and 9.5 miles southwest of the 119° bearing from the Lake LOM, extending from the 23-mile radius area to 18.5 miles southeast of the LOM; * * *".

[F.R. Doc. 70-15164; Filed, Nov. 9, 1970; 8:50 a.m.]

[Airspace Docket No. 70-WE-72]

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

Alteration of Transition Area

On September 26, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 15021) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Twentynine Palms, Calif., transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., January 7, 1971.

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

Issued in Los Angeles, Calif., on October 27, 1970.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.181 (35 F.R. 2134) the description of the Twentynine Palms, Calif., transition area is amended to read as follows:

TWENTYNINE PALMS, CALIF.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Thermal Airport (latitude 33°37'40" N., longitude 116°09'45" W.), within 2 miles each side of the Thermal VORTAC 140° radial extending from the 3-mile radius area to 8 miles southeast of the VORTAC, within 2 miles each side of the Thermal VORTAC 122° radial, extending from the 3-mile radius area to 5 miles southeast of the VORTAC, and that airspace within 3 miles each side of the Thermal VORTAC 324° radial, extending from the 3-mile radius area to 16 miles northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 34°17'00" N., longitude 115°25'00" W., to latitude 33°28'00" N., longitude 115°25'00" W., to latitude 33°28'-00" N., longitude 116°18'00" W., to latitude 34°17'00" N., longitude 116°18'00" W., thence to point of beginning, excluding the portions within R-2501 and R-2507, and within 3 miles northeast and 9.5 miles southwest of the Thermal VORTAC 144° radial, extending from the southeast edge of V460 to a line 5 miles southeast of and parallel to the Julian VOR 055° radial.

[F.R. Doc. 70-15165; Filed, Nov. 9, 1970; 8:50 a.m.]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the San Juan, P.R., transition area.

The San Juan transition area is described in § 71.181 (35 F.R. 2134). In the description, reference is made to the "San Juan (SJU) RBN." Since the name of the San Juan RBN will be changed to "Dorado RBN," effective January 7, 1971, it is necessary to alter the description to reflect this change. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 7, 1971, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the San Juan, P.R., transition area is amended as follows:

"* * * San Juan (SJU) RBN * * *" is deleted and "* * * Dorado RBN * * *" is substituted therefor.

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

Issued in East Point, Ga., on October 29, 1970.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 70-15166; Filed, Nov. 9, 1970; 8:50 a.m.]

[Airspace Docket No. 70-SW-53]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Huntsville, Tex., transition area.

On September 15, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 14463) stating the Federal Aviation Administration proposed to designate the Huntsville, Tex., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 7, 1971, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the following transition area is added:

HUNTSVILLE, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Huntsville Municipal Airport (lat. 30°44'-30" N., long. 95°35'30" W.), within 3 miles each side of the Leona VORTAC 139° radial extending from the 5-mile radius area to 27.5 miles southeast of the VORTAC, and within 3.5 miles each side of the 008° bearing from the Huntsville RBN (lat. 30°44'20" N., long. 95°35'17" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

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

Issued in Fort Worth, Tex., on October 30, 1970.

GEO. W. IRELAND,
Acting Director, Southwest Region.

[F.R. Doc. 70-15167; Filed, Nov. 9, 1970; 8:50 a.m.]

[Airspace Docket No. 70-WA-36]

PART 73—SPECIAL USE AIRSPACE

Alteration of Prohibited Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to alter the designated altitudes of the Thurmont, Md., Prohibited Area P-40.

The present designated altitudes of P-40 are "Surface to and including 5,000 feet MSL." The loss of this cardinal altitude on VOR Federal airway No. 268 in the vicinity of P-40 derogates the traffic handling capability of the Washington Air Route Traffic Control Center. The unrestricted use of the 5,000-foot altitude would contribute appreciably to more efficient management of air traffic overflying P-40 to land at Baltimore, Md. Therefore, the Federal Aviation Administration is altering the designated altitudes of P-40 to read "Surface to but not including 5,000 feet MSL."

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30-days notice.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 73.90 (35 F.R. 3755, 4053) P-40 Thurmont, Md., is amended by deleting "Designated altitudes. Surface to and including 5,000 feet MSL." and substituting therefor "Designated altitudes. Surface to but not including 5,000 feet MSL."

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

Issued in Washington, D.C., on November 2, 1970.

T. McCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70-15168; Filed, Nov. 9, 1970; 8:50 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 146d — CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL - CONTAINING DRUGS

Chloramphenicol Ophthalmic Solution

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 146d.318(a) is revised to read as follows to provide for certification of the subject antibiotic ophthalmic solution with added buffer substances:

§ 146d.318 Chloramphenicol ophthalmic solution.

(a) *Standards of identity, strength, quality, and purity.* Chloramphenicol ophthalmic solution contains in each milliliter 5 milligrams of chloramphenicol with or without one or more suitable and harmless preservatives, buffer substances, and surfactants in an aqueous solution. It is sterile. Its pH is not less than 3 nor more than 6; however, if the solution is buffered, its pH is not less than 7.0 nor more than 7.5. The chloramphenicol used conforms to the requirements of § 146d.301(a) (1), (3), (6), (7), (8), and (9). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

Information supplied by the manufacturer of the subject drug has been evaluated and the Commissioner finds that providing for the addition of buffer substances raises no questions regarding the drug's safety and efficacy; therefore, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: October 21, 1970.

H. E. SIMMONS,
Director, Bureau of Drugs.

[F.R. Doc. 70-15101; Filed, Nov. 9, 1970; 8:45 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter VI—Bureau of Engraving and Printing, Department of the Treasury

PART 605—REGULATIONS GOVERNING CONDUCT ON BUREAU OF ENGRAVING AND PRINTING BUILDING AND GROUNDS AND BUREAU OF ENGRAVING AND PRINTING ANNEX BUILDING AND GROUNDS

Miscellaneous Amendments

These amendments delete from Part 605 the references to obsolete delegation orders of the Administrator of General Services and the Under Secretary of the Treasury and insert in lieu thereof references to recently revised delegation orders. In accordance with 5 U.S.C. 553(a), notice and public procedure thereon are found to be impractical, unnecessary and not required since the amendments pertain to the management of public property.

1. The authority paragraph following the table of contents is amended by deleting "32 F.R. 11968" and inserting in lieu thereof "35 F.R. 14426"; and by deleting ", 32 F.R. 17490" and inserting in lieu thereof "(Revision 1), 35 F.R. 15312". As amended, the paragraph reads as follows:

AUTHORITY: The provisions of this Part 605 issued under 5 U.S.C. 301; Delegation, Administrator, General Services, 35 F.R. 14426; Treasury Dept. Order 177-25 (Revision 1), 35 F.R. 15312.

2. Section 605.1 is amended by deleting "32 F.R. 11968 (1967)" and inserting in lieu thereof "35 F.R. 14426 (1970)"; and by deleting "dated November 28, 1967, 32 F.R. 17490 (1967)" and inserting in lieu thereon "(Revision 1), 35 F.R. 15312 (1970)". As amended, § 605.1 reads as follows:

§ 605.1 Authority.

The regulations in this part governing conduct in and on the Bureau of Engraving and Printing Building and grounds and the Bureau of Engraving and Printing Annex Building and grounds located in Washington, D.C., at 14th and C Streets SW., are promulgated pursuant to the authority vested in the Secretary of the Treasury, including 5 U.S.C. 301 and that vested in him by delegation from the Administrator of General Services, 35 F.R. 14426 (1970), and in accordance with the authority vested in the Director of the Bureau of Engraving and Printing by Treasury Department Order No. 177-25 (Revision 1), 35 F.R. 15312 (1970).

Effective date. These amendments are effective from September 4, 1970.

Dated: October 22, 1970.

[SEAL] JAMES A. CONLON,
Director, Bureau of Engraving and Printing.

[F.R. Doc. 70-15142; Filed, Nov. 9, 1970; 8:48 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

RULES OF PROCEDURE ON CONTRACT APPEALS

An implementation of the rules of procedure of the GSA Board of Contract Appeals.

PART 5A-60—CONTRACT APPEALS

Part 5A-60 is amended by deleting Subpart 5A-60.1 and adding the following new Subpart 5A-60.2:

Subpart 5A-60.2—Rules of the Federal Supply Service on Contract Appeals

AUTHORITY: The provisions of this Subpart 5A-60.2 are issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c).

Subpart 5A-60.2—Rules of the Federal Supply Service on Contract Appeals

§ 5A-60.203 Forwarding of appeals.

(a) A notice of appeal received by a contracting officer pursuant to this § 5A-60.203 shall be transmitted promptly by memorandum to the Administrator signed by the Chief of the regional Procurement Division, Director, Procurement Operations Division (POD), Director, ADP Procurement Division, or Director, Special Programs Division, as appropriate.

(b) A notice of appeal received by an official other than the contracting officer, such as the Commissioner, FSS, or a Regional Administrator may be transmitted to the Administrator by such official or it may be referred to the procurement activity involved. In the former case, a copy of the notice and the memorandum to the Administrator shall be furnished to the procurement activity involved. In the latter case, a memorandum for transmitting the notice to the Administrator shall be prepared immediately by the procurement activity for the signature of the official indicated on the correspondence control slip (or similar routing control) or, if no signatory official is designated, for signature as provided in paragraph (a) of this section.

(c) A copy of each notice of appeal and memorandum transmitting it to the Administrator shall be sent to the Assistant Commissioner for Automated Data Management Services or Chief, Contract Terminations Staff (FPNC), as appropriate, and, in the case of a notice

being transmitted by a regional procurement activity, copies shall be distributed as above and as required by regional procedures.

(d) An appropriate format for the memorandum to transmit a notice of appeal to the Administrator is exhibited in § 5A–76.308 of this chapter.

§ 5A–60.205 Appeal files.

(a) Appeal files shall be prepared and forwarded to the Assistant General Counsel—LC within 20 calendar days after receipt of the notice of appeal or advice that an appeal has been filed. Assigned counsel shall concur in the submission of the appeal files.

(b) A log and followup procedure shall be established in POD, the ADP Procurement Division, the Special Programs Division, and in each regional procurement activity to assure the timely preparation and submission of appeal files. The log record shall show, as a minimum, the name of the appellant, the date the appeal was filed, or the date the copy thereof was received, the contract number, the docket number, if available, and the name of the contracting officer.

§ 5A–60.205–1 Preparation and submission.

(a) Promptly upon receipt of the appeal or copy thereof, the contracting officer shall prepare the appeal file in triplicate, unless otherwise directed or agreed to by the GSA Board of Contract Appeals. Each such file shall be identified by the name of the appellant, the contract number, and the docket number, if available. The requirements concerning the documents to be included in the file are stated in § 5–60.205. The top document therein shall bear the title "Index" and be separate and apart from any other document. In a case where a contractor has appealed both from a determination of default and from an assessment of excess costs, the file for each appeal will contain a number of the same documents, for example, the contract. In order to reduce the cost of preparation of appeal files in such cases, contracting officers are authorized to cross-reference documents which were previously submitted to the Board. The cross-reference in the appeal file to a copy of a contract previously submitted to the Board, should, for example, include the statement "See contract number ------, docket number ------, exhibit number ------." Assigned counsel will assist the contracting officer in determining which documents are relevant and which are irrelevant to the actual issue but might be useful to the trial attorney as general background information. Documents in the latter category will be forwarded separately to the trial attorney.

(b) After examining the appeal file, the contracting officer shall prepare a memorandum of position (utilizing the sample memorandum set forth in § 5A–76.309 of this chapter as a guide) and obtain the written concurrence of assigned counsel. The memorandum of position shall also be approved by the Chief, regional Procurement Division, or the Director, ADP Procurement Division, or the Director, Special Programs Division, or POD branch chief, as appropriate. The contracting officer's memorandum of position required by this paragraph (b) is a chronological summary of the procurement and a rationale of the contracting officer's actions for information of the trial counsel. This memorandum of position shall be submitted promptly upon preparation, as a separate document, directly to the Assistant General Counsel—LC and shall not be included in the appeal file or noted in the index.

(c) When the Government's position is doubtful concerning an appeal, or if practical considerations so dictate after considering policy and precedent grounds, the appeal file may be forwarded with a notice in the transmittal memorandum (see par. (d) of this section) to the Assistant General Counsel—LC, that settlement is being considered. In such event, the contracting officer with advice of assigned counsel, shall enter into negotiations with the appellant toward possible settlement.

(d) The original and one copy of the appeal file shall be forwarded to the Assistant General Counsel—LC by memorandum prepared for the signature of the Chief, regional Procurement Division, or the Director, ADP Procurement Division, or the Director, Special Programs Division, or the Director, POD, as appropriate.

(e) A copy of each memorandum transmitting the appeal file to the Assistant General Counsel—LC shall be sent to the Assistant Commissioner for Automated Data Management Services or Chief, Contract Terminations Staff (FPNC), as appropriate, and, in the case of an appeal file being transmitted by a regional procurement activity, copies shall be distributed as above and as may be required by regional procedures.

(f) One copy of the appeal file shall be retained at the office of the contracting officer for examination by the appellant. The memorandum of position or documents not part of the appeal file, furnished separately as background information, are not for examination by the appellant.

§ 5A–60.270 Action by the Assistant General Counsel (LC).

(a) After reviewing the appeal file for adequacy, the assigned trial attorney will transmit the appeal file to the GSA Board of Contract Appeals.

(b) In a case where the trial attorney finds that the appeal file is not adequate, he will contact the contracting officer through assigned counsel.

(c) The assigned trial attorney will reevaluate the advisability of defending the appeal. Even though the contracting officer has not followed the procedure in § 5A–60.205–1(c), in doubtful cases, the trial attorney may forward the appeal file to the Board with notice that the issue is being reviewed for possible settlement. In a case where the trial attorney concludes that the Government is liable, he will immediately advise the contracting officer to initiate settlement negotiations and offer pertinent advice to the contracting officer. A copy of the trial attorney's memorandum to the contracting officer will be forwarded to the Assistant Commissioner for Automated Data Management Services or Chief, Contract Terminations Staff (FPNC), or to counsel in the regional office, as appropriate.

§ 5A–60.271 Action by the contracting officer.

In a case where the trial attorney has advised the contracting officer to initiate settlement negotiations, but the contracting officer proposes to reject such advice, he shall obtain the concurrence of the Assistant Commissioner for Procurement or the Assistant Commissioner for Automated Data Management Services, as appropriate, through appropriate channels. If the Assistant Commissioner for Procurement or the Assistant Commissioner for Automated Data Management Services, as appropriate, concurs that the appeal should be defended, the assigned trial attorney shall be so notified. However, where there is disagreement concerning the Government's position, the matter shall be submitted to the General Counsel who shall have final authority to determine the Government's position. Otherwise, the contracting officer shall be instructed to initiate settlement negotiations.

§ 5A–60.272 Settlement of appeals by mutual agreement.

(a) The contracting officer has the authority to effect settlement with the contractor at any stage of an appeal prior to the issuance of a decision by the GSA Board of Contract Appeals; however, in such event the Board shall be so notified in order that it may suspend the case.

(b) Assigned counsel will be available to the contracting officer to render any desired assistance in the negotiation of a settlement. When mutually acceptable terms have been agreed upon by the contracting officer and the contractor, a written modification of the contract shall be prepared setting forth the specific terms of the agreement, the consideration, and a requirement for a release by the contractor of all claims arising from the matter disposed of by the settlement agreement. The contractor shall also be required to withdraw the appeal by notice thereof directed to the Board.

§ 5A–60.273 Procedure following decision of the GSA Board of Contract Appeals.

(a) Decisions of the Board shall be promptly implemented. However, it must be recognized that the contractor may decide to appeal a Board decision, in an appropriate case, to the United States Court of Claims, or the Federal district court. It is also possible for either party to file a motion for reconsideration by the Board within 30 days of notice of the decision.

(b) The contracting officer need take no further action (other than administrative) if the Board affirms his original decision; provided a recovery of costs is

not due from the contractor. Where such a recovery of costs is due, repayment shall be initiated by the contracting officer either by (1) a contract amendment adjusting the contract price or (2) a written demand for immediate payment, as may be appropriate. Any written demand shall instruct the contractor to make his payment payable to the General Services Administration, and to be submitted to the appropriate GSA Accounting Center. A copy of the written demand shall be provided to the appropriate GSA Accounting Center for information and follow-up purposes.

(c) Where the Board does not uphold the decision of the contracting officer and the decision allows payment in favor of the contractor, the contracting officer will prepare a supplemental agreement, with advice of counsel, to be signed by both parties. This will ensure against further litigation of the same dispute. The contracting officer will then forward his recommendation for payment to the appropriate accounting center with the original of the supplemental agreement (for the contract file) and a copy of the decision of the Board.

PART 5A–76—EXHIBITS

The table of contents for Part 5A–76 is amended to read as follows:

Sec.
5A–76.309 Sample memorandum of the position of the contracting officer presenting a chronological summary of the procurement action.

Effective date. These regulations are effective 30 days after the date shown below.

Dated: October 29, 1970.

H. A. ABERSFELLER,
Commissioner,
Federal Supply Service.

[F.R. Doc. 70–15153; Filed, Nov. 9, 1970; 8:49 a.m.]

Chapter 8—Veterans Administration

PART 8–16—PROCUREMENT FORMS

Contract Formats

In Part 8–16, a new Subpart 8–16.95 is added to read as follows:

Subpart 8–16.95—Contract Formats

Sec.
8–16.9500 Scope.
8–16.9501 Definitions.
8–16.9502 Scarce medical specialist services.
8–16.9502–1 Use of appendixes in scarce medical specialist services contracts.
8–16.9502–2 Format for appendixes to scarce medical specialist services contracts.
8–16.9503 Exchange of use of specialized medical resources.
8–16.9503–1 Use of appendixes in exchange of use of specialized medical resources contracts.
8–16.9503–2 Format for appendixes to exchange of use of specialized medical resources contracts.
8–16.9504 Mutual use of specialized medical resources.
8–16.9504–1 Use of appendixes in mutual use of specialized medical resources contracts.
8–16.9504–2 Format for appendixes to mutual use of specialized medical resources contracts.

AUTHORITY: The provisions of this Subpart 8–16.95 issued under sec. 205(c), 63 Stat. 309, as amended; 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114; 38 U.S.C. 210(c).

Subpart 8–16.95—Contract Formats

§ 8–16.9500 Scope.

This subpart prescribes the formats that shall be utilized by Veterans Administration contracting officers, when executing contracts for the acquisition of scarce medical specialist services authorized by 38 U.S.C. 4117 and for the exchange of use or mutual use of specialized medical resources authorized by 38 U.S.C. 5053.

(a) Contracts for scarce medical specialist services may be entered into only with medical schools and clinics and must provide that the services will be rendered at VA facilities.

(b) Contracts for the exchange of use and mutual use of specialized medical resources may be entered into only with other hospitals (or medical schools or other medical installations having hospital facilities) in the medical community.

(c) When because of special conditions or circumstances it is essential that certain terms and conditions, other than those specified herein, be incorporated in a contract for these services or resources, the contracting officer shall develop the special terms and conditions and incorporate them in the proposed contract.

(d) Contracts specified in paragraphs (a) and (b) of this section will be entered into for a period of 1 year only. They shall not be renewed, but may be renegotiated. The renegotiated proposal, together with supporting justification, will be submitted to Central Office for approval by the Chief Medical Director or his designee.

§ 8–16.9501 Definitions.

The terms "clinic" and "medical specialist" have been defined by the Comptroller General in his decision B169747, dated June 24, 1970, to the Administrator. Therefore, as used in this subpart, they have the following meanings:

(a) *Clinic.* Any medical organization which is capable of contracting for and furnishing the services in question.

(b) *Medical Specialist.* Includes any professional or technician who performs specialist services related to providing medical care and attention.

§ 8–16.9502 Scarce medical specialist services.

The _____[1] (hereinafter called the Contractor) agrees, in accordance with the terms and conditions stated herein, to furnish to and at the Veterans Administration Hospital _____[2] (hereinafter called the VA) the services specified and at the prices specified in the appendixes attached to this contract. The initial listing of services to be furnished shall be identified as "Appendx A," and each succeeding appendix as "Appendix B", "Appendix C", etc. Each such appendix shall be attached to and become a part of this contract.

1. *Services.* a. The services specified in any of the attached appendixes may be added to or terminated by written amendment to this contract. The amendment will be prepared by the VA Contracting Officer and, prior to becoming effective, shall be approved by the VA Chief Medical Director or his designee.

b. The personnel furnished by the Contractor to perform the services specified herein may be any combination of full-time assignments, consultants and attendings necessary to provide full and complete technical and/or professional direction in cooperation with the total medical staff coverage of all functions contracted for.

c. All other necessary personnel for the operation of the services contracted for at the VA will be provided by the VA at levels mutually agreed upon which are compatible with the safety of the patient and personnel and with quality medical care programming.

d. The services to be performed by the Contractor will be performed within the VA policies and procedures and the regulations of the medical staff bylaws of the hospital.

e. The services to be performed by the Contractor will be under the direction of _____,[3] VA Hospital _____[3]

2. *Term of contract.* This contract when accepted by the Contractor and the VA Contracting Officer shall be effective from _____[3] through _____.[3]

3. *Termination.* This contract will remain in force during the period stated unless terminated at the request of either party after thirty (30) days' notice in writing. To the extent that this contract is so terminated, the VA will be liable only for payment in accordance with the payment provisions of this contract for services rendered prior to the effective date of termination.

4. *Payment.* Payment for services rendered by the Contractor will be made _____[4] on receipt of a properly executed invoice.

5. *Qualifications.* The physicians assigned by the Contractor to perform the services covered by this contract shall be licensed in a State, Territory, or Commonwealth of the United States or the District of Columbia. The qualifications of such personnel shall also be subject to review by the VA Chief of Staff and approval by the VA Hospital Director.

6. *Workdays.* a. The services covered by this contract shall be furnished by the Contractor on all workdays. The Contractor will not be required, except in case of an emergency, to furnish such services on a national holiday or during nonworking hours.

b. The following terms as used herein have the following meaning:

(1) Workday—Monday through Friday, 8 a.m. to 4:30 p.m.

(2) National Holiday—The nine holidays observed by the Federal Government, i.e., New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving, and Christmas. Also any other day specifically declared by the President of the United States to be a national holiday.

[1] Enter University Medical School or Clinic.
[2] Enter address of VA hospital.
[3] Enter the title of the VA official under whose direction each service will be performed.
[4] Enter frequency, e.g., monthly, quarterly, etc.
[5] Enter beginning and ending dates.

(3) Nonworking hours—Monday through Friday, 4:30 p.m. to 8 a.m. and all Saturdays and Sundays.

7. *Personnel policy.* The Contractor shall assume full responsibility for the protection of his personnel furnishing services under this contract, in accordance with the personnel policy of the Contractor, such as providing workmen's compensation, insurance, health examinations, and social security payments. Such personnel shall not be considered VA employees for any purpose.

8. *Officials not to benefit.* No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

9. *Equal opportunity.* a. The Contractor agrees that he will furnish the services covered by this contract to any beneficiary of the VA without regard to the race, color, religion, sex or national origin of such beneficiary.

NOTE: When it is determined by the VA Contracting Officer that the funds to be expended by the VA under this contract will exceed $10,000, the following clauses shall be included in the contract:

b. VA Form 07-2135, Equal Opportunity Clause for Government Contracts, is attached to and made a part of this contract.

c. Certification of Nonsegregated Facilities. By affixing his signature to this contract the Contractor certifies that he does not and will not maintain or provide, for his employees at any of his establishments, facilities which are segregated on the basis of race, color, religion or national origin. The term "segregated facilities" as used herein means those facilities specified in 41 CFR 1-12.803-10(d)(1).

NOTE: When it is determined by the VA Contracting Officer that the funds to be expended by the VA under this contract will exceed $50,000 and that the Contractor has in his employ 50 or more employees, the following clause shall be included in the contract:

d. Affirmative Action Compliance Program.

(1) The Contractor shall, within 120 days after the award, develop and maintain a separate written affirmative action compliance program for each of his establishments. The Contractor shall require each Subcontractor having 50 or more employees, to whom he awards a subcontract amounting to $50,000 or more, to develop and maintain a separate written affirmative action compliance program for each of his establishments. This program shall be developed within 120 days after such an award.

(2) Each affirmative action program shall be developed in conformity with the Rules and Regulations of the Office of Federal Contract Compliance, U.S. Department of Labor (Title 41, Part 60-2, Chapter 60, Code of Federal Regulations). Each program shall be maintained at the local office responsible for personnel matters of the particular establishment and shall be made available for inspection by representatives of the Office of Federal Contract Compliance, or such agency as may be designated as the Compliance Agency, upon request.

(3) The offeror certifies by completing whichever of the following is appropriate that he regularly employs:

(i) ☐ Less than 50 employees.

(ii) ☐ 50 or more employees and maintains a written affirmative action program for each of his establishments in accordance with Title 41, Part 60-2, Chapter 60 of the Code of Federal Regulations

(iii) ☐ 50 or more employees and agrees to develop, within 120 days after award of this contract, a written affirmative action program for each of his establishments in accordance with Title 41, Part 60-2, Chapter 60 of the Code of Federal Regulations.

10. *Disputes.* a. Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Administrator of Veterans Affairs. The decision of the Administrator or his duly authorized representative for the determination of such appeal shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal.

Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

b. This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph a above: *Provided*, That nothing in this contract shall be construed as making final the decision of any administrative official, representatives, or board on a question of law.

11. *Contingent fee.* The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability, or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

12. *Contractor represents.* a. The Contractor represents (1) that he ☐ has, ☐ has not, employed or retained any company or person (other than a full-time bona fide employee working solely for the Contractor) to solicit or secure this contract, and (2) that he ☐ has, ☐ has not, paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the Contractor) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of this contract; and agrees to furnish information relating to (1) and (2) above as requested by the Contracting Officer. The term "bona fide employee" as used herein is as specified in Title 41, Chapter 1, Subpart 1-1.5 of the Code of Federal Regulations.

b. The Contractor represents that he ☐ has, ☐ has not, participated in a previous contract or subcontract subject to the Equal Opportunity Clause herein and Executive Order No. 11246 of September 24, 1965; and he ☐ has, ☐ has not, filed all required compliance reports; and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards.

13. *Examination of records.* The following clause shall be included in all contracts in which the cost to the VA will exceed $2,500:

EXAMINATION OF RECORDS

The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to this contract.

14. *Authority.* This contract is entered into under the authority of 38 U.S.C. 4117, and is negotiated under the authority of § 1-3.204 of the Federal Procurement Regulations.

Approved and accepted for

By ---

(Title) (Date)

Approved and accepted for Veterans Administration

By ---

(Title) (Date)

§ 8-16.9502-1 Use of appendixes in scarce medical specialist services contracts.

a. The initial services and the cost of each service to be rendered by the contractor will be listed in the format illustrated in § 8-16.9502-2, designated "Appendix A" and made a part of the contract. Each succeeding listing which either adds to or deletes from the initial or subsequent listings will be covered by a contract amendment and will be designated as "Appendix B", "Appendix C", etc.

b. In negotiating the cost to be paid by the Veterans Administration for each service furnished by the contractor, contracting officers will assure themselves that the prices charged are equitable and just.

§ 8-16.9502-2 Format for appendixes to scarce medical specialist services contracts.

SCARCE MEDICAL SPECIALIST SERVICES TO BE FURNISHED BY THE GEORGE WASHINGTON UNIVERSITY MEDICAL SCHOOL TO THE VETERANS' ADMINISTRATION HOSPITAL, 50 IRVING STREET, WASHINGTON, D.C.

Services	*Cost*
1. Furnish the services of ---[1] full-time equivalent radiologists to perform necessary radiological service which will include but not be limited to: (1) Consultations referable to radiology. (2) Fluroscopy. (3) Interpretation of radiographic interpretations.	([2])
2. Furnish the services of ---[1] full-time equivalent physicians to perform necessary pathological service, which will include but not be limited to: (1) Providing professional direction of the support personnel employed by the VA hospital. (2) Anatomic and clinical pathology. (3) Participation in conferences and clinical teaching.	([2])

[1] Enter number of full-time equivalent specialists to be contracted for.

[2] Enter cost of each service.

§ 8–16.9503 Exchange of use of specialized medical resources.

The Veterans Administration Hospital _____[1] (hereinafter called the VA) and the _____[2] (hereinafter called the _____[2]) agree, in accordance with the terms and conditions of this contract, to furnish to each other the resources as specified in the appendixes attached to this contract. The initial listing of resources shall be identified as "Appendix A" and each succeeding appendix as "Appendix B", "Appendix C", etc. Each such appendix shall be attached to and become a part of this contract.

1. *Resources.* a. The resources specified in any of the attached appendixes may be added to or terminated by written amendment to this contract. The amendment will be prepared by the VA Contracting Officer and, prior to becoming effective, shall be approved by the VA Chief Medical Director or his designee and the Contracting Officer of the _____.[3]

b. The resources specified in the appendixes to this contract shall be furnished by the VA, subject to the limitations in paragraph 6 hereof, and the _____[3] when requested by means of an individual written request which has been authorized by _____[3] or their authorized designees.

2. *Period covered.* This contract when accepted by the Contractor and the VA Contracting Officer shall be effective from _____[4] through _____.[4]

3. *Termination.* This contract will remain in force during the period stated unless terminated at the request of either party after thirty (30) days' notice in writing. To the extent that this contract is so terminated, each party will be liable only for payment in accordance with the payment provisions of this contract for services rendered prior to the effective date of termination.

4. *Payment.* a. Each party hereto agrees to reimburse the other on a unit basis for resources furnished at the prices listed in the appendixes to this contract.

b. Payment of sums due each party will be paid _____[5] upon submission and receipt of properly prepared invoice by the _____[3] or a Standard Form 1114 by the VA.

c. Billings rendered by the _____[3] to the VA for services furnished a VA beneficiary under the terms of this contract shall be billings in full. Neither the beneficiary, his insurer nor any other third party shall be billed.

d. Net payment procedures, when approved by both Contracting Officers, may be used. Under this arrangement, payment will be made by either party to this contract only for the net difference between the amount due for resources furnished and resources received, i.e., if either party receives resources which require payment in excess of the amount of reimbursement due from the other party only the net difference will be paid. Itemized billings will be submitted by each party for resources furnished.

5. *Qualifications.* The physicians furnished by the parties to this contract must be licensed to practice in a State, Territory, or Commonwealth of the United States or the District of Columbia.

6. *Use of VA facilities.* To preclude the possibility of denying or delaying the care and treatment of an eligible veteran, VA facilities will be shared only to the extent that there will be no reduction in the service to the veteran.

7. *Exchange of data.* Clinical or other medical records pertaining to the patients shall be exchanged.

8. *Officials not to benefit.* No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

9. *Equal opportunity.* a. Each party to this contract agrees to furnish the resources specified in the appendixes hereto without regard to the race, color, religion, sex or national origin of the person for whom such resources are ordered.

NOTE: When it is determined by the VA Contracting Officer that the funds to be expended by the VA under this contract will exceed $10,000, the following clauses shall be included in the contract:

b. VA Form 07–2135, Equal Opportunity Clause for Government Contracts, is attached to and made a part of this contract.

c. Certification of Nonsegregated Facilities. The Contracting Officer of the _____[3] certifies that the _____[3] does not and will not maintain or provide for their employees at any of their establishments, facilities which are segregated on the basis of race, color, religion or national origin. The term "segregated facilities" as used herein means those facilities specified in 41 CFR 1–12.803–10(d)(1).

NOTE: When it is determined by the VA Contracting Officer that the funds to be expended by the VA under this contract will exceed $50,000 and that the _____[3] has in its employ 50 or more employees, the following clause shall be included in the contract.

d. Affirmative Action Compliance Program.

(1) The _____[3] shall develop and maintain, within 120 days after the award of this contract, a separate written affirmative action compliance program for each of its establishments. The _____[3] shall require each Subcontractor having 50 or more employees to whom a subcontract, amounting to $50,000 or more, is awarded to develop and maintain within 120 days after the award of such subcontract, a separate written affirmative action compliance program for each of the Subcontractor's establishments.

(2) Each affirmative action program shall be developed in conformity with the Rules and Regulations of the Office of Federal Contract Compliance, U.S. Department of Labor (Title 41, Part 60–2, Chapter 60, Code of Federal Regulations). Each program shall be maintained at the local office responsible for personnel matters of the particular establishment and shall be made available for inspection by representatives of the Office of Federal Contract Compliance, or such agency as may be designated as the Compliance Agency, upon request.

(3) The offeror certifies by completing whichever of the following is appropriate that he regularly employs:

(i) ☐ Less than 50 employees.

(ii) ☐ 50 or more employees and maintains a written affirmative action program for each of his establishments in accordance with Title 41, Part 60–2, Chapter 60 of the Code of Federal Regulations.

(iii) ☐ 50 or more employees and agrees to develop, within 120 days after award of this contract, a written affirmative action program for each of his establishments in accordance with Title 41, Part 60–2, Chapter 60 of the Code of Federal Regulations.

10. *Disputes.* a. In the event a dispute concerning a question of fact arises under this contract, which cannot be resolved by mutual agreement between the respective Contracting Officers, the _____[2] agrees to abide by the following procedures.

(1) The appropriate Contracting Officer shall render a decision in the disputed matter. The decision will be identified as a final decision, be in writing, and include a statement of facts in sufficient detail to enable the opposite Contracting Officer to fully understand the decision and the basis on which it was made. It will be in the form of a statement of the claim or other description of the dispute with necessary references to the pertinent contract provisions. It will set forth those facts relevant to the dispute with which the Contracting Officers are in agreement and, as clearly as possible, the area of disagreement. It shall also contain the following:

"The Veterans Administration Contract Appeals Board (VACAB) is the authorized representative of the Administrator for hearing and determining such disputes. The rules of the VACAB are published in § 1.774, Title 38, Code of Federal Regulations."

(2) The decision of the Contracting Officer shall be final and conclusive unless, within 30 days after the receipt of a final decision, the Contracting Officer to whom the decision was rendered mails or otherwise furnishes to the rendering Contracting Officer a written appeal from the decision. The written appeal shall be addressed to the Administrator of Veterans Affairs.

(3) The decision of the VACAB with respect to the disputed matter shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence.

b. Pending final decision of a dispute hereunder, the parties shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

c. This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph a(1) above: *Provided*, That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

11. *Contingent fee.* The Contracting Officers warrant that no person or selling agency has been employed or retained to solicit or secure this agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the parties for the purpose of acquiring business. For breach or violation of this warranty, the parties shall have the right to annul this agreement without liability, or, in its discretion, to deduct from the agreed price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

12. *Examination of records.* The following clause shall be included in all contracts in which the cost to the VA will exceed $2,500:

EXAMINATION OF RECORDS

The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to this contract.

13. *Authority.* This contract is entered into under the authority of 38 U.S.C. 5053 and is

[1] Enter the address of the VA Hospital.
[2] Enter the name of the Hospital, University Medical School or Medical Installation.
[3] Enter the title of the Authorizing Official of each party to the contract.
[4] Enter the beginning and ending dates.
[5] Enter frequency, i.e., monthly, quarterly, etc.

negotiated under the authority of § 1–3.204 of the Federal Procurement Regulations.

Approved and accepted for

By ---

(Title) (Date)
Approved and accepted for Veterans Administration
By ---

(Title) (Date)

§ 8–16.9503–1 Use of appendixes in exchange of use of specialized medical resources contracts.

a. The initial resources and the cost of each such resource will be listed in the format illustrated in § 8–16.9503–2, designated "Appendix A" and made a part of the contract. Each succeeding listing which either adds to or deletes from this listing will be covered by a contract amendment and will be designated as "Appendix B", "Appendix C", etc.

b. In negotiating the cost to be paid by each party to the contract for each resource furnished, contracting officers will be guided by the provisions of 38 U.S.C. 5053(b) which states in part:

"Arrangements entered into under this section shall provide for reciprocal reimbursement based on a charge which covers the full cost of services rendered, supplies used, and including normal depreciation and amortization costs of equipment."

§ 8–16.9503–2 Format for appendixes to exchange of use of specialized medical resources contracts.

EXCHANGE OF USE OF SPECIALIZED MEDICAL RESOURCES BETWEEN THE VETERANS ADMINISTRATION HOSPITAL, WASHINGTON, D.C. AND THE WASHINGTON HOSPITAL CENTER, WASHINGTON, D.C.

Resource	Estimated quantity	Cost
1. Maintenance Hemodialysis. Treatments for end-stage renal failure consisting of one or more weekly dialysis as indicated.	10	(1) per patient.
2. Special Laboratory Procedures. Complex tests required to thoroughly evaluate VA patients with suspected or proven Endocrine Disease. To include, but not be limited to the following:	30 per month	(1) per month.
URINE:		
17-hydroxycorticosteroids (Porter-Silber).		
17-ketosteroids.		
Aldosterone.		
Pregnanediol.		
Pregnanetrial.		
Estrogens (total estrogens and 'one, 'dial, and 'trial).		
Gonadotropins, total.		
BLOOD:		
17-hydroxycorticosteroids (Porter-Silber).		
Cortisone.		
Testosterone.		
Aldosterone.		
Progesterone.		
3. RADIATION THERAPY.		
a. Deep radiation therapy including cobalt and cesium regardless of the number of treatments for the entire treatment program.	12 patients per month.	(1).
b. Surface therapy including (1) interstitial bore, (2) intracavitary radiation, and (3) categories, which include gold seeds, radium seeds, applicators, etc., each per treatment program.		

[1] Enter cost which has been negotiated.

RESOURCES TO BE FURNISHED BY VA HOSPITAL, WASHINGTON, D.C.

Resource	Estimated quantity	Cost
1. Cardiac Catheterization. To include (1) the recording of intravascular pressures, (2) the measurement of oxygen content and saturation of blood samples taken from the chambers of the heart, (3) the measurement of cardiac output by the Fick principle, (4) the recording of indicator dilution curves, and (5) selective angiocardiographic studies.		
(a) With large angio film	5 per month	(1).
(b) Without large angio film	5 per month	(1).
2. Special Laboratory Procedure. Thyroxine in blood by displacement (Murphy-Pattee Method) and resin sponge uptake of T3. This is an isotope procedure available in the VA radioisotope laboratory.	20 per month	(1).
3. Esophageal Motility Procedures. The VA Hospital has a well-staffed and equipped laboratory for the study of pressures in the pharynx and esophagus and the response of these organs to swallowing. Tests are very helpful in patients complaining of dysphagia, substernal pain and heartburn related to gastric reflux. It is useful in evaluation, preoperatively as well as postoperatively, in patients with hiatal hernia. Its importance to both veteran and nonveteran patients is enormous when related to the fact that it is helpful in the diagnosis of a variety of patients with problems in such fields as gastroenterology, cardiology, rheumatology and dermatology. Each procedure includes physician interpretation, technician and supplies.	15 per month	(1).

[1] Enter cost which has been negotiated.

§ 8–16.9504 Mutual use of specialized medical resources.

The Veterans Administration Hospital ---[1] (hereinafter called the VA) agrees, in accordance with the terms and conditions stated herein, to permit the ---[2] (hereinafter called the Contractor) to utilize the specialized medical resources listed in the appendixes to this contract at the prices specified therein. The initial listing of resources available to the Contractor shall be designated "Appendix A" and each succeeding appendix which either adds to or deletes from the resources available to the Contractor shall be designated as "Appendix B", "Appendix C", etc. Each appendix shall be attached to and become a part of this contract.

1. *Resources.* a. The resources listed in any of the attached appendixes may be added to or terminated by written amendment to this contract. The amendment will be prepared by the VA Contracting Officer and, prior to becoming effective, shall be approved by the Chief Medical Director or his authorized designee.

b. The resources specified in the appendixes to this contract shall be made available to the Contractor subject to the limitations in paragraph 5 hereof when requested by means of an individual written request, which has been authorized by ---[3] or his authorized designee.

2. *Period covered.* This contract when accepted by the Contractor and the VA Contracting Officer shall be effective from ---[4] through ---.[4]

3. *Termination.* This contract will remain in force for the period stated herein unless terminated at the request of either party after thirty (30) days' notice in writing. If this contract is so terminated the Contractor shall be liable only for payment for the resources he has used from the date of last service for which he has been billed by the VA, through the effective date of such termination.

4. *Payment.* Payment of sums due the VA will be paid ---[5] by the Contractor on submission of a properly prepared Standard Form 1114 by the VA.

5. *Use of VA resources.* To preclude the possibility of denying or delaying the care and treatment of an eligible veteran, VA resources will be used by the Contractor only to the extent that there will be no reduction in service to a veteran.

6. *Exchange of data.* Clinical or other medical records pertaining to the patients shall be exchanged.

7. *Disputes.* Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by mutual agreement shall be decided by the VA Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish such decision to the Contractor. The decision of the VA Contracting Officer shall be final and conclusive unless, within 30 days from the receipt of such decision, the Contractor furnishes to the VA Contracting Officer a written appeal addressed to the Administrator of Veterans Affairs. The decision of the Administrator or his duly authorized representative for the determination of such appeal shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal.

b. This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph a above: *Provided*, That nothing in this contract shall be construed as making

[1] Enter the address of the VA Hospital.

[2] Enter the Hospital, University Medical School or Clinic whichever is appropriate.

[3] Enter title of the authorizing official.

[4] Enter beginning and ending dates.

[5] Enter frequency, i.e., monthly, quarterly, etc.

final the decision of any administrative official, representatives, or board on a question of law.

c. The representative of the Administrator of Veterans Affairs to render decisions, in disputes arising under this clause, is the Veterans Administration Contract Appeals Board.

8. *Equal opportunity.* The resources of the VA covered by this contract shall be made available to the Contractor without regard to the race, color, religion, sex, or national origin of the Contractor's patients.

9. *Authority.* This contract is entered into under the authority of 38 U.S.C. 5053 and is negotiated under the authority of FPR 1-3.204.

Approved and accepted for
By _____
_____
(Title) (Date)

Approved and accepted for
Veterans Administration
By _____
_____
(Title) (Date)

§ 8-16.9504-1 Use of appendixes in mutual use of specialized medical resources contracts.

a. The initial resources available for use by the Contractor and the cost of each such resource will be listed in the format illustrated in § 8-16.9504-2, designated "Appendix A" and made a part of the contract. Each succeeding listing which either adds to or deletes from this listing will be covered by a contract amendment and will be designated as "Appendix B", "Appendix C", etc.

b. In negotiating the cost to be paid by the Contractor for the use of these resources, Contracting Officers will be guided by the provisions of 38 U.S.C. 5053(b) as set forth in § 8-16.9503-1(b).

§ 8-16.9504-2 Format for appendixes to mutual use of specialized medical resources contracts.

MUTUAL USE OF SPECIALIZED MEDICAL RESOURCES BY THE VETERANS ADMINISTRATION HOSPITAL, WASHINGTON, D.C., AND WASHINGTON HOSPITAL CENTER, WASHINGTON, D.C.

Resource	*Cost*
1. Electroencephalograph tracing	(1)
2. Analyze and give results on:	
a. Brain Scan with TC99m	(1)
b. Thyroid uptake and Scan with 131I	(1)
c. Trisosorb 125-T3	(1)
d. Blood Volumes with 131 RISA and 51 Cr	(1)

[1] Enter the cost which has been negotiated for each resource.

These regulations are effective immediately.

Approved: November 2, 1970.

By direction of the Administrator.

FRED B. RHODES,
Deputy Administrator.

[F.R. Doc. 70-15055; Filed, Nov. 9, 1970; 8:45 a.m.]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Subpart 101-47.2—Utilization of Excess Real Property

CONDITIONS ON APPROVALS OF WITHDRAWAL OF EXCESS REAL PROPERTY

Section 101-47.203-10 is revised to provide that GSA may impose appropriate conditions when approving the withdrawal of excess real property by the reporting agency.

Section 101-47.203-10 is revised to read as follows:

§ 101-47.203-10 Withdrawals.

Subject to the approval of GSA, and to such conditions as GSA considers appropriate, reports of excess real property may be withdrawn in whole or in part by the reporting agency at any time prior to transfer to another Federal agency or prior to the execution of a legally binding agreement for disposal as surplus property. Requests for withdrawals shall be addressed to the GSA regional office where the report of excess real property was filed.

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

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: November 3, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70-15152; Filed, Nov. 9, 1970; 8:49 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER G—PREVENTION, CONTROL, AND ABATEMENT OF AIR POLLUTION

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Metropolitan Tulsa Intrastate Air Quality Control Region

On June 23, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 10228) to amend Part 81 by designating the Metropolitan Tulsa Intrastate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on July 7, 1970. Due consideration has been given to all relevant material presented with the result that Mayes, Muskogee, Nowata, Okmulgee, Rogers, Wagoner, and Washington Counties have been added to the region.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, section 81.79, as set forth below, designating the Metropolitan Tulsa Intrastate Air Quality Control Region, is adopted effective on publication.

