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PART I

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Rules and Regulations

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1973 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes of the Code of Federal Regulations issued to date during 1973. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR unit (Rev. as of Jan. 1, 1973):

Title	Price
1	$0.55

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of State

Section 213.3304 is amended to show that one position of Secretary to the Deputy Secretary is excepted under Schedule C.

Effective on February 1, 1973, § 213.3304(a)(13) is added as set out below.

§ 213.3304 **Department of State.**

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

(13) One Secretary to the Deputy Secretary.

* * * * *

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

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

[FR Doc.73–1987 Filed 1–31–73;8:45 am]

PART 213—EXCEPTED SERVICE

Treasury Department

Section 213.3305 is amended to show that one new position of Staff Assistant to the Secretary (Council on Economic Policy) is excepted under Schedule C.

Effective on February 1, 1973, § 213.3305(a)(37) is added as set out below:

§ 213.3305 **Treasury Department.**

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

(37) One Staff Assistant to the Secretary (Council on Economic Policy).

* * * * *

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

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

[FR Doc.73–1988 Filed 1–31–73;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one additional position of Special Assistant to the Director, National Park Service, is excepted under Schedule C.

Effective on February 1, 1973, § 213.3312(h)(3) is amended as set out below:

§ 213.3312 **Department of the Interior.**

* * * * *

(h) *National Park Service.* * * *

(3) Three Special Assistants to the Director.

* * * * *

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

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

[FR Doc.73–1985 Filed 1–31–73;8:45 am]

PART 213—EXCEPTED SERVICE

Occupational Safety and Health Review Commission

Section 213.3344 is amended to show that one new position of Special Assistant to the General Counsel is excepted under Schedule C.

Effective on February 1, 1973, paragraph (e) of § 213.3344 is added as set out below.

§ 213.3344 **Occupational Safety and Health Review Commission.**

* * * * *

(e) One Special Assistant to the General Counsel.

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

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

[FR Doc.73–1986 Filed 1–31–73;8:45 am]

Title 7—Agriculture

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

[Navel Orange Reg. 286]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period February 2–8, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges. Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.586 **Navel Orange Regulation 286.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange 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 Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges was good last week, having shown improvement over the previous week. Prices f.o.b. averaged $3.58 a carton last week, with sales of 1,024 carlots, compared with an average f.o.b. price of $3.53 a carton and sales of 968 carlots a week earlier. Track and rolling supplies at 417 cars were up 27 cars from last week.

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

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time 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 Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, 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 Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 30, 1973.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period February 2 through February 8, 1973, are hereby fixed as follows:

(i) District 1: 891,000 Cartons;

(ii) District 2: 209,000 Cartons;

(iii) District 3: Unlimited.

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

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

Dated: January 31, 1973.

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

[FR Doc.73-2097 Filed 1-31-73;11:23 am]

Title 9—Animals and Animal Products

CHAPTER IV—AGRICULTURAL RESEARCH SERVICE, DEPARTMENT OF AGRICULTURE

PART 445—NATIONAL POULTRY IMPROVEMENT PLAN (CHICKENS AND OTHER POULTRY)

PART 447—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

Change From ASR Division to Animal Research Service

Pursuant to section 101(b) of the Department of Agriculture Organic Act of 1944, as amended (7 U.S.C. 429), Parts 445 and 447 of Title 9, Chapter IV, Subchapter A, Code of Federal Regulations, are hereby amended as follows:

1. Wherever in the provisions of Parts 445 and 447 of Title 9, reference is made to the ASR Division or the Animal Science Research Division or to the Division, such provisions are changed to refer to the Service.

§§ 445.1, 447.41 [Amended]

2. Sections 445.1 and 447.41 of the above Title 9 are hereby amended by revising paragraph (d) in each section to read: "(d) *Service.* The Agricultural Research Service of the Department."

§ 445.13 [Amended]

3. In § 445.13(a), the phrase "The Director of the ASR Division is deleted and "Deputy Administrator, Northeastern Region, of the Service" is substituted therefor.

4. In § 445.13, paragraph (c) is deleted.

Effective date. The foregoing amendments shall become effective on February 1, 1973. These amendments are either of an organizational nature or merely editorial. They reflect the changes brought about by the reorganization of July 1, 1972 of the Agricultural Research Service. The amendments do not substantially affect the rights or obligations of any member of the public. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning the amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 26th day of January 1973.

T. W. EDMINSTER,
Administrator, Agricultural Research Service.

[FR Doc.73-1944 Filed 1-31-73;8:45 am]

Title 10—Atomic Energy

CHAPTER I—ATOMIC ENERGY COMMISSION

PART 73—PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL

Aircraft Shipment of Nuclear Material

The Atomic Energy Commission has adopted amendments to its regulations in 10 CFR Part 73, "Physical Protection of Special Nuclear Material," which, in the interest of the common defense and security, strengthen existing requirements for physical protection of special nuclear material (SNM) while in transit. The quantities of SNM that may be carried aboard passenger aircraft are limited to 20 grams or 20 curies, whichever is less, of plutonium or uranium 233 or 350 grams of uranium 235 (contained in uranium enriched to 20 percent or more in the U-235 isotope). The limitations on plutonium and uranium 233 are consistent with international air transport regulations governing shipments of these materials aboard passenger aircraft. They also are consistent with export license conditions which have been imposed by the Director of Regulation since February 1969, limiting shipments of special nuclear materials on international flights. Shipments in quantities in excess of these values but less than 5,000 grams of plutonium, uranium 233 or uranium 235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) are not subject to the requirements of Part 73 other than the prohibitions on carriage on passenger aircraft.

In the interest of the common defense and security, the Commission has found that, general notice of proposed rule making and public procedure thereon are contrary to the public interest and good cause exists for making the amendments effective without the customary 30-day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments of Title 10, Chapter I, Code of Federal Regulations, Part 73 are published as a document subject to codification to be effective on February 1, 1973.

1. Section 73.1 of 10 CFR Part 73 is amended by designating the present text thereof as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 73.1 Purpose and scope.

* * * * *

(b) This part also applies to shipments by air of special nuclear material in quantities exceeding (1) 20 grams or 20 curies, whichever is less, of plutonium or uranium 233, or (2) 350 grams of uranium 235 (contained in uranium enriched to 20 percent or more in the U-235 isotoype).

2. A new § 73.30 is added to read as follows:

§ 73.30 Transportation of special nuclear material by aircraft.

(a) Except as specifically approved by the Atomic Energy Commission, no shipment of special nuclear material shall be made in passenger aircraft in excess of (1) 20 grams or 20 curies, whichever is less, of plutonium or uranium 233, or (2) 350 grams of uranium 235 (contained in uranium enriched to 20 percent or more in the U-235 isotope).

(b) Shipments by air of special nuclear material in quantities exceeding (1) 20 grams or 20 curies, whichever is less, of plutonium or uranium 233, but not exceeding 5,000 grams of plutonium or uranium 233 or (2) 350 grams but not exceeding 5,000 grams of uranium 235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) are not subject to the requirements of this part other than this section.

(Sec. 161, 68 Stat. 948; 43 U.S.C. 2201)

Dated at Germantown, Md., this 26th day of January 1973.

For the Atomic Energy Commission.

[SEAL] PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-1980 Filed 1-31-73;8:45 am]

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

Aircraft Transportation of Special Nuclear Material

The Atomic Energy Commission has adopted amendments to its regulations in 10 CFR Part 73, "Physical Protection of Special Nuclear Material," which, in the interest of the common defense and security, strengthen existing requirements for physical protection of special nuclear material (SNM) while in transit. The quantities of SNM that may be carried aboard passenger carrying aircraft are limited to 20 grams or 20 curies, whichever is less of plutonium or uranium-233 or 350 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope). The limitations on plutonium and uranium-233 are consistent with international air transport regulations governing shipments of these materials aboard passenger aircraft. They also are consistent with export license conditions which have been imposed by the Director of Regulation since February 1969, limiting shipments of special nuclear materials on international flights. Accordingly, Part 150 is being amended to impose similar restrictions on licensees of Agreement States.

In the interest of the common defense and security, the Commission has found that general notice of proposed rule making and public procedure thereon are contrary to the public interest and good cause exists for making the amendments effective without the customary 30-day notice. Pursuant to the Atomic Act of 1954, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment of Title 10, Chapter I, Code of Federal Regulations, Part 150 is published as a document subject to codification to be effective on February 1, 1973.

1. A new § 150.21 is added to read as follows:

§ 150.21 Transportation of special nuclear material by aircraft.

Except as specifically approved by the Commission no shipment of special nuclear material in excess of 20 grams or 20 curies whichever is less of plutonium or uranium-233 shall be made by a licensee of an Agreement State in passenger aircraft.

(Sec. 161, 274, 68 Stat. 948, 73 Stat. 688; 42 U.S.C. 2021, 2201)

Dated at Germantown, Md. this 26th day of January 1973.

For the Atomic Energy Commission.

[SEAL] PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-1981 Filed 1-31-73;8:45 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

[No. 73-121]

PART 584—REGULATED ACTIVITIES

Applications

JANUARY 23, 1973.

The Federal Home Loan Bank Board, at its meeting of January 2, 1973, adopted new forms for use in making certain applications under the Regulations for Savings and Loan Holding Companies (12 CFR Chapter V, Subchapter F). Those forms were captioned H-(e)1, H-(e)2, and H-(e)3 (dealing with applications for acquisitions), H-(d)1 and H-(d)2 (dealing with applications for approval of certain transactions), and H-(g) (dealing with applications for approval of debt issuance), and Instructions HC-F (dealing with financial statements of savings and loan associations to be included in certain filings).

In order to prescribe the use of those forms and make certain technical changes in the instructions for filing applications, the Board, on January 23, 1973, amended 12 CFR Part 584 as follows: § 584.3(f) was revised; §§ 584.4 (f) and (g) were revised; §§ 584.4 (h), (i), (j), and (k) were revoked; § 584.6(c) was revised; § 584.8(a) was revised; § 584.9 (d) was revised; the caption of § 584.10 was revised; § 584.10(c) was revised; and new paragraphs (d) and (e) were added to § 584.10.

Since these amendments relate to Board procedure and practice regarding applications under the Regulations for Savings and Loan Holding Companies, the Board found that notice and public procedure with respect to said amendments were unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendments for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendments in the opinion of the Board would be unnecessary for the same reason, the Board provided that said amendments shall become effective on February 1, 1973.

1. Section 584.3 is amended by revising paragraph (f) thereof, to read as follows:

§ 584.3 Transactions with affiliates.

* * * * *

(f) *Filing of applications.* Applications for Corporation approval under subparagraphs (4) and (6) of paragraph (a) of this section shall be in the form prescribed by the Corporation in paragraph (c) of § 584.10. Such applications shall be filed with the Corporation by transmitting the number of copies prescribed in the General Instructions of the forms to the Director, Holding Companies Section, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, and to the Supervisory Agent of the district in which the principal office of the applicant is located.

* * * * *

2. Section 584.4 is amended by revising paragraphs (f) and (g) thereof and by revoking paragraphs (h), (i), (j), and (k) thereof, to read as follows:

§ 584.4 Acquisitions.

* * * * *

(f) *Filing of applications.* Applications under this section shall be filed in the form prescribed by the Corporation in paragraph (d) of § 584.10 and filed with the Corporation by transmitting the number of copies prescribed in the General Instructions of the forms to the Director, Holding Companies Section, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, and to the Supervisory Agent of the district in which the insured institutions involved in the acquisition have their home offices.

(g) *Procedure on applications.* Upon receipt of an application filed pursuant to this section, other than in an acquisition instituted for supervisory reasons, the Corporation will publish in the FEDERAL REGISTER a notice of such receipt, stating the names and addresses of the applicant and the institution or other company involved, indicating the nature of the proposed acquisition and allowing 30 days (or a shorter period in exceptional circumstances) for the submission of written comments or views. Such comments or views shall be submitted to the Director, Holding Companies Section, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552. Notice of receipt of any such application will also be given to the appropriate State supervisory authority by the Corporation.

(h) [Revoked]

(i) [Revoked]

(j) [Revoked]

(k) [Revoked]

3. Section 584.6 is amended by revising paragraph (c) thereof, to read as follows:

§ 584.6 Holding company indebtedness.

* * * * *

(c) *Filing of applications.* Applications for prior written approval of the Corporation for the issuance, sale, renewal, or guarantee of any debt security, or the assumption of any debt, shall be filed with the Corporation in the form prescribed in paragraph (e) of § 584.10 and in the numbers prescribed in the General Instructions of the form. Applications shall be addressed to the Director, Holding Companies Section, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, and to the Supervisory Agent of the district in which the principal office of a subsidiary insured institution is located.

* * * * *

4. Section 584.8 is amended by revising paragraph (a) thereof, to read as follows:

§ 584.8 Claim of diversified savings and loan holding company status.

(a) *Claim of diversified status.* Any savings and loan holding company desiring to claim status as a diversified savings and loan holding company shall file with the Corporation a statement asserting such claim, supported by completed schedules in the form set forth below. Such claim shall be filed with the Corporation by transmitting the original and one copy of such statement together with the supporting schedules, to the Director, Holding Companies Section, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, and one copy thereof to the Supervisory Agent.

* * * * *

5. Section 584.9 is amended by revising paragraph (d) thereof, to read as follows:

§ 584.9 Prohibited acts.

* * * * *

(d) *Applications for approval.* Applications for Corporation approval required by this section shall contain a full statement of the reasons in support thereof. Such applications shall be filed with the Corporation by transmitting the original and one copy to the Director, Holding Companies Section, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, and one copy to the Supervisory Agent.

6. Section 584.10 is amended by revising the caption and paragraph (c) thereof and by adding new paragraphs (d) and (e) thereto, to read as follows:

§ 584.10 Statements, applications, reports and notices to be filed.

* * * * *

(c) *Applications under § 584.3(a)—(1) H–(d)1.* This application shall be used for all applications under § 584.3(a)(4) filed by a subsidiary insured institution of a savings and loan holding company for approval of a loan, discount, or extension of credit to a third party, on the security of property acquired from a wholly owned affiliate service corporation of such institution, except that under circumstances set forth in General Instruction 1 of Form *H–(d)1*, a letter application may be filed.

(2) *H–(d)2.* This application shall be used for all applications under § 584.3(a)(6) filed by a subsidiary insured institution of a savings and loan holding company for approval of certain transactions with affiliates.

(d) *Applications under § 584.4—(1) H–(e)1.* This application shall be used for all applications filed under § 584.4(b) by a company other than a savings and loan holding company for approval of acquisition of one insured institution, directly or indirectly, or through one or more subsidiaries or through one or more transactions.

(2) *H–(e)2.* This application shall be used for all applications filed for approval of acquisition, directly or indirectly, or through one or more subsidiaries or through one or more transactions of (i) one or more insured institutions by a savings and loan holding company under § 584.4(a) or (ii) more than one insured institution by any other company under § 584.4(b).

(3) *H–(e)3.* This application shall be used for all applications filed (i) under § 584.4(a)(2) by a savings and loan holding company for approval of acquisition by a merger, consolidation, or purchase of assets of an insured or uninsured institution or a savings and loan holding company or (ii) under § 584.4(b) by any company for approval of acquisition by a merger, consolidation, or purchase of assets of two or more insured institutions, and shall be used also for approval under §§ 563.22 and 571.5 of the Rules and Regulations for Insurance of Accounts.

(e) *Applications under § 584.6. H–(g).* This application shall be used for all applications under § 584.6 filed by a savings and loan holding company and/or its noninsured subsidiaries for approval of the issuance, sale, renewal, or guarantee of any debt security or assumption of any debt by such companies.

(Sec. 402, 48 Stat. 1256, as amended, sec. 408, 48 Stat. 1261, as added by 73 Stat. 691, as amended; 12 U.S.C. 1725, 1730a. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

JANUARY 29, 1973.

[FR Doc.73-1993 Filed 1-31-73;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Famphur

Correction

In FR Doc. 73–1072, appearing on page 1739, in the issue of Thursday, January 18, 1973, in § 135a.13(d), transpose the fourth line to appear as the third line.

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 72–EA–123]

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

Alteration of Transition Area

Correction

In FR Doc. 73–1423, appearing on page 2331 of the issue for Wednesday, January 24, 1973, in the third line of the description for the Blackstone, Va., transition area, the word "with" should read "within".

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7244]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Consolidated Return Regulations; Cross-References

Correction

In FR Doc. 72–22406 appearing at page 28896 of the issue for Saturday, December 30, 1972, the following changes should be made:

1. The line of three stars which precedes the heading for § 1.172–9 should be deleted.

2. The second line of paragraph 3 of the amendatory language, reading "revising paragraph (d) to read as", should read "revising the last sentence of paragraph".

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7228]

PART 147—TEMPORARY REGULATIONS UNDER THE INTEREST EQUALIZATION TAX ACT

Direct Investment in Certain Qualified Lending and Financing Corporations

Correction

In FR Doc. 72–21751 appearing at page 27622 of the issue for Tuesday, December 19, 1972, in § 147.7–9(c)(1)(iv), the 25th and 26th lines reading "sources allowed all or a portion of under this paragraph. It must refinance such", should read, "sources allowed under this paragraph. It must refinance all or a portion of such".

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of North Carolina Plan

1. *Background.* Part 1902 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) whereby the several States may submit for approval under the requirements of that section, plans for the development and enforcement of State occupational safety and health standards.

The State of North Carolina submitted on November 27, 1972, a plan pursuant to Part 1902 requesting approval of the plan by the Assistant Secretary of Labor for Occupational Safety and Health.

On December 9, 1972, a notice was published in the FEDERAL REGISTER (37 FR 26371) concerning the submission of the plan and the fact that the question of approval was in issue before the Assistant Secretary.

The Department of Labor has been designated by the Governor of North Carolina to administer the plan throughout the State. The Department of Labor has entered into an agreement with the State Board of Health whereby the State Board of Health is to assist the Department of Labor in the administration and enforcement of occupational health standards. However, full authority for the promulgation and enforcement of occupational safety and health standards remains with the Department of Labor. The plan defines the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1). Moreover, it is understood that the plan will cover all employers and employees in the State except those whose working conditions are not subject to the Federal act by virtue of section 4(b)(1) thereof, dockside maritime workers, and domestic workers. The Department of Labor is currently exercising statewide inspection authority to enforce many State standards. The plan describes procedures for the development and promulgation of additional safety standards; rule-making power for enforcement of standards, laws, and orders in all places of employment in the State; the procedures for prompt restraint or elimination of imminent danger conditions; and procedures for inspections in response to complaints.

The plan includes proposed draft legislation to be considered by the North Carolina General Assembly during its 1973 session. Such legislation is designed to implement major portions of the plan and to bring it into conformity with the requirements of Part 1902.

Under this legislation, all occupational safety and health standards and amendments thereto which have been promulgated by the Secretary of Labor, except those found in 29 CFR Parts 1915, 1916, 1917, and 1918 (ship repairing, shipbuilding, shipbreaking, and longshoring) will be adopted upon ratification of the proposed legislation. Enforcement of such standards will take place 90 days thereafter, under an approved merit system. The major provisions of the plan and the proposed schedule for its development are summarized in a new Subpart I of 29 CFR Part 1952.

Included in the plan is a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the constitution and laws of North Carolina. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 upon enactment of the proposed legislation by the State legislature.

Interested persons were afforded 30 days from the date of publication to submit written comments concerning the plan. Further, interested persons were afforded an opportunity to request an informal hearing with respect to the plan or any part thereof, upon the basis of substantial objections to the contents of the plan.

Written comments concerning the plan were submitted on behalf of the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) and the U.S.S. *Agri-Chemicals*. No other written comments were received, and no request for an informal hearing was received.

2. *Issues.* Public comments raised the issue of the effectiveness of the treatment of public employees under the plan suggesting that protection thereunder might be something less than that afforded private employees. Section 23 of North Carolina's proposed legislation is essentially similar to section 19 of the Federal act. Further, section 23(j) of the proposed legislation provides that employees in the public sector are to be given the same rights and protections as those in the private sector.

Under section 18(c)(6) of the Federal Act and Part 1902, States are required to establish and maintain public employee programs as effective as the standards applicable to the private employee sector. Concern was expressed that North Carolina's plan for public employees would be ineffective for it relies on a system of self-inspection unlike the private sector. However, in the public employee programs the method of assuring compliance does not have to be the same as the remedial system applicable to private employers. Although North Carolina's State agencies and political subdivisions will be operating under a system of self-inspection, the North Carolina Department of Labor will be closely monitoring the effectiveness of these programs and will institute full coverage including regular inspections by the Department if a public employer's program, within the first 2 years of operation, is found to be less effective than that in the private sphere. Further, the plan contains assurances that when the health and safety programs for public employees are developed in the State, such programs will provide for:

(1) Regular inspections of workplaces, including inspections in response to complaints; (2) a means for employees to bring possible violations to the attention of inspectors; (3) notification to employees when no violations are found in a complaint—response inspection; (4) information for employees about their protections and responsibilities under the program; (5) protection for employees against employer retaliation for exercising their rights under the program; (6) information for employees about their exposure to toxic materials, especially when exposures are above levels specified by standards; (7) procedures for prompt restraint or elimination of imminent danger situations; (8) a means of notifying employers and employees when an alleged violation has been found; and (9) a means of establishing timetables for correction of violations, and for notifying employees and employers about them.

The public employee program is developmental with implementation of such programs scheduled to occur in three phases depending upon size of the governmental unit. However, public employee programs are to be fully effective throughout the State and its political subdivisions 3 years after grant award.

Public comment also expressed concern about the effectiveness of the plan regarding health issues. In particular, concern was expressed as to the lack of self-initiated health investigations on the part of industrial hygienists with health inspections occurring only on referral when found appropriate in the course of safety inspections.

The North Carolina Department of Labor has entered into an agreement with the State Board of Health under which the latter will provide health expertise and personnel to assist the Department of Labor in the administration and enforcement of all health matters. Under this agreement the Department of Labor retains authority and responsibility for the promulgation and enforcement of occupational safety and health standards. During the first year of the plan's operation, initial inspections of workplaces will be made by representatives of the Department of Labor. If a health hazard is suspected a health investigation will then be conducted with an industrial hygiene engineer. Then, in fiscal year 1975 a special program will be started for "target-health hazard" industries. These industries will be selected based on severity of hazard and the size of the exposed worker population. In these "target-health hazard" industries health field investigators will be furnished to accompany safety investigators on initial plant visits. It would appear that these plans for health inspections will meet the index of effectiveness specified in § 1902.4(c)(2)(i) which calls for inspections of covered

workplaces in a manner at least as effective as the Federal program. The State's industrial hygiene program will be closely monitored by OSHA to assure that it is as effective in operation as the Federal program.

In addition, it is noted that the plan also provides for onsite consultations at the request of employers and/or private industry, State agencies or political subdivisions. The State's proposed consultation program should not detract from its enforcement program and the plan meets the conditions set out in the issues discussed in the Washington decision (38 FR 2421, Jan. 26, 1973).

3. *Decision.* After careful consideration of the North Carolina plan and comments submitted regarding the plan, the plan is hereby approved under section 18 of the act and Part 1902.

This decision incorporates requirements of the act and implementing regulations applicable to State plans generally. It also incorporates our intentions as to continued Federal enforcement of Federal standards in areas covered by the plan and the State's developmental schedule as set out below.

Pursuant to § 1902.20(b)(iii) of Title 29, Code of Federal Regulations, the present level of Federal enforcement in North Carolina will not be diminished. Among other things, the U.S. Department of Labor will continue to inspect catastrophes and fatalities, investigate valid complaints under Section 8(f), continue its target safety and target health programs, and inspect a cross section of all industries on a random basis.

About 6 months following this approval, an evaluation of the State plan, as implemented, will be made to assess the appropriate level of Federal enforcement activity. Special attention will be directed toward occupational health standards and enforcement and the State's public employee programs to insure that the plan is being operated effectively in these areas.

Pursuant to Section 18 of the Occupational Safety and Health Act (29 U.S.C. 667), Part 1952 is hereby amended by adding thereto a new Subpart I as follows:

Subpart I—North Carolina

Sec.

AUTHORITY: Sec. 18, Public Law 91-596, 84 Stat. 1608 (29 U.S.C. 667).

Subpart I—North Carolina

§ 1952.150 Description of the Plan.

(a) The Department of Labor has been designated by the Governor of North Carolina to administer the plan throughout the State. The Department of Labor has entered into an agreement with the State Board of Health whereby the State Board of Health is to assist the Department of Labor in the administration and enforcement of occupational health standards. However, full authority for the promulgation and enforcement of occupational safety and health standards remains with the Department of Labor. The plan defines the covered occupational safety and health issues as defined by the Secretary of Labor in § 1902.2(c)(1) of this chapter. Moreover, it is understood that the plan will cover all employers and employees in the State except those whose working conditions are not covered by the Federal act by virtue of Section 4(b)(1) thereof, dockside maritime and domestic workers. The Department of Labor is currently exercising statewide inspection authority to enforce many State standards. The plan describes procedures for the development and promulgation of additional laws, and orders in all places of employment in the State; the procedures for prompt restraint or elimination of imminent danger conditions; and procedures for inspections in response to complaints.

(b) The plan includes proposed draft legislation to be considered by the North Carolina General Assembly during its 1973 session. Such legislation is designed to implement major portions of the plan and to bring it into conformity with the requirements of Part 1902 of this chapter.

(c) Under this legislation, all occupational safety and health standards and amendments thereto which have been promulgated by the Secretary of Labor, except those found in Parts 1915, 1916, 1917, and 1918 of this chapter (ship repairing, shipbuilding, shipbreaking, and longshoring) will be adopted upon ratification of the proposed legislation. Enforcement of such standards will take place 90 days thereafter.

(d) The legislation will give the Department of Labor full authority to administer and enforce all laws, rules and orders protecting employee safety and health in all places of employment in the State. It also proposes to bring the plan into conformity in procedures for providing prompt and effective standards for the protection of employees against new and unforeseen hazards and for furnishing information to employees on hazards, precautions, symptoms, and emergency treatment; and procedures for variances.

(e) The proposed legislation will insure employer and employee representatives an opportunity to accompany inspectors and to call attention to possible violations before, during, and after inspections; protection of employees against discharge or discrimination in terms and conditions of employment; notice to employees of their protections and obligations; adequate safeguards to protect trade secrets; prompt notice to employers and employees of alleged violations of standards and abatement requirements; effective sanctions against employers; and employer's right to review of alleged violations, abatement periods, and proposed penalties with opportunity for employee participation in the review proceedings.

(f) The Plan also provides for the development of a program to encourage voluntary compliance by employers and employees.

(g) The Plan includes a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the constitution and laws of North Carolina. The Plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 upon enactment of the proposed legislation by the State legislature.

(h) The North Carolina Plan includes the following documents as of the date of approval:

(1) The Plan description document with appendixes.

(2) Telegram from the Governor of North Carolina, James E. Holshouser, Jr., expressing his full support for the Occupational Safety and Health Act of North Carolina and his anticipation of its passage during the 1973 session of the North Carolina General Assembly.

(3) Letter from W. C. Creel, Commissioner, North Carolina Department of Labor, to Mr. Thomas C. Brown, Director, Federal and State Operations, clarifying several issues raised during the review process.

(4) Also available for inspection and copying with the Plan documents will be the public comments received during the review process.

§ 1952.151 Where the Plan may be inspected.

A copy of the complete North Carolina Plan may be inspected and copied during normal business hours at the North Carolina Department of Labor, Room 106, Labor Building, Corner of Salisbury and Edenton, Raleigh, N.C. 27602. A copy of the complete North Carolina Plan may also be inspected and copied during normal business hours at (a) the Office of the Regional Administrator, Occupational Safety and Health Administration, Suite 587, 1371 Peachtree Street NE., Atlanta, GA 30309; and (b) Office of Federal and State Operations, OSHA, U.S. Department of Labor, Room 305, Railway Labor Building, 400 First Street NW., Washington, DC 20210.

§ 1952.152 Level of Federal enforcement.

Pursuant to § 1902.20(b)(iii) of this chapter, the present level of Federal enforcement in North Carolina will not be diminished. Among other things, the U.S. Department of Labor will continue to inspect catastrophes and fatalities, investigate valid complaints under section 8(f), continue its target safety and target health programs, and inspect a cross-section of all industries on a random basis.

§ 1952.153 Developmental schedule.

The North Carolina Plan is developmental. The following is the schedule of the developmental steps provided by the Plan:

(a) It is estimated that the draft bill will be enacted by April 1, 1973.

(b) The Federal standards will be adopted on the date the bill is ratified.

(c) A refresher course for inspectors will begin sixty (60) days after the enactment of the draft bill.

(d) Merit system examinations of current department of labor personnel will be completed within sixty (60) days after Federal acceptance of the State Plan.

(e) The hiring of new personnel in both the department of labor and the State board of health will begin thirty (30) days after the department is assured that State and Federal funds are available. Tentative plans provide for both agencies to be fully staffed within six (6) months after the enactment of the bill.

(f) All new personnel will receive official OSHA training in the National Institute of Training. Employment dates will generally correspond to dates established for the Institute schools.

(g) Employers and employees will be notified of the availability of consultative services within ninety (90) days after ratification of the draft bill.

(h) The Department of Labor will initiate a developmental plan for a "Management Information System" on the date of Plan approval. This program is to be fully implemented in ninety (90) days after enactment of the proposed legislation.

(i) The enforcement of standards will begin ninety (90) days after ratification of the draft bill.

(j) A State Compliance Operations Manual is to be completed ninety (90) days after ratification of the draft bill.

(k) The Commissioner will begin issuing administrative "rules and regulations" when necessary as stated in the draft bill ninety (90) days after ratification of the draft bill. Meanwhile, the Federal rules and regulations will be adopted and applied until the State rules and regulations are acceptable.

(l) Safety programs for State employees will begin one (1) year and ninety (90) days after ratification of the draft bill, with full implementation scheduled a year later.

(m) Safety programs for large counties and municipalities with over 10,000 population will be initiated ninety (90) days after draft bill ratification. Full implementation will occur one (1) year later.

(n) Safety programs for other counties and municipalities with 4,000 to 10,000 population will be initiated within two (2) years and ninety (90) days after Plan grant is approved. Full implementation will occur three (3) years after grant award.

(o) Safety programs for towns and other governing units having between 1,000 and 4,000 population will be initiated within two (2) years and ninety (90) days after Plan grant is approved, with full implementation within three years after grant award.

(p) A State "Safety and Health" poster will be prepared within ninety (90) days after ratification of the draft bill.

(q) The State of North Carolina will be fully operational with respect to agriculture 1 year and 90 days after enactment of the draft bill.

Signed at Washington, D.C., this 26th day of January 1973.

CHAIN ROBBINS,
Acting Assistant Secretary of Labor.

[FR Doc.73-1952 Filed 1-31-73;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 100—UNSATISFACTORY PERFORMANCE OF READY RESERVE OBLIGATION

The Deputy Secretary of Defense has approved the following revision to Part 100:

Sec.
100.1 Purpose and applicability.
100.2 Definitions.
100.3 Policies and responsibilities.

AUTHORITY: 5 U.S.C. 552(a) and 44 U.S.C. 1505.

§ 100.1 Purpose and applicability.

This part provides the Military Departments with Department of Defense policies concerning the actions to be taken in regard to members of the Ready Reserve whose performance of duty or participation in reserve training is determined to be unsatisfactory.

§ 100.2 Definitions.

(a) *"Selected Reserve"* consists of members of the Ready Reserve in pay groups A, B, C, and F. These reservists are either (1) members of units who (i) regularly participate in drills and annual active duty for training or annual field training in the case of the National Guard, or (ii) are on initial active duty for training; or (2) individuals who participate in regular drills and annual active duty for training on the same basis as members of reserve units. Excluded from the Selected Reserve are reservists who only participate in annual active duty for training but are not paid for attendance at regular drills (pay categories D and E), reservists enrolled in ROTC training, members of the individual Ready Reserve pool, and reservists on extended active duty. (See Part 102 and 10 U.S.C. 268(b).)

(b) *"Unsatisfactory participation"* by a member of the Ready Reserve consists of failure to fulfill individual obligation or agreement to be a member of a unit of the Ready Reserve as described in 10 U.S.C. 268(b); or failure to meet the standards as prescribed by the Military Departments concerned for attendance at training drills, attendance at active duty for training, for training advancement, or for performance of duty.

(c) *"Reasonable commuting distance"* for purposes of the application of the policy set forth in § 100.3(c)(2), is defined as the maximum distance a member of a Reserve component can be expected to travel involuntarily between residence and drill training site, and is further defined as:

(1) Any distance within a 100-mile radius of the drill site, but not exceeding that which can be traveled by automobile under average conditions of traffic, weather, and roads within a period of 3 hours, for those units that exclusively conduct four drills on 2 consecutive days during the training year, and only if Government meals and quarters are provided at the base where drills are conducted. (The provisions of this subparagraph shall apply only to those individuals enlisting, reenlisting, or extending their enlistments after the effective date of this part.)

(2) Any distance within a 50-mile radius of the drill site, but not exceeding that which can be traveled by automobile under average conditions of traffic, weather, and roads within a period of 1½ hours, for all other units.

§ 100.3 Policies and responsibilities.

(a) *Satisfactory participation in the Ready Reserve.* (1) Personnel without prior military service who enlist or have enlisted in one of the Reserve components under the provisions of 10 U.S.C. 511, 32 U.S.C. 302, or section 262, Reserve Forces Act of 1955, as amended, are expected to participate and perform satisfactorily as a member of the Ready Reserve in fulfillment of their obligation and/or agreement and in accordance with the standards prescribed in Parts 101 and 102 of this subchapter and by the Military Department concerned.

(2) It is the responsibility of the Secretaries of the Military Departments concerned to insure to the maximum extent practicable that applicants for enlistment in the Reserve components understand prior to their enlistment the obligations and requirements as members of the Ready Reserve for satisfactory participation, and for active service in the event of mobilization.

(b) *Compliance measures for unsatisfactory participation.* (1) Members of the Ready Reserve who (i) fail, or are unable, to participate satisfactorily in units of the Ready Reserve, (ii) have not fulfilled their statutory reserve obligation, and (iii) have not served on active duty or active duty for training for a total of 24 months will be ordered to active duty under the provisions of 10 U.S.C. 673a and Executive Order 11366.

(2) A member of the Ready Reserve ordered to active duty under these provisions may be required to serve on active duty until his total service on active duty or active duty for training equals 24 months.

(3) Where the enlistment or period of military service of a member of the Ready Reserve ordered to active duty under the provisions of 10 U.S.C. 673a and Executive Order 11366 expires before he has served the prescribed period of active duty, the enlistment or period of military service may be extended until his obligated active duty service has been completed.

(4) Orders will be mailed to a reservist when he is in an unsatisfactory participation status, if the reservist is not locatable by the usual personal visit or when attending scheduled drills.

(i) Orders mailed to a reservist will be sent via certified or registered mail. The individual who mails the orders will prepare a Sworn Affidavit of Service by Mail (see attached format [1]) which will be immediately inserted in the reservist's personnel file along with the receipt for registered or certified mail.

(ii) Notification shall be fully and sufficiently accomplished through the mailing of the orders to the reservist concerned at the mailing address which the records (of the activity mailing the orders) indicate to be the most recent one furnished by that individual as an address at or from which official mail will be received by or forwarded to him. Absence of indication of delivery, or return as undeliverable, of orders addressed as above is immaterial as respects its efficacy as notice to or notification of the reservist concerned.

(iii) If, on the appointed date, the individual does not report to the command to which he has been ordered, he will then become an "unauthorized absentee" and the normal procedures for handling unauthorized absences should be followed. As an alternative, if such action is not considered feasible, he may be certified to Selective Service for priority induction as provided by paragraph (d) (2) of this section.

(5) It is the responsibility of each member of the Ready Reserve to assure that all organizational records pertaining to him reflect an accurate and current mailing address where he can be reached.

(c) *Exceptions.* As exceptions to the policies in paragraph (b) of this section, individuals who do not, or are unable to, participate satisfactorily in units of the Selected Reserve for any of the following reasons will be processed as indicated:

(1) Except as provided in paragraph (c) (3) and (4) of this section, individuals eligible for discharge from the Reserve components for dependency, hardship, or other cogent reasons authorized by regulations of the Military Department concerned will, upon application, be discharged.

(2) Individuals unable to participate in a unit of the Selected Reserve by reason of action taken by the Military Department concerned (e.g., unit inactivation or relocation), to the effect that they reside beyond a reasonable commuting distance as defined in § 100.2(c) of a Reserve unit, will be assigned to the Individual Ready Reserve until they are able to rejoin or be assigned to another Reserve unit, or become eligible for transfer to the Standby Reserve or discharge upon completion of their obligation. However, such individuals are still subject to involuntary order to active duty in the event:

(i) Of any mobilization, if they qualify under the statutory provisions of the involuntary order to active duty;

(ii) They fail to satisfactorily participate in any annual active duty for training periods (15 to 30 days each year) when so ordered.

(3) An individual whose involuntary order to active duty would result in extreme community or personal hardship may, upon request, be transferred to the Standby Reserve or discharged in accordance with Part 125 of this subchapter.

(4) Individuals who are preparing for or are engaged in critical civilian occupations will be screened in accordance with Part 125 of this subchapter.

(5) Individuals who have served on active duty for a total of not less than 20 months and who cannot be effectively employed or utilized in active service in the short time remaining if ordered to active duty under the provisions of 10 U.S.C. 673a will, as considered appropriate by the Military Department concerned:

(i) Be assigned to the Individual Ready Reserve, or

(ii) Be ordered to active duty for training for not more than 45 days in any year of unsatisfactory service in accordance with 10 U.S.C. 270.

(6) Individuals whose remaining period of statutory reserve obligation is less than 3 months may be ordered to active duty for training for not more than 45 days in accordance with 10 U.S.C. 270 if the remaining time is not adequate for administratively effecting their assignment to active duty pursuant to 10 U.S.C. 673a, or be discharged as considered appropriate. An individual whose period of statutory Reserve obligation is 3 months or more when he is recommended for assignment to active duty for unsatisfactory participation will be assigned to active duty in accordance with 10 U.S.C. 673a.

(7) Individuals who incur a bona fide, temporary, nonmilitary obligation requiring overseas residency outside the United States, or incur a religious missionary obligation will be processed in accordance with Part 103.

(8) Individuals who change their residences within the United States, its possessions, and the Commonwealth of Puerto Rico:

(i) If such individuals lose their unit positions because of the voluntary change of residence, they will (*a*) be transferred to another paid drill unit within the same Reserve component whenever practicable; or (*b*) depending upon the circumstances, be given a period of up to 60 days after departing from their original unit to locate and join another Reserve component unit where they will fill an existing vacancy, or be assigned as overstrength pursuant to paragraph (c) (8) (iv) of this section.

(ii) If such individuals locate position vacancies which require different specialties than the ones they now possess, the Secretary of the Military Department concerned may provide for the retraining of these individuals (with their consent) by ordering them to active duty for training in a new specialty.

(iii) Reservists who effect a voluntary change of residence must be accepted in a Reserve unit by their parent Military Department regardless of vacancies, subject to determinations outlined in paragraph (c) (8) (iii) (*1*), (2), and (*3*) of this section. Additionally, transfers between Reserve components are authorized under the provisions of Part 123 of this subchapter.

(*1*) The move is essential because of business or other cogent reasons.

(2) The losing unit certifies in writing that the reservist's performance of service has been satisfactory.

(3) The reservist's specialty is usable in the unit or that he can be retrained by on-the-job training or is willing to be retrained as outlined in paragraph (c) (8) (ii) of this section.

(iv) In carrying out the provisions of paragraph (c) (8) (iii) of this section, the authorized "paid drill strength" for Selected Reserves may be exceeded by 3 percent in order to absorb these reservists and to compensate for administrative delays encountered during recruiting and separation processing.

(*1*) The Military Departments shall manage this program closely to assure that overstrength enlistment is not automatic, e.g., if a reservist moves to a locality where there are two or more reserve units, he should not be assigned to the nearest unit if the more distant unit has a vacancy or a lesser degree of overstrength.

(2) The provisions of paragraph (c) (8) (iv) of this section should tend to bring drill pay attendance closer to 100 percent of authorized paid drill strength.

(v) If members of the Selected Reserve (paragraph (c) (8) (i) of this section) fail to join another unit within a period of 60 days, they will be ordered to active duty in accordance with paragraph (b) of this section, unless they are considered eligible to be handled as "exceptions" under policies outlined under paragraph (c) (1) through (7) of this section.

(9) Individuals who change residence outside the United States, its possessions and the Commonwealth of Puerto Rico—

(i) Regardless of physical location, are subject to the provisions of (c) (8) of this section.

(ii) Will be directed to notify their units if they plan to leave the areas listed in paragraph (c) (8) of this section, and will be counseled by their unit commander as to the consequences.

(d) *Other compliance measures.* (1) Except as provided in paragraph (c) of this section, the active-duty-for training for 45 days measure authorized by 10 U.S.C. 270 will be used primarily for members of the Ready Reserve who do not participate satisfactorily and who have completed 24 months of active duty.

(2) Priority for induction under the provisions of section 6(c) (2) (D), of the Military Selective Service Act of 1967 will be invoked only in cases of nonlocatable members.

(3) Members having no statutory reserve obligation and who do not perform satisfactorily as members of the Ready Reserve will be discharged, or if eligible, upon their request, transferred to the Standby Reserve or Retired Reserve.

(e) *Delay from involuntary order to active duty.* (1) Individuals who become subject to being ordered to active duty

[1] Filed as part of the original.

under this Directive may be delayed, as prescribed by the Secretary of the Military Department concerned, from active duty for the purposes of taking State or Federal examinations, seasonal employment, and for similar cogent reasons. Upon termination of such delays, reservists will be ordered to active duty.

(2) Those members whose orders to active duty have been delayed for reasons other than willful unsatisfactory participation and who join a unit during the period of delay will not be ordered to active duty.

This part is effective immediately.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.73-1969; Filed 1-31-73;8:45 am]

Title 37—Patents, Trademarks, and Copyrights

CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

PART 201—GENERAL PROVISIONS

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

Catalog of Copyright Entries; Refunds; Blank Forms; Ad Interim Registrations

The Regulations of the Copyright Office are amended in four miscellaneous respects: (1) To change the amounts of the subscription prices for the Catalog of Copyright Entries; (2) to change the amount of small overpayments that are not refunded unless requested; (3) to clarify the reference to blank forms not subject to copyright; and (4) to clarify the reference to English-language works subject to ad interim registration.

Sections 201.3, 201.6, 202.1, and 202.4 of Chapter II of Title 37 of the Code of Federal Regulations are amended as follows:

1. Section 201.3 is amended to read as follows:

§ 201.3 Catalog of Copyright Entries.

The various parts of the Catalog of Copyright Entries are listed below. The subscription price for all parts of the complete yearly Catalog of Copyright Entries, effective with Volume 27, is $75. Parts 2 and 11B of the catalog are published annually; all other parts are published in two semiannual numbers covering, respectively, the periods January–June and July–December. The prices given in the list below are for each annual part; the price of a semiannual number is half of the listed price. The entire annual catalog or any of its parts may be obtained, upon payment of the established price, from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, to whom requests for copies should be addressed and to whom the remittance should be made payable.

Part 1—Books and Pamphlets Including Serials and Contributions to Periodicals, $20.
Part 2—Periodicals, $6.
Parts 3–4—Dramas and Works Prepared for Oral Delivery, $6.
Part 5—Music, $20.
Part 6—Maps and Atlases, $6.
Parts 7–11—Works of Art, Reproductions of Works of Art, Scientific and Technical Drawings, Photographic Works, Prints and Pictorial Illustrations, $6.
Part 11B—Commercial Prints and Labels, $5.
Parts 12–13—Motion Pictures and Filmstrips, $6.

2. Section 201.6 is amended by revising paragraph (c) to read as follows:

§ 201.6 Payment and refund of Copyright Office fees.

* * * * *

(c) *Refunds.* Money paid for applications which are rejected or payments made in excess of the statutory fee will be refunded, but amounts of $1 or less will not be refunded unless specifically requested, and refunds of such amounts may be made in postage stamps. All amounts of more than $1 will be refunded by check.

* * * * *

3. For the purpose of clarification, § 202.1 is amended by revising paragraph (c) to read as follows:

§ 202.1 Material not subject to copyright.

The following are examples of works not subject to copyright and applications for registration of such works cannot be entertained:

* * * * *

(c) Blank forms, such as time cards, graph paper, account books, diaries, bank checks, scorecards, address books, report forms, order forms and the like, which are designed for recording information and do not in themselves convey information.

* * * * *

4. For the purpose of clarification, § 202.4 (b) is amended by revising subparagraph (1) to read as follows:

§ 202.4 Books (Class A).

* * * * *

(b) *Ad interim registrations.* (1) An American edition of an English-language book or periodical identical in substance to that manufactured and first published abroad will not be registered unless an ad interim registration is first made.

(Sec. 207, 61 Stat. 666; 17 U.S.C. 207)

Effective date. These amendments shall become effective on February 5, 1973.

GEORGE D. CARY,
Register of Copyrights.

Approved:

L. QUINCY MUMFORD,
Librarian of Congress.

[FR Doc.73-1971 Filed 1-31-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Triphenyltin Hydroxide

A petition (PP 3F1315) was filed by Thompson-Hayward Chemical Co., Post Office Box 2383, Kansas City, KS 66110, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for negligible residues of the fungicide triphenyltin hydroxide in or on the raw agricultural commodity carrots at 0.1 part per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The fungicide is useful for the purpose for which the tolerance is being established.

2. Residues could occur in the kidney and liver of livestock (except poultry), but such residues would be adequately covered by the existing tolerances and § 180.6(a)(2) applies.

3. There is no reasonable expectation of residues in eggs, milk, poultry, or meat, fat, and meat byproducts (except kidney and liver) of cattle, goats, hogs, horses, and sheep (§ 180.6(a)(3) applies).

4. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 FR 9038), § 180.236 is amended by revising the paragraph "0.1 part per million * * *" as follows:

§ 180.236 Triphenyltin hydroxide; tolerances for residues.

* * * * *

0.1 part per million (negligible residue) in or on carrots and sugar beet roots.

* * * * *

Any person who will be adversely affected by the foregoing order may, on or before March 5, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to

justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a (d)(2))

Effective date. This order shall become effective on February 1, 1973.

Dated: January 26, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.73-1992 Filed 1-31-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER H—UTILIZATION AND DISPOSAL

UPDATED REFERENCES AND ILLUSTRATIONS

The following amendments to this subchapter are issued to update certain references and illustrations and to provide editorial changes as follows:

PART 101–42—PROPERTY REHABILITATION SERVICES AND FACILITIES

Subpart 101–42.2—Property Rehabilitation Services Performed by Federal Facilities

Section 101–42.202 is revised as follows:

§ 101–42.202 Establishment, continuation, or expansion of repair facilities.

The establishment, continuation, or expansion of in-house commercial type repair and reclamation facilities shall be governed by the criteria set forth in Office of Management and Budget Circular No. A–76, Revised.

PART 101–43—UTILIZATION OF PERSONAL PROPERTY

Subpart 101–43.3—Utilization of Excess

Sections 101–43.308 and 101–43.313–3 are revised as follows:

§ 101–43.308 Assistance in major disaster relief.

In accordance with instructions of the Director, Office of Emergency Preparedness, Executive Office of the President, or of any officer of his agency designated by him, excess property shall be utilized in behalf of or loaned to State and local governments, with or without compensation therefor, pursuant to the Disaster Relief Act of 1970 (Public Law 91–606), Executive Order 11575 of December 31, 1970, and section 405 of Executive Order 11051 of September 27, 1962, as amended by Executive Order 11556 of September 4, 1970, and Executive Order 11610 of July 22, 1971, to provide assistance to such State and local governments in alleviating suffering and damage resulting from major disasters. Excess medicines, foods, and other consumable supplies may be distributed to State and local governments for such purposes. In the event such property has been reported to GSA pursuant to § 101–43.311, it shall be withdrawn by the holding agency pursuant to § 101–43.314.

§ 101–43.313–3 Intangible property.

Excess intangible property shall be reported to the General Services Administration (D), Washington, D.C. 20405, and shall not be transferred or disposed of without prior approval of GSA except that bonds, notes, or other securities authorized to be disposed of by the Secretary of the Treasury under section 5 of the Act of April 3, 1945 (31 U.S.C. 741a), shall not be reported to GSA.

Subpart 101–43.4—Utilization of Abandoned and Forfeited Personal Property

Section 101–43.402–4 is amended as follows:

§ 101–43.402–4 Retention by holding agency.

* * * * *

(c) Limousines, heavy sedans, and medium sedans may be retained by an agency and devoted to official use only if such retention is clearly authorized by the provisions of Office of Management and Budget Circular No. A–22, Revised, or specific and current authorizations issued by the Office of Management and Budget pursuant thereto.

* * * * *

Subpart 101–43.49—Illustrations

1. Section 101–43.4900 is revised as follows:

§ 101–43.4900 Scope of subpart.

This subpart illustrates lists, forms, and instructions applicable to the utilization of personal property. Agency field offices should obtain the GSA forms prescribed in this Subpart 101–43.49 by submitting their requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRAF), Washington, D.C. 20405. Standard forms should be obtained from the nearest GSA supply distribution facility.

2. Section 101–43.4901 is amended as follows:

§ 101–43.4901 Excess personal property reporting requirements.

* * * * *

(b) * * *

(2) Items in classes 1510 and 1520 held by the Department of Defense or other agencies shall be reported to the General Services Administration (DPU), Washington, D.C. 20405, rather than to a GSA regional office.

(c) Automatic data processing equipment as defined in § 101–32.301–1 whether or not it falls within group 74 shall be reported in the manner set forth in Subpart 101–32.47 to the General Services Administration (CDE), Washington, D.C. 20405, rather than to a GSA regional office.

* * * * *

§ 101–43.4904 [Amended]

3. Section 101–43.4904 is revised to illustrate the July 1972 edition of GSA Form 1539, Request for Excess Personal Property.

§ 101–43.4904–1 [Amended]

4. Section 101–43.4904–1 is revised to illustrate the instructions for acquisition and use of the July 1972 edition of GSA Form 1539, Request for Excess Personal Property.

5. Section 101–43.4905 is revised as follows:

§ 101–43.4905 List of Government corporations (31 U.S.C. 846, 856).

Wholly owned and mixed ownership Government corporations are not necessarily limited to those listed below.

WHOLLY OWNED GOVERNMENT CORPORATIONS

Commodity Credit Corp.
Federal Crop Insurance Corp.
Government National Mortgage Assn.
Virgin Islands Corp.
Federal Prison Industries Inc.
Overseas Private Investment Corp.
Export-Import Bank of the United States.
Federal Savings and Loan Insurance Corp.
Federal Housing Adm.
Saint Lawrence Seaway Development Corp.
Panama Canal Co.
Tennessee Valley Authority.

MIXED-OWNERSHIP GOVERNMENT CORPORATIONS

Central Bank for Cooperatives and the Regional Banks for Cooperatives.
Federal Land Banks.
Federal Intermediate Credit Banks.
Federal Home Loan Banks.
Federal Deposit Insurance Corp.
The National Railroad Passenger Corp.
The Rural Telephone Bank.

§ 101.43–1906 [Amended]

6. Section 101–43.4906 is revised to illustrate the July 1971 edition of Standard Form 122, Transfer Order—Excess Personal Property.

§ 101–43.4906–1 [Amended]

7. Section 101–43.4906–1 is revised to illustrate the instructions for preparing the July 1971 edition of Standard Form 122.

PART 101–44—DONATION OF PERSONAL PROPERTY

Subpart 101–44.1—General Provisions

Section 101–44.103 is revised as follows:

§ 101–44.103 Assistance in major disaster relief.

Surplus equipment and supplies shall be donated to State governments to provide assistance in alleviating suffering and damage resulting from major disasters, in accordance with the directions of the Office of Emergency Preparedness, Executive Office of the President, pursuant to the Disaster Relief Act of 1970 (Public Law 91–606), Executive Order 11575 of December 31, 1970, and Section 405 of Executive Order 11051 of September 27, 1962, as amended by Executive Order 11556 of September 4, 1970,

and Executive Order 11610 of July 22, 1971.

Subpart 101–44.49—Illustrations

1. Section 101–44.4900 is revised as follows:

§ 101–44.4900 Scope of subpart.

This subpart contains illustrations of the forms and instructions prescribed in this Part 101–44. Agency field offices should obtain the GSA forms prescribed in this Subpart 101–44.49 by submitting their requirements to their Washington headquarters office which will forward consolidated annual requirements to the the General Services Administration (BRAF), Washington, D.C. 20405. Standard Forms 123 and 123A should be obtained from the eGneral Services Administration (3FXF), Washington, D.C. 20407.

§ 101–44.4901 [Amended]

2. Section 101–44.4901 is revised to illustrate the December 1970 edition of Standard Form 123, Application for Donation of Surplus Personal Property.

§ 101–44.4903 [Amended]

3. Section 101–44.4903(i) is revised to illustrate new instructions for preparing and processing Standard Form 123.

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Subpart 101–45.49—Illustrations

Section 101–45.4900 is revised as follows:

§ 101–45.4900 Scope of subpart.

This subpart contains instructions, lists, and illustrations of the forms and formats prescribed in this Part 101–45. Agency field offices should obtain the GSA forms prescribed in this Subpart 101–45.49 by submitting their consolidated requirements to their Washington headquarters office which will forward consolidated requirements to the General Services Administration (BRAF), Washington, D.C. 20405. Standard and optional forms should be obtained from the nearest GSA supply distribution facility.

NOTE: The forms and instructions illustrated in §§ 101–43.4904, 101–43.4904–1, 101–43.4906, 101–43.4906–1, 101–44.4901, and 101–44.4903(i) are filed as part of the original document.

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

Effective date. This amendment is effective on February 1, 1973.

Dated: January 24, 1973.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.73–1947 Filed 1–31–73;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 70–27; Notice 7]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Hydraulic Brake Standard; New Effective Date

The purpose of this notice is to announce that the effective date of Motor Vehicle Safety Standard No. 105a will be September 1, 1975. Full response to petitions for reconsideration is scheduled for May 1, 1973.

Standard No. 105a, *Hydraulic Brake Systems* was published on September 2, 1972 (37 FR 17970 with corrections at 37 FR 19138) with an effective date of September 1, 1974. On December 19, 1972, the NHTSA advised (37 FR 27629) that it intended to issue a notice by February 1, 1973, in response to petitions for reconsideration of the standard. The volume of the petitions received and the complexity of the issues involved are such that the agency has not found it possible to publish a full response to the petitions by the date indicated.

The NHTSA has, however, decided to grant petitions requesting a delay in the effective date, to the extent of a one-year postponement. Petitioners have demonstrated to the satisfaction of the agency that because of critical lead-time problems the original effective date is impracticable. The NHTSA believes that in the additional year provided the industry will have sufficient time to increase the reliability of the systems that otherwise would have been incorporated beginning September 1, 1974, with the result that consumers will be provided with braking systems that have been optimized with respect to safety, performance, and cost.

The full response and discussion of issues raised by the petitioners is planned for issuance by May 1, 1973.

(Secs. 103, 119, Public Law 89–563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.51)

Issued on January 30, 1973.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.73–2100 Filed 1–31–73;11:46 am]

Title 50—Wildlife and Fisheries

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

PART 28—PUBLIC ACCESS, USE AND RECREATION

Missisquoi National Wildlife Refuge, Vt.

Bureau of Sport Fisheries and Wildlife special regulations for Missisquoi National Wildlife Refuge, Swanton, Vt., effective during the period January 1, 1973, through December 31, 1973.

The following special regulation is issued and is effective on February 1, 1973.

§ 28.28 Special regulations: Recreation; for the individual wildlife refuge areas.

VERMONT

MISSISQUOI NATIONAL WILDLIFE REFUGE

Travel by motor vehicle or on foot is permitted on designated travel routes for the purpose of nature study, photography, hiking, and sightseeing, during daylight hours. Pets are permitted on a leash not over 10 feet in length. Picnicking is permitted in designated areas where facilities are provided. Launching of boats and parking of boat trailers are permitted in designated areas. Fishing and hunting may be permitted under special regulations.

The refuge area, comprising 4,794 acres, is delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1973.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

JANUARY 23, 1973.

[FR Doc.73–1951 Filed 1–31–73;8:45 am]

PART 33—SPORT FISHING

National Wildlife Refuges in Certain Southern States

Interior Department announces 1973 fishing regulations for national wildlife refuges in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

The following special regulations are issued and are effective on February 1, 1973.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

ALABAMA

CHOCTAW NATIONAL WILDLIFE REFUGE

Sport fishing on the Choctaw National Wildlife Refuge, Jackson, Ala., is permitted only on the areas designated by signs as open to fishing. These open areas are shown on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season is open year-round on all refuge waters except those posted as closed by signs.

(2) Fishing is permitted during daylight hours only.

ARKANSAS

HOLLA BEND NATIONAL WILDLIFE REFUGE

Sport fishing is permitted on all waters of Holla Bend National Wildlife Refuge. Sport fishing shall be in accordance with all applicable State and Federal regulations covering the fishing, subject to the following special condition:

(1) Fishing is permitted only during the period March 15 through September 30, daylight hours only.

WAPANOCCA NATIONAL WILDLIFE REFUGE

Sport fishing on the Wapanocca National Wildlife Refuge, Turrell, Ark., is permitted on Wapanocca Lake and other areas as designated by signs as open to fishing. These open areas are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from April 1, 1973, through September 30, 1973.

(2) Fishing permitted during daylight hours only.

(3) Motors larger than 10 horsepower are prohibited. No boats are allowed in the Woody Ponds area on the south side of the refuge.

(4) The use of jug, drop, or trotlines is prohibited.

(5) The use of live carp, shad, buffalo, and goldfish for bait is prohibited.

(6) No fishing permitted within 100 yards of the bridge, water control structure and boat dock which is located behind the refuge headquarters.

WHITE RIVER NATIONAL WILDLIFE REFUGE

Sport fishing on the White River National Wildlife Refuge, DeWitt, Ark., is permitted only on the areas designated by signs as open to fishing. These open areas comprising 2,592 acres are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from March 16, 1973, through October 31, 1973.

(2) Boats without owner's name plate affixed in a conspicuous place may not be left overnight.

(3) Taking of frogs is prohibited.

(4) All fishermen must exhibit their fishing license, fish, and vehicle and boat contents to Federal and State officers upon request.

FLORIDA

LAKE WOODRUFF NATIONAL WILDLIFE REFUGE

Sport fishing on the Lake Woodruff National Wildlife Refuge, De Leon Springs, Fla., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 650 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations, subject to the following special conditions:

(1) The sport fishing season is open year-round on refuge waters west of Norris Dead River, Lake Woodruff, and Spring Garden Creek. Refuge waters east of the canal bordering the east side of Norris Dead River, Lake Woodruff, and Spring Garden Creek will be open to fishing only when such use will not result in undue disturbance to wildlife or will not interfere with wildlife management practices being carried out on the area. Such periods of permitted use will be designated by appropriate signing and will generally occur during the period from March 15 to October 15.

(2) Limited areas throughout the refuge may be designated as closed by appropriate signing to protect wildlife or other refuge values.

(3) Fishing on refuge waters is permitted during daylight hours only.

(4) Airthrust boats are prohibited.

(5) Firearms of any type are prohibited.

(6) State regulations govern fishing in State-owned waters contained in Spring Garden Lake, Spring Garden Creek, Norris Dead River, and Highland Park Canal, Lake Woodruff, Tick Island Mud Lake, Tick Island Creek, and Lake Dexter.

LOXAHATCHIE NATIONAL WILDLIFE REFUGE

Sport fishing on the Loxahatchee National Wildlife Refuge, Delray Beach, Fla., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 74,492 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from February 23, 1973, to February 22, 1974.

(2) Fishing is restricted to 1 hour before sunrise until 1 hour after sunset.

(3) Boats may enter or leave the refuge only at the three public ramps as follows:

(a) North end of the refuge at S-5A landing.

(b) Headquarters boat ramp.

(c) S-39 boat ramp on south end of refuge.

(4) Method of fishing is with attended rod and reel and/or pole and line. Trotlines, limb lines, nets, or other set tackle prohibited.

(5) Air-thrust boats may be authorized only by special permit issued by the refuge manager. Speedboats and racing craft are prohibited except for official purposes.

(6) Persons must follow such routes of travel within the area as may be designated by posting by the refuge officer in charge. To protect Government property or wildlife the refuge officer in charge may close any or all of the area.

ST. MARKS NATIONAL WILDLIFE REFUGE

Sport fishing on the St. Marks National Wildlife Refuge, St. Marks, Fla., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 50,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from March 15, 1973, through October 15, 1973.

(2) Fishing permitted one-half hour before sunrise until one-half hour after sunset, 7 days a week.

(3) Boats with gasoline engines to 4 horsepower and electric motors are permitted.

(4) Trotlines as permitted by State regulations are allowed except that lines shall be taken up prior to closing hour of fishing daily.

ST. VINCENT NATIONAL WILDLIFE REFUGE

Sport fishing on the St. Vincent National Wildlife Refuge, Franklin County, Apalachicola, Fla., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 360 acres, are delineated on a map available at the refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations.

(1) The sport fishing season extends from March 1, 1973, through October 30, 1973.

(2) Fishermen are permitted on the refuge from 1 hour before sunrise to 1 hour after sunset.

(3) No motors of any type may be used.

(4) Users must follow designated routes of travel from the beach to the open fishing area.

(5) Boats may be left on the island at designated points during the open season provided they are identified with their owner's name and address. Boats must be removed from the refuge no later than October 30, 1973.

(6) Use of live minnows as bait is prohibited.

GEORGIA

BLACKBEARD ISLAND NATIONAL WILDLIFE REFUGE

Sport fishing on the Blackbeard Island National Wildlife Refuge, McIntosh County, Townsend, Ga., is permitted only on the areas designated by signs as open to fishing. Those open areas, comprising 680 acres, are delineated on a map available at the refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from March 15, 1973, through October 25, 1973.

(2) Fishing is permitted in daylight hours only.

(3) Boats with electric motors permitted. Boats with gasoline powered outboard motors prohibited.

(4) Use of live minnows as bait prohibited.

PIEDMONT NATIONAL WILDLIFE REFUGE

Sport fishing on the Piedmont National Wildlife Refuge, Round Oak, Ga., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 35 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The sport fishing season on Pippin's Lake extends from March 1 through September 30, 1973, and fishing is permitted in Allison Lake from June 30 through September 30, 1973.

(2) Fishing from the shoreline (bank fishing) at Allison Lake will be permitted from the dam only.

(3) Fishing is permitted during daylight hours only.

(4) Boats must be launched at designated areas only and may not be left in refuge fishing areas overnight.

(5) Electric motors may be used to propel boats. Gasoline powered motors are prohibited.

(6) Park in designated areas only. Entrance road to Pippin's Lake is through the campground in Compartment 19. Entrance road to Allison Lake is located across from refuge headquarters between Compartments 15 and 25.

(7) Firearms of any type are prohibited.

LOUISIANA

CATAHOULA NATIONAL WILDLIFE REFUGE

Sport fishing on the Catahoula National Wildlife Refuge, Jena, La., is permitted on the area designated by signs as open to fishing. The open area, comprised of the Cowpen Bayou impoundment, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations and the following special refuge conditions:

(1) The sport fishing season on the refuge extends from April 14, 1973, through October 14, 1973.

(2) Fishing permitted from 30 minutes before sunrise to 30 minutes after sunset.

(3) Gasoline powered outboard motors are not allowed. Electric trolling motors may be used.

(4) Boats may not be left in the refuge overnight.

(5) No camping or campfires permitted.

(6) No firearms permitted on the refuge.

LACASSINE NATIONAL WILDLIFE REFUGE

Sport fishing on the Lacassine National Wildlife Refuge, Lake Arthur, La., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 28,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from March 1, 1973, through October 15, 1973.

(2) No person may possess more than the daily creel limit allowed by State regulations.

(3) Fishing permitted from 45 minutes before sunrise to 45 minutes after sunset.

(4) Entry to Lacassine Pool restricted to four roller-ways provided.

(5) Boats may not be left inside the refuge overnight.

(6) Boats with outboard motors no larger than 10 horsepower permitted in Lacassine Pool. No size restrictions on boats and motors in the canals and streams.

SABINE NATIONAL WILDLIFE REFUGE

Sport game fishing on the Sabine National Wildlife Refuge, Sulphur, La., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 40,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport game fishing season on the refuge extends from March 1, 1973, through October 15, 1973.

(2) No person may possess more than the daily creel limit allowed by State regulations.

(3) Fishermen must not enter refuge waters earlier than 45 minutes before sunrise and shall leave refuge waters by 45 minutes after sunset.

(4) Boats may be moored only at designated areas in Pool 1b or Pool 3. Boats left at these mooring sites must bear owner's name and address. Boats found moored outside designated areas or without required identification will be removed to refuge headquarters. All boats must be removed from the refuge prior to the close of the fishing season.

(5) Boats may not be dragged across levees for access to pool areas. Travel over the refuge is restricted to waterways. Fishermen are not to walk canal banks or levees. Boat access into Pool 1b is restricted to bridge sites on Road Canal.

(6) Boats with outboard motors not larger than 10 horsepower permitted in refuge lakes and impoundments. No size restrictions on boats and motors in the canals and bayous.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Sport fishing on the Noxubee National Wildlife Refuge, Brooksville, Miss., is permitted on all refuge waters not specifically posted as closed to entry. These open areas, comprising 2,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The sport fishing season on the refuge extends from March 1 through October 31, 1973.

(2) Fishing permitted during daylight hours only.

(3) A daily permit (50 cents) is required by the Mississippi Game and Fish Commission to fish in Bluff and Loakfoma Lakes and tailwaters of the spillways.

(4) Private boats may not be left overnight on the refuge.

(5) No snag lines permitted.

NORTH CAROLINA

MATTAMUSKEET NATIONAL WILDLIFE REFUGE

Sport fishing, bow fishing, and herring dipping on the Mattamuskeet National Wildlife Refuge are permitted only on the areas designated by signs as open. These open areas, comprising 40,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. These activities shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) Sport fishing and bow fishing seasons extend from March 1–November 1.

(2) As an exception to (1) above, the following areas are open to bank fishing during the entire year.

(a) The causeway (State Highway 94 which crosses the lake).

(b) In the immediate vicinity of the Lake Landing water control structure.

(c) In the immediate vicinity of the Outfall Canal water control structure at Mattamuskeet Lodge.

(3) Herring (alewife) dipping will be permitted from March 1–May 15 from the canal banks and water control structures in the immediate vicinity of the following locations:

(a) Waupoppin canal control structure—daylight hours only.

(b) Outfall canal control structure—daylight hours only.

(c) Lake Landing control structure—closed from sunset Sunday to sunrise Monday; sunset Tuesday to sunrise Wednesday; sunset Thursday to sunrise Friday. Open at other times.

(4) Boats and outboard motors without size limitations permitted. Airboats are prohibited.

(5) Certain areas will be posted as closed to motor boats to prevent disturbance in prime spawning zones.

PEE DEE NATIONAL WILDLIFE REFUGE

Sports fishing on the Pee Dee National Wildlife Refuge, Wadesboro, N.C., is permitted only on the areas designated by signs as open to fishing. These open areas are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations, except the following special conditions:

(1) Open Season: *Year Round*—Brown Creek—within 100 yards of the Brown Creek Recreation Area.

(2) Open Season: *April 1–September 30*—Sullivan Pond—Anson County; Andrews Pond—Richmond County; Pee Dee River—Anson and Richmond Counties.

(3) Fishing permitted from sunrise to sunset.

(4) Only bank fishing permitted.

(5) No special refuge permit is required. State license must be carried on the person and exhibited to Federal or State officers upon request.

SOUTH CAROLINA

CAPE ROMAIN NATIONAL WILDLIFE REFUGE

Sport fishing on the Bulls Island Unit of the Cape Romain National Wildlife Refuge, Awendaw, S.C., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 610 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from March 15, 1973, through September 30, 1973.

(2) Fishing permitted during daylight hours only. No overnight camping allowed.

(3) Boats with electric motors permitted; gasoline powered engines prohibited.

(4) Boats must be removed from the refuge impoundments at the close of each day.

SANTEE NATIONAL WILDLIFE REFUGE

Sport fishing is permitted in accordance with all applicable State regulations on all refuge controlled areas of Lakes Marion and Moultrie, except that areas behind dikes maintained on the Cuddo, Pine Island and Bluff Units are closed to fishing. The following special regulations shall apply to the Dingle Pond and Potato Creek Impoundments:

(1) Sport fishing in the above mentioned impoundments extends from March 15, 1973, through October 31, 1973, both dates inclusive.

(2) Fishing is permitted during daylight hours only.

(3) Boats must be removed from these refuge impoundments at the close of each day.

SAVANNAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Savannah National Wildlife Refuge, Jasper County, Hardeeville, S.C., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 3,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions.

(1) The sport fishing season on the refuge extends from March 15, 1973, through October 25, 1973.

(2) Fishing is permitted during daylight hours only.

(3) Boats powered with electric outboard motors are permitted in the impoundments. Boats powered with gasoline outboard motors are prohibited in the impoundments.

TENNESSEE

CROSS CREEKS NATIONAL WILDLIFE REFUGE

Sport fishing on the Cross Creeks National Wildlife Refuge, Dover, Tenn., is permitted only on areas designated by signs as open to fishing. These open areas, comprising 4,050 acres, are delineated on a map that is available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for Elk and South Cross Creek Reservoirs and the 15 smaller refuge ponds extends from March 31 through September 15, 1973. Fishing is permitted in these refuge bodies of water from 30 minutes before sunrise to 30 minutes after sunset. The sport fishing season is open 24 hours per day, year-round on Barkley Lake.

(2) Boats powered by outboard motors of 5 horsepower or less are permitted on Elk and South Cross Creek Reservoirs. The 15 smaller refuge ponds are restricted to use by boats powered only by electric trolling motors and/or paddle. Motor size is not restricted on Barkley Lake.

(3) Methods of fishing the two reservoirs and impoundments are limited to hand fishing with rod and reel and/or pole and line.

(4) Overnight camping and/or overnight mooring of boats are prohibited on the refuge.

(5) For their safety fishermen must follow designated routes of travel while on the refuge and use the parking areas as provided.

(6) All State regulations must be obeyed while fishing on refuge reservoirs as well as that portion of Barkley Lake within the refuge. Fishing license must be carried on the person to be exhibited to Federal or State officers upon request. No special refuge permit is required.

HATCHIE NATIONAL WILDLIFE REFUGE

Sport fishing on the Hatchie National Wildlife Refuge, Brownsville, Tenn., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 100 acres, are delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from April 1, 1973, through November 14, 1973.

(2) Fishing permitted during daylight hours only.

(3) Boats powered with electric outboard motors are permitted. Gasoline outboard motors are prohibited.

(4) Methods of fishing are limited to pole and line or rod and reel, using natural or artificial baits.

(5) Vehicles may be used on refuge roads and trails to reach fishing area.

(6) Footpaths may be used to reach all lakes from Hatchie River.

(7) Firearms prohibited.

(8) Boats must be removed from refuge no later than November 30.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through January 31, 1974.

C. EDWARD CARLSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

JANUARY 24, 1973.

[FR Doc.73-1926 Filed 1-31-73;8:45 am]

Proposed Rule Making

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

[36 CFR Part 327]

WATER RESOURCE DEVELOPMENT PROJECTS

Special Recreation Use Fees

JANUARY 23, 1973.

Proposed amendment to rules and regulations governing public use of Water Resource Development Projects administered by the Chief of Engineers.

Notice is hereby given that the amendment to regulations set forth in tentative form below is proposed by the Secretary of the Army (acting through the Chief of Engineers). The proposed amendment is in the interest of more effective recreation-resource management of the water resource development projects.

It is the policy of the Department of the Army, whenever practicable, to afford the public the maximum opportunity to participate in the rule making process. As the Act of 11 July 1972 provides for Special Recreation Use Fees and the facilities for which such fees are applicable are presently being utilized by the public, it is impracticable and contrary to public interest to give more than 15 days for public participation in the proposed rule making. Accordingly, interested persons may submit written comments, suggestions, or objections to: HQDA (DAEN–CWO–R) Washington, D.C. 20314, on or before February 16, 1973.

For the Chief of Engineers.

J. W. MORRIS,
Major General, USA,
Director of Civil Works.

§ 327.25 Special recreation use fees.

(a) Public Law 92–347, 86 Stat. 459 authorizes the establishment of special recreation use fees for the use of sites, facilities, equipment or services furnished at Federal expense at all water resource development projects administered by the Secretary of the Army acting through the Chief of Engineers.

(b) The range of fees set forth in paragraph (c) of this section are established in accordance with the following criteria:

(1) The direct and indirect cost to the Government;

(2) the benefit to the recipient;

(3) the public policy or interest served;

(4) the comparable recreation fees charged by other Federal and non-Federal public agencies within the service area of the management unit at which the fee is charged;

(5) the economic and administrative feasibility of fee collection;

(6) other pertinent factors; and

(7) special recreation use fees may be established for other types of facilities in addition to those which are listed in paragraph (c) of this section.

(c) District Engineers shall designate applicable fee charges from within the ranges as set forth below:

Camp and trailer sites	Up to $4.50 for overnight use.
Group camping sites	Up to $0.50 per person per day.

(The District Engineer may select group use rates in lieu of the above "group camping sites" special recreation fee, and may establish a minimum group use charge of at least $3.00 per day per group without regard to group size or other provisions of this part.)

Highly developed launching sites.	$0.50 to $1.50 per day.
Boat storage and handling.	To be established at a daily, weekly, monthly or annual rate in accord with the criteria set forth in this section.
Elevators	At least $0.10 per person per round trip.
Ferries and other means of transportation.	To be established at a rate in accord with the criteria set forth in this section.
Bathhouses	Up to $0.50 per day per person.
Swimming pools	To be established at a daily rate in accord with the criteria set forth in this section.
Lockers	$0.10 per locker daily.
Overnight shelters.	To be established at a daily rate in accord with the criteria set forth in this section.
Precut firewood	To be established at a rate in accord with the criteria set forth in this section.
Guided tours	To be established at a rate in accord with the criteria set forth in this section.
Electrical hookups.	Up to $0.50.
Vehicle and Trailer Storage.	To be established at a daily, weekly, monthly or annual rate in accord with the criteria set forth in this section.
Boats, non-motorized.	A minimum of $1.00 per boat per day or fraction thereof.
Boats, motorized	A minimum of $5.00 per day or fraction thereof.
Specialized sites (highly developed multiuse sites).	Up to $1.50 per person per day.

(d) The District Engineer shall post signs at areas with designated Special Recreation Use Facilities in a manner such that the visiting public will be clearly notified that special recreation use fees are charged.

(e) Failure to pay the user fee prescribed in this section is a violation of the Land and Water Conservation Fund Act, as amended (86 Stat. 459), and subjects the violator to a citation requiring appearance before a U.S. magistrate and punishment by a fine of not more than $100.

[FR Doc.73–1917 Filed 1–31–73;8:45 am]

[32 CFR Part 641]

[Engineer Reg. No. 405–1–663]

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Notice of Proposed Rule Making

Pursuant to the authority contained in 5 U.S.C. 301, and section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 1900, 42 U.S.C. 4601, 4633, it is proposed by the Secretary of the Army (acting through the Chief of Engineers) to issue final regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 in a new Subchapter J of Chapter V, Title 32, of the Code of Federal Regulations.

These proposed regulations are intended to be used throughout the Corps of Engineers in administration of the Relocation Assistance Program incident to all property acquired by the Corps of Engineers for the Department of the Army or in behalf of other agencies for whom the Department of the Army acts as real estate agent. The regulations incorporate policies and procedures promulgated in the Office of Management and Budget Circular A–103, dated May 1, 1972. All appendixes referred to in these regulations are filed as part of the original document.

It is the policy of the Department of the Army, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulation in writing to HQDA (DAEN–REH–O) by March 19, 1973.

For the Chief of Engineers.

Dated: January 29, 1973.

WOODROW BERGE,
Director of Real Estate.

SUBCHAPTER J—REAL PROPERTY

PART 641—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Subpart A—General

POLICIES AND GENERAL INSTRUCTIONS

DEFINITIONS

Subpart B—Assurance of Adequate Replacement Housing Prior to Displacement

Subpart C—Moving and Related Expenses

Subpart D—Payments in Lieu of Moving and Related Expenses

Subpart E—Replacement Housing Payment for Homeowners

Subpart F—Replacement Housing Payments for Tenants and Certain Others

Subpart G—Mobile Homes

Subpart H—Relocation Assistance Advisory Services

Subpart I—Uniform Real Property Acquisition

Subpart J—Federally Assisted Programs

RELOCATION ASSISTANCE ASSURANCES BY STATE AGENCIES

ADMINISTRATION

Subpart K—Application Processing and Submission to Disbursing Officer for Payment of Benefits

Subpart L—Records and Repairs

Subpart M—Appeals

Appendix A–J filed as part of the original document.

AUTHORITY: 5 U.S.C. 301; sec. 213, Public Law 91-646, 84 Stat. 1894, 1900 (42 U.S.C. 4601, 4633).

Subpart A—General

POLICIES AND GENERAL INSTRUCTIONS

§ 641.1 Purpose.

To establish policy and guidance for implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646; 84 Stat. 1894), hereinafter referred to as the Act, to assure fair, equitable, and uniform treatment of persons displaced by Federal and federally assisted programs for which the Corps of Engineers has responsibility. All references in this regulation to sections or subsections are references to sections or subsections of the Act.

§ 641.2 Applicability.

This part is applicable to the Office of the Chief of Engineers (OCE) and to all Division and District Engineers having real estate responsibilities.

§ 641.3 References.

(a) AR 405–10.

(b) ER 405 series of regulations.

(c) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646, approved January 2, 1971; 84 Stat. 1894), (appendix A).

(d) Title VI of the Civil Rights Act of 1964; title VIII of the Civil Rights Act of 1968 (Public Law 90–284).

§ 641.4 Basic policy and procedural requirements.

Procedures, policies, and forms prescribed in the ER 405 series of regulations relating to the acquisition of real property and interests therein will be followed except as they may be modified by the requirements of the Act and this regulation.

(a) A written notice of displacement must be given to each individual, family, business, or farm operation to be displaced. Such notice shall be served personally or by certified (or registered) first-class mail. (See appendix C.)

(b) In order to qualify for benefits under title II of the Act, as a displaced person, either of two conditions must be fulfilled:

(1) The person must have moved (or moved his personal property) as a result of the receipt of a written notice to vacate which notice may have been given before or after initiation of negotiations for acquisition of the property as prescribed by regulations. (When negotiations are initiated prior to issuance of a written notice, all persons contacted should be advised that the benefits of the Act are available only when the person moves subsequent to receipt of a written notice); or

(2) The subject real property must, in fact, have been acquired, and the person

must have moved as a result of its acquisition (except in those instances covered by sections 217 and 219 of the Act). A move made after acceptance of an offer to sell (contract of purchase) but before closing is a move made as the result of acquisition of subject property.

(c) In addition, certain of the benefits provided by title II of the Act are available as follows:

(1) Whenever the acquisition of, or notice to move from, real property used for a business or farm operation causes any person to move from the other real property used for his dwelling, or to move his personal property from such other real property, such person may receive the benefits provided by sections 202 (a) and (b) and 205 of the Act.

(2) If it is determined that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, the District Engineer may offer such person relocation advisory services under section 205(c) of the Act.

(d) For real property acquisitions under Federal law, contracts or options to purchase real property shall not incorporate provisions for making payments for relocation costs and related items in title II of the Act. Appraisers shall not give consideration to, nor include in their real property appraisals, any allowances for the benefits provided by title II. In the event of condemnation with a declaration of taking, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under title II of the Act. Insofar as practicable, a person negotiating for the acquisition of real property will not negotiate the relocation benefits to which a displaced person may be entitled.

(e) Applications for benefits under the Act are to be made within 18 months from the date on which the displaced person moves from the real property acquired or to be acquired; or the date on which the displacing agency makes final payment of all costs of that real property, whichever is the later date. Final payment of all costs includes satisfaction of awards in condemnation proceedings. The Chief of Engineers may extend this period upon a proper showing of good cause.

(f) A displaced person who makes proper application will be paid promptly after a move and, in hardship cases, may be paid in advance.

(g) The provisions of the Act apply to the acquisition of all real property for, and the relocation of, all persons displaced by Federal programs and projects undertaken by State agencies which receive Federal financial assistance for all or part of the cost. It is immaterial whether the real property is acquired by a Federal or State agency or whether Federal funds contribute to the cost of the real property.

(h) Relocation benefits under title II of the Act available in leasehold cases depend upon the circumstances under which the leasing action takes place. In cases where the Government initiates action to lease a specific property, all pertinent provisions of title II of the Act apply to both owners and tenants. In cases where the owner voluntarily offers his property for lease to the Government without any solicitation by the Government, any tenants who are displaced are entitled to benefits under title II of the Act. However, the owner in such a case is not entitled to title II benefits.

§ 641.5 Review of activities for compliance with titles II and III.

The District Engineer shall provide for the periodic review of all Federal and federally assisted programs for which he is responsible to insure compliance with the provisions of titles II and III of the Act.

§ 641.6 Public information.

The District Engineer shall insure that the public receives adequate knowledge of programs involving relocations and that persons to be displaced be fully informed, at the earliest possible time, of such matters as the relocation payments and assistance available; the specific plans and procedures for assuring that suitable replacement housing will be available for homeowners and tenants, in advance of displacement; the eligibility requirements and procedures for obtaining such payments and assistance; and the right of administrative review by the Chief of Engineers.

§ 641.7 Effective date.

The Act became effective January 2, 1971, and applies to all persons who moved after that date from real property acquired by the Government for public use.

§ 641.8 Repeal of laws.

The Resettlement Act, 10 U.S.C. 2680, and section 301 of the Land Acquisition Policy Act of 1960, 33 U.S.C. 596, were repealed by the Act.

§ 641.9 Benefits to be determined as of date of vacation.

Where a former owner or tenant does not vacate the acquired property immediately, or such property is leased to a former owner or tenant, relocation rights will be computed as of the time the property is vacated which, under Corps policy, is not later than 2 years from the date of acquisition. Former owners and tenants of property acquired before January 2, 1971, who move therefrom after that date are limited to benefits under sections 202 and 204, Public Law 91-646. No benefits shall be paid under section 203 to any person whose property was acquired prior to January 2, 1971.

Definitions

§ 641.21 The Act.