§ 81.79 Metropolitan Tulsa Intrastate Air Quality Control Region.

The Metropolitan Tulsa Intrastate Air Quality Control Region (Oklahoma) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302 (f) of the Clean Air Act, 42 U.S.C. 1857h (f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oklahoma:

Creek County.	Pawnee County.
Mayes County.	Rogers County.
Muskogee County.	Tulsa County.
Nowata County.	Wagoner County.
Okmulgee County.	Washington County.
Osage County.	

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: October 5, 1970.

B. J. STEIGERWALD,
Acting Commissioner, National Air Pollution Control Administration.

Approved: October 29, 1970.

ELLIOT L. RICHARDSON,
Secretary.

[F.R. Doc. 70-15076; Filed, Nov. 9, 1970; 8:45 a.m.]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Albuquerque-Mid-Rio Grande Intrastate Air Quality Control Region

On July 21, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 11636) to amend Part 81 by designating the Metropolitan Albuquerque Intrastate Air Quality Control Region, hereafter referred to as the Albuquerque-Mid-Rio Grande Intrastate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. .857c-2(a)) was held on June 29, 1970. Due consideration has been given to all relevant material presented, with the result that the region has been renamed the Albuquerque-Mid-Rio Grande Intrastate Air Quality Control Region.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, section 81.83, as set forth below, designating the Albuquerque-Mid-Rio Grande Intrastate Air Quality Control Region, is adopted effective on publication.

§ 81.83 Albuquerque-Mid-Rio Grande Intrastate Air Quality Control Region.

The Albuquerque-Mid-Rio Grande Intrastate Air Quality Control Region (New Mexico) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302 (f) of the Clean Air Act, 42 U.S.C. 1857h (f)) geographically located within the outermost boundaries of the area so delimited):

In the State of New Mexico:
Bernalillo County in its entirety.
Those portions of Sandoval, Santa Fe, Socorro, and Valencia Counties included within the Middle Rio Grande Air Shed as defined in Air Shed Regulation No. 1 adopted by the New Mexico Board of Public Health, December 29, 1967.

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: October 9, 1970.

ROBERT PERMAN,
Acting Commissioner, National Air Pollution Control Administration.

Approved: October 29, 1970.

ELLIOT L. RICHARDSON,
Secretary.

[F.R. Doc. 70-15075; Filed, Nov. 9, 1970; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4936]

[Colorado 8282]

COLORADO

Exclusion of Lands From National Forests

By virtue of the authority vested in the President by section 1 of the Act of June 4, 1897, 30 Stat. 34, 36, 16 U.S.C. § 473 (1964), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The following described lands are hereby excluded from the White River National Forest:

SIXTH PRINCIPAL MERIDIAN

T. 2 S., R. 81 W.,
Secs. 2, 3, 10, and 11, all those lands situated west of Gore Divide.
T. 3 S., R. 84 W.,
All lands in the township that are currently within national forest boundaries.

The areas described aggregate approximately 19,900 acres in Eagle County of which the N½SW¼ and the SW¼SW¼, sec. 10, T. 2 S., R. 81 W., are patented.

The following described lands are hereby excluded from the Arapaho National Forest:

SIXTH PRINCIPAL MERIDIAN

T. 2 S., R. 80 W.,
Sec. 6, lots 8 to 11, inclusive.
T. 2 S., R. 81 W.,
Secs. 1 and 12;
Secs. 2, 3, and 11, all those lands situated east of the Gore Divide.

These areas described aggregate approximately 1963 acres in Summit County of which lot 4, SW¼NW¼, W½SW¼, SE¼SW¼, sec. 1, lots 1 and 2, S½NE¼, NE¼SE¼, sec. 2, and the NE¼ and E½SE¼, sec. 12, T. 2 S., R. 81 W., are patented.

2. The public lands described in paragraph 1 of this order excluded from the White River and Arapaho National Forests, shall become subject to the jurisdiction and administration of the Secretary of the Interior at 10 a.m. on January 1, 1971. Subject to valid existing rights, and the provisions of existing withdrawals, the public lands shall be open to the operation of the public land laws generally at 10 a.m. on August 6, 1971. All valid applications received at or prior to 10 a.m. on August 6, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The public lands have been and continue to be open to applications and offers under the mineral leasing laws and to location under the U.S. mining laws.

3. Livestock grazing use heretofore authorized under Forest Service permits on the public lands excluded from the above mentioned national forests, will be recognized by the Bureau of Land Management, and such grazing use will be authorized by the Bureau of Land Management under the regulations in 43 CFR 4111.3-2(d), when the transfer of the jurisdiction of the lands provided by this order becomes final.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, 15019 Federal Building, Denver, Colo. 80202.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 3, 1970.

[F.R. Doc. 70-15105; Filed, Nov. 9, 1970; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter V—National Highway Safety Bureau, Department of Transportation

[Docket No. 70-12; Notice No. 2]

PART 574—TIRE IDENTIFICATION AND RECORD KEEPING

On July 23, 1970, a notice of proposed rulemaking was published in the FEDERAL REGISTER (35 F.R. 11800) concerning tire identification and record keeping. As the notice indicated, the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1381 et seq. (hereafter the Act) had been amended on May 22, 1970, to require manufacturers and brand name owners of new and retreaded motor vehicle tires to maintain records of the names and addresses of the first purchaser in order to facilitate notification to that purchaser in the event tires were found to be defective or not to comply with an applicable Federal motor vehicle safety standard. The amendment to the Act also authorized the Secretary to establish procedures to be followed by manufacturers, distributors and dealers of new and retreaded tires in maintaining first purchaser records.

In response to the notice, some 80 comments has been received from interested persons. All comments received have been considered. Some are discussed below. The fact that a specific point raised in the comments is not mentioned herein does not mean that it was not considered. Several commenters requested to meet with Bureau personnel concerning the proposed requirements. Due to the congressional mandate for the issuance of these procedures, it was impossible to meet with all commenters. Their comments were nevertheless given due consideration and the rule reflects the adoption of many of the points with respect to which meetings had been requested.

One comment recommended that the purpose and scope section in the notice (§ 574.1) be changed to delete the reference to distributors, because, by definition in the Act, distributors do not sell tires to first purchasers. The reference to distributors has not been deleted from the purpose and scope section nor from the remainder of the regulation because the Act defines a distributor as a person "primarily engaged in the sale and distribution of motor vehicles or motor vehicle equipment for resale." Thus, a distributor, for the purposes of the Act, may also be selling tires to first purchasers. Another comment pertaining to this section asked that it be made clear that distributors and dealers do not maintain the records of tire purchasers but simply record and report this information to the tire manufacturer. Section 574.1 has been modified in accordance with this recommendation.

Several comments requested that the proposed definition section of the regulation be amended to add a definition for "mileage contract purchasers" and that mileage contract tires be exempted from this regulation because these tires are always under the control of the manufacturer. A definition for the mileage contract purchaser has been added to § 574.2 and persons manufacturing tires for mileage contract purchasers are not required to meet the tire identification or recordkeeping requirements if these tires are marked in accordance with § 574.4.

Some commenters requested that the definition proposed for "tire brand name owner" be changed to take into consideration persons who license others to use their brand name and purchasing

groups who own, or have the right to control, a brand name. This recommendation has been accepted and the definition of "brand name owner" has been modified accordingly in § 574.2.

Many tire manufacturers requested that the identification number be located on only one sidewall of the tire rather than both sidewalls. The reasons given for this request were that having the identification number on one sidewall was sufficient for record keeping purposes and requiring the identification number on both sidewalls would create a serious safety hazard for the machine operator in that the operator would have to work inside the jaws of each open tire press in order to position identification plates on both sidewalls. Several comments noted that the unions had objected to its members working under those conditions. Since first purchasers will, in the event of a tire recall, receive direct notification from the manufacturer by way of certified mail and in view of the production hazards involved, it has been decided to require that the identification number be located on only one sidewall of the tire.

Many persons commented on the order of the symbol groupings in the identification number. Some recommended that the first grouping be for the date because this is the group that is most often changed. Others recommended that the symbol for the date be the last grouping for substantially the same reason. In addition, many manufacturers requested that the date code be in alpha-numeric form in the interest of reducing the date identification symbol to two digits. The location for the date symbol has been changed to the last grouping so that the stencil plate can be more easily changed. The code system for the date identification has not been changed to an alpha-numeric system because it would tend to be confusing, and a retreader would not be able to easily determine the age of the casing to be retreaded. However, in the interest of shortening the stencil plate, the digit representing the decade of manufacture has been dropped. As a result, the date is now identified by three digits instead of four.

Several other changes have been made as a result of complaints that, under the proposed rule, the stencil plate would be too long and not readily interchangeable. Tires that have less than a 13-inch bead diameter may use letters five-thirty seconds of an inch instead of one-quarter of an inch high; a dash or space is no longer required between the manufacturer's identification mark and the tire size and between the optional code and the date of manufacture; the manufacturer's optional tire code does not have to be reported to the Bureau and there are no restrictions placed on the optional code other than requiring that, if the tire is a brand name tire, the brand name owner's identification mark be included in the optional code; if no optional code is used, or if an optional code of less than three digits is used, then the grouping identifying the date of manufacture can be moved to the area specified for the optional code; and the "DOT" symbol, which represents the manufacturer's certification that his tire complies with an applicable Federal motor vehicle safety standard, can be placed alongside, above, or below the identification number as long as it is located within one-quarter inch to one-half inch from the number. In addition, the location of the identification number for retreaded tires is less restrictive than it was in the notice and the "DOT" symbol will only be required on tires for which there is a Federal motor vehicle safety standard applicable.

Many comments complained of the requirement that the identification number be in "Futura Bold" because existing stencils are "Futura Modified", "Futura Condensed", or "Gothic". One vehicle manufacturer requested that the requirement be changed to permit a type print which would be more adaptable to an automation system. In the interest of maintaining a type of print that is easily readable, yet allowing manufacturers to have a choice, the requirement has been changed to allow "Futura Bold", "Futura Condensed", "Futura Modified", and "Gothic" type print. Other print types will be permitted if approved by the Bureau.

Some comments requested the letters "S" and "O" not be used in the identification number because they can be confused with the numbers 5 and zero. This recommendation has been adopted. No manufacturer's identification mark or tire size identification will contain these letters and the number "0" will be used only for identifying the date of manufacture.

Many comments received requested that the proposed requirement that the identification number be permanently molded onto or into the tire 0.025 to 0.040 inches deep should be changed to allow the number to be 0.010 inches deep. This change has not been made because an identification number only 0.010 inches deep could be easily buffed off.

The Rubber Manufacturers Association (RMA) and many of its members requested that the Bureau adopt RMA's system for tire identification, which includes manufacturer code numbers previously assigned by RMA to its members, plus a tire size code and a date code already established by RMA. RMA's system for coding the date has not been adopted for reasons previously discussed. Other specific aspects of the RMA code system have not been adopted because the tire identification system established by this regulation will apply to all tire manufacturers, brand name owners and retreaders, foreign and domestic, many of whom are not members of RMA. The Bureau considers it inappropriate to favor any group because they happen to be members of an existing association. Therefore, in fairness to all manufacturers, retreaders and brand name owners, the Bureau is assigning these codes in a uniform manner on a first-come-first-served basis. In addition, the tire-size code recommended by RMA does not coincide with all tire sizes in the Appendix A tables of Standard No. 109, and the RMA system used the letter "S" for the tire size code, which the Bureau wants to avoid. Section 574.5 has been changed in this regard to provide that manufacturers, retreaders, and brand name owners may obtain a code number by writing to the Bureau beginning December 1, 1970. In addition, the requirement in § 574.5 that manufacturers describe any optional code they use has been deleted and this information need only be given to the Bureau upon request.

It was suggested by some commenters that the date of purchase requirement in 574.6(a) be deleted. Since there is little need for this requirement, in light of other changes made in the rule, this suggestion has been adopted. Other commenters requested that the requirement that the name and address of the seller of the tire be recorded be deleted from the rule. This change has not been made, since the Bureau believes this information to be necessary for the purpose of checking on the effectiveness of the manufacturer's recording system and also for enabling the manufacturer to be in a position to notify dealers who do not deal directly with him of the existence of a defect. However, the manufacturer may use a code or other means to identify the tire seller.

The prohibition proposed in § 574.6(b) was objected to on the ground that it was too restrictive and would not allow manufacturers to use reported information for marketing purposes not detrimental to distributors or dealers. Section 574.6(b) has been changed to be less restrictive, but it still carries out the intent of Congress that information recorded by distributors and dealers not be used for commercial purposes to the detriment of distributors or dealers.

Section 574.6(c) of the proposed regulation required manufacturers to revise any contracts they might have with their dealers and distributors so as to obligate them to record and report the required information. This proposal has been deleted because of the difficulties involved in effecting it and also because § 574.7 requires dealers and distributors to provide this information to the manufacturer.

Section 574.6(d), as proposed, required each tire manufacturer to keep a record of the identification number of all tires he sold to dealers that sell directly to the tire consumer. This requirement was almost unanimously criticized as being extremely expensive and impracticable. In response to these comments, the section has been modified (§ 574.6(c)) to require manufacturers to keep a record of the number of tires sold directly to distributors and dealers selling tires to first purchasers, the total number of tires for which reports are received, and the total number of tires sold by the manufacturer. By this requirement, the Bureau and the manufacturer will be able to have an indication of the effectiveness of each manufacturer's tire identification and recordkeeping system.

Many commenters requested a change in the requirement that information

reported be maintained for 3 years from the date of sale to the tire purchaser. Section 574.6(c) now requires that such information be maintained for 3 years from the date the manufacturer records the information.

Section 574.7(b) of the notice required distributors and dealers to forward tire purchaser information at least once a month. Comments received requested that this requirement be changed to allow an alternative for low-volume tire dealers. This section has been amended to provide that tire purchaser reports be forwarded at least every 30 days unless less than 40 tires were sold during that period. In addition, § 574.7(c) now requires distributors and dealers that sell to other distributors and dealers to supply the latter with a means for recording the necessary tire purchaser information. This new subsection was added because, as pointed out by certain commenters, tire manufacturers will not always be in a position to supply a means for recording tire purchaser information to those tire distributors or dealers who do not buy directly from a tire manufacturer.

Several commenters stated that the proposed requirement, that manufacturers maintain a record, by identification number, of tires on or in each vehicle manufactured by them, was extremely burdensome because many tires are changed by vehicle dealers after they leave manufacturer control. Section 574.9 now requires that vehicle manufacturers keep a record, by identification number, of the tires that are on and in the vehicle when it is shipped to the vehicle distributor or dealer. If the dealer changes any new tire, he then becomes responsible under § 574.8(b) for recording the information and forwarding it to the appropriate tire manufacturer.

Other comments suggested that § 574.9 be changed to make it the responsibility of the tire manufacturer, not the vehicle manufacturer, to notify the first purchasers in the event of the existence of a defect. This suggestion has not been adopted because the recent amendment to the Act and its legislative history make clear that the motor vehicle manufacturer should continue to bear this responsibility.

Some comments requested that § 574.9 be changed to allow vehicle manufacturers to use their own recordkeeping system for purposes of maintaining the names and addresses of first purchasers rather than using a system based on the identification number of the tire. This suggestion has also not been adopted because it is believed that a uniform system for vehicle manufacturers is more desirable to achieve effective defect notification.

Comments received from retreaders suggested that retread tires be coded not by size, but by matrix, because retreaders can use one matrix for several tire sizes. This suggestion has not been adopted because it would be impractical and perhaps physically impossible for the Bureau to assign a code number for all the possible matrices in existence in the industry. Moreover, it would present many problems for the Bureau in connection with its compliance efforts.

The National Tire Dealers and Retreaders Association (NTRDA), which represents many retreaders, asked that the tire size code be deleted and the system that has been used in the past by tire manufacturers for marking tire sizes be maintained. This request is denied. The requirement that the tire size be included in the tire identification number does not eliminate the requirement that passenger car tires be labeled with the appropriate size on both sidewalls of the tire as set forth in the passenger car tire standard (No. 109). The requirement that a tire size code be included in the identification number is to enable the manufacturer, brand name owner or retreader of the tire to determine the tire purchaser via this identification system. If the tire size is not part of the tire identification number, and were a tire defect notification campaign necessary for a given tire size, persons who bought the particular size tire involved could not be readily notified. It has been the Bureau's experience that most tire defect campaigns have been limited to particular tire sizes and periods of production.

The proposed effective date for this regulation was November 18, 1970. This date was proposed because the amendment to the National Traffic and Motor Vehicle Safety Act of 1966 on this subject stated the amendment was to take effect "on the one hundred and eightieth day after the date of enactment * * * unless * * * for good cause shown * * * a later effective date is in the public interest * * *, except that such later effective date shall not be more than 1 year after the date of enactment of this Act (May 22, 1971)." Many persons objected to the November 18, 1970, date and requested the maximum time allowed by the law. Commenters pointed out that the maximum lead time was needed because of the complexities involved in establishing the record keeping system proposed and because of the effect which the new requirements would have on existing manufacturing processes. It is found that good cause exists for establishing a May 1, 1971, effective date. Such a date is in the public interest since the granting of additional time will allow for the establishment of more efficient tire record keeping systems which will mean that, in the event of a tire recall, effective defect notification can be made to the consumer.

There was some confusion as to whether the proposed requirements would be applicable to all motor vehicle tires manufactured after the regulation's effective date or to all tires sold after the effective date. Since only those tires manufactured after the May 1, 1971, effective date will have the required identification number, the regulation in its present form will be applicable only to tires made after that date. However, the amendment to the Act does not distinguish between tires sold and tires manufactured, and the Bureau believes that, in the interest of motor vehicle safety, manufacturers of tires sold after the effective date should also adopt some system by which first purchasers could be notified in the event of a recall. The Bureau intends to issue a notice of proposed rulemaking in the near future which would invite comments on an amendment to this regulation which would require manufacturers of tires to maintain such records as would enable them to notify first purchasers of tires made before May 1, 1971, but sold afterward.

In consideration of the above, Part 574—Tire Identification and Record Keeping, as set forth below, is added to Title 49—Transportation, Chapter V, Department of Transportation, National Highway Safety Bureau, Subchapter A—Motor Vehicle Safety Regulations.

Effective date: May 1, 1971.

Issued on November 5, 1970.

CHARLES H. HARTMAN,
Acting Director,
National Highway Safety Bureau.

Sec.
574.1 Purpose and scope.
574.2 Definitions.
574.3 Applicability.
574.4 Tire identification requirements.
574.5 Identification mark.
574.6 Tire manufacturers, brand name owners, retreaders.
574.7 Tire distributors and dealers.
574.8 Motor vehicle dealers.
574.9 Motor vehicle manufacturers.

AUTHORITY: The provisions of this Part 574 issued under secs. 103, 112, 113, 119, 201, and 206, National Traffic and Motor Vehicle Safety Act of 1966, as amended, 15 U.S.C. 1392, 1401, 1402, 1407, 1421, and 1426; delegation of authority at 49 CFR 1.51, 35 F.R. 4955.

§ 574.1 Purpose and scope.

This part sets forth the method by which manufacturers, brand name owners and retreaders shall identify tires for use on motor vehicles and maintain records of tire purchasers to facilitate notification to tire purchasers pursuant to section 113 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1402) (hereafter "the Act"), and the method by which distributors and dealers of new and retreaded tires shall record and report the names of tire purchasers to manufacturers, brand name owners, and retreaders.

§ 574.2 Definitions.

(a) *Statutory definitions.* All terms in this part that are defined in section 102 of the Act are used as defined therein.

(b) *Motor vehicle safety standard definitions.* Unless otherwise indicated, all terms used in this part that are defined in the Motor Vehicle Safety Standards, Part 571 of this subchapter (hereinafter "the Standards"), are used as defined therein.

(c) *Definitions used in this part.* "Mileage contract purchaser" means a person who purchases tire use on a mileage basis. "Tire brand name owner" means a person who owns or has the right to control the brand name of a tire registered

with the Bureau pursuant to § 574.4, or a person who licenses another to purchase tires from a tire manufacturer bearing the licensor's brand name. "Tire purchaser" means a person who buys or leases a new or newly retreaded tire, or who buys or leases for 60 days or more a motor vehicle containing a new tire or a newly retreaded tire, for purposes other than resale.

§ 574.3 Applicability.

This part applies to manufacturers, brand name owners, retreaders, and distributors and dealers of new and retreaded tires for use on motor vehicles, and to manufacturers and dealers of motor vehicles.

§ 574.4 Tire identification requirements.

Each tire manufacturer shall conspicuously label on one sidewall of each tire it manufactures, except tires manufactured exclusively for mileage contract purchasers, by permanently molding into or onto the sidewall, in the manner and location specified in figure 1, the information set forth in paragraphs (a) through (d) of this section. Each tire retreader shall conspicuously label one sidewall of each tire it retreads, by permanently molding or branding into or onto the sidewall, in the manner and location specified in figure 2, the information set forth in paragraphs (a) through (d) of this section. Tires manufactured or retreaded exclusively for mileage contract purchasers are not required to be marked in the manner and location specified in figure 1 or figure 2 if the tire contains the phrase "for mileage contract use only" permanently molded into or onto the tire sidewall in lettering at least one-quarter inch high.

(a) *First grouping.* The first group, of two or three symbols, depending on whether the tire is new or retreaded, shall represent the manufacturer's assigned identification mark (see § 574.5 below).

(b) *Second grouping.* The second group, of two symbols, shall identify the tire size in accordance with the size code designations listed in table 1.

(c) *Third grouping.* The third group, except when the tire manufactured is a brand name tire, may be used, at the option of the manufacturer or retreader, as a descriptive code for the purpose of further identifying the type and significant characteristics of the tire. Each manufacturer or retreader who adopts the optional descriptive code shall maintain a detailed record of the code, which shall be provided to the Bureau upon written request. If the tire manufacturer is manufacturing a brand name tire, the assigned identification mark for the brand name owner (see § 574.5 below) shall be included as the first two symbols of the descriptive code.

(d) *Fourth grouping.* The fourth group, of three symbols, shall identify the week and year of manufacture. The first two symbols shall identify the week of the year, using "01" for the first full calendar week in each year. The final week of each year may include not more than 6 days of the following year. The third symbol shall identify the year. (Example: 311 means the 31st week of 1971, or August 1 through 7, 1971; 012 means the first week of 1972, or January 2 through 8, 1972.) The symbols signifying the date of manufacture shall immediately follow the optional descriptive code (paragraph (c) of this section). If no optional descriptive code is used the symbols signifying the date of manufacture shall be placed in the area shown in Figures 1 and 2 for the optional descriptive code.

§ 574.5 Identification mark.

To obtain the identification mark required by § 574.4(a), each manufacturer of new or retreaded motor vehicle tires, and each brand name owner of new or retreaded tires shall apply after November 30, 1970, in writing, to "Tire Identification and Record Keeping," National Highway Safety Bureau, 400 Seventh Street SW., Washington, D.C. 20591, identify himself as a manufacturer of new tires, retreaded tires, or a brand name owner, and furnish the following information:

(a) The name, or other designation identifying the applicant, and his main office address.

(b) The name, or other identifying designation, of each individual plant operated by the manufacturer and the address of each plant, if applicable.

(c) The type of tires manufactured at each plant, or made under the applicant's brand name, e.g., passenger car tires, bus tires, truck tires, motorcycle tires, or retreaded tires.

§ 574.6 Tire manufacturers, brand name owners, retreaders.

(a) Each tire manufacturer, brand name owner and retreader (hereinafter referred to in this section and § 574.7 as "tire manufacturer" unless specified otherwise) or his designee, shall provide every distributor and dealer of his tires who offers these tires for sale or lease to tire purchasers, a means by which the distributor or dealer offering the tire for sale or lease to tire purchasers may record the following information:

(1) Name and address of the tire purchaser;

(2) Tire identification number;

(3) Name and address of the tire seller or other means by which the manufacturer can identify the tire seller.

(b) Each tire manufacturer shall record and maintain, or have recorded and maintained for him, the information specified in paragraph (a) of this section and shall not use this information for any commercial purpose detrimental to tire distributors or dealers.

(c) Each tire manufacturer shall maintain, or have maintained for him, a record of each tire distributor or dealer who purchases tires directly from him and sells them to tire purchasers, the number of tires purchased by each such distributor and dealer, the number of tires for which reports have been received from each such distributor or dealer pursuant to paragraph (a) of § 574.7, the total number of tires sold by the tire manufacturer, and the total number of tires for which reports have been received.

(d) Information required by paragraph (a) of this section shall be maintained for a period of not less than 3 years from the date the tire manufacturer or his designee records the information submitted to him.

§ 574.7 Tire distributors and dealers.

(a) Each distributor and each dealer selling tires to tire purchasers shall submit the information specified in § 574.6 (a) to the manufacturer of the tires sold, or to the manufacturer's designee.

(b) Each tire distributor and each dealer selling tires to tire purchasers shall forward the information specified in § 574.6(a) to the tire manufacturer, or person maintaining the information, not less often than every 30 days. However, a distributor or dealer who sells less than 40 tires, of all makes, types, and sizes during a 30-day period may wait until he sells a total of 40 tires, but in no event longer than 6 months, before forwarding the tire information to the respective tire manufacturers or their designees.

(c) Each distributor and each dealer selling tires to other tire distributors and dealers shall supply to the tire distributor or dealer to whom he sells tires, a means to record the information specified in § 574.6(a), unless such a means has been provided to that distributor or dealer by another person or by a manufacturer.

(d) Each distributor and each dealer shall immediately stop selling any group of tires when so directed by a notification issued pursuant to section 113 of the Act (15 U.S.C. 1402).

§ 574.8 Motor vehicle dealers.

(a) Each motor vehicle dealer who sells a used motor vehicle for purposes other than resale, or who leases a motor vehicle for more than 60 days, that is equipped with new tires or newly retreaded tires is considered, for purposes of this part, to be a tire dealer and shall meet the requirements specified in § 574.7.

(b) Each person selling a new motor vehicle to first purchasers for purposes other than resale, that is equipped with tires that were not on the motor vehicle when shipped by the vehicle manufacturer is considered a tire dealer for purposes of this part and shall meet the requirements specified in § 574.7.

§ 574.9 Motor vehicle manufacturers.

Each motor vehicle manufacturer shall maintain a record, by identification number, of tires on or in each vehicle shipped by him to a motor vehicle distributor or dealer, and shall maintain a record of the name and address of the first purchaser for purpose other than resale of each vehicle equipped with such tires. These records shall be maintained for a period of not less than 3 years from the date of sale of the vehicle to the first purchaser for purposes other than resale.

TABLE I

SIZE CODE FOR MOTOR VEHICLE TIRES

Tire size code:	*Tire size designation*
AA	Not Assigned
AB	3.50–4
AC	Not Assigned
AD	Not Assigned
AE	3.50–5
AF	Not Assigned
AH	Not Assigned
AJ	3.50–6
AK	4.10–6
AL	4.50–6
AM	5.30–6
AN	6.00–6
AP	Not Assigned
AT	Not Assigned
AU	3.00–7
AV	4.00–7
AW	4.80–7
AX	5.30–7
AY	Not Assigned
A1	Not Assigned
A2	4.00–8
A3	4.80–8
A4	5.70–8
A5	16.5 x 6.5–8
A6	18.5 x 8.5–8
A7	Not Assigned
A8	Not Assigned
A9	4.80–9
BA	6.00–9
BB	6.90–9
BC	Not Assigned
BD	Not Assigned
BE	3.00–10
BF	3.50–10
BH	5.20–10
BJ	5.20 R 10
BK	5.9–10
BL	5.90–10
BM	6.50–10
BN	7.00–10
BP	7.50–10
BT	9.00–10
BU	20.5 x 8.0–10
BV	145–10
BW	145 R 10
BX	145–10/5.95–10
BY	Not Assigned
B1	Not Assigned
B2	3.00–12
B3	4.00–12
B4	4.50–12
B5	4.80–12
B6	5.00–12
B7	5.00 R 12
B8	5.20–12
B9	5.20–12 L.T.
CA	5.20 R 12
CB	5.30–12
CC	5.50–12
CD	5.50–12 L.T.
CE	5.50 R 12
CF	5.60–12
CH	5.60–12 L.T.
CJ	5.60 R 12
CK	5.9–12
CL	5.90–12
CM	6.00–12
CN	6.00–12 L.T.
CP	6.2–12
CT	6.20–12
CU	6.90–12
CV	23.5x8.5–12
CW	125–12
CX	125 R 12
CY	125–12/5.35–12
C1	135–12
C2	135 R 12
C3	135–12/5.65–12
C4	145–12
C5	145 R 12
C6	145–12/5.95–12
C7	155–12
C8	155 R 12
C9	155–12/6.15–12

TABLE I—Continued

Tire size code:	*Tire size designation*
DA	Not Assigned
DB	Not Assigned
DC	Not Assigned
DD	Not Assigned
DE	Not Assigned
DF	Not Assigned
DH	5.00–13
DJ	5.00–13 L.T.
DK	5.00 R 13
DL	5.20–13
DM	5.20 R 13
DN	5.50–13
DP	5.50–13 L.T.
DT	5.50 R 13
DU	5.60–13
DV	5.60–13 L.T.
DW	5.60 R 13
DX	5.90–13
DY	5.90–13 L.T.
D1	5.90 R 13
D2	6.00–13
D3	6.00–13 L.T.
D4	6.00 R 13
D5	6.2–13
D6	6.20–13
D7	6.40–13
D8	6.40–13 L.T.
D9	6.40 R 13
EA	6.50–13
EB	6.50–13 L.T.
EC	6.50–13 S.T.
ED	6.50 R 13
EE	6.70–13
EF	6.70–13 L.T.
EH	6.70 R 13
EJ	6.9–13
EK	6.90–13
EL	7.00–13
EM	7.00–13 L.T.
EN	7.00 R 13
EP	7.25–13
ET	7.25 R 13
EU	7.50–13
EV	135–13
EW	135 R 13
EX	135–13/5.65–13
EY	145–13
E1	145 R 13
E2	145–13/5.95–13
E3	150 R 13
E4	155–13
E5	155 R 13
E6	155–13/6.15–13
E7	160 R 13
E8	165–13
E9	165 R 13
FA	165–13/6.45–13
FB	165/70 R 13
FC	170 R 13
FD	175–13
FE	175 R 13
FF	175–13/6.95–13
FH	175/70 R 13
FJ	185–13
FK	185 R 13
FL	185–13/7.35–13
FM	185/70 R 13
FN	195–13
FP	195 R 13
FT	195/70 R 13
FU	D70–13
FV	B78–13
FW	BR78–13
FX	C78–13
FY	Not Assigned
F1	Not Assigned
F2	Not Assigned
F3	Not Assigned
F4	Not Assigned
F5	Not Assigned
F6	Not Assigned
F7	Not Assigned
F8	Not Assigned
F9	Not Assigned
HA	Not Assigned

TABLE I—Continued

Tire size code:	*Tire size designation*
HB	Not Assigned
HC	2.50–14
HD	5.00–14 L.T.
HE	5.20–14
HF	5.20 R 14
HH	5.50–14 L.T.
HJ	5.60–14
HK	5.90–14
HL	5.90–14 L.T.
HM	5.90 R 14
HN	6.00–14
HP	6.00–14 L.T.
HT	6.40–14
HU	6.40–14 L.T.
HV	6.45–14
HW	6.50–14
HX	6.50–14 L.T.
HY	6.70–14
H1	6.95–14
H2	7.00–14
H3	7.00–14 L.T.
H4	7.00 R 14
H5	7.35–14
H6	7.50–14
H7	7.50–14 L.T.
H8	7.50 R 14
H9	7.75–14
JA	7.75–14 S.T.
JB	8.00–14
JC	8.25–14
JD	8.50–14
JE	8.55–14
JF	8.85–14
JH	9.00–14
JJ	9.50–14
JK	135–14
JL	135 R 14
JM	135–14/5.65–14
JN	145–14
JP	145 R 14
JT	145–14/5.95–14
JU	155–14
JV	155 R 14
JW	155–14/6.15–14
JX	155/70 R 14
JY	165–14
J1	165 R 14
J2	175–14
J3	175 R 14
J4	185–14
J5	185 R 14
J6	185/70 R 14
J7	195–14
J8	195 R 14
J9	195/70 R 14
KA	205–14
KB	205 R 14
KC	215–14
KD	215 R 14
KE	225–14
KF	225 R 14
KH	Not Assigned
KJ	Not Assigned
KK	Not Assigned
KL	Not Assigned
KM	Not Assigned
KN	Not Assigned
KP	Not Assigned
KT	Not Assigned
KU	Not Assigned
KV	Not Assigned
KW	F60–14
KX	G60–14
KY	J60–14
K1	L60–14
K2	Not Assigned
K3	Not Assigned
K4	Not Assigned
K5	Not Assigned
K6	Not Assigned
K7	Not Assigned
K8	Not Assigned

TABLE I—Continued

Tire size code:	*Tire size designation*
K9	D70–14
LA	DR70–14
LB	E70–14
LC	ER70–14
LD	F70–14
LE	FR70–14
LF	G70–14
LH	GR70–14
LJ	H70–14
LK	HR70–14
LL	J70–14
LM	JR70–14
LN	L70–14
LP	LR70–14
LT	Not Assigned
LU	Not Assigned
LV	Not Assigned
LW	Not Assigned
LX	G77–14
LY	B78–14
L1	C78–14
L2	CR78–14
L3	D78–14
L4	DR78–14
L5	E78–14
L6	ER78–14
L7	F78–14
L8	FR78–14
L9	G78–14
MA	GR78–14
MB	H78–14
MC	HR78–14
MD	J78–14
ME	JR78–14
MF	Not Assigned
MH	Not Assigned
MJ	Not Assigned
MK	7–14.5
ML	8–14.5
MM	Not Assigned
MN	Not Assigned
MP	Not Assigned
MT	2.25–15
MU	2.50–15
MV	3.00–15
MW	3.25–15
MX	5.0–15
MY	5.20–15
M1	5.5–15
M2	5.50–15 L
M3	5.50–15 L.T.
M4	5.60–15
M5	5.60 R 15
M6	5.90–15
M7	5.90–15 L.T.
M8	6.00–15
M9	6.00–15 L
NA	6.00–15 L.T.
NB	6.2–15
NC	6.40–15
ND	6.40–15 L.T.
NE	6.40 R 15
NP	6.50–15
NH	6.50–15 L
NJ	6.50–15 L.T.
NK	6.70–15
NL	6.70–15 L.T.
NM	6.70 R 15
NN	6.85–15
NP	6.9–15
NT	7.00–15
NU	7.00–15 L
NV	7.00–15 L.T.
NW	7.10–15
NX	7.10–15 L.T.
NY	7.35–15
N1	7.50–15
N2	7.60–15
N3	7.60 R 15
N4	7.75–15
N5	7.75–15 S.T.
N6	8.00–15
N7	8.15–15
N8	8.20–15
N9	8.25–15

TABLE I—Continued

Tire size code:	*Tire size designation*
PA	8.25–15 L.T.
PB	8.45–15
PC	8.55–15
PD	8.85–15
PE	8.90–15
PF	9.00–15
PH	9.00–15 L.T.
PJ	9.15–15
PK	10–15
PL	10.00–15
PM	Not Assigned
PN	Not Assigned
PP	Not Assigned
PT	Not Assigned
PU	Not Assigned
PV	125–15
PW	125 R 15
PX	125–15/5.35–15
PY	135–15
P1	135 R 15
P2	135–15/5.65–15
P3	145–15
P4	145 R 15
P5	145–15/5.95–15
P6	155–15
P7	155 R 15
P8	155–15/6.35–15
P9	165–15
TA	165–15 L.T.
TB	165 R 15
TC	175–15
TD	175 R 15
TE	175–15/7.15–15
TF	175/70 R 15
TH	180–15
TJ	185–15
TK	185 R 15
TL	185/70 R 15
TM	195–15
TN	195 R 15
TP	205–15
TT	205 R 15
TU	215–15
TV	215 R 15
TW	225–15
TX	225 R 15
TY	235–15
T1	235 R 15
T2	Not Assigned
T3	Not Assigned
T4	Not Assigned
T5	Not Assigned
T6	Not Assigned
T7	Not Assigned
T8	Not Assigned
T9	Not Assigned
UA	Not Assigned
UB	Not Assigned
UC	E60–15
UD	F60–15
UE	FR60–15
UF	G60–15
UH	GR60–15
UJ	J60–15
UK	L60–15
UL	Not Assigned
UM	Not Assigned
UN	Not Assigned
UP	Not Assigned
UT	Not Assigned
UU	Not Assigned
UV	C70–15
UW	D70–15
UX	DR70–15
UY	E70–15
U1	ER70–15
U2	F70–15
U3	FR70–15
U4	G70–15
U5	GR70–15
U6	H70–15
U7	HR70–15
U8	J70–15
U9	JR70–15
VA	K70–15

TABLE I—Continued

Tire size code:	*Tire size designation*
VB	KR70–15
VC	L70–15
VD	LR70–15
VE	Not Assigned
VF	Not Assigned
VH	Not Assigned
VJ	Not Assigned
VK	BR78–15
VL	C78–15
VM	D78–15
VN	E78–15
VP	ER78–15
VT	F78–15
VU	FR78–15
VV	G78–15
VW	GR78–15
VX	H78–15
VY	HR78–15
V1	J78–15
V2	JR78–15
V3	L78–15
V4	LR78–15
V5	N78–15
V6	Not Assigned
V7	Not Assigned
V8	Not Assigned
V9	Not Assigned
WA	L84–15
WB	Not Assigned
WC	2.25–16
WD	2.50–16
WE	3.00–16
WF	3.25–16
WH	3.50–16
WJ	5.00–16
WK	5.10–16
WL	5.50–16 L.T.
WM	6.00–16
WN	6.00–16 L.T.
WP	6.50–16
WT	6.50–16 L.T.
WU	6.70–16
WV	7.00–16
WW	7.00–16 L.T.
WX	7.50–16
WY	7.50–16 L.T.
W1	8.25–16
W2	9.00–16
W3	10–16
W4	Not Assigned
W5	Not Assigned
W6	Not Assigned
W7	19–400c
W8	165–400
W9	235–16
XA	Not Assigned
XB	Not Assigned
XC	G45C–16
XD	E50C–16
XE	F50C–16
XF	Not Assigned
XH	Not Assigned
XJ	8.00–16.5
XK	8.75–16.5
XL	9.50–16.5
XM	10–16.5
XN	12–16.5
XP	Not Assigned
XT	Not Assigned
XU	2.00–17
XV	2.25–17
XW	2.50–17
XX	2.75–17
XY	3.00–17
X1	3.25–17
X2	3.50–17
X3	6.50–17
X4	6.50–17 L.T.
X5	7.00–17
X6	7.50–17
X7	8.25–17
X8	Not Assigned
X9	Not Assigned
YA	G50C–17
YB	H50C–17

TABLE I—Continued

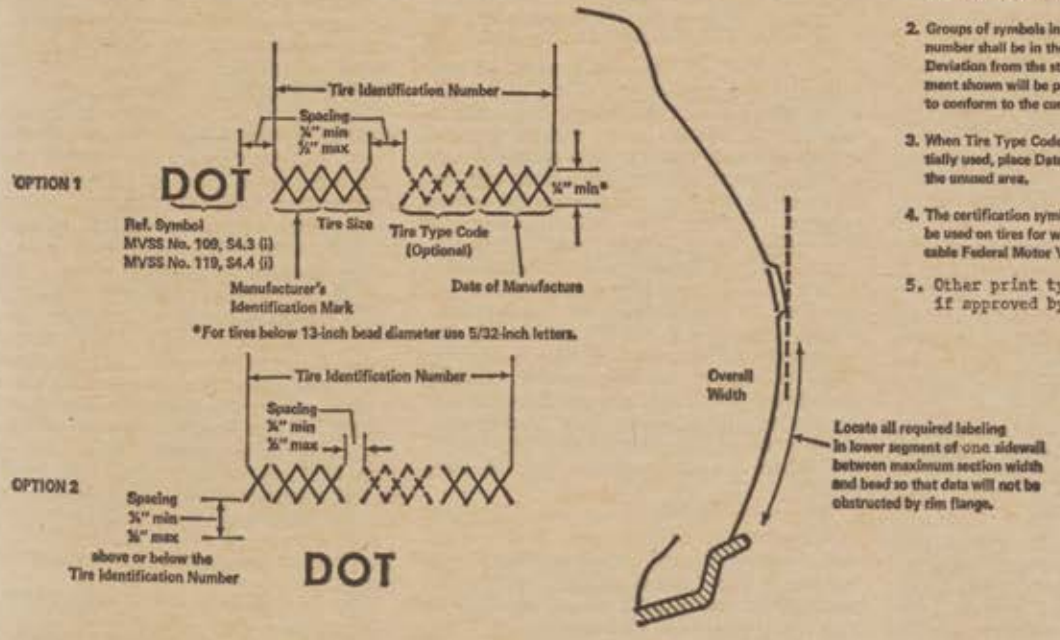
Tire size code:	*Tire size designation*
YC	Not Assigned
YD	Not Assigned
YE	Not Assigned
YF	Not Assigned
YH	7–17.5
YJ	8–17.5
YK	8.5–17.5
YL	9.5–17.5
YM	10–17.5
YN	14–17.5
YP	Not Assigned
YT	Not Assigned
YU	Not Assigned
YV	2.50–18
YW	2.75–18
YX	3.00–18
YY	3.25–18
Y1	3.50–18
Y2	4.00–18
Y3	4.50–18
Y4	6.00–18
Y5	7.00–18
Y6	7.50–18
Y7	8.25–18
Y8	9.00–18
Y9	10.00–18
1A	11.00–18
1B	Not Assigned
1C	Not Assigned
1D	L50C–18
1E	Not Assigned
1F	Not Assigned
1H	2.00–19
1J	2.25–19
1K	2.50–19
1L	2.75–19
1M	3.00–19
1N	3.25–19
1P	3.50–19

TABLE I—Continued

Tire size code:	*Tire size designation*
1T	4.00–19
1U	11.00–19
1V	Not Assigned
1W	Not Assigned
1X	Not Assigned
1Y	7–19.5
11	7.5–19.5
12	8–19.5
13	9–19.5
14	14–19.5
15	15–19.5
16	16.5–19.5
17	18–19.5
18	19.5–19.5
19	6.00–20
2A	6.50–20
2B	7.00–20
2C	7.50–20
2D	8.25–20
2E	8.5–20
2F	9.00–20
2H	9.4–20
2J	10.00–20
2K	10.3–20
2L	11.00–20
2M	11.1–20
2N	11.50–20
2P	11.9–20
2T	12.00–20
2U	12.5–20
2V	13.00–20
2W	14.00–20
2X	Not Assigned
2Y	Not Assigned
21	Not Assigned
22	Not Assigned
23	2.75–21
24	3.00–21
25	Not Assigned
26	Not Assigned

TABLE I—Continued

Tire size code:	*Tire size designation*
27	10.00–22
28	11.00–22
29	11.1–22
3A	11.9–22
3B	12.00–22
3C	14.00–22
3D	Not Assigned
3E	Not Assigned
3F	Not Assigned
3H	7–22.5
3J	8–22.5
3K	8.5–22.5
3L	9–22.5
3M	9.4–22.5
3N	10–22.5
3P	10.3–22.5
3T	11–22.5
3U	11.1–22.5
3V	11.5–22.5
3W	11.9–22.5
3X	12–22.5
3Y	12.5–22.5
31	15–22.5
32	16.5–22.5
33	18–22.5
34	Not Assigned
35	Not Assigned
36	Not Assigned
37	9.00–24
38	10.00–24
39	11.00–24
4A	12.00–24
4B	14.00–24
4C	Not Assigned
4D	Not Assigned
4E	Not Assigned
4F	11–24.5
4H	12–24.5
4J	13.5–24.5



Notes:

1. Tire identification number shall be in "Futura Bold, Modified,Condensed or Gothic" characters permanently molded (0.025 to 0.040" deep) into or onto tire at indicated location on one side. (See Note 5)

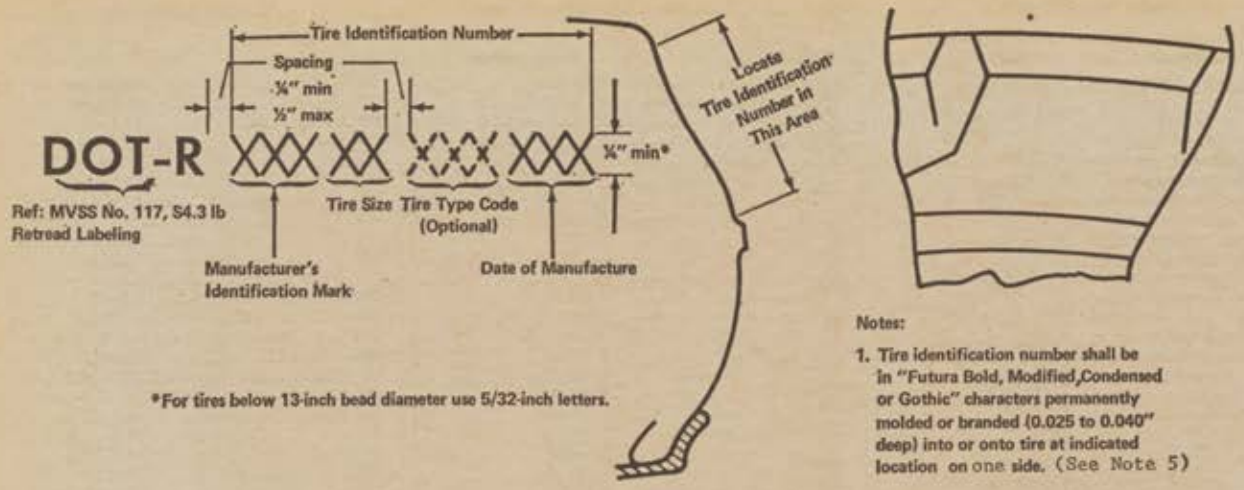
2. Groups of symbols in the identification number shall be in the order indicated. Deviation from the straight line arrangement shown will be permitted if required to conform to the curvature of the tire.