"The Act" means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

§ 641.22 District Engineer.

The term "District Engineer" as used in this regulation means any District Engineer or his Chief of Real Estate, or where the Division Engineer handles real estate on a centralized basis, the Division Engineer or his Chief of Real Estate.

§ 641.23 Federal agency.

The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government (except the National Capital Housing Authority), any wholly owned Government corporation (except the District of Columbia Redevelopment Land Agency), and the Architect of the Capitol, the Federal Reserve Banks, and branches thereof.

§ 641.24 State/State agency.

The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territories of the Pacific Islands, and any political subdivision thereof. The term "State agency" means the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

§ 641.25 Displacing agency.

The term "displacing agency" means a Federal agency in the case of a direct Federal project or a State agency in the case of a project receiving Federal financial assistance.

§ 641.26 Federal financial assistance.

The term "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

§ 641.27 Person.

The term "person" means any individual, partnership, corporation, or association.

§ 641.28 Displaced person.

The term "displaced person" means any person who, on or after January 2, 1971, moves from real property, or moves his personal property from real property as a result of acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purposes of sections 202 (a) and (b) and 205 of the Act, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

§ 641.29 Family.

A "family" means two or more individuals who are related by blood, adoption, marriage, or legal guardianship who live together as a family unit. However, if the District Engineer considers that circumstances warrant, others who live together as a family unit may be treated as if they were a family for the purpose of determining benefits under title II of the Act.

§ 641.30 Business.

The term "business" means any lawful activity, excepting a farm operation, conducted primarily:

(a) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(b) For the sale of services to the public;

(c) By a nonprofit organization; or

(d) Solely for the purposes of section 202(a) of the Act, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted. For the purpose of section 202(c) of the Act, where a warehouse or other storage facility operated in conjunction with a business is acquired by the Government and the business is not so acquired, the warehouse or storage facility is not considered to be a business. An example is a warehouse owned by a furniture store. A lot for the storage of automobiles, which was acquired, and the related car sales business or garage which was not acquired would fall in the same category.

§ 641.31 Farm operation.

The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

§ 641.32 Mortgage.

The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

§ 641.33 Dwelling.

"Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single-family building, a one-family unit in a multi-family building; a unit of a condominium, or cooperative housing project; a mobile home, or any other residential unit. Part-time and seasonal homes are not included.

§ 641.34 Owner.

"Owner" means a person who holds fee title, a life estate, a 99-year lease, or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interest, or who is possessed of such other proprietary interest in the property acquired as, in the judgment of the District Engineer, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance, or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

§ 641.35 Financial means.

Section 205(c)(3) requires that the replacement dwelling is within the financial means of the displaced individual or family. In making this determination, the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes, and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payment to the income of the displaced family or individual, including supplemental payments made by public agencies.

Subpart B—Assurance of Adequate Replacement Housing Prior to Displacement

§ 641.51 Assurance of availability.

(a) *Availability.* District Engineers may not proceed with any phase of a project or authorize a State agency to proceed with any phase of a project which will cause the displacement of any person until it has been determined, or until satisfactory assurances have been received from the displacing State agency, that within a reasonable period of time prior to displacement, there will be available on a basis consistent with the requirements of title VIII of the Civil Rights Act of 1968 (Public Law 90-284), in areas generally not less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary (hereinafter DSS) dwellings, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

(b) *Support.* The determination or assurances shall be based on a current survey and analysis of available replacement housing by the District Engineer. Such survey and analysis must take into account the competing demands on available housing.

(c) *Waiver.* In accordance with section 205(c)(3), the Chief of Engineers may authorize the waiver of the assurances. This will be done on a case by case basis. Waivers shall be limited only to emergency or other extraordinary situations where immediate possession of real property is of crucial importance. Each waiver of assurance of replacement housing shall be supported by appropriate findings and a determination of the necessity for the waiver. Determinations so made shall be included in the annual report required by section 214.

(d) *Decent, safe, and sanitary housing.* A DSS dwelling is one which is found to be in sound, clean, and weather-tight condition, and which meets local housing codes. District Engineers shall be governed by the following criteria in determining if a dwelling unit is DSS. Adjustments may only be made in the cases of unusual circumstances or in unique geographical areas.

(1) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a cooking stove, or connection for same; a separate complete bathroom; hot and cold running water in both the bathroom and the kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(2) *Nonhousekeeping unit.* A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards will be subject to the approval of the District Engineer.

(3) *Occupancy standards.* Occupancy standards for replacement housing shall comply with Federal agency approved occupancy requirements or comply with local codes.

(4) *Absence or inadequacy of local standards.* In those instances where there is no local housing code or a local housing code does not contain certain minimum standards or the standards are inadequate, the Chief of Engineers, based on recommendations of the District Engineer, will establish such standards.

§ 641.52 Housing provided as a last resort.

When it is determined that adequate replacement housing is not available and cannot otherwise be made available, District Engineers will report the facts to the Chief of Engineers with recommendations. Such housing will be provided by the Government as a last resort.

§ 641.53 Loans for planning and preliminary expenses.

When contemplating loans for planning and other preliminary expenses authorized under section 215, District Engineers will report the facts to the Chief of Engineers with recommendations. This provision also applies in connection with federally assisted projects.

Subpart C—Moving and Related Expenses

§ 641.61 Eligibility.

(a) Any displaced person (including one who conducts a business or farm operation) is eligible to receive a payment for moving expenses. A person who lives on his business or farm property

may be eligible for both moving and related expenses as a dwelling occupant in addition to being eligible for payments with respect to displacement from a business or farm operation.

(b) Any person who moves from real property or moves his personal property from real property as a result of the acquisition of such real property, in whole or in part, or as a result of a written notice of the acquiring agency to vacate real property, or solely for the purpose of section 202 (a) and (b) as a result of the acquisition of, or a written notice of the acquiring agency to vacate, other real property on which such person conducts a business or farm, is eligible to receive a payment for moving expenses.

§ 641.62 Actual reasonable expenses in moving.

(a) *Allowable moving expenses.*

(1) Transportation of individuals, families, and personal property from the acquired site to the replacement site, not to exceed a distance of 50 miles, except where the District Engineer determines that relocation beyond the 50-mile area is justified.

(2) Packing and unpacking, crating and uncrating of personal property.

(3) Advertising for packing, crating, and transportation when the District Engineer determines that it is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when the District Engineer determines that storage is necessary in connection with relocation.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal, reinstallation, reestablishment, including such modification as deemed necessary by the District Engineer, and reconnection of utilities for machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and that the Government is released from any payment for the property.

(7) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agent or employees), in the process of moving, where insurance to cover such loss or damage is not available.

(8) Payment not to exceed $100 for time lost from employment to supervise hired movers.

(9) Such other reasonable expenses which, in the opinion of the District Engineer, were necessarily incurred by the displaced person.

(b) *Limitations.*

(1) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially, unless the District Engineer determines a greater amount is justified.

(2) When an item of personal property which is used in connection with any business or farm operation is not moved but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost minus the proceeds received from the sale, or the estimated cost of moving, whichever is less.

(3) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the District Engineer, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving of junkyards, stockpiled sand, gravel, minerals, metals, and other similar type items of personal property.

(4) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to, or in excess of, the in-place value of the display, consideration should be given to acquiring such display or displays as a part of the real property, unless such acquisition is prohibited by State law.

§ 641.63 Nonallowable moving expenses and losses.

(a) Additional expenses incurred because of higher cost of living in a new location.

(b) Cost of moving structures or other improvements as to which the displaced person reserved removal rights, except as otherwise provided by law.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of goodwill.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Payment for search cost in connection with locating a replacement dwelling.

§ 641.64 Reasonable expenses in searching for replacement business or farm.

(a) *Allowable.*

(1) Actual reasonable travel costs.

(2) Extra costs for meals and lodging.

(3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour.

(4) In the discretion of the District Engineer, broker, real estate, or other professional fees deemed necessary to locate a replacement business or farm operation.

(b) *Limitation.* The total amount a displaced person may be paid for searching expenses may not exceed $500 unless the Chief of Engineers determines that a greater amount is justified based on the circumstances involved.

§ 641.65 Actual direct losses by business or farm operation.

When the displaced person does not move personal property, he shall be required to make a bona fide effort to sell it, and shall be reimbursed for the reasonable costs incurred.

(a) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, or the estimated cost of moving 50 miles, whichever is less.

(b) When the personal property is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement or the estimated cost of moving 50 miles, whichever is less.

(c) The cost to the Government of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

Subpart D—Payments in Lieu of Moving and Related Expenses

§ 641.81 Dwellings—Moving expense schedules; dislocation allowance.

(a) Subsection 202(b) provides that at the option of the displaced person he may receive a moving expense allowance not to exceed $300 based on schedules established by each agency head. District Engineers will use the moving allowance schedules maintained by the respective State highway departments as the basis for such schedules. These schedules shall provide for adequacy of reimbursement in every locality. The Federal Highway Administration is required to maintain all schedules on a current basis and such schedules are normally available upon request.

(b) Where there are no highway department schedules, the District Engineer will join with other Federal agencies causing displacement in such areas in the development of a single moving expense schedule for the use of all displacing agencies.

(c) A displaced person, who elects to receive a payment based on a schedule, shall be paid a sum not to exceed $300 under the schedule used in the jurisdiction in which the displacement occurs regardless of where he relocates. In addition, he may be paid a dislocation allowance of $200, provided, however, in cases of multiple occupancy, not families, only one dislocation allowance per dwelling will be paid.

§ 641.82 Businesses—Eligibility.

(a) A business, as defined in subsection 101(7) (A), (B), and (C) is eligible under subsection 202(c) to receive a payment in lieu of moving and related expenses. Care must be exercised, in each instance, however, to assure that such payments are made only in connection with a bona fide business. The District Engineer will make a determination with

respect to whether a given activity constitutes such a business.

(b) Those businesses described in subsection 101(7)(D) are not eligible under subsection 202(c) for a payment in lieu of moving and related expenses.

(c) Where a displaced person is displaced from his place of business, no payment shall be made under subsection 202(c) until after the District Engineer determines: (1) That the business is not a part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and (2) that the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the District Engineer only after consideration of all pertinent circumstances, including, but not limited to, the following factors:

(1) The type of business conducted by the displaced concern.

(2) The nature of the clientele of the displaced concern.

(3) The relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person.

§ 641.83 Farms—Partial taking.

Where a displaced person is displaced from only a part of his farm operation, the fixed payment provided by subsection 202(c) shall be made only if the District Engineer determines that the farm met the definition of a farm operation prior to the acquisition and that the property remaining after the acquisition can no longer meet the definition of a farm operation.

§ 641.84 Nonprofit organizations.

Where a nonprofit organization is displaced, no payment shall be made under subsection 202(c) until after the District Engineer determines:

(a) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization.

(b) That the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

§ 641.85 Net earnings.

The term "average annual net earnings" as used in subsection 202(c) means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the District Engineer determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. Income derived from capital gains resulting from liquidation of business or farm operations in anticipation of Government acquisition should be excluded. However, other capital gains may be included in computing average annual net earnings if they occurred as a normal incident to business or farm operations. If a business or farm operation has no net earnings, or has suffered losses during the period used to compute "average annual net earnings," it may nevertheless receive the $2,500 minimum payment.

§ 641.86 Amount of farm operation or business fixed payment.

The fixed payment to a person displaced from a farm operation or from his place of business, including nonprofit organizations, shall be in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall not be less than $2,500 nor more than $10,000.

Subpart E—Replacement Housing Payment for Homeowners

§ 641.101 Eligibility.

(a) In addition to other payments authorized, a displaced owner-occupant is eligible for a replacement housing payment, authorized by section 203(a), not to exceed $15,000, if he meets both of the following requirements:

(1) Actually owned and occupied the acquired dwelling from which displaced for not less than 180 days prior to the initiation of negotiations for the property. The term "initiation of negotiations" means the day on which the acquiring agency makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property.

(2) Purchases and occupies a replacement dwelling, which is DSS, not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date, subject to exception in § 641.107(a)(1).

(b) A displaced owner-occupant of a dwelling who is determined to be ineligible under section 203 may be eligible for a replacement housing payment under section 204.

(c) Where the owner of a displaced business or farm owns and occupies a dwelling on the same premises, such person may be eligible for a replacement housing payment in addition to the payments authorized for such displaced business or farm.

§ 641.102 Comparable replacement dwelling.

For the purposes of rendering relocation assistance by making referrals for replacement housing and for computation of the replacement housing payment, a comparable replacement dwelling is one which is DSS and:

(a) Functionally equivalent to and substantially the same as the acquired dwelling with respect to:

(1) Number of rooms;

(2) Area of living space;

(3) Age;

(4) State of repair.

(b) Available to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements of title VIII of the Civil Rights Act of 1968.

(c) Located in areas generally not less desirable in regard to:

(1) Public utilities;

(2) Public and commercial facilities;

(3) Reasonable accessibility to the displaced person's place of employment.

(d) Within the financial means of the displaced family or individual.

(e) Mobile homes may be considered as replacement dwellings, provided they meet the standards of DSS dwellings.

§ 641.103 Replacement housing payment.

The replacement housing payment of not more than $15,000 is comprised of the differential payment for replacement housing, increased interest payments, and expenses incident to the purchase of a replacement dwelling.

§ 641.104 Differential payment for replacement housing.

The amount established as the differential payment for the replacement housing sets the upper limit of such payment. The District Engineer may determine the amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency is necessary to purchase a comparable replacement dwelling by either establishing a schedule or by a comparative method.

(a) *Schedule method.* The District Engineer responsible for the displacement of homeowners may make surveys to determine and certify the availability of comparable DSS housing which will meet the requirements for replacement dwellings. These surveys shall be based on a locality-wide study and must include all types of properties comparable and similar to those to be acquired by the agency. In large urban areas this survey may be confined to one area of the city or may cover several different areas if they are comparable and equally accessible to public services and places of employment. In order to assure the greatest comparability of dwellings in any such study to the dwellings being acquired, the study should be divided into classifications as to type of construction, number of rooms, price range, etc. The survey shall include the asking price of any available housing found to be acceptable as replacements. The selling prices of each of the various types of dwellings being studied should also be obtained in the survey. The amount of adjustments required for the asking prices can then be determined by comparing the asking with the actual sale price of similar houses. An analysis of the survey will then develop the average selling price of various classes and types of dwelling units on the market. The District Engineer may then establish a schedule of

reasonable acquisition costs for comparable replacements for the various types of properties acquired within the project. Every effort should be made to enlist the assistance and services of local agencies and authorities in preparing these surveys and subsequent schedules. Also, the District Engineer should coordinate his staff's efforts with other agencies and, if feasible, arrange for one agency to conduct all surveys and keep the schedule current. When there are other federally assisted programs which are causing displacements in the area, close coordination is necessary for assurance that the District Engineer and other agencies are not relying upon the same housing and that the total number of units certified by all agencies does not exceed the total of units actually available for replacement housing. The District Engineer should also coordinate with other agencies on the developing of the replacement housing schedules so that the computation of differential housing payments will be uniform.

(b) *Comparative method.* The District Engineer may determine the price of a comparable replacement dwelling by selecting dwellings most representative of the dwelling unit acquired, available to the displaced person, and which meet the definition of a comparable replacement dwelling. A single dwelling shall be used only when additional comparable dwellings are not available.

(c) *Limitations.*

(1) If the displaced person voluntarily purchases and occupies a DSS dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment shall be made.

(2) If the displaced person voluntarily purchases and occupies a DSS replacement dwelling at a price less than the amount estimated to be necessary under (a) or (b), above, the replacement housing payment will be reduced to that amount required to pay the difference between the price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(3) A displaced person who purchases a home which is not DSS, but which he brings up to DSS standards and occupies within the prescribed time period will be considered eligible as contemplated by section 203(a)(2) of the Act.

(4) In order for a displaced person to be eligible for benefits under section 203, his dwelling must have been acquired by the displacing agency. If a displaced person reserves the right to remove the dwelling and moves it to another location, it must be corrected, where necessary, at the owner's expense, to DSS standards and occupied by the applicant before a replacement housing payment can be made. When this is done, benefits will be computed in the some manner as in the case of a purchased replacement dwelling.

(5) Where a dwelling is located on a tract larger than the average residential lot in the area, the replacement housing payment will be determined by estimating the value of the dwelling at the present location on a homesite typical in size for the area and adjusting this amount with the average selling price of a comparable dwelling on a site of average size for the area.

(6) Where a dwelling is located on a tract having a fair market value based on a higher and better use than residential, the replacement housing payment will be determined by estimating the value of the dwelling at its present location but on a lot zoned for residential use, and adjusting this amount with the average selling price of a comparable dwelling on a typical residential homesite for the area.

§ 641.105 Increased interest payments.

(a) This shall be the amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount will be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for acquisition of such dwelling. Such amount will be equal to the excess of the aggregate interest and other debt service costs of the amount of the principal of the mortgage(s) on the replacement dwelling which is equal to the unpaid balance of the mortgage(s) on the acquired dwelling over the remaining term of the mortgage(s) on the acquired dwelling, reduced to discounted present value. The discount rate will be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located. The basis for the payment for increased interest costs shall be the amount of the unpaid debt on the displaced person's property at the time of the acquisition of the real property. The increased interest payment shall be the present discounted value of the actual additional cost of financing the debt balance for its remaining term plus any points which the displaced person may have to pay on the amount refinanced.

(b) The following is an example of computation of payment for increased interest costs:

Outstanding balance of mortgage on acquired dwelling	$8,943.27.
Number of months remaining until last payment is due for mortgage on acquired dwelling.	186 months (15½ years).
Annual interest rate of mortgage on acquired dwelling	4¾ percent.
Annual interest rate of mortgage on replacement dwelling (or, if it is lower, the prevailing annual interest rate currently charged by mortgage lending institutions in the general area in which the replacement dwelling is located).	6⅞ percent.
Prevailing annual interest rate paid on standard passbook savings accounts by commercial banks.	4 percent.
Monthly payment required to amortize a loan of $8,943.27 in 186 months (15½ years) at an annual rate of 4¾ percent (old dwelling mortgage rate).	$68.06.
Monthly payment required to amortize a loan of $8,943.27 in 186 months (15½ years) at an annual interest rate of 6⅞ percent (new dwelling mortgage rate).	$78.34.
Monthly payment required to amortize a loan of $9,943.27 in 186 months (15½ years) at an annual rate of 4 percent (savings rate).	$64.66.
Monthly payment based on rate for replacement dwelling	$78.34.
Monthly payment based on rate for acquired dwelling	$68.06.
Difference	$10.28.
Divide result (difference) by monthly payment based on savings rate.	$10.28÷$64.66.
Result	.158985.
Multiply outstanding balance	$8,943.27×.158985.
Result	$1,421.85.
Add any debt service cost on loan for replacement dwelling (include points paid by purchaser which are not reimbursable as an incidental expense).	$ 217.62.
Increased interest cost payment due property owner	$1,639.47.

§ 641.106 Expenses incident to purchase of replacement dwelling.

A displaced person may be paid, as part of the replacement housing payment, reasonable expenses incident to the purchase of the replacement dwelling. Items, such as the following, are eligible for reimbursement:

(a) Legal, closing, and related costs including title searches and guarantees, preparing conveyance contracts, notary fees, surveys, preparing drawings of plots, and charges incident to recordation;

(b) Lenders, FHA, or VA appraisal fees;

(c) FHA or VA application fee;

(d) Certification of structural soundness when required by lender, FHA, or VA;

(e) Credit report;

(f) Escrow agent's fee;

(g) State revenue stamps and sale or transfer taxes.

§ 641.107 Contract for rehabilitation or construction of replacement dwellings.

(a) A displaced person may, in lieu of purchasing a comparable DSS replacement dwelling, contract for the rehabilitation of an existing dwelling purchased by him, contract for the purchase of a dwelling to be constructed on a site provided by a builder or developer, or contract for the construction of a dwelling

on a site which he owns or acquires for that purpose.

(1) If the date of completion of rehabilitation or construction of a replacement dwelling may be delayed, for reasons not within the reasonable control of the displaced person, beyond the time required for eligibility for payment, the District Engineer may determine the date of occupancy as the date the displaced person enters into a contract for such rehabilitation and construction, or for the purchase, *Provided, however,* That no replacement housing payment will be made until the displaced person actually occupies the dwelling.

(2) Ordinarily, the displacement should not occur before replacement housing is available. However, the displaced owner may elect to contract for purchase of a dwelling to be constructed by a developer, or contract for rehabilitation or construction of a dwelling and relocate into interim housing. Where comparable DSS housing is available and the displaced person makes such election, the cost of living in such interim housing is not reimbursable.

(b) Whenever a displaced person is eligible for a replacement housing payment, the District Engineer may, at the request of the displaced person, provide a written statement to any interested person, financial institution, or lending agency as to the displaced person's eligibility for a payment and the requirements that must be satisfied before such payment may be made. If the proposed replacement dwelling has been selected, or if plans and specifications are available for the construction or rehabilitation of the proposed dwelling, the District Engineer may, after inspecting the dwelling or plans, and finding that they meet the required standards, include such finding and the amount of payment to be available in such statement.

§ 641.108 Verification and records.

A written record of the determination that replacement housing is comparable and DSS, with supporting details, will be made and placed with the records of the case. Also, a written verification of the purchase and occupancy of such dwelling will be made and filed with the records of the case.

§ 641.109 Advance replacement housing payment in condemnation cases.

No property owner should be deprived of the earliest possible benefits of a replacement housing payment to which he is rightfully due. An advance replacement housing payment may be computed and paid to a property owner if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. Since the amount of the replacement housing payment cannot be determined due to the pending condemnation proceeding, a provisional replacement housing payment may be calculated by deeming the appraised fair market value of the property as the acquisition price. Payment of such amount may be made upon the owner-occupant's agreement that: (1) Upon final determination of the condemnation proceeding the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the average price required to acquire a comparable DSS dwelling; and (2) if the amount awarded in the condemnation proceeding as the fair market value of the property acquired plus the amount of the replacement housing payment advanced exceeds the cost of an average comparable dwelling, he will refund the amount of the excess. However, in no event shall he be required to refund more than the amount of the replacement housing payment advanced. If the property owner does not agree to such adjustment, the replacement housing payment will be deferred until the case is finally adjudicated and computed on the basis of the final determination, using the award as the acquisition price.

§ 641.110 Requirement to receive payment.

Before an otherwise eligible owner-occupant may receive a replacement housing payment the District Engineer must have verified that he purchased and occupied DSS housing within the required time. The displaced person is not required to purchase and occupy comparable housing, but he must purchase and occupy DSS housing. Upon such verification, the District Engineer will certify that the owner-occupant did purchase and occupy such housing within the prescribed time.

Subpart F—Replacement Housing Payments for Tenants and Certain Others

§ 641.131 Eligibility.

(a) A displaced tenant or owner-occupant of an acquired dwelling is eligible for a replacement housing payment not to exceed $4,000, as authorized by section 204, if he meets both of the following requirements:

(1) Actually occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property. The term "initiation of negotiations" means the day on which the District Engineer makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property. Tenants and other persons occupying property shall be advised when negotiations for the property are initiated with the owner thereof.

(2) Is not eligible to receive a payment under section 203.

(b) An owner-occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for a replacement housing payment as a tenant, as authorized by section 204, when he rents a DSS replacement dwelling, instead of purchasing and occupying a replacement dwelling which is DSS not later than the end of the 1-year period beginning on the date on which he receives from the District Engineer final payment for all costs for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

§ 641.132 Computation and method of payment.

The benefits consist of a rental replacement housing payment, or if replacement housing is purchased within 1 year from displacement, a down payment, including expenses incident to closing. The total replacement housing payment may not exceed $4,000.

(a) *Rental supplement.* The District Engineer may determine the amount necessary to rent a comparable replacement dwelling by either establishing a schedule or by using a comparative method. However, in cases where it is established that the applicant will occupy comparable DSS replacement housing at a rental which is less than that computed under the following methods, the payment will be based on the actual rental.

(1) *Schedule method.* The District Engineer may establish a rental schedule for renting comparable replacement dwellings as described in § 641.102 and which are available in the private market for the various types of dwellings to be acquired. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (the average monthly cost from the schedule) and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations, if such rent was reasonable. For a displaced owner-occupant, the present rental rate for the acquired dwelling should be economic rent as determined by market data. There may be other circumstances which may indicate the use of economic rather than actual rent paid by the displaced person. For the purposes of these guidelines, economic rent is defined as the amount of rent the displaced person would have had to pay for a comparable dwelling unit in an area similar to the neighborhood in which the dwelling unit to be acquired is located. The schedule should be based on current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area, the District Engineer shall cooperate with the other agencies concerned in choosing the method for computing the replacement housing payment and shall use uniform schedules of average rental housing in the community or area.

(2) *Comparative method.* The District Engineer may determine the average month's rent by selecting one or more dwellings most representative of the dwelling unit acquired, which is available to the displaced person and meets the definition of a comparable replacement dwelling as described in § 641.102. The payment should be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years and subtracting from such amount 48 times the average

month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations, if such rent was reasonable. There may be circumstances which may dictate the use of economic rather than actual rent paid by the displaced person.

(3) *Exceptions.* The District Engineer may establish the average month's rent paid by the displaced person by using more than 3 months, if he deems it advisable.

(4) *Alternate to (a) (1) and (2).* When neither method is feasible, the District Engineer shall make recommendations to the Chief of Engineers for an alternate method of computing the payment.

(5) *Method of payment.* Payments which exceed $1,000 for a 4-year term will be made in equal installments on an annual basis. Before making each payment, the District Engineer will determine that the tenant is in DSS housing. A payment which totals $1,000 or less for a 4-year term will be paid in one lump sum and after such payment the District Engineer has no further responsibility to ascertain whether the tenant continues to occupy DSS housing.

(b) *Purchases—Replacement housing payment.* If the displaced person elects to purchase instead of renting, the payment shall be computed by determining the amount of downpayment required by paragraph (b)(1) of this section, plus certain incidental expenses for the purchase of replacement housing as follows:

(1) The amount of downpayment shall be based on the amount of downpayment that would be required for purchase of a comparable replacement dwelling using a conventional loan, regardless of the type of loan actually obtained. Whereas a minimum downpayment or no downpayment may be required (e.g., VA and FHA), as long as the applicant actually makes a downpayment in the amount which would be required for a conventional loan, reimbursement may be made in such amount.

(2) Incidental expenses of closing the transaction are those as described in § 641.106.

(3) The maximum payment may not exceed $4,000. If more than $2,000 is required, the tenant must match any amount in excess of $2,000 by an equal amount in making the downpayment and related closing costs.

(4) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement.

Subpart G—Mobile Homes

§ 641.151 Mobile home qualifies as a dwelling.

A mobile home is a "dwelling" within the meaning of sections 203 and 204 of the Act, regardless of whether, in law, the mobile home is realty or personalty if it is, in fact, the place of permanent or customary and usual abode of a displaced person as defined in section 101(6) of the Act.

§ 641.152 Acquisition of mobile home.

A mobile home will be acquired where it is considered to be real property under State law, cannot be moved without substantial damage or unreasonable cost, or is not a DSS dwelling.

§ 641.153 Ownership requirements under section 203.

The owner of a mobile home, who is otherwise eligible, qualifies under the "ownership" requirement with respect to section 203 regardless of whether or not he owns any interest in the land on which it is situated.

§ 641.154 Removal of mobile home.

Acquisition of title to the dwelling by the acquiring agency is a prerequisite to the payment of benefits under section 203. If the mobile home is not acquired, it must be removed by the owner, and the moving cost is reimbursable under section 202.

§ 641.155 Mobile home acquired—owner also owns underlying land.

Where the owner of a mobile home, which is acquired, also owns the underlying land:

(a) The owner is entitled to benefits under section 202, if otherwise eligible.

(b) The owner is entitled to benefits under section 203, if otherwise eligible. Benefits under this section, however, should be computed on the basis of the cost of a comparable DSS mobile home on a replacement site.

(c) The owner is entitled to benefits under section 204 if: (1) He is not eligible for a payment under section 203, and (2) he actually and lawfully occupied the mobile home for not less than 90 days prior to the initiation of negotiations.

§ 641.156 Mobile home acquired—owner does not own underlying land.

Where the owner of a mobile home does not own the underlying land and the Government acquires both the land and the mobile home:

(a) The owner is entitled to benefits under section 202, if he is otherwise eligible.

(b) The owner is entitled to benefits under section 203, if otherwise eligible, but his differential benefits are limited to the increased amount necessary to purchase a comparable DSS mobile home, without any land.

(c) The owner is entitled to benefits under section 204 if: (1) He is not eligible for a payment under section 203, and (2) he actually and lawfully occupied the mobile home for not less than 90 days prior to the initiation of negotiations.

§ 641.157 Mobile home acquired—former owner reserves right of removal.

Where the United States acquires a mobile home, because it is considered to be real property, the former owner should be accorded the same opportunity to reserve the right to remove it by a certain date as in the case of conventional homes.

(a) A mobile home will generally have a relatively greater value for removal than would a conventional home. Accordingly, the District Engineer should obtain a return for the mobile home which approximates its market value.

(b) The former owner is not eligible under section 202 for payment of the costs of moving the mobile home in this situation, although reasonable costs of moving the contents separately may be allowed, at the discretion of the District Engineer.

§ 641.158 Mobile home not acquired.

Where the Government acquires the land only and the owner removes the mobile home:

(a) The owner is entitled to benefits under section 202, if otherwise eligible. If he uses such mobile home for his replacement home, he may be paid not only for the cost of moving the mobile home but for detaching and reattaching such mobile home in its new location.

(b) Since acquisition of title to the dwelling is a prerequisite to eligibility for benefits under section 203 and the mobile home was not acquired, the owner is not entitled to benefits under section 203; however, in a proper case, he may be entitled to benefits under section 204.

§ 641.159 Mobile home as replacement dwelling.

A mobile home which meets the DSS standards of the Act is a suitable replacement dwelling. When a mobile home is purchased as a replacement home and located on a site owned or purchased by the applicant, its value should be included in calculating benefits under section 203 or 204.

Subpart H—Relocation Assistance Advisory Services

§ 641.171 Relocation assistance advisory program.

Section 205 requires establishment of a relocation assistance advisory program for persons displaced as a result of Federal or federally assisted programs or projects. District Engineers will provide such a program where Federal projects are involved; State agencies are required to provide the advisory program when federally assisted projects are involved. Each relocation assistance advisory program shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(a) Determine the need, if any, of displaced persons for relocation assistance;

(b) Provide current and continuing information on the availability, prices and rentals of comparable, decents, safe, and sanitary sales and rental housing and of comparable commercial properties and farms, and locations for displaced businesses;

(c) Assure that within a reasonable period of time prior to displacement there will be available comparable, decent, safe, and sanitary replacement dwellings, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment;

(d) Assist a person who is displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(e) Supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons;

(f) Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to such relocation;

(g) Prior to initiation of acquisition, provide persons, from whom it is planned to acquire land, a brochure or pamphlet outlining the benefits to which they may be entitled under the Act and information concerning other assistance which might be furnished them. Such brochures should contain information that any payment received under title II of the Act will not be considered as income for the purposes of the Internal Revenue Code of 1954, or for the purpose of determining eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

(h) Advise owners and others affected that they should notify the District Engineer before they move.

§ 641.172 Coordination of planned relocation activities.

(a) *Federal coordination.* When two or more Federal agencies contemplate displacement activities in a given community or area, the District Engineer will establish appropriate channels of communication for the purposes of planning relocation activities and coordinating available housing resources. The District Engineer in coordination with the other agencies concerned shall consult with the appropriate Housing and Urban Development Regional/Area Office within the jurisdictional area concerning the availability of housing. Attached as appendix B is a directory of such Regional/Area Offices which are required to be maintained on a current basis by the Department of Housing and Urban Development. Subsequent updated directories are available from that Department upon request. The District Engineer shall designate a representative to meet periodically with the representatives of other Federal agencies to review the impact of their respective programs on the community or area for the purpose of providing the Housing and Urban Development Regional/Area Office with information regarding the projects which will cause displacement.

(b) *Local coordination.* To further insure maximum coordination of relocation activities in a given community or area, the District Engineer shall consult appropriate local officials before proceeding with any proposed project in the community, consistent with the requirements of the procedures promulgated by the Office of Management and Budget Circular A-95 (revised). That circular provides a central point of identifying local officials.

§ 641.173 Contracting for relocation services.

(a) *Contracting with Central Relocation Agency.* The District Engineer shall consider contracting with the central relocation agency in a community or area for the purpose of carrying out relocation activities. Regulations and procedures shall be prescribed by the District Engineer requiring specific performance standards for these services. Information and assistance concerning these services is available upon request from the appropriate Housing and Urban Development Regional/Area Office.

(b) *Contracting with others.* When a centralized relocation agency is not available in a community or if in the judgment of the District Engineer the centralized agency does not have the capacity to provide the necessary services within the time required, the District Engineer may contract with another public agency or a private contractor who can provide the necessary relocation services.

§ 641.174 Local relocation office.

When the District Engineer determines that the needs of displaced persons warrant, he will establish a relocation office which is reasonably convenient to the majority of the potential displaced persons. Liaison will be established with all real estate firms and realtors in the area in order to provide them with maximum knowledge of the number of displaced persons and their needs for replacement housing and also to establish a workable continuing program for such firms to provide current lists of available housing for sale, which may, in many cases, be listed exclusively with a specific firm. Extreme care must always be taken to reflect exclusive listings and identify the particular firm holding the listing. Although this is also a Government service for the benefit of displaced persons, considerable care and judgment must be exercised not to provide such services in a manner which would usurp the prerogative of private realtors or give the appearance of favoring various firms or individuals. The following information as a minimum will be maintained on a project basis:

(a) Lists of available comparable and decent, safe, and sanitary dwellings.

(b) Current data for such costs as credit data, closing costs, typical downpayments, interest rates, and terms.

(c) Maps showing the location of schools, parks, playgrounds, shopping, public transportation routes, and other information that may be applicable.

(d) Copies of brochures explaining the relocation program.

Subpart I—Uniform Real Property Acquisition

§ 641.191 Policy.

(a) Consistent with the policy expressed in § 641.6 of this part, every effort will be made, to the greatest extent practicable, to:

(1) Acquire real property by agreements with owners based on negotiations;

(2) Assure consistent treatment for owners in real property acquisition programs; and

(3) Accomplish negotiations expeditiously.

(b) The summary of the appraisal provided for in § 641.192 will be furnished to the landowner and a prompt offer will be made to acquire the real property for an amount not less than the estimated fair market value, as developed by the approved appraisal. This does not preclude further negotiations with respect to the purchase price.

(c) Contracts or options by any agency to purchase land will not include any other payments under the Act or any reference to such payments.

(d) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the Government shall offer to acquire the entire property.

(e) Application of title III of the Act in leasehold acquisitions is dependent upon the circumstances under which the leasing action takes place. When the Government initiates action to lease a specific property, the pertinent provisions of title III of the Act apply. In cases where the owner voluntarily offers his property to the Government, the provisions of title III do not apply.

§ 641.192 Appraisal of property to be acquired.

(a) Prior to initiation of negotiations, an appraisal of the real property interest to be acquired will be made.

(b) The owner or his designated representative will be given an opportunity to accompany the appraiser during his inspection of the property.

(c) For the purpose of promoting uniformity under section 301(3) of the Act, the standards for appraisals used in this program, the criteria for determining the qualifications of appraisers, and the system of review by qualified appraisers, shall be consistent with the Uniform Appraisal Standards for Federal Land Acquisition published in 1972 by the Interagency Land Acquisition Conference.

(d) Any enhancement or diminution in the value of the property prior to the date of the valuation which is caused by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for such improvement, other than due to physical deterioration within the reasonable control of the owner, will be disregarded in appraising the property.

(e) When the appraisal has been completed and approved, the owner of the real property will be provided with a written statement of, and summary of the basis for, the amount estimated as the fair market value of the property to be acquired. The written statement will be in the form of a letter addressed to the landowner which may be delivered personally or by first class mail. The time and manner of delivery should be made

a matter of record. (Appendix C is a suggested format for this letter statement.) Such summary will include, as a minimum, the following items:

(1) Identification of the real property and the estate or interest therein to be acquired including the buildings, structures, and other improvements on the land as well as the fixtures considered to be a part of the real property.

(2) The amount of the estimated just compensation for the property to be acquired as determined by the acquiring agency and a statement of the basis therefor. In the case of a partial taking, damages, if any, shall be separately stated.

(f) A revised or new summary of the basis for appraisal will be furnished to the landowner either if an update of the previously approved appraisal results in a different value determination, or if a second appraisal is obtained and the Division or District Engineer determines that the second appraisal shall be the basis for purchase negotiations and deposit in condemnation proceedings.

§ 641.193 Improvements owned by tenants.

(a) Whenever any interest is acquired for a Federal or federally assisted program in any State, the acquiring agency will acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property, including advertising signs, which the agency determines will be adversely affected by the use to which such real property will be put.

(b) The following apply in determining the just compensation for any such building, structures, or other improvements:

(1) They will be deemed to be part of the real property to be acquired, notwithstanding the right or obligation of the tenant as against the owner of any other interest in the real property to remove them at the expiration of his term.

(2) The fair market value which such structures, buildings, or other improvements contribute to the fair market value of the real property to be acquired, or the fair market value of such buildings, structures, or other improvements for removal from the real property, whichever is greater, will be paid the tenant.

(c) Payments under paragraphs (b) (1) and (2) will not be made:

(1) Which result in duplication of any payments otherwise authorized by law.

(2) Unless the owner of the land involved disclaims all interest in such buildings, structures, or other improvements.

(3) Unless the tenant agrees that in consideration of any such payment he will assign, transfer, and release to the acquiring agency all his right, title, and interest in and to such buildings, structures, and improvements.

(d) The tenant may reject payment under this subsection and obtain payment for the buildings, structures, or other improvements in accordance with any other applicable law.

§ 641.194 Requirement to move.

(a) The construction or development of a project will be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property will be required to move from a dwelling (assuming a replacement dwelling as required by subpart E hereof will be available), or to move his business or farm operation, without at least 90 days' written notice prior to the date on which such move is required. This requirement applies only in those instances where actual displacement of persons, businesses, or farm operations occur. A notice of less than 90 days should be given only in an emergency or other extraordinary situations. When it is proposed to give an advance notice of less than 90 days, the prior approval of HQDA (DAEN–REA) Washington, D.C. 20314, will be obtained.

(b) No owner will be required to surrender possession of real property before he has been paid the agreed purchase price, or the deposit has been made with the court, in accordance with section I of the Act of February 26, 1931 (46 Stat. 1421, 40 U.S.C. 258a), for the benefit of the owner, in an amount not less than the approved appraised fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for such property.

§ 641.195 Condemnation.

(a) The time of condemnation will neither be advanced, nor negotiations or condemnation and the deposit of funds in court be deferred, nor any other action coercive in nature taken, in order to compel an agreement on price.

(b) If real property is to be acquired by condemnation, proceedings will be instituted promptly. No action will intentionally be taken which will make it necessary for an owner to institute legal proceedings to prove the taking of his real property.

§ 641.196 Expenses incidental to transfer of title to the United States.

As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award in a condemnation to acquire real property, the owner will be reimbursed to the extent the District Engineer determines fair and reasonable for expenses he necessarily incurred for:

(a) Recording fees, transfer taxes, and similar expenses incident to conveying the real property to the United States;

(b) Costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(c) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever is earlier.

§ 641.197 Lease to former owner or occupant.

If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the Government on short notice, the amount of rent required will not exceed the fair market rental value of the property to a short-term occupier.

§ 641.198 Litigation expenses.

Section 304 of the Act provides that:

(a) The Federal court having jurisdiction of a proceeding instituted by a Federal agency to acquire real property by condemnation will award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if:

(1) The final judgment is that the Federal agency cannot acquire the real property by condemnation; or

(2) The proceeding is abandoned by the United States.

(b) Any award made pursuant to subsection (a) of this section will be paid by the head of the Federal agency for whose benefit the condemnation proceeding was instituted.

(c) The court rendering a judgment for the plaintiff in a proceeding brought under section 1346(a)(2) or 1491 of title 28, U.S.C., awarding compensation for the taking of property by a Federal agency, or the Attorney General affecting a settlement of any such proceeding, will determine and award or allow to such plaintiff, as part of such judgment or settlement, such sum as will, in the opinion of the court or the Attorney General, reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

Subpart J—Federally Assisted Programs

Relocation Assistance Assurances by State Agencies

§ 641.211 Assurances.

(a) *General.* In the case of federally assisted programs carried out by State agencies, such agencies are required by the Act to reimburse owners for necessary expenses as specified in sections 303 and 304 of the Act and must provide the assurances required by sections 210 and 305 of the Act with respect to any program or project that will result in the displacement of any person or the acquisition of any real property. There is no provision for reimbursement by the Federal Government to States for such costs incurred after July 1, 1972.

(b) *Information on benefits to affected persons.* The assurances required of State agencies by sections 210 and 305 of the Act should include a statement that the affected persons will be adequately informed of the benefits, policies,

and procedures described in the assurances.

(c) *Inability of States to provide assurances for programs or projects causing displacement.* If a State agency is unable to provide the assurances required by sections 210 and 305 of the Act, the District Engineer shall not approve any grant to, or contract or agreement with, such State agency under which Federal financial assistance will be available to pay all or part of the cost of such program or project, until such time as assurances applicable to all persons to be displaced and owners of real property to be acquired are provided.

(d) *Monitoring assurances.* The District Engineer shall take continuing action to conduct inspections to insure that State agencies are acting in accordance with the assurances they have provided.

§ 641.212 Grants, contracts, or agreements executed prior to July 1, 1972.

Under section 211 of the Act, any grant to, or contract with, a State agency executed before July 1, 1972, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after July 1, 1972, or the date on which the Act becomes effective in such State, whichever is earlier, shall be amended to include the cost of providing payments and services under sections 210 and 305 of the Act.

ADMINISTRATION

§ 641.231 Administration — Relocation assistance programs.

(a) *Approval.* The District Engineer is responsible for assuring that State agencies comply fully with these regulations in administering the relocation program whether relocation is by a State agency itself or by a contractor acting for the State agency so as to provide uniform and effective relocation benefits for all displaced persons.

(b) *Contract for services by State agencies.* A State agency electing to contract for services pursuant to section 212 of the Act should enter into a written contract consistent with these regulations. Contracts shall include, as a minimum, the following provisions:

(1) That payments and assistance will be provided in accordance with these regulations.

(2) That records will be retained by the contractor for a period of at least 3 years and shall be available for inspection by representatives of the Army.

(3) That there be full compliance with title VI of the Civil Rights Act of 1964 (Public Law 88–353).

§ 641.232 Project cost.

(a) *State relocation payments part of project cost.* The cost to a State agency of providing payments and assistance pursuant to the Act shall be included as part of the cost of a project for which the Federal Government furnishes financial assistance, and the State agency will be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs.

(b) *Relocation payments excluded from project cost where displaced person has received comparable benefits under eminent domain.* No payment or assistance under the Act will be required of a State agency, or included as a program or project cost if the displaced person receives a payment required by the State law of eminent domain which is determined by the Chief of Engineers to have substantially the same purpose and effect as the payment and assistance required by the Act as set forth in this regulation. When the District Engineer is of the opinion that such situation exists, he will submit his recommendation through the Division Engineer to HQDA (DAEN–REH–O) Washington, D.C. 20314, for determination.

Subpart K—Application Processing and Submission to Disbursing Officer for Payment of Benefits

§ 641.251 Preparation of Preliminary Relocation Data Form.

(a) As soon as practicable after acquisition action is commenced, the Preliminary Relocation Data Form, ENG Form 4436 (appendix D) will be prepared for each owner, tenant, or other person living on the premises who is not a member of the owner's or tenant's family, for the purpose of obtaining information relative to each prospective applicant for later use in processing his application at the time of his relocation and for the purpose of being informed on the scope of relocation assistance involved. This form should be prepared prior to vacation of the property, if practicable.

(b) If the prospective applicant has not previously been furnished with information concerning benefits under title II of the Act, such information should be furnished at the time the Preliminary Relocation Data Form is prepared.

§ 641.252 Application.

(a) The application to be used in processing claims for relocation assistance is comprised of various forms developed under the direction of the Office of Management and Budget, Proposed Standard Forms 260 through 267 (appendix E) which are under consideration for use by all Federal agencies engaged in land acquisition. These forms are self-explanatory and the District Engineer will render such assistance to the applicant as may be necessary for their completion. The application, when submitted to the District Engineer, must be accompanied by supporting invoices, receipts, or other items to substantiate payment for each item in the amount claimed.

(b) Applications for payments for benefits must be filed with the appropriate District Engineer not later than 18 months from the date full payment for the real property acquired is made by the Government, or from the date the displaced person moves from the acquired property, whichever is later. When the property is acquired by condemnation, the date on which the Government has satisfied all awards will be considered as the date of full payment. If circumstances warrant, the Chief of Engineers may authorize acceptance of a late filed application. Prior to acceptance of such an application, authorization should be requested from HQDA (DAEN–REH) Washington, D.C. 20314, with full justification.

§ 641.253 Investigation report.

Upon receipt of an application, the District Engineer will make such computations as may be necessary, ENG Form 4437 (appendix E) with respect to relocation benefits due based on the application form received and will complete the Report of Investigation, ENG Form 4438 (appendix F).

§ 641.254 Determination of relocation benefits due applicant.

After initial review of the various forms and supporting documentation comprising the application and determination of the amounts allowable, such amounts will be recorded on the Determination of Relocation Benefits Due Applicant, ENG Form 4439 (appendix G). Approval or disapproval, in whole or in part, for each element claimed will be indicated. The completed application will be forwarded with all necessary supporting documents to the appropriate disbursing officer for payment. The applicant will be advised promptly by the District Engineer of the action taken on his application. Where there is a difference between the amount claimed and the amount allowed, the applicant will be informed as to his rights on appeal (subpart M).

§ 641.255 Stocking of forms.

The various ENG forms and proposed standard forms will be stocked at the OCE Publications Depot.

§ 641.256 Recommended changes to forms.

The District Engineer will submit any recommended changes in forms to HQDA (DAEN–REH) Washington, D.C. 20314.

§ 641.257 Retention of records.

All forms and supporting documents relating to each application will be retained by the District Engineer for not less than 3 years.

Subpart L—Records and Reports

§ 641.271 General.

The reports required by this chapter are designed to provide detailed information on applicants at Federal projects requesting reimbursement under the provisions of title II, Public Law 91–646, and summary information on payments made by local interests at federally assisted projects under the provisions of titles II and III of Public Law 91–646.

§ 641.272 Reports control symbol.

RCS DAEN–RE–18 and DD–I&L (A) 1124 are assigned to reports required by § 641.273.

§ 641.273 Reporting requirements.

(a) *RCS DAEN–RE–18.* Detailed information concerning persons displaced from their homes, businesses or farms by Federal projects of the Department of the Army (Military and Civil Works) and the Department of the Air Force and those Federal agencies for which the Corps of Engineers acts as agent will be reported quarterly as of September 30, December 31, March 31, and June 30. The method of reporting is explained in appendix H.

(b) *RCS DD–I&L (A) 1124.*

(1) Each Division and District Engineer will furnish the narrative comments required by paragraph 9.3 of appendix J.

(2) The following summary data will be furnished for each department (Army, AF, Civil Works, USPS, etc.):

Actual administrative costs:
Section 205, title II, Public Law 91–646 ---------- fiscal year ---- $----------
Other administrative costs, including overhead---------- fiscal year ---- $----------
Total ---------- fiscal year ---- $----------
Projected administrative costs--- fiscal year ---- $----------; fiscal year ---- $----------
Projected relocation payments--- fiscal year ---- $----------; fiscal year ---- $----------

The actual administrative costs will include expenditures for the current fiscal year which the report covers. (Example: fiscal year 1973, $2,500.) Projected administrative costs and projected relocation payments will include anticipated fund requirements for the 2 subsequent fiscal years. (Example: fiscal year 1974, $25,000; fiscal year 1975, $50,000.)

(3) Summary statistical data pertaining to land and relocation costs during the fiscal year by local interests in connection with federally assisted projects will be reported. Formats contained in appendix J will be used for this purpose.

§ 641.274 Reporting instructions.

(a) *Quarterly reports.* Quarterly reports required by RCS DAEN–RE–18 will be furnished to HQDA (DAEN–REP–R) Washington, D.C. 20314, NLT the Seventh working day after the end of the reporting period.

(b) *Annual reports.* Annual reports required by RCS DD–I&L (A) 1124 will be dispatched in sufficient time to reach HQDA (DAEN–REP–R) Washington, D.C. 20314, by August 1 of each year.

(c) *Data transmission.* Electronic transmission of punched cards by DCS Autodin is recommended and procedures outlined in Chapter 4 of ER 18–1–18 should be followed. "REP" should be punched in card columns 6–8 of the Data Header Card and "DAEN–RE–18" should be punched in card columns 25–34 of the Text Header Card.

Subpart M—Appeals

§ 641.291 Administrative review.

Procedures are set forth in this chapter, under section 213(b) of the Act, for the review of the application for benefits of any person who considers himself aggrieved by a determination as to his eligibility for payments, or the amount of such payments. Such administrative review is hereinafter designated as an "appeal." In the case of a State program or project receiving Federal financial assistance, a review by the head of the State agency is required.

§ 641.292 Notice to applicant.

(a) Prompt written notice will be given to an applicant of any determination made in connection with his application. This written notice shall include a full explanation concerning any amount claimed which has been disallowed as well as an explanation of his right to appeal. Payment of any amounts determined to be due the applicant will be made promptly and the applicant will be informed that acceptance of any such amounts will not prejudice his right to appeal any determination made in connection with his application.

(b) The applicant should be advised that if he believes the decision made in connection with his application for benefits under the Act is in error, he may file an appeal with the District Engineer or with the Chief of the District Real Estate Division, in writing, within 180 days from the date of the notice of such decision, identifying any claimed errors and stating the basis for his appeal. In addition, he should submit whatever information he desires in support of his appeal. He should also be advised that his appeal will be considered by the District Engineer, reviewed by the Division Engineer and, if action favorable to him cannot be taken, submitted to the Office, Chief of Engineers, for final decision.

§ 641.293 Filing of appeal.

An applicant may file an appeal from a decision denying his application, or from a decision which the applicant believes to be in error in any respect. Any written objection by an applicant to a decision made on his case or to a determination of benefits due him will be considered to be an appeal and will be promptly acknowledged as such. Notwithstanding any additional correspondence or communication with the applicant, the appeal will be processed in accordance with these appeal procedures unless formally withdrawn by the applicant.

§ 641.294 Processing of appeals.

(a) Appeals will be processed through channels to HQDA (DAEN–REH–A). An attempt will be made to resolve the matter at each level of review. If a proposed solution at any level is satisfactory to the applicant, the case will be considered closed without further processing.

(b) After receipt of the appeal, the alleged errors cited by the applicant and any additional information furnished by him in support of his appeal will be investigated promptly by the District Engineer. A report will be prepared, which will include a brief outline of the facts upon which the application is based, the initial decision from which the applicant has appealed, the basis for appeal, the scope of the investigation, factors considered in reviewing the case, the decision on appeal, and the reasons in support thereof.

(c) The applicant will be promptly notified if favorable action can be taken. If favorable action cannot be taken, no communication will be sent to the applicant except that, at the applicant's specific request, he will be advised of the status of his appeal. An appeal assembly will be prepared in sufficient copies to provide one copy for the next higher level of review and two copies (including original papers where available) for submission to OCE. The assembly will have a jacket cover or heavy paper backing with a suitable fastener at the top. It will consist of the following items, which will be assembled in the order shown below with such variations or additions as circumstances may require:

(1) Report of review.

(2) Written appeal and amendments.

(3) Application with attachments.

(4) Pertinent correspondence in chronological order.

(5) Any other documents and information which have a significant bearing on the case.

§ 641.295 Review of appeal by the Division Engineer.

(a) The Division Engineer will review the appeal as expeditiously as possible to insure that:

(1) The District Engineer's decision on the appeal is in accordance with the law and existing regulations; and

(2) The appeal assembly contains the necessary information in support of the decision and has been assembled as required by this regulation.

(b) If the Division Engineer concurs in the recommendation of the District Engineer, the assembly, with his comments and recommendations, will be promptly forwarded to HQDA (DAEN–REH–A). If the Division Engineer does not concur in the District Engineer's recommendation, the assembly will be returned to the District Engineer for further consideration or will be submitted to the Chief of Engineers, as may be appropriate. In the event the Division Engineer determines that favorable action is warranted on the appeal, he is authorized to direct such a solution.

§ 641.296 Final review of appeal by OCE.

Authority to make determinations on appeals has been delegated to the Chief of Engineers and his Director of Real Estate. If the position of the Division Engineer is not concurred in, the assembly will be returned for further consideration or for a directed solution. If the appeal is denied, the applicant will be promptly notified. This will constitute the final administrative review of the applicant's appeal and the pertinent correspondence, including a copy of the appeal assembly with original papers, will be sent to the District Engineer for filing.

§ 641.297 Dissemination of decisions.

Except as authorized by OCE, the District Engineer will not refer to appeal decisions in letters sent to other applicants.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1036]

[Docket No. AO 179-A37]

MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the eastern Ohio-western Pennsylvania marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, on or before February 12, 1973. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Preliminary Statement

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Cleveland, Ohio, on December 6, 1972, pursuant to notice thereof which was issued on October 30, 1972 (37 FR 23342).

The material issue on the record of the hearing relates to the adoption of an advertising and promotion program.

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

The order should provide for an advertising and promotion program (hereinafter also referred to as "program").

The request for a hearing to include an advertising and promotion program in the order was submitted by four cooperatives representing a substantial majority of the order's producers. Two other cooperatives also supported adoption of the program at the hearing. Proponents contended that a program is needed to achieve and maintain increased sales of milk and milk products and to compete with the promotional efforts on behalf of other food products.

There is substantial support for the proposed program, as evidenced both by the proportion of total producers represented by proponents and by the support now given to various advertising and promotion programs in the market. The proposed program, proponents claimed, is necessary to obtain more equitable participation by their members and all other producers on the market.

The spokesman for a cooperative representing a relatively small number of order producers opposed adopting the program because, he inferred, its cost to producers would exceed the benefits he expected they would derive from it.

The enabling statute affords producers under an order the opportunity to determine whether such a program should be adopted, and provides further that each individual producer may elect whether or not to participate in the program if it is adopted.

A producer who elects not to participate in the program will, upon proper application, be refunded the assessment made against his deliveries. Such refund will be made by the market administrator on a quarterly basis. The program also provides for refunds to producers assessed under a mandatory advertising and promotion program under the authority of a State law.

The rate of 5 cents per hundredweight on producer milk, which was proposed by producers, should be adopted. No other rate was proposed for consideration. A somewhat similar program under the authority of the State is now in effect in New York and one has been proposed for Pennsylvania. The programs for both these States (in which the farms of a number of producers under this order are located) provide for the same 5-cent rate as proposed here (and in several other Federal orders).

Based on the quantity of milk marketed under the order in 1971 an assessment rate of 5 cents per hundredweight will gross approximately $1.6 million annually. Allowing for refunds to nonparticipating producers and necessary administrative costs, it can reasonably be expected that money which will be available for advertising and promotion will be adequate to maintain an appropriate program and will compare favorably with that presently being expended in the eastern Ohio-western Pennsylvania order market.

A definition of "Agency" is incorporated in the order to identify the administrative body organized by producers and cooperatives to expend the funds for advertising and promotional activities.

The Agency under the terms prescribed herein is responsible for administration of the program. Subject to approval of the Secretary, it is empowered to enter into contracts and agreements with persons or organizations as deemed necessary to carry out such program. In addition, the Agency may recommend to the Secretary amendments to the terms of the program and make such rules and regulations as are necessary to carry out its stated objectives.

The powers, duties, and functions specifically assigned to the Agency are of a nature and scope to provide participating producers full and necessary authority through their representatives on the Agency to develop and administer an advertising and promotion program as authorized by the Act. (Participating producers are those who have not requested refunds.) At the Agency's initial formation, all producers under the order will be considered as participating producers.

The Act states that the Agency "* * * may designate, employ, and allocate funds to persons and organizations engaged in such programs which meet the standards and qualifications specified in the order." The guidelines concerning this matter are set forth in the amendments to the order. Under the terms of such amendments the Agency will develop and submit to the Secretary for approval, programs and projects that may provide for: (a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for advertising and promotion of milk and milk products on a nonbrand basis; (b) the utilization of the services of other organizations to carry out Agency programs and projects, if the Agency finds that such activities will benefit producers supplying the market; and (c) the establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers supplying the market.

The procedures adopted herein authorize a cooperative to select Agency members to represent its participating producer members. It is provided, likewise, that Agency representatives for participating nonmembers will be elected in a referendum conducted by the market administrator among individual participating producers. If the number of participating producer members of a cooperative is less than the minimum required to qualify for a representative, they will be included with participating nonmembers in such referendum.

Cooperatives may combine their participating memberships for the purpose of selecting Agency members. Such combined participating membership then will be treated as a single group in determining the number of Agency representatives to be selected by such cooperatives.

Since cooperative members constitute most producers under the order, the Agency members will be principally those persons selected by cooperatives. Such Agency members (selected by cooperatives individually or in combination) may be producers or individuals not engaged in milk production, e.g., employees of cooperatives. The latter can be expected to reflect their cooperatives' views as fully as any participating producer member of their respective cooperatives.

If a cooperative with insufficient participating membership to select an Agency representative has not elected to combine with another cooperative(s) to achieve representation, its participating members may vote with participating nonmembers in a referendum to select Agency members. The persons selected as Agency members through the referendum procedure should be producers who actively support the program. It is appropriate, therefore, to require that such persons be participating producers.

The makeup of the Agency as proposed by producers, and here adopted, will allot a cooperative one Agency member for 1.5 percent of participating producers plus one additional member for each additional 5 percent of participating producers. For cooperatives with less than 1.5 percent of participating producers (that elect not to combine to achieve Agency representation) their participating producer members together with participating nonmember producers will be allotted Agency representation (as a group) in the same manner.

Currently, more than 70 percent of the approximately 8,800 producers under the order are represented by 11 cooperatives. Six of the 11 cooperatives each represent more than 1.5 percent of the producers on the market and therefore each would be eligible to select at least one Agency member. The five cooperatives that individually represent less than 1.5 percent of the total producers on the market could combine to obtain Agency representation for their members or be represented together with participating nonmember producers.

On the basis of selecting membership as here proposed, it is expected that the Agency will contain about 20 members. An Agency membership of such size is needed to achieve adequate representation of the producers serving this market.

Under the program herein adopted, the market administrator will conduct a referendum annually to determine representation on the Agency of the participating producers who will not be represented on the Agency by a cooperative.

Within 30 days after the effective date of the amended order and annually thereafter, the market administrator shall give notice to all such producers of their opportunity to nominate from among their groups Agency members and shall specify the number of representatives that such producers together are authorized.

Following the closing date for nominations, the market administrator shall notify the nominees who are eligible for Agency membership and then shall conduct a referendum in which each such participating producer shall have one vote.

Since cooperatives may elect to combine or not combine for purposes of selecting agency representation, it is provided in the case of a cooperative with less than the 1.5 percent that does not combine, that the balloting of its participating producer members shall be on an individual basis, the same as nonmembers. This procedure will tend to promote equity between member and nonmember producers in the selection of representation. Election of Agency membership will be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes of participating producers.

Each person selected for the Agency shall qualify by filing with the market administrator a written acceptance of his willingness and intention to serve in such capacity. It is anticipated that any eligible nominee included on the list that the market administrator is required to circulate to participating nonmember producers and certain participating member producers in the conduct of the referendum, as discussed elsewhere in these findings, would advise the market administrator promptly if he were not willing to be a nominee. Notwithstanding, it is possible that a person elected to membership or so designated by a cooperative may not be able or may not wish to accept the position. This requirement, therefore, is necessary in order that the market administrator will know whether or not the position has been filled. Such acceptance should be filed promptly after notification in order that the formation of the Agency can be prompt.

The term of office of each member of the Agency as herein adopted is 1 year or until a replacement is designated by the cooperative association or is elected.

It is possible that an elected representative may leave the market or otherwise be unable to complete his term of office. It is desirable, therefore, that some procedure be provided for filling the vacancy. It is concluded appropriate in such circumstance that the market administrator appoint as his replacement the then currently participating producer who received the next highest number of eligible votes in the referendum.

Actions to be taken by the Agency are of such importance that a majority of the representatives should be required to be present at any meeting to constitute a quorum and any action taken by the Agency should require a majority of concurring votes of those present and voting.

The Agency's duties set forth in the order are generally necessary for the discharge of its responsibilities. It is intended that activities undertaken by the Agency shall be confined to those reasonably necessary to carry out its responsibilities as prescribed by the program. At the same time it should be recognized that these specified duties are not necessarily all inclusive, and it may develop that there are other duties the Agency may need to perform.

The statute authorizing advertising and promotion programs contemplates their surveillance by the Secretary. It provides that all funds collected under an order for the purpose of a program shall be used only for such purpose. It is essential, therefore, that the Agency prepare and submit to the Secretary for his approval budgets showing projected amounts of available funds and how such funds are to be disbursed. Also, in order to make the audit necessary to establish that Agency funds are used only for authorized purposes, the market administrator or other representative of the Secretary must have access to all of the Agency's records and access to, and the right to examine, any directly pertinent books, documents, papers, and records of any organization performing advertising and promotion activities for such Agency.

Proponents proposed that budgets be prepared and submitted for approval on a quarterly basis. The Agency must be in a position to develop firm plans and make commitments covering a sufficient forward period to insure a continuing viable program. A calendar quarter is concluded to be the minimum practical period for achieving this end and it is provided therefore that a budget shall be submitted to the Secretary for his approval prior to each quarterly period.

All of the possible promotion and other authorized activities that the Agency may wish to pursue cannot be anticipated at this time. Therefore, the authority for the Agency to establish programs and projects is purposely left broad and flexible to facilitate the timely development of such programs suitable to prevailing circumstances in the market.

Any promotion program or project the Agency may consider must comport with the terms and conditions of the order and be evaluated in terms of cost, the statutory objectives to be accomplished, the time required to complete the program or project, and other such factors, in order to arrive at a sound decision as to whether the program or project is justified.

The required budget submissions will permit the Secretary to evaluate projected programs in terms of the declared policy of the Act and also will serve as policy guidelines for Agency members in the conduct of their operations for each ensuing quarterly period. This will be particularly helpful in the transition of Agency membership as the terms of office of individual members expire.

The Agency appropriately must follow prudent operating procedures in the furtherance of the best interests of producers. It is required, therefore, that it shall keep minutes of its meetings and such other books and records as will clearly reflect all its transactions, and on request shall submit such books and records to the Secretary for his examination. It also shall provide for the bonding of all persons handling Agency funds with surety thereon satisfactory to the Secretary.

The amending order prescribes no specific requirements of the Agency to publish an account of funds collected and the use made thereof or to make releases of information concerning the operation of the program to producers and other interested parties. Since the activities of the Agency are under the direct supervision of the Secretary, it is not necessary to prescribe such requirements to

insure the integrity of the program. However, since the degree of producer participation in the program, and thus its relative success, will depend in large part upon the interest and confidence it generates among producers, the Agency undoubtedly will keep producers on the market fully informed of its milk promotion plans, projects, and activities. In view of these considerations, it is not necessary to prescribe specific informational releases to producers and other parties.

The Agency should be authorized to incur reasonable expense in its administration of the program, including the employment and the fixing of compensation of any person necessary to the exercise of its powers and performance of its duties. For example, the Agency may find it necessary to retain the services of an attorney from time to time to assist in the preparation of contracts, or to employ a stenographer, or other individual(s) to handle its recordkeeping and bookkeeping functions. Other Agency costs could be expected to involve miscellaneous office costs usually associated with a business office.

It is appropriate and necessary that Agency representatives be reimbursed for reasonable expenses incurred in attending meetings and while on other Agency business. This could involve expenses for travel in private car, and expenses incurred for public transportation, meals, and lodging. It would be unreasonable to require members of the Agency to bear such expenses incurred in the interest of all producers on the market.

The Agency members therefore should have assurance that they will not be personally liable for the impact of their official acts except for willful misconduct, gross negligence, or any acts that are criminal in nature. To assure that the Agency funds are used only for the purpose contemplated by the Congress, it is provided that such funds shall not be used for political activities, or for influencing governmental policy or acts.

Although a specified assessment automatically will be withheld for the program with respect to milk deliveries of all producers, the authorizing statute, nevertheless, provides that producers not wishing to participate in the program shall have refunded the assessments made on their milk.

As proposed, the procedure for obtaining a refund would be the same as now provided in other orders. Specifically, a producer desiring a refund on the assessments made against his marketings would submit to the market administrator his signed request, in the manner prescribed by the market administrator, within the first 15 days of the month (December, March, June, or September) preceding the calendar quarter for which refund is requested.

Proponents requested that any application for refund be made on forms prescribed by the market administrator in order that the market administrator may have proper information to match requests with the proper account. They indicated that unless appropriate safeguards are provided it would be possible for any handler, hauler, producer group or individual, not in accord with the program, to impede its effectiveness through the filing of a refund request in the name of individual producers or by solicitation of refund requests from individual producers, without their full knowledge or understanding of the nature of their action.

It is concluded that the order should provide that a refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. This will permit the market administrator to develop appropriate procedures with respect to refund requests.

To insure that producers have an awareness of the program and of their rights thereunder, it is provided that the market administrator shall forward to each producer a copy of the amended order promptly when the program is effectuated, and thereafter to new producers.

All refunds paid should be made by the market administrator directly to the producer requesting the refund. This is a primary consideration in assuring that the payment of the money to the producer will be expedited and that the producer does, in fact, receive the money to which he is entitled. The market administrator is in possession of the information on which to determine the validity of the request, and the identity of the producer, or is in a position to obtain the necessary information for these purposes. Further, inasmuch as all the money involved in the program is in the first instance collected by the market administrator, there is no reason for any other method of payment of refunds than directly from the market administrator to the individual producer.

A quarterly refund procedure, together with the requirement that refund requests be made within the first 15 days of the month immediately preceding the calendar quarter, should be provided so that the Agency may make quarterly budget estimates for each ensuing calendar quarter with reasonable assurance of the amount of money available for expenditure in that quarter.

One cooperative proposed that refund requests should be accepted by the market administrator during any month. Such requests would be effective on the first day of the following month through the remainder of the calendar year unless rescinded by the producer. For the refund request to be applicable during each subsequent year, a producer would be required to renew such request prior to the beginning of each year.

One of the consequences of monthly refunding is that the Agency would be required to prepare budgets monthly. As a result the cost of operating the Agency would increase. Refunding on a monthly basis, rather than on the basis of each calendar quarter, would result also in a significant increase in administrative expense incurred by the market administrator.

In deciding whether the added expense of monthly refunds is warranted, consideration should be given to the size of the average refund. If the program had been in effect during 1971, the monthly refund to a producer would have averaged $15. In view of the amount of the deduction, it is concluded that a producer desiring a refund would not be disadvantaged by quarterly refunding to the extent that the added expense of monthly refunding is warranted.

Producers who apply for a refund should be required to renew their applications once each quarter rather than on a yearly basis. Since the program of the Agency is subject to change each quarter because of quarterly budgeting, all producers should be given an opportunity each quarter to reappraise the program. For this reason producers receiving a refund of any assessment under the advertising and promotion program should be required to refile for such refund quarterly.

Proponents recognized that certain elements of flexibility are necessary in the procedure when a dairy farmer is not on the market during the specified notification period in which requests for refunds are to be made. It was proposed that a dairy farmer coming on the market after such specified period and before the beginning of the next regular period for requesting refunds be permitted to request refund for the calendar quarter.

It was pointed out, however, that a dairy farmer coming on the market may have been a producer on another market where a similar program applies and where he had requested refund for the calendar quarter or had opportunity to make such request. Proponents suggested that, ideally, one request by a producer should serve for all markets in which his milk is delivered and subject to program assessments.

The program should operate in such a manner that an application properly submitted by a dairy farmer for refund for a calendar quarter under one order will be valid with respect to refund of program assessments on his milk under a second order. As a corollary, there is no need to provide a new producer opportunity to request refund if he already has had such opportunity in another market. To do so would result in unnecessary duplication of the refund procedure and added expense. A second opportunity for such producers to request a refund would also be inequitable compared to the application of the order to producers who are afforded the opportunity only in the specified 15-day period.

A producer who has not been under a Federal milk order where a similar program exists, and who enters the market after the regular refund notification period applicable to a calendar quarter or comes on the market during such calendar quarter, should be permitted to apply for refund of assessments for such calendar quarter.

Proponents recognized that the milk of some producers may be subject to deductions under a State program requiring a mandatory checkoff for a similar advertising and promotion program. Proponents held that a double assessment was not intended and that refund to the producer should be made under the Federal order of an amount equal to such State assessment but not in excess of 5 cents per hundredweight. This procedure is provided for in the statute and should be adopted.

A part of the function of the market administrator in relation to handling of applications for refunds is the ascertainment of the amount of funds to be available to the Agency during the ensuing calendar quarter for use in the program. Under the procedure specifying that application for refunds should be made during the first 15 days of the month preceding the quarter, the market administrator will have in hand information from which to estimate the total of assessments on milk during the ensuing quarter that will be available for disbursement to the Agency. Such estimate of available funds will be based, of course, only on existing information at the beginning of the calendar quarter. Changes in producer numbers as well as other occurrences during the quarter will affect somewhat the amount of money available.

Since this is a voluntary program there should be no provision for disclosure by the market administrator regarding the status of any producer under the program. It will be incumbent upon the participants, through their Agency, to conduct programs in a manner and of a nature to set the climate for maximum participation by producers.

It is possible that at some later date producers could request termination of the program, or that the order provisions could be terminated by the Secretary on a finding that they no longer tend to effectuate the declared policy of the Act. In the event that the provisions of the program are terminated in their entirety, any remaining uncommitted funds applicable thereto should revert to producers since such moneys are derived solely from funds otherwise due producers. Such uncommitted funds appropriately should be deposited in the producer-settlement fund for distribution to producers.

Expenses incurred by the market administrator in the administration of the program should be charged against the advertising and promotion funds. Neither the marketing service fund nor the administrative fund should be charged with costs directly related to the administration of the program. The program is producer originated and should be self-sustaining. The expenses attendant to its administration appropriately should be borne by participating producers.

The statutory authority supports this position and makes it clear that this is intended to be strictly a producer program. In part the law states that "Establishing or providing for the establishment of * * * program * * * to be financed by producers in a manner and at a rate specified in the order, on all producer milk under the order. * * * All funds collected under this subparagraph shall be separately accounted for and shall be used only for the purpose for which they are collected."

To implement the program, it is necessary that certain provisions of the current order be modified.

The provisions for computing the weighted average price must be modified by inserting a new paragraph prescribing the deduction of 5 cents per hundredweight of producer milk from the aggregate value included in the computation. It is through this procedure that the advertising and promotion funds are reserved. This, of course, has the result of reducing the weighted average price by 5 cents.

The advertising and promotion moneys so reserved will be held in the producer-settlement fund as a separate account for disposition by the market administrator in accordance with the terms and conditions prescribed under the advertising and promotion program order provisions.

It is necessary also that appropriate corollary changes be made in the provisions prescribing the obligations of a handler operating a partially regulated distributing plant and the obligations of any handler with respect to other source milk allocated to Class I (on which the pool obligation is the difference between the Class I and the weighted average price) so that such handler's pool obligations will not be increased by 5 cents because of the change in the weighted average price.

It is recognized that, unless otherwise provided for, an audit adjustment involving any handler's balance of payment to or from the producer-settlement fund could also require adjustments in the moneys to be turned over to the program or refunded to producers. However, such adjustment normally would not involve sufficient volumes of milk to significantly affect the moneys available to the program. For this reason and because of the substantial administrative costs that would be involved in reflecting audit adjustment in adjusted payments to the program, it is intended that such audit adjustments shall not result in adjustments of funds available to the program.

Other order modifications not specifically discussed herein are necessary and incidental to insure the proper functioning of the order to accommodate the advertising and promotion program as here established.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1036.61, a new paragraph (c–1) is added and paragraph (g) is revised as follows:

§ 1036.61 Computation of uniform price.

* * * * *

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * *

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the

hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price plus 5 cents;

* * * * *

2. In § 1036.71, paragraph (a)(2)(ii) is revised as follows:

§ 1036.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(ii) The value at the weighted average price applicable at the location of the plants from which received plus 5 cents with respect to other source milk for which a value is computed pursuant to § 1036.60(e).

* * * * *

3. In § 1036.76, paragraph (b)(4) is revised as follows:

§ 1036.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(4) Multiply the remaining pounds by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the weighted average price applicable at the location of the partially regulated distributing plant plus 5 cents (but not to be less than the Class III price); and

* * * * *

4. Immediately following § 1036.86, a new centerhead and new §§ 1036.110 through 1036.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1036.110 Agency.

"Agency" means the body made up of the persons selected pursuant to § 1036.113, which is authorized to expend funds, made available pursuant to § 1036.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1036.111 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided for under § 1036.113(b) with 1.5 percent or more of the total participating producers (producers who have not requested refunds for the most recent quarter) is authorized one Agency member plus one additional Agency member for each additional full 5 percent of the participating producers it represents. Cooperative associations with less than 1.5 percent of the total participating producers that have elected not to combine pursuant to § 1036.113(b), and participating producers who are not members of cooperatives are authorized to select from such group, in total, one Agency member for the first full 1.5 percent plus one additional Agency member for each additional full 5 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all producers shall be considered participating producers.

§ 1036.112 Term of office.

The term of office of each member of the Agency shall be 1 year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1036.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more Agency members shall notify the market administrator of the name and address of each such member who shall serve at the pleasure of the cooperative.

(b) For the purpose of this section, cooperative associations may combine their participating producer members and, if such combined total is 1.5 percent or more of all participating producers, such cooperatives may select an Agency member(s) under the rules of § 1036.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than 1.5 percent of the total participating producers that have not elected to combine pursuant to paragraph (b) of this section shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this section, and annually thereafter, the market administrator shall notify such participating producers of their opportunity to nominate one or more producers as Agency members and shall specify the number of members to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an Agency member thus elected subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1036.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1036.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions of the advertising and promotion program within the scope of Agency authority pursuant to § 1036.110;

(b) Make rules and regulations to effectuate the terms and provisions of the advertising and promotion program;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1036.110 and 1036.117.

§ 1036.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1036.110 and 1036.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) Employ and fix the compensation of any person deemed necessary to its exercise of powers and performance of duties;

(f) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(g) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1036.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit all producers under this part;

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1036.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1036.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1039.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1036.120 Procedure for requesting refunds.

Any producer may apply for refund subject to the conditions set forth in this section.

(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraphs (c) and (e) of this section, the request shall be submitted within the first 15 days of December, March, June or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all his marketings against which an assessment is withheld for the period from the date of his first marketing as a new producer through the end of such calendar quarter: *Provided;* That, such eligibility for refund shall not apply to a person who during the first 15 days of such December, March, June or September, was a producer under a Federal order under which the same refund notification period applied and he did not appropriately submit a refund application during such period. This paragraph also shall be applicable to all producers during the period between the effective date of this paragraph and the beginning of the first full calendar quarter for which the opportunity exists for such producer to request a refund pursuant to paragraph (b) of this section.

(d) A producer who, with respect to any calendar quarter, has appropriately filed request for refund of advertising and promotion program assessments on his marketings of milk under another Federal order shall be eligible (on the basis of his request filed under the other order) for refund with respect to his producer milk under this order against which an assessment is withheld during such quarter.

§ 1036.121 Duties of the market administrator.

Except as specified in § 1036.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this section, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1036.113(c);

(b) Set aside the amount subtracted under § 1036.61(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to a producer the amount of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer but not more than 5 cents per hundredweight of his milk for which deductions were made pursuant to § 1036.61(c–1).

(3) After the end of each calendar quarter, refund upon request pursuant to § 1036.120 to a producer or pay to a State on behalf of a producer the deductions made pursuant to § 1036.61(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this section, and thereafter with respect to a new producer, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1036.110 through 1036.122).

(d) Audit the Agency's records of receipts and disbursements.

§ 1036.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund.

Signed at Washington, D.C., on January 26, 1973.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.73–1943 Filed 1–31–73;8:45 am]

[7 CFR Part 1103]

[Docket No. AO 346–A16]

MILK IN THE MISSISSIPPI MARKETING AREA

Notice of Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Mississippi marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by February 8, 1973. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Jackson, Miss., on December 11, 1972, pursuant to notice thereof which was issued on November 15, 1972 (37 FR 24760).

The material issues on the record of the hearing relate to:

1. Exemption of governmental agency plants; and

2. Taking emergency action on Issue 1.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Exemption of governmental agency plants.* A plant operated by a governmental institution that restricts its fluid milk disposition to the residents of such institution should be exempt from regulation under the order. However, a governmental institution may elect to have its processing plant considered a pool

distributing plant if the institution, in its capacity as the operator of such plant, disposes of bulk milk to other pool plants and such plant meets the shipping requirements of a pool plant. If an institution's plant is made a pool plant for 1 month and thereafter resumes the status of an exempt plant, it should not be eligible for pool plant status again until it has been a nonpool plant for at least 12 consecutive months. Fluid milk products received at a pool plant from a governmental institution in its capacity as the operator of an exempt plant should be treated under the allocation provisions in the same manner as receipts at a pool plant from a producer-handler. Fluid milk products transferred or diverted to an exempt plant from a pool plant should be classified as Class I milk.

The Mississippi Board of Trustees of Mental Institutions, an agency of the State of Mississippi, proposed that governmental agency plants be exempt from the Federal order regulation. The Board of Trustees operates three processing plants and two dairy farms, all located within the Mississippi marketing area. The two farms together constitute the principal source of supply for each of the three processing plants. One of the plants has never been approved by an appropriate health authority for the processing or packaging of Grade A milk and, therefore, has never been eligible for regulation. The other plants were considered producer-handlers. However, since September 1972, one of them has been subject to full regulation in certain months because it received milk products from sources other than the Board's farms. During the months in which this plant has not received such products it has been exempt from regulation as a producer-handler plant.

Nonfat dry milk received at the latter plant is used to standardize the butterfat content of the milk produced at the Board's farms and to supplement the supplies of such milk during periods of short production. The butterfat content of this milk averages well over 4.0 percent and doctors at the various State hospitals consider standardization to a lower butterfat level necessary for the health of their patients, many of whom are elderly.

The primary purpose of these State dairy operations is to provide patients of the several Mississippi State mental hospitals with a wholesome supply of milk at the lowest possible cost to the taxpayers of Mississippi. The State's dairy farms also serve a useful rehabilitative purpose insofar as they provide patients with meaningful occupational therapy. Except for surplus milk disposed of in bulk to other plants, none of the milk produced or processed by these operations is sold in commercial channels in competition with handlers or with producers. Milk bottled by the three processing facilities is consumed on the premises by patients.

There are other governmentally operated institutions in the marketing area maintaining dairy farms and processing facilities to furnish milk to their residents. Similarly, there is no indication that such institutions sell fluid milk products in commercial channels in competition with regulated handlers.

As long as a governmental institution restricts its fluid disposition to its own residents, its plant need not be regulated in the same manner as plants of other handlers to achieve the objectives of regulation. Such an institution does not compete with regulated handlers for fluid sales and assumes the burden of disposing of its milk supplies in excess of its fluid needs. Its dairy operations are economically isolated from the operations of regulated handlers and therefore pose no threat to orderly marketing in the Mississippi marketing area.

A governmental institution should have the option of electing to have its plant considered a pool distributing plant if the plant meets the definition of a pool plant and if the institution, in its capacity as the operator of such plant, disposes of bulk milk to other pool plants. If an institution elects pool plant status for its plant, it will be required as a handler to report and pool all of the production and disposition associated with that plant, including disposition to residents of the institution.

In order to prevent frequent changes from nonpool to pool status whenever the institution would benefit from such a change, the option to elect pool status should be permitted only on a year-round basis. This limitation on re-entry to the pool is necessary to protect other producers from carrying the seasonal reserve for the governmental agency without sharing in its Class I sales in other months.

Unless a governmental institution that operates a plant files a written request to the market administrator asking that its plant be considered a pool plant, such plant should be considered an exempt plant. In such case, since the Class I milk used by the institution is not pooled with the sales of producer milk, its excess production should not be allowed to share in the Class I utilization of pool plants at the expense of producers. Accordingly, fluid milk products that are received at pool plants from a governmental institution in its capacity as the operator of an exempt plant should be treated in the same manner as receipts at a pool plant from a producer-handler and allocated first to Class II. Any such milk allocated to Class I at a pool plant could be subject to a compensatory payment at the difference between the Class I and Class II prices.

An exempt plant may be required at times to purchase supplemental supplies from regulated handlers. It may reasonably be expected that purchases in the form of fluid milk products would be needed and used for Class I purposes. Under these circumstances, producers are actually carrying the reserve for the exempt plant and should be allowed to retain the Class I use out of sales to such plant. The order should provide, therefore, that fluid milk products transferred or diverted to exempt plants be classified as Class I.

2. *Emergency action.* Proponent requested that emergency action be taken with respect to the exemption of governmental agency plants from regulation. The primary reason advanced by proponent for such action is that production is currently running short of the requirements of the several State mental hospitals. Proponent argued that prolonged regulation of its Grade A plant, occasioned by the purchase of nonfat dry milk needed to supplement this short supply, could cause financial hardship for its entire dairy operation.

In view of the fact that the dairy operations of several other governmental agencies that were not represented at the hearing may be materially affected by this recommended action, it is concluded that a recommended decision should be issued and that opportunity for filing exceptions thereto should be given. The request for emergency action is therefore denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as,

and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Mississippi marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1103.11, paragraph (a) is revised as follows:

§ 1103.11 Pool plant.

* * * * *

(a) A distributing plant, other than an exempt plant, that of a producer-handler, or one described in § 1103.61, from which during the month route disposition of fluid milk products, except filled milk, is not less than 50 percent of its total receipts of Grade A milk and the volume so disposed of in the marketing area is at least 20 percent of the total route disposition of fluid milk products, except filled milk;

* * * * *

2. In § 1103.12, paragraphs (c) and (d) are revised and a new paragraph (e) is added as follows:

§ 1103.12 Nonpool plant.

* * * * *

(c) "Partially regulated distributing plant" means a nonpool plant other than an other order plant, a producer-handler plant, or an exempt plant, from which fluid milk products in consumer-type packages or dispenser units are disposed of as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than an other order plant, a producer-handler plant, or an exempt plant, from which fluid milk products are moved to a pool plant during the month.