3. When Tire Type Code is omitted, or partially used, place Date of Manufacture in the unused area.

4. The certification symbol "DOT" shall only be used on tires for which there is an applicable Federal Motor Vehicle Safety Standard.

5. Other print type will be permitted if approved by the Bureau.

FIGURE 1 - IDENTIFICATION NUMBER FOR NEW TIRES.



Notes:

1. Tire identification number shall be in "Futura Bold, Modified, Condensed or Gothic" characters permanently molded or branded (0.025 to 0.040" deep) into or onto tire at indicated location on one side. (See Note 5)
2. Groups of symbols in the identification number shall be in the order indicated. Deviation from the straight line arrangement shown will be permitted if required to conform to the curvature of the tire.
3. When Tire Type Code is omitted, or partially used, place Date of Manufacture in the unused area.
4. The certification symbol "DOT" shall only be used on tires for which there is an applicable Federal Motor Vehicle Safety Standard.
5. Other print type will be permitted if approved by the Bureau.

FIGURE 2 - IDENTIFICATION NUMBER FOR RETREADED TIRES.

F.R. Doc. 70-15125; Filed, Nov. 9, 1970; 8:45 a.m.

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-84]

PART 1060—SPECIAL RELIEF FOR MOTOR CARRIERS AFFECTED BY A TEMPORARY HIGHWAY CLOSING

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 30th day of October 1970.

It appearing, that the Commission, on the date hereof, has made and filed its report in this proceeding setting forth its conclusions and findings and its reasons therefor, which report is hereby referred to and made a part hereof;

It is ordered, That based upon the explanation set forth in the said report and good cause appearing therefor, a proceeding be, and it is hereby, instituted under the authority of part II of the Interstate Commerce Act, and more specifically sections 204(a) (1) and (6), 206, 207, 208, and 210 thereof, and 5 U.S.C. 553 and 559 (the Administrative Procedure Act), to determine what action should be taken to accord special relief to those motor carriers affected by the temporary closing of West Virginia Highway 2 described in the said report.

It is further ordered, That Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by adding a new Part 1060, reading as follows:

§ 1060.1 Special relief for motor carriers affected by the temporary closing of West Virginia Highway 2.

(a) *Scope of special rules.* These special rules govern the filing and handling of applications seeking the right to operate pursuant to a special limited certificate of public convenience and necessity authorizing operations, in interstate or foreign commerce, by motor vehicle, between New Martinsville and Wheeling, W. Va., over Ohio Highway 7 and related Ohio River bridge crossings, as well as certain other operations authorized by certificates of registration, which operations otherwise would be rendered null and void by operations in Ohio pursuant to the special limited certificate of public convenience and necessity, subject to certain terms, conditions, and restrictions set forth in the certificate in paragraph (d) of this section.

(b) *Applications for a special limited certificate.* Each intrastate motor carrier desiring to perform operations pursuant to the special limited certificate set forth in paragraph (d) of this section must file with this Commission a sworn and notarized request (which may be in letter form) containing the following:

(1) *For West Virginia intrastate carriers.* (i) A copy of its pertinent State operating authority, (ii) the name and address of the carrier's representative to whom inquiries may be made, (iii) a copy of the carrier's intrastate tariff pursuant to which the service authorized by these rules must be performed, (iv) the designation of the carrier's statutory agent for service of process within West Virginia and Ohio (Form BOC-3), and (v) evidence of the carrier's insurance coverage (Forms BMC-90 and -91); and

(2) *For holders of certificates of registration.* (i) A copy of its certificate of registration, and (ii) the designation of a statutory agent for service of process in Ohio (Form BOC-3).

(c) *Waiver of certain filing requirements.* Sections 217 and 218 of the Interstate Commerce Act, with respect to the filing of tariffs except to the extent provided above, and section 220(a) respecting the filing of annual reports, are suspended as to the operations authorized herein in the special limited certificate set forth in paragraph (d) of this section, and appropriate notice will be given to the respective State regulatory agencies of Ohio and West Virginia by transmitting to each a list of those carriers who become parties to the special limited certificate.

(d) *Certification.* Appropriate acknowledgment letters will be issued to notify motor carriers that they have been found eligible to operate pursuant to the special limited certificate which reads as follows:

[Ex Parte No. MC-84]

SPECIAL LIMITED CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

DESIGNATED MOTOR CARRIERS AFFECTED BY THE TEMPORARY CLOSING OF WEST VIRGINIA HIGHWAY 2

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 30th day of October 1970.

After due investigation, it appearing that any motor carrier having complied with all applicable provisions of the Interstate Commerce Act, and the requirements, rules, and regulations prescribed thereunder, and having complied with all the requirements established by the Commission in its report in Ex Parte No. MC-84, is, therefore, entitled to receive authority from this Commission to engage in transportation in interstate or foreign commerce as a motor carrier; and the Commission so finding:

It is ordered, That the said carrier be, and it is hereby, granted this Special Limited Certificate of Public Convenience and Necessity as evidence of the authority of the holder to engage in transportation in interstate or foreign commerce as a common carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privileges herein granted to the said carrier.

It is further ordered, And is made a condition of this certificate that the holders thereof shall render reasonably continuous and adequate service to the public in pursuance of the authority herein granted, and that failure so to do shall constitute sufficient grounds for suspension, change, or revocation of this certificate as to any such holder.

It is further ordered, That the transportation service to be performed by the said participating carrier in interstate or foreign commerce shall be as follows:

(1) Between New Martinsville and Wheeling, W. Va., over Ohio Highway 7 utilizing Ohio River bridge crossings at New Martinsville, Benwood, and Wheeling, W. Va., serving no points in Ohio, in the transportation of the commodities and in the performance of the same services as are authorized by the said carrier's intrastate operating authority issued by the West Virginia Public Service Commission to the extent that operations over West Virginia Highway 2 between New Martinsville and Wheeling, W. Va., are thereby authorized, restricted to the transportation of traffic originating at and destined to points in West Virginia.

(2) Between New Martinsville and Wheeling, W. Va., over Ohio Highway 7 utilizing Ohio River bridge crossings at New Martinsville, Benwood, and Wheeling, W. Va., serving no points in Ohio, in the transportation of the commodities and in the performance of the same services as are authorized by the said carrier's intrastate operating authority issued by the West Virginia Public Service Commission to the extent that operations over West Virginia Highway 2 between New Martinsville and Wheeling, W. Va., are thereby authorized, which intrastate authority is the subject of a certificate of registration issued by this Commission, restricted to the transportation of traffic moving from and to points in West Virginia.

(3) Of the commodities, and from, to, or between the points, over the route or routes, or within the territory authorized in the carrier's certificate of registration issued by this Commission, which certificate of registration would be rendered null and void by the carrier's operations through Ohio as authorized in (1) and (2) for the duration of such Ohio operations, subject to the same terms, conditions, and limitations set forth in the said certificate of registration.

TERMS, CONDITIONS, AND LIMITATIONS

The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by the said participating carrier shall not be construed as conferring more than one operating right.

The right of the Commission to impose in the future such terms, conditions, or limitations as may be necessary to insure that any participating carrier's operations conform to the requirements of the Interstate Commerce Act, including section 210 thereof, is hereby expressly reserved.

This certificate shall become null and void upon the reopening on a permanent basis of West Virginia Highway 2 to through truck traffic between New Martinsville and Wheeling, W. Va.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

(e) *Expiration of these rules.* The rules promulgated under this part and the special limited certificate issued in accordance with these rules shall automatically be revoked upon the reopening of the described portion of West Virginia Highway 2 on a permanent basis to through truck traffic.

(Secs. 204, 206, 207, 208, and 210; 49 Stat. 546, as amended, 551, as amended, 552, as amended, 554, as amended; 49 U.S.C. 304, 306, 307, 308, and 310)

It is further ordered, That this order shall become effective upon publication in the FEDERAL REGISTER.

And it is further ordered, That notice of this order shall be given to the public by depositing a copy thereof in the office of the secretary of the Commission at Washington, D.C., by sending a copy thereof to the Governor and Public Utilities Commission of the States of West Virginia and Ohio, and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-15136; Filed, Nov. 9, 1970; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 16—MIGRATORY BIRD PERMITS

Scientific Collecting and Bird Banding or Marking Permits

In order to provide authority for the efficient utilization of migratory birds by salvage of any such birds that are casualties as a result of bird banding or marking activities or from other causes, by persons holding a current bird banding or marking permit, it is determined to amend §§ 16.11 and 16.13 of this part as follows:

§ 16.11 Scientific collecting and special permits.

(a) * * *

(5) Persons issued Migratory Bird Banding or Marking Permits shall be permitted to salvage certain birds as set forth in § 16.13.

* * * * *

§ 16.13 Bird banding or marking permits.

(a) (1) A banding or marking permit is required before any person may capture migratory birds for banding or marking purposes or use official bands issued by the Bureau of Sport Fisheries and Wildlife for banding or marking any species of bird.

(2) The holder of a banding permit may salvage, for the purpose of donating to a public scientific or educational institution, birds killed or found dead as a result of the permittee's normal banding operations, and casualties from other causes. Banders must keep accurate records of their operations and file reports as set forth in the U.S. Fish and Wildlife Service's Bird Banding Manual, or supplements thereto, in accordance with instructions contained therein.

(3) All dead birds salvaged under authority of a Migratory Bird Banding or Marking Permit must be donated and transferred to a public scientific or educational institution at least every 6 months or within 60 days of the time such permit expires or is revoked, unless the permittee has been issued a special permit authorizing possession for a longer period of time.

* * * * *

Since this amendment to the migratory bird permit regulations relieves an existing restriction it is determined that notice and public procedure thereon are impracticable, unnecessary, and contrary to the public interest and this amendment is effective upon publication in the FEDERAL REGISTER.

(40 Stat. 755; 16 U.S.C. 704)

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

NOVEMBER 4, 1970.

[F.R. Doc. 70-15124; Filed, Nov. 9, 1970; 8:47 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7070]

PART 402—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1969

Definition of Term "Domestic Building and Loan Association"

In order to prescribe temporary regulations under section 7701(a)(19) of

the Internal Revenue Code of 1954, as amended by section 432(c) of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 622), relating to the definition of the term "domestic building and loan association", which shall remain in force and effect until superseded by permanent regulations under such section, the following regulations are hereby adopted:

§ 402.1-1 Limitation on application of § 301.7701-13.

Section 301.7701-13 shall not apply for taxable years beginning after July 11, 1969. For rules relating to definition of the term "domestic building and loan association" for taxable years beginning after July 11, 1969, see § 402.1-2.

§ 402.1-2 Post-1969 domestic building and loan association.

(a) *In general.* For taxable years beginning after July 11, 1969, the term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, a Federal savings and loan association, and any other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law which meets the supervisory test (described in paragraph (b) of this section), the business operations test (described in paragraph (c) of this section), and the assets test (described in paragraph (d) of this section). For the definition of the term "domestic building and loan association" for taxable years beginning after October 16, 1962, and before July 12, 1969, see § 301.7701-13.

(b) *Supervisory test.* A domestic building and loan association must be either (1) an insured institution within the meaning of section 401(a) of the National Housing Act (12 U.S.C. 1724(a)) or (2) subject by law to supervision and examination by State or Federal authority having supervision over such associations. An "insured institution" is one the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

(c) *Business operations test*—(1) *In general.* An association must utilize its assets so that its business consists principally of acquiring the savings of the public and investing in loans. The requirement of this paragraph is referred to in this section as the business operations test. The business of acquiring the savings of the public and investing in loans includes ancillary or incidental activities which are directly and primarily related to such acquisition and investment, such as advertising for savings, appraising property on which loans are to be made by the association, and inspecting the progress of construction in connection with construction loans. Even though an association meets the supervisory test described in paragraph (b) of this section and the assets test described in paragraph (d) of this section, it will nevertheless not qualify as a domestic building and loan association if it does not meet the requirements of both subparagraphs (2) and (3) of this paragraph, relating, respectively, to acquiring the savings of the public and investing in loans.

(2) *Acquiring the savings of the public.* The requirement that an association's business (other than investing in loans) must consist principally of acquiring the savings of the public ordinarily will be considered to be met if savings are acquired in all material respects in conformity with the rules and regulations of the Federal Home Loan Bank Board or substantially equivalent rules of a State law or supervisory authority. Alternatively, such requirement will be considered to be met if more than 75 percent of the dollar amount of the total deposits, withdrawable shares, and other obligations of the association are held during the taxable year by the general public, as opposed to amounts deposited or held by family or related business groups or persons who are officers or directors of the association. However, the preceding sentence shall not apply if the dollar amount of other obligations of the association outstanding during the taxable year exceeds 25 percent of the dollar amount of the total deposits, withdrawable shares, and other obligations of the association outstanding during such year. For purposes of this subparagraph, the term "other obligations" means notes, bonds, debentures, or other obligations, or other securities (except capital stock), issued by an association in conformity with the rules and regulations of the Federal Home Loan Bank Board or substantially equivalent rules of a State law or supervisory authority. The term "other obligations" does not include an advance made by a Federal Home Loan Bank under the authority of section 10 or 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430, 1430b) as amended and supplemented. Both percentages specified in this subparagraph shall be computed either as of the close of the taxable year or, at the option of the taxpayer, on the basis of the average of the dollar amounts of the total deposits, withdrawable shares, and other obligations of the association held during the taxable year. Such averages shall be determined by computing each percentage specified either as of the close of each month, as of the close of each quarter, or semiannually during the taxable year and by using the yearly average of the monthly, quarterly, or semiannual percentages obtained. The method selected must be applied uniformly for the taxable year to both percentages, but the method may be changed from year to year.

(3) *Investing in loans*—(i) *In general.* The requirement that an association's business (other than acquiring the savings of the public) must consist principally of investing in loans will be considered to be met for a taxable year only if more than 75 percent of the gross income of the association consists of—

(*a*) Interest or dividends on assets defined in subparagraphs (1), (2), and (3) of paragraph (e) of this section,

(*b*) Interest on loans,

(*c*) Income attributable to the portion of property used in the association's business, as defined in paragraph (e)(11) of this section,

(*d*) So much of the amount of premiums, discounts, commissions, or fees (including late charges and penalties) on loans which have at some time been held by the association, or for which firm commitments have been issued, as is not in excess of 20 percent of the gross income of the association.

(*e*) Net gain from sales and exchanges of governmental obligations, as defined in paragraph (e)(2) of this section, or

(*f*) Income, gain or loss attributable to foreclosed property, as defined in paragraph (e)(9) of this section, but not including such income, gain or loss which, pursuant to section 595 and the regulations thereunder, is not included in gross income.

Examples of types of income which would cause an association to fail to meet the requirements of this subparagraph if, in the aggregate, they equal or exceed 25 percent of gross income, are: the excess of gains over losses from sales of real property (other than foreclosed property); rental income (other than on foreclosed property and the portion of property used in the association's business); premiums, commissions, and fees (other than commitment fees) on loans which have never been held by the association; and insurance brokerage fees.

(ii) *Computation of gross income.* For purposes of this subparagraph, gross income is computed without regard to—

(*a*) Gain or loss on the sale or exchange of the portion of property used in the association's business as defined in paragraph (e)(11) of this section,

(*b*) Gain or loss on the sale or exchange of the rented portion of property used as the principal or branch office of the association, as defined in paragraph (e)(11) of this section, and

(*c*) Gains or losses on sales of participations and loans, other than governmental obligations defined in paragraph (e)(2) of this section.

For purposes of this subparagraph, gross income is also computed without regard to items of income which an association establishes arise out of transactions which are necessitated by exceptional circumstances and which are not undertaken as recurring business activities for profit. Thus, for example, an association would meet the investing in loans requirement if it can establish that it would otherwise fail to meet that requirement solely because of the receipt of a nonrecurring item of income due to exceptional circumstances. For this purpose, transactions necessitated by an excess of demand for loans over savings capital in the association's area are not to be deemed to be necessitated by exceptional circumstances. For purposes of (*c*) of this subdivision, the term "sales of participations" means sales by an association of interests in loans, which sales meet the requirements of the regulations of the Federal Home Loan Bank Board relating to sales of participations, or which meet substantially equivalent requirements of State law or regulations relating to sales of participations.

(iii) *Reporting requirement.* In the case of income tax returns for taxable years beginning after July 11, 1969, there is required to be filed with the return a statement showing the amount of gross income for the taxable year in each of the categories described in subdivision (i) of this subparagraph.

(d) *60 percent of assets test.* At least 60 percent of the amount of the total assets of a domestic building and loan association must consist of the assets defined in paragraph (e) of this section. The percentage specified in this paragraph is computed as of the close of the taxable year or, at the option of the taxpayer, may be computed on the basis of the average assets outstanding during the taxable year. Such average is determined by making the appropriate computation described in this section either as of the close of each month, as of the close of each quarter, or semiannually during the taxable year and by using the yearly average of the monthly, quarterly, or semiannual percentage obtained for each category of assets defined in paragraph (e) of this section. The method selected must be applied uniformly for the taxable year to all categories of assets, but the method may be changed from year to year. For purposes of this paragraph, it is immaterial whether the association originated the loans defined in subparagraphs (4) through (8) and (10) of paragraph (e) of this section or purchased or otherwise acquired them in whole or in part from another. See paragraph (f) of this section for definition of certain terms used in this paragraph and in paragraph (e) of this section, and for the determination of amount and character of loans.

(e) *Assets defined.* The assets defined in this paragraph are—

(1) *Cash.* The term "cash" means cash on hand, and time or demand deposits with, or withdrawable accounts in, other financial institutions.

(2) *Governmental obligations.* The term "governmental obligations" means—

(i) Obligations of the United States,

(ii) Obligations of a State or political subdivision of a State, and

(iii) Stock or obligations of a corporation which is an instrumentality of the United States, a State, or a political subdivision of a State,

other than obligations the interest on which is excludable from gross income under section 103 and the regulations thereunder.

(3) *Deposit insurance company securities.* The term "deposit insurance company securities" means certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations.

(4) *Passbook loan.* The term "passbook loan" means a loan to the extent secured by a deposit, withdrawable share, or savings account in the association, or share of a member of the association, with respect to which a distribution is allowable as a deduction under section 591.

(5) *Residential real property loan.* [Reserved]

(6) *Church loan.* [Reserved]

(7) *Urban renewal loan.* [Reserved]

(8) *Institutional loan.* [Reserved]

(9) *Foreclosed property.* [Reserved]

(10) *Educational loan.* [Reserved]

(11) *Property used in the association's business*—(i) *In general.* The term "property used in the association's business" means land, buildings, furniture, fixtures, equipment, leasehold interests, leasehold improvements, and other assets used by the association in the conduct of its business of acquiring the savings of the public and investing in loans. Real property held for the purpose of being used primarily as the principal or branch office of the association constitutes property used in the association's business so long as it is reasonably anticipated that such property will be occupied for such use by the association, or that construction work preparatory to such occupancy will be commenced thereon, within 2 years after acquisition of the property. Stock of a wholly owned subsidiary corporation which has as its exclusive activity the ownership and management of property more than 50 percent of the fair rental value of which is used as the principal or branch office of the association constitutes property used in such business. Real property held by an association for investment or sale, even for the purpose of obtaining mortgage loans thereon, does not constitute property used in the association's business.

(ii) *Property rented to others.* Except as provided in the second sentence of subdivision (i) of this subparagraph, property or a portion thereof rented by the association to others does not constitute property used in the association's business. However, if the fair rental value of the rented portion of a single piece of real property (including appurtenant parcels) used as the principal or branch office of the association constitutes less than 50 percent of the fair rental value of such piece of property, or if such property has an adjusted basis of not more than $150,000, the entire property shall be considered used in such business. If such rented portion constitutes 50 percent or more of the fair rental value of such piece of property, and such property has an adjusted basis of more than $150,000, an allocation of its adjusted basis is required. The portion of the total adjusted basis of such piece of property which is deemed to be property used in the association's business shall be equal to an amount which bears the same ratio to such total adjusted basis as the amount of the fair rental value of the portion used as the principal or branch office of the association bears to the total fair rental value of such property. In the case of all property other than real property used or to be used as the principal or branch office of the association, if the fair rental value of the rented portion thereof constitutes less than 15 percent of the fair rental value of such property, the entire property shall be considered used in the association's business. If such rented portion constitutes 15 percent or more of the fair rental value of such property, an allocation of its adjusted basis (in the same manner as required for real property used as the principal or branch office) is required.

(f) *Special rules.* [Reserved]

Because the purpose of this Treasury decision is to provide immediate guidance regarding the definition of the term "domestic building and loan association" as affected by the Tax Reform Act of 1969, it is hereby found impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C., § 553(b), or subject to the effective date limitation of 5 U.S.C., § 553(d).

(Sec. 7805 of the Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: November 7, 1970.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-15241; Filed, Nov. 9, 1970; 9:34 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 301]

DEFINITION OF TERM "DOMESTIC BUILDING AND LOAN ASSOCIATION"

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Regulations on Procedure and Administration (26 CFR Part 301) under section 7701(a)(19) of the Internal Revenue Code of 1954 to a portion of the amendment made by section 432(c) of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 622), such regulations are amended as follows. Amendments to conform the Regulations on Procedure and Administration to the balance of the amendment made by section 432(c) of the Tax Reform Act of 1969 will be published in the FEDERAL REGISTER at a later date with a notice of proposed rule making.

PARAGRAPH 1. Section 301.7701 is amended by revising section 7701(a)(19) and the historical note to read as follows:

§ 301.7701 Statutory provisions; definitions.

SEC. 7701. *Definitions.* (a) * * *

(19) *Domestic building and loan association.* The term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association—

(A) Which either (i) is an insured institution within the meaning of section 401(a) of the National Housing Act (12 U.S.C., sec. 1724(a)), or (ii) is subject by law to supervision and examination by State or Federal authority having supervision over such associations;

(B) The business of which consists principally of acquiring the savings of the public and investing in loans; and

(C) At least 60 percent of the amount of the total assets of which (at the close of the taxable year) consists of—

(i) Cash,

(ii) Obligations of the United States or of a State or political subdivision thereof, and stock or obligations of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof, but not including obligations the interest on which is excludable from gross income under section 103,

(iii) Certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations,

(iv) Loans secured by a deposit or share of a member,

(v) Loans (including redeemable ground rents, as defined in section 1055) secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property or real property used primarily for church purposes, loans made for the improvement of residential real property or real property used primarily for church purposes, provided that for purposes of this clause, residential real property shall include single or multifamily dwellings, facilities in residential developments dedicated to public use or property used on a nonprofit basis for residents, and mobile homes not used on a transient basis,

(vi) Loans secured by an interest in real property located within an urban renewal area to be developed for predominantly residential use under an urban renewal plan approved by the Secretary of Housing and Urban Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, and loans made for the improvement of any such real property,

(vii) Loans secured by an interest in educational, health, or welfare institutions or facilities, including structures designed or used primarily for residential purposes for students, residents, and persons under care, employees, or members of the staff of such institutions or facilities,

(viii) Property acquired through the liquidation of defaulted loans described in clause (v), (vi), or (vii),

(ix) Loans made for the payment of expenses of college or university education or vocational training, in accordance with such regulations as may be prescribed by the Secretary or his delegate, and

(x) Property used by the association in the conduct of the business described in subparagraph (B).

At the election of the taxpayer, the percentage specified in this subparagraph shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary or his delegate. For purposes of clause (v), if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan is deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). For purposes of clause (v), loans made to finance the acquisition or development of land shall be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary or his delegate, there is reasonable assurance that the property will become residential real property within a period of 3 years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such 3-year period, such land becomes residential real property.

* * * * *

(Sec. 7701, as amended by sec. 22 (g), (h), Alaska Omnibus Act (73 Stat. 146, 147); sec. 18 (i), (j), Hawaii Omnibus Act (74 Stat. 416); sec. 103(t), Social Security Amendments 1960 (74 Stat. 941); sec. 6(c), Rev. Act 1962 (76 Stat. 982); sec. 5, Act of Oct. 23, 1962 (Public Law 87-870, 76 Stat. 1161); sec. 432(c), Tax Reform Act 1969 (83 Stat. 622))

PAR. 2. Section 301.7701-13 is amended by revising so much thereof as precedes paragraph (b) to read as follows:

§ 301.7701-13 Pre-1970 domestic building and loan association.

(a) *In general.* For taxable years beginning after October 16, 1962, and before July 12, 1969, the term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, a Federal savings and loan association, and any other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law which meets the supervisory test (described in paragraph (b) of this section), the business operations test (described in paragraph (c) of this section), and each of the various assets tests (described in paragraphs (d), (e), (f), and (h) of this section). For the definition of the term "domestic building and loan association" for taxable years beginning after July 11, 1969, see § 301.7701-13A.

* * * * *

PAR. 3. The following provisions are added immediately after § 301.7701-13:

§ 301.7701-13A Post-1969 domestic building and loan association.

(a) *In general.* For taxable years beginning after July 11, 1969, the term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, a Federal savings and loan association, and any other savings institution chartered and supervised as a savings and loan or similar association

under Federal or State law which meets the supervisory test (described in paragraph (b) of this section), the business operations test (described in paragraph (c) of this section), and the assets test (described in paragraph (d) of this section). For the definition of the term "domestic building and loan association" for taxable years beginning after October 16, 1962, and before July 12, 1969, see § 301.7701–13.

(b) *Supervisory test.* A domestic building and loan association must be either (1) an insured institution within the meaning of section 401(a) of the National Housing Act (12 U.S.C. 1724(a)) or (2) subject by law to supervision and examination by State or Federal authority having supervision over such associations. An "insured institution" is one the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

(c) *Business operations test*—(1) *In general.* An association must utilize its assets so that its business consists principally of acquiring the savings of the public and investing in loans. The requirement of this paragraph is referred to in this section as the business operations test. The business of acquiring the savings of the public and investing in loans includes ancillary or incidental activities which are directly and primarily related to such acquisition and investment, such as advertising for savings, appraising property on which loans are to be made by the association, and inspecting the progress of construction in connection with construction loans. Even though an association meets the supervisory test described in paragraph (b) of this section and the assets test described in paragraph (d) of this section, it will nevertheless not qualify as a domestic building and loan association if it does not meet the requirements of both subparagraphs (2) and (3) of this paragraph, relating, respectively, to acquiring the savings of the public and investing in loans.

(2) *Acquiring the savings of the public.* The requirement that an association's business (other than investing in loans) must consist principally of acquiring the savings of the public ordinarily will be considered to be met if savings are acquired in all material respects in conformity with the rules and regulations of the Federal Home Loan Bank Board or substantially equivalent rules of a State law or supervisory authority. Alternatively, such requirement will be considered to be met if more than 75 percent of the dollar amount of the total deposits, withdrawable shares, and other obligations of the association are held during the taxable year by the general public, as opposed to amounts deposited or held by family or related business groups or persons who are officers or directors of the association. However, the preceding sentence shall not apply if the dollar amount of other obligations of the association outstanding during the taxable year exceeds 25 percent of the dollar amount of the total deposits, withdrawable shares, and other obligations of the association outstanding during such year. For purposes of this subparagraph, the term "other obligations" means notes, bonds, debentures, or other obligations, or other securities (except capital stock), issued by an association in conformity with the rules and regulations of the Federal Home Loan Bank Board or substantially equivalent rules of a State law or supervisory authority. The term "other obligations" does not include an advance made by a Federal Home Loan Bank under the authority of section 10 or 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430, 1430b) as amended and supplemented. Both percentages specified in this subparagraph shall be computed either as of the close of the taxable year or, at the option of the taxpayer, on the basis of the average of the dollar amounts of the total deposits, withdrawable shares, and other obligations of the association held during the taxable year. Such averages shall be determined by computing each percentage specified either as of the close of each month, as of the close of each quarter, or semiannually during the taxable year and by using the yearly average of the monthly, quarterly, or semiannual percentages obtained. The method selected must be applied uniformly for the taxable year to both percentages, but the method may be changed from year to year.

(3) *Investing in loans*—(i) *In general.* The requirement that an association's business (other than acquiring the savings of the public) must consist principally of investing in loans will be considered to be met for a taxable year only if more than 75 percent of the gross income of the association consists of—

(*a*) Interest or dividends on assets defined in subparagraphs (1), (2), and (3) of paragraph (e) of this section,

(*b*) Interest on loans,

(*c*) Income attributable to the portion of property used in the association's business, as defined in paragraph (e)(11) of this section,

(*d*) So much of the amount of premiums, discounts, commissions, or fees (including late charges and penalties) on loans which have at some time been held by the association, or for which firm commitments have been issued, as is not in excess of 20 percent of the gross income of the association,

(*e*) Net gain from sales and exchanges of governmental obligations, as defined in paragraph (e)(2) of this section, or

(*f*) Income, gain or loss attributable to foreclosed property, as defined in paragraph (e)(9) of this section, but not including such income, gain or loss which, pursuant to section 595 and the regulations thereunder, is not included in gross income.

Examples of types of income which would cause an association to fail to meet the requirements of this subparagraph if, in the aggregate, they equal or exceed 25 percent of gross income, are: the excess of gains over losses from sales of real property (other than foreclosed property); rental income (other than on foreclosed property and the portion of property used in the association's business); premiums, commissions, and fees (other than commitment fees) on loans which have never been held by the association; and insurance brokerage fees.

(ii) *Computation of gross income.* For purposes of this subparagraph, gross income is computed without regard to—

(*a*) Gain or loss on the sale or exchange of the portion of property used in the association's business as defined in paragraph (e)(11) of this section,

(*b*) Gain or loss on the sale or exchange of the rented portion of property used as the principal or branch office of the association, as defined in paragraph (e)(11) of this section, and

(*c*) Gains or losses on sales of participations and loans, other than governmental obligations defined in paragraph (e)(2) of this section.

For purposes of this subparagraph, gross income is also computed without regard to items of income which an association establishes arise out of transactions which are necessitated by exceptional circumstances and which are not undertaken as recurring business activities for profit. Thus, for example, an association would meet the investing in loans requirement if it can establish that it would otherwise fail to meet that requirement solely because of the receipt of a nonrecurring item of income due to exceptional circumstances. For this purpose, transactions necessitated by an excess of demand for loans over savings capital in the association's area are not to be deemed to be necessitated by exceptional circumstances. For purposes of (*c*) of this subdivision, the term "sales of participations" means sales by an association of interests in loans, which sales meet the requirements of the regulations of the Federal Home Loan Bank Board relating to sales of participations, or which meet substantially equivalent requirements of State law or regulations relating to sales of participations.

(iii) *Reporting requirement.* In the case of income tax returns for taxable years beginning after July 11, 1969, there is required to be filed with the return a statement showing the amount of gross income for the taxable year in each of the categories described in subdivision (i) of this subparagraph.

(d) *60 percent of assets test.* At least 60 percent of the amount of the total assets of a domestic building and loan association must consist of the assets defined in paragraph (e) of this section. The percentage specified in this paragraph is computed as of the close of the taxable year or, at the option of the taxpayer, may be computed on the basis of the average assets outstanding during the taxable year. Such average is determined by making the appropriate computation described in this section either as of the close of each month, as of the close of each quarter, or semiannually during the taxable year and by using the yearly average of the monthly, quarterly, or semiannual percentage obtained for each category of assets defined in paragraph (e) of this section. The

method selected must be applied uniformly for the taxable year to all categories of assets, but the method may be changed from year to year. For purposes of this paragraph, it is immaterial whether the association originated the loans defined in subparagraphs (4) through (8) and (10) of paragraph (e) of this section or purchased or otherwise acquired them in whole or in part from another. See paragraph (f) of this section for definition of certain terms used in this paragraph and in paragraph (e) of this section, and for the determination of amount and character of loans.

(e) *Assets defined.* The assets defined in this paragraph are—

(1) *Cash.* The term "cash" means cash on hand, and time or demand deposits with, or withdrawable accounts in, other financial institutions.

(2) *Governmental obligations.* The term "governmental obligations" means—

(i) Obligations of the United States,

(ii) Obligations of a State or political subdivision of a State, and

(iii) Stock or obligations of a corporation which is an instrumentality of the United States, a State, or a political subdivision of a State,

other than obligations the interest on which is excludable from gross income under section 103 and the regulations thereunder.

(3) *Deposit insurance company securities.* The term "deposit insurance company securities" means certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations.

(4) *Passbook loan.* The term "passbook loan" means a loan to the extent secured by a deposit, withdrawable share, or savings account in the association, or share of a member of the association, with respect to which a distribution is allowable as a deduction under section 591.

(5) *Residential real property loan.* [Reserved]

(6) *Church loan.* [Reserved]

(7) *Urban renewal loan.* [Reserved]

(8) *Institutional loan.* [Reserved]

(9) *Foreclosed property.* [Reserved]

(10) *Educational loan.* [Reserved]

(11) *Property used in the association's business*—(i) *In general.* The term "property used in the association's business" means land, buildings, furniture, fixtures, equipment, leasehold interests, leasehold improvements, and other assets used by the association in the conduct of its business of acquiring the savings of the public and investing in loans. Real property held for the purpose of being used primarily as the principal or branch office of the association constitutes property used in the association's business so long as it is reasonably anticipated that such property will be occupied for such use by the association, or that construction work preparatory to such occupancy will be commenced thereon, within 2 years after acquisition of the property. Stock of a wholly owned subsidiary corporation which has as its exclusive activity the ownership and management of property more than 50 percent of the fair rental value of which is used as the principal or branch office of the association constitutes property used in such business. Real property held by an association for investment or sale, even for the purpose of obtaining mortgage loans thereon, does not constitute property used in the association's business.

(ii) *Property rented to others.* Except as provided in the second sentence of subdivision (i) of this subparagraph, property or a portion thereof rented by the association to others does not constitute property used in the association's business. However, if the fair rental value of the rented portion of a single piece of real property (including appurtenant parcels) used as the principal or branch office of the association constitutes less than 50 percent of the fair rental value of such piece of property, or if such property has an adjusted basis of not more than $150,000, the entire property shall be considered used in such business. If such rented portion constitutes 50 percent or more of the fair rental value of such piece of property, and such property has an adjusted basis of more than $150,000, an allocation of its adjusted basis is required. The portion of the total adjusted basis of such piece of property which is deemed to be property used in the association's business shall be equal to an amount which bears the same ratio to such total adjusted basis as the amount of the fair rental value of the portion used as the principal or branch office of the association bears to the total fair rental value of such property. In the case of all property other than real property used or to be used as the principal or branch office of the association, if the fair rental value of the rented portion thereof constitutes less than 15 percent of the fair rental value of such property, the entire property shall be considered used in the association's business. If such rented portion constitutes 15 percent or more of the fair rental value of such property, an allocation of its adjusted basis (in the same manner as required for real property used as the principal or branch office) is required.

(f) *Special rules.* [Reserved]

[F.R. Doc. 70-15240; Filed, Nov. 9, 1970; 9:33 a.m.]

DEPARTMENT OF LABOR

Office of Labor-Management and Welfare-Pension Reports

[29 CFR Part 462]

CERTAIN EMPLOYEE BENEFIT PLANS UTILIZING HARTFORD LIFE INSURANCE CO., HARTFORD LIFE AND ACCIDENT INSURANCE CO., AND/OR HARTFORD ACCIDENT AND INDEMNITY CO.

Proposed Variation From Reporting

Where benefits under an employee benefit plan are provided by an insurance carrier or service or other organization which does not maintain separate experience records covering the specific groups it serves, section 7(d)(2)(A), of the Welfare and Pension Plans Disclosure Act, 29 U.S.C. 306(d)(2)(A) (hereinafter the Act), requires a copy of the financial report of the carrier or other organization to be included with the annual report of the plan. Section 5(a) of the Act (29 U.S.C. 304(a)) provides, among other things, that if information required to be published under the Act would be "duplicative", the Secretary of Labor may prescribe another manner for the publication of such information. By petition dated June 30, 1970, the Hartford Life Insurance Co., the Hartford Life and Accident Insurance Co., and the Hartford Accident and Indemnity Co., Hartford Plaza, Hartford, Conn. 06115, hereinafter referred to as the carrier(s), asserting that they fund over 4,200 employee benefit plans with respect to which they do not maintain separate experience records, requested a variation from the requirement of section 7(d)(2)(A) that each of the plans attach to its annual report filed with the Secretary of Labor pursuant to section 8(b) of the Act (29 U.S.C. 307(b)), a copy of the financial report of the appropriate carrier. It appears that the requirement of section 7(d)(2)(A) of the Act, as described above, is "duplicative" within the meaning of section 5(a) of the Act when applied to the employee benefit plans which utilize the said carriers.

Therefore, in accordance with section 5(a) of the Welfare and Pension Plans Disclosure Act, Subpart A of Part 462, Code of Federal Regulations, Secretary's Order No. 16-68 (33 F.R. 15574), and Labor-Management Services Administration Order No. 2-1, dated August 24, 1970, a variation, to appear a new §§ 462.35 and 462.36 of that part preceded by an appropriate undesignated centerhead, is proposed in the manner indicated below.

Pursuant to 29 CFR 462.7(c), interested persons may file objections thereto within 15 days from the date of publication of this proposal in the FEDERAL REGISTER. Such objections shall be in writing and addressed to the Director, Office of Labor-Management and Welfare-Pension Reports, Room 801, 8701 Georgia Avenue, Silver Spring, Md. 20910, and shall show wherein the person filing will be adversely affected by the proposed variation deemed objectionable and the grounds for the objections. If such interested person desires a hearing, he shall file a request for a hearing with his objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in triplicate.

As proposed, the new §§ 462.35 and 462.36 and their preceding undesignated centerhead would read as follows:

CERTAIN EMPLOYEE BENEFIT PLANS UTILIZING HARTFORD LIFE INSURANCE COMPANY, HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY, AND/OR HARTFORD ACCIDENT AND INDEMNITY COMPANY

§ 462.35 **Rule of variation.**

Every employee benefit plan which utilizes the Hartford Life Insurance Co.,

the Hartford Life and Accident Insurance Co., and/or the Hartford Accident and Indemnity Co. (hereinafter referred to as the carrier(s)) to provide benefits and which presently is required under section 7(d)(2)(A) of the Welfare and Pension Plans Disclosure Act to attach to its annual report filed with the Secretary of Labor pursuant to section 8(b) of the Act, a copy of the financial report of the carrier will no longer be required to do so, subject to the following conditions.

§ 462.36 Condition of variation.

(a) Each carrier shall:

(1) Submit to the Office of Labor-Management and Welfare-Pension Reports, within 120 days after the end of its fiscal year, 10 copies of its latest financial report, including the company's complete name and address in each copy.

(2) Thereafter make timely written notification to each plan administrator of a participating employee benefit plan heretofore required to submit a copy of such financial report under section 7(d)(2)(A) of the Act that the carrier has submitted its latest financial report to the Office of Labor-Management and Welfare-Pension Reports.

(b) In lieu of submitting to the Office of Labor-Management and Welfare-Pension Reports the financial report of the carrier(s), each plan administrator of an employee benefit plan to which this variation applies shall report in part III, section D of Department of Labor Annual Report Form D-2, or attachment thereto, the complete name and address of the carrier and shall place in Item 6 of said part and section the symbol "VAR" in the space provided for the code number.

(c) Each carrier is cautioned that:

(1) This variation does not apply to any employee benefit plan for which the carrier maintains separate experience records, since such plans are not required to file financial reports of the carrier under section 7(d)(2).

(2) This variation does not affect the responsibilities of the carrier to comply with the certification requirements of section 7(g) of the Act (29 U.S.C. 306(g)) and part 461 of this chapter.

(Sec. 5, 72 Stat. 999; 76 Stat. 36, 29 U.S.C. 304)

Signed at Washington, D.C., this 30th day of October 1970.

JOHN C. SHINN,
Deputy Assistant Secretary for Labor-Management Relations.

[F.R. Doc. 70-15108; Filed, Nov. 9, 1970; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 60]

[Domestic Uranium Program Circular 8 Rev.]

URANIUM LEASES

Proposed Modification of Regulations for Lands Controlled by the AEC

1. Notice is hereby given by the Atomic Energy Commission of its intent to modify Domestic Uranium Program Circular 8 setting forth the regulations concerning the leasing of certain lands controlled by the Commission. This Circular was originally published July 14, 1956 (21 F.R. 5259). Changes are necessary to update the circular and to recognize the change from a Government to a commercial market for uranium. The AEC hereby solicits public comment on the proposed modified circular. Interested persons should direct their comments to the Secretary, U.S.A.E.C., Washington, D.C., within 60 days from the date of publication of this notice in the FEDERAL REGISTER.

2. The proposed revised regulations follow:

§ 60.8 Uranium leases on lands controlled by the Commission.

(a) *What this section does.* This section sets forth regulations governing the issuance of leases to permit the exploration for and mining of deposits containing uranium in public lands withdrawn from entry and location under the general mining laws for use of the Commission, and in certain other lands under Commission control.

(b) *Statutory authority.* The Atomic Energy Act of 1954 (68 Stat. 919) is the authority for this section.

(c) *Who may hold leases.* Only parties who are (1) citizens of the United States; (2) associations of such citizens; or (3) corporations organized under the laws of the United States or territories thereof, are eligible lessees under this section. Persons under 21 years of age or employees of the Commission are not eligible.

(d) *Issuance of leases through competitive bidding.* Except under special circumstances as provided in paragraph (u) of this section, each lease will be offered through competitive bidding, and will be issued to the acceptable bidder offering the highest bid. The bid may be on a cash bonus, royalty bonus, or other basis as specified in the invitation to bid. Before any lease is awarded, the Commission may require high bidders to submit a detailed statement of the facts as to such matters as their experience, organization, and financial resources. The Commission reserves the right to reject any and all bids.

(e) *Solicitation of bids.* Announcements of the availability of invitations to bid for a lease will be publicly posted and published. Copies of such announcements will also be mailed to parties who submit to the Commission's Grand Junction, Colo., office subsequent to publication in the FEDERAL REGISTER of this Domestic Uranium Program Circular 8, Revised, written requests that their names be placed on a mailing list for receipt of such announcements. The invitations containing information for preparation and submission of bids, will be available at the Grand Junction office, and will be mailed only on specific written request, following announcement of their availability. Invitations will specify the land to be leased, the basis on which bids are to be submitted, the amount of the monetary deposit which must be transmitted with the bid, the place and time the bids will be publicly opened, the term, royalty and other payments, performance requirements, and other conditions which will become a part of the lease. In addition, data which has been assembled pertaining to the lands to be leased will be available for public inspection at the Grand Junction office; copies will also be available for purchase.

(f) *Bidding requirements; deposits.* All bids must be filed at the place and prior to the time set forth in the invitation. Each bid must be sealed and accompanied by a deposit, in the form of a certified check, cashier's check, or bank draft, in an amount as specified in the invitation to bid. Deposits of unsuccessful bidders will be returned. If the bidder is an individual, he must submit with his bid a statement of his citizenship and age. If the bidder is an association (including a partnership), the bid shall be accompanied by a certified copy of the articles of association together with a statement as to the citizenship and age of its members. If the bidder is a corporation, evidence that the officer signing the bid had authority to do so and a statement as to the State of incorporation shall also be submitted.

(g) *Awarding of lease.* Following public opening of the bids the Commission, subject to the right to reject any and all bids, will determine the successful bidder. In the event the highest acceptable bid are tie bids, a public drawing will be held by the Commission to determine the successful bidder. After notice of award and within the time period prescribed in the invitation, the successful bidder shall execute and return to the Commission three (3) copies of the lease and shall remit payments due as prescribed in the invitation. Should the successful bidder fail to execute the lease, or make payments as required, in accordance with the terms of the invitation, or fail to otherwise comply with applicable regulations, he may be required to forfeit any payments previously made, and lose any further right or interest in the lease. In such event, the Commission may offer the lease to the next highest acceptable bidder, reoffer the lease for bidding, or take such other action as appropriate. If the awarded lease is executed by the bidder through an agent, evidence of authorization must be submitted.

(h) *Dating of lease.* A lease issued under this section will ordinarily be effective as of the date it is signed by the Commission.

(i) *Term of lease.* A lease shall be for the period specified in the invitation to bid. When deemed desirable by the Commission, the lease will provide that the lease term may be extended at the option of the lessee for a specified period and upon stipulated conditions.

(j) *Payments to AEC under lease.* Royalty payments shall be specified in the invitation to bid; base royalty, minimum royalty, advance royalty, land rental payments, or a combination thereof may be required.

(k) *Title to unshipped ore.* The Commission, unless it approves otherwise, reserves all right and title to property in and to all ores and other uranium- or vanadium-bearing material not removed

from the leased premises within 60 days after expiration or other termination of the lease. Unless the Commission approves otherwise, all materials mined from the leased premises and not marketed by the lessee shall remain on the leased premises.

(l) *Environmental controls.* Each lease will contain such provisions as may be deemed necessary by the Commission with respect to the lessee's use of the leased lands. The Commission may require periodic submission of plans for exploration and mining activities including provisions for control of environmental impact. The lessee will be required to conduct operations so as to minimize adverse environmental effects, to comply with all applicable State and Federal statutes and regulations and, to the extent stipulated in the lease agreement, will be held responsible for maintenance or rehabilitation of affected areas in accordance with plans submitted to and approved by the Commission.

(m) *Performance requirements.* A lease shall require that exploration, development, and mining activities, as appropriate, be conducted on the leased premises with reasonable diligence, skill, and care as required to achieve and maintain production of uranium ore at rates consistent with good and safe mining practice, and with market conditions.

(n) *Health and safety requirements.* A lease (1) shall require that exploration, development, and mining activities, as appropriate, be conducted on the leased premises with due regard for the health and safety of those involved, and (2) shall include appropriate measures for the control of radiation exposure in the mines.

(o) *Lessee's records.* Leases shall provide that the lessee keep and make available to the Commission such records as the Commission deems necessary for the administration of the lease and its leasing program.

(p) *Rights of Commission.* The Commission reserves the right to enter upon the leased property and into all parts of the mine for inspection and other purposes. The Commission also reserves the right to grant to other persons easements or rights of way upon, through, or in the leased premises. The Commission and the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after termination or expiration of lease, have access to and the right to examine any directly pertinent books, papers, and records of the lessee involving transactions related to the lease.

(q) *Relinquishment of leases.* A lease may be surrendered by the lessee upon filing with and approval by the Commission of a written application for relinquishment. Approval of the application shall be contingent upon the delivery of the leased premises to the Commission in a condition determined to be satisfactory to the Commission. The lessee shall continue to be liable for the payment of all royalty and other debts due the Commission.

(r) *Assignment of leases.* Any transfer of a lease, or any interest therein or claim thereunder, will not be recognized unless and until approved by the Commission in writing. Ordinarily, the Commission will not approve any transfer of a lease which involves overriding royalties or deferred payments of any kind to the transferor.

(s) *Cancellation.* Any lease may be canceled by the Commission whenever the lessee fails to comply with the provisions of the lease. Failure of the Commission to exercise its right to cancel shall not be deemed a waiver thereof.

(t) *Form of lease.* Leases will be issued on forms prescribed by the Commission.

(u) *Noncompetitive leases.* Under special circumtances, where the Commission believes it to be in the best interest of the Government, the Commission at its discretion may award or extend leases on the basis of negotiation.

(v) *Commission decisions.* All matters connected with the issuance and administration of leases will be determined by the Commission whose decisions shall be final and conclusive.

(w) *Definitions.* "Commission" as used in this section means the U.S. Atomic Energy Commission or its duly authorized representative or representatives.

(x) *Multiple use of land.* Leases issued under this section shall provide that operations under them will be conducted so as not to interfere with the lawful operations of any third party having a lease, permit, easement, or other right or interest in the premises.

(y) *Compliance with State and Federal regulations.* Every lease shall provide that the lessee is required to comply with all applicable State and Federal statutes and regulations.

Dated at Germantown, Md., this 5th day of November 1970.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[F.R. Doc. 70-15123; Filed, Nov. 9, 1970; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 70-28; Notice 1]

NEW PNEUMATIC TIRES; PASSENGER CARS

Motor Vehicle Safety Standard

The Director of the National Highway Safety Bureau is considering amending Federal Motor Vehicle Standard No. 109 to establish a new criterion for calculating the breaking energy value of the Tire Strength Test of S5.3.

The standard presently requires that the average of the five breaking energy values obtained in the strength test be used to determine the strength of the tire. This approach has been used for years by the tire industry as a means of comparing tires of different construction and design, and as a means of evaluating the cord strength of the casing. However, the Bureau believes that the strength of the tire should be determined by reference to the lowest value obtained in the strength test, as this method will give a more accurate indication of the safety characteristics of the tire.

Therefore it is proposed that the language of S5.3.2.4 be amended to require that the minimum breaking energy value for the tire strength test be determined by using the lowest value obtained in the strength test, rather than the average value.

Proposed effective date: July 1, 1971.

Interested persons are invited to submit data, views and arguments concerning the proposed standard. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on February 5, 1971, will be considered, and will be available in the docket at the above address for examination both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be tested as suggestions for future rule making. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rule making is issued under the authority of sections 103, 112, and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1401, 1407), and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on November 3, 1970.

Rodolfo A. Diaz,
Acting Associate Director, Motor Vehicle Programs.

Part 571 of Title 49, CFR, would be amended by revising subparagraph S5.3.2.4 of Motor Vehicle Safety Standard No. 109 to read as follows:

S5.3.2.4 The breaking energy value for the tire is the lowest value obtained in accordance with S5.3.2.3.

[F.R. Doc. 70-15120; Filed, Nov. 9, 1970; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 221, 399]

[Docket No. 22630; EDR-190A, PSDR-27A]

GROUP FARES ON SCHEDULED SERVICES

Supplemental Notice of Proposed Rule Making

NOVEMBER 5, 1970.

The Board, by circulation of notice of proposed rule making EDR-190, PSDR-27, dated October 6, 1970, and publication at 35 F.R. 16006, gave notice that it had under consideration proposed amendments to (1) Part 221 which would require that tariffs for group fares specify the rules applicable to such fares, and (2) Part 399 which would provide that the conditions related to group fares other than inclusive tour basing fares shall conform to the Board's regulations governing pro rata charters. Interested persons were invited to participate in the proceeding by submission of twelve (12) copies of written data, views, or arguments pertaining thereto to the Docket Section of the Board on or before November 9, 1970, and reply comments thereto on or before November 24, 1970.

Subsequent to the issuance of the proposed rule, counsel for a number of scheduled air carriers requested an extension of time for filing comments to November 13, 1970, on the ground that certain data sent to counsel by one of the carriers was lost in the mail thereby delaying the preparation of comments.

The undersigned finds that good cause has been shown for granting the requested extension. Accordingly, pursuant to the authority delegated in § 385.20(d) of the Board's organization regulations, the undersigned hereby extends the time for submitting comments to November 13, 1970.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel,
Rules and Rates.

[F.R. Doc. 70-15134; Filed, Nov. 9, 1970; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 70-236]

CERTAIN CONTAINERS USED TO TRANSPORT SNOWMOBILE PARTS

Designation as Instruments of International Traffic

NOVEMBER 2, 1970.

It has been established to the satisfaction of the Bureau that the following open-top metal containers are substantial, designed for and capable of repeated use in transportation, and used in substantial numbers in international traffic:

(1) Steel frame, platform 37 inches square, steel mesh sides 24 inches in height, with four 5-inch high legs of triangular configuration grooved for stacking purposes; used to carry snowmobile spare parts.

(2) Steel tubing, platform 39 inches square, open sides with tube corner posts, top rails approximately 40 inches above platform, with four 5-inch high legs of triangular configuration grooved for stacking purposes; used to carry snowmobile spare skis.

Under the authority of § 10.41a(a), Customs Regulations, I hereby designate the above-described metal containers as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended. These containers may be released under the procedures provided for in § 10.41a.

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

[F.R. Doc. 70-15141; Filed, Nov. 9, 1970; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

AREA DIRECTORS ET AL.

Delegation of Authority; Correction

NOVEMBER 3, 1970.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

On page 637 of the January 16, 1969, issue of the FEDERAL REGISTER was published section 3.3D(1) of 10 BIAM. The CFR section cited was incorrect. This section should be corrected to read as follows:

(1) Designate any basis of volume determination pursuant to 25 CFR 141.15 other than Scribner Decimal C Log Rule, cubic volume, piece count, lineal foot, or weight.

ANTHONY PHISCOLA,
Acting Commissioner.

[F.R. Doc. 70-15107, Filed, Nov. 9, 1970; 8:46 a.m.]

Bureau of Land Management

CHIEF ADJUDICATOR ET AL.

Redelegation of Authority

1. Pursuant to section 2.1, Bureau Order No. 701 of July 23, 1964, as amended, the following authority is hereby delegated to the Chief Adjudicator et al., of the Anchorage Land Office.

a. Chief Adjudicator, authority to take action for the Manager in matters listed in sections 2.2 (b), (d), and (k); 2.3 (a) and (c); 2.5 (b) and (c); 2.6, and 2.9 of Part II of Bureau Order 701, supra. The authority in section 2.2(k) may not be performed by one acting in his temporary absence.

b. Chief, Branch of Title and Records, authority to take action for the Manager in matters listed in sections 2.2(c), 2.3(c), 2.4(a)(4), 2.6 and 2.9 of Part II of Bureau Order 701, supra. The authority to take action on matters listed in sections 2.6 and 2.9 is limited to actions on applications, claims, offers, or notices filed, when any or all of the following conditions prevail: (1) The official land title and use records reveal that the land involved is unavailable; (2) the land description is inadequate to identify the land, or does not meet legal requirements of compactness, contiguity, or acreage, or is otherwise defective; (3) the filing is incomplete when submitted (for example, fees not paid, information not complete, unsigned, obsolete form); (4) 43 CFR 2023.5 applies; (5) the applicant or offeror was not successful in a public drawing held to establish priorities of conflicting filings.

2.a. The incumbents above may, by written order, designate any qualified employee under their supervision to perform the redelegated functions in his absence.

"b. Each employee who serves in such capacity in (a) above, shall prepare a memorandum to be kept in the Land Office showing the date and hour of the commencement and termination of each period of service in that capacity.

3. The authority delegated may not be redelegated except as provided in paragraph 2.

4. The redelegation of authority by the Land Office Manager, approved March 11, 1968 (33 F.R. 4834, Mar. 21, 1968) is hereby cancelled.

T. G. BINGHAM,
Manager, Anchorage Land Office.

Approved: November 3, 1970.

CURTIS V. MCVEE,
Acting State Director, Alaska.

[F.R. Doc. 70-15151; Filed, Nov. 9, 1970; 8:49 a.m.]

[Serial No. I-3782]

IDAHO

Notice of Proposed Classification of Public Lands for Transfer Out of Federal Ownership

NOVEMBER 2, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18), section 7 of the Act of June 28, 1934 (43 U.S.C. 315g) and to the regulations in 43 CFR, Parts 2400, 2410, and 2460, it is proposed to classify the public lands described in paragraph 3, for disposal pursuant to exchange under section 8 of the Taylor Grazing Act (43 U.S.C. 315g).

2. Publication of this notice has the effect of segregating the following described public lands from all forms of disposal under the public land laws, including the mining laws, except the form of disposal for which it is proposed to classify the lands. However, publication does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or govern the disposal of their mineral and vegetative resources, other than under the mining laws.

3. The following described lands proposed to be classified for disposal are located in Clearwater County. The proposal has been discussed and analyzed in detail with the county and with other agencies, groups and individuals. Maps and other information are available for inspection in the Coeur d'Alene District Office and in the Idaho Land Office.

BOISE MERIDIAN, IDAHO

T. 40 N., R. 1 E.,
Sec. 3, SW¼SE¼;
Sec. 13, NW¼SE¼;
Sec. 14, lot 3, in SW¼ unpatented mining claims, N½SE¼ less mining claims, NE¼ (M.S. 2806);
Sec. 15, lots 1, 2, and 3;
Sec. 22, SE¼NW¼, NE¼SW¼;
Sec. 23, lot 2, SW¼NE¼, SE¼NW¼; unpatented M.S.
T. 36 N., R. 2 E.,
Sec. 14, lot 3.
T. 38 N., R. 2 E.,
Sec. 26, SE¼SW¼SE¼, SW¼SE¼SE¼, E½SE¼SE¼;
Sec. 28, S½N½NE¼, NW¼NW¼NE¼.

T. 39 N., R. 2 E.,
Sec. 1, lots 1 and 2;
Sec. 11, SW¼SE¼;
Sec. 18, lot 4, SW¼NE¼, SE¼SW¼, less mining claims;
Sec. 19, lots 1, 2, 3, and 4, SE¼NW¼, E½SW¼, NW¼SE¼, NW¼NE¼ less mining claims, NE¼NW¼ less mining claims, SW¼NE¼;
Sec. 27, lot 4;
Sec. 29, S½NE¼, SE¼NW¼, N½NE¼SW¼, SW¼NE¼SW¼, W½SW¼, NW¼SE¼SW¼, S½SE¼SW¼, SW¼SW¼SE¼;
Sec. 30, lots 1 and 2, NE¼, E½NW¼, E½SE¼, SW¼SE¼;
Sec. 32, N½NW¼NE¼, E½NE¼SE¼, NE¼SE¼SE¼;
Sec. 33, S½S½NE¼, S½SE¼NW¼, NE¼SE¼.
T. 40 N., R. 2 E.,
Sec. 1, lots 1, 2, 3, and 4;
Sec. 5, lots 3 and 6.
T. 41 N., R. 2 E.,
Sec. 2, NE¼SW¼, SE¼;
Sec. 10, SW¼NE¼, S½NW¼;
Sec. 12, S½NE¼, SW¼NW¼, NW¼SW¼;
Sec. 14, NW¼NE¼.
T. 35 N., R. 3 E.,
Sec. 15, NE¼SE¼.
T. 36 N., R. 3 E.,
Sec. 17, SW¼NE¼, NE¼SW¼, S½SW¼;
Sec. 18, lot 3;
Sec. 27, SW¼NE¼;
Sec. 33, SE¼NE¼;
Sec. 34, S½NW¼.
T. 38 N., R. 3 E.,
Sec. 12, W½SE¼NW¼, NW¼SW¼.
T. 39 N., R. 3 E.,
Sec. 1, NE¼SW¼;
Sec. 4, SW¼NW¼;
Sec. 5, SW¼NE¼;
Sec. 7, SE¼SE¼;
Sec. 8, W½NE¼, SE¼NW¼, NE¼SE¼;
Sec. 9, SE¼NW¼;
Sec. 17, SW¼SW¼;
Sec. 18, S½NE¼, E½NW¼, SE¼;
Sec. 19, lots 2 and 3, NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 20, NW¼NE¼, NW¼NW¼, NW¼SW¼.
T. 40 N., R. 3 E.,
Sec. 4, lots 3 and 4, N½SW¼, SE¼SW¼;
Sec. 5, lots 1 and 3, S½SW¼, N½SE¼;
Sec. 6, lots 2, 3, 4, 5, 6, 7, 9, 10, and 11, SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼, SE¼SE¼;
Sec. 7, lots 1 and 2, E½NW¼;
Sec. 18, NE¼SE¼;
Sec. 25, SE¼NE¼;
Sec. 27, NW¼SW¼;
Sec. 32, SE¼SE¼;
Sec. 34, SE¼SE¼.
T. 41 N., R. 3 E.,
Sec. 29, NW¼SW¼;
Sec. 30, SW¼NE¼, E½SE¼, SW¼SE¼;
Sec. 31, W½NE¼, NW¼SE¼;
Sec. 32, SE¼SE¼;
Sec. 33, E½SW¼.
T. 38 N., R. 4 E.,
Sec. 18, NE¼ of lot 2, N½SE¼NW¼, SE¼SE¼NW¼.
T. 38 N., R. 5 E.,
Sec. 25, lot 2.

The lands described above aggregate approximately 6,434 acres.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Coeur d'Alene District Manager, Bureau of Land Management, Post Office Box 428, Coeur d'Alene, Idaho 83814.

5. A public hearing will be held if sufficient public interest is shown.

CLAIR M. WHITLOCK,
Acting State Director.

[F.R. Doc. 70-15106; Filed, Nov. 9, 1970; 8:45 a.m.]

[Serial No. N-1885-C]

NEVADA

Proposed Classification of Public Lands for Multiple-Use Management; Correction

NOVEMBER 3, 1970.

In F.R. Doc. 70-14204 appearing on pages 16485 and 16486 in the issue for Thursday, October 22, 1970, legal descriptions under paragraph 4 should be corrected to read:

T. 12 N., R. 21 E.,
Sec. 30, E½, S½NW¼, N½SW¼, SE¼SW¼.
T. 11 N., R. 21 E.,
Sec. 1, SW¼, W½SE¼;
T. 10 N., R. 22 E.,
Sec. 1, NW¼NE¼, N½NW¼, SW¼NW¼;
Sec. 8, W½NE¼, NW¼, N½SW¼, NW¼SE¼;
T. 9 N., R. 22 E.,
Sec. 3, lots 3, 4, S½NE¼, N½SE¼.

For the State Director.

ROLLA E. CHANDLER,
Manager, Nevada Land Office.

[F.R. Doc. 70-15023; Filed, Nov. 9, 1970; 8:45 a.m.]

[Serial Numbers N-892-A, N-1005-A]

NEVADA

Proposed Amendment to Final Classification of Public Lands for Multiple-Use Management; Correction

NOVEMBER 3, 1970.

In F.R. Doc. 70-14203 appearing on pages 16482-16485 in the issue for Thursday, October 22, 1970, the first line in paragraph 3, now reading "F.R. Doc. 67-7343 (White Pine County Classification).", should read "F.R. Doc. 67-7343 (White Pine County Classification) and F.R. Doc. 67-6610 (Lincoln County Classification)."

For the State Director.

ROLLA E. CHANDLER,
Manager, Nevada Land Office.

[F.R. Doc. 70-15150; Filed, Nov. 9, 1970; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

ILLINOIS

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Illinois natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

ILLINOIS

Adams.	Johnson.
Alexander.	Lawrence.
Bond.	McDonough.
Brown.	Macoupin.
Calhoun.	Marion.
Clark.	Massac.
Clay.	Montgomery.
Clinton.	Perry.
Crawford.	Pike.
Edwards.	Pope.
Effingham.	Pulaski.
Fayette.	Randolph.
Franklin.	Richland.
Gallatin.	Saline.
Greene.	Schuyler.
Hamilton.	Scott.
Hancock.	Union.
Hardin.	Wabash.
Jackson.	Washington.
Jasper.	Wayne.
Jefferson.	White.
Jersey.	Williamson.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1971, except to applicants who previously received emergency or special livestock loan assistance and can qualify under established policies and procedures.

Done at Washington, D.C., this 4th day of November 1970.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 70-15148; Filed, Nov. 9, 1970; 8:49 a.m.]

INDIANA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Indiana natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

INDIANA

Bartholomew.	Hamilton.
Benton.	Hancock.
Boone.	Harrison.
Brown.	Hendricks.
Clark.	Henry.
Clay.	Jackson.
Clinton.	Jefferson.
Crawford.	Jennings.
Daviess.	Johnson.
Dearborn.	Knox.
Decatur.	La Porte.
Dubois.	Lawrence.
Fayette.	Marion.
Floyd.	Marshall.
Fountain.	Martin.
Franklin.	Monroe.
Fulton.	Montgomery.
Gibson.	Morgan.
Greene.	Ohio.

INDIANA—Continued

Orange.	Spencer.
Owen.	Starke.
Parke.	Sullivan.
Perry.	Switzerland.
Pike.	Tipton.
Porter.	Union.
Posey.	Vanderburgh.
Pulaski.	Vermillion.
Putnam.	Vigo.
Ripley.	Warren.
Rush.	Warrick.
Scott.	Washington.
Shelby.	Wayne.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1971, except to applicants who previously received emergency or special livestock loan assistance and can qualify under established policies and procedures.

Done at Washington, D.C., this 4th day of November 1970.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 70-15149; Filed, Nov. 9, 1970; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D258; NDA No. 16-124]

DURAMAX

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New-Drug Application

Notice is hereby given to Grove Laboratories, Inc. (Bristol Myers Products, Division of Bristol Myers Co.), 8877 Ladue Road, St. Louis, Mo. 63124, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of new-drug application No. 16-124 and all amendments and supplements thereto held by Grove Laboratories for the drug Duramax, aspirin in timed release tablets, on the grounds that the applicant has repeatedly failed to make required reports under section 505(j) of the act (21 U.S.C. 355(j)) and § 130.13 (21 CFR 130.13) of the new-drug regulations.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the new-drug regulations (21 CFR Part 130), the Commissioner will give the applicant named, and any interested person who would be adversely affected by an order withdrawing approval of new-drug application No. 16-124, an opportunity for a hearing to show cause why approval of such new-drug application should not be withdrawn.

Within 30 days after the date of publication hereof in the FEDERAL REGISTER; such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new-drug application. Failure of such persons to file a written appearance of election within such 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

If such persons elect to avail themselves of the opportunity for a hearing, they must file within 30 days after publication of this notice in the FEDERAL REGISTER a written appearance requesting a hearing giving the reasons why the new-drug application should not be withdrawn together with a full-factual analysis, and setting forth specific facts showing that a genuine and substantial issue of fact requires a hearing. If a hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be named by the Commissioner, and he shall issue a written notice of the time and place at which the hearing will commence.

The hearing contemplated by this notice will be open to the public, except that any portion of the hearing concerning a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 28, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-15102; Filed, Nov. 9, 1970; 8:45 a.m.]

ONYX CHEMICAL CO.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Onyx Chemical Co., Division of Millmaster Onyx Corp., 190 Warren Street, Jersey City, N.J. 07302, has withdrawn its petition (FAP OH2455), notice of which was published in the FEDERAL REGISTER of October 8, 1969 (34 F.R. 15612), proposing that § 121.2547 *Sanitizing solutions* (21 CFR 121.2547) be amended to provide for the safe use of *n*-alkyldimethyl 1-naphthylmethyl ammonium chloride monohydrate as a sanitizer for food-contact articles and surfaces in public eating places.

Dated: November 2, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-15104; Filed, Nov. 9, 1970; 8:45 a.m.]

ROHM & HAAS CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1050) has been filed by the Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105, proposing the establishment of tolerances (21 CFR Part 120) for residues of a fungicide that is a coordination product of zinc ion and maneb (manganese ethylene bisdithiocarbamate), containing 20 percent manganese, 2.5 percent zinc, and 77.5 percent ethylene bisdithiocarbamate (the whole product calculated as zinc ethylene bisdithiocarbamate) in or on the raw agricultural commodities potatoes at 1 part per million and milk and the meat, fat, and meat byproducts of cattle at 0.05 part per million (negligible residue).

The analytical method proposed in the petition for determining residues of the fungicide is a procedure in which the sample is refluxed with 9*N* H_2SO_4 for 18 hours to convert the residue to ethylene diamine, which is then reacted with pentafluorobenzoyl chloride. The derivative bispentafluorobenzamide is determined by electron-capture gas-liquid chromatography.

Dated: November 2, 1970.

R. E. DUGGAN,
Acting Associate Commissioner, for Compliance.

[F.R. Doc. 70-15103; Filed, Nov. 9, 1970; 8:45 a.m.]

Social and Rehabilitation Service

CONFORMITY OF PUBLIC ASSISTANCE PLAN OF STATE OF CONNECTICUT WITH SOCIAL SECURITY ACT

Amended Notice of Hearing

Notice is hereby given that issues Nos. 9 and 11 set forth in the Notice of Hearing published in the FEDERAL REGISTER, October 7, 1970 (35 F.R. 15773), have been amended as stated in the following letter which has been sent to the Connecticut State Welfare Department.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SOCIAL AND REHABILITATION SERVICE

WASHINGTON, D.C. 20201.

MR. JOHN HARDER, *Commissioner, State Welfare Department, 1000 Asylum Avenue, Hartford, Conn. 06115.*

November 6, 1970.

DEAR MR. HARDER: In my letter of October 5, 1970, I stated the time and place for resuming the hearing on certain problems in the administration of the Connecticut State welfare program and the issues to be considered at that hearing.

Since then it has come to my attention that the manner in which Issues No. 9 and 11 were stated does not correctly or fully reflect the problems to be considered. These issues are therefore modified to read as follows:

9. Whether the provisions in the State plans for AFDC and MA regarding testing of a simplified method of determination of eligibility for the State's AFDC and MA programs have been implemented in compliance with the requirements in 45 CFR 205.20 (a)(1).

11. Whether the provisions in the State plan for MA relating to the payment of inpatient hospital care are in compliance with section 1902(a)(13)(D) of the Act, 45 CFR 250.30(b)(1), and H.B. Supp. D-5362 and 5364.

If your agency would like to have further negotiations on these or any of the other issues stated in my letter of October 5, 1970, I shall be glad to cooperate.

Sincerely yours,

JOHN D. TWINAME,
Administrator.

[F.R. Doc. 70-15242; Filed, Nov. 9, 1970; 10:01 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ATTORNEY ADVISER

Redelegation of Authority With Respect to Renewal Assistance and Housing Management Programs

Robert D. Leatherman, Attorney Adviser, Region VIII (Denver), is authorized to exercise the power and authority of the Secretary of Housing and Urban Development described in: (1) Section C of the Redelegation of Authority with Respect to Renewal Assistance Programs, 35 F.R. 16102, October 14, 1970; and (2) section C of the Redelegation of Authority with Respect to Housing Management, 35 F.R. 16105, October 14, 1970. This redelegation is in addition to the redelegations referred to.

(35 F.R. 15025, September 26, 1970, and other authorities set forth therein)

Effective date. This redelegation is effective as of October 22, 1970.

NORMAN V. WATSON,
Assistant Secretary for Renewal and Housing Management.

[F.R. Doc. 70-15143; Filed Nov. 9, 1970; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA-Petition-No. 17]

AMERICAN SHORT LINE RAILROAD ASSOCIATION

Petition for Exemption Regarding Service Limitation

Petition of the American Short Line Railroad Association for exemption of certain named carriers from the 14 hours of service limitation in Public Law 91-169.

The purpose of this notice is to advise interested parties, and the general public, that FRA-Petition-No. 17 which was filed July 28, 1970, by The American Short Line Railroad Association shall be, and it is hereby, amended to add the name of the following carrier as one of the carriers seeking exemption: Washington, Idaho & Montana Railway Co.

Issued this 5th day of November 1970 in Washington, D.C.

ROBERT R. BOYD,
Office of Hearings and Proceedings and Hearing Examiner.

[F.R. Doc. 70-15113; Filed, Nov. 9, 1970; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Notice of Order Amending Provisional Construction Permit

Notice is hereby given that, by an order dated October 28, 1970, the Atomic Energy Commission found the Maine Yankee Atomic Power Co. financially qualified to design and construct its facility at Wiscasset, Maine, subject only to the sale of $75 million of the company's first mortgage bonds. The order deletes paragraph 4 of Provisional Construction Permit CPPR-55 which pertained to a previously granted interim exemption from the Commission's financial qualifications requirements and to the submission by the company of certain related information. The order also requires the company to report the sale of $75,000,000 of its first mortgage bonds, and subsequent sales of its first mortgage bonds, to the Commission.

A copy of the order is available for inspection by members of the public in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the order may be obtained by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 28th day of October 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director, Division of Reactor Licensing.

[F.R. Doc. 70-15099; Filed, Nov. 9, 1970; 8:45 a.m.]

[Sockets Nos. 50-338, 50-339]

VIRGINIA ELECTRIC AND POWER CO.

Order Changing Place of Hearing

In the matter of the application by Virginia Electric and Power Co. for construction permits for North Anna Power Station Units 1 and 2 to be located near Mineral in Louisa County, Va., Dockets Nos. 50-338, 50-339.

1. The applicant seeks construction permits for two nuclear power plants to be located in Louisa County, Va. Pursuant to the notice of hearing, dated October 14, 1970 (35 F.R. 16384, Oct. 20, 1970), a prehearing conference was conducted in Washington, D.C., on November 4, 1970. The transcript of that conference and documents now filed in the proceeding show that a number of Louisa County residents wish to participate in the hearing to be commenced on Monday, November 23, 1970.

2. The notice of hearing specified that the hearing is to be held in Fredericksburg, Va.; it stated that certain documents describing and evaluating the proposed atomic power facilities (available at the Commission's offices) will also be available for public inspection in the Orange County Courthouse in Orange, Va. This unusual separation of public records and place of hearing and site of the proposed plant from each other apparently evolved out of administrative difficulties in meshing the time of the hearing with the availability of suitable space.

3. An individual landowner in Louisa County, for himself and others similarly situated, and an official of Louisa County, for that County's Board of Supervisors and other officials, presented a request that the hearing be conducted in Louisa County. They offered assurances that suitable courtroom space is available.

4. The Board finds, as stated on the record at the prehearing conference, that it will conduce to the fair and orderly dispatch of the Commission's business to hold the hearing in this proceeding in Louisa, the county seat of the county in which the nuclear facilities construction is proposed. It is here noted that the respective attorneys for the applicant and for the staff agreed to assure that the application and all relevant documents in the public docket files, including prehearing and hearing transcripts, will promptly be made available locally for public inspection, during normal business hours, both in the Orange County Circuit Court Clerk's Office and in the

Louisa County Courthouse in the offices of the County Board of Supervisors.

5. *It is ordered*, This 6th day of November 1970, that the hearing in this proceeding shall be commenced at 10 a.m. in the Circuit Courtroom of the Louisa County Courthouse in Louisa, Va.

Dated: November 6, 1970, at Washington, D.C.

ATOMIC SAFETY AND LICENSING BOARD,
J. D. BOND,
Chairman.

[F.R. Doc. 70-15210; Filed, Nov. 9, 1970; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22655]

AERONAVES DE MEXICO, S.A.

Notice of Postponement of Prehearing Conference and Hearing

Notice is hereby given that the prehearing conference in the above-entitled matter scheduled for November 10, 1970, is postponed until November 25, 1970, at 10 a.m., e.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned Examiner.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless, as provided in the earlier notice of October 27, 1970, a person has objected or shown reason for further postponement on or before November 6, 1970.

Dated at Washington, D.C., November 4, 1970.

[SEAL] ROBERT L. PARK,
Hearing Examiner.

[F.R. Doc. 70-15128; Filed, Nov. 9, 1970; 8:47 a.m.]

[Docket No. 19115; Order 70-11-19]

COMBS AIRWAYS, INC.

Order To Show Cause

Issued under delegated authority, November 4, 1970.

A final service mail rate for the transportation of mail by aircraft, established by Order 69-10-24, October 6, 1969, is currently in effect for the above-captioned air taxi, operating under 14 CFR Part 298. This rate is based on six round trips per week between Wolf Point and Billings, via Miles City, Mont.

The Postmaster General filed a petition on October 14, 1970, stating that the volume of mail involved does not justify weekend trips on this route and he has been authorized by the carrier to petition for a new rate of 49.24 cents per great circle aircraft mile, based on five round trips per week. The carrier and the Post Office Department have agreed that the proposed rate is a fair and reasonable rate for these services.

The Board finds it in the public interest to fix and determine the fair and reasonable rate of compensation to be paid by the Postmaster General for the transportation of mail by aircraft between the aforesaid points. Upon consideration of the petition and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid on and after October 14, 1970, to Combs Airways, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 49.24 cents per great circle aircraft mile between Wolf Point and Billings, via Miles City, Mont.

2. This final rate, to be paid entirely by the Postmaster General, is based on five round trips per week flown with Aero Commander 500-B Aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Combs Airways, Inc., the Postmaster General, Frontier Airlines, Inc., Northwest Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Combs Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Combs Airways, Inc., the Postmaster General, Frontier Airlines, Inc., and Northwest Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-15130; Filed, Nov. 9, 1970; 8:47 a.m.]

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

[Docket No. 20379; Order 70-11-17]

COMBS AIRWAYS, INC.

Order To Show Cause

Issued under delegated authority, November 4, 1970.

A final service mail rate for the transportation of mail by aircraft, established by Order 70-3-32, March 6, 1970, in this docket, is currently in effect for the above-captioned air taxi, operating under 14 CFR, Part 298. This rate is based on six round trips per week between Kalispell and Billings, via Helena, Mont.

The Postmaster General filed a petition on October 14, 1970, stating that the volume of mail involved does not justify weekend trips on this route and he has been authorized by the carrier to petition for a new rate of 39.43 cents per great circle aircraft mile, based on five round trips per week. The carrier and the Post Office Department have agreed that the proposed rate is a fair and reasonable rate for these services.

The Board finds it in the public interest to fix and determine the fair and reasonable rate of compensation to be paid by the Postmaster General for the transportation of mail by aircraft between the aforesaid points. Upon consideration of the petition and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid on and after October 14, 1970, to Combs Airways, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 39.43 cents per great circle aircraft mile between Kalispell and Billings, via Helena, Mont.

2. This final rate, to be paid entirely by the Postmaster General, is based on five round trips per week flown with Aero Commander 500-B aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16 (f),

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

It is ordered, That:

1. Combs Airways, Inc., the Postmaster General, Northwest Airlines, Inc., Western Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Combs Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Combs Airways, Inc., the Postmaster General, Northwest Airlines, Inc., and Western Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-15131; Filed, Nov. 9, 1970; 8:47 a.m.]

[Docket No. 21469; Order 70-11-18]

COMBS AIRWAYS, INC.

Order To Show Cause

Issued under delegated authority, November 4, 1970.

A final service mail rate for the transportation of mail by aircraft, established by Order 69-11-33, dated November 10, 1969, is currently in effect for the above-captioned air taxi, operating under 14 CFR Part 298. This rate is based on six round trips per week between Havre and Billings, via Great Falls and Helena, Mont.

The Postmaster General filed a petition on October 14, 1970, stating that the volume of mail involved does not justify weekend trips on this route and he has been authorized by the carrier to petition for a new rate of 47.70 cents per great circle aircraft mile, based on five rounds trips per week. The carrier and the Post Office Department have agreed that the proposed rate is a fair and reasonable rate for these services.

The Board finds it in the public interest to fix and determine the fair and reasonable rate of compensation to be paid by the Postmaster General for the transportation of mail by aircraft between the aforesaid points. Upon consideration of the petition and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid on and after October 14, 1970, Combs Airways, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 47.70 cents per great circle aircraft mile between Havre and Billings, via Great Falls and Helena, Mont.

2. This final rate, to be paid entirely by the Postmaster General, is based on five round trips per week flown with Aero Commander 500-B aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16 (f),

It is ordered, That:

1. Combs Airways, Inc., the Postmaster General, Northwest Airlines, Inc., Western Air Lines, Inc., Hughes Air Corp., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Combs Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Combs Airways, Inc., the Postmaster General, Northwest Airlines, Inc., Western Air Lines, Inc., and Hughes Air Corp.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-15132; Filed, Nov. 9, 1970; 8:47 a.m.]

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

[Docket No. 22628; Order 70-11-11]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fare Matters

Issued under delegated authority November 3, 1970.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 1-2 of the Internationl Air Transport Association (IATA). This agreement, which was adopted for early effectiveness at the Worldwide Passenger Fare Conference held in Honolulu during September-October of 1970, has been assigned the above-designated CAB agreement number.

The agreement is procedural in character. It would rescind a current resolution which would have required the consummation at the IATA Honolulu conference of a full 2-year fare agreement for North Atlantic services by December 31 of this year to avoid an open-rate by January 31, 1971. Rescission, however, is dependent upon the carriers resolving by December 1, 1970, outstanding differences with respect to seating configurations in economy service for B-747 aircraft and the duration of the agreement on fares intended to apply from April 1, 1971.

Pursuant to authority duly delegated by the Board in the Board's economic regulations, 14 CFR 385.14, it is not found, on a tentative basis, that resolution JT12(41)001BB (Expedited), which is incorporated in Agreement CAB 22025, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on Agreement CAB 22025 be and hereby is deferred, with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's economic regulations, 14 CFR 385.50, may, within 10 days from the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-15133; Filed, Nov. 9, 1970 8:47 a.m.]

[Docket No. 22497]

KINTETSU WORLD EXPRESS, INC.

Notice of Hearing

Kinki Nippon Tourist Co., doing business as Kintetsu World Express, Inc.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on November 16, 1970, at 10 a.m., e.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

Dated at Washington, D.C., November 5, 1970.

[SEAL] WILLIAM H. DAPPER,
Hearing Examiner.

[F.R. Doc. 70-15129; Filed, Nov. 9, 1970; 8:47 a.m.]

FEDERAL RESERVE SYSTEM

SECURITY NEW YORK STATE CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Securtiy New York State Corp., which is a bank holding company located in Rochester, N.Y., for prior approval by the Board of Governors of the acquisition by Applicant of 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to First National Bank and Trust Company of Ithaca, Ithaca, N.Y.

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

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

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

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

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

By order of the Board of Governors, November 3, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-15100; Filed, Nov. 9, 1970; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License 1123]

UNIMAR SHIPPING CO., INC.

Order of Revocation

By letter dated August 13, 1970, Unimar Shipping Co., Inc., 42 Broadway, New York, N.Y. 10004 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1123 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before September 8, 1970.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid surety bond on file.

The firm of Unimar Shipping Co., Inc., has failed to file the required bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04 (g) (dated 9/29/70):

It is ordered, That the Independent Ocean Freight Forwarder License of Unimar Shipping Co., Inc., be and is hereby revoked effective September 8, 1970.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Unimar Shipping Co., Inc.

AARON W. REESE,
Managing Director.

[F.R. Doc. 70-15135; Filed, Nov. 9, 1970; 8:48 a.m.]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

JEWELL RIDGE COAL CORP.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.^{3}) have been received as follows:

(1) ICP Docket No. 10600, Jewell Ridge Coal Corp., McGlothlin Coal Co. (T-232), USBM ID No. 44 01548 0, Jewell Valley, Buchanan County, Va., Section ID No. 001 (Mains).

(2) ICP Docket No. 10586, Jewell Ridge Coal Corp., V & K Coal Co. (T-159), USBM ID No. 44 00657 0, Jewell Valley, Buchanan County, Va., Section ID No. 001 (1st Right).

(3) ICP Docket No. 10593, Jewell Ridge Coal Corp., Grassy Branch Coal Co. (T-234), USBM ID No. 44 01511 0, Jewell Valley, Buchanan County, Va., Section ID No. 001 (Mains).

(4) ICP Docket No. 10585, Jewell Ridge Coal Corp., RH & B Coal Co. (T-178), USBM ID No. 44 00602 0, Jewell Valley, Buchanan County, Va., Section ID No. 001 (Mains).

(5) ICP Docket No. 10591, Jewell Ridge Coal Corp., R. L. Clifton Coal Co. (T-26), USBM ID No. 44 01507 0, Jewell Valley, Buchanan County, Va., Section ID No. 001 (Mains).

(6) ICP Docket No. 10592, Jewell Ridge Coal Corp., Cantrell Bros. Coal Co. (T-55), USMB ID No. 44 00431 0, Jewell Valley, Buchanan County, Va., Section ID No. 001 (Mains).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

NOVEMBER 5, 1970.

[F.R. Doc. 70-15110; Filed, Nov. 9, 1970; 8:46 a.m.]

MILL COAL CO., INC., ET AL.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.^{3}) have been received as follows:

(1) ICP Docket No. 10158, Mill Coal Co., Inc., No. 1 Mine, USBM ID No. 46 01829 0, Leivasy, Nicholas County, W. Va., Section ID No. 001 (Rooms off Second Right).

(2) ICP Docket No. 10137, Slab Fork Coal Co., No. 10 Mine, USBM ID No. 46 01888 0, Slab Fork, Raleigh County, W. Va., Section ID No. 101 (No. 1 West

Mains) Section ID No. 106 (No. 3 South Mains).

(3) ICP Docket No. 10241, Mountaineer Coal Co., Mine No. 95, USBM ID No. 46 01318 0, Fairmont, Marion County, W. Va., Section ID No. 001 (No. 1 West) Section ID No. 002 (Main South sec. A) Section ID No. 003 (Main South sec. B).

(4) ICP Docket No. 10654, Peabody Coal Co., Mine No. 10, USBM ID No. 11 00585 0, Pawnee, Christian County, Ill., Section ID No. 006 (West Aircourse off Main South).

(5) ICP Docket No. 10989, Bethlehem Mines Corp., Brookdale Mine No. 77, USBM ID No. 36 00843 0, Mineral Point, Cambria County, Pa., Section ID No. 006 (3 Panel Main).

(6) ICP Docket No. 10649, Westmoreland Coal Co., Prescott No. 1 Mine, USBM ID No. 44 00303 0, Osaka, Wise County, Va., Section ID No. 001 (No. 3 Main East Headings) Section ID No. 003 (No. 2 Main North Headings).

(7) ICP Docket No. 10648, Westmoreland Coal Co., Prescott No. 2 Mine, USBM ID No. 44 01689 0, Osaka, Wise County, Va., Section ID No. 001 (No. 5 North Heading) Section ID No. 002 (No. 5 North-No. 8 Left).

(8) ICP Docket No. 10228, Mountaineer Coal Co., Mine No. 93, USBM ID No. 46 01432 0, Fairmont, Marion County, W. Va., Section ID No. 003 (No. 1 West) Section ID No. 004 (No. 3 North sec. A) Section ID No. 005 (No. 3 North sec. B).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

NOVEMBER 4, 1970.

[F.R. Doc. 70-15112; Filed, Nov. 9, 1970; 8:46 a.m.]

SUNSET MINING CO., INC., ET AL.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.³) have been received as follows:

(1) ICP Docket No. 10127, Sunset Mining Co., Inc., Mine No. 4, USBM ID No. 44 00962 0, Harman, Buchanan County, Va., Section ID No. 001, (Mains).

(2) ICP Docket No. 10120, Purple Leaf Coal Co., Inc., Mine No. 2, USBM ID No. 44 00476 0, Harman, Buchanan County, Va., Section ID No. 001, (No. 1 Right).

(3) ICP Docket No. 10125, Mountain Coal Corp., Mine No. 2, USBM ID No. 44 01588 0, Harman, Buchanan County, Va., Section ID No. 001, (Mains).

(4) ICP Docket No. 10087, Quincher Coal Corp., Mine No. 1, USBM ID No. 44 01523 0, Harman, Buchanan County, Va., Section ID No. 001, (1st Rt. Off Mains).

(5) ICP Docket No. 10085, Boyd & Stevenson Coal Co., Mine No. 3, USBM ID No. 44 01795 0, Harman, Buchanan County, Va., Section ID No. 001, (Mains).

(6) ICP Docket No. 10086, Viers Coal Co., Inc., Mine No. 3, USBM ID No. 44 01630 0, Harman, Buchanan County, Va., Section ID No. 001, (Mains).

(7) ICP Docket No. 10119, Ivy Branch Coal Co., Mine No. 4, USBM ID No. 44 01746, Harman, Buchanan County, Va., Section ID No. 001, (Mains).

(8) ICP Docket No. 10122, O'Quinn & Belcher Coal Mine, No. 8 Mine, USBM ID No. 44 00793, Harman, Buchanan County, Va., Section ID No. 001 (1st Lt. Off Mains).

(9) ICP Docket No. 10652, Westmoreland Coal Co., Pine Branch No. 1 Mine, USBM ID No. 44 00298 0, Dunbar, Wise County, Va., Section ID No. 001 (No. 4 Main West).

(10) ICP Docket No. 10647, Westmoreland Coal Co., Wentz No. 1 Mine, USBM ID No. 44 00302 0, Stonega, Wise County, Va., Section ID No. 002 (Main North, 7 Left), Section ID No. 007 (3 Main East, 13 Right).

(11) ICP Docket No. 10758, Inland Steel Co., Inland Mine, USBM ID No. 11 00601 0, Sesser, Jefferson County, Ill., Section ID No. 001 (No. 1 Main West (right side), Section ID No. 002 (2 Left, No. 1 Main West), Section ID No. 003 (3 Left, No. 1 Main West), Section ID No. 004 (3 Right, No. 1 Main West), Section ID No. 005 (No. 1 Main West) (left side), Section ID No. 007 (4 Left, No. 1 Main West), Section ID No. 008 (4 Right, No. 1 Main West).