(e) "Exempt plant" means a plant operated by a governmental agency that has no route disposition other than on its own premises or to other governmental establishments, except that a plant described in § 1103.11 (a) or (b) that is operated by such agency shall be a pool plant if the agency in its capacity as the operator of such plant delivers bulk milk during the month to a pool plant and a written request is filed by the agency with the market administrator prior to the beginning of the month for pool plant status. If such a plant is made a pool plant at the request of the agency it shall remain a pool plant until the first day after the end of the month in which such agency requests cancellation of pool plant status and thereafter shall not again be eligible for pool plant status for at least 12 consecutive months unless such plant has route disposition to persons other than governmental establishments. Fluid milk products received at a pool plant from a governmental agency in its capacity as the operator of an exempt plant shall be treated in the same manner as receipts at a pool plant from a producer-handler for purposes of allocating such receipts pursuant to § 1103.46.

3. In § 1103.15, the introductory text prior to the first proviso is revised as follows:

§ 1103.15 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the act, or a governmental agency in its capacity as the operator of a dairy farm associated with an exempt plant, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received during the month at a pool plant (except milk received by diversion from a plant at which such milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the act and which is allocated to Class II pursuant to § 1103.46 (a) (4) (iv) and the corresponding provisions of 1103.46(b)) or by a cooperative association pursuant to § 1103.13(d), or is diverted pursuant to paragraphs (a) through (e) of this section:

* * * * *

4. In § 1103.44, a new paragraph (d) is added as follows:

§ 1103.44 Transfers.

* * * * *

(d) As Class I milk, if transferred or diverted to an exempt plant.

5. In § 1103.46(a) (3), subdivision (iii) is revised as follows:

§ 1103.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(3) * * *

(iii) Receipts of fluid milk products from a producer-handler, as defined in this or any other Federal order, and receipts of fluid milk products from an exempt plant;

* * * * *

Signed at Washington, D.C., on January 26, 1973.

JOHN C. BLUM,
Deputy Administrator
Regulatory Programs.

[FR Doc.73-1942 Filed 1-31-73;8:45 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 780]

[Amdt. 7]

APPEAL REGULATIONS

Special Handling

Notice is hereby given that the Agricultural Stabilization and Conservation Service proposes to issue an amendment to the Appeal Regulations (Part 780).

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed change to the Director, Program Performance Division, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250. In order to be assured of consideration, all submissions must be received by February 21, 1973. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director at the above address during regular business hours (8:15 a.m. to 4:45 p.m.).

The amendment would expand § 780.11 to provide that determinations made by a State committee with respect to the quality of set-aside acreage are not appealable to the Deputy Administrator. The regulations now provide that a producer who is dissatisfied with a determination of the State committee relative to the quality of the set-aside acreage on a farm may appeal such determination to the Deputy Administrator.

It is proposed that the amendment to the regulations read as follows:

Section 780.11(a) of the appeal regulations, 7 CFR Part 780, is amended by adding a new subparagraph (8). The paragraph, as amended, shall read as follows:

§ 780.11 Requests for reconsideration and appeals requiring special handling.

(a) Determinations made by a State committee with respect to (1) the establishment of farm yields for wheat, feed grain, and cotton, (2) the establishment of wheat allotments, (3) the establishment of farm feed grain bases, (4) the establishment of upland cotton base acreage allotments, (5) the establishment of conserving bases, (6) matters rising under the tobacco discount variety program, (7) eligibility provisions of the livestock feed program, and (8) the quality of the set-aside acreage are not appealable to the Deputy Administrator.

* * * * *

Signed at Washington, D.C., on January 23, 1973.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.73-1989 Filed 1-31-73;8:45 am]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance

[41 CFR Part 60-2]

AFFIRMATIVE ACTION PROGRAMS

Nonconstruction Activities of Construction Contractors

Notice is hereby given that pursuant to Executive Order 11246 (30 FR 12319), as amended by Executive Order 11375 (32 FR 14303), the Department of Labor proposes to amend the first two sentences in 41 CFR 60-2.1, as follows.

§ 60-2.1 Title, purpose, and scope.

This part shall also be known as "Revised Order No. 4" and shall cover nonconstruction contractors, and that portion of a construction contractor's work-force not actively engaged in construction work. Section 60-1.40 of this

chapter, *Affirmative action compliance programs*, requires that within 120 days from the commencement of a contract each prime contractor or subcontractor with 50 or more employees and a contract of $50,000 or more develop a written affirmative action compliance program for each of its establishments, and such contractors are now further required to revise existing written affirmative; action programs to include the changes embodied in this order within 120 days of its publication in the FEDERAL REGISTER. * * *

Interested persons are invited to submit written comments regarding this proposal to Mr. Philip J. Davis, Acting Director, Office of Federal Contract Compliance, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C. 20210, on or before March 5, 1973.

Signed at Washington, D.C., this 23d day of January 1973.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.73-1946 Filed 1-31-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[41 CFR Part 3-4]

SPECIAL TYPES AND METHODS OF PROCUREMENT

Negotiated Procurement Under the Buy Indian Act

Notice is hereby given in accordance with the administrative provisions of 5 U.S.C. 553, that pursuant to the Federal Property and Administrative Services Act of 1949, as amended, the Office of the Secretary is considering an amendment to 41 CFR, Chapter 3, Part 3-4, by adding a new Subpart 3-4.57, Negotiated Procurement under Buy Indian Act. This amendment provides policy on purchasing from Indians under the negotiating authority of the Buy Indian Act (25 U.S.C. 47) whenever practicable.

Any person who wishes to submit written data, views, or objections pertaining to the proposed amendment may do so by filing them in duplicate with the Director, Office of Procurement and Materiel Management, OASAM, Room 3340, HEW North Building, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, on or before March 5, 1973. All comments submitted pursuant to this proposal will be available for public inspection during regular business hours in the Office of Procurement and Materiel Management.

Dated: January 24, 1974.

N. B. HOUSTON,
Deputy Assistant Secretary for Administration.

Subpart 3-4.57—Negotiated Procurement Under "Buy Indian Act"

Sec.

AUTHORITY: Sec. 23, 36 Stat. 861, 25 U.S.C. 47.

§ 3-4.5700 Scope of subpart.

This subpart sets forth policy of the Department of Health, Education, and Welfare on preferential purchasing from Indians under the negotiating authority of the Buy Indian Act.

§ 3-4.5701 Policy.

The Department of Health, Education, and Welfare will utilize the negotiating authority of the Buy Indian Act to give preference to Indians whenever the use of that authority is authorized and is practicable. The Buy Indian Act was enacted as a proviso to section 23 of the Act of June 25, 1910, Chapter 431, Public Law 313, 61st Congress, 36 Stat. 861, prescribing the application of the advertising requirements of section 3709 of the Revised Statutes to the purchase of Indian supplies. As set out in 25 U.S.C. 47, the Buy Indian Act provides as follows:

> So far as may be practicable Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of the Interior.

The authority of the Secretary of the Interior with respect to the maintenance and operation of hospital and health facilities for Indians was transferred to the Department of Health, Education, and Welfare on July 1, 1955, by Public Law 568, 83d Congress, 42 U.S.C. 2001 et seq. Accordingly, the Department of Health, Education, and Welfare is authorized to give preference to Indians, and for that purpose to use the negotiating authority of the Buy Indian Act, in connection with such maintenance and operation and the conservation of the health of Indians.

§ 3-4.5702 Definitions.

§ 3-4.5702-1 Indian.

Indian means any tribe, pueblo, band, group, or community that is recognized by the Secretary of the Interior as being Indian, or any individual or group of individuals, regardless of the degree of their Indian blood, that is recognized by the Secretary of the Interior, or by the Indian tribe with which affiliation is claimed, as being Indian.

§ 3-4.5702-2 Indian Firm.

An Indian firm means any sole enterprise, partnership, corporation, or other type of business organization that is owned or controlled by an Indian or by an Indian tribe.

§ 3-4.5702-3 Product of Indian Industry.

The product of Indian industry means anything produced by Indians through physical labor or by intellectual effort involving the use and application by them of skills.

§ 3-4.5702-4 Buy Indian Contract.

Buy Indian contract means any contract involving activities covered by the Buy Indian Act that is negotiated under the provisions of 41 U.S.C. 252(c)(15) and 25 U.S.C. 47 between an Indian firm, or an Indian tribe, and a contracting officer representing the Department of Health, Education, and Welfare.

§ 3-4.5703 Requirements.

(a) *Indian ownership.* The degree of ownership or control over an Indian firm by an Indian or Indian tribe that is called for by § 3-4.5702-2 must be 100 percent during the period covered by a Buy Indian contract unless a deviation from that 100-percent requirement is approved on an individual basis by the Director, Office of Procurement and Materiel Management, Health Services and Mental Health Administration. Any request for such a deviation is to be submitted to that Director through Headquarters, Indian Health Service, together with an appropriate justification for such a deviation. The justification for a deviation must show the necessity for the Indian firm to obtain outside resources to accomplish the work.

(b) *Joint ventures.* Indian firms may enter into joint ventures with other entities for specific projects as long as an Indian firm is the managing partner. The joint venture must, however, be approved by the contracting officer prior to its negotiating a contract with the Department of Health, Education, and Welfare under the Buy Indian Act.

(c) *Indian certification.* An individual Indian must be certified as being an Indian by his tribal group or be established as being an Indian by records of the Department of the Interior.

(d) *Indian employment.* Contracts negotiated under the Buy Indian Act shall contain a clause requiring the maximum practicable amount of Indian employment under the circumstances and may specify the minimum percentage of Indian labor determined by the contracting officer to be reasonable under the circumstances considering the type of work involved, and the availability of Indian labor and skills for that type of work.

(e) *Bonds.* In the case of contracts for the construction, alteration, or repair of public buildings or public works, performance and payment bonds are required by the Miller Act (40 U.S.C. 270a) and §§ 1-10.104 and -105 of this title. In the case of contracts with Indian tribes or public nonprofit corporations serving as governmental instrumentalities of an Indian tribe, such bonds are not required except in relation to private business entities even if they are owned by an Indian tribe or members of an Indian tribe, and may be required of private business entities who are joint venturers with, or subcontractors of, an Indian tribe or a public nonprofit corporation serving as a governmental instrumentality of an Indian tribe. A bid guarantee or bid bond

is required only when a performance or payment bond is required.

(f) *Subcontracting.* Not more than 50 percent of the work to be performed under a prime contract negotiated pursuant to the Buy Indian Act shall be subcontracted to one other than an Indian firm. For this purpose, work to be performed does not include the providing of materials, supplies, or equipment.

(g) *Wage rates.* A determination of the minimum wage rates by the Secretary of Labor as required by the Davis-Bacon Act (40 U.S.C. 276a–276a–5) shall be included in all contracts negotiated under the Buy Indian Act for over $2,000 for construction, alteration, or repair, including painting and decorating, of public buildings and public works, except contracts with Indian tribes or public nonprofit corporations serving as governmental instrumentalities of an Indian tribe. Such a determination is to be included in contracts with private business entities even if they are owned by an Indian tribe or members of an Indian tribe and in connection with joint ventures with, or subcontractors of, an Indian tribe or a public nonprofit corporation serving as a governmental instrumentality of an Indian tribe.

§ 3–4.5704 Competition.

(a) Contracts negotiated under the Buy Indian Act shall be subject to competition among Indians to the maximum extent that competition is determined by the contracting officer to be practicable, pursuant to § 1–1.301–1 of this title. When competition is determined not to be practicable, a Justification for Noncompetitive Procurement shall be prepared in accordance with § 3–3.802–50 of this Chapter and retained in the contract file.

(b) Notwithstanding the provisions of § 3–3.802–50 of this Chapter, requests for approval of procurements to be negotiated under the Buy Indian Act in activities covered by that Act may, if $25,000 or less, be approved by the Chief of the procurement office, or, if over $25,000, by the official in charge of the office one level above the procurement office.

[FR Doc.73–1529 Filed 1–31–73;8:45 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 50]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Requirements for Physical Security

The Atomic Energy Commission has under consideration amendments to its regulations in 10 CFR Part 50, "Licensing of Production and Utilization Facilities," which, in the interest of the common defense and security and the public health and safety would require measures for protection of licensed fuel reprocessing facilities against acts of industrial sabotage. An act of industrial sabotage is any deliberate act against a nuclear facility, any component of a nuclear facility, or licensed nuclear material involved in such facility which could endanger the public health and safety, other than such acts committed by an enemy of the United States, whether a foreign government or other person.

The proposed amendments would require fuel reprocessing plant licensees to train and equip guards and watchmen, establish a protected area enclosing the facility, and control access to the protected area. In addition, areas which contain vital equipment—systems, devices, or material, the failure, destruction, or release of which could endanger the public health and safety—would be required to be protected by additional physical barriers within the protected area, and access to such areas to be controlled. Further, areas between physical barriers, and the zone surrounding a protected area, would be required to be monitored to detect the presence of persons or vehicles within those areas.

The proposed amendments would apply to holders of licenses for fuel reprocessing facilities issued pursuant to 10 CFR Part 50 and to applicants for such licenses. Further, nuclear reactor licensees would be required to protect their facilities against industrial sabotage. However, in view of the imminent publication of the American Nuclear Society Standard 3.3, "Industrial Security for Nuclear Power Plants," no detailed physical protection requirements for nuclear power reactors are specified in the proposed amendments. Such requirements will be forthcoming, as appropriate, following consideration of the American Nuclear Society standard.

The proposed amendments do not affect § 50.13 of Part 50 which provides that applicants for licenses for production or utilization facilities are not required to provide design features or other measures to protect their facilities against destructive acts by an enemy of the United States, whether a foreign government or other person. Protection against attack and destructive acts, including sabotage, directed against a facility by an enemy of the United States, whether a foreign government or other person, is the responsibility of the Department of Defense.

If the Commission adopts the proposed amendments, all holders of licenses heretofore issued pursuant to Part 50 would be given a period of 60 days after publication of the effective rules in the FEDERAL REGISTER to submit required physical security plans. Remaining physical protection requirements, as applicable, would be made effective 120 days after publication in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments of 10 CFR Part 50 is contemplated. All interested persons who desire to submit written comments or suggestions should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attn: Chief, Public Proceedings Staff, by March 3, 1973. Comments received after the specified period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. Section 50.2 of 10 CFR Part 50 is amended by adding new paragraphs (w), (x), (y), (z), and (aa), to read as follows:

§ 50.2 Definitions.

* * * * *

(w) The terms "guard," "watchman," "intrusion alarm," "physical barrier," and "protected area," defined in Part 73 of this chapter, shall have the same meaning when used in this part.

(x) "Industrial sabotage" means any deliberate act directed against a facility licensed pursuant to this part, or against any component of such facility, which could endanger the public health and safety, other than such acts by an enemy of the United States, whether a foreign government or other person.

(y) "Vital area" means any area within a structure which contains vital equipment, the walls, roof and floor of which constitute physical barriers of construction at least as substantial as construction of exterior walls described in § 73.3 (f) (2) of this chapter.

(z) "Vital equipment" means any equipment, system, device, or material within a facility in which an activity licensed pursuant to this part is conducted, the failure, destruction, or release of which could endanger the public health and safety. Equipment or systems which would be required to function to protect public health and safety following such failure, destruction, or release are also considered to be vital equipment.

(aa) "Isolation zone" means an area clear of all objects which could conceal or shield an individual, adjacent to a physical barrier, which is monitored to detect the presence of persons or vehicles within the area.

2. A new paragraph (c) is added to § 50.34 of 10 CFR Part 50 to read as follows:

§ 50.34 Contents of applications: technical information.

* * * * *

(c) *Physical security plan.* Each application for a license to operate a production or utilization facility shall include a physical security plan. The plan shall consist of two parts. Part I shall deal with vital equipment, vital areas, and isolation zones, and shall demonstrate how the applicant plans to comply with the requirements of § 50.55 (c) or (d), as applicable, at the proposed facility. Part II shall list tests, inspections, and other means to be used to demonstrate compliance with such requirements.

3. New paragraphs (o) and (p) are added to § 50.54 of 10 CFR Part 50 to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(o) The licensee shall make no change to a physical security plan prepared pursuant to §§ 50.34(c) or paragraph (p) of this section that has been approved by the Commission, which would decrease the effectiveness of physical security, without the prior approval of the Commission.

(p) Each licensee who is authorized to operate a production or utilization facility and who has not submitted a physical security plan, as described in § 50.34 (c) by (publication date of these amendments) shall submit such a plan to the Commission for approval within 60 days after (publication date of these amendments).

4. A new § 50.55c is added to 10 CFR Part 50, to read as follows:

§ 50.55c Physical protection requirements for nuclear reactors.

Each licensee authorized to operate a nuclear reactor shall provide appropriate protection against industrial sabotage.

5. A new § 50.55d is added to 10 CFR Part 50 to read as follows:

§ 50.55d Physical protection requirements for fuel reprocessing plants.

Each licensee authorized to operate a fuel reprocessing plant shall provide protection against industrial sabotage as follows:

(a) *Physical security organization.* (1) The licensee shall train and equip guards and watchmen to protect against industrial sabotage.

(2) The licensee shall establish, maintain, and follow written security procedures which detail the duties of guards, watchmen and other individuals responsible for security.

(3) The licensee shall not permit an individual to act as a guard or watchman unless such individual has demonstrated (i) understanding of the licensee's security procedures, and (ii) the ability to execute all duties required of him by such procedures.

(b) *Physical barriers.* (1) The licensee shall locate vital equipment only within a vital area, which, in turn, is within a protected area. More than one vital area may be within a single protected area.

(2) The physical barrier at the perimeter of the protected area shall be separated from any other physical barrier within the protected area, and the intervening space monitored or periodically checked to detect the presence of persons or vehicles to enable the facility guards and watchmen to respond to suspicious activity or to the breaching of any physical barrier.

(3) An isolation zone shall be maintained around the physical barrier at the perimeter of the protected area, and any part of a building used as part of that physical barrier. Parking facilities, both for employees and visitors, shall be located outside the isolation zone.

(4) The isolation area shall be provided with illumination sufficient for the monitoring required by paragraph (b) (2) of this section at all times.

(c) *Access requirements.* (1) The licensee shall control all points of personnel access and all points of vehicle access into each protected area, including shipping or receiving areas, and into each vital area. Identification of personnel and vehicles shall be made and access authorization checked at such points. All individuals, packages, and vehicles shall be searched for devices such as firearms, explosives, incendiary devices, or other items which could be used for industrial sabotage before entry into the protected area is permitted. All emergency exits in each protected area and each vital area shall be alarmed.

(2) A picture badge identification system shall be used for all employees.

(3) Access to vital areas shall be limited to individuals who are authorized access to vital equipment and who require such access to perform their duties. Access authorization for such individuals shall be provided by the issuance of specially coded numbered badges indicating the areas to which access is authorized. Unoccupied vital areas shall be protected by an active intrusion alarm system.

(4) Except as provided in paragraph (c) (6) of this section, individuals not employed by the licensee shall be escorted be a watchman, or other individual designated by the licensee, while in a protected area and shall be badged to indicate that an escort is required.

(5) Except as provided in paragraph (c) (6) of this section, prior to being permitted entry into a protected area, each individual not employed by the licensee shall be required to register his name, date, time, purpose of visit, employment affiliation, citizenship, name and badge number of the escort, and name of the individual to be visited.

(6) The requirements of paragraph (c) (4) and (5) of this section need not be followed with respect to individuals not employed by the licensee, who, to perform their duties require frequent and extended access to a protected area or a vital area, provided: (i) such individuals are required to give name, purpose of visit, employment affiliation, and citizenship before access authorization for the period in question is granted; (ii) such access is granted only to those protected and vital areas to which access is necessary; (iii) access authorization for such an individual is validated daily prior to entry into any protected area; and (iv) such individual is badged on a daily basis to indicate: (A) nonemployee—no escort required; and (B) areas to which access is authorized.

(7) No personal vehicles shall be permitted within a protected area.

(8) Keys, locks, combinations, and related equipment shall be controlled to minimize the possibility of compromise and shall be promptly changed whenever there is a reasonable possibility that they have been compromised and on termination of employment of any employee having access to keys, locks, combinations, and related equipment.

(d) *Detection aids.* (1) All alarms shall annunciate in a continuously manned, onsite central alarm station and in at least one other continuously manned station, not necessarily on site. All alarms shall be self-checking and tamper indicating. The annunciation of an alarm at the onsite central alarm station shall indicate the type of alarm (e.g., intrusion alarm, emergency exit alarm, etc.) and location. All intrusion alarms, emergency exit alarms, alarm systems, and line supervisory systems shall at a minimum meet the level of performance and reliability indicated by GSA Interim Federal Specification W-A-00450 A (GSA-FSS).

(2) Equipment and devices which are utilized pursuant to paragraph (c) (1) of this section shall be capable of detecting the presence of firearms, explosives, and incendiary devices on personnel and in hand-carried packages.

(e) *Communication requirements.* (1) The licensee shall establish liaison with local law enforcement authorities capable of providing assistance when needed. In developing his physical security plan, the licensee shall take account of the probable size and response time of the local law enforcement authority assistance.

(2) Each guard and watchman on duty shall be capable of maintaining continuous communication with an individual in a continuously manned central alarm station, who shall be capable of calling for assistance from other guards or watchmen or from the local law enforcement authority referred to in paragraph (e) (1) of this section.

(3) As a minimum, one two-way voice communication link, such as radio, shall be established, in addition to conventional telephone service, between local law enforcement authorities referred to in paragraph (e) (1) of this section and the facility and shall terminate at the facility in a continuously manned central alarm station.

(4) All communications equipment, including offsite equipment, shall remain operable from independent power sources in the event of loss of primary power.

(f) *Testing and maintenance.* Each licensee shall test and maintain intrusion alarms, emergency exit alarms, communications equipment, physical barriers, and other security related devices utilized pursuant to this section as follows:

(1) All alarms, communications equipment, physical barriers, and other security related devices shall be maintained in operable and effective condition.

(2) Each intrusion alarm shall be functionally tested for operability and required performance at the beginning and end of each interval during which it is used for security, but not less frequently than once every seven (7) days when in use.

(3) Communications equipment shall be tested for operability and performance not less frequently than once at the beginning of each security personnel work shift.

(g) *Records requirements.* The licensee shall maintain the following records:

(1) Names, addresses, and badge numbers of all individuals authorized to have

access to vital equipment and the vital areas to which authorization is granted.

(2) A register of visitors, vendors, and other individuals not employed by the licensee recorded pursuant to paragraphs (c) (5) and (6) of this section.

(3) A log indicating name, badge number, time of entry, reason for entry, and time of exit of all individuals granted access to a normally unoccupied vital area.

(4) Results of all tests, inspections, and maintenance which have been performed on physical barriers, intrusion alarms, communication equipment, and other security related devices used pursuant to this section.

(5) A record at each onsite alarm annunciation location of each alarm, false alarm, alarm check, and tamper indication that identifies the type of alarm, location, alarm circuit, date, and time. In addition, details of response by facility guards and watchmen to an alarm shall be recorded.

(h) *Response requirement.* Upon detection of abnormal presence or activity of persons or vehicles within an isolation zone, a protected area, or a vital area, or upon evidence of intrusion into a protected area or a vital area, the facility guards and watchmen shall (1) determine the existence of a threat, (2) assess the extent of the threat, if any, and (3) take measures to neutralize the threat, either by appropriate action by facility guards and watchmen or by calling for assistance from local law enforcement authorities, or both.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md. this 26th day of January, 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-1975 Filed 1-31-73;8:45 am]

[10 CFR Part 70]

SPECIAL NUCLEAR MATERIAL

Requirements for Physical Security

The Atomic Energy Commission has under consideration amendments to its regulation, 10 CFR Part 70, "Special Nuclear Material" which, in the interest of the common defense and security and the public health and safety, would require measures for the protection of certain facilities at which licensed activities are conducted against industrial sabotage. An act of industrial sabotage is any deliberate act against a nuclear facility, component of a nuclear facility, or licensed nuclear material involved in such facility, which could endanger the public health and safety other than such acts by an enemy of the United States, whether a foreign government or other person.

The amendments would require the licensee to train and equip guards and watchmen; establish a protected area enclosing the facility, and control access to the protected area. In addition, areas which contain vital equipment—systems, devices, or material, the failure, destruction, or release of which could endanger the public health and safety—would be required to be protected by additional physical barriers within the protected area, and access to such areas restricted and controlled. Further, areas between physical barriers, and a zone surrounding a protected area, would be required to be monitored to detect the presence of persons or vehicles within those areas.

The proposed amendments would apply to persons who are licensed, or who apply for a license to possess more than 5,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U^{235} isotope), 2,000 grams of uranium-233, or 2,000 grams of plutonium, or a combination of these materials exceeding 5,000 grams, or a combination of these materials in a quantity less than 5,000 grams where the plutonium or uranium-233 content exceeds 2,000 grams.

If the Commission adopts the proposed amendments, licensees will be given a period of 60 days after publication of the effective rules in the FEDERAL REGISTER to submit required physical security plans. The remaining physical protection requirements would be made effective 120 days after publication in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments of 10 CFR Part 70 is contemplated. All interested persons who desire to submit written comments or suggestions should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, by March 3, 1973.

Comments received after the specified period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

1. Section 70.4 of 10 CFR Part 70 is amended by redesignating paragraphs (a) through (s) as paragraphs (b) through (t), respectively, and by adding new paragraphs (a), (u), (v), (w), and (x) to read as follows:

§ 70.4 Definitions.

As used in this part, (a) Terms defined in Part 73 of this chapter have the same meaning when used in this part.

* * * * *

(u) "Industrial sabotage" means any deliberate act directed against a facility, in which an activity licensed pursuant to this part is conducted, or to any component of such a facility, which could endanger the public health and safety, other than such acts by an enemy of the United States, whether a foreign government or other person.

(v) "Vital area" means any area which contains vital equipment within a structure, the walls, roof, and floor of which constitute physical barriers of construction at least as substantial as construction of exterior walls as described in § 73.3(f)(2) of this chapter.

(w) "Vital equipment" means any equipment, system, device, or material within a facility in which an activity licensed pursuant to this part is conducted, the failure, destruction, or release of which could endanger the public health and safety. Equipment or systems which would be required to function to protect public health and safety following such failure, destruction, or release are also considered to be vital equipment.

(x) "Isolation zone" means any area, clear of all objects which could conceal or shield an individual, adjacent to a physical barrier, monitored to detect the presence of persons or vehicles within that area.

2. Section 70.22 of 10 CFR Part 70 is amended by adding a new paragraph (g) to read as follows:

§ 70.22 Contents of applications.

* * * * *

(g) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee more than 5,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), 2,000 grams of uranium-233, or 2,000 grams of plutonium, or a combination of these materials which exceeds 5,000 grams, or a combination of these materials which is less than 5,000 grams if the plutonium or uranium-233 content exceeds 2,000 grams, other than a license for possession or use of such material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, shall include a physical security plan, consisting of two parts. Part I shall deal with vital equipment, vital areas, and isolation zones, and shall demonstrate how the applicant plans to meet the physical protection requirements of §§ 73.32 and 73.33 of this chapter, and of § 70.25 in the conduct of the activity to be licensed. Part II shall list tests, inspections, and other means to demonstrate compliance with such requirements.

3. A new subparagraph (9) is added to § 70.23(a) of 10 CFR Part 70 to read as follows:

§ 70.23 Requirements for the approval of applications.

(a) An application for a license, other than a license for export, will be approved if the Commission determines that:

* * * * *

(9) Where the applicant is required to submit a physical security plan pursuant to § 70.22(g), the applicant's proposed plan is adequate.

* * * * *

4. A new § 70.25 is added to 10 CFR Part 70 to read as follows:

§ 70.25 Physical security requirements.

In addition to any other requirements of this part, each licensee who is authorized to possess or use 5,000 grams or

more of uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), 2,000 grams of uranium-233, or 2,000 grams of plutonium, or a combination of these materials which exceeds 5,000 grams, or a combination of these materials which is less than 5,000 grams if the plutonium or uranium-233 content exceeds 2,000 grams, other than in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, shall comply with the following:

(a) *Physical security organization.* (1) The licensee shall train and equip guards and watchmen to protect special nuclear material against theft or diversion, and to protect against industrial sabotage.

(2) The licensee shall establish, maintain and follow written security procedures which detail the duties of guards, watchmen and other individuals responsible for security.

(3) The licensee shall not permit an individual to act as a guard or watchman unless such individual has demonstrated (i) understanding of the licensee's security procedures, and (ii) the ability to execute all duties required by him by such procedures.

(b) *Physical barriers.* (1) The licensee shall locate vital equipment only within a vital area, which, in turn, is within a protected area. More than one vital area may be within a single protected area.

(2) The physical barrier at the perimeter of the protected area shall be separated from any other physical barrier within the protected area, and the intervening space monitored or periodically checked to detect the presence of persons or vehicles to enable the facility guards and watchmen to respond to suspicious activity or to the breaching of any physical barrier.

(3) An isolation zone shall be maintained around the physical barrier at the perimeter of the protected area and any part of a building used as part of that physical barrier. Parking facilities, both for employees and visitors, shall be located outside the isolation zone.

(4) The isolation zones shall be provided with illumination sufficient for the monitoring required by § 70.25(b)(2) at all times.

(c) *Access requirements.* (1) The licensee shall control all points of personnel access and all points of vehicle access into a protected area including shipping or receiving areas, and into each vital area. Identification of personnel and vehicles shall be made and access authorization checked at such points. All individuals, packages, and vehicles shall be searched for devices such as firearms, explosives, incendiary devices, or other items which could be used for industrial sabotage before entry into the protected area is permitted. All emergency exits in each protected area and each vital area shall be alarmed.

(2) A picture badge identification system shall be used for all employees.

(3) Access to vital areas shall be limited to individuals who are authorized access to vital equipment and who require such access to perform their duties. Access authorization for such individuals shall be provided by the issuance of specially coded numbered badges indicating vital areas to which access is authorized. Unoccupied vital areas shall be protected by an active intrusion alarm system.

(4) Except as provided in paragraph (c)(6) of this section, individuals not employed by the licensee shall be escorted by a watchman, or other individual designated by the licensee, while in a protected area and shall be badged to indicate that an escort is required.

(5) Except as provided in paragraph (c)(6) of this section, prior to being permitted entry into a protected area, each individual not employed by the licensee shall be required to register his name, date, time, purpose of visit, employment affiliation, citizenship, name and badge number of the escort, and name of the individual to be visited.

(6) The requirements of paragraph (c)(4) and (5) of this section need not be followed with respect to individuals not employed by the licensee, who, to perform their duties, require frequent and extended access to a protected area or a vital area provided: (i) such individuals are required to give name, purpose of visit, employment affiliation, and citizenship before access authorization for the period in question is granted; (ii) such access is granted only to those protected and vital areas to which access is necessary; (iii) access authorization for such an individual is validated daily prior to entry into any protected area; (iv) such individual is badged on a daily basis to indicate: (A) nonemployee—no escort required; and (B) areas to which access is authorized.

(7) No personal vehicles shall be permitted within a protected area.

(8) Keys, locks, combinations, and related equipment shall be controlled to minimize the possibility of compromise and promptly changed whenever there is a reasonable possibility that they have been compromised and on termination of employment of any employee having access to keys, locks, combinations, and related equipment.

(d) *Detection aids.* (1) All alarms shall annunciate in a continuously manned, onsite central alarm station and in at least one other continuously manned station not necessarily on site. All alarms shall be self-checking and tamper indicating. The annunciation of an alarm at the onsite central alarm station shall indicate the type of alarm (e.g., intrusion alarm, emergency exit alarm, etc.) and location. All intrusion alarms, emergency exit alarms, alarm systems, and line supervisory systems shall at minimum meet the performance and reliability levels indicated by GSA Interim Federal Specification W-A-00450 A (GSA-FSS).

(2) Devices and equipment which are utilized pursuant to subparagraph (c)(1) of this section shall be capable of detecting the presence of firearms, explosives, and incendiary devices on personnel and in hand-carried packages.

(e) *Communication requirements.* (1) The licensee shall establish liaison with local law enforcement authorities capable of providing assistance when needed. In developing his physical security plan, the licensee shall take account of the probable size and response time of the local law enforcement authority assistance.

(2) Each guard or watchman on duty shall be capable of maintaining continuous communication with an individual in a continuously manned central alarm station, who shall be capable of calling for assistance from other guards and watchmen or from the local law enforcement authority referred to in paragraph (e)(1) of this section.

(3) As a minimum, one two-way voice communication link, such as radio, shall be established in addition to conventional telephone service, between local law enforcement authorities referred to in paragraph (e)(1) of this section and the facility and shall terminate at the facility in a continuously manned central alarm station.

(4) All communications equipment, including offsite equipment, shall remain operable from independent power sources in the event of loss of primary power.

(f) *Testing and maintenance.* Each licensee shall test and maintain intrusion alarms, emergency alarms, communications equipment, physical barriers, and other security-related devices or equipment utilized pursuant to this section as follows:

(1) All alarms, communications equipment, physical barriers, and other security-related devices or equipment shall be maintained in operable and effective condition.

(2) Each intrusion alarm shall be functionally tested for operability and required performance at the beginning and end of each interval during which it is used for security, but not less frequently than once every 7 days.

(3) Communications equipment shall be tested for operability and performance not less frequently than once at the beginning of each security personnel work shift.

(g) *Records requirements.* The licensee shall maintain the following records:

(1) Names, addresses, and badge numbers of all individuals authorized to have access to vital equipment, and the vital areas to which authorization is granted.

(2) A register of visitors, vendors, and other individuals not employed by the licensee recorded pursuant to paragraphs (c)(5) and (6) of this section.

(3) A log indicating name, badge number, time of entry, reason for entry, and time of exit of all individuals granted access to a normally unoccupied vital area.

(4) Results of all tests, inspections, and maintenance which have been performed on physical barriers, intrusion alarms, communications equipment, and other security related equipment used pursuant to the requirements of this section.

(5) A record at each onsite alarm annunciation location of each alarm, false

alarm, alarm check, and tamper indication that identifies the type of alarm, location, alarm circuit, date, and time. In addition, details of response by facility guards and watchmen to an alarm shall be recorded.

(h) *Response requirement.* Upon detection of abnormal presence or activity of persons or vehicles within an isolation zone, a protected area, or a vital area, or upon evidence of intrusion into a protected area or a vital area, the facility guards and watchmen shall (1) determine the existence of a threat, (2) assess the extent of the threat, if any, and (3) take measures to neutralize the threat, either by appropriate action by facility guards and watchmen or by calling for assistance from local law enforcement authorities, or both.

5. New paragraphs (d) and (e) are added to § 70.32 of 10 CFR Part 70 to read as follows:

§ 70.32 **Conditions of licenses.**

* * * * *

(d) The licensee shall make no change to a physical security plan prepared pursuant to § 70.22(g) or paragraph (e) of this section that has been approved by the Commission which would decrease the effectiveness of physical security, without the prior approval of the Commission.

(e) Each licensee who is authorized to possess or use at any site or contiguous site subject to control by the licensee more than 5,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), 2,000 grams of uranium-233, or 2,000 grams of plutonium, or a combination of these materials which exceeds 5,000 grams or a combination of these materials which is less than 5,000 grams if the plutonium or uranium-233 content exceeds 2,000 grams, other than possession or use involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, and who has not submitted a physical security plan as described in § 70.22(g), shall submit a physical security plan to the AEC for approval within sixty (60) days after (publication date of effective amendment).

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 26th day of January 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-1976 Filed 1-31-73;8:45 am]

[10 CFR Part 70]

SPECIAL NUCLEAR MATERIAL

Revised Material Control and Accounting Requirements for Special Nuclear Material

The Atomic Energy Commission is considering the amendment of its regulations in 10 CFR Part 70, "Special Nuclear Material," to revise the material control and accounting requirements for special nuclear material. The new requirements are needed to provide further assurance that the loss or diversion of significant amounts of such material does not go undetected for extended periods of time. The closing of material balances based on physical inventories is a necessary means for determining the effectiveness of measures for the physical protection of special nuclear material.

Licensees authorized to possess more than 350 grams of contained uranium 235, uranium 233, or plutonium, or any combination thereof, would be required to conduct physical inventories at least annually. Licensees authorized to possess more than one effective kilogram [1] in unsealed form would be required to establish a measurement system and physical inventory procedures adequate to assure that any uncertainty on the material balance be within prescribed limits, and to calculate material balances based on physical inventories at intervals more frequent than annually, with the frequency depending on the strategic importance of the material. Certain minimum standards would be stipulated for the quality of these material balances. These minimum standards, effective until December 31, 1975, are performance requirements considered to be achievable with the use of present material control and accounting technology. The standards that would be effective after that date are based on the estimated technology capability and anticipate greater utilization of commercially available equipment, improved measurement quality assurance programs, additional measurement points and improved physical inventory measurements, than under current practice.

If the Commission adopts the proposed amendments, licensees will be given a period of 6 months after publication of the effective rule in the FEDERAL REGISTER before the new requirements become effective for existing plants, to allow time to make process or system changes needed to comply with the new inventory requirements. Licensees who determine and can substantiate that the requirements would necessitate modifications to their plant or equipment costing $500,000 or more would be permitted to make application with such substantiating evidence for an extension of time, not exceeding an additional 6 months, for compliance with the new requirements. Inspections would be conducted to assure that the licensee makes satisfactory progress in completing such modifications during the extended period.

These requirements are being proposed as part of an overall AEC effort to strengthen the safeguarding of strategically important special nuclear material. The application of the proposed amendments to large scale U^{233} recycle fuel fabrication facilities has not been considered since there are currently no such facilities in the licensee sector. The application of materials protection systems and procedures to such facilities is under study and additional rules will be developed as necessary.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments of 10 CFR Part 70 is contemplated. All interested persons who desire to submit written comments or suggestions should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, by April 2, 1973. Persons who would be subject to the proposed new requirements are invited to provide specific information concerning the expected cost impact of the proposed amendments on their existing operations. Copies of comments on the proposed amendment may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

1. Section 70.4 is amended by adding a new paragraph (t) to read as follows:

§ 70.4 **Definitions.**

* * * * *

(t) "Effective kilograms of special nuclear material" means: (1) For plutonium and uranium 233 their weight in kilograms; (2) For uranium with an enrichment in the isotope U-235 of 0.01 (1 percent) and above, its weight in kilograms multiplied by the square of its enrichment; and (3) For uranium of its enenrichment in the isotope U-235 below 0.01 (1 percent), by its weight in kilograms multiplied by 0.0001.

2. Paragraph (b) of § 70.22 is amended to read as follows:

§ 70.22 **Contents of applications.**

* * * * *

(b) Each application for a license to possess at any one time special nuclear material in a quantity exceeding one effective kilogram of special nuclear material and to use such special nuclear material for activities other than those involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, or as sealed sources, shall contain:

[1] "Effective kilograms" of special nuclear material is determined: (a) For plutonium and uranium 233 by their weight in kilograms; (b) For uranium with an enrichment of 0.01 (1 percent) and above, by its weight in kilograms multiplied by the square of its enrichment; and (c) For uranium with an enirchment below 0.01 (1 percent) by its weight in kilograms multiplied by 0.0001. The term "effective kilogram" has been used by the International Atomic Energy Agency for a number of years to define equivalent quantities of plutonium, uranium 233, and uranium 235 from the standpoint of safeguards significance.

(1) A full description of the applicant's procedures for control of and accounting for special nuclear material which will be in his possession under license, including:

(i) Procedures used in receiving, storing and shipping special nuclear material;

(ii) Procedures for controlling special nuclear material during its processing or use in the facility, if appropriate;

(iii) Procedures by which process losses are determined;

(iv) Special nuclear material records and reporting procedures;

(v) Physical inventory procedures showing how the requirements of paragraphs (e) and (f) of § 70.51 will be satisfied;

(vi) Measurement and statistical controls procedures; and

(vii) Administrative controls (organization and management) for assuring appropriate implementation of the foregoing procedures.[1]

(2) An identification of the fundamental material controls provided in the procedures described in subparagraph (1) (i) through (vii) of this paragraph, which the applicant considers essential for assuring that special nuclear material in his possession under license will be adequately safeguarded. Such proposed controls will be considered by the Commission in determining the conditions to be incorporated in the license pursuant to § 70.32(c).

3. Paragraph (c) of § 70.32 of 10 CFR Part 70 is amended to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(c) Each license authorizing the possession at any one time of special nuclear material in a quantity exceeding one effective kilogram of special nuclear material, and the use of such special nuclear material except those uses involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, or in sealed sources, shall contain and be subject to a condition requiring the licensee to maintain (1) such fundamental material controls identified pursuant to § 70.22(b)(2) and (2) such other material control procedures as the Commission determines to be essential for the safeguarding of special nuclear material.

(4) Section 70.51 of 10 CFR Part 70 is amended to read as follows:

§ 70.51 Material balance, inventory, and records requirements.

(a) As used in this section:

(1) "Additions to material in process" means receipts that are opened except for receipts opened only for sampling and subsequently maintained under tamper-safing and opened sealed sources.

(2) "Enrichment category" for uranium-235 means high-enriched uranium—that material whose uranium isotope content is 20 percent or more uranium 235 by weight, and low-enriched uranium—that material whose uranium isotope content is less than 20 percent uranium 235 by weight.

(3) "Element" means uranium or plutonium.

(4) "Fissile isotope" means any of the following: (i) plutonium-239 plus plutonium-241; (ii) uranium-233; and (iii) uranium-235 by enrichment category.

(5) "Limit error" means the uncertainty component used in constructing a 95 percent confidence interval associated with a quantity after any recognized bias has been eliminated or its effect accounted for.

(6) "Material balance" means a determination of material unaccounted for (MUF) by subtracting ending inventory (EI) plus removals (R) from beginning inventory (BI) plus additions to inventory (A). Mathematically,

$$MUF = BI + A - EI - R$$

(7) "Material in process" means any special nuclear material possessed by the licensee except in unopened receipts, sealed sources, and ultimate product maintained under tamper-safing.

(8) "Physical inventory" means determination on a measured basis of the quantity of special nuclear material on hand at a given time. The methods of physical inventory and associated measurements will vary depending on the material to be inventoried and the process involved.[2]

(9) "Removals from material in process" includes special nuclear material disposed of as measured discards, encapsulated as a sealed source, or in other ultimate product placed under tamper-safing, and shipments of special nuclear material.

(10) "Tamper-safing" means the use of devices on containers or vaults in a manner that insures a clear indication of any violation of the integrity of previously made measurements of special nuclear material within the container or vault.

(11) "Ultimate product" means any special nuclear material in the form of a product that would not be further processed at that licensed location, but excludes unrecovered scrap and waste.

(12) "Unopened receipts" means receipts not opened by the licensee, including receipts of sealed sources, and receipts opened only for sampling and subsequently maintained under tamper-safing.

(b) Each licensee shall keep records showing the receipt, inventory (including location), disposal, acquisition, import, export, and transfer of all special nuclear material in his possession regardless of its origin or method of acquisition.

(c) Each licensee who is authorized to possess at any one time special nuclear material in a quantity exceeding 1 effective kilogram of special nuclear material shall establish, maintain, and follow written material control and accounting procedures which are sufficient to enable the licensee to account for the special nuclear material in his possession under license.

(d) Except as required by paragraph (e) of this section, each licensee who is authorized to possess at any one time and location special nuclear material in a quantity totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, shall conduct a physical inventory of all special nuclear material in his possession under license at intervals not to exceed 12 months.

(e) Each licensee who is authorized to possess at any one time special nuclear material in a quantity exceeding 1 effective kilogram of special nuclear material, and to use such special nuclear material for activities other than those involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter; as sealed sources; or as reactor irradiated fuels involved in research, development, and evaluation programs in facilities other than irradiated fuel reprocessing plants, shall:

(1) Maintain procedures which shall include:

(i) Means for tamper-safing containers or vaults containing special nuclear material not in process;

(ii) Means for unique identification of each such item;

(iii) Inventory records showing the identity, location, and quantity of special nuclear material for all such items;

(iv) Records of the source and disposition of all such items;

(v) Records of the quantities of special nuclear material added to or removed from the process;

(vi) Inventory records for the quantity of special nuclear material in process;

(vii) Documentation of all transfers of special nuclear material between material balance areas to show identity and quantity of special nuclear material transferred;

(viii) Requirements for authorized signatures on each document for transfer of special nuclear material between material balance areas; and

(ix) Means for control of and accounting for internal transfer documents.

(2) Within 90 days after the effective date of this paragraph and thereafter as necessary to comply with the requirements of paragraph (e)(3) of this section, perform a physical inventory of all special nuclear material in his possession in compliance with the criteria for physical inventories set forth in paragraph (f) of this section.

(3) Conduct physical inventories made in accordance with the criteria for physical inventories set forth in paragraph (f) of this section for each element and fissile isotope at intervals determined from the start of the beginning inventory to the start of the ending inventory not to exceed:

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[1] For guidance in preparing the required descriptions, an applicant may consult "Guide for Preparation of Fundamental Material Controls and Nuclear Materials Safeguards Procedures," which is available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of this guide may be obtained by addressing a request to the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

[2] Criteria for physical inventories are set out in paragraph (f) of § 70.51.

(i) One calendar month for plutonium (except plutonium in that area of an irradiated-fuel reprocessing plant having shielding equivalent to 3 feet or more of concrete);

(ii) Two calendar months for uranium 233 and for uranium enriched 20 percent or more in the isotope uranium 235 (except such uranium in that area of an irradiated-fuel reprocessing plant having shielding equivalent to 3 feet or more of concrete); and

(iii) Six calendar months for uranium enriched less than 20 percent in the isotope uranium 235 and for plutonium and high-enriched uranium that area of an irradiated-fuel reprocessing plant having shielding equivalent to 3 feet or more of concrete;

(4) Within 30 calendar days after the start of each ending physical inventory required by paragraph (e)(3) of this section:

(i) Calculate, for the material balance interval terminated by that inventory, the material unaccounted for (MUF) and its associated limit of error for each element and fissile isotope contained in material in process;

(ii) Reconcile and adjust the book record of quantity of element and fissile isotope contained in material in process to the results of the physical inventory;

(iii) Complete and maintain material balance records for each material balance showing the quantity of element and fissile isotope in each component of the material balance, with the associated limit of error for the material unaccounted for both in terms of absolute quantity of element and fissile isotope and relative to additions to or removals from material in process for the interval, where results of limit of error calculations are recorded in sufficient detail to permit an evaluation of sources of error.

(iv) Complete and maintain a record summarizing the quantities of element and fissile isotope for ending inventory of material in process, total additions to material in process during the material-balance interval and total removals from the material in process during the material-balance interval; and

(v) Complete and maintain a record summarizing the quantities of element and fissile isotope in unopened receipts (including receipts opened only for sampling and subsequently maintained under tamper-safing), and ultimate products maintained under tamper-safing, or in the form of sealed sources;

(5) Establish and maintain a system of control and accountability such that the limits of error for any material unaccounted for (MUF) ascertained as a result of the material balances made pursuant to paragraph (e)(3) of this section do not exceed 200 grams for plutonium or uranium 233, 300 grams of uranium 235 contained in high-enriched uranium, or 2,000 grams of uranium 235 contained in low-enriched uranium, or the following, whichever is greater:

Material type	Limit of error of MUF on any material balance [1]	
	Until Dec. 31, 1975	Jan. 1 and thereafter 1976
	Percent	*Percent*
Plutonium or uranium-233 in a chemical reprocessing plant	1.0	0.6
Uranium-235 in a reprocessing plant	.7	.6
Plutonium, uranium-233, or high-enriched uranium—all other	.5	.3
Low-enriched uranium—all other	.5	.5

[1] As a percentage of additions to or removals from material in process, whichever is greater.

(6) A licensee or applicant for a license may apply for an exception to the limits specified in paragraph (e)(5) of this section. The Commission will approve the application for exception if the applicant demonstrates: (i) That his operation has a low throughput of special nuclear material, and (ii) That a reasonable effort has been made to minimize the limit of error of MUF.

(f) Each licensee subject to the requirements of paragraph (e) of this section shall:

(1) Establish physical inventory procedures to assure that:

(i) The quantity of special nuclear material associated with each item on inventory is a measured value of special nuclear material element and fissile isotope;

(ii) Each item on inventory is listed and identified to assure that all items are listed and that no item is listed more than once;

(iii) Cutoff procedures for transfers and processing are established so that all quantities are inventoried and none are inventoried more than once;

(iv) Cutoff procedures for records and reports are established so that all transfers for the inventory and material balance interval and no others are included in the records; and

(v) Upon completion of the inventory, all book and inventory records, both total plant and material balance area, are reconciled with and adjusted to the physical inventory.

(2) Establish inventory procedures for sealed sources and containers or vaults containing special nuclear material that provide for:

(i) Identification and location of all such items;

(ii) Verification of the integrity of the tamper-safing devices for such items;

(iii) Reverification of identity and quantity of contained special nuclear material for each item not tamper-safed, or whose tamper-safing is found to have been compromised;

(iv) Verification of the correctness of the inventory records of identity and location for all such items; and

(v) Documentation in compliance with the requirements of paragraph (f)(2)(i), (ii), (iii) and (iv) of this section.

(3) Establish inventory procedures for special nuclear material in process that provide for:

(i) Measurement of all quantities not previously measured by the license for element and fissile isotope; and

(ii) For all material whose content of element and fissile isotope has been previously measured by the licensee but for which the validity of such previously made measurements has not been assured by tamper-safing, verification of the quantity of contained element and fissile isotope by:

(A) Remeasurement of the quantity of element and fissile isotope contained in each item on inventory; or

(B) For any given category or population of inventory items, demonstration, by remeasurement of the quantity of element and fissile isotope for a randomly selected representative sample of the items in that category or population, that the stated quantity of element and fissile isotope for that category or population of items is within the limit of error assigned to such category or population of items as recorded in the licensee's records, with the following provisions:

(1) The risk that an incorrectly stated quantity of element or fissile isotope for any category or population (that is, a quantity outside the assigned limit of error) will be accepted is not more than 5 percent for plutonium, uranium-233, and high-enriched uranium and 10 percent for low-enriched uranium;

(2) If an attribute sampling plan is used, assurance shall be provided that no less than 95 percent of the items for plutonium, uranium-233, and high-enriched uranium and 90 percent of the items for low-enriched uranium have contents of element and fissile isotope within the stated limits of error; and

(3) If a variables sampling plan is used, assurance shall be provided that systematic errors as low as those specified by the licensee's records for the category or population will be detected.

(4) Conduct physical inventories according to written inventory instructions for each inventory which shall;

(i) Assign inventory duties and responsibilities;

(ii) Specify the extent to which each material balance area and process is to be shut down, cleaned out, and/or remain static;

(iii) Identify the basis for accepting previously made measurements and their limits of error;

(iv) Designate measurements to be made for inventory purposes and the procedures for making such measurements; and

(v) Identify the means by which material on inventory will be listed to assure that each item is inventoried and that there is no duplication.

(g) Each licensee, subject to the requirements of paragraph (e) of this section on (effective date), shall submit to the Commission within 120 days of that date a full description of the procedures intended to be used to enable the licensee to comply with that paragraph and the requirements set forth in paragraph (f) of this section.

(h) Each licensee who, on (publication date), determines that the requirements of paragraph (e) of this section will require modifications of his plant or equipment costing $500,000 or more may, within 120 days of that apply to the Commission for an extension of time, not to exceed 6 additional months, for compliance with those requirements. Each application for extension shall include a description of the modifications to be made, a statement of estimated associated costs with substantiating evidence, and a schedule of the dates when the modifications will be commenced and completed.

5. Section 70.53 of 10 CFR Part 70 is amended to read as follows:

§ 70.53 Material status reports.

(a) Each licensee who is authorized to possess at any one time and location special nuclear material in a quantity totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium or any combination thereof, shall complete and submit to the Commission Material Status Reports on Form AEC-742, in accordance with printed instructions for completing the form, concerning special nuclear material received, produced, possessed, transferred, consumed, disposed of or lost by the licensee. All such reports shall be made as of June 30 and December 31 of each year and shall be filed with the Commission within thirty (30) days after the end of the period covered by the report. The Commission may permit a licensee to submit Material Status Reports at other times when good cause is shown.

(b) Each licensee subject to the requirements of § 70.51(e) shall submit to the appropriate Regional Office of the AEC Directorate of Regulatory Operations listed in Appendix A of Part 73 of this chapter within 34 calendar days after the start of each ending physical inventory required by § 70.51(e)(3):

(1) if the material unaccounted for exceeded both (i) its associated limit of error and (ii) 200 grams of plutonium or U-233, 300 grams of U-235 contained in high-enriched uranium, or 2,000 grams of U-235 contained in low-enriched uranium, a statement of the probable reasons for the material unaccounted for and actions taken or planned with respect to the material unaccounted for; and

(2) if the limit of error of the material unaccounted for for any material balance exceeds the limits specified in § 70.51(e) (5) a statement of the probable reasons for the limit of error and actions taken or planned with respect to the limit of error.

(Secs. 53, 161, 68 Stat. 930, 148; 42 U.S.C. 2073, 2201)

Dated at Germantown, Md., this 26th day of January 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-1977 Filed 1-31-73;8:45 am]

[10 CFR Part 73]

PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL

Security Measures

The Atomic Energy Commission has under consideration amendments to its regulations in 10 CFR Part 73, "Physical Protection of Special Nuclear Material," which would, in the interest of the common defense and security, strengthen existing requirements for physical protection of special nuclear material while in transit.

The amendments would apply to shipments of more than 5,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U^{235} isotope) or 2,000 grams of plutonium or uranium-233. They would also apply to combined shipments of these materials which exceed 5,000 grams or in a combined shipment of less than 5,000 grams where the plutonium or uranium-233 content is greater than 2,000 grams.

Under separate amendments to 10 CFR Part 73 a rule is being made effective immediately which would limit the quantities of SNM that can be transported by passenger carrying aircraft to no greater than 20 grams or 20 curies, whichever is less of plutonium or uranium-233 or 350 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope).

The amendments being proposed are intended to reduce the risk of theft of special nuclear material. The factors that lead to theft of vehicle commodities have been identified in Department of Transportation studies as (a) longer dwell-time in transportation; (b) packages of a size and weight that can be moved by one man; and (c) large number of intervehicular transfers during course of shipment. The amendments being proposed would also implement criteria that have been developed for the protection of special nuclear material in transit, as follows: (a) assurance that a theft or diversion cannot be successfully carried out short of a significant armed attack; (b) assurance of prompt detection of an actual or attempted theft or diversion; (c) assurance of prompt alerting and timely response of armed guards or police; and (d) assurance against misroutings.

The dwell-time in the transportation system would be reduced by requiring direct shipper to receiver shipments of special nuclear material for truck transportation with no cargo transfers permitted while the special nuclear material is in the cargo. Additionally, when air cargo transportation is used, the number of different flights would be required to be minimized.

The term "continuous personal custody" in § 73.31(a)(1) would be deleted. Reliance would be placed on the monitoring of shipments at transfer points to assure against misroutings. The individual who monitors a shipment could be any individual designated by the licensee or his agent, or as specified in a contract of carriage. Additionally, the shipment would be required to be protected by the use of a specially designed truck which is dual occupied or by a dual occupied ordinary truck and an armed escort vehicle during the truck segment of truck-air shipments and throughout entire "truck only" shipments. Rail shipments would have to be escorted by two armed guards.

Other measures required to be taken to assure against diversion would be the use of closed vans or containers which are secured by locks, and the use of fingerprinted seals on containers. Furthermore, it would be required that areas of natural disasters or civil disorders be avoided, and that shipments be preplanned to assure that deliveries occur at a time when the receiver is present to accept receipt of shipments.

In order to assure prompt detection of an actual or attempted theft or diversion, the location of a truck and/or escort vehicle would be traced by the shipper or receiver, through the use of a continuous communication capability by radio-telephone on board. Communication would be maintained on at least 2-hour intervals. Where radio-telephone coverage is not available, a telephone call would be required whenever a lapse of communication exceeds 2 hours. A continuous communication capability shall exist between the cargo and escort vehicle. Further, motor vehicles used to transport special nuclear material would be marked on the top and sides with identifying letters or numbers.

A requirement that importers of special nuclear material protect each incoming shipment, beginning at the time and place in the United States of the shipment's first discharge from the arriving carrier, would be added. With this change, the protection required for import shipments would be the same as that required for domestic shipments.

Changes to the recordkeeping requirement of § 73.41 are being proposed to more clearly define the recordkeeping requirements.

The notice of proposed rule making published in the FEDERAL REGISTER on February 3, 1971 (36 FR 1914) is withdrawn.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 73 is contemplated. Interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief Public Proceedings Staff, by March 3, 1973.

The Commission particularly solicits comments concerning the cost impact of the proposed criteria with regard to the shipment of special nuclear material. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

1. Section 73.1(a) of 10 CFR Part 73 is amended to read as follows:

§ 73.1 Purpose and scope.

(a) This part prescribes requirements for the physical protection of special nuclear material by any person who is licensed pursuant to the regulations in Part 70 of this chapter and who imports, exports, transports, delivers to a carrier for transport in a single shipment, takes delivery of a single shipment free on board at the point where it is delivered to a carrier, or possesses at any site or contiguous sites subject to control by the licensee, of (1) more than 5,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U^{235} isotope), or 2,000 grams of uranium-233 or plutonium, or (2) a combination of such materials of more than 5,000 grams, or (3) a combination of such materials of less than 5,000 grams if the plutonium or uranium-233 content is greater than 2,000 grams.

* * * * *

2. A new paragraph (n) is added to § 73.3 of 10 CFR Part 73 to read as follows:

§ 73.3 Definitions.

* * * * *

(n) "Dual occupancy protection" means a signature security service plus continuous attendance and surveillance of the shipment through the use of two drivers or one driver and an authorized individual. A vehicle is attended when at least one of the drivers or the authorized individual is in the cab of the transport vehicle, awake, and not in a sleeper berth or is within 10 feet of an access door leading to the special nuclear material.

3. Paragraph (b) of 73.30 is amended to read as follows:

§ 73.30 Transportation of special nuclear material by aircraft.

* * * * *

(b) Shipments by air of special nuclear material in quantities exceeding (1) 20 grams or 20 curies, whichever is less, of plutonium or uranium-233, but not exceeding 2,000 grams of plutonium or uranium-233 or (2) 350 grams but not exceeding 5,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) are not subject to the requirements of this part other than this section.

4. Section 73.31 is amended to read as follows:

§ 73.31 Physical protection of special nuclear material in transit.

(a) Except as specified in subparagraph (a)(8) and paragraph (b) of this section, each licensee who transports or who delivers to a carrier for transport special nuclear material, shall make arrangements to assure that such special nuclear material will be protected in transit as follows:

(1) When truck transportation only is used, special nuclear material shall be transported under the established procedures of a carrier which provides a system for the physical protection of valuable material in transit and requires an exchange of hand-to-hand receipts at origin and destination, or by a Commission licensee authorized to transport special nuclear material. No intermediate stops to transfer special nuclear material or other cargo shall be made between the facility of the shipper and the facility of the receiver. The shipment shall be protected by dual occupancy protection as defined in § 73.3(n). The shipment shall be further protected by one of the following methods:

(i) An armed escort consisting of at least two armed guards shall accompany the shipment in a separate motor vehicle. Escorts shall maintain continuous vigilance for the presence of conditions or situations which might threaten the security of the cargo, take such action as circumstances might require to avoid interference with continuous safe passage of the vehicle, provide assistance to, or summon aid for crew of cargo vehicles in case of emergency, check seals and locks at each stop where time permits, and observe vehicles and adjacent areas during stops or layovers. Continuous communication capability shall be provided between the cargo vehicle and the escort vehicle. The licensee may use his own employees as armed escorts or he may use an agent.

(ii) The shipment shall be made in a specially designed truck or trailer which reduces the vulnerability to diversion. Design features of the truck or trailer shall permit immobilization of the van and provide barriers or deterrents to physical penetration.

Within 60 days after (the effective date of this amendment), licensees using either method shall submit a plan for the selection, qualification, and training of armed escorts, or the specification and design of a specially designed truck or trailer, as appropriate.

(2) When both truck and air transportation are used: (i) special nuclear material shall be transported between a licensee facility and the airport as specified in paragraph (1) of this section. The licensee shall assure that transfers during the air segments of a shipment are minimized.

(ii) Special nuclear material shall be transported under the established procedures of a carrier which provides a system for the physical protection of valuable material in transit and require an exchange of hand-to-hand receipts at origin and destination and at all points en route where there is a transfer of custody.

(iii) Special nuclear material shall be monitored by an individual or individuals designated by the licensee or his agent, or as specified by contract of carriage, during each scheduled transfer from storage to a vehicle, from one vehicle to another, or from a vehicle to storage. The monitor shall keep the shipment under constant surveillance from the time it is released from the locked compartment of the truck or aircraft until it is loaded on to another aircraft or truck and that compartment is locked, and while the shipment is in storage. "Constant surveillance" means that the monitor shall be within 10 feet of the access door to the shipment. The individual who monitors shall be required to notify the carrier and the licensee who made the arrangements for protection of special nuclear material immediately of any deviation from, or attempted interference with, schedule or routing.

(3) When rail transportation is used, the shipment shall be escorted by two armed individuals, in the shipment car or an escort car of the train, who shall keep the shipment cars under observation and shall detrain at stops when practicable and time permits to guard the shipment cars and check car or container locks and seals. Radio-telephone communication shall be maintained with a licensee or his agent every 2 hours or less, and at scheduled stops in the event that radio-telephone coverage was not available in the last 2 hours before the stop. In the event no call is received in accordance with these requirements, the licensee or his agent shall immediately notify an appropriate law enforcement authority and the appropriate Atomic Energy Commission regulatory operations regional office listed in appendix A.

(4) Transit times shall be minimized by selecting the most direct route which avoids areas of natural disaster or civil disorders. Shipments shall be preplanned to assure that deliveries occur at a time when the receiver at the final delivery point is present to accept receipt of shipment.

(5) All motor vehicles used to transport special nuclear material and escort vehicles shall be equipped with a radio-telephone which can communicate with a licensee or his agent. The licensee or agent with whom communications shall be monitored for different segments of the shipment shall be predesignated before a shipment is made. Radio-telephone calls to such licensee or agent shall be made at least every 2 hours to relay position and projected route. Telephone calls shall be made every 2 hours when radio-telephone coverage is not available. In the event no call is received in accordance with these requirements, the licensee or his agent shall immediately notify an appropriate law enforcement authority and the appropriate Atomic Energy Commission regulatory operations regional office listed in appendix A.

(6) Motor vehicles shall be marked on top with identifying letters or numbers which will permit identification of the vehicle from the air in clear weather at 1,000 feet above ground level, and marked on the sides and rear with the same letters or numbers to permit identification from the ground.

(7) When surface transportation is used, special nuclear material shall be carried in closed vehicles or containers that are locked. Fingerprint type seals shall also be used on containers.

(8) A licensee or applicant for a license may apply to the Commission for approval of proposed procedures for transport of special nuclear material in a manner not otherwise authorized by the regulations of this chapter. Such application shall include a description

and quantity of the special nuclear material involved, the origin and destination, the carriers to be used, the expected time in transit, the number of transfer points, the communication to be used, the vehicle visual identification, and the cargo security and surveillance measures to be used.

(b) Each licensee who takes delivery of special nuclear material free-on-board (f.o.b.) the point where it is delivered to a carrier for transport shall make the arrangements to assure that such special nuclear material will be protected in transit as prescribed in paragraph (a) of this section, rather than the person who delivers such shipment to the carrier for transport.

(c) Each licensee who imports special nuclear material shall make arrangements to assure that such material will be protected in transit as follows:

(1) An individual designated by the licensee or his agent, or as specified by a contract of carriage, shall confirm the container count at the first place in the United States where the shipment is discharged from the arriving carrier.

(2) The shipment shall be protected after arrival in the United States as provided in paragraphs (a), (d), and (g) of this section.

(d) Each licensee who delivers to a carrier for transport special nuclear material shall immediately notify the consignee by telephone, telegraph, or teletype, of the time of departure of the shipment, and shall notify or confirm with the consignee the method of transportation, including the names of carriers, and the estimated time of arrival of the shipment at its destination. In the case of a shipment free-on-board (f.o.b.) the point where it is delivered to a carrier for transport, he shall, before the shipment is delivered to the carrier, obtain assurance from the licensee or other person who is to take delivery of the shipment at the f.o.b. point that the physical protection arrangements, required by paragraph (a) of this section for licensed shipments or required by AEC Manual chapters 2401 or 2405 for AEC license-exempt shipments, have been made. He shall also make arrangements with the consignee to be notified immediately by telephone, telegraph, or teletype, of the arrival of the shipment at its destination.

(e) In addition to complying with the requirements specified in paragraphs (a), (d), and (g) of this section, each licensee who exports special nuclear material shall make arrangements with the consignee to be notified immediately by telephone, telegraph, or teletype, of the arrival of the shipment at its destination, or of any such shipment that is lost or unaccounted for after the estimated time of arrival at its destination.

(f) Each licensee who receives a shipment of special nuclear material shall immediately notify the person who delivered the material to a carrier for transport of the arrival of the shipment at its destination. In the event such a shipment fails to arrive at its destination at the estimated time, the consignee, if a licensee, or in the case of an export shipment, the licensee who exported the shipment, shall immediately notify by telephone, telegraph, or teletype, the Director of the appropriate Atomic Energy Commission Regulatory Operations Regional Office listed in appendix A, and the licensee or other person who delivered the material to a carrier for transport.

(g) Each licensee who makes arrangements for physical protection of a shipment of special nuclear material as required by this section shall immediately conduct a trace investigation of any shipment that is lost or unaccounted for after the estimated arrival time and file a report with the Commission as specified in § 73.42. If the licensee who conducts the trace investigation is not the consignee, he shall also immediately report the results of his investigation by telephone, telegraph, or teletype to the consignee.

5. Paragraph (c) of § 73.41 is amended to read as follows:

§ 73.41 Records.

Each licensee shall keep the following records:

* * * * *

(c) Shipments of special nuclear material subject to the requirements of this part, including names of carriers, major roads to be used, flight numbers in the case of air shipments, dates and expected times of departure and arrival of shipments, names and addresses of the monitor and one alternate monitor at each transfer point, verification of communication equipment on board the transfer vehicle, names of individuals who are to communicate with the transport vehicle, container seal descriptions and identification; and any other information to confirm the means utilized to comply with § 73.31. Such information shall be recorded prior to shipment.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 26th day of January 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-1978 Filed 1-31-73;8:45 am]

[10 CFR Part 73]

PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL

Requirements for Materials Protection

The Atomic Energy Commission has under consideration amendments to its regulations in 10 CFR Part 73, "Physical Protection of Special Nuclear Material," which (1) in the interest of the common defense and security would strengthen requirements for the protection of significant quantities of special nuclear material (SNM) at fixed sites against theft or diversion to unauthorized uses, and (2) would remove the existing exemption of classified special nuclear material from the provisions of 10 CFR Part 73. The requirements of Part 73 would be in addition to, rather than a substitute for, any security procedures for the protection of classified material of the AEC or other Government agency.

The minimum quantities of plutonium and uranium-233 to which Part 73 applies would be reduced to 2,000 grams. Thus the proposed amendments would apply to persons who possess more than 5,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), 2,000 grams of uranium-233, or 2,000 grams of plutonium, or a combination of these materials exceeding 5,000 grams, or a combination of these materials which is less than 5,000 grams if the plutonium or uranium-233 content exceeds 2,000 grams.

The proposed amendments would require that use, processing, or storage of SNM be only within a material access area which is protected by additional physical barriers within a protected area. Access to the material access area would be controlled and limited to persons granted access to SNM. Further, persons, packages, and vehicles exiting from a material access area would be checked for concealed SNM.

Pursuant to the Atomic Energy Act of 1954, as amended, and Section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendment of 10 CFR Part 73 is contemplated. All interested persons who desire to submit written comments or suggestions should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C., 20545, Attn: Chief, Public Proceedings Staff, by March 3, 1973. Comments received after the specified period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

1. Paragraph (a) of section 73.1 is amended and a new paragraph (c) is added to read as follows:

§ 73.1 Purpose and scope.

(a) This part prescribes requirements for the physical protection of special nuclear material by any person who is licensed pursuant to the regulations in Part 70 of this chapter and who imports, exports, transports, delivers to a carrier for transport in a single shipment, or takes delivery of a single shipment free on board at the point where it is delivered to a carrier, possesses at any site or contiguous sites subject to control by the licensee, (i) more than 5,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U^{235} isotope), 2,000 grams of uranium-233, or 2,000 grams of plutonium, or (ii) a combination of these materials which is more than 5,000 grams, or (iii) a combination of these materials which is less

than 5,000 grams if the plutonium or uranium-233 content is greater than 2,000 grams.

* * * * *

(c) Special nuclear material subject to this part may also be protected pursuant to security procedures prescribed by the Commission or another Government agency for the protection of classified materials. The provisions and requirements of this part are in addition to, and not in substitution for, any such security procedures. Compliance with the requirements of this part does not relieve any licensee from any requirement or obligation to protect special nuclear material pursuant to security procedures prescribed by the Commission or other Government agency for the protection of classified materials.

2. Section 73.3 of 10 CFR Part 73 is amended by deleting paragraphs (h), (i), and (j); by redesignating paragraphs (g), (k), (l), and (m) as paragraphs (h), (i), (j), and (k), respectively; and by adding a new paragraph (g), and by amending paragraph (d) and redesignated paragraph (j) to read as follows:

§ 73.3 Definitions.

* * * * *

(d) "Intrusion alarm" means a tamper indicating electrical, electro-mechanical, electro-optical, electronic or similar device which will detect intrusion by an individual into a building, protected area, vital area, or material access area, and alert guards or watchmen by means of actuated visible and audible signals.

* * * * *

(g) "Material access area" means any location which contains special nuclear material, within a vault, or a building the roof, walls and floor of which each constitute a physical barrier, and which, in turn, is located within a protected area.

(j) Vault-type room means a room with one or more doors, all combination locked, protected by an intrusion alarm which creates an alarm response to the entry of a person anywhere into the room.

§ 73.13 [Amended]

3. Paragraph (c) of § 73.13 is deleted.

4. Section 73.32 of 10 CFR Part 73 is amended to read as follows:

§ 73.32 Physical protection of special nuclear material in use or storage.

Each licensee shall physically protect special nuclear material in accordance with the following requirements:

(a) *Access requirements.* (1) Special nuclear material shall be stored or processed only in a material access area. No activities other than those which require access to special nuclear material or equipment employed in the process, use, or storage of special nuclear material, shall be permitted within a material access area.

(2) Special nuclear material not in process shall be stored in a vault equipped with an intrusion alarm or in a vault-type room and each such vault or vault-type room shall be controlled as a separate material access area.

(3) Enriched uranium in the form of small pieces, cuttings, chips, solutions or in other forms which result from a manufacturing process, which are kept for ultimate disposal, contained in 30-gallon or larger containers, may be stored within a locked and separately fenced area which is within a larger protected area provided that the storage area is no closer than 50 feet to the perimeter of the protected area. The storage area shall be protected by a guard or watchman who shall patrol at intervals not exceeding 4 hours, or by intrusions alarms.

(4) A picture badge identification system shall be used for all employees. Employees requiring admittance to a material access area shall have specially coded numbered badges.

(5) Admittance to a material access area shall be under the control of an authorized individual and limited to individuals who require such access to perform their duties.

(6) Packages and personnel entering a protected area shall be searched for devices such as firearms, explosives, incendiary devices, or counterfeit substitute items which could be used for theft or diversion of special nuclear material.

(7) Surveillance shall be maintained of individuals within a material access area such that the activities of a single individual within such an area will be observed.

(b) *Exit requirement.* Each individual, package, and vehicle shall be checked for concealed special nuclear material before exiting from a material access area unless exit is into a contiguous material access area.

(c) *Detection aid requirement.* Each unoccupied material access area shall be locked and protected by an intrusion alarm on active status. All emergency exits shall be continuously alarmed.

5. Section 73.33 of Part 73 is amended to read as follows:

§ 73.33 Testing and maintenance.

Each licensee shall test and maintain intrusion alarms, physical barriers, and other devices utilized pursuant to the requirements of this part as follows:

(a) Intrusion alarms, physical barriers, and other devices used for material protection shall be maintained in operable condition.

(b) Each intrusion alarm shall be inspected and tested for operability and required functional performance at the beginning and end of each interval during which it is used for material protection, but not less frequently than once every seven (7) days.

6. Paragraphs (a), (b), and (d) of § 73.41 of 10 CFR Part 73 are amended to read as follows:

§ 73.41 Records.

* * * * *

(a) Names and addresses of all individuals who have been designated as authorized individuals, specifying each material access area that each individual is authorized to enter.

(b) Register of visitors, vendors, and other individuals not employed by the licensee recorded pursuant to § 70.25(c) of this chapter.

* * * * *

(d) Results of all tests, inspections, and maintenance which have been performed on physical barriers, intrusion alarms, and other devices utilized by the licensee pursuant to the requirements of this part.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 26th day of January 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-1979 Filed 1-31-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

PREPARATION, ADOPTION AND SUBMITTAL OF IMPLEMENTATION PLANS

Submission of State Reports and Emission Control Action Programs

On August 14, 1971 (36 FR 15486), the Administrator of the Environmental Protection Agency (EPA) promulgated as 40 CFR Part 420, regulations for the preparation, adoption, and submittal of State implementation plans under section 110 of the Clean Air Act, as amended. These regulations were republished November 25, 1971 (36 FR 22398), as 40 CFR Part 51. Section 51.7, Reports, of these regulations requires State agencies to periodically report to the EPA progress in implementing the applicable plans. Section 51.16, Prevention of Air Pollution Emergency Episodes, requires State agencies to submit to the EPA emission control action programs for stationary sources which emit 100 tons per year or more of a pollutant in any Priority I air quality control region. The amendments to 40 CFR Part 51 proposed herein are designed to further specify the procedures for reporting under § 51.7 and to delete the requirements for submitting individual emission control action programs under § 51.16(c). The proposed amendments are designed to accomplish the following:

(1) To establish the date for submission of the first quarterly report, to be not later than February 15, 1973. The present requirements provide that the first quarterly report be submitted no later than November 15, 1972. This first quarterly report must include all air quality data gathered subsequent to the air quality data which provided the basis for the development of the applicable plan.

(2) To specify a data reporting format to be used by States when submitting air quality and emission data to the EPA. The proposed amendments also provide

States the opportunity to utilize an alternate data format when approved by the EPA.

(3) To require States to submit, on a semiannual basis, emission information for each new or modified point source and for each existing point source which achieves full compliance with any applicable emission regulation.

(4) To require States to report information on enforcement actions against point sources as well as information on compliance achieved by sources under schedules which are part of the applicable plan.

(5) To provide that nonregulatory revisions be submitted on a semiannual basis. States also may submit other general information to provide additional evidence to the Administrator that the applicable plan is being implemented.

(6) To identify more precisely those point sources to which the requirements of § 51.7 apply. The need for clarification of this point was identified by the State and Territorial Air Pollution Program Administrators (STAPPA) in reviewing these proposed regulations.

(7) To delete the requirements for submitting individual emission control action programs under § 51.16(c).

The information required by the proposed amendments to § 51.7 will allow the Administrator to determine States' progress in carrying out the applicable plan as well as the need for requiring revisions to the applicable plan. Information received from the semiannual report concerning sources which come into full compliance with an emission limitation will continually update the EPA's record of sources known not to be in compliance with an emission regulation of the applicable plan.

Section 51.16(c), which is affected by these proposed regulations, requires States to prepare and submit, as part of their implementation plans for Priority I air quality control regions, contingency plans "which shall, as a minimum, provide for taking any emission control actions necessary to prevent ambient pollutant concentrations at any location in such region from reaching levels which could cause significant harm to the health of persons * * *" The Administrator identified and published such levels on October 23, 1971 (36 FR 20513); this publication was incorporated in the November 25, 1971 (36 FR 22398) republication referred to above. Each contingency plan must specify two or more stages of episode criteria and, among other things, specify emission control actions to be taken at each episode stage. These fundamental requirements remain in effect; they would not be altered by the proposed regulations set forth below. The only effect of these proposed regulations, insofar as prevention of air pollution emergency episodes is concerned, is to relieve States of the requirement for preparation of individual emission control action programs for each stationary source emitting 100 tons per year, or more.

This modification does not relieve States or source owners and operators of their respective obligations to require and to achieve control of emissions from such sources whenever and wherever such control is necessary to prevent an air pollution episode. Nor does this modification affect EPA's authority to initiate action under section 303 of the Act to prevent imminent and substantial endangerment to the health of persons.

The existence of individual emission control action programs for major sources tends to facilitate source owners' and operators' responses to abatement orders issued for the purpose of episode prevention. In dealing with sources for which such stand-by programs do not exist, the responsible State or local agency, or EPA in the event of Federal action under section 303, may have to provide more detailed abatement orders, but it is entirely feasible to do so, and, where necessary, State and local agencies will be expected to do so. Accordingly, it is not anticipated that this modification of § 51.16(c) will have any significant effect on protection of persons against the occurrence of air pollution levels which could cause significant harm to health.

States are still encouraged to provide for the development of individual emission control action programs for major stationary sources in order to facilitate prevention of air pollution episodes. It is the Administrator's judgment, however, that an absolute requirement for preparation and evaluation of such emission control action programs for all such stationary sources in all Priority I air quality control regions would consume resources which at this time can be put to more productive use in preparation and evaluation of compliance schedules and transportation control strategies and in taking other steps necessary to insure that adequate progress is made toward attainment of the national ambient air quality standards.

Interested persons may participate in this rule making by submitting written comments in triplicate to the Control Programs Development Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711. All relevant comments received not later than March 5, 1973 will be considered. Receipt of comments will be acknowledged but substantive responses to individual comments will not be provided. Comments received will be available for public inspection during normal business hours at the Office of Public Affairs, 401 M Street SW., Washington, DC 20460.

This notice of proposed rule making is issued under the authority of section 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857g(a)).

Dated: January 29, 1973.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

Part 51 of Title 40, Code of Federal Regulations, is proposed to be amended as follows:

1. Section 51.7 is revised to read as follows:

§ 51.7 Reports.

(a) Quarterly report on air quality data: On a quarterly basis commencing with the end of the first quarterly period of October 1–December 31, 1972, the State agency shall report to the Administrator (through the appropriate Regional Office) information on air quality as specified in this paragraph.

(1) Quarterly reports shall include all air quality data gathered during the reporting period by the air quality surveillance network which is part of the applicable plan. The first report shall include all air quality data gathered subsequent to the air quality data which provided the basis for the development of the applicable plan.

(2) Quarterly reports shall be recorded and submitted in accordance with the procedures and data forms specified in the Storage and Retrieval of Aerometric Data (SAROAD) Users Manual, USEPA, OAP, APTD–0663. The data shall be submitted on paper forms, punched cards, or magnetic tape in the SAROAD format as specified in the following forms:

(i) SAROAD Site Identification Form for each new sampling site.

(ii) SAROAD Hourly Data Form for data with a sampling interval of less than 24 hours.

(iii) SAROAD Daily Data Form for data with a sampling interval of 24 hours or greater.

(iv) SAROAD Multiple-Parameter, Multiple-Station, or Composite Data Forms may be used for reporting convenience.

(3) Quarterly reports shall be submitted within 45 days after the end of each reporting period. The quarterly periods are January 1—March 31, April 1—June 30, July 1—September 30, and October 1—December 31.

(b) Semiannual report: On a semiannual basis commencing with the end of the first semiannual period of July 1—December 31, 1972, the State agency shall report to the Administrator (through the appropriate Regional Office) information as specified in this paragraph.

(1) *Source inventory data.* (i) Emissions data and information related to emissions shall be reported for each point source which achieved full compliance within the reporting period with any emission regulation of an applicable plan. The first report shall include all sources which achieved full compliance since the development of the applicable plan.

(ii) Emissions data and information related to emissions shall be reported for each new or modified point source which began operation during the reporting period. The first report shall include all new or modified sources which began operation since the development of the applicable plan.

(iii) A listing of point sources which ceased operations during the reporting period shall be reported. The first report shall include all sources which ceased operations since the development of the applicable plan.

(iv) The data required by paragraph (b)(1) (i) and (ii) of this section shall be recorded and submitted on the data forms specified in the National Emissions Data System (NEDS) Users Manual which will be provided by the Administrator to the State agency prior to the end of the first reporting period.

(2) *Progress in plan enforcement.* (i) For each point source, achievement during the reporting period of any increment of progress required by the applicable plan shall be reported.

(ii) For each point source, any enforcement action taken during the reporting period under any emission regulation (or any increment of progress of an approved compliance schedule) of the applicable plan shall be reported.

(iii) For each category of area sources, an estimate of the percent of sources in compliance with any emission regulation (or any increment of progress of an approved compliance schedule) of the applicable plan shall be reported.

(3) *Revisions and enforcement orders.* (i) All revisions, during the reporting period, of the applicable plan other than revisions to rules and regulations or compliance schedules shall be identified and described.

(ii) All enforcement orders issued during the reporting period, but not submitted as revisions to any rules and regulations or compliance schedules of the applicable plan shall be submitted.

(4) *General information.* As deemed appropriate by the State agency, any additional information may be reported to provide evidence to the Administrator that the applicable plan is being implemented.

(5) *Submission of semiannual report.* Semiannual reports shall be submitted within 45 days after the end of each reporting period. The semiannual periods are January 1–June 30 and July 1–December 31.

(c) Report format: Where a State agency has an existing format for recording the information required by paragraphs (a) and (b) of this section that differs from the format specified in those paragraphs, the State agency must obtain approval of the format by the Administrator (through the appropriate Regional Office) prior to its submittal as part of the quarterly or semiannual report.

(d) The specific data to be submitted in accordance with paragraph (b)(1) and (2) of this section shall include emissions data and information for the following:

(1) the entire facility or installation as a whole;

(2) any stack which emits more than 25 tons (22.7 metric tons) per year of any pollutant for which there is a national standard;

(3) any source listed in Appendix C to this part; and

(4) any source which is subject to an approved source compliance schedule.

With respect to paragraph (d) (2), (3), (4), of this section no duplicative reporting is required.

§ 51.16 [Amended]

2. In § 51.16, paragraph (c) is revoked and the first and second sentences of paragraph (f) are amended by deleting the words "paragraphs (c) and" and by inserting instead the word "paragraph."