(12) ICP Docket No. 10651, Westmoreland Coal Co., Bullitt Mine, USBM ID No. 44 00304 0, Appalachia, Wise County, Va., Section ID No. 002 (Main South No. 1 Left), Section ID No. 003 (Main South No. 7 Left).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742 et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

NOVEMBER 5, 1970.

[F.R. Doc. 70-15111; Filed, Nov. 9, 1970; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-2596]

METROPOLITAN CANADIAN SEPARATE ACCOUNTS

Notice of Filing of Application for Order Exempting Company From All Provisions of Act

NOVEMBER 3, 1970.

Notice is hereby given that Metropolitan Life Insurance Co. (Applicant), 1 Madison Avenue, New York, N.Y. 10010, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting, from all the provisions of the Act and the rules and regulations thereunder applicable to an investment company as such, certain Canadian separate accounts of Applicant (Canadian Separate Accounts) comprising Metropolitan Canadian Separate Account No. 1 heretofore established by Applicant and such additional number of Canadian separate accounts as may be established and designated a Metropolitan Canadian Separate Account, with different numbers or letters being assigned to each such account so established. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant is a mutual life insurance company organized under the laws of the State of New York. It has its home office in New York, and a Canadian head office in Ottawa, Canada. The Canadian head office is a self-contained unit, much as though it were a separate corporate entity, except for investment operations. Applicant's Canadian business operations are subject to the provisions of the Canadian Foreign Insurance Companies Act.

The Canadian Separate Accounts will be used solely to hold and invest payments made to Applicant under contracts issued in Canada to Canadian corporations, to trusts or other legal entities organized in Canada, or (at some later date) to individuals who are permanent residents of Canada; payments made to Applicant under group contracts which have heretofore been issued in the United States to not more than 10 U.S. parents of Canadian subsidiaries and now cover the Canadian employees of such Canadian subsidiaries but without separate account provisions for such employees and which may be amended

to permit the annuities of such Canadian employees to be funded through the Canadian Separate Accounts; and payments made by Applicant as an employer with respect to its Canadian employees, as described below.

Payments made to and by Applicant under such contracts will be made in Canadian currency. Responsibility for the selection of investments for the Canadian Separate Accounts will be exercised through personnel located in New York City and the investment accounting for the Canadian Separate Accounts will be maintained by the home office in New York City. Administration of new annuity contracts funded through the Canadian Separate Accounts will take place in Canada and, while investment decisions and sale and purchase orders with respect to portfolio securities of such accounts will be made in the United States, all of the assets of the accounts will be kept in Canada.

Initially, Applicant intends to offer, in connection with the Canadian Separate Accounts, only group annuity contracts for the purpose of funding pension and other retirement plans which are registered under the Canadian Income Tax Act. These contracts would be sold only to Canadian companies (or constitute contracts heretofore issued to U.S. parents of Canadian subsidiaries and modified as stated above) and would provide for benefits only to the employees in Canada of such companies. Where benefits under a contract are provided without discrimination to all employees of a Canadian company or to all of any defined class thereof, a few of these employees may be citizens of the United States. The Canadian Separate Accounts will not be used, however, as a funding medium for any Canadian company which would appear, for reasons related to the nature of its business or otherwise, to include among its employees a substantial number of United States citizens who are not permanent residents of Canada. If in the future Applicant uses the Canadian Separate Accounts to fund other types of contracts, the same restrictions will apply with respect to the persons to whom such contracts will be sold and who might have participating interests in such contracts. If individual variable annuity contracts are offered, they will not be sold to other than permanent residents of Canada, with primary efforts directed to Canadian citizens.

Applicant has adopted a broad retirement program which includes a number of different retirement plans covering different classes of its employees. Within these plans, separate provisions are applicable to the Canadian employees of Applicant. This program is funded through a group annuity contract issued to Applicant in its capacity as employer. Applicant has allocated to the Canadian Separate Accounts some portion of the contributions under the program that are applicable to its Canadian employees. Such contributions were and will be made in Canadian currency. Applicant has filed a notification of claim of exemption pursuant to Rule 6e-1 under the Act on behalf of Metropolitan Canadian Separate Account No. 1 in order to receive the amounts so allocated. If the exemptive order requested by the application described herein is granted, Applicant intends to withdraw such filing.

The administration of the Foreign Insurance Companies Act of Canada is delegated to the Superintendent of Insurance of Canada. The Assistant Superintendent of Insurance of Canada has, in a letter to Applicant which Applicant has filed as an exhibit to the application, stated that he believes that the interest of Canadian residents in the proposed Canadian Separate Accounts of Applicant will be adequately protected by the applicable provisions of Canadian law. The letter further states that the Foreign Insurance Companies Act provides a system of registration, deposit of securities, inspection and returns applicable to foreign insurance companies transacting business in Canada, that the purpose of these requirements is to prevent any foreign insurance company engaging in or continuing to carry on business in Canada while unable to discharge its liabilities to policyholders in Canada, and that the requirements have been demonstrably effective for the purpose. The letter also states that a number of insurance companies, both Canadian and foreign, have established separate funds in Canada similar to Applicant's proposed Canadian Separate Accounts and are utilizing them in connection with equity-based contracts. Insofar as these have been established by insurance companies incorporated under the laws of Canada or by foreign insurance companies, they are all subject to supervision and regulation under the insurance laws of Canada.

Applicant states that if the Canadian Separate Accounts are required to comply with the Act they will be put in a competitive disadvantage in Canada with respect to Canadian domestic insurance companies issuing annuity contracts funded through separate accounts and that variable annuity contracts funded through the Canadian Separate Accounts and participating interests therein normally could not be redistributed and that such contracts and interests would, accordingly, come to rest in Canada.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant has agreed that the requested exemptive order may be made subject to the following conditions:

1. Applicant will inform the Commission, on or before April 1 of each year, of the extent, if any, to which U.S. citizens were enrolled during the preceding year as holders of participating interests under contracts in respect of the Canadian Separate Accounts.

2. The Commission may reserve jurisdiction to modify or rescind such order, after opportunity for hearing, if at any time in the future, the facts pertaining to the operations of the Canadian Separate Accounts should warrant such action.

3. Applicant will file with the Commission within 30 days of the end of each calendar quarter the information with respect to the Canadian Separate Accounts called for by Item 1 of Form N-1Q, provided the value of securities of U.S. issuers (a) purchased during such quarter plus (b) the value of the securities of such issuers sold during such quarter, plus (c) the value of the securities of such issuers held at the end of such quarter (without duplication of those securities purchased during such quarter and held at the end of the quarter) amounts in the aggregate to 25 percent of the value of the assets of the Canadian Separate Accounts as at the end of such quarter.

Notice is further given that any interested person may, not later than November 23, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation pursuant to delegated authority.

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

[F.R. Doc. 70-15121; Filed, Nov. 9, 1970; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 795]

LOUISIANA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of October 1970, because of the effects of certain disasters, damage resulted to residences and business property located in the Parishes of Beauregard, Calcasieu, Jefferson Davis, and Allen, La.;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property, situated in the aforesaid Parishes, and areas adjacent thereto, suffered damage or destruction resulting from heavy rains and flooding beginning on or about October 27, 1970, and continuing thereafter.

OFFICE

Small Business Administration District Office, 124 Camp Street, New Orleans, La. 70130.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1971.

Dated: November 2, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-15109; Filed, Nov. 9, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 4, 1970.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42073—*Class and commodity rates from and to Graceville and Cloverdale, Fla.* Filed by O. W. South, Jr., agent (No. A6205), for and on behalf of the Atlanta & Saint Andrews Bay Railway Co., and other interested rail carriers. Rates on property moving on class and commodity rates, between Graceville and Cloverdale, Fla., on the one hand, and points in the United States and Canada, on the other.

Grounds for relief—New stations and grouping.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 70-15140; Filed, Nov. 9, 1970; 8:48 a.m.]

[Notice 101]

MOTOR CARRIER APPLICATIONS FILED FOR APPROVAL

NOVEMBER 4, 1970.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under section 5(a) and 210a(b) of the Interstate Commerce Act, and certain other proceedings with respect thereto. (49 CFR 1100.240.)

MOTOR CARRIERS OF PROPERTY

No. MC-F-11007. Authority sought (1) for control and merger by HOPPER TRUCK LINES, of the operating rights and property of O.N.C. MOTOR FREIGHT SYSTEM; (2) for purchase by HOPPER TRUCK LINES, of the operating rights of UNITED TRUCK SERVICE, and for acquisition by ALTRAN CORPORATION and in turn by DAVID P. ROUSH, all of 2800 West Bayshore Road, Palo Alto, Calif. 94303, of control of the operating rights and property through the transaction. Applicants' attorneys: John R. Turney, Sr., 342 West Vist Avenue, Phoenix, Ariz. 85201, and Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, D.C. 20036. In some instances the rights of O.N.C. MOTOR FREIGHT SYSTEM, includes authority to transport household goods and commodities in bulk. It is also authorized to transport various specified commodities, over regular and irregular routes, in the same general area. It also holds certain alternate route authority in the same area. Operating rights of UNITED TRUCK SERVICE sought to be transferred: *General commodities*, excepting among others, dangerous explosives, commodities in bulk, over irregular routes, between Hemet, Calif., on the one hand, and, on the other, points and places within 15 miles of Hemet, between Indio, Calif., on the one hand, and, on the other, points and places in Riverside County, Calif., within 5 miles of U.S. Highway 99 between Indio and the south line of Riverside County, between points and places in that part of Riverside County, Calif., on and within 10 miles of a line extending from Cabazon along U.S. Highway 99 to Coachella, and thence along California Highway 111 to Mecca. Applicant is authorized to operate as a *common carrier* with the Commission's approval. Application has not been filed for temporary authority under section 210a(b).

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 70-15139; Filed, Nov. 9, 1970; 8:48 a.m.]

[Notice 187]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 4, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 11207 (Sub-No. 302 TA), filed October 30, 1970. Applicant: DEATON, INC., Post Office Box 1271, 317 Avenue West, Birmingham, Ala. 35201. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and flooring*, from the plantsite of Birmingham Forest Products, Inc., Cordova, Ala., to points in Arkansas, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper: U.S. Plywood-Champion Papers, Inc., Knightsbridge Drive, Hamilton, Ohio 45011. Attention: George R. Johanson, Traffic Analyst, Commercial Truck Section. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 35835 (Sub-No. 23 TA), filed October 30, 1970. Applicant: JENSEN TRANSPORT, INC., 300 Ninth Avenue SE., Independence, Iowa 50644. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*,

by motor vehicle, over irregular routes, transporting: *Corn starch*, in bulk, from the plantsite of Penick & Ford, Ltd., at Cedar Rapids, Iowa, to points in Illinois, Indiana, Michigan, and Minnesota, for 180 days. Supporting shipper: Penick & Ford Ltd., 10th Avenue and First Street SW., Cedar Rapids, Iowa 52406. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 40915 (Sub-No. 36 TA), filed October 30, 1970. Applicant: BOAT TRANSIT, INC., Post Office Box 1403, Newport Beach, Calif. 92663, Office: 1343 Logan Avenue, Costa Mesa, Calif. 92626. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar or petroleum based resin and vinyl primer*, from plantsite of the Thermoclad Co., Inc., Erie, Pa., to points in Los Angeles and Orange Counties, Calif., Louisville, Ky., and Dallas and Houston, Tex., for 150 days. Supporting shipper: The Thermoclad Co., 4690 Iroquois Avenue, Erie, Pa. 16511. Send protests to: Philip Yallowitz, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 40915 (Sub-No. 37 TA), filed October 30, 1970. Applicant: BOAT TRANSIT, INC., Post Office Box 1403, Newport Beach, Calif. 92663, Office: 1343 Logan Avenue, Costa Mesa, Calif. 92626. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard and plastic sheeting and installation accessories for wallboard and plastic sheeting*, from Lodi, N.J.; to Milwaukee, Green Bay, and St. Francis, Wis.; Cleveland, Cincinnati, Columbus, and Canton, Ohio; Detroit, Grand Rapids, Lansing, and Flint, Mich.; St. Louis and Kansas City, Mo.; Minneapolis and St. Paul, Minn.; Des Moines and Ottumwa, Iowa; Wichita and Kansas City, Kans.; Omaha and Lincoln, Nebr.; Louisville, Ky.; New Orleans, La.; Salt Lake City, Utah; Oklahoma City, Okla.; Denver, Colo.; and points in Indiana, Illinois, California, and Washington, for 150 days. Supporting shipper: Barclay Industries, 65 Industrial Road, Lodi, N.J. 07644. Send protests to: Philip Yellowitz, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 107162 (Sub-No. 27 TA), filed November 2, 1970. Applicant: NOBLE GRAHAM, Route No. 1, Brimley, Mich. 49715. Applicant's representative: Philip H. Porter, 121 South Pinckney, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in the Upper Peninsula of Michigan, to the port of entry on the international boundary between the United States and Canada at Port Huron, Mich., for transportation to points beyond in Canada, for 180 days. NOTE: No tacking nor interlining intended. Supporting shipper: Fox Cliffs Lumber Co., Iron Mountain, Mich. 49801. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Federal Building, Room, 225, Lansing, Mich. 48933.

No. MC 113024 (Sub-No. 102 TA), filed October 30, 1970. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, South Dupont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbon black*, in bags, for the account of Electric Hose & Rubber Co., from North Bend and Sterlington, La., to Wilmington, Del., for 180 days. Supporting shipper: Electric Hose & Rubber Co., Post Office Box 910, Wilmington, Del. 19899, F. H. Evick, Traffic Manager. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 114273 (Sub-No. 74 TA), filed October 29, 1970. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, 3930 16th Avenue SW., Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, Iowa 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite and/or storage facilities of John Morrell & Co., located at or near Ottumwa, Iowa to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, Virginia, West Virginia, and Washington, D.C., for 180 days. Supporting shipper: John Morrell & Co. Ottumwa, Iowa 52501. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 116544 (Sub-No. 120 TA), filed October 30, 1970. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, Mo. 64836. Applicant's representative: Robert Wilson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 as defined by the Commission (except commodities in bulk, and hides), from Dodge City, Kans., to points in Mississippi, Louisiana, and Texas, for 180 days. Supporting shipper: Hyplains Dressed Beef, Inc., Box 539, Dodge City, Kans. 67801. Send protests to: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119493 (Sub-No. 63 TA), filed October 30, 1970. Applicant: MONKEM COMPANY, INC., Post Office Box 1196, West 20th Street Road, Joplin, Mo. 64801. Applicant's representative: R. F. Kempt (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials and supplies manufactured by or distributed by roofing manufacturers or wholesalers*, from plantsite of Royal Brand Roofing, Inc., Phillipsburg, Kans., to points in Nebraska, Iowa, and Missouri for 150 days. Supporting shipper: Royal Brand Roofing, Inc., Box 385, Phillipsburg, Kans. 67661. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 126276 (Sub. No. 35 TA), filed October 29, 1970. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, Ill. 60463. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, container components, and container ends and closures*, from the plantsites and facilities of Crown Cork & Seal Co., Inc., at Baltimore and Fruitland, Md.; Philadelphia, Pa.; Winchester, Va., and Spartanburg, S.C., to Bradley (except the plantsite of Crown Cork & Seal Co., Inc.), Hebron, Danville, Decatur, Coal City, Peoria, and Chicago (except the plantsite of Crown Cork & Seal Co., Inc.) and St. Paul, Minn.; Evansville, Indianapolis, and Anderson, Ind.; Edgerton and Milwaukee, Wis.; Holland, Frankenmuth, St. Louis, Grand Rapids, Midland, Fremont and Detroit, Mich.; St. Louis, Mo. (except the plantsite of Crown Cork & Seal Co., Inc.) and Cleveland (except the plantsite of Crown Cork & Seal Co., Inc.), Portsmouth, Toledo, Columbus, Akron, Elyria, and Delphos, Ohio, for 180 days. Supporting shipper: Crown Cork & Seal Co., Inc., 9300 Ashton Road, Philadelphia, Pa. 19136. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 126276 (Sub-No. 36 TA), filed October 30, 1970. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, Ill. 60463. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and ends*, from the plantsite of Continental Can Co., Inc., at Elwood, Ind., to Jackson, Madison, Humboldt, and Nashville, Tenn., Kansas City and

Trenton, Mo., and Kansas City, Kans., for 150 days. Supporting shipper: Norman R. Meyers, Central Can Co., Inc., 135 South La Salle Street, Chicago, Ill. 60603. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 133574 (Sub-No. 12 TA), filed November 2, 1970. Applicant: TERRILL TRUCKING COMPANY, 1016 Geneseo Street, Storm Lake, Iowa 50588 (Iowa-Corp). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen animal food ingredients*, from Cherokee, Iowa, and points within 7 miles of Cherokee, Iowa, to points in South Carolina, Texas, Washington, California, and Wisconsin, for 150 days. Supporting shipper: Perrin and Sons Fur Farm, Inc., Cherokee, Iowa 51012 (Jack G. Perrin). Send protests to: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 304 Post Office Building, Sioux City, Iowa 51101.

No. MC 134792 (Sub-No. 1 TA), filed October 29, 1970. Applicant: JAMES E. KETCHAM, doing business as KETCHAM'S CROWN LIMOUSINE AND TAXI SERVICE, 7 Broad Street, Fishkill, N.Y. 12524. Applicant's representative: W. Norman Charles, 80 Bay Street, Glens Falls, N.Y. 12801. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Documents and invoices*, for the account of IBM World Trade Corp., from East Fishkill, N.Y.; to New York, N.Y.; Newark, N.J.; Stewart Airport, Orange County, N.Y.; Port Elizabeth, N.J.; and between points in Dutchess County, N.Y.; return from above destination points to point of origin for 120 days. Supporting shipper: IBM World Trade Corp., East Fishkill Facility, Route 52, Hopewell Junction, N.Y. 12533. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 134978 (Sub-No. 1 TA), filed October 29, 1970. Applicant: C. P. BELUE, doing business as BELUE'S TRUCKING, Route 2, Chesnee, S.C. 29323. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bags and in bulk, from Athens, Ga., Charlotte and Wilmington, N.C., to points in Cherokee, Greenville, Laurens, Spartanburg, and Union Counties, S.C., and Spartanburg, S.C., to points in Hamilton, Rhea, Cumberland, Fentress, Pickett Counties, Tenn., and all Tennessee counties east thereof; Smith, Tazewell, Washington, Russell, Scott, and Lee Counties, Va., and Union, Mecklenburg, Gaston, Lincoln, Burke, and Avery Counties, N.C., and all North Carolina counties west thereof, for 180 days. Supporting shippers: International Minerals & Chemical Corp., Post Office Box 5398, Spartanburg, S.C. 29301 and Royster Co., Post Office Box 807, Florence, S.C. 29501. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, S.C. 29201.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-15138; Filed, Nov. 9, 1970; 8:48 a.m.]

[Notice 612]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 5, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

Finance Docket No. 26219. By order of October 30, 1970, the Motor Carrier Board approved the transfer to Columbia Steamship Co., Inc., a Louisiana corporation, Portland, Oreg., of the amended certificate and order in No. W-1019 (Sub-No. 8) issued May 11, 1965, to Columbia Steamship Co., Inc., an Oregon corporation, Portland, Oreg., authorizing the transportation of lumber from Aberdeen, Anacortes, Bellingham, Everett, Grays Harbor, Hoquiam, Longview, Olympia, Port Angeles, Port Gamble, Seattle, Tacoma, Vancouver, and Willapa Harbor, Wash., Astoria, Bradwood, Coos Bay, Empire, North Bend, Portland, St. Helens, Wauna, Westport, and Yaquina Bay, Oreg., and Eureka, Calif., to Norfolk, Va., Baltimore, Md., Wilmington, Del., Chester and Philadelphia, Pa., Camden, Trenton, and Port Newark, N.J., Irvington and New York Harbor, N.Y., Bridgeport and New London, Conn., Providence, R.I., and Boston, Mass. by way of Panama Canal. Garrett Fuller, 777 14th Street, Washington, D.C. 20005, attorney for applicants.

No. MC-FC-72387. By order of October 30, 1970, the Motor Carrier Board approved the transfer to Salton Truck Line, Inc., Salina, Kans., of the operating rights in certificate No. MC-96774 (Sub-No. 2) issued June 30, 1965, to B. J. Fitzwater, doing business as Salton Truck Line, Salina, Kans., authorizing the transportation of general commodities, between junction Kansas Highways 18 and 181, and Tipton, Kans., serving all intermediate points: From junction Kansas Highways 18 and 181 over Kansas Highway 181 to Tipton, and return over the same route. Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603, attorney for applicants.

No. MC-FC-72391. By order of October 30, 1970, the Motor Carrier Board approved the transfer to Oceanway Transport, Inc., Florence, Oreg., of the operating rights in certificates Nos. MC-114958, MC-114958 (Sub-No. 2) and MC-114958 (Sub-No. 4) issued September 26, 1958, October 13, 1965, and September 4, 1968, respectively, to George H. Brown, doing business as Oceanway Transport, Florence, Oreg., authorizing the transportation of lumber, from and to specified points in Oregon and from points in Lincoln, Lane, and Douglas Counties, Oreg., to Portland, Oreg., and Vancouver, Wash., with restrictions; linerboard, fiberboard, hardboard, pulpboard, and particleboard, from and to specified points in Oregon, with restrictions; and wood residuals, from points in Lane County, Oreg., to points on Coos Bay, Oreg. Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201, attorney for applicants.

No. MC-FC-72442. By order of October 30, 1970, the Motor Carrier Board approved the transfer to Remy Bros., Inc., Yonkers, N.Y., of the operating rights in permit No. MC-128967 (Sub-No. 1) issued December 17, 1968, to Bruce T. Remy and Douglas N. Remy, a partnership, doing business as S.T.C. Co., Yonkers, N.Y, authorizing the transportation of such commodities as are ordinarily used or distributed by wholesale or retail suppliers, marketers, or distributors of tires, from New Brunswick, N.J., to New York, N.Y., and points in Westchester and Nassau Counties, N.Y., with no transportation for compensation on return except as otherwise authorized, limited to a transportation service to be performed, under a continuing contract, or contracts, with The Kelly-Springfield Tire Co. William J. Augello, Jr., 103 Fort Salonga Road, Northport, N.Y. 11768, attorney for applicants.

No. MC-FC-72447. By order of October 30, 1970, the Motor Carrier Board approved the transfer to Warner Transportation Co., a corporation, Philadelphia, Pa., of the operating rights in certificate No. MC-117384 (Sub-No. 1) issued August 8, 1968, to Paul E. Davidson, Mahlon E. Davidson, and Harold E. Davidson, Jr., a partnership, doing business as Davidson Brothers, Bellefonte, Pa., authorizing the transportation of various specified commodities from points in Tredyffrin, Charleston, and East Whiteland Townships, Pa., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Vermont, and Virginia. V. Baker Smith, 123 South Broad Street, Philadelphia, Pa. 19109, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-15137; Filed, Nov. 9, 1970; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

PROCLAMATIONS:
4020 ... 16903
4021 ... 17235

EXECUTIVE ORDERS:
5327 (see PLO 4933) ... 17107

5 CFR

213 ... 16905, 17167

7 CFR

52 ... 16906
215 ... 16973
722 ... 17029
905 ... 16909, 17167
907 ... 17107
910 ... 17237
912 ... 17168
913 ... 17168
914 ... 17169
944 ... 17107
987 ... 17174
991 ... 17237
1136 ... 17238
1464 ... 16910
1520 ... 16911
1806 ... 17238
1810 ... 17243

PROPOSED RULES:
932 ... 17046
1050 ... 17046
1064 ... 17188

9 CFR

76 ... 16912, 16917, 16918, 16973, 17108, 17167, 17244
78 ... 17244

PROPOSED RULES:
311 ... 17188

10 CFR

PROPOSED RULES:
60 ... 17271

12 CFR

1 ... 17174
226 ... 16919, 17029
261 ... 16973

PROPOSED RULES:
226 ... 17061

13 CFR

PROPOSED RULES:
121 ... 16939, 16940, 17119

14 CFR

39 ... 17030, 17245, 17246
71 ... 17031–17036, 17246–17249
73 ... 17249
91 ... 17036
97 ... 17109
121 ... 17037, 17176
127 ... 17176
198 ... 17038
208 ... 17177

PROPOSED RULES:
Ch. I ... 16980
37 ... 17192
39 ... 16937, 17054
121 ... 17193
207 ... 17195
208 ... 17195
212 ... 17195
214 ... 17195

14 CFR—Continued

Page

PROPOSED RULES—Continued
221 ... 17273
295 ... 17195
373 ... 17195
378 ... 17199
378a ... 17199
399 ... 17273

15 CFR

PROPOSED RULES:
367 ... 17189

16 CFR

13 ... 17177

17 CFR

231 ... 16919
249 ... 16919

18 CFR

2 ... 17040
154 ... 17040, 17041, 17109
157 ... 17041

PROPOSED RULES:
154 ... 17061
260 ... 17188

19 CFR

4 ... 17042

21 CFR

19 ... 17110
120 ... 16974, 17111
146d ... 17250

PROPOSED RULES:
3 ... 16937, 17116, 17191
19 ... 17191
120 ... 16980
130 ... 16937, 17191
146 ... 17191

22 CFR

41 ... 17178

24 CFR

1914 ... 17112
1915 ... 17113

26 CFR

402 ... 17265

PROPOSED RULES:
301 ... 17268

29 CFR

PROPOSED RULES:
462 ... 17270
541 ... 17116

30 CFR

PROPOSED RULES:
503 ... 17062

31 CFR

605 ... 17250

32 CFR

62 ... 16974

32A CFR

OIA (Ch. X):
OI Reg. 1 ... 16976

33 CFR

204 ... 17178

36 CFR

Page

50 ... 17042

38 CFR

17 ... 16920
36 ... 17179

39 CFR

155 ... 17038

41 CFR

3–1 ... 16920
3–7 ... 16922
3–11 ... 16923
3–75 ... 16924
4–1 ... 17181
4–4 ... 17181
5A–60 ... 17250
5A–76 ... 17252
8–16 ... 17252
9–5 ... 17181
101–35 ... 17114
101–47 ... 17256

42 CFR

81 ... 16927, 16976, 16977, 17042, 17256

PROPOSED RULES:
81 ... 17191

43 CFR

PUBLIC LAND ORDERS:
3623 (revoked in part by PLO 4934) ... 17182
4342 (see PLO 4934) ... 17182
4522 (see PLO 4933) ... 17107
4933 ... 17107
4934 ... 17182
4935 ... 17182
4936 ... 17257

45 CFR

85 ... 17238

47 CFR

5 ... 16926
67 ... 17111
73 ... 16926, 16977, 17042

PROPOSED RULES:
23 ... 17057
42 ... 17119
73 ... 16983, 17121, 17202

49 CFR

1 ... 17044
195 ... 17183
571 ... 16927
574 ... 17257
603 ... 17186
1033 ... 16931, 16933, 16934, 17114
1056 ... 16935
1060 ... 17264
1131 ... 17045

PROPOSED RULES:
71 ... 17195
179 ... 16983
392 ... 17194
393 ... 17194
395 ... 17194
571 ... 16937, 17055, 17116, 17117, 17272
575 ... 17057
1048 ... 17063

50 CFR

12 ... 16935
16 ... 17265
28 ... 17029
33 ... 17029

FEDERAL REGISTER

VOLUME 35 • NUMBER 219

Tuesday, November 10, 1970 • Washington, D.C.

PART II

Department of Health, Education, and Welfare

Office of the Secretary

•

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

On July 15, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 11336) which set out the text of a proposed revision of the regulations in this part to become applicable to new motor vehicles and new motor vehicle engines beginning with the 1972 model year.

Pursuant to the above notice, a number of comments have been received from representatives of domestic and foreign manufacturers and from other interested parties. Due consideration has been given to all relevant matter presented, and a number of amendments have been made to the regulations as proposed.

Exhaust emission standards applicable to 1972, 1973, and 1974 model year light duty vehicles have been revised following additional tests of uncontrolled vehicles using the true mass-measurement test procedures. They are intended to assure reductions in emissions of 80 percent for exhaust hydrocarbons and 69 percent for carbon monoxide. Exhaust emission standards for 1975 model year light duty vehicles are not being established at this time pending possible Congressional action which would establish such standards. Adoption of a proposed new durability test procedure is being postponed pending further study.

In addition, the final rule contains other amendments, largely technical and clarifying modifications.

The standards represent the application of current control technology to the control of motor vehicle emissions which, in my judgment cause or contribute to, or are likely to cause or contribute to, air pollution which endangers the health or welfare of any person.

Part 85 revised as set out below is hereby adopted, effective on publication in the FEDERAL REGISTER and is applicable to new motor vehicles and new motor vehicle engines beginning with the 1972 model year and at such other times as therein stated.

The current Part 85 is not affected by the revision for the purpose of its applicability to 1970 and 1971 model year vehicles and engines.

Dated: November 2, 1970.

ELLIOT L. RICHARDSON,
Secretary.

Subpart A—General Provisions

Subpart B—Crankcase Emissions (Gasoline Fueled Vehicles and Engines)

Subpart C—Exhaust Emissions and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)

Subpart D—Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)

Subpart E—Exhaust Emissions (Heavy Duty Diesel Engines)

Subpart F—Certification of Motor Vehicles and Motor Vehicle Engines

Subpart G—Hearings on Certification

Subpart H—Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)

Subpart I—Test Procedures for Engine Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)

Subpart J—Test Procedures for Engine Exhaust Emissions (Heavy Duty Diesel Engines)

AUTHORITY: The provisions of this Part 85 issued under sec. 2, Public Law 90-148, 81 Stat. 504; 42 U.S.C. 1857g(a).

Subpart A—General Provisions

§ 85.1 Definitions.

(a) As used in this part, all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Title II of the Clean Air Act, as amended, 42 U.S.C. 1857f-1

(2) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(3) "Model year" means the production period of new motor vehicles or new motor vehicle engines designated by the calendar year in which such period ends: *Provided*, That if the manufacturer does not designate a production period the model year with respect to such vehicles or engines shall mean the 12-month period beginning January 1 of the year in which production begins.

(4) "Gross vehicle weight" means the manufacturer's gross weight rating.

(5) "Light duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at 6,000 pounds GVW or less or designed primarily for transportation of persons and having a capacity of 12 persons or less.

(6) "Heavy duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at more than 6,000 pounds GVW or designed primarily for transportation of persons and having a capacity of more than 12 persons.

(7) "Heavy duty engine" means any engine which the engine manufacturer could reasonably expect to be used for motive power in a heavy duty vehicle.

(8) "Off-road utility vehicle" means a light duty vehicle which incorporates special features for off-road operation such as four-wheel drive.

(9) "Motorcycle" means any light duty vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels (including any tricycle arrangement) in contact with the ground and weighing less than 1,500 pounds.

(10) "Vehicle curb weight" means the actual or the manufacturer's estimated weight of the vehicle in operational status with all standard equipment, and weight of fuel at nominal tank capacity, and the weight of optional equipment computed in accordance with § 85.89(g).

(11) "Loaded vehicle weight" means the vehicle curb weight of a light duty vehicle plus 300 pounds.

(12) "System" includes any motor vehicle engine modification which controls or causes the reduction of substances emitted from motor vehicles or motor vehicle engines.

(13) "Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 85.89(a).

(14) "Engine-system combination" means an engine family-exhaust emission control system-fuel evaporative emission control system (where applicable) combination.

(15) "Fuel system" means the combination of fuel tank, fuel pump, fuel lines, and carburetor, or fuel injection components, and includes all fuel system vents and fuel evaporative emission control systems.

(16) "Crankcase emissions" means airborne substances emitted to the atmosphere from any portion of the crankcase ventilation or lubrication systems.

(17) "Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(18) "Fuel evaporative emissions" means vaporized fuel emitted into the atmosphere from the fuel system of a motor vehicle.

(19) "Smoke" means the matter in exhaust emissions which obscures the transmission of light.

(20) "Hot soak loss" means fuel evaporative emissions during the 1-hour hot soak period which begins immediately after the engine is turned off.

(21) "Diurnal breathing loss" means fuel evaporative emissions as a result of the daily range in temperature to which the fuel system is exposed.

(22) "Running loss" means fuel evaporative emissions resulting from an average trip in an urban area or the simulation of such a trip.

(23) "Tank fuel volume" means the volume of fuel in the fuel tank, prescribed to be 40 percent of nominal tank capacity rounded to the nearest whole U.S. gallon.

(24) "Maximum rated horsepower" means the maximum brake horsepower output of an engine as stated by the manufacturer in his sales and service literature and his application for certification under § 85.51.

(25) "Rated speed" means the speed at which the manufacturer specifies the maximum rated horsepower of an engine.

(26) "Maximum rated torque" means the maximum torque produced by an engine as stated by the manufacturer in his sales and service literature and his application for certification under §85.51.

(27) "Opacity" means the fraction of a beam of light, expressed in percent, which fails to penetrate a plume of smoke.

(28) Zero (0) miles means that point after initial engine starting (not to exceed 10 miles of vehicle operation) at which adjustments are completed.

(29) Zero (0) hours means that point after initial engine starting (not to exceed 1 hour of engine operation) at which adjustments are completed.

(30) "Calibrating gas" means a gas of known concentration which is used to establish the response curve of an analyzer.

(31) "Span gas" means a gas of known concentration which is used routinely to set the output of an analyzer.

§ 85.2 Abbreviations.

The abbreviations used in this part have the following meanings in both capital and lower case:

Accel.—Acceleration.
ASTM—American Society for Testing and Materials.
BHP—Brake Horsepower.
C.f.h.—Cubic feet per hour.
CO_2—Carbon Dioxide.
CO—Carbon Monoxide.
Conc.—Concentration.
CT—Closed Throttle.
C.f.m.—Cubic feet per minute.
Cu.in.—Cubic inch(es).
Decel.—Deceleration.
EP—End Point.
Evap.—Evaporated.
F.—Fahrenheit.
FL—Full Load.
Gal.—U.S. Gallon(s).
Gm.—Gram(s).
GVW—Gross Vehicle Weight.
HC—Hydrocarbon(s).
Hg—Mercury.
Hi.—High.
HP.—Horsepower.
IBP—Initial Boiling Point.
ID—Internal Diameter.
Lb.—Pound(s).
Lb.-ft.—Pound-feet.
Max.—Maximum.
Min.—Minimum; also minute(s).
Ml.—Milliliter(s).
M.p.h.—Miles per hour.
Mm.—Millimeter(s).
Mv.—Millivolt(s).
N_2—Nitrogen.
No.—Number.
Pb—Lead.
P.p.m.—Parts per million by volume.
P.s.i.—Pounds per square inch.
P.s.i.g.—Pounds per square inch gauge.
PTA—Part Throttle Accel.
PTD—Part Throttle Decel.
R—Rankine.
R.p.m.—Revolutions per minute.
RS—Rated Speed.
RVP—Reid Vapor Pressure.
S.A.E.—Society of Automotive Engineers.
Sec.—Second(s).
Sp.—Speed.
SS—Stainless Steel.
T—Torque.
TEL—Tetraethyl Lead.
TML—Tetramethyl Lead.
V.—Volts.
Vs.—Versus.
WOT—Wide Open Throttle.
Wt.—Weight.
'—Feet.
"—Inches.
°—Degrees.
%—Percent.

§ 85.3 General standards: increase in emissions; unsafe conditions.

(a) (1) Every new motor vehicle or new motor vehicle engine manufactured for sale, sold, offered for sale, introduced or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this part shall be covered by a certificate of conformity issued pursuant to Subpart F of this part.

(2) No heavy duty vehicle manufacturer shall take any of the actions specified in section 203(a)(1) of the Act with respect to any gasoline fueled or diesel powered heavy duty vehicle which uses an engine which has not been certified as meeting applicable standards. Such manufacturer shall provide to the Secretary prior to the beginning of each model year a statement signed by an authorized representative which includes the following information:

(i) A description of the vehicles which will be produced subject to this section;

(ii) Identification of the engines used in the vehicles;

(iii) Projected sales data on each vehicle-engine combination;

(iv) A statement that the engines will not be modified by the vehicle manufacturer or a detailed specification of any changes which will be made. Changes made solely for the purpose of mounting an engine in a vehicle need not be included.

(b) (1) Any system installed on or incorporated in a new motor vehicle or new motor vehicle engine to enable such vehicle to conform to standards imposed by this part:

(i) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of

such vehicle or engine without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) Every manufacturer of new motor vehicles or new motor vehicle engines subject to any of the standards imposed by this part shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles or motor vehicle engines in accordance with good engineering practice to ascertain that such test vehicles or engines will meet the requirements of this section for the lifetime of the vehicle or engine as defined in § 85.92, § 85.113, or § 85.133, as appropriate.

§ 85.4 Labeling.

(a) (1) The manufacturer of any light duty motor vehicle subject to any of the standards prescribed in this part shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles available for sale to the public and covered by a certificate of conformity under § 85.55(a).

(2) A plastic or metal label shall be welded, riveted, or otherwise permanently attached in a readily visible position in the engine compartment.

(3) The label shall be affixed by the vehicle manufacturer, who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any equipment which is easily detached from such vehicle.

(4) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading: Vehicle Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine displacement (in cubic inches) and engine family identification;

(iv) Engine tuneup specifications and adjustments, as recommended by the manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and valve (e.g. idle CO, idle air-fuel ratio, idle speed drop). These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air-conditioner), if any, should be in operation;

(v) The statement: "This Vehicle Conforms to U.S. Dept. of H.E.W. Regulations Applicable to (insert current year) Model Year New Motor Vehicles."

(b) The manufacturer of any heavy duty gasoline fueled engine shall, at the time of manufacture, affix a permanent, legible plastic or metal label, containing the information hereinafter provided to all production models of such engines available for sale to the public, and covered by a certificate of conformity under § 85.55(a). The label shall be affixed at such a location that it will be readily accessible for inspection after the engine is installed in a vehicle and shall read as follows:

ENGINE EMISSION CERTIFICATION

This engine is, in all material respects, of substantially the same construction as test engines certified by the U.S. Department of Health, Education, and Welfare as conforming to Federal regulations pertaining to crankcase and exhaust emissions.

Engine family identification and engine displacement (in cubic inches) _____
Date of manufacture _____
(Month and year)
Name of manufacturer _____

(The information applicable to each engine is to be inserted on the appropriate line.)

(c) The manufacturer of any heavy duty diesel engine shall, at the time of manufacture, affix a permanent, legible plastic or metal label containing the information hereinafter provided to all production models of such engines available for sale to the public, and covered by a certificate of conformity under § 85.55(a). The label shall be affixed at such a location that it will be readily accessible for inspection after the engine is installed in a vehicle and shall read as follows:

ENGINE SMOKE EMISSION CERTIFICATION

This engine is, in all material respects, or substantially the same construction as test engines certified by the U.S. Department of Health, Education, and Welfare as conforming to Federal regulations pertaining to exhaust smoke emission.

Engine family identification and model _____
Date of manufacture _____
(Month and year)
Name of manufacturer _____

(The information applicable to each engine is to be inserted on the appropriate line.)

(d) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle or engine conforms to any applicable State emission standards for new motor vehicles or new motor vehicle engines or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle or engine.

§ 85.5 Submission of vehicle identification numbers.

(a) The manufacturer of any light duty motor vehicle covered by a certificate of conformity under § 85.55(a) shall, not later than 60 days after its manufacture, submit to the Secretary the vehicle identification number of such vehicle: *Provided*, That this requirement shall not apply with respect to any vehicle manufactured within any State, as defined in section 302(d) of the Act.

(b) The requirements of this section may be waived with respect to any manufacturer who provides information satisfactory to the Secretary which will enable the Secretary to identify those vehicles or engines which are covered by a certificate of conformity.

§ 85.6 Production vehicles and engines.

(a) Any manufacturer obtaining certification under this part shall supply to the Secretary, upon his request, a reasonable number of production vehicles or engines selected by the Secretary which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles or engines shall be supplied for testing at such time and place and for such reasonable periods as the Secretary may require. Engines supplied under this paragraph may be required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

(b) Any manufacturer obtaining certification under this part shall notify the Secretary, on a quarterly basis, of the number of vehicles of each engine family - engine displacement - exhaust emission control system-fuel system-transmission type-inertia weight class combination or the number of engines of each engine family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead of quarterly, to combine it with the notification required under § 85.5.

(c) All light duty vehicles covered by a certificate of conformity under § 85.55 (a) shall be adjusted by the manufacturer to the ignition timing specification detailed in § 85.4(a)(4)(iv).

§ 85.7 Emission control system operation during test.

All emission control systems installed on or incorporated in a new motor vehicle or new motor vehicle engine shall be functioning during all test procedures in this part.

§ 85.8 Special test procedures.

The Secretary may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this part, for any motor vehicle or motor vehicle engine which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.9 Maintenance of records; submittal of information; right of entry.

(a) The manufacturer of any new motor vehicle or new motor vehicle engine subject to any of the standards prescribed in this part shall establish and maintain the following adequately organized and indexed records:

(1) Identification and description of all vehicles or engines for which testing is required under this part.

(2) A description of all emission control systems which are installed on or incorporated in each vehicle or engine.

(3) A description of the procedures used to test such vehicles or engines.

(4) Test data on each emission data vehicle or engine which will show its emissions at 0 and 4,000 miles or 0 and 125 hours, respectively.

(5) Test data on each durability vehicle or engine which will show the performance of the systems installed on or incorporated in the vehicle or engine during extended mileage or operation, as well as a record of all pertinent maintenance performed on the vehicle or engine.

(b) The manufacturer of any new motor vehicle or new motor vehicle engine subject to any of the standards prescribed in this part shall submit to the Secretary at the time of issuance by the manufacturer copies of all instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such vehicle or engine relevant to the control of crankcase, exhaust, or evaporative emissions, issued by the manufacturer for use by other manufacturers, assembly plants, distributors, dealers, and ultimate purchasers: *Provided*, That any material not translated into the English language need not be submitted unless specifically requested by the Secretary.

(c) The manufacturer of any new motor vehicle or new motor vehicle engine subject to any of the standards prescribed in this part shall permit officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the manufacturer:

(1) To enter, at reasonable times, any premises used during the certification procedure for purposes of monitoring tests and mileage accumulation procedures, observing maintenance procedures, and verifying correlation or calibration of test equipment, or

(2) To inspect, at reasonable times, records, files, and papers compiled by such manufacturer in accordance with paragraph (a) of this section.

A separate notice shall be given for each such inspection, but a separate notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

Subpart B—Crankcase Emissions (Gasoline Fueled Vehicles and Engines)

§ 85.10 Applicability.

The provisions of this subpart are applicable to all new gasoline fueled light duty vehicles, except motorcycles, and heavy duty engines beginning with the 1972 model year for such vehicles and engines.

§ 85.11 Standard for crankcase emissions.

No crankcase emissions shall be discharged into the ambient atmosphere from any new motor vehicle or new motor vehicle engine subject to this subpart.

§ 85.12 Test procedures.

Every manufacturer of new motor vehicles or new motor vehicle engines subject to the standard prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles or motor vehicle engines in accordance with good engineering practice to ascertain that such test vehicles or engines, with proper maintenance, will meet the requirements of § 85.11 for a period not less than 100,000 miles or 3,000 hours, respectively. If, pursuant to § 85.55(a), the Secretary issues a certificate of conformity for the class or classes of motor vehicles or motor vehicle engines represented by such test vehicles or engines, any new motor vehicle or motor vehicle engine which is in all material respects of substantially the same construction as such test vehicle or engine shall be deemed to be in conformity with the requirement of § 85.11.

Subpart C—Exhaust Emissions and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)

§ 85.20 Applicability.

The provisions of this subpart are applicable to new gasoline fueled light duty motor vehicles beginning with the model year specified therein, except motorcycles and 1972 model year vehicles with an engine displacement of less than 50 cubic inches.

§ 85.21 Standards for exhaust emissions.

(a) Exhaust emissions from 1972, 1973, and 1974 model year vehicles shall not exceed:

(1) Hydrocarbons—3.4 grams per vehicle mile.

(2) Carbon monoxide—39.0 grams per vehicle mile.

(b) The standards set forth in paragraph (a) of this section refer to the exhaust emitted over a driving schedule as set forth in the applicable sections of "Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)" of this part and measured and calculated in accordance with those procedures.

§ 85.22 Standard for fuel evaporative emissions.

(a) Fuel evaporative emissions from vehicles beginning with the 1972 model year shall not exceed:

(1) Hydrocarbons—2 grams per test.

(b) The standard set forth in paragraph (a) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in the "Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)" of this part and measured in accordance with those procedures.

§ 85.23 Test procedures.

Every manufacturer of new motor vehicles subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles in accordance with test procedures in Subpart H of this part to ascertain that such test vehicles meet the requirements of §§ 85.21 and 85.22, as applicable. If, pursuant to § 85.55(a), the Secretary issues a certificate of conformity for the class or classes of vehicles represented by such test vehicles, any new motor vehicle which is in all material respects of substantially the same construction as such test vehicles shall be deemed to be in conformity with the requirements of §§ 85.21 and 85.22, as applicable.

Subpart D—Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)

§ 85.30 Applicability.

The provisions of this subpart are applicable to new gasoline fueled heavy model year.

§ 85.31 Standards for exhaust emissions.

(a) Exhaust emissions from new gasoline fueled heavy duty engines shall not exceed:

(1) Hydrocarbons—275 p.p.m.

(2) Carbon monoxide—1.5 percent by volume.

(b) The standards set forth in paragraph (a) of this section refer to a composite sample representing the operating cycles set forth in the applicable sections of "Test Procedures for Engine Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)" of this part and measured in accordance with those procedures.

§ 85.32 Test procedures.

Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in Subpart I of this part to ascertain that such test engines meet the requirements of § 85.31. If, pursuant to § 85.55(a), the Secretary issues a certificate of conformity for the class or classes of motor vehicle engines represented by such test engines, any new motor vehicle engine which is in all material respects of substantially the same construction as such test engines shall be deemed to be in conformity with the requirements of § 85.31.

Subpart E—Exhaust Emissions (Heavy Duty Diesel Engines)

§ 85.40 Applicability.

The provisions of this subpart are applicable to new heavy duty diesel engines beginning with the 1972 model year.

§ 85.41 Standards for exhaust smoke.

(a) The opacity of smoke emissions from new diesel engines subject to this subpart shall not exceed:

(1) 40 percent during the engine acceleration mode.

(2) 20 percent during the engine lugging mode.

(b) The standards set forth in paragraph (a) of this section refer to exhaust smoke emissions generated under the conditions set forth in the "Test Procedures for Engine Exhaust Emissions (Heavy Duty Diesel Engines)" of this part and measured and calculated in accordance with those procedures.

§ 85.42 Test procedures.

Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in Subpart J of this part, to ascertain that such test engines meet the requirements of §85.41. If, pursuant to §85.55(a), the Secretary issues a certificate of conformity for the class or classes of motor vehicle engines represented by such test engines, any motor vehicle engine which is in all material respects of substantially the same construction as such test engines shall be deemed to be in conformity with the requirements of § 85.41.

Subpart F—Certification of Motor Vehicles and Motor Vehicle Engines

§ 85.50 Applicability.

The provisions of this subpart are applicable to new motor vehicles and new motor vehicle engines subject to the standards prescribed in this part. As used in this subpart, the term "vehicle" and "test vehicle" shall include engines and test engines, respectively.

§ 85.51 Application for certification.

(a) An application for a certificate of conformity to the regulations applicable to any new motor vehicle shall be made to the Secretary by the manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicles covered by the application and a description of their emission control systems.

(2) Projected U.S. sales data sufficient to enable the Secretary to select a test fleet representative of the vehicles for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed mileage accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles covered by a certificate of conformity, in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

§ 85.52 Approval of procedure and equipment; test fleet selections.

Based upon the information provided in the application for certification, and any other information the Secretary may require, the Secretary will approve or disapprove in whole or in part the mileage accumulation procedure and equipment and fuel proposed by the manufacturer, and notify him in writing of such determination. Where any part of a proposal is disapproved, such notification will specify the reasons for disapproval. The Secretary will select a test fleet in accordance with § 85.89, § 89.110, or § 85.130, as appropriate.

§ 85.53 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Secretary the following information:

(a) Durability data on such vehicles tested in accordance with the applicable test procedures of this part, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage or operation, as well as a record of all pertinent maintenance performed on the test vehicles.

(b) Emission data on such vehicles tested in accordance with the applicable emission test procedures of this part and in such numbers as therein specified, which will show their emissions after 0 miles or 0 hours, and 4,000 miles or 125 hours of operation (as appropriate).

(c) A description of tests performed to ascertain compliance with the general standards in § 85.3 and the data derived from such tests.

(d) A statement that the test vehicles with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirement of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this part. If such statements cannot be made with respect to any vehicle tested, the vehicle shall be identified, and all pertinent test data relating thereto shall be supplied.

§ 85.54 Testing by the Secretary.

(a) The Secretary may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Secretary may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Secretary shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b) (1) Whenever the Secretary conducts a test on a test vehicle, the results of that test shall comprise the official data for the vehicle at that prescribed test point.

(2) Whenever the Secretary does not conduct a test on a test vehicle at a test point, the manufacturer's test date will be accepted as the official data for that test point: *Provided*, That if the Secretary makes a determination, based on testing under paragraph (a) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Secretary, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(3) If the Secretary determines that the test data developed under paragraph (a) of this section would cause a vehicle to fail due to excessive 4,000-mile or 125-hour emissions or excessive deterioration, then the following procedure shall be observed:

(i) The manufacturer may request a retest. Before the retest, the vehicle may be adjusted to manufacturer's specifications, and parts may be replaced in accordance with § 85.90, § 85.111, or § 85.131, as appropriate. All work on the vehicle shall be done at such location and under such conditions as the Secretary may prescribe.

(ii) The vehicle will be retested by the Secretary and the results of this test shall comprise the official data for that prescribed test point.

(4) If sufficient durability data is not available, at the time of any emission test conducted under paragraph (a) of this section, to enable the Secretary to determine whether a test vehicle would fail, the manufacturer may request a retest in accordance with the provisions of subparagraph (3) (i) and (ii) of this paragraph. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

§ 85.55 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.54, the Secretary determines that a test vehicle(s) conforms to the regulations of this part, he will issue a certificate of conformity with respect to such vehicle(s).

(2) Such certificate will be issued for such period not less than 1 year as the Secretary may determine and upon such terms as he may deem necessary to assure that any new motor vehicle covered by the certificate will meet the requirements of these regulations relating to durability and performance.

(b) (1) The Secretary will determine whether a vehicle covered by the application complies with applicable standards by observing the following relationships:

(i) A test vehicle selected under § 85.89(b)(2), § 85.110(b)(2), or § 85.130(b)(2), as appropriate, shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-evaporative emission control system combination.

(ii) A test vehicle selected under § 85.89(b)(3) or § 85.110(b)(3), as appropriate, shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-transmission type-fuel system combination.

(iii) A test vehicle selected under § 85.89(c)(1), § 85.110(c)(1), or § 85.130(c)(1), as appropriate, shall represent all vehicles of the same engine-system combination.

(2) The Secretary will proceed as in paragraph (a) of this section with respect to the vehicles belonging to an

engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.54, the Secretary determines that one or more test vehicles of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Secretary's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Secretary's determination, and data in support of such objections. If, after a review of the request and supporting data, the Secretary finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with subpart G with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test vehicle(s) determined not in compliance with applicable standards:

(i) Request a hearing under subpart G, or

(ii) Delete from the application for certification the vehicles represented by the failing test vehicle. (Vehicles so deleted may be included in a later request for certification under § 85.57.) The Secretary will then select in place of each failing vehicle an alternate vehicle chosen in accordance with selection criteria employed in selecting the vehicle that failed, or

(iii) Modify the test vehicle and demonstrate by testing that it meets applicable standards. Another vehicle which is in all material respects the same as the first vehicle, as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Secretary will deny certification.

§ 85.56 Separate certification.

Where possible a manufacturer should include in a single application for certification all vehicles for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles and the computation of test results will be determined separately for each application.

§ 85.57 Addition of a vehicle after certification.

(a) If a manufacturer proposes to add to his product line a vehicle of the same engine-system combination as vehicles previously certified but which was not described in the application for certification when the test vehicle(s) representing other vehicles of that combination was certified, he shall notify the Secretary. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 85.59. This notification shall include a full description of the vehicle to be added.

(b) The Secretary may require the manufacturer to perform such tests on the test vehicle(s) representing the vehicle to be added which would have been required if the vehicle had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 85.54, the Secretary determines that the test vehicle(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Secretary determines that the test vehicle(s) does not meet applicable standards, he will proceed under § 85.55(b).

§ 85.58 Changes to a vehicle covered by certification.

(a) The manufacturer shall notify the Secretary of any intended change in production vehicles in respect to any of the parameters listed in § 85.89(a)(3), § 85.89(b)(3), or § 85.110(b)(3), giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 85.59.

(b) Based upon the description of the change, and data derived from such testing as the Secretary may require or conduct, the Secretary will determine whether the vehicle, as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Secretary determines that the outstanding certificate would cover the modified vehicles, he will notify the manufacturer in writing. Except as provided in § 85.59 the change may not be put into effect prior to the manufacturer's receiving this notification. If the Secretary determines that the modified vehicles would not be covered by the certificate then in effect, then the modified vehicles shall be treated as additions to the product line subject to § 85.57.

§ 85.59 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Secretary in advance of an addition of a vehicle under § 85.57 or a change in a vehicle under § 85.58, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Secretary, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce vehicles as described in the notification to the Secretary for a maximum of 30 days, unless the Secretary grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Secretary determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Secretary determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Secretary will then proceed as in § 85.57 (b) and (c), or § 85.58 (b) and (c), as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Secretary determines under § 85.57(c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

Subpart G—Hearings on Certification

§ 85.60 Hearing.

(a) After granting a request for a hearing under § 85.55, the Secretary will designate a Presiding Officer for the hearing.

(b) The General Counsel will represent the Department of Health, Education, and Welfare in any hearing under this subpart.

(c) If a time and place for the hearing have not been fixed by the Secretary under § 85.55, the hearing shall be held as soon as practicable at a time and place fixed by the Secretary or by the Presiding Officer.

§ 85.61 Hearing file.

(a) Upon his appointment pursuant to § 85.60, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Secretary under § 85.55, together with any accompanying material, the request for a hearing and the supporting data submitted therewith and all documents relating to the request for certification, including the application for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(b) The appeal file will be available for inspection by the applicant at the office of the Presiding Officer.

§ 85.62 Representation.

An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

§ 85.63 Prehearing conference.

(a) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(1) Simplification of the issues;

(2) Stipulations, admissions of fact, and the introduction of documents;

(3) Limitation of the number of expert witnesses;

(4) Possibility of agreement disposing of all or any of the issues in dispute;

(5) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(b) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

§ 85.64 Conduct of hearings.

(a) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial, and repetitious evidence.

(b) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(c) Any witnesses may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(d) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(e) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing statisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(f) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

§ 85.65 Initial and final decisions.

(a) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Secretary without further proceedings unless there is an appeal to the Secretary or motion for review by the Secretary within 20 days of the date the initial decision was filed.

(b) On appeal from or review of the initial decision the Secretary shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Secretary shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

Subpart H—Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)

§ 85.70 Introduction.

The procedures described in this subpart will be the test program to determine the conformity of gasoline fueled light duty vehicles with the applicable standards set forth in this part.

(a) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sample continuously for subsequent analysis of specific components by prescribed analytical techniques. The fuel evaporative emissions are collected for subsequent weighing during both vehicle parking and operating events. The test applies to vehicles equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems or to uncontrolled vehicles and engines.

(b) The exhaust emission test is designed to determine hydrocarbon and carbon monoxide mass emissions while simulating an average trip in an urban area of 7.5 miles from a cold start. The test consists of engine startup and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix A to this part. A proportional part of the diluted exhaust emissions is collected continuously, for subsequent analysis, using a constant volume (variable dilution) sampler.

(c) The fuel evaporative emission test is designed to determine fuel hydrocarbon evaporative emissions to the atmosphere as a consequence of urban driving, and diurnal temperature fluctuations during parking. It is associated with a series of events representative of a motor vehicle's operation, which results in fuel vapor losses directly from the fuel tank and carburetor. The test procedure is specifically aimed at collecting and weighing:

(1) Diurnal breathing losses from the fuel tank and other parts of the fuel system when the fuel tank is subjected to a temperature increase representative of the diurnal range;

(2) Running losses from the fuel tank and carburetor resulting from a simulated trip from a cold start;

(3) Hot soak losses from the fuel tank and carburetor which result when the vehicle is parked and the hot engine is turned off. The average trip is simulated by operating the vehicle on a chassis dynomometer. Activated carbon traps are employed in collecting the vaporized fuel.

§ 85.71 Gasoline fuel specifications.

(a) Fuel having the following specifications, or substantially equivalent specifications approved by the Secretary, shall be used in exhaust and evaporative emission testing. Where the Secretary determines that the vehicles represented by a test vehicle will be operated using fuels of a different lead content of octane rating than that prescribed in this paragraph, he may consent in writing to use of a fuel otherwise substantially equivalent to the following specifications but with a different lead content or octane rating.

Item	ASTM designation	Specifications
Octane, Research, min	D 1656	100
Pb. (organic), gm./U.S. gal	D 526	3.1-3.3
Distillation range	D 86	
IBP, °F		75-95
10 percent point, °F		120-135
50 percent point, °F		200-230
90 percent point, °F		300-325
EP, °F. (max.)		415
Sulfur, wt. percent, max	D 1266	0.10
Phosphorus, theory		0.0
RVP,[1] lb	D 323	8.7-9.2
Hydrocarbon composition	D 1319	
Olefins, percent, max		10
Aromatics, percent, max		35
Saturates		Remainder

[1] For testing which is unrelated to fuel evaporative emission control, the specified range is: 8.9-9.2.

(b) Fuel having the following specifications, or substantially equivalent specifications approved by the Secretary, shall be used in mileage accumulation. The octane rating of the fuel used shall be in the range recommended by the vehicle or engine manufacturer. The Reid Vapor Pressure of the fuel used shall be characteristic of the seasonal motor fuel. Where the Secretary determines that the vehicles represented by a test vehicle will be operated using fuels of a different lead content than that prescribed in this paragraph, he may consent in writing to use of a fuel otherwise substantially equivalent to the following specifications but with a different lead content.

Item	ASTM Designation	Regular	Premium
Pb. (organic), gm./U.S. gal	D 526	2.1-3.2	2.1-3.2
Sulfur, wt. percent	D 1266	0.02-0.10	0.2-0.10
Hydrocarbon composition	D 1319		
Olefins, percent, max		30	15
Aromatics, percent, max		40	40
Saturates		Remainder	Remainder

(c) The specifications of the fuel to be used under paragraph (b) of this section shall be reported in accordance with § 85.51(b)(3).

§ 85.72 Vehicle and engine preparation (fuel evaporative emissions).

(a) (1) Apply appropriate leak-proof fittings to all fuel system external vents to permit collection of effluent vapors from these vents during the course of the prescribed tests. Since the prescribed test requires the temporary plugging of the inlet pipe to the air cleaner, it will be necessary to install a probe for collecting the normal effluents from this source. Where antisurge/vent filler caps are employed on the fuel tank, plug off the normal vent if it does not conveniently lend itself to the collection of vapors which emanate from it, and introduce a separate vent, with appropriate fitting, on the cap. Where the fuel tank vent line terminus is inaccessible, sever the line at a convenient point near the fuel tank and install the collection system in a closed circuit assembly with the severed ends. All fittings shall terminate in $\frac{5}{16}$-inch ID tube sections for ready connection to the collection systems and shall be designed for minimum dead space.

(2) The design and installation of the necessary fittings shall not disturb the normal function of the fuel system components or the normal pressure relationships in the system.

(b) (1) Inspect the fuel system carefully to insure the absence of any leaks to the atmosphere of either liquid or vapor which might affect the accuracy of the test or the performance of the control system. Corrective action, if any, shall be reported with the test results under § 85.53.

(2) Care should be exercised, in the application of any pressure tests, neither to purge nor load the evaporative emission control system.

(c) Prepare fuel tank for recording the temperature of the prescribed test fuel at its approximate midvolume.

(d) Provide additional fittings and adapters, as required to accommodate a fuel drain at the lowest point possible in the tank as installed on the vehicle.

§ 85.73 Vehicle preconditioning (fuel evaporative emissions).

Vehicle to be tested for compliance with the fuel evaporative emissions standard of this part shall be preconditioned as follows:

(a) The test vehicle shall be operated under the conditions prescribed for mileage accumulation, § 85.91, for 1 hour immediately prior to the operations prescribed below.

(b) The fuel tank shall be drained and specified test fuel (§ 85.71(a)) added. The evaporative emission control system or device shall not be abnormally purged or loaded as a result of draining or fueling the tank.

(c) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the applicable requirements and procedures of §§ 85.75–85.80 except that the engine need not be cold when starting the run on the dynamometer operation. During the run the ambient temperature shall be between 68° F. and 86° F.

(d) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand at an ambient temperature between 76° F. and 86° F. for a period of not less than 1 hour prior to the soak period prescribed in § 85.74 (a)(1).

§ 85.74 Evaporative emission collection procedure.

The standard test procedure consists of three parts described below which shall be performed in sequence and without any interruption in the test conditions prescribed.

(a) *Diurnal breathing loss test.* (1) The test vehicle shall be allowed to "soak" in an area where the ambient temperature is maintained between 60° F. and 86° F. for a period of not less than 10 hours. (The vehicle preparation requirements of § 85.72 may be performed during this period.) It shall than be transferred to a soak area where the ambient temperature is maintained between 76° F. and 86° F. Upon admittance to the 76° F–86° F. soak area, the prescribed fuel tank thermocouple shall be connected to the recorder and the fuel and ambient temperatures recorded at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) The fuel tank of the prepared test vehicle, preconditioned according to §85.73, shall be drained and recharged with the specified test fuel, §85.71(a) to the prescribed "tank fuel volume," defined in § 85.1. The temperature of the fuel following the charge to the tank shall be 60° F.±2° F. Care should be exercised against abnormal loading of the evaporative emission control system or device as a result of fueling the tank.

(3) Immediately following the fuel charge to the tank, the exhaust pipe(s) and inlet pipe to the air cleaner shall be plugged and the prescribed vapor collection systems installed on all fuel stystem external vents. Multiple vents may be connected to a single collection trap provided that, where there is more than one external vent on a fuel system distinguishing between carburetor and tank vapors, separate collection systems shall be employed to trap the vapors from the separate sources. Every precaution shall be taken to minimize the lengths of the collection tubing employed and to avoid sharp bends across the entire system.

(4) Artificial means shall be employed to heat the fuel in the tank to 84° F. ±2° F. The prescribed temperature of the fuel shall be achieved over a period of 60 minutes±10 minutes using a constant rate of heat input. After a minimum of 1 hour, following admittance to the 76° F.–86° F. soak area, the vehicle shall be moved onto the dynamometer stand for the subsequent part of the test. The fuel tank thermocouple may be temporarily disconnected to permit moving the test vehicle. Plugs shall be removed from the exhaust pipe(s) and inlet pipe to the air cleaner.

(b) *Running loss test.* (1) The test vehicle shall be placed on the dynamometer with the hood up and the cooling fan positioned between 8" and 12" from the grill and directed squarely at the radiator. (Exception: air cooled engines.) The ambient air temperature shall be maintained between 68° F.–86° F. and recorded, together with the fuel temperature, at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) Where the only external vent(s) is located in the immediate vicinity of the carburetor air horn, such that any "running loss" emissions would be inducted into the engine, there is no requirement to collect any vapor losses during this part of the test and the vapor-loss measurement system shall be temporarily disconnected and clamped.

(3) The vehicle shall be operated on the dynamometer according to the requirements and procedures of §§ 85.75–85.85. The engine and fan shall be turned off upon completion of the dynamometer run and the exhaust and air cleaner inlet pipes shall be replugged.

(4) Any vapor collection systems employed during this part of the test shall be left intact for their continued use during the following part. Any part of the vapor collection system disconnected during this phase of the test shall be reconnected for the following phase.

(c) *Hot soak test.* Upon completion of the dynamometer run, the test vehicle shall be permitted to soak with hood down for a period of 1 hour at an ambient temperature between 76° F. and 86° F. This operation completes the test. The traps are disconnected and weighed according to § 85.82.

§ 85.75 Dynamometer driving schedule.

(a) The dynamometer driving schedule to be followed consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates. The driving schedule is defined by a smooth transition through the speed vs. time relationships listed in Appendix A. The time sequence begins upon starting the vehicle according to the startup procedure described in § 85.80.

(b) A speed tolerance of 1 m.p.h. above or below the theoretical speed and a time tolerance of ±0.5 sec. from that prescribed (or an algebraic combination of the two) may be accepted, if the speed vs. time relationship has been followed as closely as possible. Speed tolerances greater than 1 m.p.h. (such as occur when shifting manual transmission vehicles) may be accepted provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed may be accepted provided that the vehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable provided the provisions of § 85.80(f) are adhered to.

§ 85.76 Dynamometer procedure.

(a) The vehicle shall be tested from a cold start. Engine startup and operation over the driving schedule make a complete test run. Exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during the entire test run. The composite sample, collected in a bag, is analyzed for hydrocarbon and carbon monoxide. A parallel sample of the dilution air is similarly analyzed.

(b) A fixed speed cooling fan (cooling capacity shall not exceed 5,300 c.f.m.) shall be positioned during dynamometer operation so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. In the case of vehicles with front engine compartments, the fan shall be squarely positioned between 8 and 12 inches in front of the cooling air inlets (grill). In the case of vehicles with rear engine compartments (or if special designs make the above impractical) the cooling fan shall be placed in a position to provide sufficient air to maintain engine cooling.

(c) The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

(d) Flywheels, electrical or other means of simulating inertia as shown in

the following table shall be used. If the equivalent inertia specified is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 lbs.) available shall be used.

Loaded vehicle weight, pounds	Equivalent inertia weight, pounds	Road load power @ 50 m.p.h., horsepower
Up to 1,125	1,000	5.9
1,126 to 1,375	1,000	6.5
1,376 to 1,625	1,500	7.1
1,626 to 1,875	1,750	7.7
1,876 to 2,125	2,000	8.3
2,126 to 2,375	2,250	8.8
2,376 to 2,625	2,500	9.4
2,626 to 2,875	2,750	9.9
2,876 to 3,250	3,000	10.3
3,251 to 3,750	3,500	11.2
3,751 to 4,250	4,000	12.0
4,251 to 4,750	4,500	12.7
4,751 to 5,250	5,000	13.4
5,251 to 5,750	5,500	13.9
5,751 to above	5,500	14.4

(e) Power absorption unit adjustment.

(1) The power absorption unit shall be adjusted to reproduce road load power at 50 m.p.h. true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in Appendix B or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) Measuring the absolute manifold vacuum of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(ii) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold vacuum, when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e. within ±5 mm.-Hg.

(iii) The road load power shall be determined according to the procedure outlined in Appendix B and adjusted according to the following if applicable.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, the road load power listed above or as determined in paragraph 2 of this subsection shall be increased by 10 percent for testing all test vehicles representing such engine family.

(f) The vehicle speed (m.p.h.) as measured from the dynamometer rolls shall be used for all conditions. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Secretary.

(g) Practice runs over the prescribed driving schedule may be performed to find the minimum throttle action to maintain the proper speed-time relationship.

NOTE: When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. The rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(h) The drive wheel tires may be inflated up to 45 p.s.i.g. in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

§ 85.77 Three-speed manual transmissions.

(a) All test conditions except as noted shall be run in highest gear.

(b) Cars equipped with free wheeling or overdrive units shall be tested with this unit (free wheeling or overdrive) locked out of operation.

(c) Idle shall be run with transmission in gear and with clutch disengaged (except first idle; see § 85.80).

(d) The vehicle shall be driven with minimum throttle movement to maintain the desired speed.

(e) Acceleration modes shall be driven smoothly with the shift speeds as recommended by the manufacturer. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from first to second gear at 15 m.p.h. and from second to third gear at 25 m.p.h. Each shift should be accomplished rapidly to minimize closed-throttle time. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at WOT until the vehicle speed reaches the speed at which it should be at that time during the test.

(f) The deceleration modes shall be run with clutch engaged and without shifting gears from the previous mode, using brakes or throttle as necessary to maintain the desired speed. For those modes which decelerate to zero, the clutch shall be depressed when the speed drops below 15 m.p.h. when engine roughness is evident, or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode if recommended by the manufacturer or if the engine obviously is lugging.

§ 85.78 Four-speed and five-speed manual transmissions.

(a) Use the same procedure as for three-speed manual transmissions for shifting from first to second gear and from second to third gear. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from third to fourth gear at 40 m.p.h. Do not use fifth gear.

(b) If transmission ratio in first gear exceeds 5 : 1, follow the procedure for three- or four-speed manual transmission vehicles as if the first gear did not exist.

§ 85.79 Automatic transmissions.

(a) All test conditions shall be run with the transmission in "Drive" (highest gear).

(b) Idle modes shall be run with the transmission in "Drive" and the wheels braked (except first idle; see § 85.80).

(c) The vehicle shall be driven with minimum throttle movement to maintain the desired speed.

(d) Acceleration modes shall be driven smoothly allowing the transmission to shift automatically through the normal sequence of gears. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at WOT until the vehicle speed reaches the speed at which it should be at that time during the driving schedule.

(e) The deceleration modes shall be run in gear using brakes or throttle as necessary to maintain the desired speed.

§ 85.80 Engine starting and restarting.

(a) The engine shall be started according to the manufacturer's recommended starting procedures including choke setting. The initial 20-second idle period shall begin when the engine starts.

(b) Choke operation:

(1) Vehicles equipped with automatic chokes shall be operated according to the manufacturer's operating or owner's manual including "kick-down" from cold fast idle. If choke "kick-down" time is not specified, it shall be performed 13 seconds after the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(2) Vehicles equipped with manual chokes shall be operated according to the manufacturer's operating or owner's manual. If not specified, the choke shall be operated to maintain engine idle at 1,100±50 r.p.m. during the initial idle period and used where necessary during the remainder of the test to keep the engine running.

(c) The operator may use more choke, more throttle, etc., where necessary to keep the engine running.

(d) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start determined. The revolution counter on the constant volume sampler (see § 85.85, Dynamometer test runs) shall be turned off and the sample solenoid valves placed in the "dump" position, and the positive displacement pump turned off during this diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken and the test continued. If corrective action is unsuccessful in 30 minutes, the test shall be aborted. If the test is continued, the sampling system shall be reactivated at the same time cranking is started. When the engine is operating satisfactorily the driving schedule timing sequence shall begin. In all cases in which failure to start is caused by vehicle malfunction and the vehicle cannot be restarted the test shall be considered a valid failed test. The reason for the malfunction (if determined) and the corrective action taken shall be reported with the test results.

(e) If the engine "false starts", the operator shall repeat the recommended

starting procedure (such as resetting the choke, etc.).

(f) Stalling:

(1) If the engine stalls during an idle period, the engine shall be restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle restarted, accelerated to the speed required at that point in the driving schedule and the test continued.

(3) If the vehicle will not restart within 1 minute, the test shall be aborted and considered a valid failed test.

§ 85.81 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Figures 1a and 1b) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Additional components such as instruments, valves, solenoids, and switches may be used to coordinate the functions of the component systems.

(b) *Component description (exhaust gas sampling system).* The following components will be used in the exhaust gas sampling system for testing under the regulations in this part. See Figure 1a. Other types of constant volume samplers may be used if shown to yield equivalent results.

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; a second particulate filter to remove charcoal particles from the air stream. The filters shall be of sufficient capacity and the duct which carries the dilution air to the point where the exhaust gas is added shall be of sufficient size so that the pressure at the mixing point is less than 3 inches of water pressure below ambient when the constant volume sampler is operating at its maximum flow rate. The dilution air filter assembly is not required when the dilution air hydrocarbon level is below 15 p.p.m. carbon equivalent.

(2) A flexible, leak-tight connector and tube to the vehicle tailpipe. The flexible tubing shall be of sufficient size to limit the maximum pressure at the tailpipe to less than 5 inches of water pressure above ambient during the test.

(3) A heating system to preheat the heat exchanger to within ±10° F. of its operating temperature before the test begins.

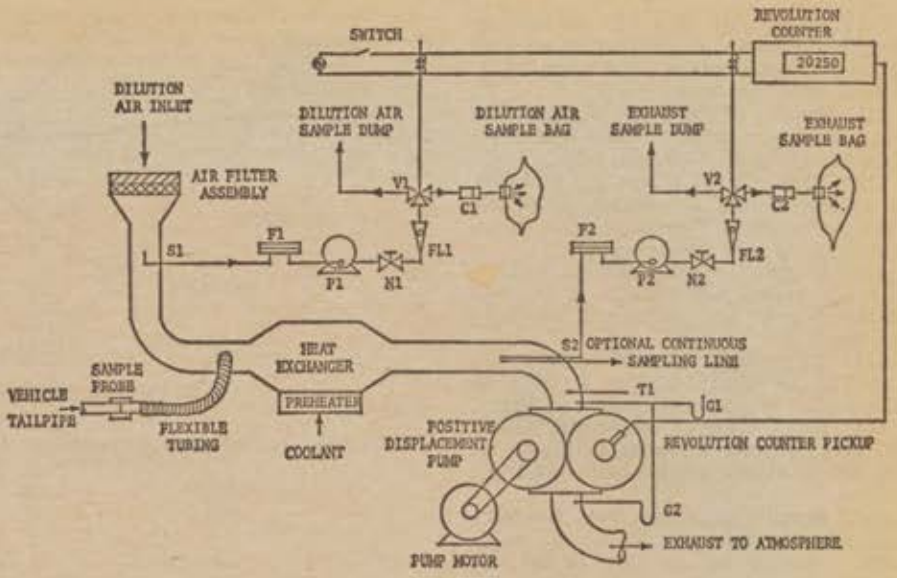


Figure 1a. Exhaust Gas Sampling System

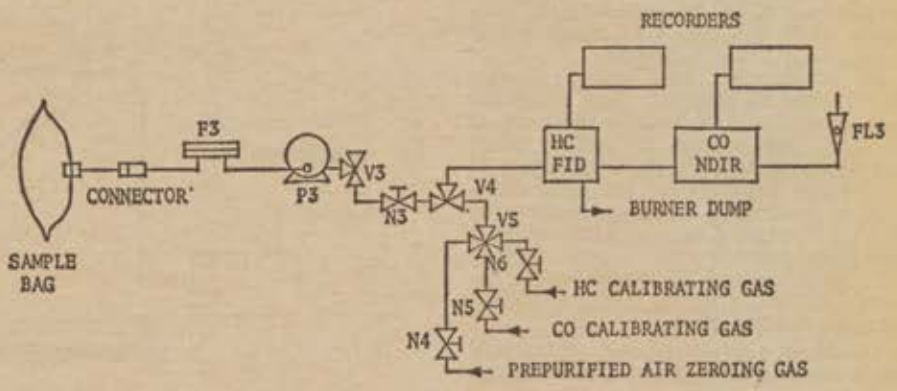


Figure 1b. Exhaust Gas Analytical System

(4) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10° F. as measured at a point immediately ahead of the positive displacement pump.

(5) A positive displacement pump to pump the dilute exhaust mixture. The pump capacity (300 to 350 c.f.m. is sufficient for testing most vehicles) shall be a minimum of eight times the average exhaust flow rate of the vehicle being tested. See Appendix C. The purpose of the high dilution is to minimize the possibility of water condensation in the system. High ambient humidity may require higher dilution rates.

(6) Temperature sensor (T1) with an accuracy of ±2° F. to allow continuous recording of the temperature of the dilute exhaust mixture entering the positive displacement pump.

(7) Gauge (G1) with an accuracy of ±1 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(8) Gauge (G2) with a accuracy of ±1 mm. Hg to measure the pressure increase across the positive displacement pump.

(9) Sample probes (S1 and S2) to collect samples from the dilution air stream and the dilute exhaust mixture. The probes shall be pointed upstream and sized so that the gas velocity in the probe inlet is within ±25 percent of the bulk stream velocity. Additional sample probes may be used, for example, to obtain continuous concentration traces of the dilute exhaust stream. In such case the sample flow rate, in standard cubic feet per test, must be added to the calculated dilute exhaust volume. The position of the sample probe in Figure 1a is pictorial only.

(10) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples prior to entering sample collection bags.

(11) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(12) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow shall be 5 c.f.h.

(13) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(14) Three-way solenoid valves (V1 and V2) to direct sample streams to either their respective bags or overboard.

(15) Quick-connect leak-tight fitting (C1 and C2) with automatic shut-off on bag side to attach sample bags to sample system.

(16) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(17) A revolution counter to count the revolutions of the positive displacement pump while the test is in progress and samples are being collected.

(c) *Component description (exhaust gas analytical system).* The following components will be used in the exhaust gas analytical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis and the determination of carbon monoxide concentrations by nondispersive infrared (NDIR) analysis in dilute exhaust samples. See Figure 1b.

(1) Filter (F3) to remove any residual particulate matter from the collected samples.

(2) Pump (P3) to transfer samples from the sample bag to the analyzers.

(3) Selector valves (V3, V4, and V5) for directing sample and calibrating gases or zeroing gas to the analyzers.

(4) Flow control valves (N3, N4, N5, and N6) to regulate flows to a constant rate of 5 c.f.h.

(5) A flame-ionization-detector type analyzer to measure HC concentrations.

(6) A carbon monoxide sensitized nondispersive infrared analyzer to measure CO concentrations.

(7) Flowmeter (F3) to indicate sample flow rate.

(8) Recorders to provide permanent records of calibration, spanning and sample measurements.

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§ 85.82 Sampling and analytical system (fuel evaporative emissions).

(a) *Schematic drawings.* (1) The following figures (Figures 2, 3, and 4) are flow diagrams of typical evaporative loss collection applications.

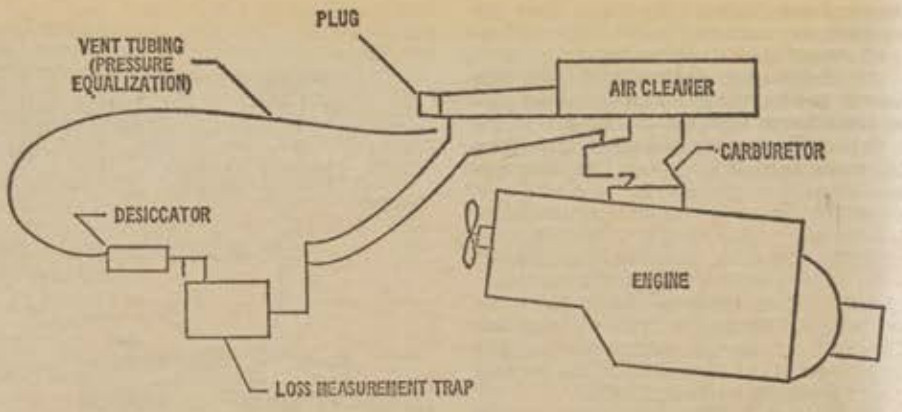


Figure 2. Typical carburetor evaporative loss collection arrangement (schematic).

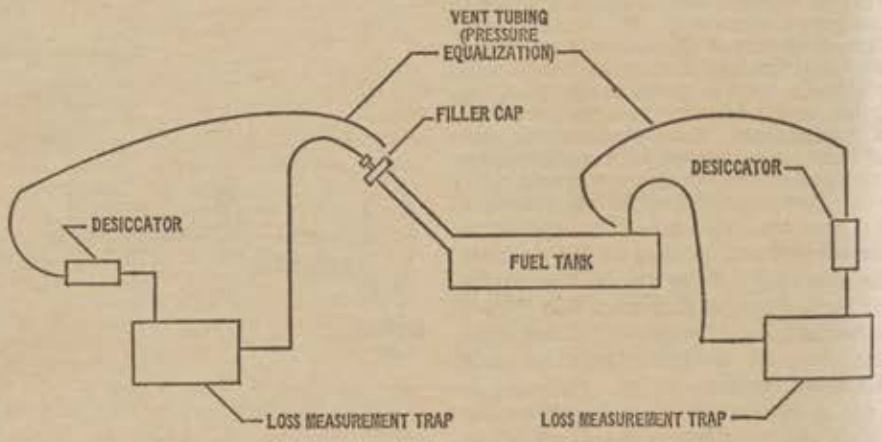


Figure 3. Typical fuel tank evaporative loss collection arrangement (schematic).

Figure 4. Typical fuel evaporative loss collection arrangement for vehicle equipped with evaporative emission control system (schematic).

(2) Figure 2 represents an arrangement for collecting losses which emanate from the carburetor. Figure 3 depicts the means for separately collecting the vapors which emanate from the fuel tank vent line and filler cap. Figure 4 shows an arrangement for collecting the losses from a closed fuel system, vented to the

atmosphere solely through the air cleaner, as might be the case with certain fuel evaporative emission control devices.

(3) Schematic drawings of arrangements to be employed shall be submitted in accordance with § 85.51(b)(3).

(b) *Collection equipment.* The following equipment shall be used for this collection of fuel evaporative emissions. (Item quantities are determined by individual test needs.)

(1) *Activated carbon trap.* See Figure 5 for specifications of one design; other configurations may be used: *Provided*, That they give demonstrably equivalent results.

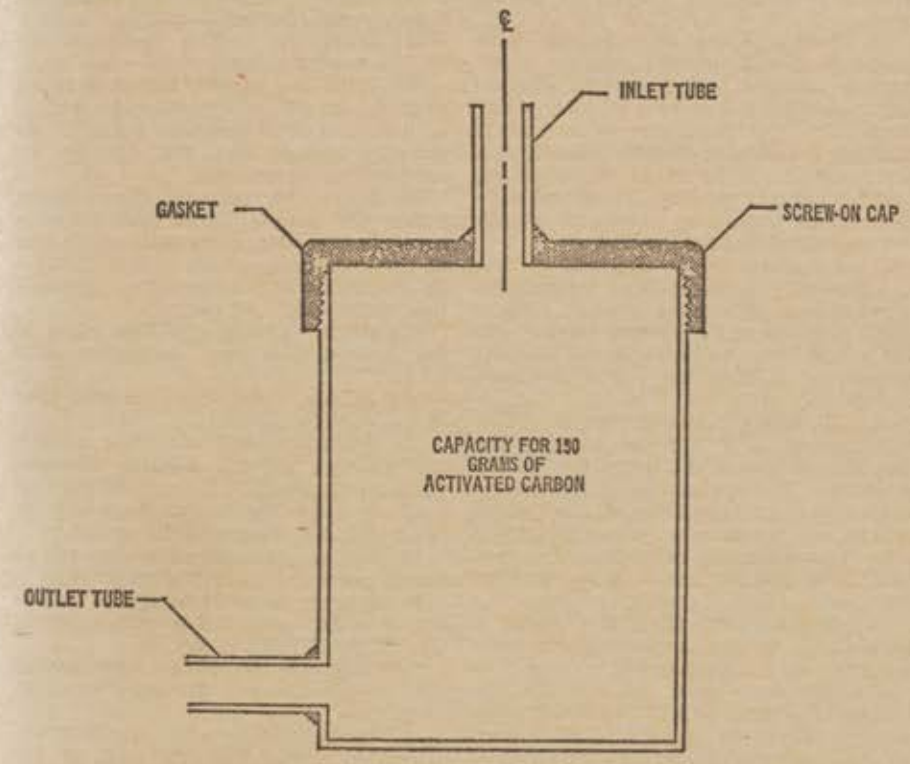


Figure 5. Typical activated carbon trap (schematic).

(i) Canister—300±25 ml., cylindrical container having a length to diameter ratio of 1.4±0.1. An inlet tube, $\frac{1}{4}$ inch ID and 1 inch long is sealed into the top of the canister, at its geometric center. A similar outlet tube is sealed into the wall ¼ inch from the bottom of the canister. The canister is designed to withstand an air pressure of 2 p.s.i., when sealed, without evidence of leaking when immersed in water for 30 seconds.

(ii) Activated carbon—meeting the following specifications:

Surface area, min. (N_2 BET method).[1]	1,000 square meters per gram.
Adsorption capacity, min. (carbon tetrachloride).	60 percent, by weight.
Volatile material including adsorbed water vapor.	None.

Screen analysis size:	Percent
Less than 1.4 mm	0
1.7–2.4 mm	90–100
More than 3.0 mm	0

[1] Brunauer, Emmett & Teller; Journal of the American Chemical Society, Vol. 60, p. 309, 1938.

The activated carbon trap is prepared for the test by attaching clamped sections of vinyl tubing to the inlet and outlet tubes of the canister. The canister is then filled with 150±10 gm. hot activated carbon which had previously been oven-dried for 3 hours at 300° F. Loss of carbon through the inlet and outlet tubes is prevented through the use of wire screens of 0.7 mm. mesh or wads of loosely packed glass wool. The canister is closed immediately after filling and the carbon is allowed to cool while the trap is vented through a drying tube via the unclamped outlet arm.

(iii) The trap is sealed and weighed after cooling and the weight, to the nearest 0.1 gram, is inscribed on the canister body. Within 12 hours of the scheduled test, the weight of the trap is checked and if it has changed by more than 0.5 gm., it is redried to constant weight. This redrying operation is performed by passing dry nitrogen, heated to 275° F., through the trap, via the inlet tube, at a rate of 1 liter per minute until checks made at 30-minute intervals do not vary by more than 0.1 percent of the gross weight. The trap and its contents are allowed to cool to room temperature, while vented through a drying tube via the outlet arm, before use.

(2) *Auxilliary collection equipment.* (i) Drying tube—transparent, tubular body ¾ inch ID, 6 inches long, with serrated tips and removable caps.

(ii) Desiccant—indicating variety, 8 mesh. The drying tube is attached to the outlet tube of the collection traps to prevent ambient moisture from entering the trap. It is prepared by filling the empty drying tube with fresh desiccant using loose wad of glass wool to hold the desiccant in place. The desiccant is renewed when three-quarters spent, as indicated by color change.

(iii) Collection tubing—stainless steel or aluminum, $\frac{5}{16}$ inch ID, for connecting the collection traps to the fuel system vents.

(iv) Polyvinyl chloride (vinyl) tubing—flexible tubing, $\frac{5}{16}$ inch ID, for sealing butt-to-butt joints.

(v) Laboratory tubing—air tight flexible tubing $\frac{5}{16}$ inch ID, attached to the outlet end of the drying tubes to equalize collection system pressure.

(vi) Clamps—hosecock, open side, for pinching off flexible tubing.

(c) *Weighing equipment.* The balance and weights used shall be capable of determining the net weight of the activated carbon trap within an accuracy of ±75 mg.

(d) *Temperature measuring equipment.* (1) Temperature recorder—multichannel, variable speed, potentiometric, or substantially equivalent, recorder with a temperature range of 50° F. to 100° F. and capable of either simultaneous or sequential recording of the ambient air and fuel temperatures within an accuracy of ±1° F.

(2) Fuel tank thermocouples—iron-constantan (type J) construction.

(e) *Assembly and use of the activated carbon vapor collection system.* (1) The prepared activated carbon trap, dried to constant weight, cooled to the ambient temperature and sealed with clamped sections of vinyl tubing is carefully weighed to the nearest 20 milligrams and the weight recorded as the "tare weight."

(2) A drying tube is attached to the outlet tube and the clamp released, but not removed. A length of flexible tubing, for pressure equalization, is connected to the other end of the drying tube.

(3) The inlet tube of the adsorption trap and external vent(s) of the fuel system will be connected by minimal lengths of stainless steel or aluminum tubing and short sections of vinyl tubing. Butt-to-butt joints shall be made wherever possible and precautions taken against sharp bends in the connection lines, including any manifold systems employed to connect multiple vents to a single trap.

(4) The clamp on the inlet tube of the trap shall be released but not removed. Care shall be exercised to prevent heating the vapor collection trap by radiant or conductive heat from the engine.

(5) Upon completion of the collection sequence, the vinyl tubing sections on

each arm of the collection trap shall be clamped tight and the collection system dismantled.

(6) The sealed vapor collection trap shall be weighed carefully to the nearest 20 milligrams. This constitutes the "gross weight," which is appropriately recorded. The difference between the "gross weight" and "tare weight" represents the "net weight" for purposes of calculating the fuel vapor losses.

§ 85.83 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: Make—Vehicle identification number—Model year—Transmission type—Odometer reading—Engine displacement—Engine family—Idle r.p.m.—Nominal fuel tank capacity and location on vehicle—Number of carburetors—Number of carburetor barrels—Inertia loading—Actual road load HP. at 50 m.p.h. and drive wheel tire pressure.

(g) Dynamometer serial number and indicated road load power absorption at 50 m.p.h.

(h) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Barometric pressure, ambient temperature and humidity and the temperature of the air in front of the radiator, if any, during the test.

(k) Fuel temperatures, as prescribed.

(l) The temperature and pressure of the mixture of exhaust and dilution air entering the positive displacement pump and the pressure increase across the pump. The temperature of the mixture shall be recorded continuously during the test.

(m) The number of revolutions of the positive displacement pump accumulated while the test is in progress and exhaust flow samples are being collected.

§ 85.84 Analytical system calibration and sample handling.

(a) Calibrate HC and CO instrument assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance.

(2) Zero on prepurified air, i.e., less than 6 p.p.m. carbon equivalent of hydrocarbon and 10 p.p.m. of carbon monoxide. Check each cylinder of prepurified air for contamination with hydrocarbons and carbon monoxide.