[FR Doc.73-1990 Filed 1-31-73;8:45 am]

[40 CFR Part 52]

CALIFORNIA AIR QUALITY STANDARDS

Transportation Control Plan; Notice of Public Hearing and Availability of Documents and Comments

On January 15, 1973, in Los Angeles, the Administrator announced proposed regulations to establish a transportation control plan to achieve the National Primary Ambient Air Quality Standard for photochemical oxidants in the Metropolitan Los Angeles Intrastate Air Quality Control Region (AQCR). The proposed regulations were distributed at that time and were published in the FEDERAL REGISTER on January 22, 1973 (38 FR 2194).

This notice is to announce that the Agency will hold hearings in the Los Angeles area in March, beginning on the following days at 10 a.m., at the locations specified:

Location of hearing and beginning dates of hearings

Parker Center Auditorium, 150 North Los Angeles Street, Los Angeles, CA—March 5.
Sierra Junior High School Auditorium, 4950 Central Avenue, Riverside, CA—March 8.
Woodrow Wilson High School, 4400 East 10th Street, Long Beach, CA—March 10.
Van Nuys Air National Guard Base Auditorium, Building 100, 8030 Balboa Boulevard, Van Nuys, CA—March 12.
Pomona Unified School District Auditorium, 800 South Garey Avenue, Pomona, CA—March 13.
San Bernardino Convention Center, 303 North E. Street, San Bernardino, CA—March 15.
Mural Room of Santa Barbara Courthouse, Corner of Anapamu and Anacapa Streets, Santa Barbara, CA—March 19.
Ventura College Theater, 4667 Telegraph Road, Ventura, CA—March 20.
Anaheim Convention Center, Orange County Room, East Arena Entrance, 800 West Katella Avenue, Anaheim, CA—March 22.

Hearings will be carried over on additional days if necessary. All persons interested in appearing at a hearing to present a statement or in submitting a statement for the record are requested to advise, as soon as possible, but no later than 7 days prior to the date on which they wish to appear, the Director, Air and Water Division, Environmental Protection Agency, 100 California Street, San Francisco, CA 94111. It is requested that four copies of proposed remarks be submitted to the above address 7 days in advance of the proposed date of appearance.

Generally, procedures will be informal. Formal rules of evidence will not be in effect. The hearing chairman is authorized, however, to exclude statements which he deems irrelevant or needlessly repetitious and to impose reasonable limits on the duration of the statement of any witness. No cross-examination will be permitted.

The Agency solicits testimony and/or written statements on all aspects of the transportation control proposal. In addition, testimony and/or written statements are solicited with respect to the following: (1) air quality models demonstrating necessary reductions in HC and NOx to achieve the national standard for photochemical oxidants; (2) the technological feasibility of additional or alternative emission controls on stationary and mobile sources and the level of reductions attributable thereto; (3) the reduction in vehicle miles traveled (VMT) necessary at various times of the year to achieve the national standard, assuming maximum emission controls on stationary and mobile sources; (4) the design, desirability, and enforceability of an "intermittent" strategy calling for reductions in VMT which will achieve the standard on ordinary days, with more stringent controls when adverse meteorological conditions are forecast; (5) the reliability of methods for forecasting adverse meteorological conditions; (6) the effect on VMT of various control techniques (including gasoline rationing, stringent taxes on parking or gasoline, mandatory carpooling, numerous automobile-free zones, limitations on number of vehicles registered, availability of rail or bus mass transit, etc.), and the social and economic impact of such techniques; (7) whether alternative transportation can be made available for residents of the Metropolitan Los Angeles Intrastate AQCR; (8) the nature of expected growth in stationary and mobile sources to 1977 and beyond; and (9) methods for restricting such growth and the impact and/or desirability of such methods.

A copy of written comments received will be available for public examination at U.S. Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA, and the Federal Information Center, 300 North Los Angeles Street, Room 1011, Los Angeles, CA 90012.

Copies of the proposal and related documents will be available for public inspection at the following locations:

U.S. Environmental Protection Agency, 100 California Street, San Francisco, CA 94111.

ORANGE COUNTY

Anaheim Public Library, 500 West Broadway, Anaheim, CA 92805.
Chapman Branch Library, 9182 Chapman Avenue, Garden Grove, CA 92641.
Fullerton Public Library, 301 North Pomona Avenue, Fullerton, CA 92632.
Buena Park Library District Library, 7150 La Palma Avenue, Buena Park, CA 90620.
Costa Mesa Branch Library, 566 West Center Street, Costa Mesa, CA 92627.
Huntington Beach Public Library, 525 Main Street, Huntington Beach, CA 92660.
Newport Beach Public Library, 2005 Dover Drive, Newport Beach, CA 92660.
Placentia District Library, 143 South Bradford Avenue, Placentia, CA 92670.
Yorba Linda District Library, 18262 Lemon Drive, Yorba Linda, CA 92686.

LOS ANGELES COUNTY

Alhambra Public Library, 100 North Garfield Avenue, Alhambra, CA 91801.

LOS ANGELES COUNTY—Continued

Arcadia Public Library, 20 West Duarte Road, Arcadia, CA 91006.
Beverly Hills Public Library, 444 North Rexford Drive, Beverly Hills, CA 90210.
Carson Branch Library, 22102 South Main Street, Carson, CA 90745.
Compton Branch Library, 123 West Almond Street, Compton, CA 90220.
Downey City Library, 8490 East Third Street, Downey, CA 90241.
Glendale Public Library, 319 East Harvard Street, Glendale, CA 91205.
Hawthorne Branch Library, 12700 South Grevillea Avenue, Hawthorne, CA 90250.
Inglewood Public Library, 10 Queen Street, Inglewood, CA 90301.
Orange Public Library, 101 North Center Street, Orange, CA 92666.
Santa Ana Public Library, 502 Civic Center Drive West, Santa Ana, CA 92701.
Orange County Public Library, 431 South Manchester Avenue, Orange, CA 92668.
Altadena Library, District Library, 600 East Mariposa Street, Altadena, CA 91001.
Azusa Public Library, 729 North Dalton Avenue, Azusa, CA 91702.
Burbank Public Library, 110 North Glenoaks Boulevard, Burbank, CA 91503.
Commerce Public Library, 5655 Jillson Street, Commerce, CA 90040.
Covina Public Library, 234 North Second Avenue, Covina, CA 91722.
El Segundo Public Library, 111 West Mariposa Avenue, El Segundo, CA 90245.
Glendora Public Library, 122 East Foothill Boulevard, Glendora, CA 91740.
City of Industry Public Library, 100 South Hacienda Boulevard, Industry, CA 91744.
Irwindale Public Library, 5050 North Irwindale Avenue, Irwindale, CA 91706.
Lakewood Library, 5100 Clark Avenue, Lakewood, CA 90712.
Los Angeles Public Library, 630 West Fifth Street, Los Angeles, CA 90017.
Bruggemeyer Memorial Library, 318 South Ramona Avenue, Monterey Park, CA 91754.
Palos Verdes Library, District Library, 650 Deep Valley Drive, Palos Verdes Peninsula, CA 90274.
Pico Rivera Branch Library, 9001 Mines Avenue, Pico Rivera, CA 90660.
Redondo Beach Public Library, 309 Esplanade, Redondo Beach, CA 90277.
Santa Fe Springs City Library, 11700 Telegraph Road, Santa Fe Springs, CA 90670.
Sierra Madre Public Library, 440 West Sierra Madre Boulevard, Sierra Madre, CA 91024.
South Gate Branch Library, 8580 California Avenue, South Gate, CA 90280.
Torrance Public Library, 3301 Torrance Boulevard, Torrance, CA 90503.
West Covina Branch Library, 1601 West Covina Parkway, West Covina, CA 91790.
Los Angeles County Public Library System, 320 West Temple Street, Los Angeles, CA 90053.
Long Beach Public Library, Ocean and Pacific Avenues, Long Beach, Calif. 90802.
Monrovia Public Library, 321 South Myrtle Avenue, Monrovia, CA 91016.
Norwalk Branch Library, 12350 Imperial Highway, Norwalk, CA 90650.
Pasadena Public Library, 285 East Walnut Street, Pasadena, CA 91101.
Pomona Public Library, 625 South Garey Avenue, Pomona, CA 91766.
San Marino Public Library, 1890 Huntington Drive, San Marino, CA 91108.
Santa Monica Public Library, 1343 Sixth Street, Santa Monica, CA 90401.
Signal Hill Public Library, 2175 Cherry Avenue, Signal Hill, CA 90806.
South Pasadena Public Library, 1115 El Centro Street, South Pasadena, CA 91030.
Vernon City Public Library, 4305 Santa Fe Avenue, Vernon, CA 90058.
Whittier Public Library, 7344 South Washington Avenue, Whittier, CA 90602.

VENTURA COUNTY

Camarillo Branch Library, 20 South Glenn Drive, Camarillo, CA 93010.
Oxnard Public Library, 214 South "C" Street, Oxnard, CA 93030.
Simi Branch Library, 3150 Los Angeles Avenue, Simi Valley, CA 93065.
Ventura County and City Library, 651 East Main Street, Ventura, CA 93001.

SANTA BARBARA COUNTY

Santa Barbara Public Library, 40 East Anapamu Street, Santa Barbara, CA 93102.

RIVERSIDE COUNTY

Banning USD Library District Library, 21 West Nicolet Street, Banning, CA 92220.
Corona Public Library, 650 South Main Street, Corona, CA 91720.
Riverside Public Library, 3581 Seventh Street, Riverside, CA 92502.
Conejo Branch Library, 191 West Wilbur Road, Thousand Oaks, CA 91360.
Santa Paula UHS Public Library, District Library, 119 North Eighth Street, Santa Paula, CA 93060.
Beaumont District Library, 125 East Eighth Street, Beaumont, CA 92223.
Hemet Public Library, 510 East Florida Avenue, Hemet, CA 92343.

SAN BERNARDINO COUNTY

Ontario City Library, 215 East "C" Street, Ontario, CA 91764.
San Bernardino Public Library, 401 North Arrowhead Avenue, San Bernardino, CA 92401.
San Bernardino County Library, 140 West Fourth Street, San Bernardino, CA 92401.
A. K. Smiley Public Library, 125 West Vine Street, Redlands, CA 92373.
Upland Public Library, 450 North Euclid Avenue, Upland, CA 91786.

Dated: January 27, 1973.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.73-1991 Filed 1-31-73;8:45 am]

[40 CFR Part 201]

[Docket No. ONAC 7201001]

RAILROAD NOISE EMISSION STANDARDS

Advanced Notice of Proposed Rule Making

Pursuant to the authority contained in section 17 of the Noise Control Act of 1972 (86 Stat. 1248, Public Law 92-574), the Environmental Protection Agency proposes to establish a new Part 201 to Title 40 of the Code of Federal Regulations, within the guidelines set forth below, which will govern the noise emission resulting from operation of the equipment and facilities of interstate railroad carriers.

This notice is issued in order to invite early public participation in the identification and selection of various alternative methods and strategies of measuring and abating noise from interstate railroad carriers. The advance notice is also the first formal step taken to implement the requirements of section 17 of the Noise Control Act of 1972.

BACKGROUND

Section 17 of the Noise Control Act of 1972 requires that EPA publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. These regulations must include standards which limit noise emissions resulting from operation of the equipment and facilities of railroads. Such standards must reflect the degree of noise reduction achievable through the application of the "best available technology, taking into account the cost of compliance." Such regulations may apply to both new and old equipment and can take effect only after a period sufficient to permit the development and application of the requisite technology. In determining that period, appropriate consideration must be given to the cost of compliance within such period.

For purposes of these regulations, the terms "carrier" and "railroad" have the same meaning as such terms have in 45 U.S.C. section 22. Such terms include all the roads in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease; but such terms exclude street, suburban, and interurban electric railways unless operated as a part of a general railroad system of operations.

SPECIFIC QUESTIONS

Interested persons are invited to participate in the making of the proposed regulations by submitting such written data, views or arguments as they may desire. Any information and data which refer to the following topics would be useful in the development of these regulations:

(1) Identification, definition, and classification schemes that apply to interstate rail carriers, their facilities and equipment.

(2) Industry and Government regulations and standards that might impact or be impacted by these noise emission regulations.

(3) Industry and Government measurement methods and enforcement procedures that might impact or be impacted by these regulations.

(4) The major noise sources of interstate surface rail carrier systems and data on noise produced by them.

(5) New or existing, and demonstrable, technology or noise abatement and control techniques which could be required by these regulations, and their effectiveness in abating noise.

(6) Economic and cost data on the aforementioned technology or noise abatement and control techniques.

(7) Data that could be used to assess how noise abatement and control techniques or technology would impact safety.

(8) Data that could be used to assess the impact on people of noise from interstate surface rail carrier operation of equipment and facilities.

Communications should identify the docket number and be submitted in duplicate to: Office of Noise Abatement and Control, Environmental Protection Agency, Washington, D.C. 20460. All comments received within 60 days of publication of this notice will be considered by the Administrator in development of a Notice of Proposed Rule Making concerning railroad noise emission

standards. The notice of proposed rule making is required by law to be published on or before July 27, 1973.

Comments submitted shall be available for public inspection during normal business hours at the Office of Public Affairs, Environmental Protection Agency, Fourth and M Streets SW., Washington, D.C.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

JANUARY 26, 1973.

[FR Doc.73-1949 Filed 1-31-73;8:49 am]

[40 CFR Part 202]

[Docket No. ONAC 7202001]

MOTOR CARRIER NOISE EMISSION STANDARDS

Advanced Notice of Proposed Rule Making

Pursuant to the authority contained in section 18 of the Noise Control Act of 1972 (86 Stat. 1249, Public Law 92-574), the Environmental Protection Agency proposes to establish a new Part 202 to Title 40 of the Code of Federal Regulations, within the guidelines set forth below, which will govern the noise emission resulting from operation of interstate motor carriers.

This notice is issued in order to invite early public participation in the identification and selection of various alternative methods and strategies of measuring and abating noise from interstate motor carriers. The advanced notice is also the first formal step taken to implement the requirements of section 18 of the Noise Control Act of 1972.

BACKGROUND

Section 18 of the Noise Control Act of 1972 requires that EPA publish proposed noise emission regulations for motor carriers engaged in interstate commerce. These regulations must include standards which limit noise emissions resulting from operation of motor carriers and which "reflect the degree of noise reduction achievable through application of the best available technology, taking into account the cost of compliance." Such regulations may apply to both new and old equipment and can take effect only after a period sufficient to permit the development and application of the requisite technology. In determining that period, appropriate consideration must be given to the cost of compliance within such period.

For purposes of these regulations, the term "motor carrier" includes a common carrier by motor vehicle, a contract carrier by motor vehicle, and a private carrier of property by motor vehicle as those terms are defined in paragraphs (14), (15), and (17) of section 203(a) of the Interstate Commerce Act (49 U.S.C. 303 (a)).

SPECIFIC QUESTIONS

Interested persons are invited to participate in the making of the proposed regulations by submitting such written data, views, or arguments as they may desire. Any information and data which refer to the following topics would be useful in development of these regulations:

(1) Identification, definition, and classification schemes that apply to interstate motor carriers and their operations.

(2) Industry and Government regulations and standards that might impact or be impacted by these noise emission regulations.

(3) Industry and Government measurement methods and enforcement procedures that would impact or be impacted by these regulations.

(4) The major noise sources of interstate motor carrier systems, and data on noise produced by them.

(5) New or existing, and demonstrable, technology or noise abatement and contract techniques which could be required by these regulations, and their effectiveness in abating noise.

(6) Economic and cost data on the aforementioned technology or noise abatement and control techniques.

(7) Data that could be used to assess how noise abatement and control techniques or technology would impact safety.

(8) Data that could be used to assess the impact on people of noise from interstate motor carrier operations.

Communications should identify the docket number and be submitted in duplicate to the Office of Noise Abatement and Control, U.S. Environmental Protection Agency, Washington, D.C. 20460. All comments received within 60 days of publication will be considered by the Administrator in development of a notice of proposed rule making concerning motor carrier noise emission standards. The Notice of Proposed Rule Making is required by law to be published on or before July 27, 1973.

Comments submitted shall be available for public inspection during normal business hours at the Office of Public Affairs, Environmental Protection Agency, Fourth and M Streets SW., Washington, D.C.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

JANUARY 26, 1973.

[FR Doc.73-1948 Filed 1-31-73;8:45 am]

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

[33 CFR Part 401]

SEAWAY REGULATIONS AND RULES

Notice of Proposed Rule Making

Notice is hereby given that the St. Lawrence Seaway Development Corporation, acting jointly with the St. Lawrence Seaway Authority of Canada, pursuant to provisions of its enabling act (33 U.S.C. 981 et seq.) and pursuant to the authority vested in the Secretary of Transportation with respect to the St. Lawrence Seaway under the Ports and Waterways Safety Act of 1972 (Public Law 92-340, 86 Stat. 424), which authority was subsequently delegated to the Administrator of the St. Lawrence Seaway Development Corporation in the FEDERAL REGISTER on October 17, 1972 (37 FR 21943), proposes to revise Subpart A—Regulations and Subpart B—Rules of 33 CFR Part 401.

The Seaway regulations and rules were published initially in the FEDERAL REGISTER on July 1, 1958 (23 FR 5011-5013), to give users of the waterway essential information and directions for transiting. Each year, the regulations and rules have been reviewed and amended, using the experience gained from past navigation seasons in proposing necessary changes. The last full revision of the regulations and rules was published in the FEDERAL REGISTER on April 18, 1963 (28 FR 3754-3762).

The main purposes of this revision are to clarify existing regulations and rules, to incorporate information and supplemental requirements which were previously published in Seaway Notices, and to incorporate new regulations regarding penal authority received from the Secretary of Transportation by delegation under the Ports and Waterways Safety Act of 1972. A further reason for this revision is to renumber the sections subsequent to additions and deletions so that they will correspond to the numbering of the provisions of the regulations and circulars of the Canadian St. Lawrence Seaway Authority. The Canadian regulations and circulars are published in the Seaway Handbook, which is distributed to vessel operators using the Seaway.

With respect to the penal provisions, it is proposed that two new sections entitled § 401.22 Criminal penalty and § 401.23 Civil penalty be added to the regulations of Subpart A. The addition of these sections identifies the authority of the Administrator of the St. Lawrence Seaway Development Corporation to assess and collect or compromise civil penalties on violators of the Seaway Regulations and Rules in the U.S. waters of the St. Lawrence Seaway. Also, upon the failure to collect or compromise a penalty, a request may be made to the U.S. Attorney General to commence action for collection. A vessel used in a violation is liable in rem and action may be taken directly against the vessel. Further provision is made for criminal penalties for willful violators.

It is proposed to amend the rules on Condition of Vessels, § 401.102-2, to reflect the maximum permissible draft between Montreal and Lake Erie.

Section 401.102-4 would be amended by changing the title to read "Height" and by substituting the word "anything" for the words "a mast" in the first line and substituting the word "vessels" for the last word "masts." This amendment is necessary because the highest part of a vessel is not necessarily the mast but may be radar or radio antennae or other appurtenances.

Section 401.102-6 would be amended by adding the words "in a horizontal position" after the words "suspended from the vessel" in the first sentence. This is necessary because it has been shown that fenders hung in a vertical position cause damage to Seaway structures.

Section 401.102–11(a) would be amended by deleting the word "an" and adding the words "a spliced" before the words "eye not less than." This amendment is necessary because a spliced eye is less apt to cause injury to linesmen and is less susceptible to jamming or being snagged on lock coping, etc., than a "U" type clamp.

Section 401.102–17 would be amended by changing the period at the end of the sentence to a comma and adding a phrase indicating that on all vessels in excess of 350 feet whose keels are laid after January 1, 1975, stern anchors are mandatory equipment. The reason for this amendment is that invariably weather conditions deteriorate rapidly in the Welland Canal and downbound vessels admitted into the system under favorable conditions sometimes have to go to anchor during transit. Therefore with the assistance of the stern anchor, these vessels will maintain their anchored positions more safely.

A new section entitled § 401.102–19 *Pitch indicators* would be added to insure that vessels have the means to indicate in the wheelhouse and engine room what degree of pitch is on the propeller at any time. This information is necessary in order to insure safe restarting of a vessel's engine while the vessel is in Seaway facilities.

With the addition of the new section, subsequent rules under Condition of Vessels would be renumbered. (For ease of reference, a chart reflecting numbering changes has been inserted at the close of this preamble.)

The present § 401.102–19, which would be renumbered § 401.102–20, would be amended by adding the words "in covered, leakproof containers" after the words "retained on board." This amendment would provide compliance with U.S. Department of Agriculture requirements.

Section 401.102–25 would be amended to make a steering light on the bow mandatory equipment. This amendment is necessary because a steering light is considered of great assistance to the helmsman and a contribution to the safety of the vessel.

A new section entitled § 401.102–26 *Vessel inspection* would be added to provide adequate notice in order for a Seaway inspector to be at the inspection site when the vessel arrives thereby eliminating possible delay to a vessel.

It is further proposed to amend, for reasons of clarity, the rules on radio communications, § 401.103–4(a) by relocating the numbers designating the sectors under the heading "Control Sector No." and the descriptions of the sectors under the heading "Sector Limits."

Section 401.103–5(b) would be amended by changing the references to "Channel 13 (156.65 MHz)" to read "Channel 10 (156.5 MHz)" the three times it appears to signify the change of the channels.

It is also proposed to amend the rules on transit instructions, § 401.104–1, to reflect the presently proposed 1973 navigation season.

Section 401.104–7 would be amended by deleting the words "prior to or" after the words "every accident or incident" and also deleting the words "which might affect this condition," after the words "during transit." The reason for this amendment is that, as presently written, the master of a vessel is required to report an accident or incident only when in his opinion the seaworthiness of his vessel is affected. Because vessel safety demands it, the question of a vessel's seaworthiness is a matter of proper concern by the Authority. Therefore, it is felt that all accidents and incidents should be reported in order to allow for their review.

Section 401.104–8 would be amended by changing the title to read "Furnishing information re height of vessel", by changing the words "whose masts extend" to read "any part of which extends" and by changing the word "masts" the second time it appears to "vessel". This amendment is necessary to conform with §401.102–4, height of vessel, since the mast may not be the highest part of the vessel.

Section 401.104–9 would be amended to incorporate into the rules and regulations speed limits which were previously published in Seaway Notices.

Section 401.104–12 would be amended by adding the word "moored" after the words "not to endanger the" in order to distinguish a moored vessel from a passing vessel.

Section 401.104–14 would be amended by deleting the word "astern" and adding the words "the designated limit of approach sign or to" after the words "well closed up to". The reason for this amendment is that single vessels do not always close up to the limit of approach signs as they should.

Section 401.104–16 would be amended by adding the words "in a manner which affords maximum visibility from the wheelhouse" after the words "in their housings" and deleting the words "in transit". This amendment is necessary because pilots have complained of reduced visibility due to stowage of cargo booms.

The present § 401.104–18 would be deleted in its entirety. Since the lower sill system and the apron of the Sault Ste. Marie locks have been rebuilt, this section causes more difficulties than it might be preventing. Masters tend to give the vessel an extra kick just before the propeller comes over the sill and then stop the propeller. The kick is apparently given to maintain steerageway and forward motion to complete the entry or exit maneuver. This causes the vessel to squat with the midship approximately over the winter gate sill.

With deletion of § 401.104–18, subsequent rules under transit instructions would be renumbered to and including § 401.104–50, Reporting navigation aid deficiencies.

The present § 401.104–23(c), which will be renumbered § 401.104–20(c), would be amended by adding a phrase to correct the present practice at passing lines too late, mainly on a walk-through procedure at Iroquois lock.

The present § 401.104–25, which will be renumbered § 401.104–22, would be amended by adding a mooring table for Canadian Sault Ste. Marie since this lock is covered by the rules and regulations.

As a result of the work done on the Welland Canal, it is necessary to amend the present § 401.104–30, which will be renumbered § 401.104–27, to reflect the changes. At the same time it is felt that further clarification of the turning basins on the South Shore Canal is in order.

The present § 401.104–35, to be renumbered § 401.104–32, would be amended by deleting references to Bridges 15, 16, 17, and 18 on the Welland Canal since this portion of the canal will no longer be used as a result of the recent Welland Canal improvements.

The present §401.104–49, to be renumbered § 401.104–46, would be amended by changing the word "bridge" to "wheelhouse," deleting the period and adding the words "and does not interfere with mooring equipment." after the words "purpose of navigation". Experience has shown that deck cargo can sometimes obstruct or interfere with the efficient use of mooring equipment.

It is further proposed to amend the rules on dangerous cargo, § 401.105–3 by stating the specific types of explosives for which an explosives permit will not be granted.

A new section entitled § 401.105–12, *gas freeing and cleaning of tankers* would be added. There was an explosion at a vessel anchored in the Seaway this past season. In view of the possibility of loss of life or damage to property or other vessels in the vicinity, restrictive measures are believed to be in order.

It is further proposed to amend the rules on toll assessment and collection, § 401.106–1 by deleting the requirement for a duplicate copy since it is believed to be unnecessary.

Section 401.106–3 would be amended by deleting the words "the Dominion Bureau of Statistics" and substituting the words "Statistics Canada" to reflect the correct office title.

It is also proposed to amend the rules on pleasure craft, § 401.107–1, to clarify the fact that all Seaway regulations apply to pleasure craft unless exempted by this section.

Section 401.107–4 would be amended to denote that pleasure craft of less than 65 feet in overall length need not comply with the rules pertaining to radio communications.

It is finally proposed to amend the rules on forms, § 401.120–1, by adding requirements for additional information on the pre-clearance form to facilitate the processing of pre-clearance applications.

The following is a table of changes made in the numbering and titles of sections of Part 401:

SECTION NUMBER CHANGES

Old sections	*New sections*
401.101–1 through 401.102–18	Remain same
401.102–19 sewage and garbage disposal systems.	401.102–10 pitch indicators
401.102–20 oily water separators	401.102–20 sewage and garbage disposal systems
401.102–21 rudder angle indicators	401.102–21 oily water separators
401.102–22 previously deleted	401.102–22 rudder angle indicators
401.102–23 gyro compasses	Remain same
401.102–24 radar equipment	Remain same
401.102–25 steering light	Remain same
	401.102–26 vessel inspection
401.103–1 through 401.104–17	Remain same
401.104–18 stopping over miter sills (being deleted).	401.104–18 entering a lock—general
401.104–19 Entering a lock—general	401.104–19 Tandem lockage
401.104–20 Previously deleted	401.104–20 Passing hand lines
401.104–21 Previously deleted	401.104–21 Precautions in passing lines
401.104–22 Tandem lockage	401.104–22 Mooring table
401.104–23 Passing hand lines	401.104–23 Mooring procedure in locks
401.104–24 Precautions in passing lines	401.104–24 Emergency procedure
401.104–25 Mooring table	401.104–25 Attending lines
401.104–26 Mooring procedure in locks	401.104–26 Leaving a lock
401.104–27 Emergency procedure	401.104–27 Turning basins
401–104–28 Attending lines	401.104–28 Dropping anchor or tying to canal bank
401.104–29 Leaving a lock	401.104–29 Anchorage areas
401.104–30 Turning basins	401.104–30 Reporting position at anchor, wharf, etc., and resuming transit
401.104–31 Dropping anchor or tying to canal bank.	401.104–31 Signaling approach to bridge
401.104–32 Anchorage areas	401.104–32 Limit of approach to a bridge
401.104–33 Reporting position at anchor, wharf, etc., and resuming transit.	401.104–33 Vessels in tow
401.104–34 Signaling approach to bridge	401.104–34 Combined beam
401.104–35 Limit of approach to a bridge	401.104–35 Position of single tug
401.104–36 Vessels in tow	401.104–36 Two tugs
401.104–37 Combined beam	401.104–37 Towing more than one vessel
401.104–38 Position of single tug	401.104–38 Obstructing navigation
401.104–39 Two tugs	401.104–39 Interference with aids to navigation
401.104–40 Towing more than one vessel	401.104–40 Loss of anchor
401.104–41 Obstructing navigation	401.104–41 Searchlights
401.104–42 Interference with aids to navigation.	401.104–42 Smoke
401.104–43 Loss of anchor	401.104–43 Damaging or defacing Seaway property
401.104–44 Searchlights	401.104–44 Disembarking
401.104–45 Smoke	401.104–45 Prevention of oil pollution
401.104–46 Damaging or defacing Seaway property.	401.104–46 Deck cargo
401.104–47 Disembarking	401.104–47 Reporting navigation aid deficiencies
401.104–48 Prevention of oil pollution	401.104–48 None
401.104–49 Deck cargo	401.104–49 None
401.104–50 Reporting navigation aid deficiencies.	401.104–50 None
401.105–1 through 401.105–11	Remain same
	401.105–12 Gas freeing and cleaning of tankers
401.106–1 through 401.106–7	Remain same
401.106–8 Previously deleted	401.106–8 In-transit cargo
401.106–9 In-transit cargo	401.106–9 Off-loaded weights
401.106–10 Off-loaded weights	401.106–10 None
401.107–1 through 401.120–1	Remain same

The full text of the proposed revision of Part 401 of the Seaway regulations and rules is as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

Subpart B—Rules

PRE-CLEARANCE AND SECURITY FOR PAYMENT OF TOLLS

CONDITION OF VESSELS

RADIO COMMUNICATIONS

TRANSIT INSTRUCTIONS

NOTE: The regulations contained in Subpart A and the rules in Subpart B are issued jointly by the St. Lawrence Seaway Development Corporation and The St. Lawrence Seaway Authority of Canada. The numbering of sections in Subpart A, §§ 401.1 to 401.23, corresponds to the Regulations Nos. 1 to 23 of the Canadian agency. The section numbers of Subpart B, §§ 401.101–1 to 401.107–7 inclusive, correspond to the numbering of provisions of circulars Nos. 1–1 through 7–7 of the Canadian agency. The Canadian regulations and circulars are published in the Seaway Handbook, which is distributed to vessel operators using the Seaway.

AUTHORITY: 68 Stat. 93–97, 33 U.S.C. 981–990, as amended; sec. 104, Public Law 92–340, 86 Stat. 424, 49 CFR 1.50a (37 FR 21943).

Subpart A—Regulations

§ 401.1 Short title.

The regulations in this part may be cited as the "Seaway Regulations".

§ 401.2 Definitions.

In these regulations:

(a) "Authority" means the St. Lawrence Seaway Development Corporation, and where applicable, shall be deemed to include The St. Lawrence Seaway Authority of Canada;

(b) "Navigation season" means the period designated by the Authority for navigation on the Seaway or any portion thereof;

(c) "Officer" means a person employed by the Authority to direct some phase of the operation or use of the Seaway;

(d) "Passing through" means in transit through a lock or through the waters enclosed by the Approach Walls at either end of a lock chamber;

(e) "Pleasure craft" means a vessel, however propelled, that is used exclusively for pleasure and that does not carry passengers who have paid a fare for passage;

(f) "Representative" means the owner or charterer of a vessel or an agent of either of them and includes any person who, in an application for pre-clearance of a vessel, accepts responsibility for payment of the tolls and charges to be assessed against the vessel in respect of transit and wharfage;

(g) "Seaway" means that portion of the deep waterway between the Port of Montreal and Lake Erie that is under the jurisdiction of the Authority and includes all canals, works and connecting channels that are part of the deep waterway and all other canals and works, wherever located, the management, administration and control of which have been entrusted to the Authority;

(h) "Station" means a radio station operated by the Authority;

(i) "Towed" means pushed or pulled through the water;

(j) "Transit" means to use the Seaway or a part of it, either upbound or downbound; and

(k) "Vessel" means any type of craft used as a means of transportation on water.

§ 401.3 Transit of the Seaway.

(a) Except as provided in the regulations of this part, no vessel shall transit.

(b) Subject to these regulations, every vessel that does not exceed seven hundred and thirty feet in overall length and seventy-five feet six inches in extreme breadth, including permanent fenders, may transit during the navigation season.

(c) No vessel shall transit unless the maximum draft of the vessel does not exceed the draft currently prescribed by the Authority for the part of the Seaway in which the vessel is traveling.

(d) No vessel shall be towed through any part of the Seaway by another vessel or vessels, except in compliance with all conditions prescribed by the Authority in respect of towing and in compliance with any special instructions of an officer.

(e) No pleasure craft of less than twenty feet in overall length, or one ton in weight, shall transit the South Shore, Beauharnois, or Welland Canals.

§ 401.4 Preclearance of vessels.

(a) No vessel shall transit:

(1) Until an application for preclearance has been made to the Authority by its representative and the application has been approved by the Authority; or

(2) While its preclearance is suspended.

(b) The representative of a vessel may apply to the Authority in the form prescribed by the Authority for preclearance of the vessel and shall in each application:

(1) Provide particulars of the ownership and physical characteristics of the vessel; and

(2) Guarantee payment of all tolls and charges that may be incurred by the vessel.

(c) The representative of a vessel shall provide security for the payment of the tolls and charges to be incurred by the vessel.

(d) Where, in the opinion of the Authority, the security provided by the representative is insufficient to secure the tolls and charges incurred or likely to be incurred by a vessel, the Authority may suspend the preclearance of the vessel.

(e) No vessel shall transit after:

(1) The expiration of the guarantee endorsed on the application for its preclearance; or

(2) The physical characteristics of the vessel described in the application for preclearance of the vessel are materially altered by reason of construction or repair, unless an application for a new preclearance has been made and approved by the Authority.

(f) Paragraphs (a) to (e) of this section do not apply to pleasure craft of less than 350 tons in weight.

§ 401.5 Condition of vessels.

(a) No vessel shall transit unless:

(1) It is properly trimmed and in a condition determined by the Authority or an officer to be safe and satisfactory to it or him; and

(2) It is equipped with such apparatus, equipment or machinery as the Authority deems necessary for safe transit.

(b) An officer may refuse to allow a vessel to transit when, in his opinion:

(1) The vessel, its cargo, equipment or machinery are in such a condition as to prevent safe or expeditious transit by that vessel; or

(2) The vessel is manned with a crew that is incompetent or insufficient in numbers.

(c) Where an officer refuses to allow a vessel to transmit, that vessel shall not transit until an officer grants it specific permission to do so.

§ 401.6 Navigation on the Seaway.

(a) Subject to this part, the related marine, navigation and shipping laws

and regulations of the United States, as well as the Canada Shipping Act and the regulations made thereunder, shall apply mutatis mutandis to every vessel in transit.

(b) No vessel shall transit unless it

(1) Proceeds at a speed that is not in excess of that prescribed by the Authority for that part of the Seaway in which the vessel is traveling;

(2) Complies with all orders given to it by an officer or a station; and

(3) Complies with this part and all directions given by the Authority in respect to navigation and passing through.

(c) The Authority assumes no liability in providing aids or things to assist navigation.

(d) Nothing in this part shall be construed as derogating from the responsibility of a Master for his vessel and its crew.

§ 401.7 Notice of arrival.

(a) All self-propelled vessels in transit or approaching the Seaway, except pleasure craft of less than 65 feet in overall length, shall

(1) Be on radio-listening watch; and

(2) Give notice of arrival in the manner prescribed by the Authority upon reaching any calling-in-point designated by the Authority.

(b) Notice of arrival shall be deemed to have been given when it is acknowledged by a station.

§ 401.8 Passing through.

(a) The crew of a vessel shall assist in the handling and passing through of the vessel in such manner as may be prescribed by the Authority.

(b) Except as authorized by an officer, no person shall go aboard or leave any vessel while the vessel is passing through.

§ 401.9 Dangerous cargo.

(a) No vessel, carrying dangerous cargo to which regulations issued pursuant to the Dangerous Cargo Act of the United States or regulations made under the Canada Shipping Act apply, shall transit except in accordance with the requirements of such regulations and in accordance with all directions given by the Authority.

(b) No vessel carrying fuel oil, gasoline, other flammable goods or other goods deemed by the Authority to be dangerous shall transit except in accordance with all directions given by the Authority in respect of vessels carrying such goods.

§ 401.10 Documentary evidence.

(a) The representative of a vessel shall, within 14 days after the vessel first enters the Seaway on any upbound or downbound voyage, furnish to the Authority in the form prescribed by the Authority, a detailed report stating the destination of the vessel and the nature and quantity of its cargo.

(b) All documentary evidence, including inspection certificates, vessel manifests, cargo manifests, crew lists and bills of lading, shall be made available to any officer requiring production of such evidence.

§ 401.11 Accidents.

(a) Where a vessel on the Seaway is involved in an accident which might affect its ability to transit safely and expeditiously, the Master of the vessel shall report the accident to the nearest Seaway station immediately if the vessel can make radio contact with the station or forthwith as soon as the vessel can make radio contact with the station in any other case.

(b) Where a vessel approaching the Seaway with intent to transit has been involved in an accident in the course of its last voyage that might affect its ability to transit safely and expeditiously, the Master of the vessel shall report the accident to the nearest Seaway station before entering the Seaway.

§ 401.12 [1] Detention of vessel.

Where an accident results

(a) In damage to property of the Authority;

(b) In damage to goods or cargo stored on property of the Authority; or

(c) In injury to employees of the Authority, the vessel causing such damage or injuries may be detained until security satisfactory to the Authority has been provided.

§ 401.13 Removal of obstructions.

The Authority may take such action as it deems necessary to relocate any vessel, cargo or things that, in its opinion, obstructs or hinders transit of any part of the Seaway.

§ 401.14 Wintering and laying-up.

No vessel shall winter or lay-up within the Seaway except with the written permission of the Authority and subject to the conditions and charges that may be imposed by the Authority.

§ 401.15 Access to Seaway land.

(a) Except as authorized by an officer, no person shall load or unload goods on property of the Authority.

(b) Except as authorized by an officer or by the Shore Traffic Regulations, no person shall enter upon any land or structures of the Authority or swim in any canal or lock area.

§ 401.16 [1] Summary conviction.

(a) A person who violates a regulation is guilty of an offense and is liable on summary conviction to a fine not exceeding $1,000.

(b) Every person who

(1) Handles any vessel contrary to the provisions of the regulations of this part or any directions of the Authority or of an officer given under the regulations of this part;

(2) Is a party to any act described in paragraph (b)(1) of this section; or

(3) Is the owner, charterer or Master of any vessel by means of which any act described in paragraph (b)(1) of this section is committed,

shall be deemed to have violated those provisions or directions unless, in any prosecution for such violation, he establishes that the act in respect of which the prosecution has been commenced, took place without his consent, and that he exercised all due diligence to prevent its commission.

§ 401.17 [1] Violations; detention.

(a) An officer may detail a vessel where

(1) The tolls or charges levied against the vessel have not been paid; or

(2) A violation of the regulations of this part has taken place in respect of the vessel.

(b) A vessel detained pursuant to the paragraph (a)(1) of this section shall be released where the unpaid tolls or charges are paid.

(c) A vessel detained pursuant to paragraph (a)(2) of this section may be released where a sum of money in an amount, determined by the Authority to be the maximum fine that may be imposed for the violation in respect of which the vessel has been detained, is deposited with the Authority as security for the payment of any fine that may be imposed.

(d) Where a sum of money has been deposited pursuant to paragraph (c) of this section, the Authority may

(1) Return the deposit;

(2) Hold the deposit in trust as security for the payment of any fine that may be imposed; or

(3) Retain the deposit if the depositor agrees to retention by the Authority of the sum deposited.

(e) Although the Master or the representative may have agreed to retention by the Authority of an amount deposited under paragraph (c) of this section, an action may be brought for the recovery of the amount deposited on the ground that there has been no violation of the regulations.

§ 401.18 [1] Seizure and sale.

(a) Where a vessel has been detained pursuant to § 401.17 and payment of the tolls and charges or the fine imposed on conviction has not been made within 48 hours after

(1) The time of detention, in the case of arrears of tolls and charges; or

(2) The imposition of the fine, in the case of conviction, the Authority may direct that the vessel or its cargo or any part thereof be seized.

(b) The Authority may, after giving such notice as it deems reasonable to a representative of the vessel, sell the vessel or cargo seized pursuant to paragraph (a) of this section.

(c) Any amount remaining from the proceeds of a sale held pursuant to paragraph (b) of this section shall, after deduction of the amount due for tolls and charges or the amount of the fine imposed on conviction together with the cost of the detention, seizure, and sale, be paid to the owner of the vessel or cargo or the mortgagee thereof, as the case may be.

[1] Section 401.12 and §§ 401.16 to 401.18 apply only to that portion of the Seaway under the jurisdiction of the St. Lawrence Seaway Authority of Canada. These sections are included herein primarily for the purpose of information.

§ 401.19 Copy of regulations to be kept on board.

A copy of the regulations and rules of this part shall be kept on board every vessel in transit on the Seaway.

§ 401.20 Boarding vessel.

For the purpose of enforcing the regulations of this part, an officer may board any vessel and

(a) Examine the vessel or its cargo; and

(b) Inspect its crew.

§ 401.21 Discharge of refuse.

No vessel in transit shall emit sparks or excessive smoke or discharge oil, oil sludge, or other flammable or dangerous substance, or garbage, ashes, ordure, litter, or other materials, and no person shall deposit any such substance or material in waters or on land or structures under the jurisdiction of the Authority.

§ 401.22 [2] Criminal penalty.

(a) A person who willfully violates a regulation or rule is subject to a fine not less than $5,000 or more than $50,000 or imprisonment for not more than 5 years or both.

(b) For the purpose of paragraph (a) of this section, a "person" is deemed to be anyone who

(1) Handles any vessel contrary to the provisions of these regulations or of any rules or directions of the Authority, or an officer thereof, given under the regulations or rules;

(2) Is a party to any act described in paragraph (b)(1) of this section; or

(3) Is the owner, charterer, or master of any vessel by means of which any act described in paragraph (b)(1) of this section is committed.

§ 401.23 [2] Civil penalty.

(a) A person, as described in paragraph (b) of § 401.22, who violates a regulation or rule is liable to a civil penalty of not more than $10,000.

(b) In assessing or collecting any civil penalty incurred under paragraph (a) of this section, the Authority may, in its discretion, remit, mitigate, or compromise any penalty.

(c) Upon failure to collect a penalty levied under this section, the Authority may request the U.S. Attorney General to commence any action for collection in any district court of the United States. A vessel by means of which a violation of a regulation or rule is committed shall be liable in rem and may be proceeded against accordingly.

Subpart B—Rules

Preclearance and Security for Payment of Tolls

§ 401.101–1 Representative.

Except as provided in the rules relating to pleasure craft, §§ 401.107–1 to 401.107–7, every vessel intending to transit must be precleared by a representative who shall assume responsibility to the Authority for the payment of all tolls and charges to be incurred.

§ 401.101–2 Application for preclearance.

Application for preclearance will be made by the representative on Form SLS–429, a sample of which is shown in § 401.120–1. Application forms may be obtained from The St. Lawrence Seaway Authority, Cornwall, Ontario, or from the St. Lawrence Seaway Development Corporation, Massena, N.Y.

§ 401.101–3 Renewal application.

Where a preclearance has terminated by expiration of the representative's guarantee or because of a change in ownership or in the status of the representative or because of a change in the physical characteristics of the vessel, another application for preclearance must be made before further transit by the vessel.

§ 401.101–4 Approval of preclearance.

Preclearance may be approved by the Authority in writing, assigning a Seaway number, to which reference shall be made at all times when corresponding or making payments.

§ 401.101–5 Security for tolls.

Before transit, other than a transit restricted to the Sault Ste. Marie (Canada) Canal, by a vessel, other than a pleasure craft, security for the payment of tolls must be provided in one of the following ways:

(a) A money deposit with the Authority;

(b) A money deposit to the credit of the Authority with a bank in the United States or with a chartered bank in Canada;

(c) A deposit with the Authority of negotiable bonds of the Government of the United States or of the Government of Canada; or

(d) Furnishing the Authority with a letter of guarantee given by a bank referred to in paragraph (b) of this section.

§ 401.101–6 Amount of single vessel security.

The security for tolls in the case of one vessel shall be sufficient to cover the gross registered tonnage of that vessel at $1 per ton for transit each way, or at $2 per ton for a "round trip," and it shall be maintained in an amount sufficient to cover each and every transit for which tolls have been incurred and are unpaid.

§ 401.101–7 Amount of fleet security.

Where a number of vessels are owned or controlled by the same person or company and have the same representative, the security for tolls may be provided in an amount estimated by the representative as being equal to $1 per ton for the aggregate, maximum tonnage of such vessels to be within the Seaway at any one time, and it must be maintained in an amount sufficient to cover each and every transit for which tolls have been incurred and are unpaid.

Condition of Vessels

§ 401.102–1 Dimensions.

Vessels in excess of 730 feet in overall length or 75 feet 6 inches in extreme breadth including permanent fenders, if any, shall not transit under any circumstances.

§ 401.102–2 Draft.

Vessels shall not transit any part of the Seaway between Montreal and Lake Erie with a maximum draft in excess of 26 feet.

§ 401.102–3 Draft markings.

Vessels in excess of 65 feet in overall length must be correctly and distinctly marked on both sides at the bow and stern, and vessels in excess of 350 feet in overall length must also be so marked on both sides with mid-ship draft markings. A Seaway officer may require the Master of any vessel to produce satisfactory evidence that draft markings are correct.

§ 401.102–4 Height.

No vessel shall transit any part of the Seaway if anything on the vessel extends more than 117 feet above water level. (See § 401.104–8 with regard to required advance information on the height of vessels.)

§ 401.102–5 Protruding bridges.

No vessel shall transit if any part of its bridges protrudes beyond the vessel's hull.

§ 401.102–6 Fenders.

If fenders are used, they shall either be permanently attached to the vessel or be made of such material as will remain afloat, and be securely fastened and suspended from the vessel in a horizontal position by means of a steel cable or a fiber rope. Fenders suspended from a vessel shall be slung in such a way that they may be raised or lowered so as to avoid damage to Seaway installations, and automobile or other tires shall not be used as fenders.

§ 401.102–7 Fender requirements.

Vessels carrying explosive or hazardous cargo must be equipped with fenders as specified in § 401.105–7, and fenders or other devices must be provided where any structural part of a vessel protrudes so as to endanger Seaway installations.

§ 401.102–8 Discharge pipes.

No vessel shall transit with pipes which discharge onto the top of a tie-up or lock wall. Discharge pipes will be rigged to assure that overboard discharge will be diverted into the water.

§ 401.102–9 Landing booms.

Vessels in excess of 150 feet in overall length must be equipped with at least one adequate landing boom on each side.

§ 401.102–10 Radiotelephone equipment.

All self-propelled vessels, other than pleasure craft of less than 65 feet, must

[2] Sections 401.22 and 401.23 apply only to that portion of the Seaway under the jurisdiction of the St. Lawrence Seaway Development Corporation.

be equipped with VHF (very high frequency) radiotelephone equipment. The radio transmitters must have sufficient power output to enable the vessel to communicate with Authority stations from a distance of 30 miles and must be fitted to operate from the wheelhouse and to communicate on 156.55, 156.6, 156.7, and 156.8 MHz.

§ 401.102–11 Mooring lines.

(a) Mooring lines must be uniform throughout their length, fitted with a spliced eye not less than 8 feet long and must have sufficient strength to check the vessel. They must be arranged so that they may be led to either side of the vessel as required.

(b) Synthetic lines may be used for mooring at approach walls, tie-up walls, and docks within the Seaway provided they have an appropriate breaking strength. Wire rope mooring lines must be used for securing in lock chambers unless otherwise permitted.

(c) The following table sets out minimum specifications for mooring lines:

Ship's overall length (feet)	Length of mooring line (feet)	Breaking strength (tons)
125 to 200	360	15
200 to 300	360	21
300 to 500	360	28
500 to 730	360	35

§ 401.102–12 Fairleads.

Mooring lines, and hawsers where permitted, must be led at the vessel's side through a type of fairlead acceptable to the authority, and they shall not pass through more than two inboard fairleads which must be fixed in place and provided with free-running sheaves or rollers. When mounted flush with the hull, fairleads should be fendered to prevent the lines from being pinched between the vessel and a wall.

§ 401.102–13 Requirements for mooring lines and winches.

Minimum requirements with respect to mooring lines and winches and with respect to the location of fairleads on vessels are as follows:

(a) Vessels of 125 feet and less in overall length shall have at least two mooring lines or hawsers, one leading from the break of the bow and one from the quarter. Both lines may be led through closed chocks and may be hand-held.

(b) Vessels in excess of 125 feet and up to 200 feet in overall length shall have four mooring lines, two of which (one leading forward from the break of the bow and one leading astern from the quarter, or one leading astern from the break of the bow and one leading forward from the quarter) must be power-operated from winches, capstans, or windlasses and must be led through a type of fairlead acceptable to the Authority. The two remaining lines may be led through closed chocks and may be handheld.

(c) Vessels in excess of two hundred feet in overall length shall have four mooring lines, which must be power-operated from the main drums of adequate power-operated winches, and not from capstans or windlasses. All four mooring lines (two leading from the break of the bow and two from the quarter) must be led through a type of fairlead acceptable to the Authority.

(d) The following table sets out the requirements for the location of fairleads.

Overall length of vessel in feet	For mooring lines Nos. 1 and 2	For mooring lines Nos. 3 and 4
200 to 300	Between 30 and 80 ft. from the stem.	Between 30 and 80 ft. from the stern.
Over 300 to 400	Between 40 and 100 ft. from the stem.	Between 50 and 110 ft. from the stern.
Over 400 to 500	Between 40 and 110 ft. from the stem.	Between 50 and 130 ft. from the stern.
Over 500 to 600	Between 50 and 130 ft. from the stem.	Between 60 and 150 ft. from the stern.
Over 600 to 730	Between 60 and 160 ft. from the stem.	Between 70 and 170 ft. from the stern.

§ 401.102–14 Hand lines.

Hand lines must be of Manilla or other acceptable material and must have a minimum diameter of one-half inch and a minimum length of 100 feet and must not be knotted or weighted when they are to be used in the chamber of a lock.

§ 401.102–15 Anchor marking buoys.

An orange colored anchor marking buoy, of an approved type and fitted with 75 feet of suitable line, shall be secured directly to each anchor so that it will mark the location of the anchor when it is dropped.

§ 401.102–16 Ballast.

Vessels must be adequately ballasted.

§ 401.102–17 Stern anchors.

It is strongly recommended that vessels in excess of 350 feet in overall length be equipped with a stern anchor rigged and ready for immediate use; all vessels in excess of 350 feet whose keels are laid after January 1, 1975 shall be equipped with stern anchors.

§ 401.102–18 Propeller direction alarms and r.p.m. indicators.

Vessels in excess of 260 feet in overall length shall be equipped with propeller direction/shaft r.p.m. indicators and, unless the vessel is bridge-controlled or is equipped with an automatically synchronized electric telegraph system or a device which renders it impossible to operate engines against orders from the bridge, visible and audible wrong-way propeller direction alarms located in the wheelhouse and the engineroom.

§ 401.102–19 Pitch indicators.

Vessels equipped with a variable pitch propeller shall have a pitch indicator in the wheelhouse and in the engineroom.

§ 401.102–20 Sewage and garbage disposal systems.

Vessels not otherwise equipped with containers for ordures shall be equipped with a sewage disposal system enabling compliance with applicable laws relative to sewage disposal. Garbage on a vessel shall be destroyed by means of an incinerator or other device, or it shall be retained on board in covered, leakproof containers until such time as it can be disposed of lawfully.

§ 401.102–21 Oily water separators.

Vessels which cannot contain waste oil products and bilge water containing waste oil products shall be equipped with oily water separators or other such equipment for the extraction of oil products from waste water before discharge.

§ 401.102–22 Rudder angle indicators.

Vessels in excess of 260 feet in overall length shall be equipped with rudder angle indicators located in the wheelhouse, and it is strongly recommended that the indicators or repeaters be arranged so that they are easily read from any position on the bridge.

§ 401.102–23 Gyro compasses.

It is recommended that vessels be equipped with gyro compasses.

§ 401.102–24 Radar equipment.

It is recommended that vessels be equipped with radar.

§ 401.102–25 Steering light.

Vessels shall be equipped with a steering light on the bow.

§ 401.102–26 Vessel inspection.

Vessels shall provide at least 24-hour notice of arrival to the nearest Seaway station prior to an initial transit or in case reinspection is required.

RADIO COMMUNICATIONS

§ 401.103–1 Listening watch.

As provided in the Seaway Regulations (Subpart A of this part), vessels shall be on radio listening watch on the assigned frequency while within a Seaway Traffic Control Sector.

§ 401.103–2 Radiotelephone frequencies.

The Seaway Stations operates on the following assigned VHF frequencies:

156.8 MHz (channel 16)—Safety and Calling.
156.7 MHz (channel 14)—Working (Canadian Stations other than Lakes Ontario and Erie).
156.6 MHz (channel 12)—Working (U.S. Stations).
156.55 MHz (channel 11)—Working (Canadian Stations, Lake Ontario, and eastern end of Lake Erie).

§ 401.103–3 Location of stations.

The Seaway Stations are for vessel traffic control purposes only, and are located as follows:

Call letters	Call sign	Location
VDX20	(Seaway Beauharnois.)	Upper Beauharnois Lock—traffic control sector No. 1.
KEF	(Seaway Eisenhower.)	Eisenhower Lock—traffic control sector No. 2.
VDX21	(Seaway Iroquois)	Iroquois Lock—traffic control sector No. 3.
WAG	(WAG Clayton)	Clayton, N.Y.—traffic control sector No. 4.
VDX70	(Seaway Picton)	Picton, Ontario—traffic control sector No. 5.
VDX72	(Seaway Oshawa)	Oshawa, Ontario—traffic control sector No. 5.
VDX22	(Seaway Welland)	St. Catharines, Ontario—traffic control sector No. 6.
VDX68	(Seaway Long Point.)	Port Colborne, Ontario—traffic control sector No. 7.
VDX23	(Seaway Sault)	Sault Ste. Marie, Ontario—traffic control sector No. 8.

§ 401.103–4 VHF Radio coverage and procedure.

(a) Vessels must use the channels of communication in each Control Sector as listed below:

Station	Control sector No.	Sector limits	Call in	Work	Listening watch
Seaway Beauharnois	1	C.I.P. No. 2 to C.I.P. Nos. 6 and 7	Ch. 14	Ch. 14	Ch. 14.
Seaway Eisenhower	2	C.I.P. Nos. 6 and 7 to C.I.P. Nos. 10 and 11.	Ch. 12	Ch. 12	Ch. 12.
Seaway Iroquois	3	C.I.P. Nos. 10 and 11 to Whaleback Shoal.	Ch. 14	Ch. 14	Ch. 14.
WAG Clayton	4	Whaleback Shoal to Tibbetts Point	Ch. 16	Ch. 12	Ch. 16.
Seaway Picton	5	Tibbetts Point to Mid Lake Ontario	Ch. 11	Ch. 11	Ch. 16.
Seaway Oshawa	5	Mid Lake Ontario to C.I.P. No. 15	Ch. 11	Ch. 11	Ch. 16.
Seaway Welland	6	C.I.P. No. 15 to C.I.P. No. 16	Ch. 14	Ch. 14	Ch. 14.
Seaway Long Point	7	C.I.P. No. 16 to Long Point	Ch. 11	Ch. 11	Ch. 16.
Seaway Sault	8	C.I.P. No. 17 to C.I.P. No. 18	Ch. 14	Ch. 14	Ch. 16.

(b) Initial calls originating from Seaway stations to vessels in Sectors 4, 5, 7, and 8 will be on Channel 16, switching to the working channel for conversation.

(c) Vessels arriving at either Call-in-Point 15 or 16 should call "Seaway Welland" on Channel 14. If the vessel is called directly into the canal, it will remain on Channel 14. If the vessel is not to come directly into the canal, it will be sent to anchorage and instructed to guard Channel 16 until called in.

§ 401.103–5 Calling-in.

(a) Vessels intending to, or in transit, must report on the assigned frequency to the designated station when opposite Calling-in-Points, as indicated on the General Seaway Plan, and check points, indicated hereunder, giving the following information:

Upbound Vessels:

C.I.P. and checkpoint	Station to call	Message content
C.I.P. 2—entering sector 1 (order of passing through established);	Seaway Beauharnois—ch. 14.	1. Name of vessel. 2. Location. 3. Destination. 4. Drafts, fore and aft. 5. Cargo. 6. Pilot requirement—Lake Ontario.
C.I.P. 3—(order of passing through established);	Seaway Beauharnois—ch. 14.	1. Name of vessel. 2. Location.
Exiting Upper Beauharnois Lock.	Seaway Beauharnois—ch. 14.	1. Name of vessel. 2. Location. 3. ETA C.I.P. 7.
C.I.P. 7—leaving sector 1.	Seaway Beauharnois—ch. 14.	1. Name of vessel. 2. Location.
C.I.P. 7—entering sector 2.	Seaway Eisenhower—ch. 12.	1. Name of vessel. 2. Location. 3. Destination. 4. Drafts, fore and aft. 5. Cargo. 6. ETA Snell Lock (if pilot required).
C.I.P. 8—(order of passing through established).	Seaway Eisenhower—ch. 12.	1. Name of vessel. 2. Location.
C.I.P. 8A	Seaway Eisenhower—ch. 12.	1. Name of vessel. 2. Location.
Exiting Eisenhower Lock.	Seaway Eisenhower—ch. 12.	1. Name of vessel. 2. Location. 3. ETA C.I.P. 11.
C.I.P. 11—leaving sector 2.	Seaway Eisenhower—ch. 12.	1. Name of vessel. 2. Location.
C.I.P. 11—entering sector 3.	Seaway Iroquois—ch. 14.	1. Name of vessel. 2. Location.
C.I.P. 12—(order of passing through established).	Seaway Iroquois—ch. 14.	1. Name of vessel. 2. Location.
Exiting Iroquois Lock.	Seaway Iroquois—ch. 14.	1. Name of vessel. 2. Location. 3. ETA Whaleback Shoal.
Whaleback Shoal—leaving sector 3.	Seaway Iroquois—ch. 14.	1. Name of vessel. 2. Location.
Whaleback Shoal—entering sector 4.	WAG Clayton (call ch. 16; work ch. 12).	1. Name of vessel. 2. Location. 3. ETA Cape Vincent. 4. Confirmation pilot requirement—Lake Ontario.
Tibbetts Point—leaving sector 4.	WAG Clayton (call ch. 16; work ch. 12).	1. Name of vessel. 2. Location.
Tibbetts Point—entering sector 5.	Seaway Picton—ch. 11.	1. Name of vessel. 2. Location. 3. ETA Point Petre. ETA Port Weller. (C.I.P. 15) or Lake Ontario Port. 5. Pilot requirement—Port Weller.
Point Petre	Seaway Picton—ch. 11.	1. Name of vessel. 2. Location. 3. ETA Newcastle.
Newcastle	Seaway Oshawa—ch. 11.	1. Name of vessel. 2. Location. 3. Updated ETA Port Weller (C.I.P. 15) or Lake Ontario Port. 4. Confirmation pilot requirement—Port Weller.
C.I.P. 15—(order of passing through established).	Seaway Welland—ch. 14.	1. Name of vessel. 2. Location. 3. Destination. 4. Drafts, fore and aft. 5. Cargo. 6. Pilot requirement—Lake Erie.
Port Colborne Piers.	Seaway Welland—ch. 14.	1. Name of vessel. 2. Location. 3. ETA Long Point.
C.I.P. 16	Seaway Long Point—ch. 11.	1. Name of vessel. 2. Location.
Long Point—leaving sector 7.	Seaway Long Point—ch. 11.	1. Name of vessel. 2. Location.
C.I.P. 17	Seaway Sault—ch. 14.	1. Name of vessel. 2. Location. 3. Destination. 4. Drafts, fore and aft. 5. Cargo.
C.I.P. 18	Seaway Sault—ch. 14.	1. Name of vessel. 2. Location.

Downbound Vessels

C.I.P. and checkpoint	Station to call	Message content
C.I.P. 18	Seaway Sault—ch. 14.	1. Name of vessel. 2. Location. 3. Destination. 4. Drafts, fore and aft. 5. Cargo.
C.I.P. 17	Seaway Sault—ch. 14.	1. Name of vessel. 2. Location.
Long Point—entering sector 7.	Seaway Long Point—ch. 11.	1. Name of vessel. 2. Location. 3. ETA C.I.P. 16.
C.I.P. 16—(order of passing through established);	Seaway Welland—ch. 14.	1. Name of vessel. 2. Location. 3. Destination. 4. Drafts, fore and aft. 5. Cargo. 6. Pilot requirement—Lake Ontario.
Exiting Lock No. 1—Welland Canal.	Seaway Welland—ch. 14.	1. Name of vessel. 2. Location. 3. ETA Newcastle. 4. ETA Tibbetts Point or Lake Ontario Port. 5. Pilot requirement—Tibbetts Point.

C.I.P. and checkpoint	Station to call	Message content
C.I.P. 15	Seaway Oshawa—ch. 11.	1. Name of vessel. 2. Location.
Newcastle	Seaway Oshawa—ch. 11.	1. Name of vessel. 2. Location. 3. ETA Point Petre.
Point Petre	Seaway Picton—ch. 11.	1. Name of vessel. 2. Location. 3. Updated ETA Tibbetts Point or Lake Ontario Port. 4. Confirmation river pilot requirement—Tibbetts Point.
Tibbetts Point—leaving sector 5.	Seaway Picton—ch. 11.	1. Name of vessel. 2. Location.
Tibbetts Point—entering sector 4.	WAG Clayton (call ch. 16; work ch. 12).	1. Name of vessel. 2. Location.
Cape Vincent—(after river pilot boards).	WAG Clayton (call ch. 16; work ch. 12).	1. Name of vessel. 2. Location. 3. Destination. 4. Drafts, fore and aft. 5. Cargo. 6. ETA Whaleback Shoal.
Whaleback Shoal—leaving sector 4.	WAG Clayton (call ch. 16; work ch. 12).	1. Name of vessel. 2. Location.
Whaleback Shoal—entering sector 3.	Seaway Iroquois—ch. 14.	1. Name of vessel. 2. Location. 3. Destination. 4. Drafts, fore and aft. 5. Cargo.
C.I.P. 14	Seaway Iroquois—ch. 14.	1. Name of vessel. 2. Location.
C.I.P. 13—(order of passing through established).	Seaway Iroquois—ch. 14.	1. Name of vessel. 2. Location.
Exiting Iroquois Lock.	Seaway Iroquois—ch. 14.	1. Name of vessel. 2. Location. 3. ETA C.I.P. 10. 4. Harbor or river pilot requirement—St. Lambert.
C.I.P. 10—leaving sector 3.	Seaway Iroquois—ch. 14.	1. Name of vessel. 2. Location.
C.I.P. 10—entering sector 2.	Seaway Eisenhower—ch. 12.	1. Name of vessel. 2. Location.
C.I.P. 9—(order of passing through established).	Seaway Eisenhower—ch. 12.	1. Name of vessel. 2. Location. 3. ETA Snell Lock (if pilot required).
Exiting Snell Lock.	Seaway Eisenhower—ch. 12.	1. Name of vessel. 2. Location. 3. ETA C.I.P. 6.
C.I.P. 6—leaving sector 2.	Seaway Eisenhower—ch. 12.	1. Name of vessel. 2. Location.
C.I.P. 6—entering sector 1.	Seaway Beauharnois—ch. 14.	1. Name of vessel. 2. Location.
C.I.P. 5—(order of passing through established).	Seaway Beauharnois—ch. 14.	1. Name of vessel. 2. Location.
Exiting Lower Beauharnois Lock.	Seaway Beauharnois—ch. 14.	1. Name of vessel. 2. Location. 3. Confirmation harbor or river pilot requirement—St. Lambert. 4. Montreal Harbor berth number. 5. VHF requirement—St. Lambert.
St. Lambert Lock to C.I.P. 2—leaving sector 1.	Seaway Beauharnois—ch. 14.	1. Name of vessel. 2. Location. 3. See par. (b) of this section.

(b) A downbound vessel in St. Lambert Lock wishing to communicate with Montreal Marine Control will switch to Channel 10 (156.5 MHz) for a Montreal Harbor situation report. After completing the call, the vessel will return to guarding Channel 14 (156.7 MHz) before exiting the lock. When the vessel has cleared the downstream end of the lower approach wall of St. Lambert Lock, the master or pilot will call "Seaway Beauharnois" and request permission to switch to Channel 10 (156.5 MHz). Seaway Beauharnois will concur and advise the vessel of any upbound traffic cleared for Seaway entry but not yet at C.I.P. 2. In the event of expected vessel meeting(s) between the downstream end of the lower approach wall and C.I.P. 2, the downbound vessel will be told to remain on Channel 14 (156.7 MHz) until the meet has been completed. After the meeting, the downbound vessel will call back before going to Channel 10 (156.5 MHz).

(c) Existing a lock refers to the period of time during which the vessel is underway to leave the lock prior to the time when its stern clears the lock chamber.

(d) Changes in information provided under paragraph (a) of this section shall be reported to the appropriate Seaway station.

§ 401.103–6 Communication — ports, docks and anchorages.

(a) Vessels arriving at ports, docks and anchorages shall report to the appropriate Seaway station, giving an estimated time of departure, if possible and, at least 4 hours prior to departure, vessels departing ports, docks and anchorages shall report in the same way giving their destination and ETA at the next check point.

(b) Vessels entering or leaving a lake port, shall report to the appropriate Seaway station as follows:

Toronto and Hamilton—One mile outside of harbor limits.

Other lake ports—When crossing the harbor entrance.

Transit Instructions

§ 401.104–1 Navigation season.

Navigation on the Seaway will open and close on the following dates in each year, subject to changes appropriate to weather and ice conditions or vessel traffic demands:

	Open	Close
South Shore, Beauharnois, Wiley-Dondero, and Iroquois	Apr. 1	Dec. 16
Welland Canal	Apr. 1	Dec. 31
Canadian Sault Ste. Marie Canal	Apr. 4	Dec. 12

§ 401.104–2 Special instructions.

Special instructions must be applied for to the Authority in connection with the intended transit of vessels of unusual design, hulks, sections of vessels, large dredges and all vessels in tow, and such vessels shall not transit except in strict compliance with such instructions.

§ 401.104–3 Compliance with instructions.

The master of a vessel shall comply promptly with all transit instructions given by an officer or a station, and, if an instruction to move a vessel is not complied with, the Authority, in addition to any other duly authorized action, may relocate the vessel with respect to which the instruction was given.

§ 401.104–4 Available depths and drafts.

Main Seaway channels have a controlling depth of 27 feet, and the loading, draft and speed of a vessel in transit shall be controlled by the master, according to the vessel's individual characteristics and its tendency to list or squat, so as to avoid striking bottom. Draft shall not, in any case, exceed the maximum permissible draft which is prescribed by the Authority or notified by an officer or a station for the part of the Seaway in which a vessel is in transit.

§ 401.104–5 Maximum draft for Sault Ste. Marie Canal.

Vessels shall not transit the Sault Ste. Marie (Canada) Canal with a draft in excess of the maximum permissible draft currently prescribed by the Authority for the Canal in question and unless the available depth of water on the appropriate controlling point for draft exceeds by at least three inches the maximum draft of the vessel at the time.

§ 401.104–6 Inadequate ballast.

Vessels, which are in the opinion of an authorized officer not adequately ballasted, may be refused transit or may be delayed.

§ 401.104–7 Reporting accidents or incidents.

No vessel shall transit unless the vessel, its cargo, and equipment or machinery are in a condition to allow safe and expeditious transit, and every accident or incident during transit must be reported as soon as possible to the nearest Seaway station.

§ 401.104–8 Furnishing information re height of vessel.

Vessels, any part of which extends more than 110 feet above water level, shall not transit any part of the Seaway until precise information concerning the height of the vessel has been furnished to the Seaway station.

§ 401.104–9 Speed.

Maximum speed for vessels in excess of 40 feet in overall length shall not exceed that shown for designated areas in the following table and every vessel under way shall proceed at a reasonable speed, so as not to cause undue delay to other vessels.

From—	To—	Maximum speed over the bottom (m.p.h.)
Upper entrance Beauharnois Lock Buoy 5B.	Lake St. Francis Buoy 27F.	10 upbound (8.6 knots). 12 downbound (10.4 knots).
Lake St. Francis Buoy 27F.	Lake St. Francis Buoy 87F.	18 (15.5 knots).
Lake St. Francis Buoy 87F.	Snell Lock	10 upbound (8.6 knots). 12 downbound (10.4 knots).
Eisenhower Lock.	Richards Point Light 55.	13 (11.3 knots).
Richards Point Light 55.	Morrisburg buoy 84.	15 (13 knots).
Morrisburg buoy 84.	Ogden Island buoy 99.	13 (11.3 knots).
Ogden Island buoy 99.	Blind Bay ½ mile east of Light 162.	15 (13 knots).
Blind Bay ½ mile east of Light 162.	Deer Island Light 186.	13 (11.3 knots).
Deer Island Light 186.	Bartlett Point Light 227.	10 upbound (8.6 knots). 12 downbound (10.4 knots).
Bartlett Point Light 227.	Tibbetts Point	15 (13 knots).
Junction of Canadian Middle Channel and Main Channel abreast of Ironsides Island.	Open waters between Wolfe and Howe Islands through the said Middle Channel.	13 (11.3 knots).
Lock 1, Welland Canal.	Outer Piers, Port Weller Harbor.	9 (7.8 knots).
Port Robinson	Ramey's Bend through the Welland By-Pass.	9 (7.8 knots).
All other canals		7 (6.1 knots).

§ 401.104–10 Meeting and passing.

(a) The meeting and passing of vessels shall be governed by the Rules of the Road for the Great Lakes.

(b) Meeting other vessels is prohibited within the limits of approach signs at bridges.

§ 401.104–11 Restriction on overtaking.

Except as instructed by the Vessel Traffic Controller, vessels shall not overtake and pass or attempt to overtake and pass another vessel:

(a) In any canal;

(b) Within two thousand feet of a canal entrance;

(c) After the order of passing through has been established by the Vessel Traffic Controller; or

(d) Between the western end of the Vidal Shoal Cut and the upper entrance of the Sault Ste. Marie (Canada) Lock.

§ 401.104–12 Speed passing moored vessel or working equipment.

A vessel passing a moored vessel or equipment working in a canal shall proceed at such a speed so as not to endanger the moored vessel or the occupants thereof.

§ 401.104–13 Order of passing through.

Vessels shall advance to a lock in the order instructed by the Vessel Traffic Controller.

§ 401.104–14 Mooring at tie-up walls.

Upon arrival at a lock, a vessel awaiting instructions to advance shall moor at the tie-up wall and well closed up to the designated limit of approach sign or to any vessel preceding it.

§ 401.104–15 Limit of approach to a lock.

A vessel approaching a lock or guard gate shall be governed by the associated signal light system, and in no case shall its stem pass the appropriate limit of approach sign while a red light or no light is displayed.

§ 401.104–16 Cargo booms.

Vessels shall have cargo booms secured in their housings in a manner which affords maximum visibility from the wheelhouse.

§ 401.104–17 Preparing mooring lines for passing through.

Before a vessel enters a lock, sufficient lengths of mooring lines to reach the mooring posts on the lock walls shall be drawn off the winch drums and laid out on the deck. The eye of the mooring line shall be passed outward through the fairleads at the side to be ready for service.

§ 401.104–18 Entering a lock—general.

A vessel shall not proceed into a lock so that the stem passes the "Stop" sign on the lock wall nearest the closed gates, and it shall be positioned and moored as directed by the lockmaster.

§ 401.104–19 Tandem lockage.

When two or more vessels are being locked together, vessels astern of the leading vessel shall come to a full stop a sufficient distance from the preceding vessel to avoid a collision and shall be moved into mooring position as directed by the lockmaster.

§ 401.104–20 Passing hand lines.

Hand lines will be secured to the mooring lines and passed as follows:

(a) A downbound vessel shall use its own hand lines, secured to the eye at the end of the mooring lines, which shall be passed to the linesmen at the lock as soon as the vessel passes the open gates.

(b) Hand lines will be cast down to upbound vessels from the lock as soon as the vessel passes the open gates, except as provided in paragraph (c) of this section, and shall be secured to the mooring lines 2 feet back of the splice of the eye by means of a clove hitch.

(c) At Iroquois Lock and Lock 8, Welland Canal, a vessel transisting in either direction shall use its own hand lines secured to the eye at the end of the mooring lines, which shall be passed to the linesmen at the lock as soon as the vessel passes the open gates.

§ 401.104–21 Precautions in passing lines.

Knotted or weighted hand lines shall not be used in the chamber of a lock, and mooring lines shall not be cast over the side of a vessel in a manner dangerous to a lock crew.

§ 401.104–22 Mooring tables.

Unless otherwise directed by the officer in charge, vessels passing through locks in the South Shore, Beauharnois, Wiley-Dondero, Iroquois, Welland and Canadian Sault Ste. Marie Canals shall moor at the side of the tie-up wall or lock as shown in the following tables:

MONTREAL TO IROQUOIS

[S=Starboard. P=Port. Upb=Upbound. Dnb=Downbound.]

	South Shore		Beauharnois			Wiley-Dondero		
	St. Lambert	Cote Ste. Catharine	Lower	Pool	Upper	Snell	Eisenhower	Iroquois
Locks:								
Upb	P	P	S	----	S	S	S	P
Dnb	S	S	P	----	P	P	P	S
Tie-up walls:								
Upb	S	S	P	P	----	S	S	S
Dnb	P	P	----	S	S	P	P	P

WELLAND CANAL

[S=Starboard. P=Port. Upb=Upbound. Dnb=Downbound]

	1	2	3	4	5	6	7	Guard gate	8
Locks:									
Upb	S	P	P	P	P	P	P	----	S.
Dnb	P	S	S	P	P	P	S	----	P.
Tie-up walls:									
Upb	S	S	S	S	----	----	S	S	P or S.
Dnb	P	P	P	----	----	S	S	P	P or S.

CANADIAN SAULT STE. MARIE

Lock:	
Upb	S
Dnb	P
Tie-up walls:	
Upb	P
Dnb	P

§ 401.104–23 Mooring procedure in locks.

Mooring lines shall only be placed on the mooring posts as directed by the lockmaster, the lines leading astern normally being placed on the posts first, and winches from which the mooring lines run shall not be operated until the lockmaster or a linesman has signaled that the line has been placed on the post.

§ 401.104–24 Emergency procedure.

When the speed of a vessel entering a lock chamber has to be checked immediately, either the Master or the lockmaster shall order all mooring lines to be put out as soon as possible, and the Master shall signal a full check by sounding a series of five or more short blasts.

§ 401.104–25 Attending lines.

A vessel's lines must be under visual control and attended by members of its crew, during the time it is passing through a lock; where lines are hand held for tension control, each line must be attended by at least one member of its crew while the vessel is within the lock chamber.

§ 401.104–26 Leaving a lock.

Mooring lines shall only be cast off as directed by the lockmaster, and a vessel shall not proceed out of a lock until the exit gates, ship arresters and the bridge, if any, are in a fully open position.

§ 401.104–27 Turning basins.

A vessel shall not be turned about in any canal, except with permission from the Vessel Traffic Controller and then only at the following locations:

South Shore Canal:
(a) Turning Basin No. 1—Opposite Brossard.
(b) Turning Basin No. 2—Immediately below Cote Ste. Catharine Lock.
Welland Canal:
(a) Turning Basin No. 1—Opposite St. Catharines Wharf for vessels up to 350 feet.
(b) Turning Basin No. 2—Between Lock 7 and Guard Gate for vessels up to 600 feet.
(c) Turning Basin No. 3—Immediately south of Bridge 12.
(d) Turning Basin No. 4—North of Lock No. 8 for vessels up to 550 feet.
(e) Vessels up to 260 feet may be permitted to turn at the following locations:
(1) North end of Wharf No. 1,
(2) Tie-up wall above Lock 1,
(3) Tie-up wall below Lock 2,
(4) Wharf No. 9,
(5) Between the southerly extremities of Wharves 18–2 and 18–3.

§ 401.104–28 Dropping anchor or tying to canal bank.

Except in an emergency, a vessel shall not drop anchor in any canal or tie up to a canal bank unless so instructed by the Vessel Traffic Controller.

§ 401.104–29 Anchorage areas.

Designated anchorage areas are as follows:

Lake St. Louis	Point Fortier.
Beauharnois Canal	Melocheville.
Lake St. Francis	St. Zotique and Dickerson Island.
Lake St. Lawrence	Wilson Hill Island and Morrisburg.
St. Lawrence River	Prescott and Union Park.
Lake Ontario	Off Port Weller.
Lake Erie	Off Port Colborne.

§ 401.104–30 Reporting position at anchor, wharf, etc., and resuming transit.

A vessel anchoring in a designated anchorage area, or otherwise, and a vessel mooring at a wharf or dock, tying up to a canal bank or being held on a canal bank in any manner shall immediately report its position to the Vessel Traffic Controller, and it shall not resume its voyage without the Vessel Traffic Controller's permission.

§ 401.104–31 Signaling approach to bridge.

Unless the vessel's approach has been recognized by a flashing red signal light, three distinct blasts shall be sounded by a vessel when it comes abreast of any of the bridge "Whistle" signs, which have been placed at distances varying between 2,200 feet and 4,600 feet, upstream and downstream from movable bridges at other than lock sites.

§ 401.104–32 Limit of approach to a bridge.

A vessel shall not pass the "Limit of Approach" sign at any movable bridge until such bridge is in a fully open position and the light shows green, and it shall not pass the sign at the twin railway bridges on the South Shore Canal at Caughnawaga or at Bridges 20 and 21 on the Welland Canal, until both bridges are in a fully open position and both lights show green.

§ 401.104–33 Vessels in tow.

A vessel that is not self-propelled shall not be underway in any canal unless it is securely tied to an adequate tug or tugs.

§ 401.104–34 Combined beam.

A tug shall not be fastened alongside a vessel so that the total beam exceeds 55 feet in the case of the Sault Ste. Marie (Canada) Canal or 75 feet, 6 inches in the case of any other canal.

§ 401.104–35 Position of single tug.

Where one tug has been authorized by special instructions for towing a particular vessel, it shall be fastened astern or alongside the quarter of the vessel, and, while underway,

(a) The wheelsman of the tug shall have an unobstructed view of the full outline of the deck of the towed vessel at the bow and of the water in front of the tow, or

(b) A deck officer shall be on the deck of the towed vessel to signal directions to the wheelsman of the tug.

§ 401.104–36 Two tugs.

Where two tugs are required by special instructions for towing a particular vessel, one shall be on a line ahead of the towed vessel and the other on a line astern. (Two adequate tugs shall be required for a tow in excess of 200 feet, except that specially constructed low barges, designed to be pushed by a tug at the center of the stern, may be permitted to transit with only one tug.)

§ 401.104–37 Towing more than one vessel.

Where one tug has been authorized by special instructions for towing more than one vessel, it shall be fastened alongside or astern of the vessels; otherwise a tug shall not tow more than one vessel in any canal, and, before arriving at the entrance of a canal, it must arrange with the Vessel Traffic Controller for mooring and leaving in the charge of a competent person any vessel which cannot be proceeded with immediately.

§ 401.104–38 Obstructing navigation.

A vessel shall not drop anchor or be fastened or moored so as to obstruct or hinder navigation.

§ 401.104–39 Interference with aids to navigation.

Aids to navigation shall not be interfered with or moored to, and no unauthorized person shall set out buoys or navigation markers on the Seaway.

§ 401.104–40 Loss of anchor.

The loss of an anchor shall be marked with a buoy and reported immediately to the Vessel Traffic Controller with particulars of its precise location.

§ 401.104–41 Searchlights.

A searchlight shall not be used in such a manner that its rays can interfere with the operation of a Seaway structure or of a vessel.

§ 401.104–42 Smoke.

A vessel in any canal shall take all necessary precautions to avoid the emission of sparks and excessive smoke, and it shall not blow boiler tubes.

§ 401.104–43 Damaging or defacing Seaway property.

The Master of a vessel in transit shall navigate so as to avoid damage to Seaway property, and he shall prevent defacement of same by any member of the vessel's crew.

§ 401.104–44 Disembarking.

Members of the crew of a vessel passing through may disembark or board for the purpose of carrying out essential duties only as directed by the Master.

§ 401.104–45 Prevention of oil pollution.

No vessel in transit shall discharge, dump or pump oil products or bilge containing oil products into the Seaway or adjacent waters. A record shall be kept by vessels of each location within the Seaway or adjacent waters where bilge water has been discharged.

§ 401.104–46 Deck cargo.

Cargo or containers carried on deck, either forward or aft, shall be stowed in a manner which permits an unrestricted view from the wheelhouse for

the purpose of navigation and does not interfere with mooring equipment.

§ 401.104–47 Reporting navigation aid deficiencies.

Any aid to navigation that is extinguished, damaged, out of position, or missing shall be reported to the nearest Seaway station.

DANGEROUS CARGO

§ 401.105–1 General conditions.

Vessels carrying fuel oil, gasoline, crude oil, or other flammable goods in bulk, including empty tankers which are not gas free, and vessels carrying dangerous goods to which regulations made under the Canada Shipping Act, or to which the Dangerous Cargo Act of the United States or regulations issued pursuant thereto, apply, shall be deemed to carry dangerous cargo, and they may transit only if all requirements of the statutes and regulations cited and of §§ 401.105–2 to 401.105–11 have been fulfilled.

§ 401.105–2 Explosive vessel.

A vessel carrying

(a) Explosives with a mass explosive risk, including ammonium nitrate when it falls into this classification; or

(b) More than 10 tons of explosives which do not explode en masse; or

(c) More than 100 tons of explosives having a fire hazard with minor or no explosive effects shall be deemed for Seaway purposes to be an Explosive Vessel.

§ 401.105–3 Explosives permit.

An explosive vessel shall not transit without a Seaway Explosives Permit, which shall not be granted where a vessel carries more than 2 short tons of explosives with a mass explosive risk, more than 50 short tons of explosives which do not explode en masse, or more than 500 short tons of explosives having a fire hazard without explosive effects.

§ 401.105–4 Application for permit.

Written application for a Seaway Explosives Permit may be made to the Director of Operations, the St. Lawrence Seaway Authority, Cornwall, Ontario, or to the Director of Operations, St. Lawrence Seaway Development Corporation, Massena, N.Y., and it shall show that the goods are packed, marked, labeled, described, certified, stowed, and otherwise conform with all relevant regulations of the country in which they were loaded and of Canada and the United States.

§ 401.105–5 Production of explosives permit.

A signed copy of a Seaway Explosives Permit and a true copy of any certificate as to the loading of dangerous goods shall be kept on board a vessel in transit and made available to any officer requiring production of same.

§ 401.105–6 Hazardous cargo vessel.