(3) Set the CO analyzer gain to give the desired range. Select the desired attenuation scale of the HC analyzer and set the sample flow rate to give the desired range. The operating range of the analyzers shall be such that the analyzer deflection which indicates an emission level equivalent to the respective standards is in the upper two-thirds of the scale.

(4) Calibrate the HC analyzer with propane (prepurified air diluent) gases having nominal concentrations equivalent to 50 and 100 percent of scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases which are equivalent to 10, 25, 40, 50, 60, 70, 85, and 100 percent of scale. The actual concentrations should be known to within ±2 percent of the true values.

(5) Compare values obtained on the CO analyzer with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curve for data reduction.

(b) HC and CO measurements: Allow a minimum of 20 minutes warmup for the HC analyzer and 2 hours for the CO analyzer. (Power is normally left on infrared analyzers continuously; but when not in use, the chopper motor is turned off.) The following sequence of operations should be performed in conjunction with each series of measurements:

(1) Zero on prepurified air. Obtain a stable zero on the amplifier meter and recorder. Recheck after test.

(2) Introduce span gas and set the CO analyzer gain and HC analyzer sample flow rate to match calibration curves. In order to avoid correction for sample-cell pressure, span and calibrate at the same flow rates used to analyze the test samples. Span gases should have concentrations equivalent to approximately 80 percent of full scale. If gain has shifted significantly on the CO analyzer, check tuning. If necessary, check calibration. Recheck after test. Show actual concentrations on chart.

(3) Check zero, using prepurified air; repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

(5) Measure HC and CO concentration of samples. Care should be exercised to prevent moisture from condensing in the sample collection bag.

(6) Check zero and span points.

§ 85.85 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with engine turned off for a period of not less than 12 hours before the exhaust emission test, at an ambient temperature as specified in §§ 85.73 and 85.74. The vehicle shall be stored prior to the emission tests in such a manner that precipitation (e.g., rain or dew) does not occur on the vehicle. During the run the ambient temperature shall be between 68° F. and 86° F. For exhaust emission testing which is unrelated to fuel evaporative emission control, the ambient temperature requirement during storage shall be between 60° F. and 86° F.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine.

(2) Start the cooling fan with the vehicle engine compartment cover open.

(3) With the sample solenoid valves in the "dump" position, connect evacuated sample collection bags to the dilute exhaust sample and the dilution air sample line connectors.

(4) Start the positive displacement pump, the sample pumps and the temperature recorder. (The heat exchanger of the constant volume sampler should be preheated to its operating temperature before the test begins.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 5 c.f.h.).

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Simultaneously start the revolution counter for the positive displacement pump, position the sample solenoid valves to direct the sample flows into the bags, and start cranking the engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schecule. (§ 85.75.)

(11) Five seconds after the last deceleration, simultaneously turn off the revolution counter and position the sample solenoid valve to the "dump" position.

(12) Immediately disconnect sample bags, transfer to analytical system and process samples according to § 85.84 as soon as practicable, and in no case longer than 10 minutes after the dynamometer run.

(13) Disconnect the exhaust tube from the vehicle tailpipe(s) and remove vehicle from dynamometer.

(14) Turn off the positive displacement pump.

§ 85.86 Chart reading.

(a) Determine the HC and CO concentrations of the dilution air and dilute exhaust sample bags from the instrument deflections or recordings making use of appropriate calibration charts.

(b) Determine the average dilute exhaust mixture temperature from the temperature recorder trace.

§ 85.87 Calculations (exhaust emissions).

The final reported test results shall be computed by use of the following formulae:

(a) For light duty vehicles, excluding off-road utility vehicles:

(1) Hydrocarbon Mass:

$$HC_{mass} = V_{mix} \times Density_{HC} \times \frac{HC_{conc}}{1{,}000{,}000}$$

(2) Carbon Monoxide Mass:

$$CO_{mass} = V_{mix} \times Density_{CO} \times \frac{CO_{conc}}{100}$$

(b) For off-road utility vehicles:

(1) $$HC_{mass} = V_{mix} \times Density_{HC} \times \frac{HC_{conc} \times 0.85}{1{,}000{,}000}$$

(2) $$CO_{mass} = V_{mix} \times Density_{CO} \times \frac{CO_{conc} \times 0.85}{100}$$

(c) Meaning of symbols:

V_{mix} = Total dilute exhaust volume in cubic feet per mile, corrected to standard conditions (528° R and 760 mm. Hg).

$$V_{mix} = K_1 \times V_o \times N \times \frac{P_P}{T_P}$$

where:

$$K_1 = \frac{528^\circ R}{760 \text{ mm. Hg} \times 7.5 \text{ miles}} = 0.09263$$

V_o = Volume of gas pumped by the positive displacement exhaust dilution pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test while samples are being collected.

P_P = Absolute pressure of the dilute exhaust entering the positive displacement pump, i.e., barometric pressure minus the pressure depression below atmospheric of the mixture entering the positive displacement pump.

T_P = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

HC_{mass} = Hydrocarbon emissions, in grams per vehicle mile.

$Density_{HC}$ = Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (16.33 gm./cu. ft.).

HC_{conc} = Hydrocarbon concentration of the exhaust mixture sample minus hydrocarbon concentration of the dilution air sample, in p.p.m. carbon equivalent (p.p.m. C.), i.e., equivalent propane × 3.

CO_{mass} = Carbon monoxide emissions, in grams per vehicle mile.

$Density_{CO}$ = Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample minus the carbon monoxide concentration of the dilution air sample, in volume percent.

(d) Example calculation of mass emission values:

Assume $V_o = 0.265$ cu. ft. per revolution; $N = 20{,}250$;
$P_P = 730$ mm. Hg; $T_P = 550^\circ$ R; $HC_{conc} = 160$ p.p.m. C; and $CO_{conc} = 0.09\%$.
$V_{mix} = (0.09263)\ (0.265)\ (20{,}250)\ (730/550) = 659.8$ cu. ft. per mile.

(1) *For a 1972 light-duty vehicle.*

$$HC_{mass} = 659.8 \times 16.33 \times \frac{160}{1{,}000{,}000} = 1.72$$

(2) *For a 1972 off-road utility vehicle.*

$$CO_{mass} = 659.8 \times 32.97 \times \frac{0.09 \times 0.85}{100} = 16.6$$

§ 85.88 Calculations (fuel evaporative emissions).

The net weights of the individual collection traps employed in § 85.74 shall be added together to determine compliance with the fuel evaporative emission standard.

§ 85.89 Test vehicles.

(a) (1) The vehicles covered by the application for certification will be divided into groupings of vehicles whose engines are expected to have similar emission characteristics. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center to center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air-cooled or water-cooled; L-6, 90° V-8, etc.).

(v) The location of intake and exhaust valves and the valve sizes (within a ½-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(3) Engines identical in all the respects listed in subparagraph (2) of this paragraph may be further divided into different engine families if the Secretary determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The bore and stroke.

(ii) The surface to volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in subparagraph (2) and (3) of this paragraph, the Secretary will establish families for those engines based upon the features most related to their emission characteristics.

(b) Emission data vehicles:

(1) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system-evaporative emission control system combinations. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination will be selected. The vehicle selected for each combination will be specified by the Secretary as to transmission type, fuel system and inertia weight class.

(3) The Secretary may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Secretary will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options and axle ratios.

(4) If the vehicles selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Secretary. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Secretary as to transmission type, fuel system and inertia weight class.

(c) Durability data vehicles:

(1) A durability data vehicle will be selected by the Secretary to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control system combination in that engine family and will be designated by the Secretary as to transmission type, fuel system and inertia weight class.

(2) If an exhaust emission control system-fuel evaporative emission control system combination is used in only one engine family, an additional vehicle using that combination in that family will be selected so that the durability data fleet shall contain at least two vehicles with each combination. The additional vehicle will be selected in the same manner as vehicles selected under subparagraph (1) of this paragraph.

(3) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of subpargraph (1) of this paragraph. Notice of an intent to operate and test additional vehicles shall be given to the Secretary not later than 30 days following notification of the test fleet selection.

(d) For purposes of testing under § 85.91(g), the Secretary may require additional emission data vehicles and durability data vehicles identical in all material respects to vehicles selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales of new motor vehicles subject to this subpart for the model year for which certification is sought is less than 2,000 vehicles may request a reduction in the number of test vehicles determined in accordance with the foregoing provisions of this section. The Secretary may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission data or durability data vehicle selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Secretary, submit data on a similar vehicle for which certification has previously been obtained.

(g) (1) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included in the curb weight computation for the entire engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(2) Where it is expected that more than 33 percent of an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence exhaust or evaporative emissions, then such items of optional equipment shall actually be installed on all emission data and durability data vehicles for such engine family.

§ 85.90 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability vehicles may be performed only under the following provisions:

(i) One major engine tuneup to manufacturer's specifications may be performed at 24,000 miles (±250 miles) of scheduled driving with the following exception: On a vehicle with an engine displacement of 150 cubic inches or less (or a rating of at least 1.20 maximum rated horsepower per cubic inch of displacement) major engine tuneups may be performed at 12,000, 24,000, and 36,000 miles (±250 miles) of scheduled driving. A major engine tuneup shall be restricted to the following:

(*a*) Replace spark plugs.

(*b*) Inspect ignition wiring and replace as required.

(*c*) Replace distributor breaker points and condensor as required.

(*d*) Lubricate distributor cam.

(*e*) Check distributor advance and breaker point dwell angle and adjust as required.

(*f*) Check automatic choke for free operation and correct as required.

(*g*) Adjust carburetor idle speed and mixture.

(*h*) Adjust drive belt tension on engine accessories.

(*i*) Adjust valve lash if required.

(*j*) Check exhaust heat control valve for free operation.

(*k*) Check engine bolt torque and tighten as required.

(ii) Spark plugs may be changed if a persistent misfire is detected.

(iii) Normal vehicle lubrication services (engine and transmission oil change and oil filter, fuel filter, and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) The crankcase emission control system may be serviced at 12,000-mile intervals (±250 miles) of scheduled driving.

(v) The fuel evaporative emission control system may be serviced at 12,000-mile intervals (±250 miles) of schedule driving.

(vi) Readjustment of the engine choke mechanism or idle settings may be performed only if there is a problem of stalling at stops.

(vii) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(viii) Any other engine or fuel system maintenance or repairs will be allowed only with the advance approval of the Secretary.

(2) Repairs to vehicle components of the durability data vehicle, other than the engine or fuel system, shall be performed only as a result of part failure or vehicle system malfunction.

(3) Allowable maintenance on emission data vehicles shall be limited to the adjustment of engine idle speed at the 4,000-mile test point.

(4) Where the Secretary agrees under § 85.91 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirements of this paragraph.

(b) Complete emission tests (see §§ 85.71–85.88) shall be run before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Secretary immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Secretary in accordance with § 85.53.

(c) If the Secretary determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the vehicle shall not be used as a durability data vehicle.

§ 85.91 Mileage accumulation and emission measurements.

The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix D to this part. A modified procedure may also be used if approved in advance by the Secretary.

(a) Emission data vehicles: Each emission data vehicle shall be driven 4,000 miles with all emission control systems installed and operating. Emission tests shall be conducted at zero miles and 4,000 miles.

(b) Durability data vehicles: Each durability data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Secretary may agree to as meeting the objectives of this procedure. Emission measurements from a cold start shall be made at zero miles and at each 4,000-mile interval.

(c) All tests required by this subpart to be conducted after 4,000 miles of driving or at any multiple of 4,000 miles may be conducted at any accumulated mileage within 250 miles of 4,000 miles or the appropriate multiple of 4,000 miles, respectively.

(d) The results of each emission test shall be supplied to the Secretary immediately after the test. Where a manufacturer conducts multiple tests at any test point or any tests between test points, data on these tests (including voided tests) shall be provided immediately to the Secretary. In addition, all test data shall be compiled and provided to the Secretary in accordance with § 85.33.

(e) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero mile test data to the Secretary and make the

vehicle available for such testing under § 85.54 as the Secretary may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(f) Once a manufacturer begins to operate an emission data or durability data vehicle, as indicated by compliance with paragraph (e) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 85.92. Discontinuation of a vehicle shall be allowed only with the written consent of the Secretary.

(g) (1) The Secretary may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Secretary with all information necessary to conduct this testing.

(2) The test procedures (§§ 85.71–85.88) will be followed by the Secretary. The Secretary will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Secretary may prescribe.

(3) The data developed by the Secretary for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Secretary and that submitted by the manufacturer, the Secretary's data shall be used in the determination of deterioration factors.

§ 85.92 Compliance with emission standards.

(a) The exhaust and fuel evaporative emission standards in the regulations in this part apply to the average lifetime emissions of vehicles in public use. Prior to certification, lifetime emissions can be obtained by projection of test data to lifetime normal service. Normal service in an urban area or its equivalent for 100,000 miles is taken as the basis for "lifetime emissions."

(b) It is expected that emission control efficiency will change with mileage accumulation on the vehicle. It is assumed that the emission level of a vehicle which has accumulated 50,000 miles in normal service is the average emission level of that vehicle over its lifetime.

(c) The procedure for determining compliance of a new light-duty motor vehicle with exhaust and fuel evaporative emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability data vehicles for each engine-system combination. A separate factor shall be established for the combination for exhaust HC, exhaust CO, and fuel evaporative HC.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(a) All emission data from the tests required under § 85.91(b), except the zero mile tests. This shall include the official test results, as determined in § 85.54, for all tests conducted on all durability vehicles of the combination selected under § 85.89(c) (including all vehicles elected to be operated by the manufacturer under § 85.89(c)(3)). Where the Secretary has agreed to a mileage less than 50,000 miles in accordance with § 85.91(b), the data for mileages greater than that actually run will be determined by extrapolating the test data generated at lesser mileages.

(b) All emission data from the tests conducted before and after the maintenance provided in § 85.90(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the standards provided in §§ 85.21 and 85.22 or the data will not be acceptable for use in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

$$\text{factor} = \frac{\text{exhaust emissions interpolated to 50,000 miles}}{\text{exhaust emissions interpolated to 4,000 miles}}$$

(iv) An evaporative emission deterioration factor shall be calculated for each combination by substracting the evaporative emissions interpolated to 4,000 miles from the evaporative emissions interpolated to 50,000 miles.

(2) (i) The exhaust emission test results for each emission data vehicle shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in subparagraph (1)(iii) of this paragraph is less than one, that deterioration factor shall be one for the purposes of this subparagraph.

(ii) The evaporative emission test results for each combination shall be adjusted by addition of the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in subparagraph (1)(iv) of this paragraph is less than zero, that deterioration factor shall be zero for the purposes of this subparagraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) (i) and (ii) of this paragraph for each emission data vehicle.

(4) Every test vehicle of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any vehicle in that family may be certified.

Subpart I—Test Procedures for Engine Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)

§ 85.100 Introduction.

The procedures described in this subpart will be the test program to determine the conformity of new gasoline fueled heavy duty engines with the applicable standards set forth in this part.

(a) The test consists of prescribed sequences of engine operating conditions to be conducted on an engine dynamometer. The exhaust gases generated during engine operation are sampled continuously for specific component analysis through the analytical train. The tests are applicable to engines equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems, or to uncontrolled engines.

signed to determine hydrocarbon and carbon monoxide concentrations during a truck driving pattern in a metropolitan area as simulated on an engine dynamometer. The test consists of two warmup cycles and two hot cycles. The average concentrations for the warmup cycles and the hot cycles are combined to yield the reported values.

(c) When an engine is tested for exhaust emissions or is operated for durability testing on an engine dynamometer the complete engine shall be used with all accessories which might reasonably be expected to influence emissions to the atmosphere installed and functioning.

§ 85.101 Gasoline fuel specifications.

(a) For exhaust emission testing, fuel having specifications as shown in the table in § 85.71(a), or substantially equivalent specifications approved by the Secretary, shall be used.

(b) For durability testing, fuel having specifications as shown in the table in § 85.71(b), or substantially equivalent specifications approved by the Secretary, shall be used. The octane rating of the fuel used shall be in the range recommended by the engine manufacturer. The specifications of the fuel to be used shall be reported in accordance with § 85.51(b)(3).

§ 85.102 Dynamometer operation cycle and equipment.

(a) (1) The following nine-mode cycle shall be followed in dynamometer operation tests of gasoline fueled heavy duty engines.

Sequence No.	Mode	Manifold vacuum	Time in Mode-Secs.	Cumulative Time-Secs.	Weighting factors
1	Idle		70	70	0.036
2	Cruise	16" Hg	23	93	.089
3	PTA	10" Hg	44	137	.257
4	Cruise	16" Hg	23	160	.089
5	PTD	19"Hg	17	177	.047
6	Cruise	16" Hg	23	200	.089
7	FL	3" Hg	34	234	.283
8	Cruise	16" Hg	23	257	.089
9	CT		43	300	.021

(2) The engine dynamometer shall be operated at a constant speed of 2,000 r.p.m.±100 r.p.m. (exception: representative engine speed for a given displacement engine as determined by its application, but not less than 1,800 r.p.m. nor greater than 2,500 r.p.m.).

(3) The idle operating mode shall be carried out at the manufacturer's recommended engine speed. The CT operating mode shall be carried out at the same engine speed as in subparagraph (2) of this paragraph.

(b) The following equipment shall be used for dynamometer tests.

(1) An engine dynamometer capable of maintaining constant speed±100 r.p.m. from full throttle to closed throttle motoring.

(2) A chassis-type exhaust system or substantially equivalent exhaust system, shall be used.

(3) A radiator typical of that used with the engine in a vehicle, or other means of engine cooling which will maintain the engine operating temperatures at approximately the same temperature as would the radiator, shall be used. An auxiliary fixed speed fan may be used to maintain engine cooling during sustained operation on the dynamometer.

§ 85.103 Dynamometer procedures.

An initial 5-minute idle, two warmup cycles, and two hot cycles constitute a a complete dynamometer run. Idle modes may be run at the beginning and end of each test, thus eliminating the need to change speed between cycles. One idle mode preceding the first cycle and one following the fourth cycle is sufficient. The results of the first idle shall be used for calculation of the second cycle emissions and the fourth idle results shall be used for calculation of the third cycle emissions.

§ 85.104 Sampling and analytical system for measuring exhaust emissions.

(a) *Schematic drawing.* The following (fig. 6) is a schematic drawing of the exhaust gas sampling and analytical system which shall be used for testing under the regulations in this subpart.

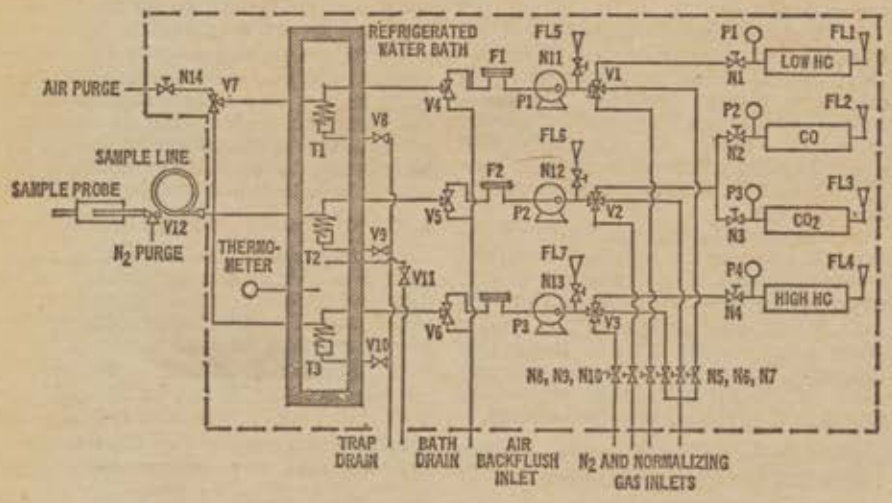


Figure 6. Flow schematic of exhaust gas analysis system employed in Federal facilities.

(b) *Component description.* The following components shall be used in sampling and analytical systems for testing under the regulations in this part.

(1) Flowmeters FL1, FL2, FL3, and FL4 indicate the sample flow rate through the analyzers.

(2) Low range hydrocarbon analyzer.

(3) Carbon monoxide analyzer.

(4) Carbon dioxide analyzer.

(5) High range hydrocarbon analyzer.

(6) Pressure gauges P1, P2, and P3 indicate the analyzer sample pressure.

(7) Needle valves N1, N2, N3, and N4 regulate sample flow rate to the analyzers.

(8) Needle valves N5, N6, N7, N8, N9, and N10 regulate the flow rates of N_2 and normalizing gases to the analyzers.

(9) Ball valves V1, V2, and V3 for directing either sample or calibration gases to the analyzers.

(10) Needle valves N11, N12, and N13 regulate the sample flow rate through the bypass network.

(11) Flowmeters FL5, FL6, and FL7 indicate the flow rate through the bypass system.

(12) Pumps P1, P2, and P3 for pulling sample from source.

(13) Filters F1, F2, and F3 remove contaminants from sample prior to analysis.

(14) Ball valves V4, V5, and V6 for directing sample to the analyzer or directing air in the reverse direction as a backflush.

(15) Toggle valves V8, V9, V10, and V11 for draining condensate traps and refrigerated bath.

(16) Traps T1, T2, and T3 for condensing water vapor and cooling exhaust sample.

(17) Ball valve V7 for diverting air to low HC analyzer during periods of high hydrocarbon response.

(18) Needle valve N14 for regulating air flow to low hydrocarbon analyzer during purge conditions.

(19) Thermometer for indicating bath temperature.

(20) Refrigerated water bath for condensing water vapor and cooling exhaust sample.

(21) Sample line from vehicle to analysis system.

(22) Sample probe to extract exhaust gas sample downstream of muffler.

(23) Ball valve V12 for directing N_2 to hydrocarbon analyzers.

(c) *Hang up reduction.* Stringent methods to reduce hang up may be employed. All methods must be approved in advance by the Secretary.

§ 85.105 Information to be recorded on charts.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument Operator.

(e) Driver or Operator.

(f) Engine Make—identification number—date of manufacture—number of hours — engine displacement — engine family—idle r.p.m.—number carburetors—number of carburetor venturis.

(g) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

(h) Recorder Charts: Identify zero, span, exhaust gas sample traces.

(i) Barometric pressure, intake air temperature and humidity and, as applicable, the temperature of the air in front of the radiator during the test.

(j) A continuous trace of intake manifold vacuum and engine r.p.m., recorded on the same chart with an automatic marker indicating one second intervals.

§ 85.106 Calibration and instrument checks.

(a) The instrument assembly shall be calibrated at least once every 30 days, using the same flow rate as when sampling exhaust and proceeding as follows:

(1) Tune analyzers.

(2) Zero on nitrogen: Check each cylinder of N_2 for contamination with hy-

drocarbons. Set the instrument gain to give the desired range. Normal operating ranges are as follows:

Low-Range Hydrocarbon Analyzer.	0–1,000 p.p.m. hexane equivalent.
High-Range Hydrocarbon Analyzer.	0–10,000 p.p.m. hexane equivalent.
CO Analyzer	0–10% CO.
CO_2 Analyzer	0–16% CO_2.

(3) Calibrate with the following normalizing gases. Flow rates should be set at 10 c.f.h. on the hydrocarbon analyzers and 5 c.f.h. on the carbon monoxide and carbon dioxide analyzers. The concentrations given indicate nominal concentrations, and actual concentrations should be known to within ±2 percent of true value. Prepurified N_2 is used as the diluent.

Low range HC analyzer	High range HC analyzer	CO and CO_2 analyzers		
		Blend of CO and CO_2 containing:		
Hexane equivalent [1]	*Hexane equivalent*	*Mole percent CO*	Plus	*Mole percent CO_2*
100 p.p.m.	600 p.p.m.	0.5		16.0
200 p.p.m.	1,000 p.p.m.	1.0		15.0
300 p.p.m.	1,500 p.p.m.	2.0		14.0
400 p.p.m.	2,500 p.p.m.	3.0		13.0
600 p.p.m.	4,000 p.p.m.	4.0		12.0
800 p.p.m.	6,000 p.p.m.	6.0		10.0
1,000 p.p.m.	8,000 p.p.m.	8.0		8.0
	10,000 p.p.m.	10.0		6.0

[1] The hexane equivalent of propane, when used as the normalizing gas for calibrating nondispersive infrared analyzers, is prescribed to be 0.52 (Propane Concentration×0.52=Hexane Equivalent Concentration).

Minimum storage temperature of the cylinders shall be 60° F.; minimum use temperature shall be 68° F.

(4) Compare values with previous curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curve for data reduction.

(5) Check response of hydrocarbon analyzer to 100 percent CO_2. If response is greater than 0.5 percent full scale, refill filter cells with 100 percent CO_2 and recheck. Note any remaining response on chart. If response still exceeds 0.5 percent, replace detector.

(6) Check response of hydrocarbon analyzers to nitrogen saturated with water at ambient temperature. Record ambient temperature. If the low-range instrument response exceeds 5 percent of full scale with saturated nitrogen at 75° F., replace the detector. If the high-range response exceeds 0.5 percent of full scale, check detector on low-range instrument, then reject if response exceeds 5 percent of full scale at 75° F.

(b) The following daily instrument check shall be performed, allowing a minimum of 2 hours warmup for infrared analyzers. (Power is normally left on continuously; but, when instruments are not in use, chopper motor is turned off.):

(1) Zero on clean nitrogen introduced at analyzer inlet. Obtain a stable zero on the amplifier meter and recorder. Recheck after test.

(2) Introduce normalizing gas and set gain to match calibration curve. In order to avoid a correction for sample cell pressure, normalize and calibrate at the same flow rates used for exhaust sampling. Normalizing or span gases: (See paragraph (a)(3) of this section for allowable variation.)

Low-Range Hydrocarbon Analyzer.	1,000 p.p.m. hexane equivalent in prepurified N_2.
High-Range Hydrocarbon Analyzer.	10,000 p.p.m. hexane equivalent in prepurified N_2.
CO Analyzer	10% CO in prepurified N_2.
CO_2 Analyzer	12 to 16% CO_2 in prepurified N_2.

If gain has shifted significantly, check tuning. If necessary, check calibration. Recheck after test. Record actual concentrations on chart.

(3) Check nitrogen zero, repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

§ 85.107 Dynamometer test run.

(a) The engine shall be allowed to stand with engine turned off for at least 1 hour before the exhaust emission test at an ambient temperature of 60° F. to 86° F. The engine shall be stored prior to the emission tests in such a manner that it is not exposed to precipitation or condensation. During the dynamometer run, the ambient temperature shall be between 68° F. and 86° F.

(b) The following steps shall be taken for each test:

(1) Mount test engine on the engine dynamometer.

(2) Calibrate exhaust emission analyzer assembly.

(3) Start cooling system, if it is to be used.

(4) Start engine and idle at 1,000–1,200 r.p.m. for 5 minutes.

(5) Obtain normal idle speed, record it, and start exhaust sampling.

(6) Run four 9-mode cycles.

(c) Upon completion of the test, purge the sample line with nitrogen to establish a constant hydrocarbon "hangup" level. The hydrocarbon concentration shall drop to 5 percent of scale in 10 seconds, and 3 percent of scale in 3 minutes, or the test is invalid. Check calibration of exhaust emission instruments. A drift in excess of ±2 percent of scale in the calibration of any one of the exhaust emission analyzers will invalidate the test results.

§ 85.108 Chart reading.

The recorder response for measuring exhaust gas concentrations always lags the engine's operation because of a variable exhaust system delay and a fixed sample system delay. Therefore, the concentrations for each mode will not be located on the charts at a point corresponding to the exact time of the mode. For each warmup or hot cycle to be evaluated, proceed as follows:

(a) Determine whether the cycle was run in accordance with the specified cycle timing by observing either chart pips, speed trace, manifold vacuum trace, or concentration traces. Deviation by more than 2 seconds from the specified time for the closed throttle mode (sequence 9) or deviation of more than ±0.2" Hg from the specified mode vacuums during the last 10 seconds of a mode will invalidate the data.

(b) Time correlate the hydrocarbon, carbon monoxide, and carbon dioxide charts. Determine the location on the chart of concentrations corresponding to each mode. Determine and compensate for trace abnormalities.

(c) For all open throttle (3", 10", 16", and 19" Hg) and idle modes, integrate the last 3 seconds of the HC, CO and CO_2 traces.

(d) The values recorded for the initial idle mode are used for both warmup cycles 1 and 2. The final idle mode values are applied to hot cycles 3 and 4.

(e) Intergrate the complete HC, CO, and CO_2 traces during this 43-second closed throttle mode of each cycle.

(f) Direct computer analysis of analyzer output may be utilized provided that the analysis is sufficiently similar to the above procedures to result in comparable data results.

§ 85.109 Calculations.

The final reported test results shall be derived through the following steps:

(a) Determine composite hydrocarbon and carbon monoxide concentrations for the first and second cycles. Average the results of these two cycles.

(b) Determine composite hydrocarbon and carbon monoxide concentrations for the third and fourth cycles. Average the results of these two cycles.

(c) Combine the results of paragraphs (a) and (b) of this section according to the formula: 0.35(a) plus 0.65(b). Since hydrocarbon, carbon monoxide, and carbon dioxide are all measured with essentially the same moisture content, no moisture correction is required to convert the results to a dry basis. The correction factor:

$$\frac{14.5}{\%\ CO_2 + (0.5)\%\ CO + (1.8 \times 6)\%\ HC}$$

shall be applied to the measured concentrations of hydrocarbon and carbon monoxide to correct these observed values for dilution of the exhaust.

§ 85.110 Test engines.

(a) The engines covered by the application for certification will be divided into engine families based upon the criteria outlined in § 85.89(a).

(b) Emission data engines:

(1) Engines will be chosen to be run for emission data based upon the engine family groupings. Within each engine

family, the requirements of this paragraph must be met.

(2) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the model year for which certification is sought. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Secretary as to fuel system.

(3) The Secretary may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Secretary will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(4) If the engines selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one engine of each engine-system combination not represented shall be selected by the Secretary. The engine selected shall be of the displacement with the largest projected sales volume of engines with the exhaust emission control system in the family and will be designated by the Secretary as to fuel system.

(c) Durability data engines:

(1) A durability data engine will be selected by the Secretary to represent each engine-system combination. The engine selected shall be of the displacement with the largest projected sales volume of engines with that exhaust emission control system in that engine family and will be designated by the Secretary as to fuel system.

(2) If an exhaust emission control system is used in only one engine family, an additional engine using that control system in that family will be selected so that the durability data fleet shall contain at least two engines with each control system. The additional engine will be selected in the same manner as engines selected under subparagraph (1) of this paragraph.

(3) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel system as the engine selected for that combination in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to run additional engines shall be given to the Secretary not later than 30 days following notification of the test fleet selection.

(d) Any manufacturer whose projected sales of new motor vehicle engines subject to this subpart for the model year for which certification is sought is less than 700 engines may request a reduction in the number of test engines determined in accordance with the foregoing provisions of this section. The Secretary may agree to such lesser number as he determines will meet the objectives of this procedure.

(e) In lieu of testing an emission data or durability data vehicle selected under paragraph (b) or (c) of this section and submitting data therefor, a manufacturer may, with the prior written approval of the Secretary, submit data on a similar vehicle for which certification has previously been obtained.

§ 85.111 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability engines may be performed only under the following provisions:

(i) Two major engine tuneups to manufacturer's specifications may be performed at 500 and 1,000 hours (±8 hours) of scheduled dynamometer operation with the following exception: On engines with a displacement of 200 cubic inches or less, a major engine tuneup may be performed at 375, 750, and 1,125 hours (±8 hours) of scheduled dynamometer operation. A major engine tuneup shall be restricted to the following:

(*a*) Replace spark plugs.

(*b*) Inspect ignition wiring and replace as required.

(*c*) Replace distributor breaker points and condensor as required.

(*d*) Lubricate distributor cam.

(*e*) Check distributor advance and breaker point dwell angle and adjust as required.

(*f*) Check automatic choke for free operation and correct as required.

(*g*) Adjust carburetor idle speed and mixture.

(*h*) Adjust drive belt tension on engine accessories.

(*i*) Adjust valve lash if required.

(*j*) Check exhaust heat control valve for free operation.

(*k*) Check engine bolt torque and tighten as required.

(ii) Spark plugs may be changed if a persistent misfire is detected.

(iii) Normal services (engine oil change, and oil filter, fuel filter and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) The crankcase emission control system may be serviced at 375-hour intervals (±8 hours) of dynamometer operation.

(v) Readjustment of the engine choke mechanism or idle settings may be performed only if there is a problem of stalling at idle.

(vi) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(vii) Any other engine or fuel system maintenance or repairs will be allowed only with the advance approval of the Secretary.

(2) Allowable maintenance on emission data engines shall be limited to the adjustment of engine idle speed at the 125-hour test point.

(b) Complete emission tests (see §§ 85.101–85.109) shall be run before and after any engine maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Secretary immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Secretary in accordance with §85.53.

(c) If the Secretary determines that maintenance or repairs have resulted in a substantial change to the engine-system combination, the engine shall not be used as a durability data engine.

§ 85.112 Service accumulation and emission measurements.

The engine dynamometer service accumulation schedule will consist of several operating conditions which give the same percentage of time at various manifold vacuums and the modes as specified in the emission test cycle. The average speed shall be between 1,650 and 1,700 r.p.m. with some operation at 3,200 r.p.m. or governed speed, whichever is lower. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Secretary shall be used.

(a) Emission data engines: Each emission data engine shall be operated for 125 hours with all emission contol systems installed and operating. Emission tests shall be conducted at zero and 125 hours.

(b) Durability data engines: Each durability data engine shall be operated, with all emission control systems installed and operating, for 1,500 hours. Emission measurements, as prescribed, shall be made at zero hours and at each 125-hour interval.

(c) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(d) The results of each emission test shall be supplied to the Secretary immediately after the test. In addition, all test data shall be compiled and provided to the Secretary in accordance with § 85.53.

(e) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero-hour test data to the Secretary and make the engine available for such testing under § 85.54 as the Secretary may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

(f) Once a manufacturer begins to operate an emission data or durability data engine, as indicated by compliance with paragraph (e) of this section, he shall continue to run the engine to 125 hours or 1,500 hours, respectively, and the data from the engine will be used in the calculations under § 85.113. Discontinuation of an engine shall be allowed only with the prior written consent of the Secretary.

§ 85.113 Compliance with emission standards.

(a) The exhaust emission standards in the regulations in this part apply to the average lifetime emissions of engines in public use. Prior to certification, lifetime emissions can be obtained by projection of test data to lifetime normal service. Normal service in an urban area or its equivalent for 100,000 miles is taken as the basis for "lifetime emissions." Operation on an engine dynamometer in the prescribed manner for 3,000 hours is taken to be equivalent to such service.

(b) It is expected that emission control efficiency will change with the accumulation of hours on the engine. It is assumed that the emission level of an engine which has accumlated 1,500 hours of dynamometer operation is the average emission level of that engine over its lifetime.

(c) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability data engines for each engine-system combination. Separate factors shall be established for HC and CO for each combination.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(a) All emission data from the tests required under § 85.112(b), except the zero-hour tests. This shall include the official test results, as determined in § 85.54, for all tests conducted on all durability engines of the combination selected under § 85.110(c) (including all engines elected to be operated by the manufacturer under § 85.110(c)(3)).

(b) All emission data from the tests conducted before and after the maintenance provided in § 85.111(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125- and 1,500-hour points on this line must be within the standard provided in § 85.31 or the data shall not be used in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

$$\text{factor} = \frac{\text{exhaust emissions interpolated to 1,500 hours}}{\text{exhaust emissions interpolated to 125 hours}}$$

(2) The exhaust emission test results for each emission data engine shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is less than one, that deterioration factor shall be one for the purposes of this subparagraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) of this paragraph for each emission data engine.

(4) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any engine in that family will be certified.

Subpart J—Test Procedures for Engine Exhaust Emissions (Heavy Duty Diesel Engines)

§ 85.120 Introduction.

(a) The procedures described in this subpart will be the test program to determine the conformity of heavy duty diesel engines with the applicable standards set forth in this part:

(b) The test consists of a prescribed sequence of engine operating conditions on an engine dynamometer with continuous examination of the exhaust gases. The test is applicable equally to controlled engines equipped with means for preventing, controlling, or eliminating smoke emissions and to uncontrolled engines.

(c) The test is designed to determine the opacity of smoke in exhaust emissions during those engine operating conditions which tend to promote smoke from diesel-powered vehicles.

(d) The test procedure begins with a warm engine which is then run through preloading and preconditioning operations. After an idling period, the engine is operated through acceleration and lugging modes during which smoke emission measurements are made to compare with the standards. The engine is then returned to the idle condition and the acceleration and lugging modes are repeated. Three sequences of acceleration and lugging constitute the full set of operating conditions for smoke emission measurement.

§ 85.121 Diesel fuel specifications.

(a) The diesel fuels employed shall be clean and bright, with pour and cloud points adequate for operability. The fuels may contain nonmetallic additives as follows: cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(b) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Secretary, shall be used in exhaust emission testing. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–50
Distillation range	D 86		
IBP, °F		330–390	340–400
10 percent point, °F		370–430	400–460
50 percent point, °F		410–480	470–540
90 percent point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, ° API	D 287	40–44	33–37
Total sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Hydrocarbon composition	D 1319		
Aromatics, percent		8–15	27 (Min.)
Paraffins, Naphthenes, Olefins		Remainder	Remainder
Flash point, °F (Min.)	D 93	120	130
Viscosity, centistokes	D 445	1.6–2.0	2.0–3.2

(c) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Secretary, shall be used in service accumulation. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–55
Distillation range	D 86		
IBP, °F		330–390	340–410
10 percent point, °F		370–430	400–470
50 percent point, °F		410–480	470–540
90 percent point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, °API	D 287	40–44	33–40
Total sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Flash point, °F (Min.)	D 93	120	130
Viscosity, centistokes	D 445	1.6–2.0	2.0–3.2

(d) The type fuel, including additive and other specifications, used under paragraphs (b) and (c) of this section shall be reported in accordance with § 85.51(b)(3).

§ 85.122 Dynamometer operation cycle for smoke emission tests.

(a) The following sequence of operations shall be performed during engine dynamometer testing of smoke emissions, starting with the dynamometer preloading determined and the engine preconditioned (§ 85.127(c)).

(1) *Idle mode.* The engine is caused to idle for 5 to 5.5 minutes at the manufacturer's recommended low idle speed. The dynamometer controls shall be set to provide minimum load by turning the load switch to the "off" position or by adjusting the controls to the minimum load position.

(2) *Acceleration mode.* (i) The engine speed shall be increased to 200±50 r.p.m. above the manufacturer's recommended low idle speed within 3 seconds.

(ii) The engine shall be accelerated at full-throttle against the inertia of the engine and dynamometer or alternately against a preselected dynamometer load such that the engine speed reaches 85 to 90 percent of rated speed in 5±1.5 seconds.

(iii) When the engine reaches the speed required in subdivision (ii) of this subparagraph, the throttle shall be moved rapidly to the closed position and the preselected load required to perform the acceleration in subdivision (iv) of this subparagraph shall be applied. The engine speed shall be reduced to the speed of maximum rated torque or 60 percent of rated speed (whichever is higher), with ±50 r.p.m. Smoke emissions during this transitional mode are not used in determining smoke emissions to compare with the standard.

(iv) The throttle shall be moved rapidly to the full-throttle position and the engine accelerated against the preselected dynamometer load such that the engine speed reaches 95 to 100 percent of rated speed in 10±2 seconds.

(3) *Lugging mode.* (i) Proceeding from the acceleration mode, the dynamometer controls shall be adjusted to permit the engine to develop maximum horsepower at rated speed. Smoke emissions during this transitional mode are not used in determining smoke emissions to compare with the standard.

(ii) Without changing the throttle position, the dynamometer controls shall be adjusted gradually to slow the engine to the speed of maximum torque or to 60 percent of rated speed, whichever is higher. This engine lugging operation shall be performed smoothly over a period of 35±5 seconds. The rate of slowing of the engine shall be linear, within ±100 r.p.m.

(4) *Engine unloading.* After completion of the lugging mode in subparagraph (3) (ii) of this paragraph, the dynamometer and engine shall be returned to the idle condition described in subparagraph (1) of this paragraph.

(b) The procedures described in paragraph (a) (1) through (4) of this section shall be repeated until the entire cycle has been run three times.

§ 85.123 Dynamometer and engine equipment.

The following equipment shall be used for smoke emission testing of engines on engine dynamometers.

(a) An engine dynamometer with adequate characteristics to perform the test cycle described in § 85.122.

(b) An engine cooling system having sufficient capacity to maintain the engine at normal operating temperatures during conduct of the prescribed engine tests.

(c) A noninsulated exhaust system extending 12±2 feet from the exhaust manifold of the engine and presenting an exhaust back pressure within ±0.2 inches Hg of the upper limit at maximum rated horsepower, as established by the engine manufacturer in his sales and service literature for vehicle application. A conventional automotive muffler of a size and type commonly used with the engine being tested shall be employed in the exhaust system during smoke emission testing. The terminal 2 feet of the exhaust pipe shall be of circular cross section and be free of elbows and bends. The end of the pipe shall be cut off squarely. The terminal 2 feet of the exhaust pipe shall have a diameter in accordance with the engine being tested, as specified below:

Maximum rated horsepower	*Exhaust pipe size*
Less than 101	2"
101–200	3"
201–300	4"
301 or more	5"

(d) An engine air inlet system presenting an air inlet restriction within ±1-inch of water of the upper limit for the engine operating condition which results in maximum air flow, as established by the engine manufacturer in his sales and service literature, for the engine being tested.

§ 85.124 Smoke measurement system.

(a) *Schematic drawing.* The following figure (fig. 7) is a schematic drawing of the optical system of the light extinction meter.

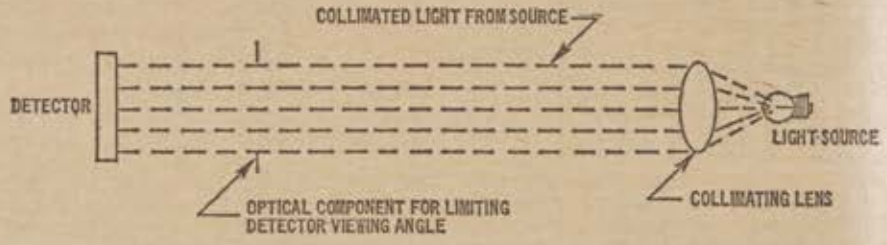


Figure. 7. USPHS smokemeter optical system (schematic).

(b) *Equipment.* The following equipment shall be used in the system:

(1) Adapter—the smokemeter optical unit may be mounted on a fixed or movable frame. The normal unrestricted shape of the exhaust plume shall not be modified by the adapter, the meter, or any ventilation system used to remove the exhaust from the test site.

(2) Smokemeter (light extinction meter)—continuous recording, full-flow light obscuration meter. It shall be positioned near the end of the exhaust pipe so that a built-in light beam traverses the exhaust smoke plume which issues from the pipe at right angles to the axis of the plume. The light source is an incandescent lamp operated at a constant voltage of not less than 15 percent of the manufacturer's specified voltage. The lamp output is collimated to a beam with a nominal diameter of 1.125 inches. The angle of divergence of the collimated beam shall be within 4° included angle. A light detector, directly opposed to the light source, measures the amount of light blocked by the smoke in the exhaust. The detector sensitivity is restricted to the visual range and comparable to that of the human eye. A collimating tube with apertures equal to the beam diameter is attached to the detector. It restricts the viewing angle of the detector to within 16° included angle. An amplified signal corresponding to the amount of light blocked is recorded continuously on a remote recorder. An air curtain across the light source and detector window assemblies may be used to minimize deposition of smoke particles on those surfaces provided that it does not measurably affect the opacity of the plume. The meter consists of two units, an optical unit and a remote control unit. Light extinction meters employing substantially identical measurment principles and producing substantially equivalent results but which employ other electronic and optical techniques may be used only after having been approved in advance by the Secretary.

(3) Recorder—a continuous recorder, with variable chart speed over a minimal range of 0.5 to 8.0 inches per minute (or equivalent) and an automatic marker indicating 1-second intervals shall be used for continuously recording the transient conditions of exhaust gas opacity, engine r.p.m. and torque. The recorder scale for opacity shall be linear and calibrated to read from 0 to 100 percent opacity full scale. The opacity trace shall have a resolution within 1 percent opacity. The recorder scale for engine r.p.m. and the recorder scale for observed engine torque shall be linear and shall have full scale calibration such as to facilitate chart reading. The r.p.m. trace shall have a resolution within 30 r.p.m. The torque trace shall have a resolution within 10 lb.-ft. Any means other than strip chart recorder may be used provided it produces a permanent visual data record of quality equal to or better than that described above.

(4) The recorder used with the smokemeter shall be capable of full-scale deflection in 0.5 second or less. The smokemeter-recorder combination may be damped so that signals with a frequency higher than 10 cycles per second are attenuated. A separate low-pass electronic filter with the following performance characteristics may be installed between the smokemeter and the recorder to achieve the high-frequency attenuation.

(i) 3 decibel point—10 cycles per second.

(ii) Insertion loss-zero ±0.5 decibels.

(iii) Selectivity—12 decibels per octave above 10 cycles per second.

(iv) Attenuation—27 decibles down at 40 cycles per second minimum.

(c) *Assembling equipment.* (1) The optical unit of the smokemeter shall be mounted radially to the exhaust pipe so that the measurement will be made at right angles to the axis of the exhaust plume. The distance from the optical centerline to the exhaust pipe outlet shall be 1.0 to 1.5 pipe diameters but never less

than 4 inches. The full flow of the exhaust stream shall be centered between the source and detector apertures (or windows and lenses) and on the axis of the light beam.

(2) Power shall be supplied to the control unit of the smokemeter in time at least 15 minutes prior to testing to allow for stabilization.

§ 85.125 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) Date and time of day.

(c) Instrument operator.

(d) Engine operator.

(e) Engine Identification numbers—Date of manufacture—Number of hours of operation accumulated on engine—Engine Family—Exhaust pipe diameter—Fuel injector type—Maximum measured fuel rate at maximum measured torque and horsepower—Air aspiration system—Low idle r.p.m.—Maximum governed r.p.m.—Maximum measured horsepower at r.p.m.—Maximum measured torque at r.p.m.—Exhaust system back pressure—Air inlet restriction.

(f) Smokemeter. Number—Zero control setting—Calibration control setting—Gain.

(g) Recorder chart. Identify zero traces—Calibration traces—Idle traces—Acceleration and lug-down test traces—Start and finish of each test.

(h) Ambient temperature in dynamometer testing room.

(i) Engine intake air temperature and humidity.

(j) Barometric pressure.

(k) Observed engine torque.

§ 85.126 Instrument checks.

(a) The smokemeter shall be checked according to the following procedure prior to each test:

(1) The optical surfaces of the optical section shall be checked to verify that they are clean and free of foreign material and fingerprints.

(2) The zero control shall be adjusted under conditions of "no smoke" to give a recorder trace of zero.

(3) Calibrated neutral density filters having approximately 20 percent and 40 percent opacity shall be employed to check the linearity of the instrument. The filter(s) shall be inserted in the light path perpendicular to the axis of the beam and adjacent to the opening from which the beam of light from the light source emanates, and the recorder response shall be noted. The nominal opacity valve of the filter will be confirmed by the Secretary. Deviations in excess of 1 percent of the nominal opacity shall be corrected.

(b) The instruments for measuring and recording engine r.p.m., engine torque, air inlet restrictions, exhaust system back pressure, etc., which are used in the tests prescribed herein shall be calibrated from time to time in accordance with good technical practice.

§ 85.127 Test run.

(a) The temperature of the air supplied to the engine shall be between 68° F. and 86° F. The observed barometric pressure shall be between 28.5 inches and 31 inches Hg. Higher air temperature or lower barometric pressure may be used, if desired, but no allowance will be made for possible increased smoke emissions because of such conditions.

(b) The governor and fuel system shall have been adjusted to provide engine performance at the levels specified by the engine manufacturer for maximum rated horsepower and maximum rated torque. These specifications shall be reported in accordance with § 85.51 (b)(3).

(c) The following steps shall be taken for each test:

(1) Start cooling system.

(2) Starting with a warmed engine, determine by experimentation the dynamometer inertia and dynamometer load required to perform the acceleration in the dynamometer cycle for smoke emission tests (§ 85.122(a)(2)). In a manner appropriate for the dynamometer and controls being used, arrange to conduct the acceleration mode.

(3) Install smokemeter optical unit and connect it to the recorder. Connect the engine r.p.m. and torque sensing devices to the recorder.

(4) Turn on purge air to the optical unit of the smokemeter, if purge air is used.

(5) Check and record zero and span settings of the smokemeter recorder at a chart speed of approximately 1 inch per minute. (The optical unit shall be retracted from its position about the exhaust stream if the engine is left running.)

(6) Precondition the engine by operating it for 10 minutes at maximum rated horsepower.

(7) Proceed with the sequence of smoke emission measurements on the engine dynamometer as prescribed in § 85.122.

(8) During the test sequence of § 85.-122, continuously record smoke measurements, engine r.p.m. and torque at a chart speed of approximately 1 inch per minute minimum during the idle mode and transitional modes and 8 inches per minute minimum during the acceleration and lugging modes.

(9) Turn off engine.

(10) Check zero and reset if necessary and check span of the smokemeter recorder by inserting neutral density filters. If either zero or span drift is in excess of 2 percent opacity, the test results shall be invalidated.

§ 85.128 Chart reading.

(a) The following procedure shall be employed in reading the smokemeter recorder chart.

(1) Locate the acceleration mode (§ 85.122(a)(2)) and the lugging mode (§ 85.122(a)(3)) on the chart. Divide each mode into ½-second intervals beginning at the start of each mode. Determine the average smoke reading during each ½-second interval except those recorded during the transitional portions of the acceleration mode (§ 85.122(a)(2)(iii)) and the lugging mode (§ 85.122(a)(3)(i)).

(2) Locate and record the 15 highest ½-second readings during the acceleration mode of each dynamometer cycle.

(3) Locate and record the five highest ½-second readings during the lugging mode of each dynamometer cycle.

§ 85.129 Calculations.

(a) Average the 45 readings in § 85.128 (a)(2) and designate the value as "a".

(b) Average the 15 readings in § 85.128 (a)(3) and designate the value as "b".

§ 85.130 Test engines.

(a) The engines covered by the application for certification will be divided into engine families based upon the criteria outlined in § 85.89(a).

(b) Emission data engines:

(1) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Engines of each engine family will be divided into groups based upon exhaust emission control system. Two engines of each engine-system combination shall be run for smoke emission data as prescribed in § 85.132(b). Within each combination, the engines that feature the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will be selected. In the case where more than one engine in an engine-system combination have the highest fuel feed per stroke, the engine with the highest maximum rated torque will be selected.

(c) Durability data engines:

(1) One engine from each engine-system combination shall be tested for lifetime smoke emission data as prescribed in § 85.132(c). Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will be selected for durability testing.

(2) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to test additional engines shall be given to the Secretary not later than 30 days following notification of the test fleet selection.

(d) Any manufacturer whose projected sales of new motor vehicle engines subject to this subpart for the model year

for which certification is sought is less than 200 engines may request a reduction in the number of test engines determined in accordance with the foregoing provisions of this section. The Secretary may agree to such lesser number as he determines would meet the objectives of this procedure.

(e) In lieu of testing an emission data or durability data vehicles elected under paragraph (b) or (c) of this section and submitting data therefor, a manufacturer may, with the prior written approval of the Secretary, submit data on a similar vehicle for which certification has previously been obtained.

§ 85.131 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability engines may be performed only under the following provisions:

(i) One major engine servicing to manufacturer's specifications may be performed at 500 hours (±8 hours) of dynamometer operation. A major engine servicing shall be restricted to the following:

(*a*) Adjust low idle speed.
(*b*) Adjust valve lash if required.
(*c*) Adjust injector timing.
(*d*) Adjust governor.
(*e*) Clean and service injector tips.

(ii) Injectors may be changed if a persistent misfire is detected.

(iii) Normal engine lubrication services (engine oil change and oil filter, fuel filter, and air filter servicing and adjustment of drive belt tension, and engine bolt torque as required) will be allowed at manufacturer's recommended intervals.

(iv) Readjustment of the engine fuel rates may be performed only if there is a problem of dropping below 95 percent of maximum rated horsepower at 95–100 percent rated speed.

(v) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(vi) Any other engine or fuel system maintenance or repairs will be allowed only with the advanced approval of the Secretary.

(2) Allowable maintenance on emission data engines shall be limited to the adjustment of engine low idle speed at the 125-hour test point.

(b) Complete emission tests (see §§ 85.121–85.129) shall be run before and after any engine maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Secretary immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Secretary in accordance with § 85.53.

(c) If the Secretary determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the engine shall not be used as a durability data engine.

§ 85.132 Service accumulation and emission measurements.

Service accumulation shall be accomplished by operation of an engine on a dynamometer.

(a) Emission data engines: Each engine shall be operated on a dynamometer for 125 hours with the dynamometer and engine adjusted so that the engine is operating at 95–100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.123(c) and the air inlet restriction specified in § 85.123(d) except that the tolerances shall be ±0.5 inches of Hg. and ±3 inches of water respectively. Exhaust smoke tests shall be conducted at zero and 125 hours of operation.

(b) Durability data engines: Each engine shall be operated on a dynamometer for 1,000 hours with the dynamometer and engine adjusted so that the engine is operating at 95–100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.123(c) and the air inlet restriction specified in § 85.123(d) except that the tolerances shall be ±0.5 inches of Hg. and ±3 inches of water respectively. Exhaust smoke measurements shall be made at zero hours and at each 125 hours of operation. All results except the zero hour results shall be used to establish the deterioration factors (see § 85.133).

(c) All tests required by this subpart to be conducted after 125 hours of dynamometer operation or at any multiple of 125 hours may be conducted at any accumulated hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(d) The results of each emission test shall be supplied to the Secretary immediately after the test. In addition, all test data shall be compiled and provided to the Secretary in accordance with § 85.53.

(e) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero hour test data to the Secretary and make the engine available for such testing under § 85.54 as the Secretary may require before beginning to accumulate hours on the engine. Failure to comply with this requirement shall invalidate all test data submitted for this engine.

(f) Once a manufacturer begins to operate an emission data or durability data engine, as indicated by compliance with paragraph (e) of this section, he shall continue to run the engine to 125 hours or 1,000 hours, respectively, and the data from the engine shall be used in the calculations under § 85.133. Discontinuation of an engine shall be allowed only with the prior written consent of the Secretary.

§ 85.133 Compliance with emission standards.

(a) The emission standards in the regulations in this part apply to the lifetime emission of engines in public use. Prior to certification, lifetime emissions can be obtained by projection of test data to lifetime normal service. Lifetime normal service or its equivalent is taken to be 2,000 hours of prescribed dynamometer operation.

(b) It is expected that the opacity of exhaust emissions will change with use of the engine. It is assumed that the emission level corresponding to 1,000 hours of prescribed dynamometer operation is the average emission of an engine over its lifetime.

(c) The procedure for determining compliance with exhaust smoke emission standards in heavy duty diesel engines is as follows:

(1) Emission deterioration factors for the acceleration mode (designated as "A") and the lugging mode (designated as "B") shall be established separately for each engine-system combination.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*a*) All emission data from the tests required under § 85.132(b), except the zero hour tests. This shall include the official test results, as determined in § 85.54, for all tests conducted on all durability engines of the combination selected under § 85.130(c) (including all engines elected to be operated by the manufacturer under § 85.130(c)(2)).

(*b*) All emission data from the tests conducted before and after the maintenance provided in § 85.131(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125 and 1,000 hour points on this line must be within the standard provided in § 85.41 or the data shall not be used in calculation of a deterioration factor.

(iii) The deterioration factors will be calculated as follows:

A-percent opacity "a", interpolated to 1,000 hours, minus percent opacity "a," interpolated to 125 hours.

B-percent opacity "b", interpolated to 1,000 hours, minus percent opacity "b", interpolated to 125 hours.

(2) The "percent opacity" values to compare with the standards shall be the opacity values "a" and "b" for each emission data engine within an engine-system combination to which are added the respective factors "A" and "B" of subparagraph (1) of this paragraph for that engine-system combination: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is less than zero, that deterioration factor shall be zero for the purposes of this subparagraph.

(3) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (2) of this paragraph, before any engine in that family will be certified.

APPENDIX A

DHEW URBAN DYNAMOMETER DRIVING SCHEDULE

(Speed versus Time Sequence)

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
0	0.0	84	28.6	168	16.5
1	0.0	85	29.3	169	19.8
2	0.0	86	29.8	170	22.2
3	0.0	87	30.1	171	24.3
4	0.0	88	30.4	172	25.8
5	0.0	89	30.7	173	26.4
6	0.0	90	30.7	174	25.7
7	0.0	91	30.5	175	25.1
8	0.0	92	30.4	176	24.7
9	0.0	93	30.3	177	25.0
10	0.0	94	30.4	178	25.2
11	0.0	95	30.8	179	25.4
12	0.0	96	30.4	180	25.8
13	0.0	97	29.9	181	27.2
14	0.0	98	29.5	182	26.5
15	0.0	99	29.8	183	24.0
16	0.0	100	30.3	184	22.7
17	0.0	101	30.7	185	19.4
18	0.0	102	30.9	186	17.7
19	0.0	103	31.0	187	17.2
20	0.0	104	30.9	188	18.1
21	3.0	105	30.4	189	18.6
22	5.9	106	29.8	190	20.0
23	8.6	107	29.9	191	22.2
24	11.5	108	30.2	192	24.5
25	14.3	109	30.7	193	27.3
26	16.9	110	31.2	194	30.5
27	17.3	111	31.8	195	33.5
28	18.1	112	32.2	196	36.2
29	20.7	113	32.4	197	37.3
30	21.7	114	32.2	198	39.3
31	22.4	115	31.7	199	40.5
32	22.5	116	28.6	200	42.1
33	22.1	117	25.3	201	43.5
34	21.5	118	22.0	202	45.1
35	20.9	119	18.7	203	46.0
36	20.4	120	15.4	204	46.8
37	19.8	121	12.1	205	47.5
38	17.0	122	8.8	206	47.5
39	14.9	123	5.5	207	47.3
40	14.9	124	2.2	208	47.2
41	15.2	125	0.0	209	47.0
42	15.5	126	0.0	210	47.0
43	16.0	127	0.0	211	47.0
44	17.1	128	0.0	212	47.0
45	19.1	129	0.0	213	47.0
46	21.1	130	0.0	214	47.2
47	22.7	131	0.0	215	47.4
48	22.9	132	0.0	216	47.9
49	22.7	133	0.0	217	48.5
50	22.6	134	0.0	218	49.1
51	21.3	135	0.0	219	49.5
52	19.0	136	0.0	220	50.0
53	17.1	137	0.0	221	50.6
54	15.8	138	0.0	222	51.0
55	15.8	139	0.0	223	51.5
56	17.7	140	0.0	224	52.2
57	19.8	141	0.0	225	53.2
58	21.6	142	0.0	226	54.1
59	23.2	143	0.0	227	54.6
60	24.2	144	0.0	228	54.9
61	24.6	145	0.0	229	55.0
62	24.9	146	0.0	230	54.9
63	25.0	147	0.0	231	54.6
64	24.6	148	0.0	232	54.6
65	24.5	149	0.0	233	54.8
66	24.7	150	0.0	234	55.1
67	24.8	151	0.0	235	55.5
68	24.7	152	0.0	236	55.7
69	24.6	153	0.0	237	56.1
70	24.6	154	0.0	238	56.3
71	25.1	155	0.0	239	56.6
72	25.6	156	0.0	240	56.7
73	25.7	157	0.0	241	56.7
74	25.4	158	0.0	242	56.5
75	24.9	159	0.0	243	56.5
76	25.0	160	0.0	244	56.5
77	25.4	161	0.0	245	56.5
78	26.0	162	0.0	246	56.5
79	26.0	163	0.0	247	56.5
80	25.7	164	3.3	248	56.4
81	26.1	165	6.6	249	56.1
82	26.7	166	9.9	250	55.8
83	27.5	167	13.2	251	55.1

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
252	54.6	339	0.0	426	8.5
253	54.2	340	0.0	427	5.2
254	54.0	341	0.0	428	1.9
255	53.7	342	0.0	429	0.0
256	53.6	343	0.0	430	0.0
257	53.9	344	0.0	431	0.0
258	54.0	345	0.0	432	0.0
259	54.1	346	0.0	433	0.0
260	54.1	347	1.0	434	0.0
261	53.8	348	4.3	435	0.0
262	53.4	349	7.6	436	0.0
263	53.0	350	10.9	437	0.0
264	52.6	351	14.2	438	0.0
265	52.1	352	17.3	439	0.0
266	52.4	353	20.0	440	0.0
267	52.0	354	22.5	441	0.0
268	51.9	355	23.7	442	0.0
269	51.7	356	25.2	443	0.0
270	51.5	357	26.6	444	0.0
271	51.6	358	28.1	445	0.0
272	51.8	359	30.0	446	0.0
273	52.1	360	30.8	447	0.0
274	52.5	361	31.6	448	3.3
275	53.0	362	32.1	449	6.6
276	53.5	363	32.8	450	9.9
277	54.0	364	33.6	451	13.2
278	54.9	365	34.5	452	16.5
279	55.4	366	34.6	453	19.8
280	55.6	367	34.9	454	23.1
281	56.0	368	34.8	455	26.4
282	56.0	369	34.5	456	27.8
283	55.8	370	34.7	457	29.1
284	55.2	371	35.5	458	31.5
285	54.5	372	36.0	459	33.0
286	53.6	373	36.0	460	33.6
287	52.5	374	36.0	461	34.8
288	51.5	375	36.0	462	35.1
289	51.5	376	36.0	463	35.6
290	51.5	377	36.0	464	36.1
291	51.1	378	36.1	465	36.0
292	50.1	379	36.4	466	36.1
293	50.0	380	36.5	467	36.2
294	50.1	381	36.4	468	36.0
295	50.0	382	36.0	469	35.7
296	49.6	383	35.1	470	36.0
297	49.5	384	34.1	471	36.0
298	49.5	385	33.5	472	35.6
299	49.5	386	31.4	473	35.5
300	49.1	387	29.0	474	35.4
301	48.6	388	25.7	475	35.2
302	48.1	389	23.0	476	35.2
303	47.2	390	20.3	477	35.2
304	46.1	391	17.5	478	35.2
305	45.0	392	14.5	479	35.2
306	43.8	393	12.0	480	35.2
307	42.6	394	8.7	481	35.0
308	41.5	395	5.4	482	35.1
309	40.3	396	2.1	483	35.2
310	38.5	397	0.0	484	35.5
311	37.0	398	0.0	485	35.2
312	35.2	399	0.0	486	35.0
313	33.8	400	0.0	487	35.0
314	32.5	401	0.0	488	35.0
315	31.5	402	0.0	489	34.8
316	30.6	403	2.6	490	34.6
317	30.5	404	5.9	491	34.5
318	30.0	405	9.2	492	33.5
319	29.0	406	12.5	493	32.0
320	27.5	407	15.8	494	30.1
321	24.8	408	19.1	495	28.0
322	21.5	409	22.4	496	25.5
323	20.1	410	25.0	497	22.5
324	19.1	411	25.6	498	19.8
325	18.5	412	27.5	499	16.5
326	17.0	413	29.0	500	13.2
327	15.5	414	30.0	501	10.3
328	12.5	415	30.1	502	7.2
329	10.8	416	30.0	503	4.0
330	8.0	417	29.7	504	1.0
331	4.7	418	29.3	505	0.0
332	1.4	419	28.8	506	0.0
333	0.0	420	28.0	507	0.0
334	0.0	421	25.0	508	0.0
335	0.0	422	21.7	509	0.0
336	0.0	423	18.4	510	0.0
337	0.0	424	15.1	511	1.2
338	0.0	425	11.8	512	3.5

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
513	5.5	600	21.6	686	0.0
514	6.5	601	22.0	687	0.0
515	8.5	602	22.4	688	0.0
516	9.6	603	22.5	689	0.0
517	10.5	604	22.5	690	0.0
518	11.9	605	22.5	691	0.0
519	14.0	606	22.7	692	0.0
520	16.0	607	23.7	693	0.0
521	17.7	608	25.1	694	1.4
522	19.0	609	26.0	695	3.3
523	20.1	610	26.5	696	4.4
524	21.0	611	27.0	697	6.5
525	22.0	612	26.1	698	9.2
526	23.0	613	22.3	699	11.3
527	23.8	614	19.5	700	13.5
528	24.5	615	16.2	701	14.6
529	24.9	616	12.9	702	16.4
530	25.0	617	9.6	703	16.7
531	25.0	618	6.3	704	16.5
532	25.0	619	3.0	705	16.5
533	25.0	620	0.0	706	18.2
534	25.0	621	0.0	707	19.2
535	25.0	622	0.0	708	20.1
536	25.6	623	0.0	709	21.5
537	25.8	624	0.0	710	22.5
538	26.0	625	0.0	711	22.5
539	25.6	626	0.0	712	22.1
540	25.2	627	0.0	713	22.7
541	25.0	628	0.0	714	23.3
542	25.0	629	0.0	715	23.5
543	25.0	630	0.0	716	22.5
544	24.4	631	0.0	717	21.6
545	23.1	632	0.0	718	20.5
546	19.8	633	0.0	719	18.0
547	16.5	634	0.0	720	15.0
548	13.2	635	0.0	721	12.0
549	9.9	636	0.0	722	9.0
550	6.6	637	0.0	723	6.2
551	3.3	638	0.0	724	4.5
552	0.0	639	0.0	725	3.0
553	0.0	640	0.0	726	2.1
554	0.0	641	0.0	727	0.5
555	0.0	642	0.0	728	0.5
556	0.0	643	0.0	729	3.2
557	0.0	644	0.0	730	6.5
558	0.0	645	0.0	731	9.6
559	0.0	646	2.0	732	12.5
560	0.0	647	4.5	733	14.0
561	0.0	648	7.8	734	16.0
562	0.0	649	10.2	735	18.0
563	0.0	650	12.5	736	19.6
564	0.0	651	14.0	737	21.5
565	0.0	652	15.3	738	23.1
566	0.0	653	17.5	739	24.5
567	0.0	654	19.6	740	25.5
568	0.0	655	21.0	741	26.5
569	3.3	656	22.2	742	27.1
570	6.6	657	23.3	743	27.6
571	9.9	658	24.5	744	27.9
572	13.0	659	25.3	745	28.3
573	14.6	660	25.6	746	28.6
574	16.0	661	26.0	747	28.6
575	17.0	662	26.1	748	28.3
576	17.0	663	26.2	749	28.2
577	17.0	664	26.2	750	28.0
578	17.5	665	26.4	751	27.5
579	17.7	666	26.5	752	26.8
580	17.7	667	26.5	753	25.5
581	17.5	668	26.0	754	23.5
582	17.0	669	25.5	755	21.5
583	16.9	670	23.6	756	19.0
584	16.6	671	21.4	757	16.5
585	17.0	672	18.5	758	14.9
586	17.1	673	16.4	759	12.5
587	17.0	674	14.5	760	9.4
588	16.6	675	11.6	761	6.2
589	16.5	676	8.7	762	3.0
590	16.5	677	5.8	763	1.5
591	16.6	678	3.5	764	1.5
592	17.0	679	2.0	765	0.5
593	17.6	680	0.0	766	0.0
594	18.5	681	0.0	767	3.0
595	19.2	682	0.0	768	6.3
596	20.2	683	0.0	769	9.6
597	21.0	684	0.0	770	12.9
598	21.1	685	0.0	771	15.8
599	21.2			772	17.5

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
773	18.4	861	29.1	948	24.0
774	19.5	862	29.0	949	22.0
775	20.7	863	28.1	950	20.1
776	22.0	864	27.5	951	16.9
777	23.2	865	27.0	952	13.6
778	25.0	866	25.8	953	10.3
779	26.5	867	25.0	954	7.0
780	27.5	868	24.5	955	3.7
781	28.0	869	24.8	956	0.4
782	28.3	870	25.1	957	0.0
783	28.9	871	25.5	958	0.0
784	28.9	872	25.7	959	0.0
785	28.9	873	26.2	960	2.0
786	28.8	874	26.9	961	5.3
787	28.5	875	27.5	962	8.6
788	28.3	876	27.8	963	11.9
789	28.3	877	28.4	964	15.2
790	28.3	878	29.0	965	17.5
791	28.2	879	29.2	966	18.6
792	27.6	880	29.1	967	20.0
793	27.5	881	29.0	968	21.1
794	27.5	882	28.9	969	22.0
795	27.5	883	28.5	970	23.0
796	27.5	884	28.1	971	24.5
797	27.5	885	28.0	972	26.3
798	27.5	886	28.0	973	27.5
799	27.6	887	27.6	974	28.1
800	28.0	888	27.2	975	28.4
801	28.5	889	26.6	976	28.5
802	30.0	890	27.0	977	28.5
803	31.0	891	27.5	978	28.5
804	32.0	892	27.8	979	27.7
805	33.0	893	28.0	980	27.5
806	33.0	894	27.8	981	27.2
807	33.6	895	28.0	982	26.8
808	34.0	896	28.0	983	26.5
809	34.3	897	28.0	984	26.0
810	34.2	898	27.7	985	25.7
811	34.0	899	27.4	986	25.2
812	34.0	900	26.9	987	24.0
813	33.9	901	26.6	988	22.0
814	33.6	902	26.5	989	21.5
815	33.1	903	26.5	990	21.5
816	33.0	904	26.5	991	21.8
817	32.5	905	26.3	992	22.5
818	32.0	906	26.2	993	23.0
819	31.9	907	26.2	994	22.8
820	31.6	908	25.9	995	22.8
821	31.5	909	25.6	996	23.0
822	30.6	910	25.6	997	22.7
823	30.0	911	25.9	998	22.7
824	29.9	912	25.8	999	22.7
825	29.9	913	25.5	1,000	23.5
826	29.9	914	24.6	1,001	24.0
827	29.9	915	23.5	1,002	24.6
828	29.6	916	22.2	1,003	24.8
829	29.5	917	21.6	1,004	25.1
830	29.5	918	21.6	1,005	25.5
831	29.3	919	21.7	1,006	25.6
832	28.9	920	22.6	1,007	25.5
833	28.2	921	23.4	1,008	25.0
834	27.7	922	24.0	1,009	24.1
835	27.0	923	24.2	1,010	23.7
836	25.5	924	24.4	1,011	23.2
837	23.7	925	24.9	1,012	22.9
838	22.0	926	25.1	1,013	22.5
839	20.5	927	25.2	1,014	22.0
840	19.2	928	25.3	1,015	21.6
841	19.2	929	25.5	1,016	20.5
843	20.9	930	25.2	1,017	17.5
844	21.4	931	25.0	1,018	14.2
845	22.0	932	25.0	1,019	10.9
846	22.6	933	25.0	1,020	7.6
847	23.2	934	24.7	1,021	4.3
848	24.0	935	24.5	1,022	1.0
849	25.0	936	24.3	1,023	0.0
850	26.0	937	24.3	1,024	0.0
851	26.6	938	24.5	1,025	0.0
852	26.6	939	25.0	1,026	0.0
853	26.8	940	25.0	1,027	0.0
854	27.0	941	24.6	1,028	0.0
855	27.2	942	24.6	1,029	0.0
856	27.8	943	24.1	1,030	0.0
857	28.1	944	24.5	1,031	0.0
858	28.8	945	25.1	1,032	0.0
859	28.9	946	25.6	1,033	0.0
860	29.0	947	25.1	1,034	0.0

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
1,035	0.0	1,122	25.0	1,209	14.0
1,036	0.0	1,123	24.9	1,210	15.5
1,037	0.0	1,124	24.8	1,211	17.0
1,038	0.0	1,125	25.0	1,212	18.6
1,039	0.0	1,126	25.4	1,213	19.7
1,040	0.0	1,127	25.8	1,214	21.0
1,041	0.0	1,128	26.0	1,215	21.5
1,042	0.0	1,129	26.4	1,216	21.8
1,043	0.0	1,130	26.6	1,217	21.8
1,044	0.0	1,131	26.9	1,218	21.5
1,045	0.0	1,132	27.0	1,219	21.2
1,046	0.0	1,133	27.0	1,220	21.5
1,047	0.0	1,134	27.0	1,221	21.8
1,048	0.0	1,135	26.9	1,222	22.0
1,049	0.0	1,136	26.8	1,223	21.9
1,050	0.0	1,137	26.8	1,224	21.7
1,051	0.0	1,138	26.5	1,225	21.5
1,052	0.0	1,139	26.4	1,226	21.5
1,053	1.2	1,140	26.0	1,227	21.4
1,054	4.0	1,141	25.5	1,228	20.1
1,055	7.3	1,142	24.6	1,229	19.5
1,056	10.6	1,143	23.5	1,230	19.2
1,057	13.9	1,144	21.5	1,231	19.6
1,058	17.0	1,145	20.0	1,232	19.8
1,059	18.5	1,146	17.5	1,233	20.0
1,060	20.0	1,147	16.0	1,234	19.5
1,061	21.8	1,148	14.0	1,235	17.5
1,062	23.0	1,149	10.7	1,236	15.5
1,063	24.0	1,150	7.4	1,237	13.0
1,064	24.8	1,151	4.1	1,238	10.0
1,065	25.6	1,152	0.8	1,239	8.0
1,066	26.5	1,153	0.0	1,240	6.0
1,067	26.8	1,154	0.0	1,241	4.0
1,068	27.4	1,155	0.0	1,242	2.5
1,069	27.9	1,156	0.0	1,243	0.7
1,070	28.3	1,157	0.0	1,244	0.0
1,071	28.0	1,158	0.0	1,245	0.0
1,072	27.5	1,159	0.0	1,246	0.0
1,073	27.0	1,160	0.0	1,247	0.0
1,074	27.0	1,161	0.0	1,248	0.0
1,075	26.3	1,162	0.0	1,249	0.0
1,076	24.5	1,163	0.0	1,250	0.0
1,077	22.5	1,164	0.0	1,251	0.0
1,078	21.5	1,165	0.0	1,252	1.0
1,079	20.6	1,166	0.0	1,253	1.0
1,080	18.0	1,167	0.0	1,254	1.0
1,081	15.0	1,168	0.0	1,255	1.0
1,082	12.3	1,169	2.1	1,256	1.0
1,083	11.1	1,170	5.4	1,257	1.6
1,084	10.6	1,171	8.7	1,258	3.0
1,085	10.0	1,172	12.0	1,259	4.0
1,086	9.5	1,173	15.3	1,260	5.0
1,087	9.1	1,174	18.6	1,261	6.3
1,088	8.7	1,175	21.1	1,262	8.0
1,089	8.6	1,176	23.0	1,263	10.0
1,090	8.8	1,177	23.5	1,264	10.5
1,091	9.0	1,178	23.0	1,265	9.5
1,092	8.7	1,179	22.5	1,266	8.5
1,093	8.6	1,180	20.0	1,267	7.6
1,094	8.0	1,181	16.7	1,268	8.8
1,095	7.0	1,182	13.4	1,269	11.0
1,096	5.0	1,183	10.1	1,270	14.0
1,097	4.2	1,184	6.8	1,271	17.0
1,098	2.6	1,185	3.5	1,272	19.5
1,099	1.0	1,186	0.2	1,273	21.0
1,100	0.0	1,187	0.0	1,274	21.8
1,101	0.1	1,188	0.0	1,275	22.2
1,102	0.6	1,189	0.0	1,276	23.0
1,103	1.6	1,190	0.0	1,277	23.6
1,104	3.6	1,191	0.0	1,278	24.1
1,105	6.9	1,192	0.0	1,279	24.5
1,106	10.0	1,193	0.0	1,280	24.5
1,107	12.8	1,194	0.0	1,281	24.0
1,108	14.0	1,195	0.0	1,282	23.5
1,109	14.5	1,196	0.0	1,283	23.5
1,110	16.0	1,197	0.2	1,284	23.5
1,111	18.1	1,198	1.5	1,285	23.5
1,112	20.0	1,199	3.5	1,286	23.5
1,113	21.0	1,200	6.5	1,287	23.5
1,114	21.2	1,201	9.8	1,288	24.0
1,115	21.3	1,202	12.0	1,289	24.1
1,116	21.4	1,203	12.9	1,290	24.5
1,117	21.7	1,204	13.0	1,291	24.7
1,118	22.5	1,205	12.6	1,292	25.0
1,119	23.0	1,206	12.8	1,293	25.4
1,120	23.8	1,207	13.1	1,294	25.6
1,121	24.5	1,208	13.1	1,295	25.7

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
1,296	26.0	1,322	0.0	1,347	20.3
1,297	26.2	1,323	0.0	1,348	21.3
1,298	27.0	1,324	0.0	1,349	21.9
1,299	27.8	1,325	0.0	1,350	22.1
1,300	28.3	1,326	0.0	1,351	22.4
1,301	29.0	1,327	0.0	1,352	22.0
1,302	29.1	1,328	0.0	1,353	21.6
1,303	29.0	1,329	0.0	1,354	21.1
1,304	28.0	1,330	0.0	1,355	20.5
1,305	24.7	1,331	0.0	1,356	20.0
1,306	21.4	1,332	0.0	1,357	19.6
1,307	18.1	1,333	0.0	1,358	18.5
1,308	14.8	1,334	0.0	1,359	17.5
1,309	11.5	1,335	0.0	1,360	16.5
1,310	8.2	1,336	0.0	1,361	15.5
1,311	4.9	1,337	0.0	1,362	14.0
1,312	1.6	1,338	1.5	1,363	11.0
1,313	0.0	1,339	4.8	1,364	8.0
1,314	0.0	1,340	8.1	1,365	5.2
1,315	0.0	1,341	11.4	1,366	2.5
1,316	0.0	1,342	13.2	1,367	0.0
1,317	0.0	1,343	15.1	1,368	0.0
1,318	0.0	1,344	16.8	1,369	0.0
1,319	0.0	1,345	18.3	1,370	0.0
1,320	0.0	1,346	19.5	1,371	0.0
1,321	0.0				

APPENDIX B

PROCEDURE FOR DYNAMOMETER ROAD HORSEPOWER CALIBRATION

This appendix describes the method for determining the road horsepower absorbed by a chassis dynamometer. The measured absorbed road horsepower includes the dynamometer friction as well as the power absorbed by the power absorption unit. The dynamometer is driven above the test speed range. The device used to drive the dynamometer is then disengaged from the dynamometer and the roll(s) is allowed to coast down. The kinetic energy of the system is dissipated by the dynamometer friction and absorption unit. This method neglects the variations in roll bearing friction due to the drive axle weight of the vehicle. The difference in coast down time of the free (rear) roll relative to the drive (front) roll may be neglected in the case of dynamometers with paired rolls.

This procedure shall be followed:

1. Devise a method to determine the speed of the drive roll if not already measured. A fifth wheel, revolution pickup or other suitable means may be used.

2. Place a vehicle on the dynamometer or devise another method of driving the dynamometer.

3. Engage inertia flywheel for the most common vehicle weight class for which the dynamometer is used.

4. Drive dynamometer up to 50 m.p.h.

5. Record indicated road horsepower.

6. Drive dynamometer up to 60 m.p.h.

7. Disengage the device used to drive the dynamometer.

8. Record the time for the dynamometer drive roll to coast down from 55 m.p.h. to 45 m.p.h.

9. Adjust the power absorption unit to a different level.

10. Repeat steps 4 to 9 above sufficient times to cover the range of road horsepower used.

11. Calculate absorbed road horsepower from:

$$HP_a = (1/2)\,(W_i/32.2)\,(V_1^2 - V_2^2)/(550t)$$

$$HP_a = 0.06073\,(W_i/t)$$

Where:

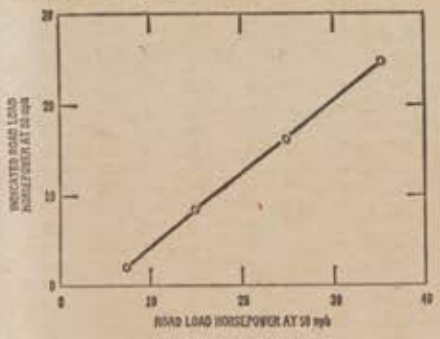
W_i = Equivalent inertia in lb.

V_1 = Initial velocity in ft./sec. (55 m.p.h. = 80.67 ft./sec.).

V_2 = Final velocity in ft./sec. (45 m.p.h. = 66 ft./sec.).

t = Elapsed time for rolls to coast from 55 m.p.h. to 45 m.p.h.

12. Plot indicated road load horsepower at 50 m.p.h. versus road load horsepower at 50 m.p.h.



EXAMPLE: Dynamometer calibration curve (Sec. No. CH-234-6) 9-29-69

13. The road load horsepower reported in § 85.76 is obtained by entering the plot at the indicated road load horsepower determined in § 85.76, (c), (1), (ii).

14. Once the road load horsepower at 50 m.p.h. is known for a vehicle, it may be tested on other dynamometers using a similar calibration.

APPENDIX C

CONSTANT VOLUME SAMPLER FLOW CALIBRATION

The following procedure is used in Federal laboratories to calibrate the gas flow of constant volume samplers which use positive displacement pumps. First, the gas flow as a function of the pressure increase across the pump is determined. Second, the whole system, including the instruments, is checked to determine if it accounts for an amount of pure propane or carbon monoxide introduced into the system.

The following steps are followed to determine the gas flow as a function of the pressure increase across the pump, in cubic feet per pump revolution.

1. The pump inlet pressure depression during a typical test is determined.

2. A variable flow restrictor, such as a slide valve, is attached to the CVS at a point upstream of the sample point and the positive displacement pump. The dilution air filter system may or may not be in use during calibration, depending on the particular CVS design.

3. A flow measuring device (laminar flow element) is attached ahead of the flow restrictor.

4. The CVS is operated at several different pump inlet pressure settings (controlled by the flow restrictor) and the measurements as specified in § 85.83 (h), (j), (l), and (m), the time per test, and the measurements related to the flow device are recorded. The data points are equally spaced around the normal operating condition.

5. The air flow at each test point is calculated in standard cubic feet per minute from the flow device data.

6. The gas flow (at pump inlet pressure and temperature) is calculated in cubic feet per revolution from the following:

$$Vo = \frac{SCFM}{Pump\ RPM} \times \frac{Tp}{528} \times \frac{760}{Pp}$$

See § 85.87 for definitions.

7. Vo is plotted versus pressure increase across ahe pump, ΔP.

8. The flow measuring device is removed and attached to the exit of the CVS. Steps No. 4, No. 5, No. 6 and No. 7 are repeated. If the resulting two Vo versus ΔP plots differ significantly, the procedure is repeated with the flow measuring device ahead of the flow restrictor, steps being taken to eliminate the leaks which caused the discrepancy in the original data.

9. If the CVS exhaust system configuration and pressure are constant, the pressure inlet depression is substituted for the independent variable, ΔP.

The following procedure is followed to check the CVS calibration using a known quantity of injected gas. It assumes a reliable analyzer calibration.

1. A small cylinder is charged with pure propane or carbon monoxide gas.

2. The cylinder is weighed.

3. The CVS is operated in the normal manner and a quantity of pure propane or carbon monoxide is released into the system.

4. The calculations of § 85.87 are performed in the normal way except the density of propane (17.30 grams/cu. ft./carbon atom) is used in place of the density of exhaust hydrocarbons.

5. The CVS measured mass is compared to the gravimetric measured mass.

6. The reason for any discrepancy is found and corrected.

APPENDIX D

DURABILITY DRIVING SCHEDULE

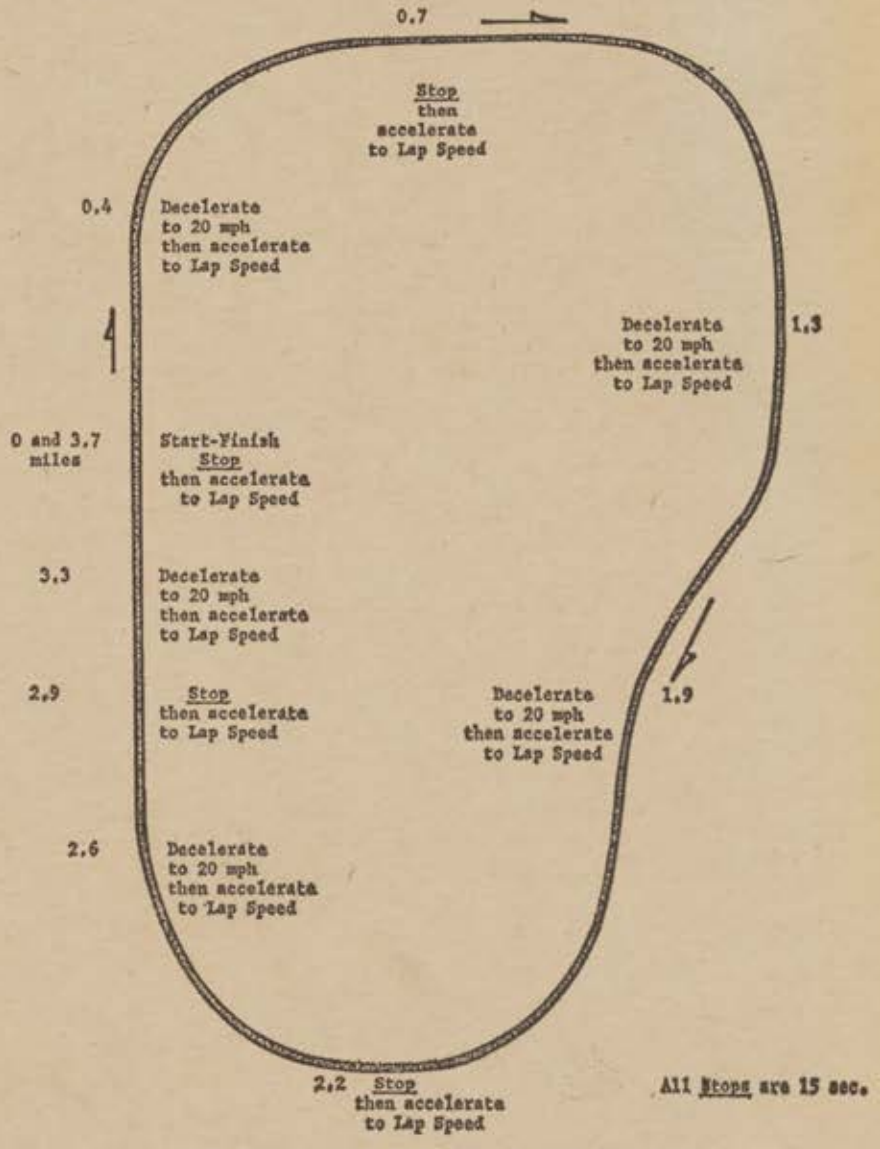
The schedule consists basically of 11 laps of 3.7 mile course. The basic vehicle speed for each lap is listed below:

Lap	Speed-m.p.h.
1	40
2	30
3	40
4	40
5	35
6	30
7	35
8	45
9	35
10	55
11	70

During each of the first nine laps there are 4 stops with 15 second idle. Normal accelerations and decelerations are used. In addition, there are 5 light decelerations each lap from the base speed to 20 m.p.h. followed by light accelerations to the base speed.

The 10th lap is run at a constant speed of 55 m.p.h.

The 11th lap is begun with a wide open throttle acceleration from stop to 70 m.p.h. A normal deceleration to idle followed by a second wide open throttle acceleration occurs at the mid-point of the lap.



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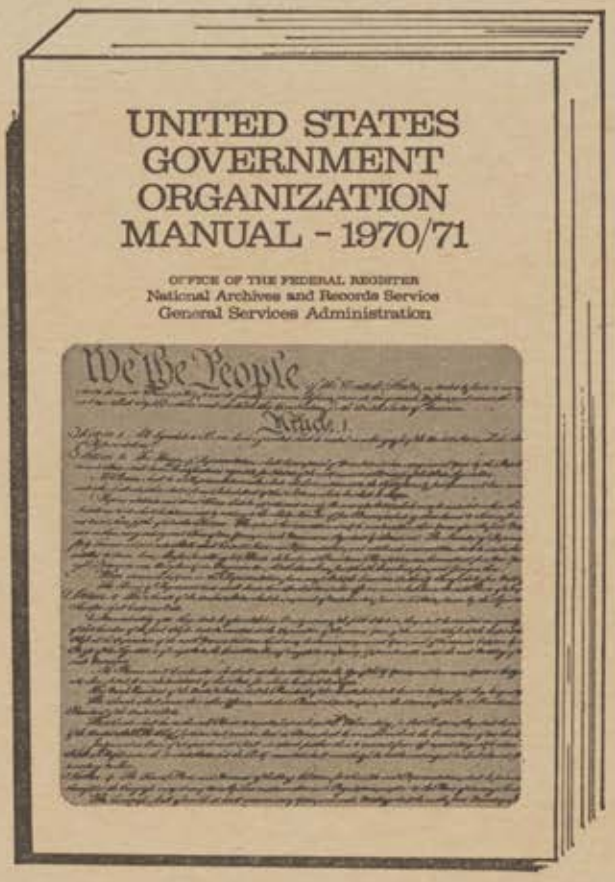

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