A tanker vessel carrying fuel oil, gasoline, crude oil or other flammable goods in bulk, including tankers which are not gas free, and also a dry cargo vessel carrying other dangerous cargo, which is

(a) In excess of 50 tons of gases, compressed, liquified or dissolved under pressure;

(b) In excess of 50 tons of inflammable liquids of the low flashpoint group;

(c) In excess of 50 tons of organic peroxides;

(d) In excess of 100 tons of oxidizing substances;

(e) In excess of 100 tons of inflammable liquids of the intermediate flashpoint group;

(f) In excess of 100 tons of inflammable solids or spontaneously combustible substances;

(g) In excess of 100 tons of substances emitting inflammable gases when wet;

(h) In excess of 100 tons of poisonous (toxic) substances;

(i) In excess of 100 tons of infectious substances;

(j) In excess of 200 tons of corrosive substances; or

(k) In excess of 500 tons of inflammable liquids of the high flashpoint group

shall be deemed for Seaway purposes to be a hazardous cargo vessel.

§ 401.105–7 Nonmetallic fenders.

An explosive vessel and a hazardous cargo vessel, other than one carrying the equivalent of Bunker C oil in the center tanks and which is equipped with gas free ballast wing tanks, must be equipped with a sufficient number of nonmetallic fenders to prevent any metallic part of the vessel from touching the side of a dock or lock wall.

§ 401.105–8 Signals—Explosive vessel.

An explosive vessel must display at the masthead or at an equivalent, conspicuous position, a "B" flag by day and a red light by night, both visible all around the horizon for a distance of at least 2 miles.

§ 401.105–9 Signals—Hazardous cargo vessel.

A hazardous cargo vessel must display at the masthead or at an equivalent, conspicuous position, a "B" flag superior to numeral pennant No. 1 by day and a red light by night, both visible all around the horizon for a distance of at least 2 miles.

§ 401.105–10 Calling-in.

An explosive vessel shall report the Seaway explosives permit number, and both explosive and hazardous cargo vessels shall report the nature of their cargo and its flashpoint (hazardous cargo), in addition to the other required information, when calling-in as provided by § 401.103–5.

§ 401.105–11 Safety restrictions for passing through.

The passing through of explosive vessels and hazardous cargo vessels may be directed in a special manner by the officer in charge.

§ 401.105–12 Gas freeing and cleaning of tankers.

Gas freeing and cleaning of cargo tanks shall not take place in a canal or lock and shall be restricted to areas clear of other vessels and structures and only after it has been reported to the nearest Seaway station.

TOLL ASSESSMENT AND COLLECTION

§ 401.106–1 Transit declaration.

The Seaway Transit Declaration Form (cargo and passenger), must be forwarded to the Authority within 14 days after a vessel, other than a pleasure craft of less than 350 tons, first enters the Seaway. Forms may be obtained from the St. Lawrence Seaway Authority, Cornwall, Ontario, or from the St. Lawrence Seaway Development Corporation, Massena, N.Y.

§ 401.106–2 Revised transit declaration.

Where a transit declaration is found to be inaccurate, concerning the destination, cargo or passengers, the representative must immediately forward to the Authority a new, revised declaration.

§ 401.106–3 Statistics Canada.

The information set out in the transit declaration will be transmitted by the St. Lawrence Seaway Authority to Statistics Canada, thus satisfying the requirements of the Statistics Act of Canada. The St. Lawrence Seaway Development Corporation will furnish the required statistical data in the United States.

§ 401.106–4 Toll accounts.

Transit declarations will be used in assessing toll charges in accordance with the St. Lawrence Seaway Tariff of Tolls, and toll accounts will be forwarded in duplicate to the representative or his designated agent.

§ 401.106–5 Payment of accounts.

Tolls accounts are payable when rendered, in Canadian or American funds as indicated on the accounts, and adjustments, if any, will be reflected in a subsequent account.

§ 401.106–6 Surcharge.

Unless a tolls account is paid within 14 days from the date shown on the account, a surcharge, in an amount not to exceed 5 percent of the amount due, may be added. Where a transit declaration is not forwarded within the 14 days allowed, the account will be antedated to the date when it would have been prepared if the declaration had been forwarded in time; and the surcharge may be added, unless the account is paid within 14 days of the date shown on the account.

§ 401.106–7 Producing cargo manifests.

In every case of a vessel carrying cargo to or from an overseas port, duplicate copies of the cargo manifest, duly certified, shall be forwarded with the transit declaration. In any case, a copy of the

manifest, duly certified by the representative, shall be made available to an officer as required. A Weigh-Scale Certificate or similar document taking the place of the cargo manifest may be accepted in lieu thereof.

§ 401.106–8 In-transit cargo.

Cargo, which is carried both upbound and downbound in the course of the same voyage, shall be reported in the transit declaration, but this cargo may be deemed to be ballast and not subject to toll assessment.

§ 401.106–9 Off-loaded weights.

The loaded or manifest weight of cargo must be shown for tolls assessment purposes, except in the case of petroleum products where gallonage meters are not available at the point of loading, in which case off-loaded weights will be acceptable.

PLEASURE CRAFT

§ 401.107–1 Transit by pleasure craft.

Pleasure craft, other than those without adequate motor power, may transit the Seaway and are subject to all Seaway regulations except as provided in this section.

§ 401.107–2 Smaller craft not subject to pre-clearance.

Pleasure craft of less than 350 tons in weight need not be pre-cleared with the Authority.

§ 401.107–3 Minimum size permitted in certain canals.

Pleasure craft of less than 20 feet in overall length or 1 ton in weight shall not be permitted to pass through the locks in the following canals:

South Shore Canal, Beauharnois Canal, and Welland Canal.

§ 401.107–4 Radio communications.

Pleasure craft of less than 65 feet in overall length need not

(a) Be on radio listening watch; and

(b) Give notice of arrival by calling in as prescribed in §§ 401.103–2 to 401.103–6.

§ 401.107–5 Order of passing through.

The transit of pleasure craft shall be scheduled by the officer in charge and may be delayed so as to avoid interference with other shipping.

§ 401.107–6 Pleasure craft toll tickets.

Tolls, in accordance with the St. Lawrence Seaway Tariff of Tolls, shall be paid by pleasure craft for the transit of each Seaway lock, other than locks on the Sault Ste. Marie (Canada) Canal, by means of $2 tickets or $3 tickets that may be purchased at the St. Lawrence Seaway Authority, corner of Pitt and Second Streets, Cornwall, Ontario, or from the St. Lawrence Seaway Development Corporation, Seaway Circle, Massena, N.Y. Tickets may also be purchased from pleasure craft organizations or yacht clubs that have obtained them from the Authority.

§ 401.107–7 Payment of tolls.

Payment of tolls shall be made by the person in charge of a pleasure craft while the craft is within the lock chamber. All pleasure craft in excess of three hundred and fifty tons are subject to the regular tolls applicable to cargo and passenger vessels.

FORMS

§ 401.120–1 Preclearance Form.

The St. Lawrence Seaway Application for Vessel Preclearance, Form SLS–429.

INSTRUCTIONS

The application form attached is to be completed for each vessel by its representative in duplicate and submitted to The St. Lawrence Seaway Authority, 202 Pitt Street, Cornwall, ON, or to the St. Lawrence Seaway Development Corporation, Massena, N.Y.

Upon approval of an application, one copy bearing the Seaway number assigned to the vessel will be returned to the representative.

The representative will be responsible for the documentary and financial arrangements with respect to each transit of the vessel.

When the representative is a Corporation, a resolution will be required authorizing the execution of the Certificate of Guarantee unless it is signed by the President and the Secretary-Treasurer and bears the seal of the company.

A new application will be required where the guarantee endorsed on this application has expired or has been cancelled, for each change of representative or of his address, and after a change in ownership or any major revision in the physical characteristics of the vessel.

NOTICE

No vessel is precleared until this application has been approved by the Authority.

Seaway No. _____

PART I—REGISTRATION

1. Registration of Vessel:
(a) Name_____
(b) Country of registry_____
(c) Port_____
(d) Official number or letters_____

2. Insurance: Liability insurance must be equal to or exceed $40 per gross registered ton.
(a) Amount of liability insurance coverage on the vessel (P & I)_____
(b) Names of Underwriters_____
_____

3. Representative responsible for payment of tolls and charges:
(a) Name_____
(b) Address_____
(c) Telephone No._____

4. Certificate of Guarantee:

The undersigned hereby accepts responsibility for the carrying out of the obligations of the representative pursuant to the Seaway Regulations, including the accurate completion of Part II hereof, and hereby undertakes to make payment of all moneys that may become due by this vessel for tolls and charges during the full term of this certificate, which undertaking will remain in force notwithstanding the earlier expiration of this certificate.

The undersigned also agrees that security for the payment of tolls, which may be provided by him during the currency of this certificate, shall be subject to summary forfeiture in the event of non-compliance by him with the Seaway Circulars or Authority By-Laws relating to the payment of tolls and charges.

This certificate shall be good and binding:
(a) Until the Authority is otherwise advised in writing by the undersigned

OR

(b) For the following voyage
_____
Dated at _____ this _____ day of _____, 19____

Signed_____
_____

NOTE: Approval of this application does not constitute acceptance of the fact that the vessel is in a condition satisfactory to the Authority.

Important—Return Both Copies

PART II—INFORMATION ON VESSEL

The furnishing of inaccurate information is an offense under the Seaway Regulations.

1. Managing Owner or Operator of the Vessel:
(a) Name of Company_____
(b) Address_____
2. Type of Vessel:
(a) Cargo _____ ( )
(b) Tanker_____ ( )
(c) Passenger only_____ ( )
(d) Cargo/Passenger (more than 12 passengers)_____ ( )
(e) Cargo/Passenger (under 12 passengers)_____ ( )
(f) Under Tow_____ ( )
(g) Dredge_____ ( )
(h) Scow_____( ) Barge_____ ( )
Tank Barge_____ ( )
(i) Tug _____ ( )
(j) Naval (MIL)_____ ( )
(k) Government _____ ( )
(l) Other (Specify)_____ ( )
3. Type of Service for which Constructed:
(a) Inland____ ( ) (b) Ocean____ ( )
4. Specifications:
(a) Gross Tons_____
(b) Net Tons_____
(c) Length (overall)_____
(d) Extreme Breadth (including fenders)_____
(e) Molded Depth_____

NOTE: It is of the utmost importance to furnish the precise overall length of all vessels in order that traffic controllers may arrange lockages accordingly.

	Yes	*No*
Sewage Disposal System	( )	( )
Oily Water Separator	( )	( )
Wrong Way Prop Alarm	( )	( )
Prop Locking Device	( )	( )
Bow Thruster	( )	( )
Bridge Controlled	( )	( )
Rudder Indicator	( )	( )
Engine r.p.m. Indicator	( )	( )
Gyro Compass	( )	( )
Radar	( )	( )

Interested parties may submit written data, views, or arguments in regard to the amendments proposed herein to the St. Lawrence Seaway Development Corporation, Seaway Circle, Massena, N.Y. 13662 (Attention: General Counsel). Comments received not later than March 5, 1973, will be considered. Action with respect to this revision by the Corporation is contemplated prior to the opening of the 1973 navigation season of the St. Lawrence Seaway. All comments received will be available for examination by interested parties at the office of the St. Lawrence Seaway Development Corporation, Seaway Circle, Massena, N.Y. 13662.

(68 Stat. 93-97, 33 U.S.C. 981-990, as amended, and Sec. 104, Pub. L. 92-340, 86 Stat. 424, 49 CFR 1.50a (37 FR 21943))

Issued: January 23, 1973.

ST. LAWRENCE SEAWAY DEVELOPMONT CORPORATION,

[SEAL] D. W. OBERLIN, *Administrator.*

[FR Doc.73-1891 Filed 1-31-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 9964]

ELIMINATION OF EMPLOYMENT DISCRIMINATION

Extension of Time for Comments

On December 14, 1972, the Securities and Exchange Commission announced the solicitation of public comments concerning its authority to adopt and the merits of adopting rules under sections 6 and 15 of the Securities Exchange Act of 1934, 15 U.S.C. 78f and 78*o*, to require "national securities exchanges, national securities associations and their members and registered broker-dealers to take affirmative action to eliminate discrimination in employment and to file annual reports thereon * * *." It was requested that all comments be mailed in time to be received by January 26, 1973.[1] This action is being undertaken in response to a petition filed with the Commission requesting that such rules be promulgated. A copy of the petition is available for public inspection in the public reference room of the Commission, 500 North Capitol Street, Washington, DC 20549.

[1] Securities Exchange Act Rel. No. 9908, published in the FEDERAL REGISTER for Dec. 29, 1972 at 37 FR 28767.

The Commission has received requests from several commentators that the deadline for the submission of comments be extended. In order to accord all interested persons an opportunity to express their views fully, the Commission has determined to extend the deadline for the submission of comments until March 13, 1973.

Interested persons are requested to submit their comments in writing to the Office of the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549. All material submitted will be considered a matter of public record. The Commission requests that all comments be mailed in time to be received no later than March 13, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

JANUARY 24, 1973.

[FR Doc.73-1928 Filed 1-31-73;8:45 am]

Notices

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

DEPARTMENT OF THE TREASURY

Office of the Secretary

SLIDE FASTENERS AND PARTS OF SLIDE FASTENERS FROM JAPAN

Notice of Tentative Negative Determination

JANUARY 29, 1973.

Information was received on May 8, 1972, that slide fasteners and parts of slide fasteners from Japan were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of June 8, 1972, on page 11488.

I hereby make a tentative determination that slide fasteners and parts of slide fasteners from Japan are not being, nor are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this tentative determination is based. Analysis of information from all sources revealed that the proper basis of comparison for fair value proposes is between exporter's sales price and the home market price of such or similar merchandise.

Exporter's sales price was calculated by deducting a cash discount, inland freight, ocean freight, marine insurance, brokerage fees, U.S. Customs duties, cartage, selling expenses and delivery charge from the f.o.b. duty-paid purchaser's warehouse price.

Home market price was based on the delivered customers' premises price with deductions, as appropriate, for inland freight, label charges, discounts, returned goods, selling expenses and credit charges. An adjustment was made for differences in packing.

Using the above criteria, exporter's sales price was found to be higher than the home market price of such or similar merchandise.

In accordance with §§ 153.33(a) and 153.37, Customs Regulations (19 CFR 153.33(a), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20229, in time to be received by his office not later than February 12, 1973. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than March 5, 1973.

This tentative determination and the statement of reasons therefor are published pursuant to § 153.33 of the Customs regulations (19 CFR 153.33).

[SEAL] EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.73-2068 Filed 1-31-73;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

NAVAL RESEARCH ADVISORY COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463) notice is hereby given that closed meetings of the Naval Research Advisory Committee will be held 1-2 February 1973 at the Naval Electronics Laboratory Center, San Diego, Calif. These meetings will be closed to the public by virtue of a determination by the Secretary of the Navy under the authority of section 10(d) of Public Law 92-463. The Committee serves in an advisory capacity to the Secretary of the Navy, the Chief of Naval Operations, and the Chief of Naval Research. The purpose of the meeting is to discuss command, control, and communication.

The following sets forth the approved agenda for the meetings:

1 FEBRUARY

1. Visit the BLUERIDGE.
2. Report of CIACT (CNO Industry Advisory Committee on Telecommunications).
3. Command, Control, and Communication.

2 FEBRUARY

4. Overview of Laboratory.
5. Executive Session.

Date: January 26, 1973.

H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy Acting Judge Advocate General.

[FR Doc.73-1916 Filed 1-31-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

STATE MULTIPLE USE ADVISORY BOARD, RENO, NEV.

Notice of Annual Business Meeting

Notice is hereby given that the Nevada State Multiple Use Advisory Board will hold its annual business meeting February 6-7, 1973, at the Holiday Hotel, Mill and Center Streets, Reno, Nev. The agenda for the meeting will include a report on the wild horse advisory board meeting held in Salt Lake City in January 1973, a discussion of the proposed regulations for wild horse and burro management, a discussion of user and conservationist reaction to off-road vehicle management, fiscal year 1973 program highlights, the Bureau Planning System, the Bureau's recreation program in Nevada and a report on the minerals industry.

The meeting will be open to the public. Seating will be available for about 30 observers. Time will be available for a limited number of brief statements by members of the public. Those wishing to make an oral statement must inform the Chairman in writing prior to the meeting of the Board. Any interested person may file a written statement with the Board for its consideration. Written statements and requests to give an oral statement to the Board should be submitted to John Carpenter, Chairman, % State Director, Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, NV 89502.

E. I. ROWLAND,
State Director, Nevada.

JANUARY 24, 1973.

[FR Doc.73-1924 Filed 1-31-73;8:45 am]

OREGON

Modification of Grazing Districts

JANUARY 23, 1973.

By virtue of the authority contained in the Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315, et seq.), as amended, and pursuant to authority delegated in 235 D.M. 1.1 (28 FR 2535), the boundaries of Oregon Grazing Districts Nos. 2, 3, and 6 are hereby modified as follows:

1. The following described lands are hereby eliminated from Grazing District No. 3 and added to Grazing District No. 2:

WILLAMETTE MERIDIAN

T. 27 S., R. 35 E.,
Sec. 23, W½NW¼, SW¼;
Sec. 26, NW¼.
T. 26 S., R. 36 E.,
Sec. 18, lot 1, E½, E½NW¼, NE¼SW¼.
T. 28 S., R. 36 E.,
Sec. 10, W½SE¼;
Sec. 23, S½NE¼;
Sec. 24, S½N½, S½;
Sec. 25, all.
T. 24 S., R. 37 E.,
Sec. 2, S½SW¼, SW¼SE¼;
Sec. 9, E½E½, that portion of the W½ SE¼ lying east of the South Fork of the Malheur River (40 acres);
Sec. 10, NE¼NE¼, S½N½, NW¼NW¼, S½;
Sec. 11, W½E½, W½;
Sec. 13, NW¼NE¼, NW¼;
Sec. 14, N½, SW¼, NE¼SE¼, W½SE¼;
Sec. 15, all;
Sec. 16, that portion of the NE¼ lying east of the South Fork of the Malheur River (145 acres), of the SE¼NW¼ (35 acres), and of the SW¼SW¼ (15 acres), E½ SW¼, SE¼;
Sec. 20, that portion of the E½SE¼ lying east of the South Fork of the Malheur River (35 acres);
Sec. 21, NE¼, NE¼NW¼, that portion of W½NW¼ lying east of the South Fork of the Malheur River (50 acres), and of the NW¼SW¼ (35 acres);
Sec. 22, N½NE¼, NW¼.
T. 28 S., R. 37 E.,
Sec. 19, Lots 2, 3, 4, E½, E½W½;
Sec. 20, all;
Sec. 21, SW¼;
Sec. 27, SW¼NW¼, SW¼;
Secs. 28 to 33, inclusive;
Sec. 34, N½NW¼, SW¼NW¼.
T. 29 S., R. 37 E.,
Secs. 4 to 8, inclusive;
Sec. 9, W½E½, W½;
Sec. 16, N½NE¼, W½, S½SE¼;
Secs. 17 to 21, inclusive;
Sec. 22, SW¼NE¼, W½NW¼, SE¼NW¼, S½;
Sec. 23, S½SW¼;
Sec. 25, SW¼NW¼;
Sec. 26, N½, SW¼;
Secs. 27 to 33, inclusive;
Sec. 34, N½.
T. 30 S., R. 37 E.,
Sec. 4, lots 2, 3, 4, SW¼NW¼, W½SW¼;
Secs. 5 to 8, inclusive;
Sec. 9, NW¼NW¼;
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 31 S., R. 37 E.,
Sec. 21, S½SW¼, SW¼SE¼;
Sec. 27, W½NW¼, SW¼, SW¼SE¼;
Secs. 28 to 33, inclusive;
Sec. 34, W½E½, W½, E½SE¼.
T. 31½ S., R. 37 E.,
Secs. 31 to 33, inclusive;
Sec. 34, lots 2, 3, 4, S½N½, S½;
Sec. 35, SW¼SW¼.
T. 32 S., R. 37 E.,
Sec. 2, lot 4, SW¼NW¼, W½SW¼;
Secs. 3 to 10, inclusive;
Sec. 11, W½NW¼, NW¼SW¼;
Secs. 15 to 22, inclusive;
Sec. 23, S½N½, N½NW¼, S½;
Sec. 24, SW¼NW¼, S½;
Secs. 25 to 36, inclusive.
T. 33 S., R. 37 E.,
Secs. 1 to 36 inclusive.
T. 34 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 32 S., R. 38 E.,
Sec. 19, lot 4, SE¼SW¼, S½SE¼;
Sec. 28, S½NW¼, S½;
Sec. 29, W½NE¼, SE¼NE¼, NW¼, S½;
Sec. 30 to 33, inclusive.
T. 33 S., R. 38 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 34 S., R. 38 E.,
Secs. 5 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.

These areas described aggregate approximately 127,441 acres, of which approximately 117,829 acres are public lands under the administrative jurisdiction of the Bureau of Land Management.

2. The following described lands are hereby eliminated from Grazing District No. 2 and added to Grazing District No. 3:

WILLAMETTE MERIDIAN

T. 26 S., R. 35 E.,
Sec. 13, S½SW¼, SE¼;
Sec. 23, E½, SW¼;
Sec. 27, NE¼, E½SE¼.
T. 35 S., R. 35 E.,
Sec. 11, NE¼SE¼, S½SE¼;
Sec. 12, NE¼NE¼, S½NE¼, SE¼NW¼, S½;
Sec. 13, all;
Sec. 14, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 15, E½SE¼;
Sec. 22, E½, SW¼;
Secs. 23 to 27, inclusive;
Sec. 28, E½E½;
Sec. 33, E½NE¼, SE¼;
Secs. 34 to 36, inclusive.
T. 36 S., R. 35 E.,
Secs. 1 to 3, inclusive;
Sec. 4, lots 1 and 2, S½NE¼, SE¼;
Sec. 9, NE¼;
Sec. 10, N½, N½SW¼, SE¼SW¼, SE¼;
Secs. 11 to 14, inclusive;
Sec. 15, E½, E½W½;
Sec. 22, E½, E½NW¼;
Secs. 23 to 26, inclusive;
Sec. 27, E½;
Sec. 34, E½;
Secs. 35 and 36, all.
T. 37 S., R. 35 E.,
Secs. 1 and 2, all;
Sec. 3, lots 1 and 2, S½NE¼, SE¼SW¼, SE¼;
Sec. 9, SE¼NE¼, SE¼SW¼, SE¼;
Secs. 10 to 16, inclusive;
Sec. 17, SE¼NE¼, E½SE¼;
Sec. 20, E½E½, SW¼SE¼;
Secs. 21 to 28, inclusive;
Sec. 29, E½, E½NW¼, NE¼SW¼;
Sec. 32, E½E½, NW¼NE¼;
Secs. 33 to 36, inclusive.
T. 34 S., R. 36 E.,
Sec. 23, lot 4;
Sec. 24, NE¼NE¼, S½NE¼, S½;
Sec. 25, all;
Sec. 26, E½, E½NW¼, SW¼NW¼, SW¼;
Sec. 27, SE¼SW¼, SE¼;
Sec. 32, SE¼SE¼;
Sec. 33, NE¼NE¼, S½NE¼, S½;
Secs. 34 to 36, inclusive.
T. 35 S., R. 36 E.,
Secs. 1 to 4, inclusive;
Sec. 5, lots 1, 2, 3, S½N½, S½;
Sec. 6, SE¼SW¼, SE¼,
Secs. 7 to 36, inclusive.
T. 36 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 37 S., R. 36 E.,
Secs. 1 to 36, inclusive.
T. 38 S., R. 37 E.,
Secs. 13 to 17, inclusive;
Sec. 18, lot 1, E½SE¼;
Sec. 19, E½NE¼, NE¼SE¼;
Sec. 20, N½, N½S½;
Sec. 21, N½, NE¼SW¼, SE¼;
Secs. 22 to 26, inclusive;
Sec. 27, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 28, E½NE¼;
Sec. 34, NE¼, NE¼NW¼, E½SE¼;
Secs. 35 and 36, all.
T. 39 S., R. 37 E.,
Sec. 1, all;
Sec. 2, lots 1, 2, 3, S½NE¼, N½SE¼, SE¼ SE¼.
T. 38 S., R. 38 E.,
Secs. 13 to 36, inclusive.
T. 39 S., R. 38 E.,
Secs. 1 to 6, inclusive;
Secs. 8 to 17, inclusive;
Sec. 20, NW¼NE¼, N½NW¼;
Sec. 21, E½, E½W½;
Secs. 22 to 27, inclusive;
Sec. 28, E½, E½NW¼, SW¼;
Secs. 33 to 36, inclusive.
T. 40 S., R. 38 E.,
Secs. 1 to 4, inclusive;
Sec. 5, E½E½;
Sec. 8, NE¼NE¼;
Sec. 9, N½N½;
Secs. 10 to 14, inclusive;
Sec. 15, E½, E½W½;
Sec. 22, E½, E½NW¼;
Secs. 23 to 26, inclusive;
Sec. 27, E½NE¼, SE¼;
Sec. 34, NE¼, E½SE¼;
Secs. 35 and 36, all.
T. 41 S., R. 38 E.,
Sec. 1, all;
Sec. 2, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 3, E½NE¼;
Sec. 11, E½;
Secs. 12 and 13, all;
Sec. 14, E½;
Sec. 23, lots 1, 2, 7, and 8;
Sec. 24, all.

These areas described aggregate approximately 164,531 acres, of which approximately 121,956 acres are public lands under the administrative jurisdiction of the Bureau of Land Management.

3. The following described lands are hereby eliminated from Grazing District No. 3 and added to Grazing District No. 6:

WILLAMETTE MERIDIAN

T. 13 S., R. 41 E.,
Sec. 13, E½;
Sec. 24, E½;
Sec. 25, SE¼SW¼, E½;
Sec. 36, E½NW¼, E½.
T. 14 S., R. 41 E.,
Sec. 1, lots 1 and 2, S½NE¼, SE¼.
T. 13 S., R. 42 E.,
Secs. 17, 18, 19, 20, 21, all;
Sec. 26, N½, N½S½;
Sec. 27, N½, N½S½;
Sec. 28, N½, N½S½;
Secs. 29, 30, 31, and 32, all.
T. 14 S., R. 42 E.,
Secs. 5, 6.
T. 15 S., R. 44 E.,
Secs 1, 2.
T. 15 S., R. 45 E.,
Sec. 5, lot 4;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼, E½SW¼, NW¼SE¼.

These areas described aggregate approximately 12,040 acres, of which approximately 10,050 acres are public lands under the administrative jurisdiction of the Bureau of Land Management.

BURTON SILCOCK,
Director.

[FR Doc.73-1925 Filed 1-31-73;8:45 am]

Office of the Secretary

[INT FES 73-4]

POJOAQUE UNIT, SAN JUAN-CHAMA PROJECT, COLORADO-NEW MEXICO

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed Pojoaque Unit, San Juan-Chama project, Colorado-New Mexico.

The environmental statement concerns a water storage project for the purpose of irrigation, flood sediment control, fish and wildlife, and recreation. Nambe Falls Dam would be located on the Rio Nambe in Santa Fe County, about 20 miles north of Santa Fe, N. Mex.

Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone 202—343-4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225, telephone 303—234-3007.

Office of the Regional Director, Bureau of Reclamation, Post Office Box H-4377, Herring Plaza, Amarillo, TX 79101, telephone 806—376-2408.

Albuquerque Development Office, Bureau of Reclamation, Post Office Box 252, National Building, 505 Marquette Avenue NW., Albuquerque, NM 87103.

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

Dated: January 23, 1973.

WILLIAM W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.73-1950 Filed 1-31-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

ARTHRITIS AND METABOLIC DISEASE RESEARCH CAREER PROGRAM COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Arthritis and Metabolic Diseases Research Career Program Committee, February 28, 1973, at 9 a.m. to 5 p.m., National Institutes of Health, Building 31, Conference Room 9. This meeting will be open to the public from 9 to 10 a.m., February 28, 1973, to discuss an administrative report and closed to the public from 10 a.m. to 5 p.m., February 28, 1973, in accordance with the provisions set forth in section 10(d) of Public Law 92-463. Attendance by the public will be limited to space available.

Name of the person from whom rosters of committee members, summary of the meeting, and other information pertaining to the meeting may be obtained: Mr. Victor Wartofsky, information officer, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md., 301—496-3583.

Dated: January 24, 1973.

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

[FR Doc.73-1964 Filed 1-31-73;8:45 am]

ARTIFICIAL KIDNEY—CHRONIC UREMIA ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Artificial Kidney—Chronic Uremia Advisory Committee, February 21-22, 1973 at 8:45 a.m. to 5 p.m., National Institutes of Health, Building 31, Conference Room 4. This meeting will be open to the public from 8:45 a.m. on February 21 to discuss and review artificial kidney contracts and closed to the public from 9:45 a.m. on February 21 to 5 p.m. on February 22, in accordance with the provisions set forth in section 10(d) of Public Law 92-463. Attendance by the public will be limited to space available.

Name of the person from whom rosters of committee members, summary of the meeting, and other information pertaining to the meeting may be obtained: Mr. Victor Wartofsky, information officer, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md. (301) 496-3583.

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

JANUARY 24, 1973.

[FR Doc.73-1966 Filed 1-31-73;8:45 am]

BREAST CANCER TASK FORCE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Breast Cancer Task Force, February 5-7, 1973, at the Cascades Meeting Center, Williamsburg, Va. This meeting will be open to the public on February 5-6, to discuss findings in the past year in the area of breast cancer research, and closed to the public from 9 a.m. to 12 noon, February 7, in accordance with the provisions set forth in section 10(d) of Public Law 92-463. Attendance by the public will be limited to space available.

Mr. Frank Karel, NCI informtion officer, Building 31, Room 10A31, National Institutes of Health, Bethesda, Md. 20014 (301—496-1911) will furnish summaries of the open meeting and roster of committee members.

Dr. Erwin Vollmer, Executive Secretary, Landow Building, Room A422, National Institute of Health, Bethesda, Md. 20014 (301—496-6718) will provide substantive program information.

Dated: January 26, 1973.

ROBERT W. BERLINER,
Acting Director,
National Institutes of Health.

[FR Doc.73-1956 Filed 1-31-73;8:45 am]

CHEMICAL/BIOLOGICAL INFORMATION-HANDLING REVIEW COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Chemical/Biological Information-Handling Review Committee on February 8, 1973, at 9 a.m., National Institutes of Health, Building 31, Room 4B59. This meeting will be open to the public from 9 to 9:15 a.m. during which time a briefing on the background and nature of the committee will be made. The meeting will be closed to the public from 9:15 a.m. to 5 p.m., in accordance with the provisions set forth in section 10(d) of Public Law 92-463. Attendance by the public will be limited to space available.

The information officer who will furnish summaries of the meeting and roster of the committee members is Mr. James Augustine, Division of Research Resources, Building 31, Room 4B03, Bethesda, Md. 20014, 496-5545.

The Executive Secretary from whom substantive information may be obtained is Dr. William Raub, Building 31, Room 5B19, Bethesda, Md. 20014, 496-5411.

Dated: January 24, 1973.

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

[FR Doc.73-1959 Filed 1-31-73;8:45 am]

DEVELOPMENTAL RESEARCH WORKING GROUP

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the developmental research working group, February 16, from 9 a.m. to 5 p.m., National Institutes of Health, Building 37, conference room 1B04. This meeting will be open to the public from 9 a.m. to 9:30 a.m., for introductory remarks and discussion of the segment objectives and closed to the public from 9:30 a.m. to 5 p.m., in accordance with the provisions set forth in section 10(d) of Public Law 92-463. Attendance by the public will be limited to space available.

Mr. Frank Karel, NCI Information Officer, Building 31, Room 10A31, National Institutes of Health, Bethesda, Md. 20014 (301—496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Maurice Guss, executive secretary, building 37, room 1B14, National Institutes of Health, Bethesda, Md. 20014

(301—496–3323) will provide substantive program information.

Dated: January 26, 1973.

ROBERT W. BERLINER,
Acting Director,
National Institutes of Health.

[FR Doc.73–1958 Filed 1–31–73;8:45 am]

DIAGNOSTIC RESEARCH ADVISORY GROUP

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the diagnostic research advisory group, February 13, 1973 at 9 a.m., National Institutes of Health, building 31, conference room 3A49. This meeting will be open to the public to discuss program considerations. Attendance by the public will be limited to space available.

Mr. Frank Karel, NCI information officer, building 31, room 10A31, National Institutes of Health, Bethesda, Md. 20014 (301—496–1911) will furnish summaries of the meeting and roster of committee members.

Dr. Nathaniel I. Berlin, Director, Division of Cancer Biology and Diagnosis, building 31, room 3A03, National Institutes of Health, Bethesda, Md. 20014 (301—496–4345) will provide substantive program information.

Dated: January 26, 1973.

ROBERT W. BERLINER,
Acting Director,
National Institutes of Health.

[FR Doc.73–1957 Filed 1–31–73;8:45 am]

EPIDEMIOLOGY AND BIOMETRY TRAINING COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the epidemiology and biometry training committee, February 2, 1973, at 9 a.m., National Institutes of Health, building 31C, conference room 7. This meeting will be open to the public from 9 to 10 a.m., February 2, 1973, to discuss administrative details of the committee and closed to the public from 10 a.m., February 2, 1973, in accordance with the provisions set forth in section 10(d) of Public Law 92–463. Attendance by the public will be limited to space available.

Mr. Paul Deming, information officer, NIGMS, building 31, room 4A46, Bethesda, Md. 20014, telephone: 301—496–5676, will furnish a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Margaret J. Carlson, executive secretary, Westwood Building, room 920, telephone 301—496–7137.

Dated: January 24, 1973.

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

[FR Doc.73–1960 Filed 1–31–73;8:45 am]

IMMUNOLOGY-EPIDEMIOLOGY WORKING GROUP

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the immunology-epidemiology working group, February 7–8, 1973, at 9 a.m. to 5 p.m., February 7, and 8:30 a.m. to 12, February 8. This meeting will be open to the public from 9 a.m. to 10 a.m., February 7 for introductory remarks and discussion of the segment objectives, and closed to the public from 10 a.m., February 7, in accordance with the provisions set forth in section 10(d) of Public Law 92–463. Attendance by the public will be limited to space available.

Mr. Frank Karel, NCI information officer, building 31, room 10A31, National Institutes of Health, Bethesda, Md. 20014 (301—496–1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Gary Pearson, executive secretary, building 37, room 1B05, National Institutes of Health, Bethesda, Md. 20014 (301—496–2600) will provide substantive program information.

Dated: January 26, 1973.

ROBERT W. BERLINER,
Acting Director,
National Institutes of Health.

[FR Doc.73–1955 Filed 1–31–73;8:45 am]

INSTITUTIONAL IMPROVEMENT AND TRAINING REVIEW COMMITTEE; SECTIONS A, B, C

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of the following committees and the individual from whom summaries of meetings may be obtained.

Committee	Date	Time	Location of meeting
Allied Health Professions: Institutional Improvement and Training Review Committee, Section A.	Feb. 20–23, 1973.	9 a.m.	Bldg. 31, Conference Room 7.
Allied Health Professions: Institutional Improvement and Training Review Committee, Section B.	Feb. 20–23, 1973.	9 a.m.	Bldg. 31, Conference Room 9.
Allied Health Professions: Institutional Improvement and Training Review Committee, Section C.	Feb. 20–23, 1973.	9 a.m.	Bldg. 31, Conference Room 8.

Summaries of meetings, rosters of committee members and substantive information may be obtained from the executive secretary, Dr. Merrill B. DeLong, room 4C–16, Federal Building, Bethesda, Md., telephone 496–5697. These meetings will be open to the public from 9 a.m. to 10 a.m. on February 20 during the general discussion and closed thereafter in accordance with the provisions set forth in section 10(d) of Public Law 92–463. Attendance by the public will be limited to space available.

Dated: January 24, 1973.

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

[FR Doc.73–1967 Filed 1–31–73;8:45 am]

NURSE-SCIENTIST GRADUATE TRAINING COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Nurse-Scientist Graduate Training Committee, February 1–2, 1973, at 8:30 a.m., National Institutes of Health, Building 31, Conference Room 2. This meeting will be open to the public from 8:30 to 9:30 a.m., February 1, 1973, to discuss and present an overview of the activities of the Division of Nursing since the last meeting of this Committee, and closed to the public from 9:30 a.m. to 5 p.m., February 1, 1973, and from 8:30 a.m. to 4 p.m., February 2, 1973, in accordance with the provisions set forth in section 10(d) of Public Law 92–463. Attendance by the public will be limited to space available.

The names, addresses, room numbers, and phone numbers of:

1. The BID Information Officer who will furnish summaries of the meeting and rosters of committee members:

Mrs. Norma Golumbic, Chief, Information Office, Division of Nursing, Bureau of Health Manpower Education, National Institutes of Health, Department of Health, Education, and Welfare, Room 508, Federal Office Building, 9000 Rockville Pike, Bethesda, MD 20014, 301/496–1143.

2. The Executive Secretary from whom substantive program information may be obtained:

Marie J. Bourgeois, R.N., Ph. D., Chief, Research Training Section, Nursing Research Branch, Division of Nursing, Bureau of Health Manpower Education, National Institutes of Health, Department of Health, Education, and Welfare, Room 6A14, Federal Office Building, 9000 Rockville Pike, Bethesda, MD 20014, 301/496–6955.

Dated: January 24, 1973.

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

[FR Doc.73–1963 Filed 1–31–73;8:45 am]

NURSE TRAINING ACT PROJECT GRANTS REVIEW COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Nurse Training Act Project Grants Review Committee, February 5–9, 1973, from 9 a.m. to 5 p.m., National Institutes

of Health, Building 31, Conference Room 9. This meeting will be open to the public from 9 a.m. to 10 a.m., February 5, to discuss the current status of the Nurse Training Act of 1971 and the activities of the Special Project Grant Program and closed to the public from 10 a.m. to 5 p.m., February 5, and 9 a.m. to 5 p.m., February 6–9, 1973, in accordance with the provisions set forth in section 10(d) of Public Law 92–463. Attendance by the public will be limited to space available.

1. The Division of Nursing Information Officer who will furnish summaries of the open meetings and rosters of committee members: Mrs. Norma Golumbic, Information Officer, Division of Nursing, Room 2C19, Building 31, National Institutes of Health, Bethesda, MD 20014, telephone 496–1143, and

2. The Executive Secretary from whom substantive information may be obtained: Hazel M. Aslakson, Ed. D., Room 2B50, Building 31, National Institutes of Health, Bethesda, MD 20014, telephone 496–4977.

Date: January 24, 1973.

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

[FR Doc.73–1962 Filed 1–31–73;8:45 am]

CONSTRUCTION OF NURSE TRAINING FACILITIES REVIEW COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Construction of Nurse Training Facilities Review Committee, February 5 at 9:30 a.m., National Institutes of Health, Building 31, Conference Room 8. This meeting will be open to the public from 9:30 a.m. to 10:30 a.m. on February 5 to discuss the aspects of the Division of Nursing programs and closed to the public from 10:30 a.m., February 5, in accordance with the provisions set forth in section 10(d) of Public Law 92–463. Attendance by the public will be limited to space available.

1. The Division Information Officer who will furnish summaries of the meetings and rosters of Committee members: Mrs. Norma Golumbic, National Institutes of Health, 508 Federal Building, Bethesda, MD. Phone: (301) 496–6924.

2. The Executive Secretary from whom substantive program information may be obtained: Anastasia Petras, National Institutes of Health, 6C–10 Federal Building, Bethesda, MD. Phone: (301) 496–6924.

Dated: January 24, 1973.

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

[FR Doc.73–1965 Filed 1–31–73;8:45 am]

PUBLIC HEALTH REVIEW COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is given of the meeting of the Public Health Review Committee, February 5–8, 1973, at 9 a.m., National Institutes of Health, Building 31, Conference Room 7. This meeting will be open to the public from 9 a.m., February 5, during the general discussion and closed to the public from 10 a.m. to 5 p.m., February 5, and from 9 a.m. to 5 p.m., February 6–8, in accordance with the provisions set forth in section 10(d) of Public Law 92–463. Attendance by the public will be limited to space available. The name, address, room number, and phone number of the Executive Secretary who will furnish summaries of the meeting, rosters of committee members, and substantive information:

Mr. William J. Holland, Room 3C–09 Federal Building, Bethesda, MD 20014. Telephone: 301—496–6945.

Dated: January 24, 1973.

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

[FR Doc.73–1961 Filed 1–31–73;8:45 am]

SOLID TUMOR VIRUS WORKING GROUP

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Solid Tumor Virus Working Group, February 26, 1973, at 9 a.m., to 5 p.m., National Institutes of Health, Building 37, Conference Room 1B04. This meeting will be open to the public from 9 a.m. to 9:30 a.m., February 26 for introductory remarks and discussion of the segment objectives, and closed to the public from 9:30 a.m., February 26, in accordance with the provisions set forth in section 10(d) of Public Law 92–463. Attendance by the public will be limited to space available.

Mr. Frank Karel, NCI Information Officer, Building 31, Room 10A31, National Institutes of Health, Bethesda, MD 20014 (301—496–1911) will furnish summaries of the open/closed meeting and a roster of committee members.

Mrs. Harriet Streicher, Executive Secretary, Building 37, Room 2D24, National Institutes of Health, Bethesda, MD 20014 (301—496–3301) will provide substantive program information.

Dated: January 26, 1973.

ROBERT W. BERLINER,
Acting Director,
National Institutes of Health.

[FR Doc.73–1954 Filed 1–31–73;8:45 am]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Notice of Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to women, make recommendations to the Secretary on the status of women, and continually determine how HEW's programs can be of better service to the special needs of women, will meet Thursday, Friday, and Saturday, February 8–10, 1973, from 9 a.m., to 5 p.m. in San Francisco, Calif., at the Jack Tar Hotel, Van Ness and Geary Street. The Committee will discuss health, education, social services/welfare, and HEW employment policies as they relate to women. The Committee, in particular, will discuss consumer problems as they directly affect women. These meetings will be open to the public.

Dated: January 9, 1973.

KAREN KEESLING,
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc.73–1828 Filed 1–31–73;8:45 am]

TECHNICAL ADVISORY COMMITTEE ON AGING RESEARCH

Meeting Announcement

This committee was established to advise the Secretary of Health, Education, and Welfare to develop a comprehensive, coordinated research program in the field of aging, which program will include disciplines ranging from biomedical research to transportation systems analysis, from psychology and sociology to management science and economics.

The meeting of the Committee will be on Tuesday and Wednesday, February 20–21, 1973, from 9 a.m. to 4:30 p.m. in Room 5169, DHEW North Building, 330 Independence Avenue SW., Washington, DC. The meeting will be devoted to consideration of the relationship of training and research, a review of expenditures on research in aging, and a consideration of the committee function and methodology to be used in collecting the information essential to developing a comprehensive and coordinated plan for research in aging. The meeting will be open for public observation.

ALFRED H. LAWTON,
Executive Director.

JANUARY 26, 1973.

[FR Doc.73–1939 Filed 1–31–73;8:45 am]

TUSKEGEE SYPHILIS STUDY AD HOC ADVISORY PANEL

Notice of Meeting

A meeting of the Tuskegee Syphilis Study Ad Hoc Advisory Panel is to be held on February 8, 1973. This panel was established by the Assistant Secretary for Health to provide advice on the circumstances surrounding the Tuskegee, Ala., study of untreated syphilis in the male Negro initiated by the U.S. Public Health Service in 1932. The Assistant Secretary for Health requested the panel to advise him on the following specific aspects of the Tuskegee syphilis study:

1. Determine whether the study was justified in 1932 and whether it should have been continued when penicillin became generally available.

2. Recommend whether the study should be continued at this point in time, and if not, how it should be terminated

in a way consistent with the rights and health needs of its remaining participants.

3. Determine whether existing policies to protect the rights of patients participating in health research conducted or supported by the Department of Health, Education, and Welfare are adequate and effective and to recommend improvements in these policies, if needed.

This meeting is for the sole purpose of considering and formulating the advice which the panel will give to the Asisstant Secretary for Health on the charges outlined above, and will involve exclusively the internal expression of views and judgments of its members. Accordingly, under the authority of the Secretary's notice of determination of January 22, 1973, this meeting is closed to the public.

This meeting will begin at 9:30 a.m. in the conference room of building 16, National Institutes of Health, Bethesda, Md. A summary of the meeting and a roster of panel members may be obtained from Mr. John Blamphin (202—962–7906), Room 5614, HEW North Building, 330 Independence Avenue SW., Washington, DC 20201.

Dated: January 24, 1973.

R. C. BACKUS,
Executive Secretary, Tuskegee Syphilis Study Ad Hoc Advisory Panel.

[FR Doc.73–1826 Filed 1–31–73;8:45 am]

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), that the initial meeting of the National Advisory Council on Equality of Educational Opportunity will be held at 9:30 a.m. Friday, February 2, 1973, in Room 4034, 400 Maryland Avenue SW., Washington, DC.

The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (Public Law 92–318, Title VII). The Council is established to advise the Assistant Secretary for Education with respect to the operation of programs under the Act, and to review the operation of such programs.

The meeting of the Council shall be open to the public. The proposed agenda includes organization of the committee and review of proposed program regulations and funding criteria. Records shall be kept of all proceedings, and shall be available for public inspection at the Office of Education, Bureau of Equal Educational Opportunity, Room 2029, 400 Maryland Avenue SW., Washington, DC.

Signed at Washington, D.C., on January 30, 1973.

S. P. MARLAND, Jr.,
Assistant Secretary for Education.

[FR Doc.73–2024 Filed 1–31–73;9:31 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50–329A; 50–330A]

CONSUMERS POWER CO.

Notice and Order Resetting Third Prehearing Conference

JANUARY 26, 1973.

In the matter of Consumers Power Co. (Midland Plant, Units 1 and 2).

Take notice that the previously scheduled prehearing conference, canceled as a consequence of the President's proclamation of a "Day of Mourning", is herewith reset for February 12, 1973, at 10 a.m., local time, in Suite 500, Postal Rate Commission, 2000 L Street NW., Washington, DC 20268.

The matters outlined in the January 10, 1973, notice and order as topics for discussion are incorporated herein by reference and will be the topics for discussion at the February 12, 1973, prehearing conference.

It is so ordered.

Issued at Washington, D.C., this 26th day of January 1973.

The Atomic Safety and Licensing Board.

JEROME GARFINKEL,
Chairman.

[FR Doc.73–1913 Filed 1–31–73;8:45 am]

[Dockets Nos. 50–282; 50–306]

NORTHERN STATES POWER CO.

Order Extending Completion Dates

Northern States Power Co. is the holder of Provisional Construction Permits issued by the Commission on June 25, 1968, for the construction of the Prairie Island Nuclear Generating Plant Units 1 and 2, two 1650 megawatt (thermal) pressurized water nuclear reactors, presently under construction at the company's site northwest of Red Wing in Goodhue County, Minn.

By letter of December 28, 1972, the company requested an extension of the completion dates because of construction delays as a result of a general craft strike for 7 weeks during which many craftsmen left the area, and delays in equipment deliveries with a corresponding delay in equipment design information and delayed completion of construction drawings. The Director of Regulation having determined that this action involves no significant hazards consideration, and good cause having been shown:

It is hereby ordered, That, the latest completion date for CPPR–45 (as amended) is extended from February 1, 1973, to February 1, 1974, and CPPR–46 is extended from February 1, 1974, to February 1, 1975.

For the Atomic Energy Commission.

Date of issuance: January 24, 1973.

A. GIAMBUSSO,
Deputy Director for Reactor Projects Directorate of Licensing.

[FR Doc.73–1915 Filed 1–31–73;8:45 am]

NUCLEAR POWERPLANTS

Notice of Intent To Develop General Siting Criteria

Notice is hereby given that the Atomic Energy Commission plans to initiate a program for the development of general environmental siting criteria for nuclear powerplants as another step in the evolution of criteria to provide guidance for the site selection process. This program will advance past efforts to establish siting criteria for powerplants, especially nuclear powerplants, the results of which appear in the Code of Federal Regulations, Title 10 Part 100, in special reports of the Federal Government,[1 2 3 4] and in the proceedings of a recent international symposium.[5]

In addition, some of the States, Connecticut,[6] Maryland,[7] New York,[8] Oregon,[9] and Washington,[10] for example, have powerplant siting laws and procedures that affect the site selection process.

The growing demand for new power stations, many of which will be nuclear, requires the selection of many new sites; this in turn requires long-range planning, not only for the use of sites to support single powerplants, but also for larger sites that may support several plants.

[1] Background Report on Power Plant Siting, prepared for Senate Committee on Commerce. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (July 1972).

[2] Engineering for Resolution of the Energy—Environment Dilemma, Committee on Power Plant Siting, National Academy of Engineering, Washington, D.C. Printing and Publishing Office, National Academy of Sciences, 2101 Constitution Avenue, Washington, DC 20418 (1971).

[3] Electric Power and the Environment, a report sponsored by the Energy Policy Staff, Office of Science and Technology, Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[4] Considerations Affecting Steam Power Plant Site Selection, a report sponsored by the Energy Policy Staff, Office of Science and Technology. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20462 (December 1968).

[5] Environmental Aspects of Nuclear Power Stations, Proceedings of a Symposium, New York, August 1970, International Atomic Energy Agency, Vienna, 1971 (STI/PUB/261).

[6] Conn. Gen. Stat. Ann. 16–50g—16–50W (1971 Supp.).

[7] Md. Code Ann. art. 66(c) 763–768 (1957; Supp. 1971).

[8] Chapter 385, N.Y. Laws of 1972.

[9] Oregon Rev. Stat. 453.305–.575 (1971).

[10] Wash. Rev. Code 90.58.

Long-term planning must eventually include planning on a regional basis and the development of advanced concepts such as off-shore siting.

In an effort to meet immediate needs and to assemble background information for long-range planning, the Battelle Memorial Institute, Columbus Laboratories, has been awarded a contract by the Commission to assist in acquiring and organizing the information from existing sources, including existing criteria, that will provide the bases for general siting criteria.

The criteria will provide general guidance relative to site suitability, and the potential impacts from nuclear powerplants on the environment and on the health and welfare of man, including cost and benefits, and they will provide plant designers with guidance to assist them in reducing potentially undesirable environmental impacts.

The sources of environmental impacts and potential health hazards that will be considered include: (1) Preemptive use of land; (2) construction activities; (3) operational emissions to the environment, including emissions of heat, radioactivity and chemicals; (4) accidental discharges to the environment; (5) power transmission lines; (6) special characteristics of facility structures; and (7) noise.

Siting criteria will relate to impacts of the facility on the environment and biota and, where applicable, the impact of the environment on the facility. In developing the general siting criteria the following topics will be considered:

I. Geological Criteria

Relative to:
A. Suitability as a site foundation.
B. Construction and operation effects.

II. Subsurface Waters Criteria

Relative to:
A. Interception.
B. Depletion.
C. Pollution.

III. Surface Water Criteria

Relative to:
A. Resource availability;
B. Cooling capacity and thermal impact;
C. Chemistry of water as a resource and as a recipient of wastes;
D. Flow characteristics (currents and velocities) relative to supply requirements and facility design and discharges;
E. Sediment load and turbidity related to facility design and fate of pollutants;
F. Capability for use as a transportation route to and from site;
G. Potential natural catastrophes (e.g., floods, storm waters, tsunami); and
H. Radioactive and chemical pollutants.

IV. Meteorological Criteria

Relative to:
A. Transport;
B. Dilution;
C. Modification and removal;
D. Ambient background conditions;
E. Heat and moisture; and
F. Storms and other meteorological extremes.

V. Ecological Criteria

Relative to:
A. Induced ecosystem changes;
B. Economically valuable species;
C. Rare, endangered and important species;
D. Life histories and behavior;
E. Habitats; and
F. Plant and animal population dynamics of important species.

VI. Land Use Criteria

Relative to:
A. Silviculture and agriculture;
B. Compatibility with existing and projected land use plans;
C. Recreation resources and facilities;
D. Antiquities and archeology;
E. Availability of transportation for materials during construction, operation, and decommissioning;
F. Proximity to powerload centers;
G. Proximity to transmission grids or corridors;
H. Proximity to airports and flight corridors (including consideration of aircraft accidents and allowable height of facilities); and
I. Proximity to other industries.

VII. Aesthetic Criteria

Relative to:
A. Visual impact;
B. Areas of exceptional beauty;
C. Potential landscaping and architecture; and
D. Seasonal considerations.

VIII. Population Density Criteria

Relative to:
A. Population distribution.
B. Buffer zones.

IX. The Relationship of the Criteria to Advanced Concepts

A. Offshore siting;
B. Nuclear powerplant parks; and
C. Regional planning.

It is recognized that criteria are available for some potential environmental impacts relative to nuclear powerplants as indicated above. These criteria have varying degrees of specificity and detail. In addition, there are Federal, State, and local standards, such as water quality standards, which can be adopted or adapted for use as general siting criteria.

Interested persons are invited to submit written comments related to:

1. Recommendations, supported by justifications, concerning the needed scope of general environmental siting criteria; and

2. Identification of data and information sources, on-going programs, plans, and new concepts, pertinent to general siting criteria.

In the course of developing the criteria, meetings may be held between interested parties and the Regulatory Staff to explore specific topics.

All interested persons who desire to submit written comments or suggestions in connection with the subject of this notice should send them to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545, on or before April 2, 1973.

Dated at Bethesda, Md., this 24th day of January 1973.

For the Atomic Energy Commission.

L. Manning Muntzing,
Director of Regulation.

[FR Doc.73-1914 Filed 1-31-73;8:45 am]

[Dockets Nos. 50-259, 50-260, 50-296]

TENNESSEE VALLEY AUTHORITY

Notice of Hearing on Facility Operating Licenses

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", and Part 2, "Rules of Practice", notice is hereby given that a hearing will be held at a time and place to be set in the future by an Atomic Safety and Licensing Board, commencing in the vicinity of Limestone County, Ala., to consider the application filed by the Tennessee Valley Authority (TVA) for facility operating licenses which would authorize the operation of the boiling water reactors (the facilities), identified as Browns Ferry Nuclear Plant Units 1, 2, and 3, at steady-state power levels up to a maximum of 3,293 megawatts thermal each, at the applicant's site in Limestone County, Ala. The hearing will also consider whether the construction permits for Units 2 and 3 should be continued, modified, terminated or appropriately conditioned to protect environmental values.

The hearing will be conducted by an Atomic Safety and Licensing Board (Licensing Board) designated by the Atomic Energy Commission (Commission), consisting of Dr. Clark Goodman, Dr. Frederick P. Cowan, and Sidney G. Kingsley, Esq., Chairman. Frederick J. Shon has been designated as a technically qualified alternate, and Daniel M. Head, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

Construction of the facility was authorized by Provisional Construction Permits Nos. CPPR-29 and CPPR-30, issued by the Commission on May 10, 1967, and CPPR-448, issued by the Commission on July 31, 1968.

A "Notice of Consideration of Issuance of Facility Operating Licenses and Opportunity for Hearing" was published by the Commission on September 20, 1972 (37 FR 19394). The notice provided that, within 30 days from the date of publication, any person whose interest might be affected by the issuance of a license could file a petition for leave to intervene (1) with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permits for Units 2 and 3 should be continued, modified, terminated, or appropriately conditioned to protect environmental values, and (2) with respect to the issuance of the facility operating licenses for Units 1, 2, and 3. Petitions for leave to intervene were thereafter filed by the State of Alabama and Frank L. Parker. Answers to the petition were filed by the applicant and by the Commission's Regulatory Staff.

As set forth in a Memorandum and Order dated January 22, 1973, the Commission has determined that a public hearing will be held and that both petitioners should be admitted as parties to the proceeding.

A prehearing conference will be held by the Board, at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's "rules of practice." The date and place of the hearing will be set by the Board at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

The application for the facility operating licenses and other documents pertinent to the matters under consideration, including TVA's draft and final environmental statements, the transcripts of the prehearing conference and of the hearing, have or will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at the Athens Public Library, South and Forrest, Athens, Ala. 35611, for inspection by members of the public. Copies of the safety evaluation prepared by the Directorate of Licensing, and the proposed facility operating licenses, when available and to the extent of supply, may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who has not filed either a petition for leave to intervene or a request for a hearing as noted above, may request permission to make a limited appearance pursuant to the provisions of 10 CFR § 2.715 of the Commission's "rules of practice." Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, on or before March 5, 1973. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR § 2.705 of the Commission's "rules of practice," must be filed by the parties to the proceeding (other than the Regulatory Staff) on or before February 21, 1973. Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR § 2.708 of the Commission's "rules of practice" an original and twenty copies of each such paper with the Commission.

Dated at Germantown, Md., this 22d day of January 1973.

UNITED STATES ATOMIC ENERGY COMMISSION,

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-1555 Filed 1-31-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 24857; Order 73-1-72]

ALLEGHENY AIRLINES, INC., ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of January 1973.

On October 20, 1972, Allegheny Airlines, Inc. (Allegheny) filed an application in Docket 24857 requesting authority to suspend service temporarily at Bloomington, Ind., pursuant to section 401(d) of the Act and Part 205 of the Board's Economic Regulations; approval of the service agreement[1] among Allegheny, Vercoa Air Service, Inc. (Vercoa), and William C. Britt (Britt),[2] pursuant to section 412 of the Act; and pursuant to section 416(b) of the Act, the grant of an exemption from section 401 of the Act and Part 298 of the Economic Regulations to the extent necessary to authorize Vercoa's transportation of mail to and from Bloomington as contemplated by the service agreement.

The agreement among Allegheny, Vercoa, and Britt requires Vercoa to provide initially a replacement service of four nonstop Bloomington-Chicago[2a] round trips, operated daily with reduced frequencies on Saturdays, Sundays, and holidays. Vercoa is obligated throughout the life of the agreement to provide a minimum of two daily nonstop round trips (7 days per week) between Bloomington and Chicago. Allegheny agrees to restore service at its present level[3] at Bloomington should the commuter air service cease or the Board so order.

Vercoa will use the "Allegheny Commuter" trademark while engaged in scheduled service, will conduct airline type operations and will maintain insurance coverage satisfactory to Allegheny. For its part, Allegheny will provide financial guarantees.[3a] In addition, Allegheny will furnish certain support services, including a 24-hour reservation service through Allegheny's reservation center and ground handling and support at the O'Hare International and the Weir Cook Municipal Airports. The agreement also provides for the establishment of joint fares between Bloomington and any other point on Allegheny's system for which Allegheny has on file single-factor Bloomington fares.

The agreement provides further that Vercoa will transport such mail on its scheduled Allegheny commuter flights as shall be tendered to it by the U.S. Postal Service (USPS) at Bloomington and by Allegheny at Chicago and Indianapolis. The transportation of mail will be performed under Allegheny's currently effective mail rates. Allegheny will keep all records and accounts and will perform such other administrative functions as may be required by the USPS. For all categories of mail boarded on Vercoa's commuter flights at Bloomington, Chicago, and/or Indianapolis, Allegheny will pay Vercoa at the rate of 6 cents per pound, subject to adjustment by mutual agreement.

In support of its application Allegheny alleges, inter alia, that existing service offers few public benefits and requires Federal subsidy support; that the proposed replacement service would produce substantial benefits for the traveling public on a profitable basis, and that the Bloomington community supports the replacement program.

Upon consideration of the pleadings and all the relevant facts, we have tentatively decided to approve the agreement in question, subject to conditions, and to authorize Allegheny to temporarily suspend service at Bloomington. We have also tentatively decided to exempt Allegheny from the provisions of section 408 of the Federal Aviation Act to the extent that that section would otherwise preclude the relationships between Allegheny and Vercoa, and to exempt Vercoa from the provisions of Part 298 of the Economic Regulations to permit it to engage in transportation of mail by aircraft to and from Bloomington under Allegheny's currently effective service rates in accordance with the subject agreement.

Our tentative findings and conclusions are as follows:

The agreement here is in general terms the same as other previously granted "Allegheny Commuter" arrangements. The replacement carrier will provide a greater volume of service than Allegheny now provides. Moreover, the replacement agreement will result in new nonstop service.

Allegheny's forecast—which we find reasonable—is that if it continues service to Bloomington in 1973, it will incur a subsidy need after return and taxes of $20,000. The proposed replacement will result in a subsidy savings to the Government.

We have examined the proposed agreement in light of section 408 of the Federal Aviation Act. We tentatively find and conclude that the same basic control factors which were found to exist in previously approved agreements are

[1] Agreement CAB 23361, dated Oct. 12, 1972.

[2] William C. Britt is the president and principal stockholder of Vercoa Air Service.

[2a] Chicago is Bloomington's primary market.

[3] As of Dec. 15, 1972, Allegheny was providing one daily round trip to Chicago via Indianapolis. This service is operated with 50-passenger Convair 580 aircraft.

[3a] In general, Allegheny guarantees Vercoa at least a breakeven financial result for its proposed replacement operation but retains the right to terminate the agreement if it is required to make any financial guarantee payment after the first 2 years of operation.

present in the agreement now in question; that these factors indicate that Allegheny will control Vercoa within the meaning of section 408 of the Act; and that other relationships within the proscriptions of section 408 may ultimately result.

We have tentatively decided, pursuant to section 408(a)(5) of the Act, as amended, to exempt the acquisition by Allegheny of control over Vercoa, a commuter carrier, from the prohibitions of section 408. The agreement in question will not create a monopoly, restrain competition, or jeopardize another air carrier not a party to the transaction, nor will it be inconsistent with the public interest. In these circumstances, to require Allegheny to obtain approval under section 408(b) of the Act and the applicable regulations would delay the implementation of the agreement unnecessarily, would subject the parties to unnecessary expense, and would not be in the public interest.

In view of the foregoing, we tentatively find and conclude that, subject to conditions, Agreement CAB 23361, will not be adverse to the public interest; that it is in the public interest to exempt the acquisition by Allegheny of control over Vercoa from the requirements of section 408 of the Federal Aviation Act to the extent that it would otherwise prevent Allegheny from implementing such agreement; and, that to the extent necessary to relieve Allegheny of its obligation to provide services in excess of those provided in the agreement, a temporary suspension of service at Bloomington is in the public interest.

We have also examined the facts presented herein in light of findings in a recent court case [4] involving air taxi replacement services where the Court indicated that the Board should consider whether the statutory conditions for exemption from certification continue to exist. As discussed below, we tentatively find that, with respect to Vercoa the statutory conditions and guidelines for exemption from certification continue to exist; [5] therefore, it would be inappropriate and not in the public interest to require Vercoa to undergo a certification proceeding in order to provide replacement services for Allegheny at Bloomington.

Vercoa began operating as an air taxi in June 1966 and started up commuter operations approximately 2 years thereafter. Based in Danville, Ill., Vercoa is an experienced operator as it already performs as Allegheny Commuter under two agreements which provide for replacement services at Danville, Ill. and Muncie, Ind. Such services include Allegheny Commuter flights operated over a Bloomington-Indianapolis-Muncie-Chicago routing.[6] In July 1970, Vercoa registered with the Board pursuant to Part 298 of the Board's Economic Regulations as a commuter carrier. At the close of calendar year 1971 Vercoa was providing commuter air service to five points in nine markets; [7] transported 48,455 passengers, and performed an average of 16 flights per day. Revenue passenger miles performed by Vercoa during calendar year 1971 were 7,097,843 as compared to the local service industry average for the same period of 872,387,888. Thus Vercoa's total RPM's for calendar year 1971 were approximately four-fifths of 1 percent of the average RPM's for each of the certificated local service carriers.[8]

On the basis of the foregoing, and on the basis of our findings set forth in Order 72-9-39 and Order 73-1-3, and our conclusion therein that the certification process is generally inappropriate for replacement commuter carriers, we tentatively conclude that it would not be in the public interest to require Vercoa to undergo a certification proceeding in order to provide replacement services for Allegheny at Bloomington. Vercoa's services are neither of sufficient magnitude nor do they hold such prospects of economic success as to warrant their separate certification.

We further tentatively find that certification would be an undue burden on Vercoa by reason of the limited extent of, and unusual circumstances affecting, its operations. As described above, the carrier's operations are of limited extent in terms of both the replacement services involved and the overall scope of its operations. Furthermore, the very nature of the small aircraft to which a commuter carrier is restricted makes the operation limited in extent. The accommodations on these aircraft not only limit the competitive capabilities of Vercoa but also limit the amount of traffic it can carry and the length of the markets it can serve, compared with a certificated carrier operating large aircraft. Thus, the cost of certificate procedures would impose a severe financial burden on Vercoa wholly disproportionate to its existing and proposed operations. Moreover, enforcement of section 401 requirements would be an undue burden not only because of the substantial cost of certification procedures, but also because certification would deprive Vercoa of the necessary operating flexibility it must have to conduct nonsubsidized services with small aircraft in short-haul low-density markets.

Finally, we tentatively find and conclude that Vercoa should be granted an exemption from Part 298 of the Board's Economic Regulations in order to permit it to transport mail by aircraft to and from Bloomington under Allegheny's currently effective service mail rates. We find that Vercoa's operation, in this respect, are limited and that, in addition, the compensation to be paid to Vercoa by Allegheny is reasonable. To require Vercoa to undergo certification proceedings in order to transport mail would be to deprive the public of an important service and to subject the carrier to a financial burden disproportionate to the authority sought. The proposed replacement service should offer the USPS substantial additional benefits without any increase in cost. The USPS will deal with, and provide compensation to, Allegheny only and Allegheny will, in turn, transfer funds to Vercoa pursuant to the contract between them. The Board will tentatively approve this arrangement subject to the condition that Vercoa will be compensated solely according to its contract with Allegheny and, therefore, may not claim additional awards under section 406 of the Act.

We are also satisfied that there are no safety considerations which would warrant a determination that the substitute service arrangement is contrary to the public interest. Not only must Vercoa conduct its operations in strict conformity with the Federal Aviation Regulations promulgated by the Secretary of Transportation, who is charged by law with insuring the highest degree of safety in air transportation, but Vercoa has had a successful operating history.[9]

Consequently, for the reasons set forth above, we tentatively find and conclude that:

1. Agreement CAB 23361 should be approved subject to the following conditions:

(a) That any financial transactions between Allegheny and Vercoa be appropriately appended to Allegheny's Form 41 reports and so footnoted;

(b) The information requested in (a) above must be shown separately from similar information regarding financial transactions between Allegheny and various other replacement carriers;

(c) Approval of this agreement does not constitute approval for ratemaking purposes, and in no event shall Allegheny receive any subsidy, directly or indirectly, for the operations performed or the services provided by either party pursuant to the agreement; and

(d) Vercoa shall, with respect to the operations conducted pursuant to this agreement, keep on deposit with the Board a signed counterpart of Agreement CAB 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol ap-

[4] Air Line Pilots Association, International v. C.A.B., 458 F. 2d 846 (C.A.D.C. 1972).

[5] These statutory conditions and guidelines were discussed in Order 72-9-39, dated Sept. 12, 1972. This order was adopted in response to the remand to the Board from the U.S. Circuit Court of Appeals of the 3 applications which were in issue in the ALPA case.

[6] It is proposed that these 2-stop flights will continue to operate, but at reduced frequencies.

[7] Vercoa offers service between Bloomington, on the one hand, and Chicago, Indianapolis, and Muncie, on the other hand, between Chicago, on the one hand, and Danville, Decatur, Indianapolis, and Muncie, on the other hand; between Danville and Indianapolis, and Indianapolis and Muncie.

[8] It should be noted that these statistics submitted by commuter carriers are confidential for a period of 1 year. However, pursuant to sec. 298.66 of the Board's Economic Regulations, the Board, on its own motion, finds that it is in the public interest to disclose the information that it does in this order.

[9] Vercoa is presently registered with the Board and has the appropriate insurance in effect.

proval by Board Order E–23680, dated May 13, 1966, and a signed counterpart of any amendment which may be approved by the Board and to which the holder becomes a party;

2. Pursuant to section 408(a)(5) of the Federal Aviation Act of 1958, as amended, the acquisition by Allegheny of control over Vercoa should be temporarily exempted from the requirements of section 408 of the Act to the extent necessary for the implementation of Agreement CAB 23361;

3. Vercoa should be temporarily exempted from the provisions of Part 298 of the Board's Economic Regulations to the extent that it would otherwise prevent the carrier from transporting mail in conformance with the provisions of Agreement CAB 23361;

4. The entire compensation for the transportation of mail to be received by Vercoa should be the compensation payable by Allegheny as provided by the subject agreement. Vercoa should not be eligible for additional mail compensation under section 406 for services rendered between the points specified in the agreement;

5. To the extent necessary to relieve Allegheny of its obligation to provide services in excess of those provided by Agreement CAB 23361, Allegheny should be authorized to temporarily suspend service at Bloomington, Ind., subject to the conditions that:

(a) Allegheny shall not itself resume service to Bloomington without Board approval during the period in which Vercoa is providing at least two round trips 7 days a week between Bloomington and Chicago; and

(b) Such suspension shall terminate immediately if Vercoa ceases to provide regularly the service specified in (a) above;

6. The authority proposed in paragraphs 1, 2, 3, 4, and 5 above will be effective for a period of 10 years, unless sooner terminated by the Board.

Accordingly, it is ordered that:

1. All interested persons are directed to show cause why the Board should not issue an order (a) making final the tentative findings and conclusions stated herein, (b) granting the requested suspension and exemption authority, and (c) approving the agreement;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, suspension and exemption authorizations and approvals set forth herein shall, on or before February 14, 1973, file with the Board and serve upon all persons listed in Appendix A[10] attached hereto a statement of objections together with such statistical data and other materials and evidence relied upon to support the stated objections. Answers to such objections shall be filed within 14 days thereafter;

3. Any interested persons requesting an evidentiary hearing shall state in detail why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained;

4. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;

5. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

6. A copy of this order shall be served upon all persons listed in Appendix A[10] attached hereto.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.73–1983 Filed 1–31–73;8:45 am]

[10] Service list filed as part of original document.

[Docket 24488; Order 73–1–78]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger and Currency Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of January 1973.

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 the Traffic Conferences of the International Air Transport Association (IATA). The agreement was adopted at the Worldwide Passenger Traffic Conference held September–October 1972, in Torremolinos, Spain, for intended April 1, 1973, effectiveness.

The agreement would revalidate numerous resolutions previously approved by the Board governing matters ancillary to passenger fares, and also proposes amendments to certain resolutions, as well as introducing two new resolutions. Resolutions governing currency exchange matters would be amended to reflect exigencies peculiar to particular countries, and to allow acceptance under Resolution 021 (Conversion of Fares and Excess Baggage Rates) of credit cards recognized by member carriers, on the same basis as UATP (Universal Air Travel Plan) cards. The agreement would also amend Resolution 021f (Special Conversion Rates), which establishes rules for currency conversion in instances where exchange rates vary, as a result of government action, by more than 2¼ percent from existing IATA-agreed exchange rates. In addition to certain editorial/clarifying changes, the agreement would provide that where action pursuant to the resolution results in adjustment of selling fares/rates subsequent to Government action which has directly affected the parity between the U.S. dollar and the pound sterling, the effectiveness of such action shall cease when a new parity has been established and when the IATA Traffic Conferences have agreed upon a new rate of exchange.

Another amendment would provide that for travel from the United States/Canada to other Western Hemisphere points, the tariff for conversion purposes when payment is made outside the country of commencement of transportation shall be the local tariff in the country of sale rather than the country of origin as was previously the case. The agreement would also define banker's buying and selling rates for the purposes of the resolution.

The Board recently approved other amendments to Resolution 021f, subject to conditions requiring that the Board be informed of any action pursuant to the resolution which affected currency exchange rates or basic selling fares/rates.[1] Accordingly, our approval of the instant amendment and revalidation of the resolution will be subject to the same conditions.

The present agreement would also amend resolutions governing the form of application for affinity-group fares to allow the group fare ticket to be used for travel to the original point of origin in case of a death in the immediate family of the passenger after commencement of travel. Previously the ticket could be used only as a credit toward the purchase of return transportation at the applicable level. The definition of immediate family would also be extended to include parents, grandparents, fathers- and mothers-in-law, brothers- and sisters-in-law, and sons- and daughters-in-law.

Amendments to existing resolutions governing in-flight entertainment and sleeper surcharges would standardize provisions of these resolutions for worldwide application.[2] Additionally, the resolution governing free and reduced-fare transportation for inaugural flights would be amended so as to modify the recordkeeping requirements in reference to guests on such flights. Another amendment would add special rates for personal effects for application between Anchorage/Fairbanks and certain points in Asia.

The agreement would also establish two new resolutions governing (1) in-flight entertainment within the Middle East; and (2) advertising of seating density. For sectors wholly within the Middle East, the $2.50 charge for rental of a headset would be reduced to $1. The new resolution governing advertising of seating density takes cognizance of the intention of certain member carriers to increase economy-class seating density to 10-abreast in the B–747 and 9-abreast in the DC–10, and would prohibit members' advertising/promotional material for international services from making com-

[1] Order 72–12–95 of Dec. 20, 1972.

[2] With an exception for the Middle East in regard to in-flight entertainment.

parative reference to the number of seats abreast or total number of economy-class seats available on the services of any member.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolutions, which are incorporated in Agreement CAB 23417 as indicated, are adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB 23417	IATA No.	Title	Application
R-1	002	Standard Revalidation Resolution [3]	1.
R-2	002	Standard Revalidation Resolution [4]	2;3;1/2;2/3;3/1;1/2/3.
R-6	021f	Special Conversion Rates [3] (Revalidating and Amending)	1;2;3.
R-16	200h	Free and Reduced-Fare Transportation for Inaugural Flights (Revalidating and Amending). [3]	1;2;3;1/2;2/3;3/1;1/2/3.

2. It is not found that the following resolutions, which are incorporated in Agreement CAB 23417 as indicated, are adverse to the public interest or in violation of the Act:

Agreement CAB 23417	IATA No.	Title	Application
R-3	011a	Mileage Manual Non-IATA Sectors (Revalidating and Amending). [3]	1;2;3;1/2;2/3;3/1;1/2/3.
R-4	021	Conversion of Fares and Excess Baggage Rates (Revalidating and Amending). [3]	1;2;3;1/2;2/3;3/1;1/2/3.
R-5	021b	Rates of Exchange (Revalidating and Amending). [3]	1;2;3.
R-7	021ff	IATA Currency Index (Revalidating and Amending). [3]	1;2;3.
R-8	023a	Rounding-Off Passenger Fares (Revalidating for North Atlantic and Amending). [3]	1;2;3;1/2;2/3;3/1;1/2/3.
R-9	025	Definition of Days (Revalidating for North Atlantic and Amending). [3]	1;2;3;1/2;2/3;3/1;1/2/3.
R-10	030	Advertising of Seating Density (New). [3]	1;2;3;1/2;2/3;3/1;1/2/3.
R-11	076a	Form of Application for Affinity Group Fares (Revalidating and Amending). [3]	1;2;1/2;2/3;1/2/3.
R-12	076zz	Form of Application for Own Use Group Fares (Revalidating and Amending). [3]	1.
R-13	100	Conditions of Service-In-Flight Entertainment (Revalidating and Amending). [3]	1;2;3;1/2;2/3;3/1;1/2/3.
R-15	153	Air/Sea Transportation (Revalidating and Amending). [3]	1.
R-17	250	Sleeper Surcharge (Revalidating and Amending). [3]	1;2;3;1/2;2/3;3/1;1/2/3.
R-18	314	Special Rates for Personal Effects (Revalidating and Amending). [3]	3/1;1/2/3.

[3] Expiry Mar. 31, 1974.
[4] Expiry Mar. 31, 1975 except for Resolution 029 which is Mar. 31, 1974.
[5] Expiry Mar. 31, 1975.
[6] Expiry: Indefinite.

3. It is not found that the following resolution, which is incorporated in Agreement CAB 23417 as indicated, affects air transportation within the meaning of the Act:

Agreement CAB	IATA No.	Title	Application
R-14: 23417	100a	Conditions of Service-In-Flight Entertainment (Within Middle East) (New). [3]	2

[3] Expire: Mar. 31, 1975.

Accordingly it is ordered, that:

1. Those portions of Agreement CAB 23417 set forth in finding paragraph 1 above be and hereby are approved, subject, where applicable, to conditions previously imposed by the Board;

2. Those portions of Agreement CAB 23417 set forth in finding paragraph 2 above be and hereby are approved; and

3. Jurisdiction is disclaimed with respect to that portion of Agreement CAB 23417 set forth in finding paragraph 3 above.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.73-1984 Filed 1-31-73;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

List of Statements Received

Environmental impact statements received by the council from January 15 through January 19, 1973.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, 202—388-7803.

FOREST SERVICE

Draft, January 18

Roadless and Undeveloped Areas. The proposed action is the selection of 235 new study areas from 1,448 areas of undeveloped National Forest lands, and the evaluation of their possible addition to the National Wilderness Preservation System. All but 3 of the areas are located in the 11 westernmost States of the contiguous United States, plus Alaska. One area is included in each of Florida, North Carolina, and Puerto Rico. A total of 11 million acres is involved. (152 pages) (ELR Order No. 00087) (NTIS Order No. EIS 73 0087-D)

Final, January 16

Oklawaha River, Florida. Counties: Marion and Putnam. The statement refers to the proposed initiation of studies for the acquisition and management by the Forest Service, as part of the Ocala National Forest, of certain lands and structures associated with the Cross Florida Barge Canal along the Oklawaha River. Also proposed is legislative designation of the Oklawaha as a Study River, with immediate, temporary drawdown of Rodman Reservoir considered a prerequisite to an effective, comprehensive study. There will be reduced opportunity for timber harvest and an increase in land management costs to the U.S. Government. (3 volumes) comments made by: USDA, EPA, COE, HEW, DOI, and DOT State agencies and concerned citizens. (ELR Order No. 00075) (NTIS Order No. EIS 73 0075-F)

ATOMIC ENERGY COMMISSION

Contact: For nonregulatory matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202—973-5391. For regulatory matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, 202—973-7373, Washington, D.C. 20545.

Final, January 12

Virgil G. Summer Nuclear Station, South Carolina. County: Fairfield. The statement refers to the proposed issuance of a construction permit to the South Carolina Electric and Gas Co. for the station. Unit 1 will employ a pressurized water reactor of 2775 MWT to produce 900 MWE (net); "stretch" levels of 2914 MWT and 950 MWE are anticipated. A 6,800 acre lake will be constructed by the applicant in order to provide cooling water for the Station. Small quantities of radioactive material will be released to the environs. (A Federal Power Commission impact statement, FPC No. 1894, refers to South Carolina Electric's Fairfield Pumped Storage Hydrostation. The two statements together will cover the overall impact of the project.) (306 pages) Comments made by: USDA, COE, DOC, EPA, HEW, HUD, DOI, and DOT (ELR Order No. 00061) (NTIS Order No. EIS 73 0061-F)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Rod Kreger, Acting Administrator, GSA-AD, Washington, D.C. 20405, 202—343-6077.

Draft, January 1

Social Security Payment Center, Pennsylvania. The statement refers to the proposed construction of a 7 story (70,000 square feet) office building to house the Social Security Payment Center for the Department of Health, Education, and Welfare in Philadelphia. The immediate neighborhood of the site lacks commercial services for the workers. (26 pages) (ELR Order No. 00038) (NTIS Order No. EIS 73 0038-D)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Environmental and Land Use, Planning Division, Washington, D.C. 20410, 202—755-6186.

Draft, January 8

Beckett New Community, New Jersey. County: Gloucester. The statement refers to a HUD Officer of Commitment for guarantee assistance in the amount of $35 million for the acquisition of land (6,100 acres) and the development, over a 20-year period, of a new community. Population of the new community, which is to be situated 18 miles south of Central Philadelphia, is expected to be 60,000 by 1993. Of concern is the loss of agricultural land and the location of the community above a major aquifer. (Approximately 220 pages) (ELR Order No. 00025) (NTIS Order No. EIS 73 0025-D)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202—343-3891.

NATIONAL PARK SERVICE

Final, January 17

Gatlinburg Aerial Tramway, Tennessee. County: Sevier. The statement considers the issuance of a special use permit to the Smoky Mountain Utility District for construction of an aerial tramway between the city of Gatlinburg, and the Gatlinburg Ski Lodge over an aerial distance of 2.1 miles. The tramway will be a visual intrusion upon the landscape. (36 pages) Comments made by: USDA, EPA, and DOT (ELR Order No. 00083) (NTIS Order No. EIS 73 0083-F)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, DC 20590, 202—466-4357.

FEDERAL AVIATION ADMINISTRATION

Draft, January 16

Park Rapids Municipal Airport, Minnesota, county: Hubbard. The proposed project contemplates acquiring additional land, approximately 126 acres, for runway extension, runway lights, visual approach slope indicators (VASI's), beacon, and the relocation of a township road and a powerline. The airport improvements will allow utilization of the facility by Gulfstream II class jet aircraft, causing an increase in noise and air pollution. Removal of evergreens will permanently reduce wildlife shelter. (18 pages) (ELR Order No. 00073) (NTIS Order No. EIS 73 0073-D)

Final, January 16

Marshall Airport, Missouri, county: Saline. The statement refers to the proposed widening and lengthening of a runway from its present 50' x 3500' to 75' x 3900' the relocation of lighting and the installation of VASI. Air and noise pollution levels will increase. (28 pages) Comments made by: USDA, EPA, and COE. (ELR Order No. 00070) (NTIS Order No. EIS 73 0070-F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, January 12

De Barr Road-Boniface Parkway, Alabama. The proposed project is the reconstruction of 3 miles of De Barr Road and 1.2 miles of Boniface Parkway; a total length of 4.2 miles. A section 4(f) review has been filed to take a strip of land for grading easement that will be needed through the Russian Jack Spring Park. Other adverse effects will include increases in noise pollution. (94 pages) (ELR Order No. 00057) (NTIS Order No. EIS 73 0057-D)

California Route 20, California, counties: Colusa and Sutter. The proposed project is improving and realigning a 1.8-mile segment of S.R. 20. The project will take 52 acres of agricultural land for right of way. A bridge will be constructed over the Sacramento River (replacing an older bridge) near Meridian. Construction of the bridge will cause water pollution. Also crossed will be the Meridian Farm Lands Water Co.'s irrigation ditch. There will be an increase in noise levels. (58 pages) (ELR Order No. 00058) (NTIS Order No. EIS 73 0058-D)

Iowa Freeway 518, Iowa, county: Johnson. The proposed project is the construction of 13.4 miles of Iowa Freeway 518. The project will displace three families and three farm operations. Land acquisition will include 935.5 acres of agricultural land and 67.4 acres of timberland. Removal of timber will result in loss of wildlife habitat and their breeding, feeding, and nesting activities. The proposed project will traverse and rechannelize Crooked Creek and Old Man's Creek crossings, causing sedimentation, bank erosion, and loss of and outmigration of aquatic life. Other impacts will include increases of air, noise, and water pollution and the decrease of fire protection. (60 pages) (ELR Order No. 00059) (NTIS Order No. EIS 73 0059-D)

Draft, January 16

KY 312-I75 Connector, Kentucky, county: Laurel. The statement refers to the proposed construction of a connector from existing KY 312 to the I-75 North Corbin Interchange. The length of the project is 1.3 miles. Approximately 45 acres of land will be taken for right-of-way. Adverse impacts of the action include muddying or silting of the Corbin City Reservoir durinb bridge construction and severance of several tracts of land. (27 pages) (ELR Order No. 00069) (NTIS Order No. EIS 73 0069-D)

Draft, January 17

Interstate Route 95, Massachusetts. The statement refers to the proposed reconstruction of I-95 from the Danvers-Middleton town line north to the Merrimack River at the west edge of the city of Newburyport. The existing 17-mile section of four-lane highway will be widened to eight lanes. Twenty-four residences and eight businesses will be displaced. Three hundred and twenty acres will be acquired for right-of-way. Section 4(f) land from the Georgetown-Rowley State Forest, the Downfall Wildlife Management Area, and the Newburyport City Forest will be encroached upon. (Approximately 518 pages) (ELR Order No. 00076) (NTIS Order No. EIS 73 0076-D)

Draft, January 12

I-5 (Battle Creek-Talbot Road), Oregon, county: Marion. The project is the construction of a climbing lane for northbound traffic on I-5. Length is 2.7 miles. Twenty-six acres of land will be acquired for right-of-way and four families will be displaced. The project will traverse Battle Creek causing disruption of aquatic life. (19 pages) (ELR Order No. 00063) (NTIS Order No. EIS 73 0063-D)

Draft, January 8

I-182, I-82, Washington to Oregon, Washington and Oregon, county: Several. The proposed project is the construction of a new Interstate highway facility (I-82) from Prosser, Wash., to I-80N in Oregon. Length of the project would vary from 45 to 100 miles. The amount of land acquired and the number of displacements will depend upon the alternate chosen. The project will traverse the Columbia, Yakinea, Snake, and Walla Walla Rivers in Washington and the Umatilla River and other streams in Oregon causing soil erosion, sedimentation, and a decrease in water quality. There will be adverse effects on aquatic and wildlife habitat and agricultural lands and activities. Increases in noise, air, and water pollution levels will occur. (199 pages) (ELR Order No. 00026) (NTIS Order No. EIS 73 0026-D)

Final, January 11

Eighth Avenue, Birmingham, Ala., county: Jefferson. The statement refers to the proposed widening of existing four-lane Eighth Avenue to a wider four-lane facility with an added central lane for turning. All on-street parking will be eliminated. The project will provide a major arterial connection between I-65 and the Red Mountain Expressway. The 1 acre required for right-of-way will be donated by the University of Alabama. (44 pages) Comments made by: USDA, DOC, DOD, EPA, HUD, DOI, HEW, and State and regional agencies. (ELR Order No. 00046) (NTIS Order No. EIS 73 0046-F)

Route 3, Missouri, county: Randolph. The statement refers to the proposed relocation and/or reconstruction of a segment of Route 3 beginning 4.4 miles south of Macon County and terminating at the U.S. 24-Route 3 junction. The project proposes acquisition of right-of-way, grading, surfacing with intermediate-type pavement, a railroad-highway grade separation structure, and the construction of road drainage facilities which include new bridges over Muncas Creek and the Middle Fork of the Chariton River. Wildlife habitat and all flora will be lost as a result of land clearing; two families and four businesses will be displaced. Noise and air pollutants will increase. (39 pages) Comments made by: USDA, EPA, and DOI. (ELR Order No. 00044) (NTIS Order No. EIS 73 0044-F)

TIMOTHY ATKESON,
General Counsel.

[FR Doc.73-1982 Filed 1-31-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G-6073, etc.]

CLINTON OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

JANUARY 23, 1973.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 20, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in, and subject to, the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-6073 ..... E 12-27-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Michigan Wisconsin Pipe Line Co., South Elton Field, Jefferson Davis Parish, La.	22.375	15.025
G-6075 ..... E 12-27-72	Clinton Oil Co. (successor to Amoco Production Co.).	Michigan Wisconsin Pipe Line Co., Bayou Mallet Field, Acadia Parish, La.	22.375	15.025
G-6178 ..... D 12-13-72	The Superior Oil Co., Post Office Box 1521, Houston, TX 77001.	Colorado Interstate Gas Co., Greenwood Field, Morton County, Kans.	Assigned	
G-6828 ..... E 12-27-72	Clinton Oil Co. (successor to Amoco Production Co.).	Texas Eastern Transmission Corp., Meyersville Field, Dewitt County, Tex.	14.5627	14.65
G-8906 ..... D 12-29-72	The Superior Oil Co.	Cities Service Gas Co., North Rhodes Field, Barber County, Kans.	Assigned	
G-17445 ..... E 12-29-72	Clinton Oil Co. (successor to Amoco Production Co.).	El Paso Natural Gas Co., Bisti Field, San Juan County, N. Mex.	15.2889	15.025
CI64-536 ..... D 12-6-72	The Superior Oil Co.	Kansas-Nebraska Natural Gas Co., Inc., Bradshaw Field, Hamilton County, Kans.	Assigned	
CI66-96 ..... E 12-29-72	Clinton Oil Co. (successor to Amoco Production Co.).	United Gas Pipe Line Co., Mount Olive Field, Smith County, Miss.	13.0	15.025
CI66-618 ..... E 12-14-72	Oil Resources, Inc. (successor to Pacific Lighting Exploration Co., et al.), Post Office Box 988, Billings, MT 59103.	Grand Valley Transmission Co., Moon Ridge & Segundo Canyon Areas, Grand County, Utah.	13.0	15.025
CI68-786 ..... D 12-27-72	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Panhandle Eastern Pipe Line Co., Acreage in Custer County, Okla.	Assigned	
CI68-1038 ..... C 1-2-73	Tennaco Oil Co., Post Office Box 2511, Houston, TX 77001.	El Paso Natural Gas Co., Blanco Field, San Juan County, N. Mex.	[1] 22.0 [2] 28.0	15.025

Filing code: A—Initial service;
B—Abandonment;
C—Amendment to add acreage;
D—Amendment to delete acreage;
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI68-1145 ..... C 12-14-72	Continental Oil Co., Post Office Box 2197, Houston, TX 77001.	El Paso Natural Gas Co., Blanco Field, San Juan County, N. Mex.	[1] 22.0 [2] 28.0	15.025
CI69-341 ..... D 12-29-72	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Panhandle Eastern Pipe Line Co., Acreage in Custer County, Okla.	Assigned	
CI69-440 ..... D 12-29-72	Texaco Inc., Post Office Box 2420, Tulsa, OK 74102.	Cities Service Gas Co., Alabaster Field, Woodward County, Okla.	[3]	
CI73-18 ..... B 6-23-72	Eason Oil Co., Post Office Box 18755, Oklahoma City, OK 73118.	Lone Star Gas Co., Woolsey Yates Field, Stephens County, Viel Field, West Sharon Field, Woodward County, Okla.	Depleted	
CI73-294 ..... (CI68-539) F 10-26-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Trunkline Gas Co., Southwest Lake Arthur Field, Cameron Parish, La.	[4] 22.25 23.0 22.462	15.025
CI73-296 ..... (CI66-262) F 10-26-72	Clinton Oil Co. (successor to Amoco Production Co.).	Michigan Wisconsin Pipe Line Co., Calcasieu Lake Dome Field, Cameron Parish, La.	[4] 20.895	15.025
CI73-296 ..... (CI67-607) F 10-26-72	do	Mountain Fuel Supply Co., Powder Wash Field, Moffat County, Colo., Uinta Green River Basin.	12.0	15.025
CI73-297 ..... (CI69-608) F 10-25-72	Clinton Oil Co. (successor to Amoco Production Co.) 217 North Water St., Wichita, KS 67202.	Transcontinental Gonas Pipe Line Corp., Johnson Bayou Field, Cameron Parish, La.	[4] 20.625 20.684 21.375	15.025
CI73-298 ..... F 10-25-72	Clinton Oil Co. (successor to Amoco Production Co.).	El Paso Natural Gas Co., Bisti Lower Gallup Field, San Juan County, N. Mex.	[4] 15.2889	15.025
CI73-304 ..... F 10-25-72	do	Michigan Wisconsin Pipe Line Co., Boston Bayou Field, Vermillion Parish, La.	[4] 22.25 22.462 23.0	15.025
CI73-383 ..... A 11-30-72	Getty Oil Co., Post Office Box 1404, Houston, TX 77001.	Columbia Gas Transmission Corp., East Cameron Block 33, East Cameron Area, Offshore Cameron Parish, La.	[2] 26.0	15.025
CI73-384 ..... A 11-30-72	Pubco Petroleum Corp., 1700 Mercantile Bank Bldg., Dallas, Tex. 75201.	El Paso Natural Gas Co., Pictured Cliffs and Chacra Fields, San Juan and Rio Arriba Counties, N. Mex.	[2] 28.0	15.025
CI73-394 ..... A 11-30-72	Skelly Oil Co. (Operator) et al., Post Office Box 1650, Tulsa, OK 74102.	Lone Star Gas Co., Marlow Plant, Stephens County, Tex.	[2] 23.75	14.65
CI73-395 ..... A 11-30-72	Arkla Exploration Co., Post Office Box 1734, Shreveport, LA 71151.	Arkansas Louisiana Gas Co., Acreage in Weatherford Area, Custer County, Okla.	21.0	14.65
CI73-396 ..... CB 12- 4-72	Atlantic Richfield Co., Post Office Box 2819, Dallas, TX 75221.	United Gas Pipe Line Co., Soso Field, Jones County, Miss.	Depleted	
CI73-400 ..... (CI71-215) F 12-4-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Southern Union Gathering Co., Basin Dakota Field, San Juan County, N. Mex.	15.0636	15.025
CI73-403 ..... B 12-4-72	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Northern Natural Gas Co., V. E. Miller Lease, Edstaff Pool, Edwards County, Kans.	Assigned	
CI73-405 ..... A 12-7-72	Humble Oil & Refining Co., Post Office Box 2180, Houston, TX 77001.	Columbia Gas Transmission Corp., Pecan Island Field, Vermilion Parish, La.	40.0	15.025
CI73-406 ..... A 12-8-72	Continental Oil Co., Post Office Box 2197, Houston, TX 77001.	Montana Dakota Utilities Co., Elverton East Field, Fremont County, Wyo.	[2] 22.75	15.025
CI73-408 ..... A 12-7-72	Phillips Petroleum Co., Bartlesville, Okla. 74004.	Columbia Gas Transmission Corp., Block 273, East Cameron Area, offshore La.	[5] 45.0	15.025
CI73-409 ..... A 12-8-72	Gulf Oil Corp., Post Office Box 1589, Tulsa, OK 74102.	Northern Natural Gas Co., Spearman Park (Cleveland) Field, Hansford County, Tex.	[5] 35.49	14.65
CI73-416 ..... B 11-21-72	Nafco Oil & Gas Inc., 400 Expressway Tower, Dallas, Tex. 75206.	Tennessee Gas Transmission, Daboval Field, Wharton County, Tex.	Uneconomical	
CI73-417 ..... (CI70-677) F 12-8-72	D. M. Magee Co. (successor to Humble Oil & Refining Co.), Post Office Box 1332, Alice, TX 78332.	Natural Gas Pipeline Co. of America, Armstrong Field, Jim Hogg County, Tex.	[5] 27.0	14.65
CI73-433 ..... (G-12754) F 12-18-72	J. D. Burke (successor to Sun Oil Co.), Post Office Box 1336, Corpus Christi, TX 78403.	Texas Eastern Transmission Corp., Yoward Field, Bee County, Tex.	10.8	14.65
CI73-434 ..... (G-12741) F 12-15-72	J. D. Burke (successor to HNG Oil Co.), Post Office Box 1336, Corpus Christi, TX 78403.	Texas Eastern Transmission Corp., Yoward Field, Bee County, Tex.	14.0	14.65

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
C173-435 (C167-66) F 12-18-72	Herman Geo. Kaiser (Operator) et al. (successor to Amerada Hess Corp.), 4120 East 51st St., Tulsa, OK 74135.	Panhandle Eastern Pipeline Co., South Peek Field, Ellis County, Okla.	[1] 19.8828	14.65
C173-437 F 12-18-72	Shreve Operating Co., 825 Beck Bldg., Shreveport, La. 71101.	Arkansas-Louisiana Gas Co., Bethany Field, Panola County, Tex.	0.191	14.65
C173-438 B 12-18-72	Woods Oil & Gas Co., 1528 International Trade-Mart Bldg., New Orleans, La. 70130.	Plaquemines Oil & Gas Co., Inc., Potash Field, Plaquemines Parish, La.	[13]	
C173-439 B 12-18-72	Jerome B. Rosenthal, 310 North Willis, Abilene, TX 79603.	El Paso Natural Gas Co., Sprayberry Field, Glasscock County, Tex.	Depleted	
C173-440 A 12-29-72	Texaco Inc., Post Office Box 3109, Midland, TX 79701.	Northern Natural Gas Co., Turkey Roost (Penn) Field, Schleicher County, Tex.	18.5	14.65
C173-442 B 12-26-72	Skelly Oil Co., Post Office Box 1650, Tulsa, OK 74102.	Louis C. Crouch, Pecos County, Tex.	Uneconomical	
C173-443 A 12-26-72	Texas Pacific Oil Co., Inc., 1700 1 Main Pl., Dallas, TX 75250.	Northern Natural Gas Co., Sherard Area, Chouteau County, Mont.	[1] 23.5	15.025
C173-444 A 12-26-72	Stephens Production Co., Post Office Box 248, Fort Smith, AR 72901.	Arkansas Oklahoma Gas Corp., Spiro East, LeFlore County, Okla.	22.25	14.65
C173-446 B 12-26-72	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Columbia Gas Transmission Corp., Rocky Fork Area, Kanawha and Putnam Counties, W. Va.	[14]	
C173-447 A 12-21-72	Atlantic Richfield Co., Post Office Box 2819, Dallas TX 75221.	Texas Eastern Transmission Corp., Rayne Field, Acadia Parish, La.	[11] 26.875	15.025
C173-452 B 12-22-72	O. G. McClain, Post Office Box 1336, Corpus Christi, TX 78403.	United Gas Pipeline Co., Alfred Field, Jim Wells County, Tex.	[14]	
C173-453 A 12-21-72	Horizon Oil & Gas Co. of Texas, 1216 Hartford Bldg., Dallas, Tex. 75201.	Baca Gas Gathering System, Inc., Playa, Midway, Greenwood, Flank, N. W. Flank, and unnamed Fields, Baca County, Colo.	13.0	14.65
C173-457 A 1-2-73	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Tennessee Gas Pipeline Co., blocks 257 and 258, Eugene Island Area, offshore Louisiana.	[7] 45.0	15.025
C173-473 F 12-27-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Lone Star Gas Co., Katie Field, Garvin County, Okla.	9.0	14.65

[1] For gas delivered from wells completed prior to June 1, 1970.
[2] For gas delivered from wells completed on or after June 1, 1970.
[3] Expiration of lease.
[4] Rate in effect prior to Aug. 1, 1972.
[5] Rate in effect prior to Aug. 1, 1972, and rate in effect subject to refund in RI71-638.
[6] Rate in effect subject to refund in R169-324.
[7] Applicant is willing to accept a certificate at an initial rate of 26 cents subject to B.t.u. adjustment; however, the contract price is 45 cents.
[8] Subject to upward and downward B.t.u. adjustment.
[9] The initial contract price is 26 cents per Mcf. Pursuant to Order No. 435 the current rate established was 22.75 cents per Mcf in the Rocky Mountain Area.
[10] Applicant is willing to accept a certificate pursuant to Order No. 598.
[11] Includes 5.49 cents per Mcf upward B.t.u. adjustment.
[12] Includes 03 cents per Mcf upward B.t.u. adjustment.
[13] All wells delivering as under the above-mentioned contract are dead.
[14] Conveyed interest to Columbia Gas Transmission Corp.
[15] Applicant is willing to accept a certificate at an initial rate of 26.875 cents per Mcf; however, the contract price is 27.5 cents.
[16] Well started making salt water and sand and was no longer producible.

[FR Doc.73-1718 Filed 1-31-73;8:45 am]

[Docket No. CI73-500]

EXXON CORP.

Notice of Application

JANUARY 24, 1973.

Take notice that on January 22, 1973, Exxon Corp., Post Office Box 2180, Houston, TX 77001, filed in Docket No. CI73-500 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transwestern Pipeline Co. from the Howe Field, Ward County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell a daily average volume of 25,000 Mcf of gas for 10 months at 45 cents per Mcf at 14.65 p.s.i.a., subject to upward and downward B.t.u. adjustment, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1842 Filed 1-31-73;8:45 am]

[Docket No. E-7868 etc.]

INDIANA & MICHIGAN ELECTRIC CO. ET AL.

Notice of Applications

JANUARY 22, 1973.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 2, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The applications are on file with the Commission and available for public inspection.

APPLICATIONS FOR INTERCONNECTION RATE SCHEDULES AND AMENDMENTS THERETO

Docket numbers	Date filed	Name of applicant	Action
E-7898	8- 2-72	Indiana & Michigan Electric Co.	Company files Modification No. 1 dated June 1, 1972, to interconnection agreements Feb. 21, 1964, between Indiana & Michigan Electric Co. and Public Service Company of Indiana, Inc., designated Indiana Company Rate Schedule FPC No. 24.
E-7896	12- 7-72	Southern Indiana Gas & Electric Co.	Company files interconnection agreement dated Nov. 27, 1972, between Southern Indiana Gas & Electric Co. and city of Jasper, Ind., to become effective Dec. 1, 1973. Said interconnection agreement supersedes interconnection agreement of Jan. 17, 1969, designated Southern Indiana Gas & Electric Co. Rate Schedule FPC No. 24.
E-7899	11-28-72	Northern States Power Co. (Minnesota).	Company files Supp. No. 1, dated Sept. 1, 1972, to the Manitoba-United States, Winnipeg-Grand Forks 230 kv. interconnection coordinating agreement, designated Northern States Power Co. Rate Schedule FPC No. 359 and Otter Tail Power Co. Rate Schedule FPC No. 159. No. 1 is to become effective Feb. 1, 1973.
E-7898	11- 9-72	Kansas Power & Light Co.	Company files interconnection agreement dated Jan. 18, 1972, between the Kansas Power & Light Co. and the city of McPherson, Kans., to become effective June 1, 1973. Interconnection agreement establishes 2 points of delivery.
E-7902	12- 4-72	Illinois Power Co.	Company files Oct. 9, 1972, agreement between Indiana & Michigan Electric Co. and Illinois Power Co., amending the rate of compensation for electric energy delivered under Modification No. 1 to the Nov. 27, 1961, interconnection agreement between the companies, designated Illinois Power Rate Schedule FPC No. 9. Requested effective date is Oct. 1, 1972.
E-7910	12-11-72	Iowa-Illinois Gas & Electric Co. et al.	Company files Resolution dated Nov. 21, 1972 to interconnection agreement dated July 18, 1968. Resolution contains counterpart signatures of Iowa Electric Light & Power Co., Iowa Power & Light Co., Iowa Public Service Co., and Iowa Southern Utilities Co. Resolution suspends the "Iowa Pool" rates as of Dec. 1, 1972, pending ultimate determination of the validity of the MAPP agreement, which became effective Dec. 1, 1972.
E-7922	12-12-72	Illinois Power Co.	Company files 3 agreements dated Nov. 17, 1972, with Illinois Public Service Co., each agreement establishing an additional connection point. The agreements supplement App. A to the interconnection agreement dated Feb. 18, 1972, between Illinois Power Co. and Central Illinois Public Service Co., designated Illinois Power Rate Schedule FPC No. 50, Central Illinois Public Service Rate Schedule FPC No. 72, and Union Electric Rate Schedule FPC No. 81.
E-7937	12-11-72	Public Service Company of Indiana, Inc.	Company files Aug. 29, 1972, Amendment Agreement No. 1 to the Kentucky Indiana Pool Planning and Operating Agreement, by and among East Kentucky Rural Electric Cooperative Corp., Indianapolis Power & Light Co., Kentucky Utilities Co., and Public Service Company of Indiana, Inc., dated July 9, 1971, and filed with the Commission July 9, 1971. The amendment redesignates the generating units from which sales of unit power are to be made. The parties revise the schedule of initial unit power purchase and sale commitments, as well as the backup power schedule.
E-7941	12-27-72	Kansas City Power & Light.	Company files Dec. 8, 1971, reserve capacity supplement to municipal participation agreement, by and between Kansas City Power & Light Co. and the Board of Public Utilities of Kansas City, under the general participation agreements of the MOKAN Pool, designated Kansas City Power & Light Rate Schedule FPC No. 32. Supplement establishes MOKAN Pool 15 percent minimum reserve capacity requirement, commencing June 1, 1973.
E-7884	9-29-72	Delmarva Power & Light Co.	Amendment dated June 26, 1972, to interconnection agreement dated May 26, 1970, for service to the city of Dover, Del., Rate Schedule FPC No. 38. Also included in this docket is an amendment dated Sept. 22, 1972, to an interconnection agreement dated Oct. 15, 1970, Rate Schedule FPC No. 11. Rate Schedule FPC No. 11 was previously noticed.

APPLICATIONS FOR PURCHASE AND SALE RATE SCHEDULES AND AMENDMENTS THERETO

Docket nos.	Date filed	Name of applicant	Action
E-7882	10-13-72	Ohio Edison Co., Toledo Edison Co.	Companies file supplemental agreement to a base contract dated Aug. 1, 1972, between Toledo Edison Co. and Ohio Edison Co., designated Ohio Edison Rate Schedule FPC No. 68 and Toledo Edison Rate Schedule FPC No. 3.
E-7886		United Illuminating Co.	Company files Wholesale Purchase Agreement No. 4 dated Nov. 28, 1972, between the United Illuminating Co. and Consolidated Edison Company of New York, Inc. Company applies for an order authorizing early effectiveness of such agreement, to become effective Nov. 28, 1972.
E-7899	11-30-72	Duke Power Co.	Company files supplement, dated May 14, 1971, to the electric power contract between the Duke Power Co. and the city of Morgantown, N.C., designated Duke Power Co. Rate Schedules Nos. 176 and 256. Supplemental agreement is to become effective Jan. 18, 1973.
E-7901	12- 8-72	Minnesota Power & Light Co.	Company files firm power service agreement, dated Sept. 15, 1972, between Minnesota Power & Light Co. and the city of Staples, Minn., to become effective as soon as possible. Agreement supersedes Rate Schedule FPC No. 23.
E-7908	5-30-72	Orange and Rockland Utilities, Inc.	Company files capability sales agreement, made as of Oct. 10, 1969, and amended as of Mar. 22, 1972, and Apr. 14, 1972, between Orange and Rockland Utilities, Inc., and Consolidated Edison Co. of New York, Inc. Agreement provides for the sale by Orange and Rockland to Consolidated Edison of electric generating capacity and energy during the period Apr. 30, 1972 to Apr. 28, 1973.
E-7913	11-21-72	Lake Superior District Power Co.	Company files Amendment No. 2 to contract dated June 20, 1968, between Lake Superior District Power Co. and Bayfield Electric Cooperative. Amendment No. 2, establishing an additional point of delivery, is to take effect Dec. 15, 1972.
E-7914	12- 1-72	Mississippi Power & Light Co.	Company files agreement for purchase of power between Mississippi Power & Light Co. and Delta Electric Power Association, to become effective Jan. 1, 1973.
E-7916	12-11-72	New England Power Co.	Company files amendment dated Oct. 31, 1972, between New England Power Co. and New Bedford Gas & Light Co., to become effective Oct. 31, 1972. Amendment extends the term of sales contract, dated July 1, 1971, and amended May 31, 1972, to allow New England Power Co. to continue to furnish capacity to New Bedford Gas & Edison Light Co. until Apr. 30, 1973.
E-7926	12-20-72	Montaup Electric Co.	Company files sales agreement dated Oct. 25, 1972, between Montaup Electric Co. and New Bedford Gas & Edison Light Co., to become effective retroactively Nov. 1, 1972. Said agreement covers the temporary sale for a 6-month period of 15 mw. of capacity, energy, and transmission service to New Bedford Gas & Edison Light Co., Nov. 1, 1972, to Apr. 30, 1973.
E-7928	12-15-72	Alabama Power Co.	Company files sales and service agreement dated Mar. 30, 1972, with Central Alabama Electric Cooperative, Inc., establishing 2 points of delivery, pursuant to the company's filed tariff rate schedule REA-1, filed with the Commission Nov. 1, 1971.
E-7935	12-22-72	Long Sault, Inc.	Company files agreement dated December 11, 1972, providing for the sale of emergency backup power by Long Sault, Inc., to Niagara Mohawk Power Corp. for resale to Consolidated Edison Company of New York. The agreement is to become effective December 11, 1972.
E-7953	1- 2-73	Virginia Electric & Power Co.	Company files E-A-R-C Electric Cooperative Contract Supplement, superseding Rate Schedule FPC No. 76-8 dated June 3, 1969. Supplement, dated Nov. 16, 1972 and designated Proposed Rate Schedule FPC No. 76-15, changes voltage at Goshern delivery point from 23 kv. to 46 kv., effective upon conversion of the facilities.

APPLICATION FOR POWER EXCHANGE RATE SCHEDULES AND AMENDMENTS THERETO

Docket no.	Date filed	Name of applicant	Action
E-7919	12-11-72	Southern California Edison Co.	Company files service agreement dated May 16, 1972, between Southern California Edison Co. and Arizona Public Service Co., providing for sales and exchange of power and energy from May 16, 1972, to Sept. 30, 1972.

APPLICATION FOR AUTHORIZATION TO ENGAGE IN NEGOTIATION FOR SALES OF SECURITIES

Docket No.	Date filed	Name of applicant	Action
E-7920	12-14-72	Northwestern	Company requests authorization for sales of securities pursuant to §§ 34.1a(a)(4) and 34.2(f)(2) of the regulations under the Federal Power Act. Said negotiations pertain to the sale of cumulative preferred stock and the underwriting of additional common stock.

APPLICATION FOR WITHDRAWAL OF PROTEST

Docket No.	Date filed	Name of applicant	Action
E-7767	12-26-72	Public Utility Commissioner of Oregon.	Commissioner files withdrawal of protest to the application of Pacific Power & Light Co. for an order authorizing the exchange of electric facilities with Portland General Electric Co.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1719 Filed 1-31-73;8:45 am]

[Docket No. CI73-498]

DOUGLAS B. MARSHALL ET AL.

Notice of Application

JANUARY 24, 1973.

Take notice that on January 22, 1973, Douglas B. Marshall, et al. (Applicants), 500 Jefferson Building, Houston, Tex. 77002, filed in Docket No. CI73-498 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. (Transco) from the South Gibson and Humphreys Areas, Terrebonne Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to sell natural gas from February 5, 1973, through July 24, 1973, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70), except that they reserve the right to terminate the sale before July 24, 1973, on 30 days notice to Transco. They propose to sell approximately 1,500,000 Mcf of gas per month at 45.0 cents per Mcf at 15.025 p.s.i.a. Applicants were heretofore authorized in Docket No. CI72-254 to sell gas to Transco from the subject properties at 35.0 cents per Mcf at 15.025 p.s.i.a. within the contemplation of § 2.70.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1839 Filed 1-31-73;8:45 am]

[Docket No. CI73-499]

SOHIO PETROLEUM CO.

Notice of Application

JANUARY 24, 1973.

Take notice that on January 22, 1973, Sohio Petroleum Co. (Applicant), 970 First National Center—North, Oklahoma City, OK 73102, filed in Docket No. CI73-499 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. from the Midland Field, Acadia Parish, La. all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it proposes to commence the sale of natural gas on February 1, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that it desires to continue said sale through January 31, 1974, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 1,000 Mcf of gas per day at 35.0 cents per Mcf at 15.025 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1840 Filed 1-31-73;8:45 am]

[Docket No. CI73-497]

TESORO PETROLEUM CORP., ET AL.

Notice of Application

JANUARY 24, 1973.

Take notice that on January 22, 1973, Tesoro Petroleum Corp., et al. (Applicants), 8520 Crownhill, San Antonio, TX 78209, filed in Docket No. CI73-497 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Trunkline Gas Co. from the West Fields Field, Beauregard Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they commenced the sale of natural gas on January 19, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that they propose to continue said sale for 2 years from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicants propose to sell approximately 33,750 Mcf of gas at 36.0 cents per Mcf at 15.025 p.s.i.a., subject to B.t.u. adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1844 Filed 1-31-73;8:45 am]

[Docket No. CP73-193]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND TENNESSEE GAS PIPELINE CO.

Notice of Application

JANUARY 24, 1973.

Take notice that on January 22, 1973, Transcontinental Gas Pipe Line Corp. (Transco), Post Office Box 1396, Houston, TX 77001, and Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), Post Office Box 2511, Houston, TX 77001, filed in Docket No. CP73-193 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for exchange, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco proposes to deliver or cause to be delivered to Tennessee natural gas purchased from Amoco Production Co. (Amoco), certificate applicant in Docket No. CI73-429, in the LaSal Vieja Field, Willacy County, Tex., in exchange for natural gas to be delivered by Tennessee to Transco at mutually agreeable points of exchange. The gas would be exchanged on a gas-for-gas basis, in accordance with Transco's Rate Schedule X-45 and Tennessee's Rate Schedule X-28, with deficiencies balanced as soon as practicable, in order to permit Transco to receive the purchased gas into its system. Applicants propose to exchange up to 1,500 Mcf of gas per day plus additional volumes which may be available and can be accommodated in the pipeline facilities for an initial term of 1 year and month-to-month thereafter. Amoco proposes to Docket No. CI73-429 to sell gas within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1841 Filed 1-31-73;8:45 am]

[Docket No. CP73-190]

TRUNKLINE GAS CO. AND UNITED GAS PIPE LINE CO.

Notice of Application

JANUARY 24, 1973.

Take notice that on January 17, 1973, Trunkline Gas Co. (Trunkline), Post Office Box 1642, Houston, TX 77001, and United Gas Pipe Line Co. (United), 1525 Fairfield Avenue, Shreveport, LA 71101, filed in Docket No. CP73-190 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for exchange, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline proposes to deliver or cause to be delivered to United through existing facilities up to an average daily quantity of 5,000 Mcf of gas in Terrebonne Parish, La., and United proposes to deliver to Trunkline the same quantity of gas through existing metering facilities operated by Trunkline at the tailgate of Exxon Corp.'s Garden City Plant in St. Mary Parish, La., or at other mutually agreeable points of exchange. Trunkline will pay Exxon Corp. $300 per month as an accounting fee for assistance in making the exchange. Applicants propose to exchange gas for 6 months from March 2, 1973, the term of a sale by Douglas B.

Marshall, et al., to Trunkline within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70), in order that Trunkline may receive the purchased gas into its system. The exchange will be on a gas-for-gas basis and deficiencies will be balanced as soon as possible.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1843 Filed 1-31-73;8:45 am]

FEDERAL RESERVE SYSTEM

BARNETT BANKS OF FLORIDA, INC.

Acquisition of Bank

Barnett Banks of Florida, Inc., Jacksonville, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of First State Bank of Lakeland, Lakeland, Fla. The factors that are considered in acting on the application are set forth in section 3 (c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 20, 1973.

Board of Governors of the Federal Reserve System, January 24, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1922 Filed 1-31-73;8:45 am]

CBT CORP.

Order Approving Acquisition of Bank

CBT Corp., Hartford, Conn., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire not less than 80 percent of the voting shares of the successor by merger to Fairfield County National Bank, Norwalk, Conn. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly the proposed acquisition of shares of the successor organization is treated as the proposed acquisition of shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the second largest banking organization in Connecticut. It controls one bank, the Connecticut Bank and Trust Company, having aggregate deposits of approximately $1 billion. (All banking data are as of December 31, 1971, and reflect bank holding company formations and acquisitions approved by the Board through December 31, 1972.) The 10 largest banking organizations in Connecticut control about 80 percent of the commercial bank deposits in the State. Applicant and the largest banking organization in the State, Hartford National Bank, together control 37.3 percent of statewide commercial bank deposits. While there is therefore significant concentration of banking resources in Connecticut, applicant's market share of total commercial bank deposits (18.2 percent) has not yet reached a level where, in the Board's judgment, the acquisition of an existing bank should be presumed substantially to lessen competition without regard to the degree of additional concentration or the significance of the acquisition to the local market. The acquisition of Bank ($11.5 million of deposits) would increase applicant's share of deposits in the State by only two-tenths of 1 percent. This would represent an insignificant increase in the concentration of banking resources.

Bank is one of 12 banking organizations that have offices in the Stamford-Norwalk banking market. Bank and applicant's subsidiary bank are the two smallest competitors in that market, measured in terms of market share of commercial bank deposits in the market. Bank controls only 1 percent of total commercial bank deposits in the market, and the share of applicant's subsidiary bank is only a fractional percentage. Furthermore, the Stamford-Norwalk market is subject to significant competition from the much larger New York City banks due to their proximity to the market and the appreciable commuter flow from that area to New York City. The proposed acquisition would therefore involve no significant increase in concentration of banking resources in the local banking market.

The record indicates that present competition between Bank and applicant's subsidiary bank is minimal. Bank is primarily a retail bank serving the Norwalk SMSA from its main office and only other branch, both located in the city of Norwalk. Applicant's subsidiary bank operates its only branches in the market in the towns of Darien and New Canaan, which are in the Stamford SMSA and are each about 5 miles distant from Bank. There is little deposit or loan overlap of each institution's business into the other's service area. The Board concludes that there is no meaningful existing competition that would be eliminated by the proposed acquisition.

It is possible that future competition could develop between applicant and bank. Applicant's subsidiary bank is presently prohibited from establishing a branch in Norwalk because of the home office protection enjoyed by Bank and one other local bank under Connecticut's branching statute.[1] The possibility that applicant's subsidiary bank might establish branches in neighboring towns, such as Wilton, Redding, or Weston, promises only marginal competition with Bank because, with a total capital and surplus of $400,000, Bank is not legally permitted to establish branches outside the city of Norwalk. However, applicant could possibly enter Norwalk through the formation of a new bank. It must be considered to be a likely potential de novo entrant in view of the recent interest shown by applicant in this area of the State through branching by applicant's subsidiary bank into nearby Darien and Fairfield in 1971 and into New Canaan and Ridgefield in 1972.

Nevertheless, it does not appear that the elimination of possible future competition between applicant and Bank is likely to have significant adverse effects in the market. Most of the State's 10 largest banking organizations already have offices in the market, and there appears to be a large number of banking alternatives for retail banking customers. Moreover, with its limited capital

[1] Under sec. 36-59 of Connecticut's general statutes, a commercial bank may establish and operate branches only in towns in which no other commercial bank has its main office.

and surplus, Bank does not have the resources required to offer specialized banking services of a kind that can be provided by a subsidiary bank of a large holding company such as applicant and that are presently being offered by the branches of the larger New Haven and Bridgeport banks with which Bank competes.

Applicant is not dominant in the market, and there remain a few independent banks that could affiliate with other banking organizations not represented in the market. Applicant's acquisition of Bank will not raise barriers to entry into the market by other banking organizations or place applicant in a dominant position in the market.

The Board is, however, concerned about the possibility that the proposed acquisition would, standing by itself, permanently close the city of Norwalk to de novo branching by out-of-town banks under Connecticut's Home Office Protection Law, cited above. In response to the Board's concern, applicant has made a commitment to the Board, if the proposed acquisition is approved by the Board, to take such steps as may be necessary and legally permissible to open the city of Norwalk to branch banking by out-of-town banks at such time as the existence in Norwalk of Bank's main office may become the only legal impediment to such branching. This commitment leaves open the possibility that Norwalk will become open to such branching in the future, and the Board considers this possibility to be meaningful in view of the fact that the only other bank presently enjoying home office protection in Norwalk is not affiliated with a bank holding company.[2]

Taking into consideration applicant's commitment, the Board concludes that consummation of the proposed acquisition is unlikely to result in significant adverse effects on either existing or potential competition in any relevant area.

The financial and managerial resources and future prospects of applicant, its subsidiaries, and Bank appear to be satisfactory. The banking needs of the communities involved are being adequately met at present. However, applicant proposes to provide through Bank an alternative source of specialized banking services to residents of the Norwalk SMSA. Considerations relating to convenience and needs of the communities to be served are consistent with approval. It is the Board's judgment that the proposed transaction is consistent with the public interest and that the application should be approved.

Applicant owns directly one nonbanking subsidiary that was acquired between June 30, 1968, and December 31, 1970, CBT Data Services, Hartford, Conn. Acquired in September 1970, this company engages in the business of providing data processing services to nonbanking businesses.

In making its determination herein, the Board has relied upon a finding that the combination of an additional subsidiary bank with applicant's existing nonbanking subsidiaries is unlikely to have an adverse effect upon the public interest at the present time. However, the applicant's banking and nonbanking activities remain subject to Board review and the Board retains the authority to require applicant to modify or terminate its nonbanking activities or holdings if the Board at any time determines that the combination of applicant's banking and nonbanking activities is likely to have adverse effects on the public interest.

On the basis of the record, the application is approved for the reasons summarized above.[3] The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Boston pursuant to delegated authority.

By order of the Board of Governors,[4] effective January 19, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1918 Filed 1-31-73;8:45 am]

FIDELITY FINANCIAL CORPORATION OF MICHIGAN

Order Approving Formation of Bank Holding Company

Fidelity Financial Corporation of Michigan, Birmingham, Mich., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares of Fidelity Bank of Michigan, Birmingham, Mich. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a newly organized corporation, was formed by Bank's present management for the purposes of becoming a bank holding company through the acquisition of Bank. Upon acquisition of Bank ($37.1 million of deposits), applicant would control less than 0.2 percent of deposits of commercial banks in Michigan and 0.3 percent of such deposits in the Detroit metropolitan area (which approximates Bank's relevant market). (All banking data are as of June 30, 1972.) As the proposed transaction represents the transfer of shares of Bank by individual shareholders to a holding company owned by the same shareholders, the proposed transaction is essentially a corporate reorganization. Consummation of the proposal herein would neither alter existing banking competition nor significantly affect potential competition and would not result in an increase in the concentration of banking resources in any relevant area.

Bank operates three offices in Birmingham, Mich., a suburban community situated between Pontiac and Detroit, Mich. Bank was chartered in 1971 and immediately thereafter assumed the deposit liabilities of another bank that had been placed in receivership by State banking authorities. Actions taken by Bank's management (including injection of a significant amount of capital and conservative structuring of Bank's loan and investment portfolios) appear to have enabled Bank to become an effective competitor in the Birmingham area. Applicant's financial condition and future prospects are dependent on those of Bank. The financial and managerial resources and future prospects of Bank are generally satisfactory and consistent with approval of the application. Although it appears that consummation of the proposed transaction will have no immediate effect on the convenience and needs of the residents in Bank's market, to the extent the holding company vehicle permits applicant to offer expanded and wider ranging financial services, considerations relating to the convenience and needs factors are regarded as consistent with approval of the application. It is the Board's judgment that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] effective January 26, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1921 Filed 1-31-73;8:45 am]

HERITAGE BANCORP, INC.

Formation of One-Bank Holding Company

Heritage Bancorp, Inc., Westfield, Mass., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)

[2] Merchants Bank and Trust Company ($30.1 million of deposits).

[3] Dissenting statement of Governors Robertson and Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Boston.

[4] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Sheehan, and Bucher. Voting against this action: Governors Robertson and Brimmer.

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Governor Daane.

(1)) to become a bank holding company through acquisition of at least 80 percent of the voting shares of Heritage Bank and Trust Company, Westfield, Mass. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Reserve bank to be received not later than February 14, 1973.

Board of Governors of the Federal Reserve System, January 24, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1923 Filed 1-31-73;8:45 am]

THIRD NATIONAL CORP.

Order Approving Acquisition of Bank

Third National Corp., Nashville, Tenn., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Third State Bank in Knoxville, the successor by merger to Bank of Knoxville, Knoxville, Tenn. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the fourth largest banking organization in Tennessee. It controls one bank, Third National Bank in Nashville, with deposits of approximately $616 million, representing 6.8 percent of the total commercial bank deposits in the State. (All banking data are as of June 30, 1972, adjusted to reflect bank holding company formations and acquisitions approved by the Board through December 31, 1972.) Consummation of the proposal herein would increase its proportion of State deposits by only 0.4 percentage points and would not result in a significant increase in the concentration of banking resources in Tennessee, and Applicant's ranking would be unchanged.[1]

Bank ($40.8 million in deposits) is the seventh largest of 13 banks competing in the Knoxville SMSA, the relevant banking market, and holds approximately 4.8 percent of the commercial bank deposits in the market, while the two largest banks in the market hold 52.3 percent of market deposits. Applicant's nearest subsidiary office to Bank will be its proposed subsidiary in Cleveland, 80 miles southwest of Knoxville. Applicant's nonbanking subsidiary, Friendly Finance, Inc., Paducah, Ky., a consumer finance company, operates one office in the same market as Bank. However, Bank and Friendly represent a small share of the volume of consumer loans outstanding in the relevant market[2] and there are a substantial number of finance companies competing in the market. Accordingly, the record indicates that there is no significant existing competition between Bank and applicant and, further, that it is unlikely that such competition would develop in the future in view of the distances involved, the many intervening banks, and the restrictive branching laws of Tennessee. Moreover, the possibility of future competition through de novo entry by applicant is slight. Knoxville SMSA has experienced minimal population growth since 1965 and is not an attractive market for de novo entry. Accordingly, competitive considerations are consistent with approval of the application.

The financial and managerial resources of applicant, its banking subsidiary and Bank are considered generally satisfactory. The future prospects of applicant, its subsidiary bank and Bank are regarded as good. Considerations relating to the convenience and needs of the community are consistent with approval of the application. Applicant proposes to offer expanded and improved banking services, and it is expected that the community will benefit. It is the Board's judgment that consummation of the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

effective January 24, 1973.

By order of the Board of Governors,[3]
[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1919 Filed 1-31-73;8:45 am]

[1] In separate applications approved by the Board of Governors on Nov. 22, 1972, and Jan. 5, 1973, Applicant was granted permission to acquire all of the voting shares of the successors by merger to, respectively, Merchants Bank, Cleveland, Tenn., and First National Bank of Lawrenceburg, Lawrenceburg, Tenn. Affiliation of all three banks would increase applicant's share of the total commercial bank deposits in Tennessee only to 7.3 percent.

[2] Friendly's total outstandings were $0.3 million as of Oct. 30, 1972; Bank's comparable consumer installment loans amounted to $0.5 million as of June 30, 1972.

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Brimmer, Sheehan and Bucher. Absent and not voting: Governor Daane.

THIRD NATIONAL CORP.

Proposed Acquisition of Mobilehome Guaranty Corp.

Third National Corp., Nashville, Tenn., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire all of the voting shares of Mobilehome Guaranty Corp., Miami, Fla. The proposed acquisition also represents an indirect acquisition of MGC Agency, Inc., and MGC Federal Service Corp., both located in Miami, Fla., and both of which are wholly-owned subsidiaries of Mobilehome Guaranty Corp. Notice of the application was published in the following newspapers of general circulation on the dates indicated below:

Mobile Register	Mobile, Ala.	Dec. 14, 1972
Commercial Appeal	Memphis, Tenn.	Dec. 13, 1972
The Lexington Herald and the Lexington Leader.	Lexington, Ky.	Dec. 11, 1972
St. Petersburg Times	St. Petersburg, Fla.	Dec. 12, 1972
Chattanooga Times	Chattanooga, Tenn.	Dec. 13, 1972
The Knoxville News-Sentinel.	Knoxville, Tenn.	Dec. 12, 1972
The Florida Times-Union.	Jacksonville, Fla.	Dec. 13, 1972
Savannah News-Press	Savannah, Ga.	Dec. 14, 1972

Applicant states that the proposed subsidiary and its subsidiaries would engage in the activities of (1) arranging and servicing mobile home loans for banks and savings and loan associations; (2) making direct loans to mobile home dealers to finance inventory; and (3) the collection of delinquent loans held by Mobilehome Guaranty Corp. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b). The applicant further states that the proposed subsidiaries would engage in the activities of serving as agent in the sale of (4) credit life insurance to its debtors and (5) mobile home physical damage on the property serving as collateral for the above-described extension of credit. Under certain circumstances specified in the Board's Interpretation (12 CFR 225.128) of § 225.4(a)(9) of Regulation Y, such activities may be permissible for bank holding companies subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 22, 1973.

Board of Governors of the Federal Reserve System, January 26, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1920 Filed 1-31-73;8:45 am]

OFFICE OF TELECOMMUNICATIONS POLICY

ELECTROMAGNETIC RADIATION MANAGEMENT ADVISORY COUNCIL

Notice of Public Meeting

Notice is hereby given that the Electromagnetic Radiation Management Advisory Council will meet at 9:30 a.m. on Thursday, February 8, 1973, in Room 712, 1800 G Street NW., Washington, DC.

The principal agenda item will be discussion of the status of the "Program for Control of Electromagnetic Pollution of the Environment: The Assessment of Biological Hazards of Nonionizing Electromagnetic Radiation," published 1 year ago. This discussion will center on evaluating the adequacy and distribution of the program within the Federal Government with emphasis on its future focus and direction.

The meeting will be open to the public; any member of the public will be permitted to file a written statement with the Council, before or after the meeting.

The names of the members of the Council, a copy of the agenda, a summary of the meeting and other information pertaining to the meeting may be obtained from Mr. Wilfrid Dean, Jr., Assistant Director for Frequency Management, Office of Telecommunications Policy, Washington, D.C. 20504 (telephone: 202-395-5623).

Dated: January 29, 1973.

BRYAN M. EAGLE,
Advisory Committee Management Officer.

[FR Doc.73-1941 Filed 1-31-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File 500-1]

CLINTON OIL CO.

Order Suspending Trading

JANUARY 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.3⅓ par value, and all other securities of Clinton Oil Co., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, That trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from January 27, 1973, through February 5, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-1929 Filed 1-31-73;8:45 am]

[File 500-1]

CRYSTALOGRAPHY CORP.

Order Suspending Trading

JANUARY 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Crystalography Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, That trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from January 29, 1973, through February 7, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-1930 Filed 1-31-73;8:45 am]

[File No. 500-1]

DCS FINANCIAL CORP.

Order Suspending Trading

JANUARY 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value, and all other securities of DCS Financial Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from January 28, 1973 through February 6, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-1931 Filed 1-31-73;8:45 am]

[File 500-1]

GOODWAY INC.

Order Suspending Trading

JANUARY 26, 1973.

The common stock, $0.10 par value of Goodway Inc. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Goodway Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from January 28, 1973 through February 6, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-1932 Filed 1-31-73;8:45 am]

[File 500-1]

MANAGEMENT DYNAMICS, INC.

Order Suspending Trading

JANUARY 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Management Dynamics, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from January 27, 1973 through February 5, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-1933 Filed 1-31-73;8:45 am]

[File 500-1]

MINUTE APPROVED CREDIT PLAN, INC.

Order Suspending Trading

JANUARY 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.05 par value, and all other se-

curities of Minute Approved Credit Plan, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, That trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period from January 29, 1973, through February 7, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-1934 Filed 1-31-73;8:45 am]

[811-1797]

SHAREHOLDERS ASSOCIATES, INC.

Notice of Filing of Application for Order Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Shareholders Associates, Inc., c/o Richard C. Pearson, Shareholders Capital Corp., 1888 Century Park East, Los Angeles, CA 90067 (Applicant), a nondiversified, closed-end management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of representations contained therein, which are summarized below.

Applicant was organized on October 30, 1968, as a Delaware corporation and registered under the Act on January 10, 1969, by filing a Notification of Registration on Form N-8A.

Applicant states that it has 275,000 shares of its common stock outstanding, all of which are owned by Shareholders Capital Corp. (Capital) and that no public offering has been made of its securities. Since early 1970, Applicant has not engaged in the business of investing, reinvesting, or trading in securities, and on May 6, 1970, Capital approved the dissolution of Applicant by written consent. Subsequently, on June 11, 1970, Applicant filed a certificate of dissolution with the Secretary of State of Delaware, and since that time has engaged solely in the liquidation of its investments.

Section 3(b) of the Act excepts certain persons from the definition of an investment company, notwithstanding the fact that such persons would be deemed to be investment companies under section 3(a). Paragraph (3) of section 3(b) of the Act excepts any issuer all the outstanding securities of which are directly or indirectly owned by a company excepted from the definition of an investment company by paragraph (1) of section 3(b) of the Act. Since all of Applicant's outstanding securities are owned by Capital, which is also excepted from the definition of an investment company under section 3(b)(1) of the Act, Applicant itself is not an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 20, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (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 by the Commission upon the basis of the information stated in said application, unless an order for a hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-1937 Filed 1-31-73;8:45 am]

[File 500-1]

SUPERIOR COMPUTER CORP.

Order Suspending Trading

JANUARY 23, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value, and all other securities of Superior Computer Corp., being traded otherwise than on a national securities exchange, is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period commencing at 10 a.m., e.s.t., on January 24, 1973, through February 2, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-1935 Filed 1-31-73;8:45 am]

[File 500-1]

STAR-GLO INDUSTRIES, INC.

Order Suspending Trading

JANUARY 26, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value, and all other securities of Star-Glo Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from January 29, 1973, through February 7, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-1936 Filed 1-31-73;8:45 am]

[812-3251]

WESTLAND CAPITAL CORP. ET AL.

Notice of Filing of Application

JANUARY 26, 1973.

Notice is hereby given that Westland Capital Corp. (Westland), 11661 San Vicente Boulevard, Los Angeles, CA 90069, a small business investment company licensed under the Small Business Investment Act of 1958, and registered under the Investment Company Act of 1940 (the Act), as a nondiversified, closed-end management investment company, Brentwood Associates (Brentwood), a privately held California limited partnership, and Frederick J. Warren (Warren) (hereinafter collectively referred to as "Applicants"), have filed an application pursuant to section 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act the proposed sale by Westland of certain personal property and leasehold improvements to Brentwood. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Westland, pursuant to a resolution of its board of directors on June 16, 1972, has determined to move its offices from Los Angeles, Calif., to Minneapolis, Minn. Brentwood, an affiliated person of Westland by virtue of its ownership of approximately 9.9 percent of the outstanding shares of Westland, has leased the

premises formerly occupied by Westland and has offered to purchase certain personal property (including furniture, fixtures, and office equipment) and certain leasehold improvements (including carpet, wallpaper, draperies, partitions, glass, doors, light fixtures, cabinets, and miscellaneous items) now present on the premises from Westland in consideration of the payment to Westland of $18,088.33 in cash by Brentwood. Warren, a former officer and director of Westland, is a general partner of Brentwood and, therefore, an affiliated person of an affiliated person of Westland.

Westland ascribes a total depreciated value of $18,088.33 to the involved personal property and leasehold improvements. The cost of the personal property items was $26,411.40, but, as of June 15, 1972, they were carried at a valuation of $12,661.26, computed by the straight-line depreciation method over a period of 10 years. The leasehold improvements cost $13,109.71, but were carried at a value of $5,427.07 as of June 15, 1972, due to the straight-line amortization method over a 5-year period. Westland states that the terms of the proposed transaction were arrived at through arms-length negotiations; that there was no overreaching on the part of any party; and that the transaction would not violate any of its policies. Applicant did not obtain an independent appraisal of the involved property but states its belief that the sale price is considerably higher than would have been received from a second-hand merchandise dealer and that the cost of transporting the property to Minneapolis would be prohibitive.

Section 17(a) of the Act, as here pertinent, provides that it is unlawful for any affiliated person of a registered investment company to purchase any property from such investment company unless an exemption is granted pursuant to section 17(b) of the Act. Section 17(b) of the Act provides that the Commission may exempt such a transaction from the provisions of section 17(a) if (1) the terms of the proposed transaction, including the consideration to be paid or received are reasonable and fair and do not involve overreaching on the part of any person concerned; (2) the proposed transaction is consistent with the policy of the registered investment company as recited in its registration statement and reports filed under the Act; and (3) the proposed transaction is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than February 20, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-1938 Filed 1-31-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-0105]

C & C CAPITAL CORP.

Notice of Issuance of License To Operate as a Small Business Investment Company

On November 25, 1972, a notice was published in the FEDERAL REGISTER (37 FR 25080) stating that C & C Capital Corp. has filed an application with the Small Business Administration (SBA), pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1972)) for a license to operate as a small business investment company (SBIC).

Interested parties were given to the close of business December 15, 1972, to submit their written comments to SBA.

Notice is hereby given that having considered the application and all other pertinent information, SBA has issued License No. 04/04-0105 to C & C Capital Corp., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

Dated: January 24, 1973.

DAVID A. WOLLARD,
Associate Administrator for Operations and Investment.

[FR Doc.73-1927 Filed 1-31-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

PENNSYLVANIA DEVELOPMENTAL PLAN

State Occupational Safety and Health Standards and Their Enforcement; Notice of Submission of Plan and Availability for Public Comment

1. *Submission and description of plan.* Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and § 1902.11 of Title 29, Code of Federal Regulations, notice is hereby given that an Occupational Safety and Health plan for the State of Pennsylvania has been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The Assistant Secretary has preliminarily reviewed the plan, and hereby gives notice that the question of approval of the plan is in issue before him.

The plan identifies the Department of Labor and Industry as the State agency designated by the Governor of the State to administer the plan throughout the State. It defines the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1). The plan states that the Department of Labor and Industry currently is exercising statewide inspection authority to enforce many State standards. It describes procedures for the development and promulgation of additional safety standards; rule-making power for enforcement of standards, laws, and orders in all places of employment in the State; the procedures for prompt restraint or elimination of imminent danger conditions; and procedures for inspection in response to complaints.

The plan includes proposed draft legislation to be considered by the Pennsylvania Legislature during its 1973 session to bring the plan into conformity with the requirements of Part 1902.

Under this legislation all occupational safety and health standards and amendments thereto which have been promulgated by the Secretary of Labor, except those found in 29 CFR Parts 1910.13, 14, 15, and 16 (ship repairing, shipbuilding, shipbreaking, and longshoring) will be adopted and enforced by the Department of Labor and Industry. There will be some modifications to standards in Part 1926 which are discussed in a standards comparison included in the plan.

The legislation will give the Department of Labor and Industry full authority to administer and enforce all laws, rules, and orders protecting employee safety and health in all places of employment in the State. It also proposes to bring the plan into conformity in procedures for providing prompt and effective standards for the protection of employees against new and unforeseen hazards and for furnishing information to employees on hazards, precautions, symptoms and emergency treatment; and procedures for variances and the protection of employees from hazards.

The proposed legislation will insure employer and employee representatives an opportunity to accompany inspectors and call attention to possible violations before, during, and after inspections; protection of employees against discharge or discrimination in terms and conditions of employment; notice to employees or their representatives when no compliance action is taken upon complaints, including rights of review; notice to employees of their protections and obligations; adequate safeguards to protect trade secrets; prompt notice to employers and employees of alleged violations of

standards and abatement requirements; effective remedies against employers; and employer right to review alleged violations, abatement periods, and proposed penalties with opportunity for employee participation in the review proceedings.

Included in the plan is a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the Constitution and laws of Pennsylvania. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 upon enactment of the proposed legislation by the State legislature.

2. *Location of plan for inspection and copying.* A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of Federal and State Operations, Occupational Safety and Health Administration, Room 305, Railway Labor Building, 400 First Street NW., Washington, DC 20210; Regional Administrator, Occupational Safety and Health Administration, 1317 Filbert Street, Philadelphia, PA 19107; and the Bureau of Occupational and Industrial Safety, Department of Labor and Industry, Room 1529, Seventh and Forster Streets, Harrisburg, Pa. 17120. Copies of the plan may be obtained at the expense of the person(s) requesting the copies.

3. *Public participation.* Interested persons are hereby given until March 3, 1973, to submit to the Assistant Secretary written data, views, and arguments concerning the plan. The submissions are to be addressed to the Director, Office of Federal and State Operations, Occupational Safety and Health Administration, Room 305, Railway Labor Building, 400 First Street NW., Washington, DC 20210. The written comments will be available for public inspection and copying, at the expense of the person(s) requesting such copies, at the above addresses.

Any interested person(s) may request an informal hearing concerning the proposed plan, or any part thereof, whenever particularized written objections thereto are filed by March 3, 1973. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or informal hearing on the subjects and issues involved.

The Assistant Secretary of Labor for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the Plan.

Signed at Washington, D.C., this 29th day of January 1973.

CHAIN ROBBINS,
Acting Assistant Secretary of Labor.

[FR Doc.73-1953 Filed 1-31-73;8:45 am]

STANDARDS ADVISORY COMMITTEE ON HEAT STRESS

Notice of Establishment and Meeting

Notice is hereby given that a standards advisory committee on heat stress has been established under section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656) and that it will meet in Washington, D.C., starting at 9:30 a.m. on February 15, 1973 in Room 216 A, B, C of the Main Labor Building, 14th and Constitution Avenue NW.

The heat stress committee has been established to advise the Assistant Secretary of Labor for Occupational Safety and Health with regard to proposing rules concerning the safety and health of employees regarding heat stress.

This is the first meeting of the committee. The agenda provides for orientation to the committee concerning the tasks involved. The meeting shall be open to the public. Any member of the public wishing to submit a written presentation to the committee may do so by filing such statement with the Director, Office of Standards, Occupational Safety and Health Administration, 400 First Street NW., Washington, DC 20210, Room 500, not later than February 12, 1973. There will be additional meetings and additional opportunities for the public to make presentations on the subject matter before the committee.

Signed at Washington, D.C. this 29th day of January 1973.

CHAIN ROBBINS,
Acting Assistant Secretary of Labor.

[FR Doc.73-1994 Filed 1-31-73;8:45 am]

Office of the Secretary

WISE SHOE CO., INC.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of December 29, 1972, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-161) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of the workers formerly employed by Wise Shoe Co., Inc., Exeter, N.H. In this report the Commission found that articles like or directly competitive with footwear for women manufactured by Wise Shoe Co., Inc., are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause unemployment or underemployment of a significant number or proportion of the workers of such firm.

Upon receipt of the Tariff Commission's affirmative finding, the Department, through the Acting Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation.

Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 FR 18342; 37 FR 2472; 38 FR 1240, 29 CFR Part 90). In the recommendation she noted that imports like or directly competitive with women's footwear produced by Wise Shoe increased substantially. The firm attempted to increase productivity and imitate foreign shoe styles in an effort to remain competitive with the lower-priced imports, but was unsuccessful. As a result, corporate sales and production declined, as did employment and hours worked. Unemployment and underemployment directly related to import competition began in June 1970. The plant closed in August 1972, except to fill previous orders. Operations were discontinued entirely when the orders were completed shortly thereafter. After due consideration I make the following certification:

All workers, hourly piecework, and salaried of Wise Shoe Co., Inc., Exeter, N.H. who became unemployed or underemployed after June 27, 1970, and before October 6, 1972, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 26th day of January 1973.

JOEL SEGALL,
Deputy Under Secretary for International Affairs.

[FR Doc.73-1995 Filed 1-31-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 168]

ASSIGNMENT OF HEARINGS

JANUARY 29, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-F-11506, Orscheln Bros. Truck Lines, Inc., —Purchase—Aurora Motor Express, Inc., Leonard M. Spira, Assignee for the Benefit of Creditors, MC 49387 Sub 40, Orscheln Bros. Truck Lines, Inc., now assigned February 12, 1973, at Chicago, Ill., will be held at the La Salle Hotel, Madison and La Salle Street.

MC 114211 Sub 160, Warren Transport, Inc., now assigned February 5, 1973, MC 123048 Sub 221, Diamond Transportation System, Inc., now assigned February 6, 1973, MC-F-11593, Gordons Transport, Inc., —Purchase—J. B. Reed Motor Express, Inc., MC 11220 Sub 126, Gordons Transports, Inc., now assigned February 7, 1973, MC 123407 Sub 107, Sawyer Transport, Inc., now assigned February 9, 1973, at Chicago, Ill., will be held in Room 290, 536 South Clark Street.

MC-13681 (Sub-No. 1), Marine Stevedoring Corp., and MC-136736, Hampton Roads Transfer Co., Inc., now assigned February 20, 1973, will be held in Room 1036 Federal Building, 400 North First Street, Richmond, VA.

MC-117119 Sub 459, Willis Shaw Frozen Express, Inc., now assigned February 26, 1973, will be held in Judge Devitt Courtroom No. 1, Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, MN.

AB-1 Sub 2, Chicago and North Western Transportation Co. abandonment between Conover and Philips, Vilas County, Wis., now assigned March 1, 1973, will be held in the Old Board Room First Floor, Courthouse, Oneida Avenue, Rhinelander, Wis.

MC-129823 Sub 2, Easton Motor Lines, Inc., doing business as Marshall's Express, now assigned January 29, 1973, at Washington, D.C. is canceled and application dismissed.

I & S No. 8809, Switching charge at Peoria or Pekin, Ill., now being assigned hearing March 5, 1973 (3 days), at Chicago, Ill., in a hearing room to be later designated.

I & S M-26462, General increase, January 1973, central and southern territory, now being assigned hearing March 13, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I & S M-26480, General increase, January, 1973, Rocky mountain territory, now being assigned hearing March 19, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-107818 Sub 61, Greenstein Trucking Co., now assigned February 1, 1973, at Omaha, Nebr., is canceled and the application is dismissed.

MC 129606 Sub 8, Polar Transport, Inc., continued to February 20, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

AB 5 Sub 60, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., Debtor, abandonment between Warren and Bristol, Bristol County, R.I., now assigned February 26, 1973, at Bristol, R.I., will be held at the Council Chambers, Bernside Memorial Building, Hope and Court Streets.

MC 136750 Sub 1, New England Finishing & Furniture Haulers, Inc., now assigned February 28, 1973, at Boston, Mass., will be held in Room 1112, John Fitzgerald Kennedy Building, Government Center.

MC 108587 Sub 15, Schuster's Express, Inc., now assigned March 5, 1973, at Boston, Mass., will be held in Room 1112, John Fitzgerald Kennedy Building, Government Center.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-1972 Filed 1-31-73;8:45 am]

[Notice 201]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before February 21, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73977. By order of December 26, 1972, the Motor Carrier Board approved the transfer to Melvin Rodrigues and Marilyn Rodrigues, a partnership, doing business as Rodrigues Transportation Service, Route 1, Box 57-E, Covelo, CA 95428, of the certificate of registration in No. MC-121585 issued February 11, 1966, to Raymond E. Polsley, doing business as Polsley Transportation Service, Post Office Box 39, Covelo, CA 95428, evidencing a right to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of authority in the certificate granted by Decision No. 68954 dated April 27, 1965, as corrected by Decision No. 69748 dated October 5, 1965, issued by the California Public Utilities Commission.

No. MC-FC-73996. By order of January 18, 1973, the Motor Carrier Board approved the transfer to J. Transfer Warehouse & Trucking Co., Inc., New York, N.Y., of permit No. MC-117658 (Sub-No. 1), issued July 16, 1959, to Epco Trucking Co., Inc., New York, N.Y., authorizing the transportation of: Thread, yarn, zippers, pattern books, and notions, between Fair Lawn, N.J., and New York, N.Y. William D. Traub, 10 East 40th Street, New York, NY 10016, Applicants' representative.

No. MC-FC-74120. By order of December 29, 1972, the Motor Carrier Board approved the transfer to Lloyd Gahart, Gary D. Gahart, and Jeffrey T. Gahart, a partnership, doing business as Gahart Transportation, Kenosha, Wis., of the operating rights in certificate No. MC-108520 issued January 28, 1960, to Emil H. Kleinschmidt, Kenosha, Wis., authorizing the transportation of various commodities from and to specified points and areas in Wisconsin and Illinois. William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203, attorney for applicants.

No. MC-FC-74137. By order of December 26, 1972, the Motor Carrier Board approved the transfer to Columbia Moving & Storage, Inc., New York, N.Y., of the operating rights in certificate No. MC-118945 issued August 19, 1959, to Dard's Moving & Storage Corp., New York, N.Y., authorizing the transportation of household goods, (1) between New York, N.Y., on the one hand, and, on the other, points in Delaware, Maryland, Rhode Island, and the District of Columbia, and (2) between New York, N.Y., on the one hand, and, on the other, points in New Jersey, New York, Pennsylvania, Connecticut, and Massachusetts. Alvin Altman, 1776 Broadway, New York, NY 10019, attorney for applicants.

No. MC-FC-74145[1] (Corrected). By order of December 26, 1972, the Motor Carrier Board approved the transfer to Eastman Transport, Inc., Fort Bragg, Calif., of the operating rights in certificates Nos. MC-117136 (Sub-No. 1), MC-117136 (Sub-No. 14), MC-117136 (Sub-No. 18), MC-117136 (Sub-No. 22), and MC-117136 (Sub-No. 26) issued June 23, 1962, August 10, 1964, June 24, 1964, October 14, 1969, and June 25, 1970, respectively, to Landis Morgan, Inc., Ukiah, Calif., authorizing the transportation of numerous specified commodities, including mineral ores and concentrates, lumber, plywood, forest products, cottonseed meal, crumbles, and pellets, and fertilizer (except in bulk) from and to named points in California, Oregon, Nevada, and Arizona. Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210, attorney for applicants.

No. MC-FC-74157. By order of January 12, the Motor Carrier Board approved the transfer to Hartley Oil Co., Inc., Ravenswood, W. Va., of the operating rights in permit No. MC-135234 (Sub-No. 2) issued September 14, 1972, to Commercial Cartage, Inc., St. Albans, W. Va., authorizing the transportation of electric cables, on reels and in coils, from Newington (Fairfax County), Va., to points in West Virginia, and empty reels, from points in West Virginia to Newington, Va., and points in Arlington County, Va., restricted to a transportation service to be performed under a continuing contract, or contracts, with Western Electric Co., Inc., of New York, N.Y., and Chesapeake & Potomac Telephone Company of West Virginia. Dual operations were approved. Charles E. Anderson, 1421 Kanawha Valley Building, Charleston, W. Va., 25332, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-1973 Filed 1-31-73;8:45 am]

[Notice 9]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

JANUARY 26, 1973.

The following applications (except as otherwise specifically noted, each appli-

[1] Corrected to reflect the date of the order as Dec. 26, 1972, in lieu of 1973.

cant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by special rule 1100.247[1] of the Commission's general rules of practice (49 CFR as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 2202 (Sub-No. 428), filed December 8, 1972. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Conner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Earlville, Ill., as an off-route point in connection with applicant's regular route authority between Waukegan, Ill., and Mendota, Ill. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 3252 (Sub-No. 85), filed December 4, 1972. Applicant: MERRILL TRANSPORT CO., a corporation, 1037 Forest Avenue, Portland, ME 04104. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ore*, in bulk, from Blue Hill, Maine, to Bucksport and Searsport, Maine, and (2) *Petroleum products*, in bulk, in tank vehicles, from Ticonderoga, N.Y., to points in Vermont. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Maine, or Boston, Mass.

No. MC 4405 (Sub-No. 500), filed December 22, 1972. Applicant: DEALERS TRANSIT, INC., 2200 East 170th Street, Post Office Box 361, Lansing, IL 60438. Applicant's representative: Robert E. Joyner, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in initial truckaway and driveaway service, from points in the Kansas City, Mo.-Kans., commercial zone as defined by the Commission to points in the United States (including Alaska, and excluding Hawaii); and (2) *Tractors*, in secondary movements, in driveaway service only when drawing trailers and trailer chassis in initial driveaway service, from points in the Kansas City, Mo.-Kans., commercial zone as defined by the Commission to points in Alaska, Arizona, Nevada, Oregon, and Vermont. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 11207 (Sub-No. 321), filed December 20, 1972. Applicant: DEATON, INC., 317 Avenue W, Post Office Box 938, Birmingham, AL 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: (1) *Plastic pipe and fittings*, from the plantsite and warehouse facilities of Central Foundry Co., Holt, Ala., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Oklahoma, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia, and (2) *Materials used in the manufacture and installation of plastic pipe* (except commodities in bulk), from points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia, to the plantsite and warehouse facilities of Central Foundry Co., Holt, Ala. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Atlanta, Ga.

No. MC 11207 (Sub-No. 322), filed December 20, 1972. Applicant: DEATON, INC., 317 Avenue W., Post Office Box 938, Birmingham, AL 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: *Iron or steel castings*, from the plantsite and warehouse facilities of the Central Foundry Co., Holt, Ala., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Atlanta, Ga.

No. MC 30844 (Sub-No. 449), filed December 8, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Post Office Box 5000, Waterloo, IA 50702. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Truck trailer and railroad car heating and cooling machines*, from Louisville, Ga., to Des Moines and Sioux City, Iowa, Omaha, Nebr., Denver, Colo., Kansas City, Kans., St. Paul, Minn., and St. Louis and Kansas City, Mo. NOTE: Common control may be involved. Applicant states that the requested cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC 30844 (Sub-No. 450), filed December 14, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125

Commercial Street, Post Office Box 5000, Waterloo, IA 50702. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Compounded oils and greases, lubricating greases, and petroleum and petroleum products* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in packages or containers only; (2) *such materials and supplies as are used in automotive service centers*, from Cincinnati, Ohio, to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Pennsylvania, Tennessee, South Dakota, Virginia, West Virginia, and Wisconsin, and (3) *empty petroleum containers* between points in the above-named States. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 40757 (Sub-No. 16), filed December 4, 1972. Applicant: CREECH BROTHERS TRUCK LINES, INC., 100 Industrial Drive, Troy, MO 63379. Applicant's representative: William H. Creech, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock*, other than ordinary, and, in the same vehicle with such livestock, *equipment and supplies* used in the care and exhibition of such livestock, and *mascots and personal effects* of their attendants, trainers and exhibitors, between points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis or Jefferson City, Mo.

No. MC 41432 (Sub-No. 129), filed December 8, 1972. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, TX 75207. Applicant's representative: W. P. Furrh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Tacoma and Orting, Wash., serving the plantsite and warehouse facilities of Nelco Corp. at or near Orting, Wash., as an off-route point in connection with carrier's regular-route operations to and from Tacoma, Wash. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Dallas, Tex.

No. MC 42146 (Sub-No. 15), filed December 11, 1972. Applicant: A. G. BOONE COMPANY, a corporation, 1117 South Clarkson Street, Charlotte, NC 28208. Applicant's representative: A. G. Boone, Jr. (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, between points in North Carolina on the one hand, and, on the other, points in Duval County, Fla., Chatham, Clarke, Clayton, Cobb, De Kalb, Douglas, Fulton, Glynn, Gwinett, Hall, Jackson, McDuffie, Morgan, Newton, Richmond, Walker, and Wilkes Counties, Ga., Aiken and Beaufort Counties, S.C., and Anderson, Blount, Hamblen, Hamilton, Knox, McMinn, and Roane Counties, Tenn., under a continuing contract with The Great Atlantic and Pacific Tea Co., Inc., at Union, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 42487 (Sub-No. 800), filed December 6, 1972. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Applicant's representative: E. T. Liipfert, Suite 1100, 1660 L Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Fort Smith, Ark., and Joplin, Mo., from Fort Smith over U.S. Highway 71 to Joplin, and return over the same route, serving no intermediate points, an alternate route in connection with applicant's presently authorized regular-route operations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 73165 (Sub-No. 315), filed December 18, 1972. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Post Office Box 11086, Birmingham, AL 35202. Applicant's representative: Carl U. Hurst, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles and castings*, from the plantsite of Central Foundry Co. at Holt, Ala., to points in the United States (including Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Washington, D.C.

No. MC 73165 (Sub-No. 316), filed December 18, 1972. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Post Office Box 11086, Birmingham, AL 35202. Applicant's representative: Carl U. Hurst, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings*, from the plantsite of Central Foundry Co., Holt, Ala., to points in the United States in and east of Texas, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala. or Washington, D.C.

No. MC 74321 (Sub-No. 65), filed December 5, 1972. Applicant: B. F. WALKER, INC., 650 17th Street, Denver, CO 80202. Applicant's representative: Richard P. Kissinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron and plastic pipe and pipe fittings* (except those which because of size or weight require the use of special equipment, and those described in Mercer Extension, 74 M.C.C. 459), from Tyler, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilites are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 74321 (Sub-No. 66), filed December 11, 1972. Applicant: B. F. WALKER, INC., 650 17th Street, Denver, CO 80202. Applicant's representative: Richard P. Kissinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe and tubing*, except such pipe and tubing as was described in Mercer Extension—Oil Field Commodities 74 M.C.C. 459, from New Orleans, La., to points in Alabama, Arkansas, Georgia,

Illinois, Indiana, Iowa, Kansas, Kentucky, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, and Texas. Restricted to traffic originating at the plantsite of United Tube Corp. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 74321 (Sub-No. 67), filed December 27, 1972. Applicant: B. F. WALKER, INC., 650 17th Street, Denver, CO 80202. Applicant's representative: Richard P. Kissinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers and trailer chassis*, other than those designed to be drawn by passenger automobiles, in initial movements, from the plantsite and warehouse facilities of Lufkin Industries, Inc. at or near Lufkin, Tex., to points in the United States (except Alaska and Hawaii.) NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 74321 (Sub-No. 70), filed January 2, 1973. Applicant: B. F. WALKER, INC., 650 17th Street, Denver, CO 80202. Applicant's representative: Richard P. Kissinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Container ends and iron and steel articles*, from Portage, Ind., to points in Illinois, Iowa, Missouri, Wisconsin, Minnesota, and Nebraska. NOTE: Applicant states that the requested authority can be tacked with a limited portion of its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 75320 (Sub-No. 161), filed January 7, 1973. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., Post Office Box 807, Springfield, MO 65801. Applicant's representative: John A. Crawford, 700 Petroleum Building, Post Office Box 22567, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in or distributed by the R. T. French Co., and (2) *foodstuffs*, from Springfield, Mo., to points in Illinois, Kansas, Wisconsin, Tennessee, Alabama, Mississippi, Louisiana, Texas, Arkansas, Oklahoma, and Georgia. Restricted against the transportation of commodities in bulk, in tank vehicles. NOTE: Common control may be involved. Applicant states that the requested authority will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Springfield, Mo.

No. MC 83539 (Sub-No. 360), filed November 24, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V of *Description in Motor Carrier Certificates*, Ex Parte No. MC–45, 64 M.C.C. 209, between Tulsa and the Port of Catoosa, Okla., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, and Wyoming. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla.

No. MC 83539 (Sub-No. 361), filed December 18, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products* (except commodities in bulk, in tank vehicles), from El Paso, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 83835 (Sub-No. 98), filed December 19, 1972. Applicant: WALES TRANSPORTATION, INC., Post Office Box 6186, Dallas, TX 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement asbestos pipe, couplings and accessories*, from the facilities of Certain-Teed Products Corp., at St. Louis, Mo., to points in Arkansas, Colorado, Illinois, Kansas, Louisiana, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Dallas, Tex.

No. MC 87720 (Sub-No. 135), filed November 24, 1972. Applicant: BASS TRANSPORTATION CO., INC., Post Office Box 391, Flemington, NJ 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Coal tar dyes and dyestuffs*, other than bulk, from Lobeco (Beaufort County), S.C., to Reading, Pa., and Paterson, N.J.; (2) *empty fiberglass containers*, from Reading, Pa., and Paterson, N.J., to Lobeco (Beaufort County), S.C.; (3) *chemicals*, other than bulk, from Reading, Pa., and Paterson and Belleville, N.J., to Dalton, Ga., High Point, N.C., Nashville, Tenn., Atlanta, Ga., and Charlotte, N.C.; (4) *plastic materials and products*, other than bulk, from Carlstadt, East Rutherford, and Rockaway, N.J., New York, N.Y., and Upper Newton Falls, Mass., to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia and Florida; and (5) *materials and supplies and returned shipments* (except in bulk), from the aforementioned destination points to the aforementioned origin points in (1), (2), (3), and (4) above, under a continuing contract, or contracts, with Tenneco, Inc., of Piscataway, N.J. NOTE: Applicant presently holds a Certificate in No. MC 135684, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 102616 (Sub-No. 875), filed December 4, 1972. Applicant: COASTAL TANK LINES, INC., 215 East Waterloo Road, Akron, OH 44319. Applicant's representative: Axelrod, Goodman, Steiner & Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof*, in bulk, from Dayton, Ohio, to points in Alabama, Delaware, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 103993 (Sub-No. 746), filed January 2, 1973. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani

(same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, designed to be drawn by passenger automobiles*, in initial movements, from points in Dakota and Olmstead Counties, Minn., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 105566 (Sub-No. 89), filed December 22, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances*, from the plantsites and warehouse facilities of Superior Electric Products Corp., located at or near Cape Girardeau, Mo., to points in California, Oregon, Washington, Nevada, Arizona, Idaho, Utah, Colorado, New Mexico, Wyoming, and Montana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 105566 (Sub-No. 90), filed December 22, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 62701. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastics, plastic articles, materials, and supplies*, from points in Scott County, Mo., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies* used in or necessary to the manufacture, sale, and/or distribution of plastics, plastic articles, materials, and supplies, from points in the United States (except Alaska and Hawaii), to points in Scott County, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 105566 (Sub-No. 91), filed December 22, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter and raw paper stock*, between New Berlin and Brookfield, Wis., and Jonesboro, Ark., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Washington, D.C.

No. MC 105566 (Sub-No. 92), filed December 22, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials and supplies* used in the conduct of such businesses from Cincinnati, Ohio, to Houston, and Irwin, Tex., and points in Arkansas and California and Memphis, Tenn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Washington, D.C.

No. MC 105822 (Sub-No. 3), filed December 19, 1972. Applicant: FELSON INTERSTATE, INC., 111 Marshall Street, Hoboken, NJ 07030. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yarn, fabric, and clothing*, from Hoboken, N.J., to points in Bergen, Passaic, Hudson, Essex, Union, Middlesex, Morris, and Somerset Counties, N.J., restricted to traffic moving from the terminal of Felson Interstate, Inc., and having a prior movement in interstate commerce by motor carrier; and *returned shipments* on return. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 106398 (Sub-No. 633), filed December 8, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, conduit, tubing, fittings, valves, and compounds* used in the installation of this product, from Broken Arrow, Okla., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla.

No. MC 106398 (Sub-No. 634), filed December 10, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, designed to be drawn by passenger automobiles*, in initial movements, and *sections of buildings mounted on wheeled undercarriages*, from points in Connecticut (except building in sections from plantsite of Arbor Modules, Inc., at Waterbury and plantsite of Crown, Inc., in Terryville), to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 106920 (Sub-No. 47), filed December 5, 1972. Applicant: RIGGS FOOD EXPRESS, INC., Post Office Box 26, West Monroe Street, New Bremen, OH 45869. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquettes, charcoal products and fabricated fireplace logs*, (1) from Bradford, Pa., to points in Indiana, Illinois, Missouri, Michigan, Ohio, Wisconsin, and New Jersey; and (2) from Scotia and Stamford, N.Y., to those destination points in (1) above and points in Pennsylvania. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 107460 (Sub-No. 41), filed December 13, 1972. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, PA 17601. Applicant's representative: Donald D. Shipley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum doors and windows*, glazed and unglazed; *aluminum extrusions*, from the plantsite of Capitol Products Corp. located at or near Kentland, Ind., to points in Alabama, Arizona, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Maine, Maryland, Massachusetts, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, Washington, and West Virginia; and (2) *accessories, materials, parts and supplies* (except commodities in bulk), used in the manufacture, repair and assembly of aluminum doors and windows and aluminum extrusions; from points in Alabama, Arizona, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Maine, Maryland, Massachusetts, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, Washington, and West Virginia to the plantsite of Capitol Products Corp. located at or near Kentland, Ind.,

under contract with Capitol Products Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 107527 (Sub-No. 50), filed December 8, 1972. Applicant: POST TRANSPORTATION COMPANY, Post Office Box 4827, Carson, CA 90745. Applicant's representative: John C. Allen, 1200 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, from points in Arizona to points in Nevada and California, under contract with Stauffer Chemical Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 107678 (Sub-No. 45), filed December 21, 1972. Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott, Houston, TX 77015. Applicant's representative: Jay W. Elston, 800 Bank of the Southwest Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite, clay, ground*, from the plantsite of Black Hills Bentonite Co. at or near Casper Wyo., to points in Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 110525 (Sub-No. 1044), filed October 27, 1972. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals*, in bulk, in tank vehicles, from Wallingford, Conn., to points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, and West Virginia and (2) *Animal and poultry feed and feed ingredients*, from Willow Island, W. Va., and Pearl River, N.Y., to points in Arkansas, Georgia, Kansas, and Montana. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 110525 (Sub-No. 1046), filed December 18, 1972. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitric acid*, in bulk, in tank vehicles, from Olean, N.Y., to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority could be tacked with its existing authority but has no present intention to tack, therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Syracuse, N.Y., or Washington, D.C.

No. MC 110563 (Sub-No. 98), filed December 14, 1972. Applicant: COLD-WAY FOOD EXPRESS, INC., Ohio Building, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and dairy products*, from Newman Grove, Nebr., to points in Michigan, Indiana, Ohio, Pennsylvania, New York, and New Jersey. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lincoln, or Omaha, Nebr.

No. MC 110563 (Sub-No. 99), filed December 15, 1972. Applicant: COLD-WAY FOOD EXPRESS, INC., Ohio Building, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. 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 I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, pelts, and commodities in bulk), from the plantsites and warehouse facilities of Swift & Co., at St. Charles, Ill., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 112617 (Sub-No. 304), filed December 18, 1972. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, 1295 Fern Valley Road, Louisville, KY 40221. Applicant's representatives: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, DC 20036, and Bruce H. Kraemer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed supplement*, in bulk, in tank vehicles, from Owensboro, Ky., to points in Arkansas, Illinois, Indiana, Missouri, Ohio, Virginia, West Virginia, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 113267 (Sub-No. 293), filed December 6, 1972. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (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 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from points in Iowa; Dakota City and West Point, Nebr.; Kansas City and Wichita, Kans.; St. Louis, Mo. and its commercial zone to points in Florida. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 113267 (Sub-No. 294), filed December 20, 1972. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, and woodpulp*, from points in McMinn County, Tenn. (excepts points on U.S. Highway 411), to points in Illinois, Michigan, points in Indiana on and north of U.S. Highway 40 (including Indianapolis), and Columbus, Ind. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 113362 (Sub-No. 252), filed December 11, 1972. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except in bulk, in tank vehicles), (1) from the plantsite of Wolf's Head Refining Oil Co., Division of Pennzoil Co., at Oil City, Rouseville and Reno, Pa., to points in Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Tennessee; (2) from the plantsite of Witco Chemical Co. at Bradford and Petrolia, Pa., to the points named in (1) above; (3) from the plantsite of Pennzoil Co. at Oil City, Rouseville and Reno, Pa.,

to the points named in (1) above; (4) from the plantsite of Quaker State Oil Refining Corp., at Buffalo and North Tonawanda, N.Y., and Emlenton and Farmers Valley, Pa., to the points named in (1) above; and (5) from the plantsite of Pennsylvania Refining Co. at Karns City, Pa., to the points named in (1) above. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 113459 (Sub-No. 77), filed December 19, 1972. Applicant: H. J. JEFFRIES TRUCK LINE, INC., Post Office Box 94850, Oklahoma City, OK 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* the transportation of which, because of size or weight, require the use of special equipment, *related machinery parts and related contractor's materials and supplies* when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; and *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery tools, parts and supplies* when moving in connection therewith, between Sterling, Ill., and points within 5 miles thereof, on the one hand, and, on the other, points in Minnesota, South Dakota, Nebraska, Missouri, Indiana, Ohio, Iowa, Michigan, and Wisconsin. NOTE: Applicant states that the requested authority would be joined with its existing authority at Illinois and Oklahoma to serve points in Arkansas, Kansas, New Mexico, Louisiana, Oklahoma, Montana, North Dakota, Colorado, Nebraska, Texas, Utah, and Wyoming. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113535 (Sub-No. 28), filed December 1, 1972. Applicant: A & W TRUCKING CO., INC., Route 5, Box 900, Mosinee, WI 54455. Applicant's representative: John J. Altenburg, Rural Route Box 370, Mosinee, WI 54455. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles manufactured and/or dealt in by wholesale and retail grocery houses* (except commodities in bulk), from the facilities of United Facilities, Inc., at Galesburg, Ill., to points in Iowa, Minnesota, and Wisconsin, restricted to traffic originating at the named origin and destined to points in the named destination States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 114194 (Sub-No. 170), filed December 14, 1972. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Applicant's representative: Ernest Brooks II, 1301–02 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soybean products*, dry, in bulk; (2) *plastics and resins*, in bulk; (3) *grain products*, in bulk; and (4) *food products*, in bulk; (1) from points in Illinois to Muscatine, Iowa; (2), (3) and (4) from Belleville, Ill., to points in Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Texas, Tennessee, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 114273 (Sub-No. 130), filed December 18, 1972. Applicant: CEDAR RAPID STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue NE, Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm fencing, gates and related products*, from Centerville, Iowa to points in Illinois, Wisconsin, and Indiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114334 (Sub-No. 23), filed December 8, 1972. Applicant: BUILDERS TRANSPORTATION COMPANY, a corporation, 3710 Tulane Road, Memphis, TN 38116. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, AL 36401. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Pipe and pipe fittings, couplings, connections, and accessories* (except iron or steel and commodities because of size and weight require the use of special equipment) from the plant or warehouse sites of Armco Steel Corp., Metal Products Division, in Montgomery County, Ala., to points in the States of Arkansas, Colorado, Georgia, Florida, Kansas, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, and restricted to traffic originating at the above plant or warehouse sites and destined to points shown above and further restricted against the transportation of oilfield commodities as defined in Mercer Extension—Oilfield Commodities, 74 M.C.C. 459. NOTE: If a hearing is deemed necessary, applicant requests it be held at Montgomery, Ala. or Birmingham, Ala.

No. MC 115162 (Sub-No. 261), filed December 11, 1972. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit, pipe, and tubing, and fittings therefor* (except oilfield and pipeline commodities as defined by the Commission in Mercer Extension—Oilfield Commodities, 74 M.C.C. 459), from points in Upshur County, Tex., to points in Connecticut, Delaware, Maryland, Michigan, Minnesota, New Jersey, New York, New Hampshire, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, Wisconsin, Massachusetts, Indiana, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 116273 (Sub-No. 160), filed December 18, 1972. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Applicant's representative: Robert G. Paluch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid coloring agents*, in bulk, in tank vehicles, from the plantsite of Inca Inks, Inc., located at or near Northbrook, Ill., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Louisiana, Arkansas, Iowa, Colorado, Tennessee, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, West Virginia, Delaware, New Jersey, New York, Connecticut, Vermont, New Hampshire, Massachusetts, Rhode Island, and Maine. Restriction: Restricted to traffic originating at the named origin and destined to the named destination States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 116856 (Sub-No. 3), filed November 29, 1972. Applicant: DON G. BREWER, doing business as: JACKSON-VICTOR EXPRESS, 601 West Norwood Street, Jackson, WY 83001. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Jackson, Wyo., and Victor, Idaho: from Jackson over Wyoming Highway 22 to junction Idaho Highway 33, thence over Idaho Highway 33 to Victor, Idaho, and return over the same route, serving intermediate and off-route points in Teton County, Wyo. NOTE: The purpose of this application is to convert applicant's present irregular route authority in No. MC 116856 to regular route authority, therefore duplicating authority may be involved. If a hearing is

deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 117344 (Sub-No. 222) (correction), filed November 16, 1972, published in the FEDERAL REGISTER issue of December 28, 1972, and republished in part, as corrected, this issue. Applicant: THE MAXWELL CO., a corporation, 10380 Evendale Drive, Cincinnati, OH 45215. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, OH 43215. NOTE: The purpose of this partial republication is to correct the commodity description to read, *Corn products and blends thereof*, in bulk, in lieu of corn producs, in bulk. The rest of the application remains as previously published.

No. MC 117384 (Sub-No. 4), filed December 14, 1972. Applicant: PAUL E. DAVIDSON, MAHLON E. DAVIDSON AND HAROLD DAVIDSON, JR., a partnership doing business as DAVIDSON BROTHERS, Rural Delivery No. 3, Bellefonte, Pa. 16823. Applicant's representative: Robert M. Sielaty, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from points in Centre and Clearfield Counties, Pa., to points in New York. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 117799 (Sub-No. 45), filed December 13, 1972. Applicant: BEST WAY FROZEN EXPRESS, INC., Room 205, 3033 Excelsior Boulevard, Minneapolis, MN 55416. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural fermentation compounds* and *ingredients* thereof; (2) *fertilizers* and *ingredients* thereof; (3) *animal minerals and vitamins*; (4) *supplies, signs and advertising materials* used in the sale of (1), (2), and (3) above, (5) *commodities* the transportation of which are within the partial exemption of section 203(b)(6) of the Interstate Commerce Act (except commodities in bulk), from points in Lyon County, Nev., to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that tacking would be possible with applicant's MC-117799 Sub 15 at Salinas, Calif., however, such joinder would be impractical. Also this application seeks territory duplicating that granted in Sub 15 but applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 117815 (Sub-No. 200), filed December 7, 1972. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, animal, fish or poultry* from Chicago, Ill., to points in Iowa and Omaha, Nebr., restricted to traffic originating at the named origin. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 119489 (Sub-No. 29), filed December 8, 1972. Applicant: PAUL ABLER, doing business as CENTRAL TRANSPORT COMPANY, Post Office Box 249, Norfolk, NE 68701. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer materials and ammonium nitrate*, from Farmland Industries, Inc., plant or warehouse located at or near Hastings, Nebr., to points in Colorado, Kansas, South Dakota, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr., or Chicago, Ill.

No. MC 119777 (Sub-No. 247), filed December 4, 1972. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Box L, Madisonville, KY 42431. Applicant's representative: Louis J. Amato (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic conduit, pipe, and tubing and fittings for plastic conduit, pipe and tubing, and accessories and supplies therefore*, from the plantsite of Tex-Tube Division, Detroit Steel Corp., at Houston, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant also holds contract carrier authority under MC 126970 and subs, therefore dual operations and common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 119789 (Sub-No. 138), filed December 4, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188 (1612 East Irving Boulevard), Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr., Post Office Box 6188, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs in containers*, from Avery Island, La., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Iberia, La., or Dallas, Tex.

No. MC 119988 (Sub-No. 54), filed December 8, 1972. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, Post Office Box 1384, Lufkin, TX 75901. Applicant's representative: Mert Starnes, Post Office Box 2207, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from points in West Feliciana Parish, La., to Oklahoma City, Okla. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., Dallas or Houston, Tex.

No. MC 123392 (Sub-No. 48), filed December 11, 1972. Applicant: JACK B. KELLEY, INC., U.S. 66 West at Kelley Drive (Route 1, Box 444), Amarillo, Tex. 79106. Applicant's representative: Otis Miller, Post Office Box 2330, Amarillo, TX 79105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous hydrogen chloride*, in bulk, in tube trailers, from Wichita, Kans., to points in California and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deeemed necessary, applicant requests it be held at Amarillo, Tex., Oklahoma City, Okla., or Dallas, Tex.

No. MC 123407 (Sub-No. 112), filed December 4, 1972. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, building materials and materials and accessories* used in the installation thereof, (1) from Dubuque, Iowa to points in Colorado, Connecticut, Delaware, Florida, Georgia, Iowa, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Rhode Island, South Carolina, Texas, Vermont, Virginia, West Virginia, and the District of Columbia; and (2) from L'Anse, Mich., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia,

Wyoming, Milwaukee, Wis., and points on and east of U.S. Highway 41 in Wisconsin, Chicago, Ill., Indianapolis, Ind., and the District of Columbia. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 126555 (Sub-No. 19), filed November 24, 1972. Applicant: UNIVERSAL TRANSPORT, INC., Box 268, Rapid City, SD 57701. Applicant's representatives: Truman A. Stockton, Jr., and John H. Lewis, The 1650 Grant Street Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone products*, including *cement*, from Rapid City, S. Dak., to points in North Dakota, Idaho, Utah, Minnesota, and Iowa. NOTE: Common control may be involved. Applicant states that this instant application is being filed to partially eliminate the Colorado gateway to Utah, which applicant must now observe by tacking Sub 1 and Sub 8, and eliminating the Adams County, N. Dak., gateway, which authority was purchased from A. Muck (MC-F-10745) still pending. If a hearing is deemed necessary, applicant requests it be held at Rapid City, S. Dak.

No. MC 127196 (Sub-No. 13), filed December 14, 1972. Applicant: KLINE TRUCKING, INC., Rural Delivery No. 1, Millville, Pa. 17846. Applicant's representatives: S. Berne Smith and Robert H. Griswold, 100 Pine Street (Post Office Box 1166), Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Artificial Christmas trees, component parts of artificial Christmas trees, and Christmas tree stands*, between points in Clinton, Luzerne, Lycoming, and Philadelphia Counties, Pa., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129529 (Sub-No. 3), filed December 7, 1972. Applicant: ADOLPH L. MARCHFELD, doing business as: THRUWAY MESSENGER SERVICE, Post Office Box 11, Pearl River, NY 10965. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machines, materials, equipment, and supplies*, used by or useful in the manufacture or sale of copying machines (except commodities in bulk), in shipments moving from one consignor to one consignee, in specialized delivery service to be completed within 24 hours, between the plantsite of Xerox Corp., Blauvelt, N.Y., on the one hand, and, on the other, points in Nassau, Suffolk Counties, N.Y.; New York, N.Y., and points in New Jersey and Connecticut. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 133529 (Sub-No. 8), filed December 12, 1972. Applicant: PIEDMONT PETROLEUM PRODUCTS, INC., Post Office Box 7574, Chesapeake, VA 23324. Applicant's representative: Chandler L. van Orman, 704 Southern Building, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board and particleboard*, from Norfolk, Va. and points within 35 miles thereof, to Washington, D.C.; New York, N.Y.; points in Virginia, Maryland, and Delaware; those points in that part of Pennsylvania on and east of U.S. Highway 11; those points in that part of New Jersey on and within 15 miles west of U.S. Highway 1; and those points in that part of New Jersey east of U.S. Highway 1. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 13469 (Sub-No. 4), filed December 15, 1972. Applicant: CARLSON TRANSPORT, INC., a corporation, Post Office Box R, Byron, IL 61010. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and sand with additives*, in bulk, from points in Ogle County, Ill., to points and places in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, West Virginia, and Wisconsin. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135007 (Sub-No. 26), filed December 18, 1972. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 681727. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C to Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles) from the plantsite and storage facilities utilized by Spencer Foods, Inc., at or near Schuyler and Fremont, Nebr., to points in Alabama, Georgia, and Florida. Restricted to traffic destined to the above-named States or via any combination in the above States for stopping in transit for partial unloading—under a continuing contract with Spencer Foods, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 135739 (Sub-No. 1), filed December 15, 1972. Applicant: JOHN J. CLARK, doing business as DOUBLE J. MACHINERY TRANSPORT, Route 2, Napoleon, Ohio 43545. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machinery*, the transportation of which because of size or weight requires the use of special equipment, between Chicago, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with Rousselle Corporation of Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 136291 (Sub-No. 3), filed December 11, 1972. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 2701 South Bayshore Drive, Miami, FL 33133. Applicant's representative: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts and accessories, and related publications, advertising material, packaging and shipping supplies*, (1) between the Newark Airport at Newark, N.J., on the one hand, and, on the other, Teterboro Airport and the Ford Parts Distribution Center at Teterboro, N.J., and (2) between the Newark Airport at Newark, N.J., on the one hand, and, on the other, Natick, Mass., and Pennsauken, N.J., under continuing contract, or contracts, with Ford Marketing Corp., Ford Parts Division. NOTE: Dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136851 (Sub-No. 1), filed December 14, 1972. Applicant: LYLE HOENER, doing business as HOENER TRUCKING, Rural Route No. 1, Box 81, Astoria, IL 61501. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen breaded onion rings and frozen pork tenderloins*, in mechanically refrigerated vehicles, from Macomb, Ill., to points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, and Wisconsin, under contract

with Chef Edwards Foods. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., St. Louis, Mo., or Springfield, Ill.

No. MC 138078 (Sub-No. 2), filed November 22, 1972. Applicant: M K TRANSPORT, INC., Post Office Box 2762, Idaho Falls, ID 83401. Applicant's representative: Frank L. Sigloh, Post Office Box 7651, Boise, ID 83707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products* including plywood and built-up woods, from points in Kootenai, Benewah, Latah, Nez Perce, Lewis, Clearwater, Idaho, and Lemhi Counties, Idaho, and Darby and Missoula, Mont., to points in Colorado. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 138277, filed November 27, 1972. Applicant: GEER TRUCKING COMPANY, INC., Post Office Box 11993, Tampa, FL 33610. Applicant's representative: Clayton Geer, Sr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, paving, and building materials* (except commodities in bulk), from Wayne County, N.C., to points in the United States in and east of Texas, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Tampa, Fla.

APPLICATION FOR FREIGHT FORWARDER

No. FF–433 (PRIORITY AIR FREIGHT, INC., freight forwarder application), filed January 15, 1973. Applicant: PRIORITY AIR FREIGHT, INC., 1620 Route 22, Union, NJ 07083. Applicant's representative: J. Raymond Clark, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to institute operation as a freight forwarder, in interstate or foreign commerce, through the use of the facilities of common carriers by railroad, express, water and motor vehicle in the transportation of: *General commodities*, between points in the United States (including Alaska and Hawaii), restricted to shipments having a prior or subsequent movement by air.

MOTOR CARRIERS OF PASSENGERS

No. MC 39416 (Sub-No. 5), filed November 24, 1972. Applicant: THE GRAY LINE COMPANY, a corporation, 628 Northwest Sixth Avenue, Portland, OR 97209. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage;* (1) In round trip charter operations beginning and ending at points in Oregon and points in Asotin, Walla Walla, Benton, Klickitat, Clark, Cowlitz, Wahkiakum, Pacific, Skamania, Franklin, Columbia, and Garfield Counties, Wash., and extending to points in the United States (including Alaska, but excluding Hawaii); (2) In round trip sightseeing and pleasure tours, in special operations, beginning and ending at points in Oregon and points in Asotin, Walla Walla, Benton, Klickitat, Clark, Cowlitz, Wahkiakum, Pacific, Skamania, Franklin, Columbia, and Garfield Counties, Wash., and extending to points in the United States (including Alaska, but excluding Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 61598 (Sub-No. 51), filed December 29, 1972. Applicant: SMOKY MOUNTAIN STAGES, INCORPORATED, 417 West Fifth Street, Charlotte, NC 28201. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations in round trip sightseeing or pleasure tours, beginning and ending at points in Banks, Barrow, Cherokee, Cobb, Columbia, Dawson, Dekalb, Elbert, Fanning, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hart, Jackson, Lincoln, Lumpkin, Pickens, Rabun, Towns, Union, White, and Wilkes Counties, Ga., and extending to points in the United States (including Alaska, but excluding Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

APPLICATION IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 68860 (Sub-No. 16) (Correction), filed October 6, 1972, published FEDERAL REGISTER, issue of October 19, 1972 and republished as corrected this issue. Applicant: RUSSELL TRANSFER, INCORPORATED, 444 Glenmore Drive, Salem, VA 24153. Applicant's representative: Robert G. Perry, 1701 Charleston National Plaza, Charleston, WV. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles of iron steel manufacture* as defined by the Commission, between Roanoke and Troutville, Va., on the one hand, and, on the other, points in Maryland, New Jersey, North Carolina, Pennsylvania, South Carolina, West Virginia, and the District of Columbia, restricted against tacking with applicant's other existing authority. NOTE: The purpose of this republication is to correct the tacking information.

By the Commission.

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

[FR Doc.73–1862 Filed 1–31–73;8:45 am]

FEDERAL REGISTER PAGES AND DATES—FEBRUARY

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federal register

THURSDAY, FEBRUARY 1, 1973
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Volume 38 ■ Number 21

PART II

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

PILOT AND FLIGHT INSTRUCTOR CERTIFICATES AND RATINGS AND CHECK REQUIREMENTS FOR PILOTS-IN-COMMAND

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Dockets Nos. 11802, 10916, Amdt. 61-60, 91-111]

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

PART 91—GENERAL OPERATING AND FLIGHT RULES

Miscellaneous Amendments

The purpose of these amendments to Parts 61 and 91 of the Federal Aviation Regulations is to revise the standards for issuing pilot and flight instructor certificates and ratings and to adopt recent experience and proficiency check requirements for pilots in command. However, no substantive changes are made by this revision to present Subpart E of Part 61 which contains the requirements for airline transport pilot certificates.

Interested persons have been afforded the opportunity to participate in the making of the regulations in this amendment by a notice of proposed rule making issued as Notice 71-8 published in the FEDERAL REGISTER on March 18, 1971 (36 FR 5247), supplemented by a second Notice 71-8A published in the FEDERAL REGISTER on June 22, 1971 (36 FR 11865), and a notice of proposed rule making issued as Notice 72-9 on March 16, 1972 (37 FR 6012). Approximately 1,800 comments were received from individuals, aeronautical associations, and Government agencies in response to these notices. Based upon the public comments received in response to the notices and upon review within the FAA, a number of changes have been made to the proposed rules. Except for minor editorial changes and except as specifically discussed hereinafter, these amendments and the reasons therefor are the same as those contained in Notices 71-8, 71-8A, and 72-9.

Notices 71-8 and 71-8A. Notices 71-8 and 71-8A proposed, among other things, new recent experience requirements for pilots in command. As proposed in Notices 71-8 and 71-8A no person could act as a pilot in command of an aircraft carrying passengers or of an aircraft certificated for more than one required pilot flight crewmember unless, within the preceding 90 days, he had made at least five takeoffs and five landings to a full stop in an aircraft of the same category, class, and type. Subsequent to the issuance of Notices 71-8 and 71-8A, the FAA issued Notice 72-9 which, among other things, also proposed pilot in command recent experience requirements. Under Notice 72-9, the recent experience requirements stated that no person may act as pilot in command of an aircraft carrying passengers unless within the preceding 90 days he had made three takeoffs and three landings as sole manipulator of the controls of an aircraft of the same category, class, and type.

The preamble to Notice 72-9, noted this difference and stated that any final rule would require only three takeoffs and three landings as part of the recent experience requirements. The comments received in response to Notices 71-8 and 71-8A generally favored the proposed recent experience requirements, while the comments received in response to Notice 72-9 questioned the reduction to three takeoffs and three landings. However, the FAA considers that three takeoffs and three landings are adequate when considered in conjunction with the more stringent recent experience requirements being adopted in this revision to Part 61 based on Notice 72-9. Therefore, with the exception of the requirement for five takeoffs and five landings the recent experience requirements proposed in Notices 71-8 and 71-8A as § 61.47 have been incorporated into paragraph (c) of the recent experience requirements proposed in Notice 72-9. The recent experience requirements have been renumbered as § 61.57.

Many of the more than 200 comments received in response to Notices 71-8 and 71-8A objected to the proposed requirement for an annual pilot in command proficiency check as being too stringent or unnecessary. In this regard, the FAA believes that it is necessary in the interest of safety for pilots in command of civil aircraft type certificated for more than one required pilot crewmember to have a proficiency check on a 12-month recurring basis. However, based on the comments received in response to Notices 71-8 and 71-8A and after further consideration within the FAA, this proposal has been changed and § 61.58 now allows the proficiency check in alternating 12-month periods to be accomplished in an aircraft of the same category and class, rather than of the same type, provided that the aircraft is type certificated for more than one required pilot crewmember. Moreover, when the check is for proficiency in an airplane, the entire check may, at the option of the pilot, be accomplished either in an airplane or, in an appropriate simulator or other training device. Thus, under § 61.58(b)(1) in alternating 12-month periods the proficiency or flight check need not consist of those maneuvers and procedures required for a type rating in the airplane but, only those maneuvers and procedures which may be performed in a simulator or other training device as set forth in Appendix F of Part 121. The FAA has long recognized the value of airplane simulators and other training devices for use in proficiency checks and in class and type ratings and has over the years continued to provide for a more extensive use of these simulators and training devices as technological advances are made in their construction and use. The maneuvers and procedures permitted to be performed in an airplane simulator or training device are those that primarily involve operations in terminal areas. Since these maneuvers and procedures are among the more complex of the required maneuvers and procedures, the FAA considers that the accomplishment of these in a simulator or training device would provide an adequate check of a pilot's proficiency in alternating 12-month periods. On the other hand, the same proficiency check in each 24-month period would still have to be performed in an airplane of the particular type in which the person being checked is to serve as pilot in command and would include the maneuvers, procedures, and standards required for the original issuance of a type rating for the aircraft used in the check.

Some concern has been expressed that by referencing the maneuvers and procedures as authorized in Appendix F of Part 121 of the Federal Aviation Regulations the proposed regulation would require persons obtaining proficiency checks in accordance with Part 61 to meet the same simulator requirements specified in Appendix F for pilot proficiency checks under Part 121. This is not intended. The reference to Appendix F of Part 121 is only for the purpose of outlining the scope of the proficiency check and not for the purpose of defining the particular simulator or training device which must be used in accomplishing that check. The FAA considers that for the purpose of the pilot in command proficiency checks required in accordance with Notices 71-8 and 71-8A, many of the referenced maneuvers and procedures can be performed satisfactorily in either a visual or a nonvisual simulator and an adequate check of those maneuvers and procedures can be accomplished in either simulator. On the other hand, the FAA recognizes that because of the limitations of a nonvisual simulator certain of the referenced maneuvers and procedures can only be performed satisfactorily and an adequate check of those maneuvers and procedures can be accomplished only in a visual simulator. Because of its limitations a nonvisual simulator could not be approved for such maneuvers or procedures. The final regulation has been clarified in accordance with the foregoing. As adopted, § 61.58 makes it clear that the reference to Appendix F of Part 121 is merely to establish the particular maneuvers and procedures which may be performed in simulators or other training device and that the simulator or training device used can be any simulator or training device approved for the particular maneuver or procedure. For the benefit of those persons covered by the proposed requirement, the FAA plans to publish an advisory circular listing those maneuvers and procedures which can be satisfactorily accomplished in either a visual or a nonvisual simulator. As Notice 71-8A stated Advisory Circular 121-14 already contains an acceptable means for approval of airplane simulators and training devices.

The option of using simulators and training devices for the entire proficiency check has been limited to airplanes since simulators and training devices having the same capability as those for airplanes are not yet available for other aircraft. The FAA considers that, for the present, an adequate proficiency check with respect to other aircraft can be accomplished only in those aircraft.

Numerous comments expressed concern about the additional manpower that will be required to implement § 61.58.

The FAA is aware of this problem, and intends to designate additional pilot examiners for the purpose of performing the required checks.

For consistency with the revision to Part 61 proposed in Notice 72–9, the requirement for a pilot in command proficiency check, changed as discussed above, is adopted herein as new § 61.58.

The qualification requirements for pilots serving as second in command as proposed in Notices 71–8 and 71–8A have been withdrawn. Second in command qualification requirements for large airplanes and turbojet-powered multiengine airplanes type certificated for more than one required pilot flight crewmember were added to Part 61 by Amendment 61–59 published in the FEDERAL REGISTER on July 25, 1972 (37 FR 14758), as new § 61.46. Since the applicability of the new § 61.46 provides the aircraft coverage that the FAA considers necessary at this time, there is no longer a need for the second in command requirements proposed in Notices 71–8 and 71–8A. For consistency with the revision to Part 61 as proposed in Notice 72–9, the qualifications currently set forth in § 61.46 have been incorporated into that revision without change and renumbered as § 61.55.

Finally, the limitations on private pilots acting as second in command as proposed in Notice 71–8A have been adopted as proposed and are incorporated into the revised Part 61 as new § 61.120. Moreover, as proposed in Notice 71–8A, Part 91 has been amended by adding a new § 91.4 implementing the new pilot in command proficiency check requirements.

Notice 72–9. At the outset it should be noted that this revision introduces a new total operational training concept. As stated in Notice 72–9, the keystone of this concept is the instructor who assumes full responsibility for all phases of the required training. Under this new training concept, all of the various procedures and maneuvers now listed under the aeronautical skill requirements for the various types of pilot certificates and ratings are eliminated. That listing is replaced by pilot proficiency provisions which prescribe an outline of the areas of pilot operation in which flight instruction is necessary. However, an authorized instructor who has given a pilot flight instruction is required to find that the pilot is able to perform the pilot operations competently in order to become eligible for the prescribed flight test. In recognition of this type of instruction this revision requires the applicant to pass a practical test only on those procedures and maneuvers selected by the FAA inspector or designated examiner giving the test. The particular procedures and maneuvers that may be selected by the person giving the test are listed in Advisory Circular 61–21.

Section 61.15 concerning offenses involving narcotic drugs, marihuana and depressant or stimulant drugs or substances which proposed to amend § 61.6 of the current regulations has not been adopted as proposed. Subsequent to the issuance of Notice 72–9, the FAA issued Notice 72–16 (37 FR 13189), which proposed additional changes to further expand the present provisions of § 61.6. Therefore, the current provisions of § 61.6 are retained in the new § 61.15 pending final regulatory action on Notice 72–16.

Proposed §§ 61.3(e)(3) and 61.5 have been changed to delete the reference to a "glider cloud-flying rating." The notice proposing such a rating was withdrawn on July 10, 1972 (37 FR 14239, July 18, 1972). In addition, proposed § 61.3(e)(3) has been corrected consistent with the current rule to continue to authorize a person holding an airline transport pilot certificate to act as pilot in command of a glider under instrument flight rules or in weather conditions less than the minimums prescribed for VFR flight.

The reference to a "gold seal flight instructor certificate" has also been deleted from proposed § 61.5. The proposal to create a gold seal flight instructor certificate has been withdrawn for the reason set forth in the discussion concerning proposed § 61.189. In addition, § 61.5 has been changed to make it clear that the flight instructor airplane class ratings apply to both land and sea airplanes.

It should be noted that, as proposed, the final amendment to § 61.19 provides that a flight instructor certificate is effective only while the holder has a current medical certificate as well as a current pilot certificate.

Section 61.31(a)(4) requires a type rating for those aircraft specified by the Administrator through aircraft type certificate procedures as requiring a type rating. One comment questioned the need for this requirement in the light of the current aircraft market. However, the FAA is aware of a potential problem in this regard and anticipates that there may be other aircraft produced in the future which do not fit under the listed categories and classes, but for which a type rating may be required during the type certification procedures.

Proposed § 61.31(e) has been revised to make it clear that a pilot need not have received flight instruction in each "high performance" airplane in which he wishes to act as pilot in command but in only one such airplane.

One commentator recommended that the 200-horsepower limitation in paragraph (e) of § 61.31 be raised to 250 horsepower. The FAA does not agree. The greatest difference in terms of complexity of systems, control characteristics, and performance occurs between airplanes of more than 200 horsepower and those of 200 horsepower or less. Thus, it is necessary for pilots who have not logged flight time in the higher performance airplanes, to obtain flight instruction in such airplanes prior to acting as pilot in command.

There were numerous comments received objecting to the proposed §§ 61.35, 61.65, 61.105, and 61.125 concerning the requirements for ground instruction as a prerequisite for the various written tests. The comments pointed out that by requiring that the applicant's logbook be endorsed by an authorized instructor concerning his aeronautical knowledge, the FAA was not recognizing the numerous ground school courses offered by many qualified schools that are not certificated by the FAA and that may or may not employ authorized instructors. The intent of the proposed §§ 61.35, 61.65, 61.105, and 61.125 is to assure that prior to taking a written test, the applicant for a pilot certificate or rating has satisfactorily completed instruction or home study in the areas of aeronautical knowledge required for the certificate or rating sought. In the light of the public comments and after further consideration within the FAA, it does not now appear necessary to require that the instruction or home study be given or reviewed by an authorized instructor. It is sufficient for the purpose of these regulations if the applicant can show that he has satisfactorily completed a course of instruction or a home study course in the required areas or that he has received ground instruction in those areas from an authorized instructor. Therefore, the proposed requirements of §§ 61.35, 61.65, 61.105, and 61.125 have been revised accordingly. As adopted, these regulations recognize that it is the responsibility of the pilot applicant to qualify himself in the specified areas of aeronautical knowledge. However, it should be borne in mind that §§ 61.35, 61.65, 61.105, and 61.125 involve only the preparation for the required written test and that each applicant must still take and pass that test.

Several comments objected to the proposals on the grounds that the regulations do not list those home study courses that are acceptable to the Administrator. In this regard, the FAA considers that any home study course covering the specified areas of aeronautical knowledge is acceptable. The FAA is aware that there are a number of reliable commercial aviation home study courses available to pilot applicants and that there are publications issued by the Government covering the various areas of aeronautical knowledge.

For many years, the airline transport pilot (ATP) written and flight tests have been given to applicants as they complete their courses, even though they have not yet reached age 23, the age for the issuance of the airline transport pilot certificate. However, the issuance of the certificate is withheld until the applicant reaches age 23. Unlike applicants for other pilot certificates, applicants for an airline transport pilot certificate have already reached their 18th birthday and have a commercial pilot certificate or the equivalent. They are, therefore, somewhat seasoned pilots and there appears to be no reason why they should have to wait until their 23d birthday to take the tests. They have, therefore, been excepted from the age limitations in proposed § 61.39(a)(4).

For the purpose of clarification, the word "duration" in § 61.51(b)(1) has been deleted and in its place the term "total time of flight" has been added. While this is not intended to change the meaning of the proposal, comments received in response to this provision indicate that for many persons the term "total time of flight" has more meaning

than the word "duration" when used in connection with logbook entries.

Probably the most controversial proposal, contained in Notice 72–9, was the biennial flight review (proposed § 61.55). While most of the comments objected to some aspect of this proposal, many comments endorsed it. Moreover, a number of the comments objecting to the proposal appear to have been based somewhat on a misunderstanding of the intent of the rule. The reasons most often given by persons objecting to the biennial flight review were (1) the proposal would not affect the most common causes of serious accidents, which were listed as poor judgment, alcohol, and inadvertent involvement in bad weather; (2) no standard is prescribed for the instructor who conducts the flight review, which might result in a highly qualified experienced pilot having to obtain a check from a relatively novice instructor who is not even qualified in the aircraft he operates; and (3) no limit is put on the amount of time which the instructor can require for his flight review.

The proposed biennial flight review is based on recommendation No. 1 in the report on General Aviation Safety prepared by the Assistant Secretary for Safety and Consumer Affairs, OST. As pointed out in that report "a requirement for a flight review would assure that every pilot would have a qualified individual comment on his competency at least once every 2 years." The FAA agrees that the requirement for a flight review is a necessary step to assure the current qualifications of pilots. This need for the proposed requirement exists even though the proposal is not primarily directed at problems related to poor judgment, alcohol or the inadvertent involvement in weather. However, the FAA does not agree that a periodic flight review would have no beneficial effect on the problem areas enumerated by the commentators. The flight review will give the certificated flight instructor or other person giving the review the opportunity to evaluate the piloting ability of the pilot taking the review and to comment on any problems detected during that review. It is expected that the average pilot will take whatever steps are necessary to correct any problems uncovered by the flight review.

The proposal required that the biennial flight review be given by an authorized instructor or other person designated by the Administrator. Contrary to the comments, and as pointed out in the preamble to the notice, the qualifications for an authorized instructor are identified under the provisions of §§ 61.195 and 61.197. Moreover, any other person designated by the Administrator would necessarily be a pilot examiner, instrument rating examiner, or airline transport pilot examiner as provided in Part 183 of the Federal Aviation Regulations. Thus, in all cases, the person authorized or designated would have to be qualified in the aircraft in which the flight review is being given. Finally, while under the proposed regulation a person authorized or designated to give flight reviews could be less experienced than some of the pilots required to take a review, this need not result in any pilot taking a review from a less experienced pilot. Under the proposed regulation each pilot is free to select the person he wants to give him that review.

With respect to the third general comment, the proposal did not specify the amount of time required for a flight review nor did it specify the particular items or maneuvers to be reviewed. As the notice pointed out, it is intended to leave these matters to the discretion of the person giving the flight review. Since the flight review is given to determine each pilot's general overall piloting ability, the time required for a flight review will vary from pilot to pilot. For the same reason, the FAA has not attempted to assign arbitrary time frames for completion of the flight and proficiency check required under other parts of the regulations. However, even though the particular maneuvers and items to be reviewed are left to the discretion of the person giving the review, it does appear appropriate to include in the rule the scope of the review as outlined in the preamble to Notice 72–9. Thus, as adopted, the rule describes the flight review as consisting of a review of the current general operating and flight rules of Part 91 of the Federal Aviation Regulations and a review of those maneuvers and procedures which are necessary for the pilot to demonstrate that he can safely exercise the privileges of his pilot certificate.

A number of comments contained the opinion that the proposed biennial review is really a flight check. This misunderstanding is apparently based on the statement in the proposal that the person giving the review must endorse the pilot's logbook, certifying that he is competent to exercise the privileges of his pilot certificate in addition to certifying that he has accomplished the flight review. The FAA does not intend the flight review to be a flight or proficiency check. As has been previously stated, the purpose of the flight review is to make sure that at least once every 2 years each pilot rides with a competent person who can comment on his piloting ability and review with him the current regulations and operating practices. As the proposal stated, a person who within the 2-year period has taken a proficiency check required by the Federal Aviation Regulations, does not have to take a flight review. On the other hand, a flight review is not a substitute for a required proficiency or flight check. All that is really needed for the purpose of the biennial review is that each pilot successfully accomplish the review. Therefore, to allay the fears of many commentators, and to make it clear that the flight review is not a flight check, the proposal has been changed by deleting the requirement for an endorsement as to a pilot's competency to exercise the privileges of his certificate. As adopted, the person giving the flight review need only certify that the pilot has successfully accomplished the review.

A number of comments recommended that a minimum piloting activity within the preceding year be accepted in lieu of the flight review. Some comments stated that either the flight review or the minimum piloting activity were adequate but that both requirements, as proposed, would be unreasonable and out of the financial reach of many pilots.

With respect to the recommendation that a minimum piloting activity be accepted in lieu of a flight review, the FAA does not agree. For those pilots who have flown for years with the same bad habits or poor techniques and procedures, the minimum piloting activity is no substitute for the proposed flight review. However, in response to the comments objecting to both a flight review and a requirement for a minimum number of hours of pilot time within the preceding 12 months as set forth in proposed § 61.55(c)(2), the FAA considers that the latter requirement is unnecessary and it has been withdrawn.

One commenator objected to the deletion of the current requirement that the three takeoffs and landings within the preceding 90 days must be in an aircraft of the same type as the aircraft in which passengers are to be carried. However, the FAA considers that the takeoffs and landings need be in an aircraft of the same type as the aircraft in which passengers are to be carried only when a type rating is required for that aircraft. The proposal made this clear and has been adopted without change.

Finally, as proposed, the regulation stated that those persons who had satisfactorily completed a proficiency check required by the Federal Aviation Regulations need not take the flight review. After further consideration, the FAA considers it appropriate to also give recognition to the pilot proficiency checks given by approved pilot check airmen and by the U.S. Armed Forces even though not required under the Federal Aviation Regulations. The proposal has been revised accordingly.

The proposed change in § 61.63(d)(4) of Notice 72–9 has been withdrawn. Based on a number of comments and after further consideration within the FAA, it has been determined that the present limitation of "VFR only" for type ratings issued to applicants who have not demonstrated IFR competence on their type rating tests should be retained. Moreover, the FAA now believes that the limitation issued to those applicants who have not demonstrated IFR competence on their type rating should apply to all aircraft as the current rule requires and not just to airplanes as proposed in Notice 72–9.

Section 61.65 has further been revised to permit the use of a pilot ground trainer equipped for instrument instruction in ADF approach procedures as well as ILS approach procedures. Many comments indicate that the proposal to require flight instruction in an ADF equipped training aircraft creates a real hardship, particularly when approved ADF approaches are not available at many locations. The FAA agrees and the proposal has been changed to remove this unnecessary burden.

Paragraph (e)(1) of § 61.65 has been revised to require that an applicant for an instrument rating have a total of 200 hours of pilot flight time rather than to require, as proposed, that the applicant must have the total pilot time required for the issue of a commercial pilot certificate or to qualify for a commercial pilot certificate. Since the flight time required for issue of a commercial pilot certificate has been increased by this revision, proposed § 61.65(e)(1) represents an increase in flight time required of a private pilot applicant for an instrument rating. Based on comments received in response to this provision and after further consideration, it is not considered necessary to require this additional time of private pilots. The FAA considers that the current requirement is adequate and the final amendment continues in effect the requirement for a total of 200 hours pilot flight time.

The purpose of proposed § 61.67 was to combine all of the requirements concerning Category II pilot authorizations, now contained in §§ 61.36 and 61.37A, into one section. However, as proposed, the current provisions of paragraph (a) of § 61.37A were inadvertently omitted. As proposed, paragraph (c) of § 61.67 contained the eligibility requirements for the practical test but did not specify the persons who are required to pass that test. As adopted, paragraph (c) has been corrected and § 61.67 contains all of the current requirements applicable to Category II pilot authorizations.

For consistency with the proposed change to § 61.65(e), the second sentence of § 61.71 has been revised to reference § 61.65(e)(1) in addition to § 61.123.

As proposed, § 61.73(e)(2) would have required that an applicant for a private or commercial pilot certificate with an airplane type rating have that certificate endorsed "not valid for the carriage of passengers or property for hire in airplanes on cross-country flights of more than 50 nautical miles, or at night" if the applicant did not hold an instrument rating and present evidence showing that he had demonstrated instrument competency in the type of airplane for which the type rating is sought. This is an unnecessary requirement. Paragraph (e)(1) already requires that same endorsement if the applicant for a category rating does not hold an instrument rating. The purpose of paragraph (e)(2) is to make sure that an applicant for a type rating who holds an instrument rating presents evidence that he has demonstrated his instrument competency in the type of airplane for which the type rating is sought. If not, then his type rating should be limited to VFR only. This requirement is similar to the requirement set forth in § 61.31 of the present Part 61. Paragraph (e)(2) of § 61.73 has been changed in accordance with the foregoing.

Paragraph (d) of § 61.87 has been revised to combine proposed paragraphs (1) and (2). Numerous commentators pointed out the redundancy between paragraphs (1) and (2) of paragraph (d), and this revision merely corrects that situation.

Proposed § 61.89, as adopted herein, contains the current prohibition against a student pilot acting as pilot in command of an aircraft "in furtherance of a business." The comments make a good case for continuing this prohibition. It was pointed out that without it a student may be motivated to start or attempt to complete flights when conditions make it inadvisable for him to do so.

The reference to a 2-hour dual flight in proposed § 61.107(a)(7) has created some confusion. Since all of the instruction in cross-country flying referred to in paragraph (a)(7), including the required 2-hour flight on and off Federal airways, must be logged as instruction from an authorized flight instructor, there is no need to refer to the 2-hour flight as dual flight.

Paragraph (b)(5) of § 61.107 has been revised to make it clear that while an applicant for a private pilot certificate must have instruction in high altitude takeoffs, roll-on landings and rapid decelerations, these are not considered as emergency operations. A new paragraph (b)(6) has been added to cover emergency operations, including autorotative descents.

Paragraph (d) has been corrected to add "preflight operations, including line inspection" to the list of pilot operations in which an applicant for a glider pilot certificate must have received instruction. These operations are included in the proficiency requirements for the other categories of aircraft and were inadvertently omitted here.

Numerous comments were received concerning the requirement for night flight for private pilot applicants under paragraph (a)(2) of § 61.109 and solo night flight under paragraph (b)(4). The comments point out the inherent hazards of single-engine night flight, the difficulties involved in compliance by seaplane operators, and the insurance problems of operators who permit student solo night flights. Upon further consideration in the light of these comments, the FAA considers that the proposed 3 hours of night instruction, including 10 takeoffs and landings should be required only for those applicants seeking night flying privileges. In consideration of this change, a new provision has been added to paragraph (a) providing for the issuance of a private pilot certificate with the limitation "night flying prohibited," to those applicants who do not meet the night flying requirements. The provision would also provide for removal of that limitation when the night flying requirements have been met. In addition, the requirement for 1 hour of solo night flight has been deleted.

Several commentators questioned the proposed increase in the number of hours of cross-country flights required as aeronautical experience for a private pilot applicant. The comments pointed out that 15 out of the total of 40 hours required aeronautical experience is a very high percentage for solo cross-country practice. The FAA agrees and § 61.109 has been revised to continue in effect the current requirement for 10 hours of cross-country. This will provide adequate training in view of the new requirement for cross-country flight instruction.

One comment recommended that the requirement for a cross-country flight with landings at three points, each of which is more than 100 nautical miles from each of the other two points, be replaced with a requirement for three 100-mile cross country flights. The FAA does not agree. Such a requirement would result in flights to a destination merely 50 nautical miles from the applicant's home base. This is not an adequate substitute for the cross-country flight set forth in the proposal.

Part 61 currently contains no provisions for a free balloon rating for a private pilot certificate. The proposed requirements in § 61.117 applicable to a free balloon rating are new. However, as proposed, the aeronautical experience required for a free balloon rating are primarily applicable to a gas balloon or a hot air balloon with an airborne heater. The only requirements applicable to a hot air balloon without an airborne heater is the requirement for six flights under the supervision of a commercial balloon pilot and the requirement for one solo flight. Therefore, to clearly set forth those proposed requirements applicable to free balloons without airborne heaters, they have been placed in a separate paragraph in § 61.117.

While the proposed revision contained appropriate requirements for free balloon ratings, through an apparent oversight, it did not include the limitations appropriate to such a rating. In this connection, an applicant for a private pilot certificate with free balloon rating who takes the flight test in a free balloon without an airborne heater must, in the interest of safety, be limited to the operation of those balloons until he qualifies for operation of free balloons with an airborne heater. Similarly, an applicant who takes the flight test in a hot air balloon must be limited to the operation of such balloons until he qualifies for the operation of a gas balloon. These limitations have long been applied with respect to the free balloon rating for commercial pilot certificates and are equally applicable to free balloon ratings for private pilot certificates. Moreover, such limitations are required under § 61.13 of this revision. For these reasons, additional rule making action on these limitations is unnecessary and impracticable and they are set forth in a new § 61.119.

Proposed § 61.127 omitted operations involved in landing on slopes, operation in confined areas and on pinnacles from the emergency operations for which flight instruction is necessary for a commercial pilot certificate for helicopters. On the basis of comments received, it is now apparent that such operations are important in helicopter training and are usually covered in that training and that they should be included in those items that are required to be covered under emergency operations.

One comment recommended that instruction in the assembly of gliders after disassembly for transport should be op-

tional depending upon the type of operation the pilot will conduct after he is certificated. The FAA does not agree. The assembly of gliders is a normal function and privilege of a commercial glider pilot and instruction in such assembly is appropriate and necessary. However, the FAA agrees that the proposed requirement for instruction in the disassembly and inspection of gliders for trailer transport is not an appropriate certification requirement and this proposed requirement has been withdrawn.

A number of commentators expressed the fear that a person holding a commercial pilot certificate on the effective date of this section would have to hold or obtain an instrument rating in order to continue to exercise the privileges of his certificate. This is not the case, and a minor change has been made to paragraph (a) of § 61.129 to make it clear that the provisions of that paragraph apply to applicants for a commercial pilot certificate. There were also a number of comments objecting to the addition of the requirement that an applicant for a commercial pilot certificate must hold an instrument rating in airplanes or have his pilot certificate endorsed with a limitation prohibiting the carriage of passengers and cargo for hire in airplanes on cross-country flights of more than 50 nautical miles, or at night. The FAA, however, considers this requirement as an appropriate upgrading of the certification requirements for a commercial pilot. The need for this upgrading is based on the increasing complexity of modern aircraft and flight operations and the ever-increasing size of the terminal control areas and positive control airspace in which IFR capability is required.

Several comments questioned the necessity of a 50-hour increase in the flight time required for the commercial pilot certificate. The increase is necessary because of the additional hours of instrument time and flight instruction time required under this revision for a commercial pilot certificate.

The FAA does not agree with a recommendation that the 600-mile cross-country flight proposed in § 61.129(b)(3)(ii) be broken up into several flights in order to cover the same training in a more convenient package for the applicant. The 600-mile cross-country is designed to give the applicant experience in extended cross-country flight over as great a variety of terrain as possible and several short flights would not accomplish this objective.

In response to a number of comments, the requirement for 100 hours of flight time as pilot in airships proposed in § 61.135 has been changed to 50 hours. The proposed aeronautical experience requirements for both airplanes and rotorcraft require only 50 hours of flight time as pilot in an airplane or a rotorcraft. After further consideration, there appears to be no need for a higher requirement for airships. In line with this change the proposed 50 hours of flight time performing the duties of pilot in command in airships has been reduced to 30 hours.

The aeronautical experience requirements for a commercial pilot certificate with a free balloon rating proposed in § 61.137 are primarily applicable to gas balloons and hot air balloons with airborne heaters. The only requirement set forth in proposed § 61.137 that is applicable to hot air balloon without airborne heaters is the requirements for 10 flights in free balloons, including six flights under the supervision of a commercial free balloon pilot and 2 solo flights. Therefore, to more clearly set forth the experience requirements applicable to free balloons without airborne heaters, they have been placed in a separate paragraph in the final amendment to § 61.137.

In addition to the foregoing, while proposed § 61.141 contained the appropriate limitation for the pilot certificate of a person who had his flight test in a hot air balloon without an airborne heater, it did not, through an obvious oversight, set forth the appropriate limitation when the flight test is taken in a hot air balloon with an airborne heater. Such a limitation is currently set forth in Part 61 and it has been appropriately added to § 61.141.

There were a number of comments which objected to the requirement in proposed § 61.183 that an applicant for a flight instructor certificate with an airplane or instrument instructor rating must hold an instrument rating. Some of the commentators thought that this requirement would apply to current certificate holders. However, as stated in the proposal, the requirement applies to persons who are applicants for a flight instructor certificate. Moreover, under these revised requirements an instrument rating is necessary if the applicant is seeking an airplane instructor rating because of the requirements for instrument instruction for private and commercial pilot certificates and the instrument rating for the commercial pilot certificate.

In addition, some comments recommended that § 61.183 should continue to provide for the issuance of an instructor certificate to a person who holds a private pilot certificate. The FAA does not agree with this recommendation. A flight instructor should be fully qualified to instruct applicants for all pilot certificates. This is possible only if the flight instructor holds a commercial pilot certificate.

Section 61.185 has been revised in response to various comments to allow an applicant for a flight instructor certificate to use any course of instruction covering the listed subjects to qualify for the written test. However, the applicant must, as proposed, log general instruction from an authorized ground or flight instructor in those subjects in which ground instruction is required for a private and commercial pilot certificate, and for an instrument rating. This change to § 61.185 recognizes that appropriate instruction in such items as the learning process, elements of effective teaching, student evaluation, quizzing, and testing, course development, lesson planning, and classroom instruction techniques is available from various educational institutions and other organizations that are not certificated by the FAA. Instruction in such general subjects not related to aviation obviously need not be received from an authorized instructor. As adopted, the only subjects that need be given by an authorized instructor are those in which ground instruction is required for a private and commercial pilot certificate and for an instrument rating.

The majority of the comments received concerning the proposed gold seal flight instructor certificate (proposed § 61.189) were opposed to it. They contend that there should be no distinction between instructors, and that flight instructors should either be qualified or they should not be certificated as flight instructors. They pointed out that many of the best instructors with years of experience are part-time instructors and others are located where they would not have sufficient business to train and recommend enough students to qualify for the proposed gold seal certificate. Other commentators stated that the flight instructors who meet the requirements for a gold seal certificate are not necessarily the best instructors and that it is customary to give the weaker student to the best instructors whereas the poorer instructors are assigned to better students. Thus, instructors should not be judged by the percentage of successful students who pass on their first test. They further contend that such a certificate would tend to degrade other instructors who will be assuming more responsibility and are being generally upgraded through the revision of Part 61.

The FAA is persuaded by the views expressed in response to the proposal and since the flight instructor requirements are being upgraded through these amendments, it has been determined that a two tier flight instructor certificate is neither necessary nor appropriate. Therefore, the proposal to establish a gold seal flight instructor certificate has been withdrawn. The FAA, nevertheless, will continue its policy of administratively issuing flight instructor certificates with a gold seal.

In response to comments, proposed § 61.193 (now § 61.191) has been revised to require only 15 hours of pilot in command time rather than 25 hours. Several commentators point out the difficulty and expense involved for newly certificated pilots and flight instructors to obtain 25 hours as pilot in command in multiengined airplanes and helicopters. While the FAA is aware of these problems, it nevertheless believes that some actual pilot in command time in the aircraft in which he will instruct is necessary for a flight instructor and that 15 hours will satisfy this requirement.

Many of the airships currently in use require more than one flight crewmember for their proper operation. Thus, in contrast to flight instruction in other aircraft, the flight instruction of student pilots in such airships may require the student pilot to perform the functions of a required flight crewmember and even the functions of a pilot in command.

Since the FAA does not intend to allow student pilots to act in such a capacity in any other aircraft requiring more than one flight crewmember, §§ 61.51(c), 61.87 (a), 61.89(b), 61.91, and 61.193(b)(1) were added in Notice 72-9 to specifically cover the situations involving flight instruction in airships. However, through an oversight, these sections all refer to aircraft rather than airships. This is obviously misleading and the sections have been corrected accordingly.

A number of conforming changes to other parts of the Federal Aviation Regulations, are necessary to reflect the changes being made to Part 61. These are to be covered in a separate rule making action.

In consideration of the foregoing, Parts 61 and 91 of the Federal Aviation Regulations are amended, effective November 1, 1973, as follows:

1. Part 61 is amended as follows:

Subpart A—General

Subpart B—Aircraft Ratings and Special Certificates

Subpart C—Student Pilots

Subpart D—Private Pilots

Subpart E—Commercial Pilots

Subpart F—Airline Transport Pilots

Subpart G—Flight Instructors

AUTHORITY: Secs. 313(a), 314, 601, 602, Federal Aviation Act of 1958, 49 U.S.C. 1354 (a), 1355, 1421, 1422; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(2).

Subpart A—General

§ 61.1 Applicability.

(a) This part prescribes the requirements for issuing pilot and flight instructor certificates and ratings, the conditions under which those certificates and ratings are necessary, and the privileges and limitations of those certificates and ratings.

(b) Until November 1, 1974, an applicant for a certificate or rating may meet either the requirements of this part, or the requirements in effect immediately before the date this revised part becomes effective. However, the applicant for a private pilot certificate with a free balloon class rating must meet the requirements of this part.

§ 61.3 Requirement for certificates, rating, and authorizations.

(a) *Pilot certificate.* No person may act as pilot in command or in any other capacity as a required pilot flight crewmember of a civil aircraft of United States registry unless he has in his personal possession a current pilot certificate issued to him under this part. However, when the aircraft is operated within a foreign country a current pilot license issued by the country in which the aircraft is operated may be used.

(b) *Pilot certificate: foreign aircraft.* No person may, within the United States, act as pilot in command or in any other capacity as a required pilot flight crewmember of a civil aircraft of foreign registry unless he has in his personal possession a current pilot certificate issued to him under this part, or a pilot license issued to him or validated for him by the country in which the aircraft is registered.

(c) *Medical certificate.* Except for free balloon pilots piloting balloons and glider pilots piloting gliders, no person may act as pilot in command or in any other capacity as a required pilot flight crewmember of an aircraft under a certificate issued to him under this part, unless he has in his personal possession an appropriate current medical certificate issued under Part 67 of this chapter. However, when the aircraft is operated within a foreign country with a current pilot license issued by that country, evidence of current medical qualification for that

license, issued by that country, may be used. In the case of a pilot certificate issued on the basis of a foreign pilot license under § 61.75, evidence of current medical qualification accepted for the issue of that license is used in place of a medical certificate.

(d) *Flight instructor certificate.* Except for lighter-than-air flight instruction in lighter-than-air aircraft, and for instruction in air transportation service given by the holder of an Airline Transport Pilot Certificate under § 61.169, no person other than the holder of a flight instructor certificate issued by the Administrator with an appropriate rating on that certificate may—

(1) Give any of the flight instruction required to qualify for a solo flight, solo cross-country flight, or for the issue of a pilot or flight instructor certificate or rating;

(2) Endorse a pilot logbook to show that he has given any flight instruction; or

(3) Endorse a student pilot certificate or log book for solo operating privileges.

(e) *Instrument rating.* No person may act as pilot in command of a civil aircraft under instrument flight rules, or in weather conditions less than the minimums prescribed for VFR flight unless—

(1) In the case of an airplane, he holds an instrument rating or an airline transport pilot certificate with an airplane category rating on it;

(2) In the case of a helicopter, he holds a helicopter instrument rating or an airline transport pilot certificate with a rotorcraft category and helicopter class rating not limited to VFR;

(3) In the case of a glider, he holds an instrument rating (airplane) or an airline transport pilot certificate with an airplane category rating; or

(4) In the case of an airship, he holds a commercial pilot certificate with lighter-than-air category and airship class ratings.

(f) *Category II pilot authorization.* (1) No person may act as pilot in command of a civil aircraft in a Category II operation unless he holds a current Category II pilot authorization for that type aircraft or, in the case of a civil aircraft of foreign registry, he is authorized by the country of registry to act as pilot in command of that aircraft in Category II operations.

(2) No person may act as second in command of a civil aircraft in a Category II operation unless he holds a current appropriate instrument rating or an airline transport pilot certificate (airplane) or, in the case of a civil aircraft of foreign registry, he is authorized by the country of registry to act as second in command of that aircraft in Category II operations.

This paragraph does not apply to operations conducted by the holder of a certificate issued under Part 121 of this chapter.

(g) *Category A aircraft pilot authorization.* The Administrator may issue a certificate of authorization to the pilot of a small airplane identified as a Category A aircraft in § 97.3(b)(1) of this chapter to use that airplane in a Category II operation, if he finds that the proposed operation can be safely conducted under the terms of the certificate. Such authorization does not permit operation of the aircraft carrying persons or property for compensation or hire.

(h) *Inspection of certificate.* Each person who holds a pilot certificate, flight instructor certificate, medical certificate, authorization, or license required by this part shall present it for inspection upon the request of the Administrator, an authorized representative of the National Transportation Safety Board, or any Federal, State, or local law enforcement officer.

§ 61.5 Certificates and ratings issued under this part.

(a) The following certificates are issued under this part:

(1) Pilot certificates:
(i) Student pilot.
(ii) Private pilot.
(iii) Commercial pilot.
(iv) Airline transport pilot.

(2) Flight instructor certificates.

(b) The following ratings are placed on pilot certificates (other than student pilot) where applicable:

(1) Aircraft category ratings:
(i) Airplane.
(ii) Rotorcraft.
(iii) Glider.
(iv) Lighter-than-air.

(2) Airplane class ratings:
(i) Single-engine land.
(ii) Multiengine land.
(iii) Single-engine sea.
(iv) Multiengine sea.

(3) Rotorcraft class ratings:
(i) Helicopter.
(ii) Gyroplane.

(4) Lighter-than-air class ratings:
(i) Airship.
(ii) Free balloon.

(5) Aircraft type ratings are listed in Advisory Circular 61-1 entitled "Aircraft Type Ratings." This list includes ratings for the following:
(i) Large aircraft, other than lighter-than-air.
(ii) Small turbojet-powered airplanes.
(iii) Small helicopters for operations requiring an airline transport pilot certificate.
(iv) Other aircraft type ratings specified by the Administrator through aircraft type certificate procedures.

(6) Instrument ratings (on private and commercial pilot certificates only):
(i) Instrument—airplanes.
(ii) Instrument—helicopter.

(c) The following ratings are placed on flight instructor certificates where applicable:

(1) Aircraft category ratings:
(i) Airplane.
(ii) Rotorcraft.
(iii) Glider.

(2) Airplane class ratings:
(i) Single-engine (land and sea).
(ii) Multiengine (land and sea).

(3) Rotorcraft class ratings:
(i) Helicopter.
(ii) Gyroplane.

(4) Instrument ratings:
(i) Instrument—airplane.
(ii) Instrument—helicopter.

§ 61.7 Obsolete certificates and ratings.

(a) The holder of a free balloon pilot certificate issued before November 1, 1973, may not exercise the privileges of that certificate.

(b) The holder of a pilot certificate that bears any of the following category ratings without an associated class rating, may not exercise the privileges of that category rating:

(1) Rotorcraft.
(2) Lighter-than-air.
(3) Helicopter.
(4) Autogiro.

§ 61.9 Exchange of obsolete certificates and ratings for current certificates and ratings.

(a) The holder of an unexpired free balloon pilot certificate, or an unexpired pilot certificate with an obsolete category rating listed in § 61.7(b) may exchange that certificate for a certificate with the following applicable category and class rating, without a further showing of competency, until October 31, 1975. After that date, a free balloon pilot certificate or certificate with an obsolete rating expires.

(b) *Private or commercial pilot certificate with rotorcraft category rating.* The holder of a private or commercial pilot certificate with a rotorcraft category rating is issued that certificate with a rotorcraft category rating, and a helicopter or gyroplane class rating, depending upon whether a helicopter or a gyroplane is used to qualify for the rotorcraft category rating.

(c) *Private or commercial pilot certificate with helicopter or autogiro category rating.* The holder of a private or commercial pilot certificate with a helicopter or autogiro category rating is issued that certificate with a rotorcraft category rating and a helicopter class rating (in the case of a helicopter category rating), or a gyroplane class rating (in the case of an autogiro rating).

(d) *Airline transport pilot certificate with helicopter or autogiro category rating.* The holder of an airline transport pilot certificate with a helicopter or autogiro category rating is issued that certificate with a rotorcraft category rating (limited to VFR) and a helicopter class and type rating (in the case of a helicopter category rating), or a gyroplane class rating (in the case of an autogiro category rating).

(e) *Airline transport pilot certificate with a rotorcraft category rating (without a class rating).* The holder of an airline transport pilot certificate with a rotorcraft category rating (without a class rating) is issued that certificate with a rotorcraft category rating limited to VFR, and a helicopter and type rating or a gyroplane class rating, depending upon whether a helicopter or gyroplane is used to qualify for the rotorcraft category rating.

(f) *Free balloon pilot certificate.* The holder of a free ballon pilot certificate is

issued a commercial pilot certificate with a lighter-than-air category rating and, if appropriate, with the limitations provided in § 61.141.

(g) *Lighter-than-air pilot certificate or pilot certificate with lighter-than-air category (without a class rating).* (1) In the case of an application made before November 1, 1975, the holder of a lighter-than-air pilot certificate or a pilot certificate with a lighter-than-air category rating (without a class rating) is issued a private or commercial pilot certificate, as appropriate, with a lighter-than-air category rating and airship and free balloon class ratings.

(2) In the case of an application made after October 31, 1975, the holder of a lighter-than-air pilot certificate with an airship rating issued prior to November 1, 1973, may be issued a free balloon class rating upon passing the appropriate flight test in a free balloon.

§ 61.11 Expired pilot certificates and reissuance.

(a) No person who holds an expired pilot certificate or rating may exercise the privileges of that pilot certificate, or rating.

(b) Except as provided, the following certificates and ratings have expired and are not reissued:

(1) An airline transport pilot certificate issued before May 1, 1949, or containing a horsepower rating. However, an airline transport pilot certificate bearing an expiration date and issued after April 30, 1949, may be reissued without an expiration date if it does not contain a horsepower rating.

(2) A private or commercial pilot certificate, or a lighter-than-air or free balloon pilot certificate, issued before July 1, 1945. However, each of those certificates issued after June 30, 1945, and bearing an expiration date, may be reissued without an expiration date.

(c) A private or commercial pilot certificate or a special purpose pilot certificate, issued on the basis of a foreign pilot license, expires on the expiration date stated thereon. A certificate without an expiration date is issued to the holder of the expired certificate only if he meets the requirements of § 61.75 for the issue of a pilot certificate based on a foreign pilot license.

§ 61.13 Application and qualification.

(a) Application for a certificate and rating, or for an additional rating under this part is made on a form and in a manner prescribed by the Administrator.

(b) An applicant who meets the requirements of this part is entitled to an appropriate pilot certificate with aircraft ratings. Additional aircraft category, class, type and other ratings, for which the applicant is qualified, are added to his certificate. However, the Administrator may refuse to issue certificates to persons who are not citizens of the United States and who do not reside in the United States.

(c) An applicant who cannot comply with all of the flight proficiency requirements prescribed by this part because the aircraft used by him for his flight training or flight test is characteristically incapable of performing a required pilot operation, but who meets all other requirements for the certificate or rating sought, is issued the certificate or rating with appropriate limitations.

(d) An applicant for a pilot certificate who holds a medical certificate under § 67.19 of this chapter with special limitations on it, but who meets all other requirements for that pilot certificate, is issued a pilot certificate containing such operating limitations as the Administrator determines are necessary because of the applicant's medical deficiency.

(e) A Category II pilot authorization is issued as a part of the applicant's instrument rating or airline transport pilot certificate. Upon original issue the authorization contains a limitation for Category II operations of 1,600 feet RVR and a 150 foot decision height. This limitation is removed when the holder shows that since the beginning of the sixth preceding month he has made three Category II ILS approaches to a landing under actual or simulated instrument conditions with a 150 foot decision height.

(f) Unless authorized by the Administrator—

(1) A person whose pilot certificate is suspended may not apply for any pilot or flight instructor certificate or rating during the period of suspension; and

(2) A person whose flight instructor certificate only is suspended may not apply for any rating to be added to that certificate during the period of suspension.

(g) Unless the order of revocation provides otherwise—

(1) A person whose pilot certificate is revoked may not apply for any pilot or flight instructor certificate or rating for 1 year after the date of revocation; and

(2) A person whose flight instructor certificate only is revoked may not apply for any flight instructor certificate for 1 year after the date of revocation.

§ 61.15 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

(a) No person who is convicted of violating any Federal statute relating to the manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs marihuana, or depressant or stimulant drugs or substances, is eligible for any certificate or rating issued under this part for a period of 1 year after the date of final conviction.

(b) No person who commits an act prohibited by § 91.12(a) of this chapter is eligible for any certificate or rating issued under this part for a period of 1 year after the date of that act.

(c) Any conviction specified in paragraph (a) of this section or the commission of the act referenced in paragraph (b) of this section, is grounds for suspending or revoking any certificate or rating issued under this part.

§ 61.17 Temporary certificate.

(a) A temporary pilot or flight instructor certificate, or a rating, effective for a period of not more than 90 days, is issued to a qualified applicant pending a review of his qualifications and the issuance of a permanent certificate or rating by the Administrator. The permanent certificate or rating is issued to an applicant found qualified and a denial thereof is issued to an applicant found not qualified.

(b) A temporary certificate issued under paragraph (a) of this section expires—

(1) At the end of the expiration date stated thereon; or

(2) Upon receipt by the applicant, of—

(i) The certificate or rating sought; or

(ii) Notice that the certificate or rating sought is denied.

§ 61.19 Duration of pilot and flight instructor certificates.

(a) *General.* The holder of a certificate with an expiration date may not, after that date, exercise the privileges of that certificate.

(b) *Student pilot certificate.* A student pilot certificate expires at the end of the 24th month after the month in which it is issued.

(c) *Other pilot certificates.* Any pilot certificate (other than a student pilot certificate) issued under this part is issued without a specific expiration date. However, the holder of a pilot certificate issued on the basis of a foreign pilot license may exercise the privileges of that certificate only while the foreign pilot license on which that certificate is based is effective.

(d) *Flight instructor certificate.* A flight instructor certificate—

(1) Is effective only while the holder has a current pilot certificate and a medical certificate appropriate to the pilot privileges being exercised; and

(2) Expires at the end of the 24th month after the month in which it was last issued or renewed.

(e) *Surrender, suspension, or revocation.* Any pilot certificate or flight instructor certificate issued under this part ceases to be effective if it is surrendered, suspended, or revoked.

(f) *Return of certificate.* The holder of any certificate issued under this part that is suspended or revoked shall, upon the Administrator's request, return it to the Administrator.

§ 61.21 Duration of Category II pilot authorization.

A Category II pilot authorization expires at the end of the sixth month after it was last issued or renewed. Upon passing a practical test it is renewed for each type airplane for which an authorization is held. However, an authorization for any particular type airplane for which an authorization is held will not be renewed to extend beyond the end of the 12th month after the practical test was passed in that type airplane. If the holder of the authorization passes the practical test for a renewal in the month before the authorization expires, he is considered to have passed it during the month the authorization expired.

§ 61.23 Duration of medical certificates.

(a) A first-class medical certificate expires at the end of the last day of—

(1) The sixth month after the month of the date of examination shown on the certificate, for operations requiring an airline transport pilot certificate;

(2) The 12th month after the month of the date of examination shown on the certificate, for operations requiring only a commercial pilot certificate; and

(3) The 24th month after the month of the date of examination shown on the certificate, for operations requiring only a private or student pilot certificate.

(b) A second-class medical certificate expires at the end of the last day of—

(1) The 12th month after the month of the date of examination shown on the certificate, for operations requiring a commercial pilot certificate; and

(2) The 24th month after the month of the date of examination shown on the certificate, for operations requiring only a private or student pilot certificate.

(c) A third-class medical certificate expires at the end of the last day of the 24th month after the month of the date of examination shown on the certificate, for operations requiring a private or student pilot certificate.

§ 61.25 Change of name.

An application for the change of a name on a certificate issued under this part must be accompanied by the applicant's current certificate and a copy of the marriage license, court order, or other document verifying the change. The documents are returned to the applicant after inspection.

§ 61.27 Voluntary surrender or exchange of certificate.

The holder of a certificate issued under this part may voluntarily surrender it for cancellation, or for the issue of a certificate of lower grade, or another certificate with specific ratings deleted. If he so requests, he must include the following signed statement or its equivalent:

> This request is made for my own reasons, with full knowledge that my (insert name of certificate or rating, as appropriate) may not be reissued to me unless I again pass the tests prescribed for its issue.

§ 61.29 Replacement of lost or destroyed certificate.

(a) An application for the replacement of a lost or destroyed airman certificate issued under this part is made by letter to the Department of Transportation, Federal Aviation Administration, Airman Certification Branch, Post Office Box 25082, Oklahoma City, OK 73125. The letter must—

(1) State the name of the person to whom the certificate was issued, the permanent mailing address (including zip code), social security number (if any), date and place of birth of the certificate holder, and any available information regarding the grade, number, and date of issue of the certificate, and the ratings on it; and

(2) Be accompanied by a check or money order for $2, payable to the Federal Aviation Administration.

(b) An application for the replacement of a lost or destroyed medical certificate is made by letter to the Department of Transportation, Federal Aviation Administration, Aeromedical Certification Branch, Post Office Box 25082, Oklahoma City, OK 73125, accompanied by a check or money order for $2.

(c) A person who has lost a certificate issued under this part, or a medical certificate issued under Part 67 of this chapter, or both, may obtain a telegram from the FAA confirming that it was issued. The telegram may be carried as a certificate for a period not to exceed 60 days pending his receipt of a duplicate certificate under paragraph (a) or (b) of this section, unless he has been notified that the certificate has been suspended or revoked. The request for such a telegram may be made by letter or prepaid telegram, including the date upon which a duplicate certificate was previously requested, if a request had been made, and a money order for the cost of the duplicate certificate. The request for a telegraphic certificate is sent to the office listed in paragraph (a) or (b) of this section, as appropriate. However, a request for both airman and medical certificates at the same time must be sent to the office prescribed in paragraph (a) of this section.

§ 61.31 General limitations.

(a) *Type ratings required.* A person may not act as pilot in command of any of the following aircraft unless he holds a type rating for that aircraft:

(1) A large aircraft (except lighter-than-air).

(2) A helicopter, for operations requiring an airline transport pilot certificate.

(3) A turbojet powered airplane.

(4) Other aircraft specified by the Administrator through aircraft type certificate procedures.

(b) *Authorization in lieu of a type rating.* (1) In lieu of a type rating required under paragraphs (a) (1), (3), and (4) of this section, an aircraft may be operated under an authorization issued by the Administrator, for a flight or series of flights within the United States, if—

(i) The particular operation for which the authorization is requested involves a ferry flight, a practice or training flight, a flight test for a pilot type rating, or a test flight of an aircraft, for a period that does not exceed 60 days;

(ii) The applicant shows that compliance with paragraph (a) of this section is impracticable for the particular operation; and

(iii) The Administrator finds that an equivalent level of safety may be achieved through operating limitations on the authorization.

(2) Aircraft operated under an authorization issued under this paragraph—

(i) May not be operated for compensation or hire; and

(ii) May carry only flight crewmembers necessary for the flight.

(3) An authorization issued under this paragraph may be reissued for an additional 60-day period for the same operation if the applicant shows that he was prevented from carrying out the purpose of the particular operation before his authorization expired.

The prohibition of paragraph (b) (2) (i) of this section does not prohibit compensation for the use of an aircraft by a pilot solely to prepare for or take a flight test for a type rating.

(c) *Category and class rating: Carrying another person or operating for compensation or hire.* Unless he holds a category and class rating for that aircraft, a person may not act as pilot in command of an aircraft that is carrying another person or is operated for compensation or hire. In addition, he may not act as pilot in command of that aircraft for compensation or hire.

(d) *Category and class rating: Other operations.* No person may act as pilot in command of an aircraft in solo flight in operations not subject to paragraph (c) of this section, unless he meets at least one of the following:

(1) He holds a category and class rating appropriate to that aircraft.

(2) He has received flight instruction in the pilot operations required by this part, appropriate to the category and class of aircraft for first solo, given to him by a certificated flight instructor who found him competent to solo that category and class of aircraft and has so endorsed his pilot logbook.

(3) He has soloed and logged pilot-in-command time in that category and class of aircraft before November 1, 1973.

(e) *High performance airplanes.* A person holding a private or commercial pilot certificate may not act as pilot in command of an airplane that has more than 200 horsepower, or that has a retractable landing gear, flaps, and a controllable propeller, unless he has received flight instruction from an authorized flight instructor who has certified in his logbook that he is competent to pilot an airplane that has more than 200 horsepower, or that has a retractable landing gear, flaps, and a controllable propeller, as the case may be. However, this instruction is not required if he has logged flight time as pilot in command in high performance airplanes before November 1, 1973.

(f) *Exception.* This section does not require a class rating for gliders, or category and class ratings for aircraft that are not type certificated as airplanes, rotorcraft, or lighter-than-air aircraft. In addition, the rating limitations of this section do not apply to—

(1) The holder of a student pilot certificate;

(2) The holder of a pilot certificate when operating an aircraft under the authority of an experimental or provisional type certificate;

(3) An applicant when taking a flight test given by the Administrator; or

(4) The holder of a pilot certificate with a lighter-than-air category rating when operating a hot air balloon without an airborne heater.

§ 61.33 Tests: General procedure.

Tests prescribed by or under this part are given at times and places, and by persons, designated by the Administrator.

§ 61.35 Written test: Prerequisites and passing grades.

(a) An applicant for a written test must—

(1) Show that he has satisfactorily completed the ground instruction or home study course required by this part for the certificate or rating sought;

(2) Present as personal identification an airman certificate, driver's license, or other official document; and

(3) Present a birth certificate or other official document showing that he meets the age requirement prescribed in this part for the certificate sought not later than 2 years from the date of application for the test.

(b) The minimum passing grade is specified by the Administrator on each written test sheet or booklet furnished to the applicant.

This section does not apply to the written test for an airline transport pilot certificate or a rating associated with that certificate.

§ 61.37 Written tests: Cheating or other unauthorized conduct.

(a) Except as authorized by the Administrator, no person may—

(1) Copy, or intentionally remove, a written test under this part;

(2) Give to another, or receive from another, any part or copy of that test;

(3) Give help on that test to, or receive help on that test from, any person during the period that test is being given;

(4) Take any part of that test in behalf of another person;

(5) Use any material or aid during the period that test is being given; or

(6) Intentionally cause, assist, or participate in any act prohibited by this paragraph.

(b) No person whom the Administrator finds to have committed an act prohibited by paragraph (a) of this section is eligible for any airman or ground instructor certificate or rating, or to take any test therefor, under this chapter for a period of 1 year after the date of that act. In addition, the commission of that act is a basis for suspending or revoking any airman or ground instructor certificate or rating held by that person.

§ 61.39 Prerequisites for flight tests.

(a) To be eligible for a flight test for a certificate, or an aircraft or instrument rating issued under this part, the applicant must—

(1) Have passed any required written test since the begining of the 24th month before the month in which he takes the flight test;

(2) Have the applicable instruction and aeronautical experience prescribed in this part;

(3) Hold a current medical certificate appropriate to the certificate he seeks or, in the case of a rating to be added to his pilot certificate, at least a third-class medical certificate issued since the beginning of the 24th month before the month in which he takes the flight test;

(4) Except for a flight test for an airline transport pilot certificate, meet the age requirement for the issuance of the certificate or rating he seeks; and

(5) Have a written statement from an appropriately certificated flight instructor certifying that he has given the applicant flight instruction in preparation for the flight test within 60 days preceding the date of application, and finds him competent to pass the test and to have satisfactory knowledge of the subject areas in which he is shown to be deficient by his FAA airman written test report. However, an applicant need not have this written statement if he—

(i) Holds a foreign pilot license issued by a contracting State to the Convention on International Civil Aviation that authorizes at least the pilot privileges of the airman certificate sought by him;

(ii) Is applying for a type rating only, or a class rating with an associated type rating; or

(iii) Is applying for an airline transport pilot certificate or an additional aircraft rating on that certificate.

(b) Notwithstanding paragraph (a) (1) of this section, an applicant for an airline transport pilot certificate or an additional aircraft rating on that certificate who has been, since passing the written examination, continuously employed as a pilot, or as a pilot assigned to flight engineer duties by, and is participating in an approved pilot training program of a U.S. air carrier or commercial operator, or who is rated as a pilot by, and is participating in a pilot training program of a U.S. scheduled military air transportation service, may take the flight test for that certificate or rating.

§ 61.41 Flight instruction received from flight instructors not certificated by FAA.

Flight instruction may be credited toward the requirements for a pilot certificate or rating issued under this part if it is received from—

(a) An Armed Force of either the United States or a foreign contracting State to the Convention on International Civil Aviation in a program for training military pilots; or

(b) A flight instructor who is authorized to give that flight instruction by the licensing authority of a foreign contracting State to the Convention on International Civil Aviation and the flight instruction is given outside the United States.

§ 61.43 Flight tests: General procedures.

(a) The ability of an applicant for a private or commercial pilot certificate, or for an aircraft or instrument rating on that certificate to perform the required pilot operations is based on the following:

(1) Executing procedures and maneuvers within the aircraft's performance capabilities and limitations, including use of the aircraft's systems.

(2) Executing emergency procedures and maneuvers appropriate to the aircraft.

(3) Piloting the aircraft with smoothness and accuracy.

(4) Exercising judgment.

(5) Applying his aeronautical knowledge.

(6) Showing that he is the master of the aircraft, with the successful outcome of a procedure or maneuver never seriously in doubt.

(b) If the applicant fails any of the required pilot operations in accordance with the applicable provisions of paragraph (a) of this section, the applicant fails the flight test. The applicant is not eligible for the certificate or rating sought until he passes any pilot operations he has failed.

(c) The examiner or the applicant may discontinue the test at any time when the failure of a required pilot operation makes the applicant ineligible for the certificate or rating sought. If the test is discontinued the applicant is entitled to credit for only those entire pilot operations that he has successfully performed.

§ 61.45 Flight tests: Required aircraft and equipment.

(a) *General.* An applicant for a certificate or rating under this part must furnish, for each flight test that he is required to take, an appropriate aircraft of United States registry that has a current standard or limited airworthiness certificate. However, the applicant may, at the discretion of the inspector or examiner conducting the test, furnish an aircraft of U.S. registry that has a current airworthiness certificate other than standard or limited, an aircraft of foreign registry that is properly certificated by the country of registry, or a military aircraft in an operational status if its use is allowed by an appropriate military authority.

(b) *Required equipment (other than controls).* Aircraft furnished for a flight test must have—

(1) The equipment for each pilot operation required for the flight test;

(2) No prescribed operating limitations that prohibit its use in any pilot operation required on the test;

(3) Pilot seats with adequate visibility for each pilot to operate the aircraft safely, except as provided in paragraph (d) of this section; and

(4) Cockpit and outside visibility adequate to evaluate the performance of the applicant, where an additional jump seat is provided for the examiner.

(c) *Required controls.* An aircraft (other than lighter-than-air) furnished under paragraph (a) of this section for any pilot flight test must have engine power controls and flight controls that are easily reached and operable in a normal manner by both pilots, unless after considering all the factors, the examiner determines that the flight test can be conducted safely without them. However, an aircraft having other controls such as nose-wheel steering, brakes, switches, fuel selectors, and engine air flow controls that are not easily reached

and operable in a normal manner by both pilots may be used, if more than one pilot is required under its airworthiness certificate, or if the examiner determines that the flight can be conducted safely.

(d) *Simulated instrument flight equipment.* An applicant for any flight test involving flight maneuvers solely by reference to instruments must furnish equipment satisfactory to the examiner that excludes the visual reference of the applicant outside of the aircraft.

(e) *Aircraft with single controls.* At the discretion of the examiner, an aircraft furnished under paragraph (a) of this section for a flight test may, in the cases listed herein, have a single set of controls. In such case, the examiner determines the competence of the applicant by observation from the ground or from another aircraft.

(1) A flight test for addition of a class or type rating, not involving demonstration of instrument skills, to a private or commercial pilot certificate.

(2) A flight test in a single-place gyroplane for—

(i) A private pilot certificate with a rotorcraft category rating and gyroplane class rating, in which case the certificate bears the limitation "rotorcraft single-place gyroplane only"; or

(ii) Addition of a rotorcraft category rating and gyroplane class rating to a pilot certificate, in which case a certificate higher than a private pilot certificate bears the limitation "rotorcraft single-place gyroplane, private pilot privileges, only".

The limitations prescribed by this subparagraph may be removed if the holder of the certificate passes the appropriate flight test in a gyroplane with two pilot stations or otherwise passes the appropriate flight test for a rotorcraft category rating.

§ 61.47 Flight tests: Status of FAA inspectors and other authorized flight examiners.

An FAA inspector or other authorized flight examiner conducts the flight test of an applicant for a pilot certificate or rating for the purpose of observing the applicant's ability to perform satisfactorily the procedures and maneuvers on the flight test. The inspector or other examiner is not pilot in command of the aircraft during the flight test unless he acts in that capacity for the flight, or portion of the flight, by prior arrangement with the applicant or other person who would otherwise act as pilot in command of the flight, or portion of the flight. Notwithstanding the type of aircraft used during a flight test, the applicant and the inspector or other examiner are not, with respect to each other (or other occupants authorized by the inspector or other examiner), subject to the requirements or limitations for the carriage of passengers specified in this chapter.

§ 61.49 Retesting after failure.

An applicant for a written or flight test who fails that test may not apply for retesting until after 30 days after the date he failed the test. However, in the case of his first failure he may apply for retesting before the 30 days have expired upon presenting a written statement from an authorized instructor certifying that he has given flight or ground instruction as appropriate to the applicant and finds him competent to pass the test.

§ 61.51 Pilot logbooks.

(a) The aeronautical training and experience used to meet the requirements for a certificate or rating, or the recent flight experience requirements of this part must be shown by a reliable record. The logging of other flight time is not required.

(b) *Logbook entries.* Each pilot shall enter the following information for each flight or lesson logged:

(1) *General.* (i) Date.

(ii) Total time of flight.

(iii) Place, or points of departure and arrival.

(iv) Type and identification of aircraft.

(2) *Type of pilot experience or training.* (i) Pilot in command or solo.

(ii) Second in command.

(iii) Flight instruction received from an authorized flight instructor.

(iv) Instrument flight instruction from an authorized flight instructor.

(v) Pilot ground trainer instruction.

(vi) Participating crew (lighter-than-air).

(vii) Other pilot time.

(3) *Conditions of flight.* (i) Day or night.

(ii) Actual instrument.

(iii) Simulated instrument conditions.

(c) *Logging of pilot time*—(1) *Solo flight time.* A pilot may log as solo flight time only that flight time when he is the sole occupant of the aircraft. However, a student pilot may also log as solo flight time that time during which he acts as the pilot in command of an airship requiring more than one flight crewmember.

(2) *Pilot-in-command flight time.* (i) A private or commercial pilot may log as pilot in command time only that flight time during which he is the sole manipulator of the controls of an aircraft for which he is rated, or when he is the sole occupant of the aircraft, or when he acts as pilot in command of an aircraft on which more than one pilot is required under the type certification of the aircraft, or the regulations under which the flight is conducted.

(ii) An airline transport pilot may log as pilot in command time all of the flight time during which he acts as pilot in command.

(iii) A certificated flight instructor may log as pilot in command time all flight time during which he acts as a flight instructor.

(3) *Second-in-command flight time.* A pilot may log as second in command time all flight time during which he acts as second in command of an aircraft on which more than one pilot is required under the type certification of the aircraft, or the regulations under which the flight is conducted.

(4) *Instrument flight time.* A pilot may log as instrument flight time only that time during which he operates the aircraft solely by reference to instruments, under actual or simulated instrument flight conditions. Each entry must include the place and type of each instrument approach completed, and the name of the safety pilot for each simulated instrument flight. An instrument flight instructor may log as instrument time that time during which he acts as instrument flight instructor in actual instrument weather conditions.

(5) *Instruction time.* All time logged as flight instruction, instrument flight instruction, pilot ground trainer instruction, or ground instruction time must be certified by the appropriately rated and certificated instructor from whom it was received.

(d) *Presentation of logbook.* (1) A pilot must present his logbook (or other record required by this section) for inspection upon reasonable request by the Administrator, an authorized representative of the National Transportation Safety Board, or any State or local law enforcement officer.

(2) A student pilot must carry his logbook (or other record required by this section) with him on all solo cross-country flights, as evidence of the required instructor clearances and endorsements.

§ 61.53 Operations during medical deficiency.

No person may act as pilot in command, or in any other capacity as a required pilot flight crewmember while he has a known medical deficiency, or increase of a known medical deficiency, that would make him unable to meet the requirements for his current medical certificate.

§ 61.55 Second in command qualifications: Operation of large airplanes or turbojet-powered multiengine airplanes.

(a) Except as provided in paragraph (d) of this section after January 22, 1973, no person may serve as second in command of a large airplane, or a turbojet-powered multiengine airplane type certificated for more than one required pilot flight crewmember unless he holds—

(1) At least a current private pilot certificate with appropriate category and class ratings; and

(2) An appropriate instrument rating in the case of flight under IFR.

(b) Except as provided in paragraph (d) of this section after January 22, 1973, no person may serve as second in command of a large airplane, or a turbojet-powered multiengine airplane type certificated for more than one required pilot flight crewmember, unless since the beginning of the 12th calendar month before the month in which he serves, he has, with respect to that type airplane:

(1) Familiarized himself with all information concerning the airplane's powerplant, major components and systems, major appliances, performance and limitations, standard and emergency operating procedures and the contents of the approved airplane flight manual, if one is required.

(2) Performed and logged—

(i) Three takeoffs and three landings to a full stop as the sole manipulator of the flight controls; and

(ii) Engine-out procedures and maneuvering with an engine out while executing the duties of a pilot in command. This requirement may be satisfied in an airplane simulator acceptable to the Administrator.

For the purpose of meeting the requirements of subparagraph (2) of this paragraph, a person may act as second in command of a flight under day VFR or day IFR, if no persons or property, other than as necessary for the operation, are carried.

(c) If a pilot complies with the requirements in paragraph (b) of this section in the calendar month before, or the calendar month after, the month in which compliance with those requirements is due, he is considered to have complied with them in the month they are due.

(d) This section does not apply to a pilot who—

(1) Meets the pilot in command proficiency check requirements of Part 121, 123, or 135 of this chapter;

(2) Is designated as the second in command of an airplane operated under the provisions of Part 121, 123, or 135 of this chapter; or

(3) Is designated as the second in command of an airplane for the purpose of receiving flight training required by this section and no passengers or cargo are carried on that airplane.

§ 61.57 Recent flight experience: Pilot in command.

(a) *Flight review.* After November 1, 1974, no person may act as pilot in command of an aircraft unless, within the preceding 24 months, he has—

(1) Accomplished a flight review given to him, in an aircraft for which he is rated, by an appropriately certificated instructor or other person designated by the Administrator; and

(2) Had his log book endorsed by the person who gave him the review certifying that he has satisfactorily accomplished the flight review.

However, a person who has, within the preceding 24 months, satisfactorily completed a pilot proficiency check conducted by the FAA, an approved pilot check airman or a U.S. armed force for a pilot certificate, rating or operating privilege, need not accomplish the flight review required by this section.

(b) *Meaning of flight review.* As used in this section, a flight review consists of—

(1) A review of the current general operating and flight rules of Part 91 of this chapter; and

(2) A review of those maneuvers and procedures which in the discretion of the person giving the review are necessary for the pilot to demonstrate that he can safely exercise the privileges of his pilot certificate.

(c) *General experience.* No person may act as pilot in command of an aircraft carrying passengers, nor of an aircraft certificated for more than one required pilot flight crewmember, unless within the preceding 90 days, he has made three takeoffs and three landings as the sole manipulator of the flight controls in an aircraft of the same category and class and, if a type rating is required, of the same type. If the aircraft is a tailwheel airplane, the landings must have been made to a full stop in a tailwheel airplane. For the purpose of meeting the requirements of the paragraph a person may act as pilot-in-command of a flight under day VFR or day IFR if no persons or property other than as necessary for his compliance thereunder, are carried. This paragraph does not apply to operations requiring an airline transport pilot certificate, or to operations conducted under Part 135 of this chapter.

(d) *Night experience.* No person may act as pilot in command of an aircraft carrying passengers during the period beginning 1 hour after sunset and ending 1 hour before sunrise (as published in the American Air Almanac) unless, within the preceding 90 days, he has made at least three takeoffs and three landings to a full stop during that period in the category and class of aircraft to be used. This paragraph does not apply to operations requiring an airline transport pilot certificate.

(e) *Instrument*—(1) *Recent IFR experience.* No pilot may act as pilot in command under IFR, nor in weather conditions less than the minimums prescribed for VFR, unless he has, within the past 6 months—

(i) In the case of an aircraft other than a glider, logged at least 6 hours of instrument time under actual or simulated IFR conditions, at least 3 of which were in flight in the category of aircraft involved, including at least six instrument approaches, or passed an instrument competency check in the category of aircraft involved.

(ii) In the case of a glider, logged at least 3 hours of instrument time, at least half of which were in a glider or an airplane. If a passenger is carried in the glider, at least 3 hours of instrument flight time must have been in gliders.

(2) *Instrument competency check.* A pilot who does not meet the recent instrument experience requirements of paragraph (e)(1) of this section during the prescribed time or 6 months thereafter may not serve as pilot in command under IFR, nor in weather conditions less than the minimums prescribed for VFR, until he passes an instrument competency check in the category of aircraft involved, given by an FAA inspector, a member of an armed force of the United States authorized to conduct flight tests, an FAA-approved check pilot, or a certificated instrument flight instructor. The Administrator may authorize the conduct of part or all of this check in a pilot ground trainer equipped for instruments or an aircraft simulator.

§ 61.58 Pilot-in-command proficiency check: Operation of aircraft requiring more than one required pilot.

(a) Except as provided in paragraph (e) of this section, after November 1, 1974, no person may act as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember unless he has satisfactorily completed the proficiency checks or flight checks prescribed in paragraphs (b) and (c) of this section.

(b) Since the begining of the 12th calendar month before the month in which a person acts as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember he must have completed one of the following:

(1) For an airplane—a proficiency or flight check in either an airplane that is type certificated for more than one required pilot crewmember, or in an approved simulator or other training device, given to him by an FAA inspector or designated pilot examiner and consisting of those maneuvers and procedures set forth in Appendix F of Part 121 of this chapter which may be performed in a simulator or training device.

(2) For other aircraft—a proficiency or flight check in an aircraft that is type certificated for more than one required pilot crewmember given to him by an FAA inspector or designated pilot examiner which includes those maneuvers and procedures required for the original issuance of a type rating for the aircraft used in the check.

(3) A pilot in command proficiency check given to him in accordance with the provisions for that check under Parts 121, 123, or 135 of this chapter. However, in the case of a person acting as pilot in command of a helicopter he may complete a proficiency check given to him in accordance with Part 127 of this chapter.

(4) A flight test required for an aircraft type rating.

(5) An initial or periodic flight check for the purpose of the issuance of a pilot examiner or check airman designation.

(6) A military proficiency check required for pilot in command and instrument privileges in an aircraft which the military requires to be operated by more than one pilot.

(c) Except as provided in paragraph (d) of this section, since the beginning of the 24th calendar month before the month in which a person acts as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember he must have completed one of the following proficiency or flight checks in the particular type aircraft in which he is to serve as pilot in command:

(1) A proficiency check or flight check given to him by an FAA inspector or a designated pilot examiner which includes the maneuvers, procedures, and standards required for the original issuance of a type rating for the aircraft used in the check.

(2) A pilot in command proficiency check given to him in accordance with the provisions for that check under Parts 121, 123, or 135 of this chapter. However, in the case of a person acting as pilot in command of a helicopter he may complete a proficiency check given to him in accordance with Part 127 of this chapter.

(3) A flight test required for an aircraft type rating.

(4) An initial or periodic flight check for the purpose of the issuance of a pilot examiner or check airman designation.

(5) A military proficiency check required for pilot in command and instrument privileges in an aircraft which the military requires to be operated by more than one pilot.

(d) For airplanes, the maneuvers and procedures required for the checks and test prescribed in paragraphs (c) (1), (2), (4), and (5) of this section, and paragraph (c) (3) of this section in the case of type ratings obtained in conjunction with a Part 121 of this chapter training program may be performed in a simulator or training device if—

(1) The maneuver or procedure can be performed in a simulator or training device as set forth in Appendix F to Part 121 of this chapter; and

(2) The simulator or training device is one that is approved for the particular maneuver or procedure.

(e) This section does not apply to persons conducting operations subject to Parts 121, 123, 127, 133, 135, and 137 of this chapter.

(f) For the purpose of meeting the proficiency check requirements of paragraphs (b) and (c) of this section, a person may act as pilot in command of a flight under day VFR or day IFR if no persons or property, other than as necessary for his compliance thereunder, are carried.

(g) If a pilot takes the proficiency check required by paragraph (a) of this section in the calendar month before, or the calendar month after, the month in which it is due, he is considered to have taken it in the month it is due.

§ 61.59 Falsification, reproduction, or alteration of applications, certificates, logbooks, reports, or records.

(a) No person may make or cause to be made—

(1) Any fraudulent or intentionally false statement on any application for a certificate, rating, or duplicate thereof, issued under this part;

(2) Any fraudulent or intentionally false entry in any logbook, record, or report that is required to be kept, made, or used, to show compliance with any requirement for the issuance, or exercise of the privileges, or any certificate or rating under this part;

(3) Any reproduction, for fraudulent purpose, of any certificate or rating under this part; or

(4) Any alteration of any certificate or rating under this part.

(b) The commission by any person of an act prohibited under paragraph (a) of this section is a basis for suspending or revoking any airman or ground instructor certificate or rating held by that person.

§ 61.60 Change of address.

The holder of a pilot or flight instructor certificate who has made a change in his permanent mailing address may not after 30 days from the date he moved, exercise the privileges of his certificate unless he has notified in writing the Department of Transportation, Federal Aviation Administration, Airman Certification Branch, Box 25082, Oklahoma City, OK 73125, of his new address.

Subpart B—Aircraft Ratings and Special Certificates

§ 61.61 Applicability.

This subpart prescribes the requirements for the issuance of additional aircraft ratings after a pilot or instructor certificate is issued, and the requirements and limitations for special pilot certificates and ratings issued by the Administrator.

§ 61.63 Additional aircraft ratings (other than airline transport pilot).

(a) *General.* To be eligible for an aircraft rating after his certificate is issued to him an applicant must meet the requirements of paragraphs (b) through (d) of this section, as appropriate to the rating sought.

(b) *Category rating.* An applicant for a category rating to be added on his pilot certificate must meet the requirements of this Part for the issue of the pilot certificate appropriate to the privileges for which the category rating is sought. However, the holder of a category rating for powered aircraft is not required to take a written test for the addition of a category rating on his pilot certificate.

(c) *Class rating.* An applicant for an aircraft class rating to be added on his pilot certificate must—

(1) Present a logbook record certified by an authorized flight instructor showing that the applicant has received flight instruction in the class of aircraft for which a rating is sought and has been found competent in the pilot operations appropriate to the pilot certificate to which his category rating applies; and

(2) Pass a flight test appropriate to his pilot certificate and applicable to the aircraft category and class rating sought.

A person who holds a lighter-than-air category rating with a free balloon class rating, who seeks an airship class rating, must meet the requirements of paragraph (b) of this section as though seeking a lighter-than-air category rating.

(d) *Type rating.* An applicant for a type rating to be added on his pilot certificate must meet the following requirements:

(1) He must hold, or concurrently obtain, an instrument rating appropriate to the aircraft for which a type rating is sought.

(2) He must pass a flight test showing competence in pilot operations appropriate to the pilot certificate he holds and to the type rating sought.

(3) He must pass a flight test showing competence in pilot operations under instrument flight rules in an aircraft of the type for which the type rating is sought or, in the case of a single pilot station airplane, meet the requirements of paragraph (d) (3) (i) or (ii) of this section, whichever is applicable.

(i) The applicant must have met the requirements of this subparagraph in a multiengine airplane for which the type rating is required.

(ii) If he does not meet the requirements of paragraph (d) (3) (i) of this section and he seeks a type rating for a single-engine airplane, he must meet the requirements of this subparagraph in either a single or multiengine airplane, and have the recent instrument experience set forth in § 61.57(e), when he applies for the flight test under paragraph (d) (2) of this section.

(4) An applicant who does not meet the requirements of paragraphs (d) (1) and (3) of this section may obtain a type rating limited to "VFR only." Upon meeting these instrument requirements or the requirements of § 61.73(e) (2), the "VFR only" limitation may be removed for the particular type of aircraft in which competence is shown.

(5) When an instrument rating is issued to the holder of one or more type ratings, the type ratings on the amended certificate bear the limitation described in paragraph (d) (4) of this section for each airplane type rating for which he has not shown his instrument competency under this paragraph.

§ 61.65 Instrument rating requirements.

(a) *General.* To be eligible for an instrument rating (airplane) or an instrument rating (helicopter), an applicant must—

(1) Hold a current private or commercial pilot certificate with an aircraft rating appropriate to the instrument rating sought;

(2) Be able to read, speak, and understand the English language; and

(3) Comply with the applicable requirements of this section.

(b) *Ground instruction.* An applicant for the written test for an instrument rating must have received ground instruction, or have logged home study in at least the following areas of aeronautical knowledge appropriate to the rating sought.

(1) The regulations of this chapter that apply to flight under IFR conditions, the Airman's Information Manual, and the IFR air traffic system and procedures;

(2) Dead reckoning appropriate to IFR navigation, IFR navigation by radio aids using the VOR, ADF, and ILS systems, and the use of IFR charts and instrument approach plates;

(3) The procurement and use of aviation weather reports and forecasts, and the elements of forecasting weather trends on the basis of that information and personal observation of weather conditions; and

(4) The safe and efficient operation of airplanes or helicopters, as appropriate, under instrument weather conditions.

(c) *Flight instruction and skill—airplanes.* An applicant for the flight test for an instrument rating (airplane) must present a logbook record certified by an authorized flight instructor showing that he has received instrument flight instruction in an airplane in the following pilot operations, and has been found competent in each of them:

(1) Control and accurate maneuvering of an airplane solely by reference to instruments.

(2) IFR navigation by the use of the VOR and ADF systems, including compliance with air traffic control instructions and procedures.

(3) Instrument approaches to published minimums using the VOR, ADF, and ILS systems (instruction in the use of the ADF and ILS may be received in an instrument ground trainer and instruction in the use of the ILS glide slope may be received in an airborne ILS simulator).

(4) Cross-country flying in simulated or actual IFR conditions, on Federal airways or as routed by ATC, including one such trip of at least 250 nautical miles, including VOR, ADF, and ILS approaches at different airports.

(5) Simulated emergencies, including the recovery from unusual attitudes, equipment or instrument malfunctions, loss of communications, and engine-out emergencies if a multiengine airplane is used, and missed approach procedure.

(d) *Instrument instruction and skill—(helicopter).* An applicant for the flight test for an instrument rating (helicopter) must present a logbook record certified to by an authorized flight instructor showing that he has received instrument flight instruction in a helicopter in the following pilot operations, and has been found competent in each of them:

(1) The control and accurate maneuvering of a helicopter solely by reference to instruments.

(2) IFR navigation by the use of the VOR and ADF systems, including compliance with air traffic instructions and procedures.

(3) Instrument approaches to published minimums using the VOR, ADF, and ILS systems (instruction in the use of the ADF and ILS may be received in an instrument ground trainer, and instruction in the use of the ILS glide slope may be received in an airborne ILS simulator).

(4) Cross-country flying under simulated or actual IFR conditions, on Federal airways or as routed by ATC, including one flight of at least 100 nautical miles, including VOR, ADF, and ILS approaches at different airports.

(5) Simulated IFR emergencies, including equipment malfunctions, missed approach procedures, and deviations to unplanned alternates.

(e) *Flight experience.* An applicant for an instrument rating must have at least the following flight time as a pilot:

(1) A total of 200 hours of pilot flight time, including 100 hours as pilot in command, of which 50 hours are cross-country in the category of aircraft for which an instrument rating is sought.

(2) 40 hours of simulated or actual instrument time, of which not more than 20 hours may be instrument instruction by an authorized instructor in an instrument ground trainer acceptable to the Administrator.

(3) 15 hours of instrument flight instruction by an authorized flight instructor, including at least 5 hours in an airplane or a helicopter, as appropriate.

(f) *Written test.* An applicant for an instrument rating must pass a written test appropriate to the instrument rating sought on the subjects in which ground instruction is required by paragraph (b) of this section.

(g) *Practical test.* An applicant for an instrument rating must pass a flight test in an airplane or a helicopter, as appropriate. The test must include instrument flight procedures selected by the inspector or examiner conducting the test to determine the applicant's ability to perform competently the IFR operations on which instruction is required by paragraph (c) or (d) of this section.

§ 61.67 Category II pilot authorization requirements.

(a) *General.* An applicant for a Category II pilot authorization must hold—

(1) A pilot certificate with an instrument rating or an airline transport pilot certificate; and

(2) A type rating for the airplane type if the authorization is requested for a large airplane or a small turbojet airplane.

(b) *Experience requirements.* Except for the holder of an airline transport pilot certificate, an applicant for a Category II authorization must have at least—

(1) 50 hours of night flight time under VFR conditions as pilot in command;

(2) 75 hours of instrument time under actual or simulated conditions that may include 25 hours in a synthetic trainer; and

(3) 250 hours of cross-country flight time as pilot in command.

Night flight and instrument flight time used to meet the requirements of paragraphs (b) (1) and (2) of this section may also be used to meet the requirements of paragraph (b)(3) of this section.

(c) *Practical test required.* (1) The practical test must be passed by—

(i) An applicant for issue or renewal of an authorization; and

(ii) An applicant for the addition of another type airplane to his authorization.

(2) To be eligible for the practical test an applicant must meet the requirements of paragraph (a) of this section and, if he has not passed a practical test since the beginning of the twelfth month before the test, he must meet the following recent experience requirements:

(i) The requirements of § 61.57(e).

(ii) At least six ILS approaches since the beginning of the sixth month before the test. These approaches must be under actual or simulated instrument flight conditions down to the minimum landing altitude for the ILS approach in the type airplane in which the flight test is to be conducted. However, the approaches need not be conducted down to the decision heights authorized for Category II operations. At least three of these approaches must have been conducted manually, without the use of an approach coupler.

The flight time acquired in meeting the requirements of paragraph (c)(2)(ii) of this section may be used to meet the requirements of paragraph (c)(2)(i) of this section.

(d) *Practical test procedures.* The practical test consists of two phases:

(1) *Phase I—oral operational test.* The applicant must demonstrate his knowledge of the following:

(i) Required landing distance.

(ii) Recognition of the decision height.

(iii) Missed approach procedures and techniques utilizing computed or fixed attitude guidance displays.

(iv) RVR, its use and limitations.

(v) Use of visual clues, their availability or limitations, and altitude at which they are normally discernible at reduced RVR readings.

(vi) Procedures and techniques related to transition from nonvisual to visual flight during a final approach under reduced RVR.

(vii) Effects of vertical and horizontal wind shear.

(viii) Characteristics and limitations of the ILS and runway lighting system.

(ix) Characteristics and limitations of the flight director system, auto approach coupler (including split axis type if equipped), auto throttle system (if equipped), and other required Category II equipment.

(x) Assigned duties of the second in command during Category II approaches.

(xi) Instrument and equipment failure warning systems.

(2) *Phase II—flight test.* The flight test must be taken in an airplane that meets the requirements of Part 91 of this chapter for Category II operations. The test consists of at least two ILS approaches to 100 feet including at least one landing and one missed approach. All approaches must be made with the approved flight control guidance system. However, if an approved automatic approach coupler is installed, at least one approach must be made manually. In the case of a multiengine airplane that has performance capability to execute a missed approach with an engine out, the missed approach must be executed with one engine set in idle or zero thrust position before reaching the middle marker. The required flight maneuvers must be performed solely by reference to instruments and in coordination with a second in command who holds a class rating and, in the case of a large airplane or a small turbojet airplane, a type rating for that airplane.

§ 61.69 Glider towing: Experience and instruction requirements.

No person may act as pilot in command of an aircraft towing a glider unless he meets the following requirements:

(a) He holds a current pilot certificate (other than a student pilot certificate) issued under this part.

(b) He has an endorsement in his pilot log book from a person authorized to give flight instruction in gliders, certifying that he has received ground and flight instruction in gliders and is familiar with the techniques and procedures essential to the safe towing of gliders, including airspeed limitations, emergency procedures, signals used, and maximum angles of bank.

(c) He has made and entered in his pilot logbook—

(1) At least three flights as sole manipulator of the controls of an aircraft towing a glider (while accompanied by a pilot who has met the requirements of this section), and at least 10 flights as pilot in command of an aircraft towing a glider; or

(2) At least three flights as sole manipulator of the controls of an aircraft simulating glider towing flight procedures (while accompanied by a pilot who meets the requirements of this section), and at least three flights as pilot or observer in a glider being towed by an aircraft.

However, any person who, before May 17, 1967, made, and entered in his pilot logbook, 10 or more flights as pilot in command of an aircraft towing a glider in accordance with a certificate of waiver need not comply with paragraphs (c) (1) and (2) of this section.

(d) If he holds only a private pilot certificate he must have had, and entered in his pilot logbook at least—

(1) 100 hours of pilot flight time in powered aircraft; or

(2) 200 total hours of pilot flight time in powered or other aircraft.

(e) Within the preceding 12 months he has—

(1) Made at least three actual or simulated glider tows while accompanied by a qualified pilot who meets the requirements of this section; or

(2) Made at least three flights as pilot in command of a glider towed by an aircraft.

§ 61.71 Graduates of certificated flying schools: Special rules.

(a) A graduate of a flying school that is certificated under Part 141 of this chapter is considered to meet the applicable aeronautical experience requirements of this part if he presents an appropriate graduation certificate within 60 days after the date he is graduated. However, if he applies for a flight test for an instrument rating he must hold a commercial pilot certificate, or hold a private pilot certificate and meet the requirements of §§ 61.65(e)(1) and 61.123 (except paragraphs (d) and (e) thereof). In addition, if he applies for a flight instructor certificate he must hold a commercial pilot certificate.

(b) An applicant for a certificate or rating under this part is considered to meet the aeronautical knowledge and skill requirements, or both, applicable to that certificate or rating, if he applies within 90 days after graduation from an appropriate course given by a flying school that is certificated under Part 141 of this chapter and is authorized to test applicants on aeronautical knowledge or skill, or both.

§ 61.73 Military pilots or former military pilots: Special rules.

(a) *General.* A rated military pilot or former rated military pilot who applies for a private or commercial pilot certificate, or an aircraft or instrument rating, is entitled to that certificate with appropriate ratings or to the addition of a rating on the pilot certificate he holds, if he meets the applicable requirements of this section. This section does not apply to a military pilot or former military pilot who has been removed from flying status for lack of proficiency or because of disciplinary action involving aircraft operations.

(b) *Military pilots on active flying status within 12 months.* A rated military pilot or former rated military pilot who has been on active flying status within the 12 months before he applies must pass a written test on the parts of this chapter relating to pilot privileges and limitations, air traffic and general operating rules, and accident reporting rules. In addition, he must present documents showing that he meets the requirements of paragraph (d) of this section for at least one aircraft rating, and that he is, or was at any time since the beginning of the twelfth month before the month in which he applies—

(1) A rated military pilot on active flying status in an armed force of the United States; or

(2) A rated military pilot of an armed force of a foreign contracting State to the Convention on International Civil Aviation, assigned to pilot duties (other than flight training) with an armed force of the United States who holds, at the time he applies, a current civil pilot license issued by that foreign State authorizing at least the privileges of the pilot certificate he seeks.

(c) *Military pilots not on active flying status within previous 12 months.* A rated military pilot or former military pilot who has not been on active flying status within the 12 months before he applies must pass the appropriate written and flight tests prescribed in this part for the certificate or rating he seeks. In addition, he must show that he holds an FAA medical certificate appropriate to the pilot certificate he seeks and present documents showing that he was, before the beginning of the twelfth month before the month in which he applies, a rated military pilot as prescribed by either paragraph (b) (1) or (2) of this section.

(d) *Aircraft ratings: Other than airplane category and type.* An applicant for a category, class, or type rating (other than airplane category and type rating) to be added on the pilot certificate he holds, or for which he has applied, is issued that rating if he presents documentary evidence showing one of the following:

(1) That he has passed an official United States military checkout as pilot in command of aircraft of the category, class, or type for which he seeks a rating since the beginning of the twelfth month before the month in which he applies.

(2) That he has had at least 10 hours of flight time serving as pilot in command of aircraft of the category, class, or type for which he seeks a rating since the beginning of the twelfth month before the month in which he applies and previously has had an official United States military checkout as pilot in command of that aircraft.

(3) That he has met the requirements of paragraph (b) (1) or (2) of this section, has had an official United States military checkout in the category of aircraft for which he seeks a rating, and that he passes an FAA flight test appropriate to that category and the class or type rating he seeks. To be eligible for that flight test, he must have a written statement from an authorized flight instructor, made not more than 60 days before he applies for the flight test, certifying that he is competent to pass the test.

A type rating is issued only for aircraft types that the Administrator has certificated for civil operations. Any rating placed on an airline transport pilot certificate is limited to commercial pilot privileges.

(e) *Airplane category and type ratings.* (1) An applicant for a commercial pilot certificate with an airplane category rating, or an applicant for the addition of an airplane category rating on his commercial pilot certificate, must hold an airplane instrument rating, or his certificate is endorsed with the following limitation: "not valid for the carriage of passengers or property for hire in airplanes on cross-country flights of more than 50 nautical miles, or at night."

(2) An applicant for a private or commercial pilot certificate with an airplane type rating, or for the addition of an airplane type rating on his private or commercial pilot certificate who holds an instrument rating (airplane), must present documentary evidence showing that he has demonstrated instrument competency in the type of airplane for which the type rating is sought, or his certificate is endorsed with the following limitation: "VFR only."

(f) *Instrument rating.* An applicant for an airplane instrument rating or a helicopter instrument rating to be added on the pilot certificate he holds, or for which he has applied, is entitled to that rating if he has, within the 12 months preceding the month in which he applies, satisfactorily accomplished an instrument flight check of a U.S. Armed Force in an aircraft of the category for which he seeks the instrument rating and is authorized to conduct IFR flights on Federal airways. A helicopter instrument rating added on an airline transport pilot certificate is limited to commercial pilot privileges.

(g) *Evidentiary documents.* The following documents are satisfactory evidence for the purposes indicated:

(1) To show that the applicant is a member of the armed forces, an official identification card issued to the applicant by an armed force may be used.

(2) To show the applicant's discharge or release from an armed force, or his former membership therein, an original or a copy of a certificate of discharge or release may be used.

(3) To show current or previous status as a rated military pilot on flying status with a U.S. Armed Force, one of the following may be used:

(i) An official U.S. Armed Force order to flight duty as a military pilot.

(ii) An official U.S. Armed Force form or logbook showing military pilot status.

(iii) An official order showing that the applicant graduated from a U.S.

military pilot school and is rated as a military pilot.

(4) To show flight time in military aircraft as a member of a U.S. Armed Force, an appropriate U.S. Armed Force form or summary of it, or a certified United States military logbook may be used.

(5) To show pilot-in-command status, an official U.S. Armed Force record of a military checkout as pilot in command, may be used.

(6) To show instrument pilot qualification, a current instrument card issued by a U.S. Armed Force, or an official record of the satisfactory completion of an instrument flight check within the 12 months preceding the month of the application may be used. However, a Tactical (Pink) instrument card issued by the U.S. Army is not acceptable.

§ 61.75 Pilot certificate issued on basis of a foreign pilot license.

(a) *Purpose.* The holder of a current private, commercial, senior commercial, or airline transport pilot license issued by a foreign contracting State to the Convention on International Civil Aviation may apply for a pilot certificate under this section authorizing him to act as a pilot of a civil aircraft of U.S. registry.

(b) *Certificate issued.* A pilot certificate is issued to an applicant under this section, specifying the number and State of issuance of the foreign pilot license on which it is based. An applicant who holds a foreign private pilot license is issued a private pilot certificate, and an applicant who holds a foreign commercial, senior commercial, or airline transport pilot license is issued a commercial pilot certificate, if—

(1) He meets the requirements of this section;

(2) His foreign pilot license does not contain an endorsement that he has not met all of the standards of ICAO for that license; and

(3) He does not hold a U.S. pilot certificate of private pilot grade or higher.

(c) *Limitation on licenses used as basis for U.S. certificate.* Only one foreign pilot license may be used as a basis for issuing a pilot certificate under this section.

(d) *Aircraft ratings issued.* Aircraft ratings listed on the applicant's foreign pilot license, in addition to any issued after testing under the provisions of this part, are placed on the applicant's pilot certificate.

(e) *Instrument rating issued.* An instrument rating is issued to an applicant if—

(1) His foreign pilot license authorizes instrument privileges; and

(2) Within 24 months preceding the month in which he makes application for a certificate, he passed a test on the instrument flight rules in Subpart B of Part 91 of this chapter, including the related procedures for the operation of the aircraft under instrument flight rules.

(f) *Medical standards and certification.* An applicant must submit evidence that he currently meets the medical standards for the foreign pilot license on which the application for a certificate under this section is based. A current medical certificate issued under Part 67 of this chapter is accepted as evidence that the applicant meets those standards. However, a medical certificate issued under Part 67 of this chapter is not evidence that the applicant meets those standards outside the United States, unless the State that issued the applicant's foreign pilot license also accepts that medical certificate as evidence of meeting the medical standards for his foreign pilot license.

(g) *Limitations placed on pilot certificate.* (1) If the applicant cannot read, speak, and understand the English language, the Administrator places any limitation on the certificate that he considers necessary for safety.

(2) A certificate issued under this section is not valid for agricultural aircraft operations, or the operation of an aircraft in which persons or property are carried for compensation or hire. This limitation is also placed on the certificate.

(h) *Operating privileges and limitations.* The holder of a pilot certificate issued under this section may act as a pilot of a civil aircraft of U.S. registry in accordance with the pilot privileges authorized by the foreign pilot license on which that certificate is based, subject to the limitations of this part and any additional limitations placed on his certificate by the Administrator. He is subject to these limitations while he is acting as a pilot of the aircraft within or outside the United States. However, he may not act as pilot in command, or in any other capacity as a required pilot flight crewmember, of a civil aircraft of U.S. registry that is carrying persons or property for compensation or hire.

(i) *Flight instructor certificate.* A pilot certificate issued under this section does not satisfy any of the requirements of this Part for the issuance of a flight instructor certificate.

Subpart C—Student Pilots

§ 61.81 Applicability.

This subpart prescribes the requirements for the issuance of student pilot certificates, the conditions under which those certificates are necessary, and the general operating rules for the holders of those certificates.

§ 61.83 Eligibility requirements: General.

To be eligible for a student pilot certificate, a person must—

(a) Be at least 16 years of age, or at least 14 years of age for a student pilot certificate limited to the operation of a glider or free balloon;

(b) Be able to read, speak, and understand the English language, or have such operating limitations on his student pilot certificate as are necessary for the safe operation of aircraft, to be removed when he shows that he can read, speak, and understand the English language; and

(c) Hold at least a current third-class medical certificate issued under Part 67 of this chapter, or, in the case of glider or free balloon operations, certify that he has no known medical defect that makes him unable to pilot a glider or a free balloon.

§ 61.85 Application.

An application for a student pilot certificate is made on a form and in a manner provided by the Administrator and is submitted to—

(a) A designated aviation medical examiner when applying for an FAA medical certificate; or

(b) An FAA operations inspector or designated pilot examiner, accompanied by a current FAA medical certificate, or in the case of an application for a glider or free balloon pilot certificate it may be accompanied by a certification by the applicant that he has no known medical defect that makes him unable to pilot a glider or free balloon.

§ 61.87 Requirements for solo flight.

(a) *General.* A student pilot may not operate an aircraft in solo flight until he has complied with the requirements of this section. As used in this subpart the term solo flight means that flight time during which a student pilot is the sole occupant of the aircraft, or that flight time during which he acts as pilot in command of an airship requiring more than one flight crewmember.

(b) *Aeronautical knowledge.* He must have demonstrated to an authorized instructor that he is familiar with the flight rules of Part 91 of this chapter which are pertinent to student solo flights.

(c) *Flight proficiency training.* He must have received ground and flight instruction in at least the following procedures and operations:

(1) *In airplanes.* (i) Flight preparation procedures, including preflight inspection and powerplant operation;

(ii) Ground maneuvering and runups;

(iii) Straight and level flight, climbs, turns, and descents;

(iv) Flight at minimum controllable airspeeds, and stall recognition and recovery;

(v) Normal takeoffs and landings;

(vi) Airport traffic patterns, including collision avoidance precautions and wake turbulence; and

(vii) Emergencies, including elementary emergency landings.

Instruction must be given by a flight Instructor who is authorized to give instruction in airplanes.

(2) *In rotorcraft.* (i) Flight preparation procedures, including preflight inspections and powerplant operation;

(ii) Ground handling and runups;

(iii) Hovering turns and air taxi (helicopter only);

(iv) Straight and level flight, turns, climbs, and descents;

(v) Maneuvering by ground references, airport traffic patterns including collision avoidance precautions;

(vi) Normal takeoffs and landings; and

(vii) Emergencies, including autorotational descents.

Instruction must be given by a flight instructor who is authorized to give instruction in helicopters or gyroplanes, as appropriate.

(3) *In single-place gyroplanes.* (i) Flight preparation procedures, including preflight inspection and powerplant operation;

(ii) Ground handling and runups; and

(iii) At least three successful flights in a gyroplane towed from the ground under the observation of the instructor involved.

Instruction must be given by a flight instructor who is authorized to give instruction in gyroplanes, airplanes, or rotorcraft.

(4) *In gliders.* (i) Flight preparation procedures, including preflight inspections, towline rigging, signals, and release procedures;

(ii) Aero tows or ground tows;

(iii) Straight glides, turns, and spirals;

(iv) Flight at minimum controllable airspeeds, and stall recognition and recoveries;

(v) Traffic patterns, including collision avoidance precautions; and

(vi) Normal landings.

Instruction must be given by a flight instructor who is authorized to give instruction in gliders.

(5) *In airships.* (i) Flight preparation procedures, including preflight inspection and powerplant operation;

(ii) Rigging, ballasting, controlling pressure in the ballonets, and superheating;

(iii) Takeoffs and ascents;

(iv) Straight and level flight, climbs, turns, and descents; and

(v) Landings with positive and with negative static balance.

Instruction must be given by an authorized flight instructor or the holder of a commercial pilot certificate with a lighter-than-air category and airship class rating.

(6) *In free balloons.* (i) Flight preparation procedures, including preflight operations;

(ii) Operation of hot air or gas source, ballast, valves, and rip panels, as appropriate;

(iii) Liftoffs and climbs; and

(iv) Descents, landings, and emergency use of rip panel (may be simulated).

Instruction must be given by an authorized flight instructor or the holder of a commercial pilot certificate with a lighter-than-air category and free balloon class rating.

(d) *Flight instructor endorsements.* A student pilot may not operate an aircraft in solo flight unless his student pilot certificate and pilot logbook are endorsed by an authorized flight instructor who—

(1) Has given him instruction in the make and model of aircraft in which the solo flight is made;

(2) Finds that he has met the requirements of this section; and

(3) Finds that he is competent to make a safe solo flight in that aircraft.

§ 61.89 General limitations.

(a) A student pilot may not act as pilot in command of an aircraft—

(1) That is carrying a passenger;

(2) That is carrying property for compensation or hire;

(3) For compensation or hire;

(4) In furtherance of a business; or

(5) On an international flight, except that a student pilot may make solo training flights from Haines, Gustavus, or Juneau, Alaska, to White Horse, Yukon, Canada, and return, over the province of British Columbia.

(b) A student pilot may not act as a required pilot flight crewmember on any aircraft for which more than one pilot is required, except when receiving flight instruction from an authorized flight instructor on board an airship and no person other than a required flight crewmember is carried on the aircraft.

§ 61.91 Aircraft limitations: Pilot in command.

A student pilot may not serve as pilot in command of any airship requiring more than one flight crewmember unless he has met the pertinent requirements prescribed in § 61.87.

§ 61.93 Cross-country flight requirements.

(a) *General.* A student pilot may not operate an aircraft in a solo cross-country flight, nor may he, except in an emergency, make a solo flight landing at any point other than the airport of takeoff, until he meets the requirements prescribed in this section. However, an authorized flight instructor may allow a student pilot to practice solo landings and takeoffs at another airport within 25 nautical miles from the airport at which the student pilot receives instruction if he finds that the student pilot is competent to make those landings and takeoffs. As used in this section the term cross-country flight means a flight beyond a radius of 25 nautical miles from the point of takeoff.

(b) *Flight training.* A student pilot must receive instruction from an authorized instructor in at least the following pilot operations pertinent to the aircraft to be operated in a solo cross-country flight:

(1) For solo cross-country in airplanes—

(i) The use of aeronautical charts, pilotage, and elementary dead reckoning using the magnetic compass;

(ii) The use of radio for VFR navigation, and for two-way communication;

(iii) Control of an airplane by reference to flight instruments;

(iv) Short field and soft field procedures, and crosswind takeoffs and landings;

(v) Recognition of critical weather situations, estimating visibility while in flight, and the procurement and use of aeronautical weather reports and forecasts; and

(vi) Cross-country emergency procedures.

(2) For solo cross-country in rotorcraft—

(i) The use of aeronautical charts and the magnetic compass for pilotage and for elementary dead reckoning;

(ii) The recognition of critical weather situations, estimating visibility while in flight, and the procurement and use of aeronautical weather reports and forecasts; and

(iii) Radio communications; and

(iv) Cross-country emergencies.

(3) For solo cross-country in gliders—

(i) The recognition of critical weather situations and conditions favorable for soaring flight, and the procurement and use of aeronautical weather reports and forecasts;

(ii) The use of aeronautical charts and the magnetic compass for pilotage; and

(iii) Cross-country emergency procedures.

(4) For student cross-country in airships—

(i) The use of aeronautical charts and the magnetic compass for pilotage and dead reckoning, and the use of radio for navigation and two-way communications;

(ii) The control of an airship solely by reference to flight instruments;

(iii) The control of gas pressures, with regard to superheating and altitude changes;

(iv) The recognition of critical weather situations, and the procurement and use of aeronautical weather reports and forecasts; and

(v) Cross-country emergency procedures.

(5) For solo cross-country in free balloons—

(i) The use of aeronautical charts and the magnetic compass for pilotage;

(ii) The recognition of critical weather situations, and the procurement and use of aeronautical weather reports and forecasts; and

(iii) Cross-country emergency procedures.

(c) *Flight instructor endorsements.* A student pilot must have the following endorsements from an authorized flight instructor:

(1) An endorsement on his student pilot certificate stating that he has received instruction in solo cross-country flying and the applicable training requirements of this section, and is competent to make cross-country solo flights in the category of aircraft involved.

(2) An endorsement in his pilot logbook that the instructor has reviewed the preflight planning and preparation for each solo cross-country flight, and he is prepared to make the flight safely under the known circumstances and the conditions listed by the instructor in the logbook. The instructor may also endorse the logbook for repeated solo cross-country flights under stipulated conditions over a course not more than 50 nautical miles from the point of departure if he has given the student flight instruction in both directions over the route, including takeoffs and landings at the airports to be used.

Subpart D—Private Pilots

§ 61.101 Applicability.

This subpart prescribes the requirements for the issuance of private pilot certificates and ratings, the conditions under which those certificates and ratings are necessary, and the general op-

erating rules for the holders of those certificates and ratings.

§ 61.103 Eligibility requirements: General.

To be eligible for a private pilot certificate, a person must—

(a) Be at least 17 years of age, except that a private pilot certificate with a free balloon or a glider rating only may be issued to a qualified applicant who is at least 16 years of age;

(b) Be able to read, speak, and understand the English language, or have such operating limitations placed on his pilot certificate as are necessary for the safe operation of aircraft, to be removed when he shows that he can read, speak, and understand the English language;

(c) Hold at least a current third-class medical certificate issued under Part 67 of this chapter, or, in the case of a glider or free balloon rating, certify that he has no known medical defect that makes him unable to pilot a glider or free balloon, as appropriate;

(d) Pass a written test on the subject areas on which instruction or home study is required by § 61.105;

(e) Pass an oral and flight test on procedures and maneuvers selected by an FAA inspector or examiner to determine the applicant's competency in the flight operations on which instruction is required by the flight proficiency provisions of § 61.107; and

(f) Comply with the sections of this part that apply to the rating he seeks.

§ 61.105 Aeronautical knowledge.

An applicant for a private pilot certificate must have logged ground instruction from an authorized instructor, or must present evidence showing that he has satisfactorily completed a course of instruction or home study in at least the following areas of aeronautical knowledge appropriate to the category of aircraft for which a rating is sought.

(a) *Airplanes.* (1) The Federal Aviation Regulations applicable to private pilot privileges, limitations, and flight operations, accident reporting requirements of the National Transportation Safety Board, and the use of the "Airman's Information Manual" and the FAA Advisory Circulars;

(2) VFR navigation, using pilotage, dead reckoning, and radio aids;

(3) The recognition of critical weather situations from the ground and in flight and the procurement and use of aeronautical weather reports and forecasts; and

(4) The safe and efficient operation of airplanes, including high density airport operations, collision avoidance precautions, and radio communication procedures.

(b) *Rotorcraft.* (1) The accident reporting requirements of the National Transportation Safety Board and the Federal Aviation Regulations applicable to private pilot privileges, limitations, and helicopter or gyroplane operations, as appropriate;

(2) The use of aeronautical charts and the magnetic compass for pilotage, and elementary dead reckoning, and the use of radio aids;

(3) Recognition of critical weather situations from the ground and in flight, and the procurement and use of aeronautical weather reports and forecasts; and

(4) The safe and efficient operation of helicopters or gyroplanes, as appropriate, including high density airport operations.

(c) *Gliders.* (1) The accident reporting requirements of the National Transportation Safety Board and the Federal Aviation Regulations applicable to glider pilot privileges, limitations, and flight operations;

(2) Glider navigation, including the use of aeronautical charts and the magnetic compass;

(3) Recognition of weather situations of concern to the glider pilot, and the procurement and use of aeronautical weather reports and forecasts; and

(4) The safe and efficient operation of gliders, including ground and aero tow procedures, signals, and safety precautions.

(d) *Airships.* (1) The Federal Aviation Regulations applicable to private lighter-than-air pilot privileges, limitations, and airship flight operations;

(2) Airship navigation, including pilotage, dead reckoning, and the use of radio aids;

(3) The recognition of weather conditions of concern to the airship pilot, and the procurement and use of aeronautical weather reports and forecasts; and

(4) Airship operations, including free ballooning, the effects of superheating, and positive and negative lift.

(e) *Free balloons.* (1) The Federal Aviation Regulations applicable to private free balloon pilot privileges, limitations, and flight operations;

(2) The use of aeronautical charts and the magnetic compass for free balloon navigation;

(3) The recognition of weather conditions of concern to the free balloon pilot, and the procurement and use of aeronautical weather reports and forecasts appropriate to free balloon operations; and

(4) Operating principles and procedures of free balloons, including gas and hot air inflation systems.

§ 61.107 Flight proficiency.

The applicant for a private pilot certificate must have logged instruction from an authorized flight instructor in at least the following pilot operations. In addition, his logbook must contain an endorsement by an authorized flight instructor who has found him competent to perform each of those operations safely as a private pilot.

(a) *In airplanes.* (1) Preflight operations, including weight and balance determination, line inspection, and airplane servicing;

(2) Airport and traffic pattern operations, including operations at controlled airports, radio communications, and collision avoidance precautions;

(3) Flight maneuvering by reference to ground objects;

(4) Flight at critically slow airspeeds, and the recognition of and recovery from imminent and full stalls entered from straight flight and from turns;

(5) Normal and crosswind takeoffs and landings;

(6) Control and maneuvering an airplane solely by reference to instruments, including descents and climbs using radio aids or radar directives;

(7) Cross-country flying, using pilotage, dead reckoning, and radio aids, including one 2-hour flight;

(8) Maximum performance takeoffs and landings;

(9) Night flying, including takeoffs, landings, and VFR navigation; and

(10) Emergency operations, including simulated aircraft and equipment malfunctions.

(b) *In helicopters.* (1) Preflight operations, including the line inspection and servicing of helicopters;

(2) Hovering, air taxiing, and maneuvering by ground references;

(3) Airport and traffic pattern operations, including collision avoidance precautions;

(4) Cross-country flight operations;

(5) High altitude takeoffs and roll-on landings, and rapid decelerations; and

(6) Emergency operations, including autorotative descents.

(c) *In gyroplanes.* (1) Preflight operations, including the line inspection and servicing of gyroplanes;

(2) Flight maneuvering by ground references;

(3) Maneuvering at critically slow airspeeds, and the recognition of and recovery from high rates of descent at low airspeeds;

(4) Air port and traffic pattern operations, including collision avoidance precautions and radio communication procedures;

(5) Cross-country flying by pilotage, dead reckoning, and the use of radio aids; and

(6) Emergency procedures, including maximum performance takeoffs and landings.

(d) *In gliders.* (1) Preflight operations, including line inspection;

(2) Ground (auto or winch) tow or aero tow (the applicant's certificate is limited to the kind of tow selected);

(3) Precision maneuvering, including steep turns and spirals in both directions;

(4) The correct use of critical sailplane performance speeds;

(5) Flight at critically slow airspeeds, and the recognition of and recovery from imminent and full stalls entered from straight and from turning flight; and

(6) Accuracy approaches and landings with the nose of the glider stopping short of and within 200 feet of a line or mark.

(e) *In airships.* (1) Ground handling, mooring, rigging, and preflight operations;

(2) Takeoffs and landing with static lift, and with negative and positive lift, and the use of two-way radio;

(3) Straight and level flight, climbs, turns, and descents;

(4) Precision flight maneuvering;

(5) Navigation, using pilotage, dead reckoning, and radio aids; and

(6) Simulated emergencies, including equipment malfunction, the valving of gas, and the loss of power on one engine.

(f) *In free balloons.* (1) Rigging and mooring;

(2) Operation of burner, if airborne heater used;

(3) Ascents and descents;

(4) Landing; and

(5) Emergencies, including the use of the ripcord (may be simulated).

§ 61.109 Airplane rating: Aeronautical experience.

An applicant for a private pilot certificate with an airplane rating must have had at least a total of 40 hours of flight instruction and solo flight time which must include the following:

(a) Twenty hours of flight instruction from an authorized flight instructor, including at least—

(1) Three hours of cross country;

(2) Three hours at night, including 10 takeoffs and landings for applicants seeking night flying privileges; and

(3) Three hours in airplanes in preparation for the private pilot flight test within 60 days prior to that test.

An applicant who does not meet the night flying requirement in paragraph (a)(2) of this section is issued a private pilot certificate bearing the limitation "Night flying prohibited." This limitation may be removed if the holder of the certificate shows that he has met the requirements of paragraph (a)(2) of this section.

(b) Twenty hours of solo flight time, including at least—

(1) Ten hours in airplanes;

(2) Ten hours of cross-country flights, each flight with a landing more than 50 nautical miles from the point of departure, and one with landings at three points, each of which is more than 100 nautical miles from each of the other two points; and

(3) Three solo takeoffs and landings to a full stop at an airport with an operating control tower;

§ 61.111 Cross-country flights: Pilots based on small islands.

(a) An applicant who shows that he is located on an island from which the required flights cannot be accomplished without flying over water more than 10 nautical miles from the nearest shoreline need not comply with paragraph (b)(2) of § 61.109. However, if other airports that permit civil operations are available to which a flight may be made without flying over water more than 10 nautical miles from the nearest shoreline, he must show that he has completed two round trip solo flights between those two airports that are farthest apart, including a landing at each airport on both flights.

(b) The pilot certificate issued to a person under paragraph (a) of this section contains an endorsement with the following limitation which may be subsequently amended to include another island if the applicant complies with paragraph (a) of this section with respect to that island:

Passenger carrying prohibited on flights more than 10 nautical miles from (appropriate island).

(c) If an applicant for a private pilot certificate under paragraph (a) of this section does not have at least 3 hours of solo cross-country flight time, including a round trip flight to an airport at least 50 nautical miles from the place of departure with at least two full stop landings at different points along the route, his pilot certificate is also endorsed as follows:

Holder does not meet the cross-country flight requirements of ICAO.

(d) The holder of a private pilot certificate with an endorsement described in paragraph (b) or (c) of this section, is entitled to a removal of the endorsement, if he presents satisfactory evidence to an FAA inspector or designated pilot examiner that he has complied with the applicable solo cross-country flight requirements and has passed a practical test on cross-country flying.

§ 61.113 Rotorcraft rating: Aeronautical experience.

An applicant for a private pilot certificate with a rotorcraft category rating must have at least the following aeronautical experience:

(a) For a helicopter rating an applicant must have at least a total of 40 hours of flight instruction and solo flight time in aircraft with at least 15 hours of solo flight time in helicopters, which must include—

(1) A takeoff and landing at an airport which serves both airplanes and helicopters;

(2) A flight with a landing at a point other than an airport; and

(3) Three hours of cross-country flying, including one flight with landings at three or more points, each of which must be more than 25 nautical miles from each of the other two points.

(b) For a gyroplane rating an applicant must have at least a total of 40 hours of flight instruction and solo flight time in aircraft with at least 10 hours of solo flight time in a gyroplane, which must include—

(1) Flights with takeoffs and landings at paved and unpaved airports; and

(2) Three hours of cross-country flying, including a flight with landings at three or more points, each of which must be more than 25 nautical miles from each of the other two points.

§ 61.115 Glider rating: Aeronautical experience.

An applicant for a private pilot certificate with a glider rating must have logged at least one of the following:

(a) Seventy solo glider flights, including 20 flights during which 360° turns were made.

(b) Seven hours of solo flight in gliders, including 35 glider flights launched by ground tows, or 20 glider flights launched by aero tows.

(c) Forty hours of flight time in gliders and single-engine airplanes, including 10 solo glider flights during which 360° turns were made.

§ 61.117 Lighter-than-air rating: Aeronautical experience.

An applicant for a private pilot certificate with a lighter-than-air category rating must have at least the aeronautical experience prescribed in paragraph (a) or (b) of this section, appropriate to the rating sought.

(a) *Airships.* A total of 50 hours of flight time as pilot with at least 25 hours in airships, which must include 5 hours of solo flight time in airships, or time performing the functions of pilot in command of an airship for which more than one pilot is required.

(b) *Free balloons.* (1) If a gas balloon or a hot air balloon with an airborne heater is used, a total of 10 hours in free balloons with at least six flights under the supervision of a person holding a commercial pilot certificate with a free balloon rating. These flights must include—

(i) Two flights, each of at least 1 hour's duration, if a gas balloon is used, or of 30 minutes' duration, if a hot air balloon with an airborne heater is used; and

(ii) One ascent under control to 5,000 feet above the point of takeoff, if a gas balloon is used, or 3,000 feet above the point of takeoff, if a hot air balloon with an airborne heater is used.

(2) If a hot air balloon without an airborne heater is used, six flights in a free balloon under the supervision of a commercial balloon pilot, including at least one solo flight.

§ 61.118 Private pilot privileges and limitations: pilot in command.

Except as provided in paragraphs (a) through (d) of this section, a private pilot may not act as pilot in command of an aircraft that is carrying passengers or property for compensation or hire; nor may he, for compensation or hire, act as pilot in command of an aircraft.

(a) A private pilot may, for compensation or hire, act as pilot in command of an aircraft in connection with any business or employment if the flight is only incidental to that business or employment and the aircraft does not carry passengers or property for compensation or hire.

(b) A private pilot may share the operating expenses of a flight with his passengers.

(c) A private pilot who is an aircraft salesman and who has at least 200 hours of logged flight time may demonstrate an aircraft in flight to a prospective buyer.

(d) A private pilot may act as pilot in command of an aircraft used in a passenger-carrying airlift sponsored by a charitable organization, and for which the passengers make a donation to the organization, if—

(1) The sponsor of the airlift notifies the FAA General Aviation District Office having jurisdiction over the area concerned, at least 7 days before the flight, and furnishes any essential information that the office requests;

(2) The flight is conducted from a public airport adequate for the aircraft used,

or from another airport that has been approved for the operation by an FAA inspector;

(3) He has logged at least 200 hours of flight time;

(4) No acrobatic or formation flights are conducted;

(5) Each aircraft used is certificated in the standard category and complies with the 100-hour inspection requirement of § 91.169 of this chapter; and

(6) The flight is made under VFR during the day.

For the purpose of paragraph (d) of this section, a "charitable organization" means an organization listed in Publication No. 78 of the Department of the Treasury called the "Cumulative List of Organizations described in section 170(c) of the Internal Revenue Code of 1954," as amended from time to time by published supplemental lists.

§ 61.119 Free balloon ratings: Limitations.

(a) If the applicant for a free balloon rating takes his flight test in a hot air balloon with an airborne heater, his pilot certificate contains an endorsement restricting the exercise of the privilege of that rating to hot air balloons with airborne heaters. The restriction may be deleted when the holder of the certificate obtains the pilot experience required for a rating on a gas balloon.

(b) If the applicant for a free balloon rating takes his flight test in a hot air balloon without an airborne heater, his pilot certificate contains an endorsement restricting the exercise of the privileges of that rating to hot air balloons without airborne heaters. The restriction may be deleted when the holder of the certificate obtains the pilot experience and passes the tests required for a rating on a free balloon with an airborne heater or a gas balloon.

§ 61.120 Private pilot privileges and limitations: Second in command of aircraft requiring more than one required pilot.

Except as provided in paragraphs (a) through (d) of § 61.118 a private pilot may not, for compensation or hire, act as second in command of an aircraft that is type certificated for more than one required pilot, nor may he act as second in command of such an aircraft that is carrying passengers or property for compensation or hire.

Subpart E—Commercial Pilots

§ 61.121 Applicability.

This subpart prescribes the requirements for the issuance of commercial pilot certificates and ratings, the conditions under which those certificates and ratings are necessary, and the limitations upon those certificates and ratings.

§ 61.123 Eligibility requirements: General.

To be eligible for a commercial pilot certificate, a person must—

(a) Be at least 18 years of age;

(b) Be able to speak, read, and understand English, or have an operating limitation on his pilot certificate as is necessary for safety;

(c) Hold at least a valid second-class medical certificate issued under Part 67 of this chapter, or, in the case of a glider or free balloon rating, certify that he has no known medical deficiency that makes him unable to pilot a glider or a free balloon, as appropriate;

(d) Pass a written examination appropriate to the aircraft rating sought on the subjects in which ground instruction is required by § 61.125;

(e) Pass an oral and flight test appropriate to the rating he seeks, covering items selected by the inspector or examiner from those on which training is required by § 61.127; and

(f) Comply with the provisions of this subpart which apply to the rating he seeks.

§ 61.125 Aeronautical knowledge.

An applicant for a commercial pilot certificate must have logged ground instruction from an authorized instructor, or must present evidence showing that he has satisfactorily completed a course of instruction or home study, in at least the following areas of aeronautical knowledge appropriate to the category of aircraft for which a rating is sought.

(a) *Airplanes.* (1) The regulations of this chapter governing the operations, privileges, and limitations of a commercial pilot, and the accident reporting requirements of the National Transportation Safety Board;

(2) Basic aerodynamics and the principles of flight which apply to airplanes; and

(3) Airplane operations, including the use of flaps, retractable landing gears, controllable propellers, high altitude operation with and without pressurization, loading and balance computations, and the significance and use of airplane performance speeds.

(b) *Rotorcraft.* (1) The regulations of this chapter which apply to the operations, privileges, and limitations of a commercial rotorcraft pilot, and the accident reporting requirements of the National Transportation Safety Board;

(2) Meteorology, including the characteristics of air masses and fronts, elements of weather forecasting, and the procurement and use of aeronautical weather reports and forecasts;

(3) The use of aeronautical charts and the magnetic compass for pilotage and dead reckoning, and the use of radio aids for VFR navigation; and

(4) The safe and efficient operation of helicopters or gyroplanes, as appropriate to the rating sought.

(c) *Gliders.* (1) The regulations of this chapter pertinent to commercial glider pilot operations, privileges, and limitations, and the accident reporting requirements of the National Transportation Safety Board;

(2) Glider navigation, including the use of aeronautical charts and the magnetic compass, and radio orientation;

(3) The recognition of weather situations of concern to the glider pilot from the ground and in flight, and the procurement and use of aeronautical weather reports and forecasts; and

(4) The safe and efficient operation of gliders, including ground and aero tow procedures, signals, critical sailplane performance speeds, and safety precautions.

(d) *Airships.* (1) The regulations of this chapter pertinent to airship operations, VFR and IFR, including the privileges and limitations of a commercial airship pilot;

(2) Airship navigation, including pilotage, dead reckoning, and the use of radio aids for VFR and IFR navigation, and IFR approaches;

(3) The use and limitations of the required flight instruments;

(4) ATC procedures for VFR and IFR operations, and the use of IFR charts and approach plates;

(5) Meteorology, including the characteristics of air masses and fronts, and the procurement and use of aeronautical weather reports and forecasts;

(6) Airship ground and flight instruction procedures; and

(7) Airship operating procedures and emergency operations, including free ballooning procedures.

(e) *Free balloons.* (1) The regulations of this chapter pertinent to commercial free balloon piloting privileges, limitations, and flight operations;

(2) The use of aeronautical charts and the magnetic compass for free balloon navigation;

(3) The recognition of weather conditions significant to free balloon flight operations, and the procurement and use of aeronautical weather reports and forecasts appropriate to free ballooning;

(4) Free balloon flight and ground instruction procedures; and

(5) Operating principles and procedures for free balloons, including emergency procedures such as crowd control and protection, high wind and water landings, and operations in proximity to buildings and power lines.

§ 61.127 Flight proficiency.

The applicant for a commercial pilot certificate must have logged instruction from an authorized flight instructor in at least the following pilot operations. In addition, his logbook must contain an endorsement by an authorized flight instructor who has given him the instruction certifying that he has found the applicant prepared to perform each of those operations competently as a commercial pilot.

(a) *Airplanes.* (1) Preflight duties, including load and balance determination, line inspection, and aircraft servicing;

(2) Flight at critically slow airspeeds, recognition of imminent stalls, and recovery from stalls with and without power;

(3) Normal and crosswind takeoffs and landings, using precision approaches, flaps, power as appropriate, and specified approach speeds;

(4) Maximum performance takeoffs and landings, climbs, and descents;

(5) Operation of an airplane equipped with a retractable landing gear, flaps, and controllable propeller(s), including normal and emergency operations; and

(6) Emergency procedures, such as coping with power loss or equipment malfunctions, fire in flight, collision avoidance precautions, and engine-out procedures if a multiengine airplane is used.

(b) *Helicopters.* (1) Preflight duties, including line inspection and helicopter servicing;

(2) Straight and level flight, climbs, turns, and descents;

(3) Air taxiing, hovering, and maneuvering by ground references;

(4) Normal and crosswind takeoffs and landings;

(5) Rapid descent with power and recovery;

(6) Airport and traffic pattern operations, including collision avoidance precautions and radio communications;

(7) Cross-country flight operations; and

(8) Emergency operations, including landing on slopes, high altitude takeoffs and roll-on landings, operations on confined areas and pinnacles, autorotational descents, partial power failures, and rapid decelerations.

(c) *Gyroplanes.* (1) Preflight operations, including line inspection and gyroplane servicing;

(2) Straight and level flight, turns, climbs, and descents;

(3) Flight maneuvering by ground references;

(4) Maneuvering at critically slow airspeeds, and the recognition of and recovery from high rates of descent at slow airspeeds;

(5) Normal and crosswind takeoffs and landings;

(6) Airport and traffic pattern operations, including collision avoidance precautions and radio communications;

(7) Cross-country flight operations; and

(8) Emergency procedures, such as power failures, equipment malfunctions, maximum performance takeoffs and landings and simulated liftoffs at low airspeed and high angles of attack.

(d) *Gliders.* (1) Preflight duties, including glider assembly and preflight inspection;

(2) Glider launches by ground (auto or winch) or by aero tows (the applicant's certificate is limited to the kind of tow selected;

(3) Precision maneuvering, including straight glides, turns to headings, steep turns, and spirals in both directions;

(4) The correct use of sailplane performance speeds, flight at critically slow airspeeds, and the recognition of and recovery from stalls entered from straight flight and from turns; and

(5) Accuracy approaches and landings, with the nose of the glider coming to rest short of and within 100 feet of a line or mark;

(e) *Airships.* (1) Ground handling, mooring, and preflight operations;

(2) Straight and level flight, turns, climbs, and descents, under VFR and simulated IFR conditions;

(3) Takeoffs and landings with positive and with negative static lift;

(4) Turns and figure eights;

(5) Precision turns to headings under simulated IFR conditions;

(6) Preparing and filing IFR flight plans, and complying with IFR clearances;

(7) IFR radio navigation and instrument approach procedures;

(8) Cross-country flight operations, using pilotage, dead reckoning, and radio aids; and

(9) Emergency operations, including engine-out operations, free ballooning an airship, and ripcord procedures (may be simulated).

(f) *Free balloons.* (1) Inflating, rigging, and mooring a free balloon;

(2) Ground and flight crew briefing;

(3) Ascents;

(4) Descents;

(5) Landings;

(6) Operation of airborne heater, if balloon is so equipped; and

(7) Emergency operations, including the use of the ripcord (may be simulated), and recovery from a terminal velocity descent if a balloon with an airborne heater is used.

§ 61.129 Airplane rating: Aeronautical experience.

(a) *General.* An applicant for a commercial pilot certificate with an airplane rating must hold a private pilot certificate with an airplane rating. If he does not hold that certificate and rating he must meet the flight experience requirements for a private pilot certificate and airplane rating and pass the applicable written and practical test prescribed in Subpart D of this part. In addition, the applicant must hold an instrument rating (airplane), or the commercial pilot certificate that is issued is endorsed with a limitation prohibiting the carriage of passengers for hire in airplanes on cross-country flights of more than 50 nautical miles, or at night.

(b) *Flight time as pilot.* An applicant for a commercial pilot certificate with an airplane rating must have a total of at least 250 hours of flight time as pilot, which may include not more than 50 hours of instruction from an authorized instructor in a ground trainer acceptable to the Administrator. The total flight time as pilot must include—

(1) 100 hours in powered aircraft, including at least—

(i) 50 hours in airplanes, and

(ii) 10 hours of flight instruction and practice given by an authorized flight instructor in an airplane having a retractable landing gear, flaps, and a controllable pitch propeller; and

(2) 50 hours of flight instruction given by an authorized flight instructor, including—

(i) 10 hours of instrument instruction, of which at least 5 hours must be in flight in airplanes, and

(ii) 10 hours of instruction in preparation for the commercial pilot flight test; and

(3) 100 hours of pilot in command time, including at least—

(i) 50 hours in airplanes;

(ii) 50 hours of cross-country flights, each flight with a landing at a point more than 50 nautical miles from the point of departure, including a flight with landings at three points each of which is more than 200 nautical miles from the other two points, except that those flights conducted in Hawaii may be made with landings at points which are 100 nautical miles apart; and

(iii) 5 hours of night flying including at least 10 takeoffs and landings as sole manipulator of the controls.

§ 61.131 Rotorcraft ratings: Aeronautical experience.

(a) *Helicopter.* An applicant for a commercial pilot certificate with a helicopter rating must have a total of at least 150 hours of flight time as pilot, including—

(1) 100 hours in powered aircraft and at least 50 hours in helicopters;

(2) 100 hours of pilot in command time, including a cross-country flight with landings at three points, each of which is more than 50 nautical miles from each of the other points;

(3) 40 hours of flight instruction from an authorized flight instructor, including 15 hours in helicopters; and

(4) 10 hours as pilot in command in helicopters, including—

(i) Five takeoffs and landings at night; and

(ii) Takeoffs and landings at three different airports which serve both airplanes and helicopters; and

(iii) Takeoffs and landings at three points other than airports.

(b) *Gyroplanes.* An applicant for a commercial pilot certificate with a gyroplane rating must have a total of at least 200 hours of flight time as pilot, including—

(1) 100 hours in powered aircraft;

(2) 100 hours as pilot in command, including a cross-country flight with landings at three points, each of which is more than 50 nautical miles from each of the other two points;

(3) 75 hours as pilot in command in gyroplanes, including—

(i) Flights with takeoffs and landings at three different paved airports and three unpaved airports; and

(ii) Three flights with takeoffs and landings at an airport with an operating control tower; and

(4) Twenty hours of flight instruction in gyroplanes, including 5 hours in preparation for the commercial pilot flight test.

§ 61.133 Glider rating: Aeronautical experience.

An applicant for a commercial pilot certificate with a glider rating must meet either of the following aeronautical experience requirements:

(a) A total of at least 25 hours of pilot time in aircraft, including 20 hours in gliders, and a total of 100 glider flights as pilot in command, including 25 flights during which 360° turns were made; or

(b) A total of 200 hours of pilot time in heavier-than-air aircraft, including 20 glider flights as pilot in command during which 360° turns were made.

§ 61.135 Airship rating: Aeronautical experience.

An applicant for a commercial pilot certificate with an airship rating must have a total of at least 200 hours of flight time as pilot, including—

(a) Fifty hours of flight time as pilot in airships;

(b) 30 hours of flight time performing the duties of pilot in command in airships, including—

(1) 10 hours of cross-country flight; and

(2) 10 hours of night flight; and

(c) 40 hours of instrument time, of which at least 20 hours must be in flight with 10 hours of that flight time in airships.

§ 61.137 Free balloon rating: Aeronautical experience.

An applicant for a commercial pilot certificate with a free balloon rating must have the following flight time as pilot:

(a) If a gas balloon or a hot air balloon with an airborne heater is used, a total of at least 35 hours of flight time as pilot including—

(1) 20 hours in free balloons; and

(2) 10 flights in free balloons, including—

(i) Six flights under the supervision of a commercial free balloon pilot;

(ii) Two solo flights;

(iii) Two flights of at least 2 hours duration if a gas balloon is used, or at least 1 hour duration if a hot air balloon with an airborne heater is used; and

(iv) One ascent under control to more than 10,000 feet above the takeoff point if a gas balloon is used or 5,000 feet above the take off point if a hot air balloon with an airborne heater is used.

(b) If a hot air balloon without an airborne heater is used, 10 flights in free balloons including—

(1) Six flights under the supervision of a commercial free balloon pilot; and

(2) Two solo flights.

§ 61.139 Commercial pilot privileges and limitations: General.

The holder of a commercial pilot certificate may:

(a) Act as pilot in command of an aircraft carrying persons or property for compensation or hire;

(b) Act as pilot in command of an aircraft for compensation or hire; and

(c) Give flight instruction in an airship if he holds a lighter-than-air category and an airship class rating, or in a free balloon if he holds a free balloon class rating.

§ 61.141 Airship and free balloon ratings: Limitations.

(a) If the applicant for a free balloon class rating takes his flight test in a hot air balloon without an airborne heater, his pilot certificate contains an endorsement restricting the exercise of the privileges of that rating to hot air balloons without airborne heaters. The restriction may be deleted when the holder of the certificate obtains the pilot experience and passes the test required for a rating on a free balloon with an airborne heater or a gas balloon.

(b) If the applicant for a free balloon class rating takes his flight test in a hot air balloon with an airborne heater, his pilot certificate contains an endorsement restricting the exercise of the privileges of that rating to hot air balloons with airborne heaters. The restriction may be deleted when the holder of the certificate obtains the pilot experience required for a rating on a gas balloon.

Subpart F—Airline Transport Pilots

(No substantive changes have been made to Subpart F by this revision. However, §§ 61.141 through 61.165 are redesignated as §§ 61.151 through 61.171 in accordance with the table of contents.)

Subpart G—Flight Instructors

§ 61.181 Applicability.

This subpart prescribes the requirements for the issuance of flight instructor certificates and ratings, the conditions under which those certificates and ratings are necessary, and the limitations upon these certificates and ratings.

§ 61.183 Eligibility requirements: General.

To be eligible for a flight instructor certificate a person must—

(a) Be at least 18 years of age;

(b) Read, write, and converse fluently in English;

(c) Hold—

(1) A commercial or airline transport pilot certificate with an aircraft rating appropriate to the flight instructor rating sought, and

(2) An instrument rating, if the person is applying for an airplane or an instrument instructor rating;

(d) Pass a written test on the subjects in which ground instruction is required by § 61.185; and

(e) Pass an oral and flight test on those items in which instruction is required by § 61.187.

§ 61.185 Aeronautical knowledge.

(a) Present evidence showing that he has satisfactorily completed a course of instruction in at least the following subjects:

(1) The learning process.

(2) Elements of effective teaching.

(3) Student evaluation, quizzing, and testing.

(4) Course development.

(5) Lesson planning.

(6) Classroom instructing techniques.

(b) Have logged ground instruction from an authorized ground or flight instructor in all of the subjects in which ground instruction is required for a private and commercial pilot certificate, and for an instrument rating, if an airplane or instrument instructor rating is sought.

§ 61.187 Flight proficiency.

(a) An applicant for a flight instructor certificate must have received flight instruction, appropriate to the instructor rating sought in the subjects listed in this paragraph by a person authorized in paragraph (b) of this section. In addition, his logbook must contain an endorsement by the person who has given him the instruction certifying that he has found the applicant competent to pass a practical test on the following subjects:

(1) Preparation and conduct of lesson plans for students with varying backgrounds and levels of experience and ability.

(2) The evaluation of student flight performance.

(3) Effective preflight and postflight instruction.

(4) Flight instructor responsibilities and certifying procedures.

(5) Effective analysis and correction of common student pilot flight errors.

(6) Performance and analysis of standard flight training procedures and maneuvers appropriate to the flight instructor rating sought.

(b) The flight instruction required by paragraph (a) of this section must be given by a person who has held a flight instructor certificate during the 24 months immediately preceding the date the instruction is given, who meets the general requirements for a flight instructor certificate prescribed in § 61.183, and who has given at least 200 hours of flight instruction, or 80 hours in the case of glider instruction, as a certificated flight instructor.

§ 61.189 Flight instructor records.

(a) Each certificated flight instructor shall sign the logbook of each person to whom he has given flight or ground instruction and specify in that book the amount of the time and the date on which it was given. In addition, he shall maintain a record in his flight instructor logbook, or in a separate document containing the following:

(1) The name of each person whose logbook or student pilot certificate he has endorsed for solo flight privileges. The record must include the type and date of each endorsement.

(2) The name of each person for whom he has signed a certification for a written, flight, or practical test, including the kind of test, date of his certification, and the result of the test.

(b) The record required by this section shall be retained by the flight instructor separately or in his logbook for at least 3 years.

§ 61.191 Additional flight instructor ratings.

The holder of a flight instructor certificate who applies for an additional rating on that certificate must—

(a) Hold an effective pilot certificate with ratings appropriate to the flight instructor rating sought.

(b) Have had at least 15 hours as pilot in command in the category and class of aircraft appropriate to the rating sought; and

(c) Pass the written and practical test prescribed in this subpart for the issuance of a flight instructor certificate with the rating sought.

§ 61.193 Flight instructor authorizations.

(a) The holder of a flight instructor certificate is authorized, within the lim-

itations of his instructor certificate and ratings, to give—

(1) In accordance with his pilot ratings, the flight instruction required by this Part for a pilot certificate or rating;

(2) Ground instruction or a home study course required by this Part for a pilot certificate and rating;

(3 Ground and flight instruction required by this subpart for a flight instructor certificate and rating, if he meets the requirements prescribed in § 61.187 for the issuance of a flight instructor certificate;

(4) The flight instruction required for an initial solo or cross-country flight; and

(5) The flight review required in § 61.57(a).

(b) The holder of a flight instructor certificate is authorized within the limitations of his instructor certificate to endorse—

(1) In accordance with §§ 61.87(d)(1) and 61.93(c)(1), the pilot certificate of a student pilot he has instructed authorizing the student to conduct solo or solo cross-country flights, or act as pilot-in-command of an airship requiring more than one flight crewmember;

(2) In accordance with § 61.87(d)(1), the logbook of a student pilot he has instructed authorizing single or repeated solo flights;

(3) In accordance with § 61.93(c)(2), the logbook of a student pilot whose preparation and preflight planning for a solo cross-country flight he has reviewed and found adequate for a safe flight under the conditions he has listed in the logbook;

(4) The logbook of a pilot or flight instructor he has examined certifying that the pilot or flight instructor is prepared for a written or flight test required by this Part; and

(5) In accordance with § 61.187, the logbook of an applicant for a flight instructor certificate certifying that he has examined the applicant and found him competent to pass the practical test required by this part.

(c) A flight instructor with a rotorcraft and helicopter rating or an airplane single-engine rating may also endorse the pilot certificate and logbook of a student pilot he has instructed authorizing the student to conduct solo and cross-country flights in a single-place gyroplane.

§ 61.195 Flight instructor limitations.

The holder of a flight instructor certificate is subject to the following limitations:

(a) *Hours of instruction.* He may not conduct more than eight hours of flight instruction in any period of 24 consecutive hours.

(b) *Ratings.* He may not conduct flight instruction in any aircraft for which he does not hold a category, class, and type rating, if appropriate, on his pilot and flight instructor certificate. However, the holder of a flight instructor certificate effective on November 1, 1973, may continue to exercise the privileges of that certificate until it expires, but not later than November 1, 1975.

(c) *Endorsement of student pilot certificate.* He may not endorse a student pilot certificate for initial solo or solo cross-country flight privileges, unless he has given that student pilot flight instruction required by this part for the endorsement, and considers that the student is prepared to conduct the flight safely with the aircraft involved.

(d) *Logbook endorsement.* He may not endorse a student pilot's logbook for solo flight unless he has given that student flight instruction and found him prepared for solo flight in the type of aircraft involved, or for a cross-country flight, unless he has reviewed the student's flight preparation, planning, equipment, and proposed procedures and found them to be adequate for the flight proposed under existing circumstances.

(e) *Solo flights.* He may not authorize any student pilot to make a solo flight unless he possesses a valid student pilot certificate endorsed for solo in the make and model aircraft to be flown. In addition, he may not authorize any student pilot to make a solo cross-country flight unless he possesses a valid student pilot certificate endorsed for solo cross-country flight in the category of aircraft to be flown.

(f) *Instruction in multiengine airplane or helicopter.* He may not give flight instruction required for the issuance of a certificate or a category, or class rating, in a multiengine airplane or a helicopter, unless he has at least 5 hours of experience as pilot in command in the make and model of that airplane or helicopter, as the case may be.

§ 61.197 Renewal of flight instructor certificates.

The holder of a flight instructor certificate may have his certificate renewed for an additional period of 24 months if he passes the practical test for a flight instructor certificate and the rating involved, or those portions of that test that the Administrator considers necessary to determine his competency as a flight instructor. His certificate may be renewed without taking the practical test if—

(a) His record of instruction shows that he is a competent flight instructor;

(b) He has a satisfactory record as a company check pilot, chief flight instructor, pilot in command of an aircraft operated under Part 121 of this chapter, or other activity involving the regular evaluation of pilots, and passes any oral test that may be necessary to determine that instructor's knowledge of current pilot training and certification requirements and standards; or

(c) He has successfully completed, within 90 days before the application for the renewal of his certificate, an approved flight instructor refresher course consisting of not less than 24 hours of ground or flight instruction, or both.

§ 61.199 Expired flight instructor certificates and ratings.

(a) *Flight instructor certificates.* The holder of an expired flight instructor certificate may exchange that certificate for a new certificate bypassing the practical test prescribed in § 61.187.

(b) *Flight instructor ratings.* A flight instructor rating or a limited flight instructor rating on a pilot certificate is no longer valid and may not be exchanged for a similar rating or a flight instructor certificate. The holder of either of those ratings is issued a flight instructor certificate only if he passes the written and practical test prescribed in this subpart for the issue of that certificate.

§ 61.201 Conversion to new system of instructor ratings.

(a) *General.* The holder of a flight instructor certificate that does not bear any of the new class or instrument ratings listed in § 61.5(c) (2), (3), or (4) for an instructor certificate, may not exercise the privileges of that certificate after November 1, 1975. Before that date he may exchange a certificate which has not expired for a flight instructor certificate with the appropriate new ratings in accordance with the provisions of this section. The holder of a flight instructor certificate with a glider rating need not convert that rating to a new class rating to exercise the privileges of that certificate and rating.

(b) *Airplane—single-engine.* An airplane—single-engine rating may be issued to the holder of an effective flight instructor certificate with an airplane rating who has passed the flight instructor practical test in a single-engine airplane, or who has given at least 20 hours of flight instruction in single-engine airplanes as a certificated flight instructor.

(c) *Airplane—multiengine.* An airplane—multiengine class rating may be issued to the holder of an effective flight instructor certificate with an airplane rating who has passed the flight instructor practical test in a multiengine airplane, or who has given at least 20 hours of flight instruction in multiengine airplane as a certificated flight instructor.

(d) *Rotorcraft—helicopter.* A rotorcraft—helicopter class rating may be issued to the holder of an effective flight instructor certificate with a rotorcraft rating who has passed the flight instructor practical test in a helicopter, or who has given at least 20 hours of flight instruction in helicopters as a certificated flight instructor.

(e) *Rotorcraft—gyroplane.* A rotorcraft—gyroplane class rating may be issued to the holder of an effective flight instructor certificate with a rotorcraft rating who has passed the flight instructor practical test in a gyroplane, or who has given at least 20 hours of flight instruction in gyroplanes as a certificated flight instructor.

(f) *Instrument—airplane.* An instrument—airplane instructor rating may be issued to the holder of an effective flight instructor certificate with an instrument rating who has passed the instrument instructor practical test in an airplane, or who has given at least 20 hours of instrument instruction in an airplane as a certificated flight instructor.

(g) *Instrument—helicopter.* An instrument—helicopter rating may be issued to the holder of an effective flight

instructor certificate with an instrument rating who has passed the instrument instructor practical test in a helicopter, or who has given at least 20 hours of instrument flight instruction in helicopters as a certificated flight instructor.

APPENDIX A

PRACTICAL TEST REQUIREMENTS OF AIRLINE TRANSPORT PILOT CERTIFICATE AND ASSOCIATED CLASS AND TYPE RATINGS.

[No change]

2. Part 91 of the Federal Aviation Regulations is amended by adding a new § 91.4 immediately following § 91.3 to read as follows:

§ 91.4 Pilot in command of aircraft requiring more than one required pilot.

After November 1, 1974, no person may operate an aircraft that is type certificated for more than one required pilot flight crewmember unless the pilot flight crew consists of a pilot in command who meets the requirements of § 61.58 of this chapter.

(Secs. 313(a), 314, 601, 602, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1355, 1421, 1422; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

NOTE: The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Issued in Washington, D.C., on January 23, 1973.

J. H. SHAFFER,
Administrator.

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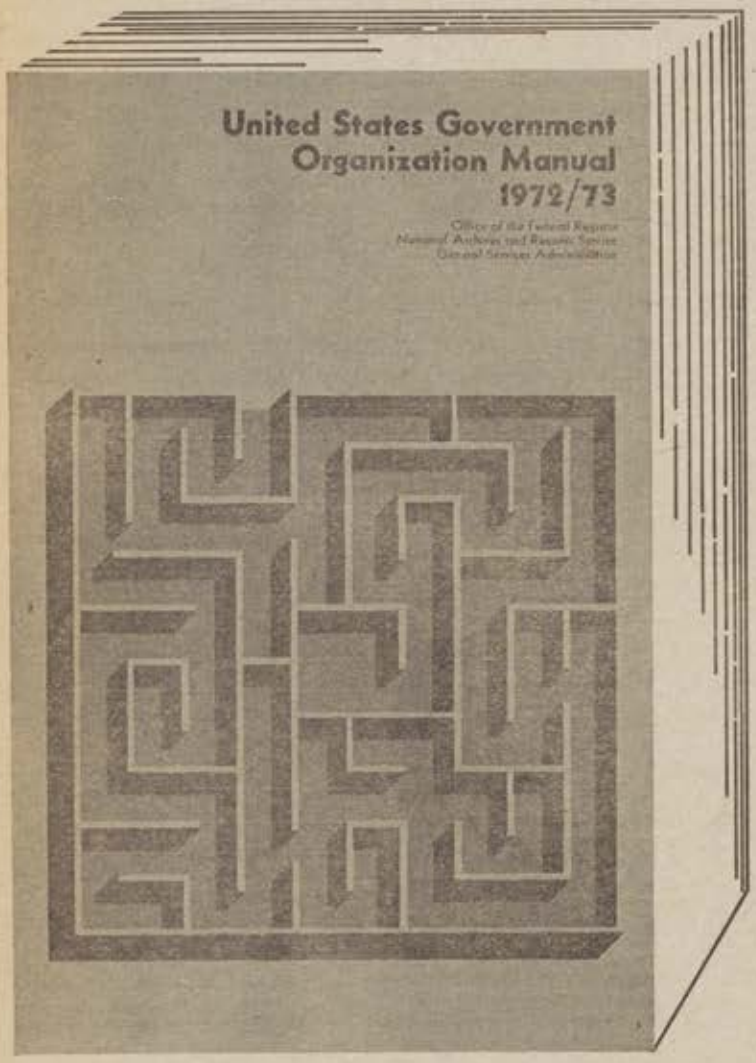

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