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PART I

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

Rules and Regulations

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER H—AIR FORCE RESERVE OFFICERS' TRAINING CORPS

PART 870—AIR FORCE RESERVE OFFICERS' TRAINING CORPS

This revision deletes requirements to request authorization for and report deferment quotas; adds "consortium arrangement" and "cross-town agreements" to terms explained (§ 870.2(i) and (k)); revises definition for "full-time student" (§ 870.2(n)); redefines restrictions on establishing AFROTC units at educational institutions (§ 870.10(c)); adds provisions for descriptive titles for officers-in-charge of AFROTC activities at educational institutions as well as for the activities (§ 870.10(d)); adds restrictions on CSP enrollments (§ 870.12 (a)); adds provisions and procedures for granting academic credit, course substitutions, and requirements for drill standards (§ 870.12(c)); revises verbiage on exceptions regarding concurrent enrollment (§ 870.26); adds members of the NOAA to those who may not be AFROTC members and provides that Air Force members may compete for AFROTC scholarships under certain conditions (§ 870.28); adds IM-missile launch officer to category I (§ 870.32(a)); revises induction delay criteria (§ 870.44); deletes requirements for the annual DD Form 44 submission and revises procedures for notifying boards of deferments and transfers (§ 870.50); permits citizenship exceptions for certain aliens, precludes membership for those claiming conscientious objector status but permits special student status, and permits attendance at field training if enlistment age will be reached before entry into the POC (§ 870.82, rules 4, 6, and 8 and notes 5, 7, and 8); delegates waiver authority to AFROTC and makes other revisions (§ 870.84); allows some GMC credit for cadets with less than 180 days of active duty/active duty for training (§ 870.86, line 6 and note 5); and generally updates verbiage, format, and terminology throughout the part.

Part 870, Subchapter H of Chapter VII of Title 32 of the Code of Federal Regulations is revised to read as follows:

Sec.

AUTHORITY: 10 U.S.C. 8012; 10 U.S.C. Chapter 103; Military Selective Service Act of 1967, section 6 (50 U.S.C. App. 456), except as otherwise noted.

§ 870.0 Purpose.

(a) This part explains the organization, administration, and operation of the Senior Reserve Officers' Training Corps. It applies to major commands, AFROTC (Maxwell Air Force Base, Alabama), ARPC, and AFROTC detachments.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

Subpart A—Background and Organization

§ 870.2 Definitions.

(a) *Academic year (AY).* Consists of two semesters, three quarters, or the equivalent combination of trimesters or other terms.

(b) *Aerospace Studies (AS).* The official designation of the Air Force Reserve Officers' Training Corps (AFROTC) program of instruction.

(c) *AFROTC detachment.* An Air Force organization manned by active duty Air Force personnel assigned to AFROTC, with duty station at a civilian educational institution. The AFROTC detachment is an integral academic subdivision of the educational institution and, with concurrence of the institution, has the academic title "Department of Aerospace Studies." The AFROTC detachment conducts all AFROTC activities at the institution as stipulated in the joint contract between the host institution and the Air Force.

(d) *AFROTC graduate.* A contract cadet who has successfully completed the academic and military requirements of the AFROTC Professional Officer Course (POC), including prescribed field training, and has been awarded at least a bachelor's degree.

(e) *Alien student.* A Foreign National eligible to participate in the AFROTC program under the provisions of this part and 10 U.S.C. 2103(b).

(f) *Cadet.* The term cadet as used in this part is synonymous with member.

(g) *Completed cadet.* A contract cadet who has successfully completed the academic and military requirements of the program of advanced training, including field training, and Flight Instruction Program if applicable, but has not been commissioned.

(h) *Conditional cadet.* A contract cadet who has been advised by the Professor of Aerospace Studies (PAS) either upon initial enrollment or during the program that he has been placed on a probationary status to correct a deficiency (academic or otherwise) within a specified period of time to preclude disenrollment from the program. A conditional cadet is a member of the AFROTC program.

(i) *Consortium arrangement.* An agreement between an AFROTC host institution and a nonhost institution which exists for the mutual benefit of the schools, and which permits cross enrollment of students. AFROTC, as a department of the host institution, shares as a beneficiary of the larger agreement and can participate as any other department of the host institution by enrolling students from the consortium nonhost schools. The consortium agreement may be a written agreement. Students at the nonhost institution may enroll in the AFROTC program under this type of arrangement provided:

(1) The nonhost institution is an accredited baccalaureate degree granting or 2-year nonbaccalaureate degree granting institution.

(2) Nonhost institutions agree to grant appropriate academic credit applicable toward graduation for the successful completion of courses offered by the Department of Aerospace Studies.

(j) *Contract cadet.* An AFROTC cadet who has executed AF Form 1056, "Air Force Reserve Officers' Training Corps Category Agreement," enlisted in the United States Air Force Reserve (USAFR) (Obligated Reserve Section (ORS)) under the provisions of 10 U.S.C. 2104 or 2107, and is a member of the POC and/or the College Scholarship Program (CSP).

(k) *Cross-town agreement.* An agreement among a host institution, an accredited baccalaureate degree granting or 2-year nonbaccalaureate degree granting nonhost institution, AFROTC, and Air University (AU), permitting students from the nonhost institution to enroll in the AFROTC program conducted by the host institution.

(l) *Designated applicant.* An individual who has applied in writing and has been tentatively accepted by the Professor of Aerospace Studies (PAS) as a candidate for entry in the POC.

(m) *Enrollment.* Admission of a student into an Aerospace Studies course for academic credit, which in itself entitles individuals to neither AFROTC membership nor subsistance allowance.

(n) *Full-time student.* An individual enrolled in other than correspondence courses who is taking at least the minimum credit hours specified in the institutional catalog for designation as a full-time student. If the institution does not specify a minimum criterion, a student enrolled in at least the minimum number of credit hours prescribed by the Professor of Aerospace Studies.

(o) *Member.* A student who meets and completes the applicable eligibility requirements of § 870.82 and is admitted to the General Military Course (GMC) or POC. Members must maintain retention standards prescribed by the Commandant, AFROTC.

(p) *Officer type training programs.* Any training received in any U.S. Armed Force, Coast Guard, or Merchant Marine program, completion of which may result in a tender of appointment as a commissioned officer (includes service academy preparatory schools).

(q) *Probation (academic).* Scholastic probation, warning, suspension, or any other terminology utilized by an institution to indicate that a student is academically deficient.

(r) *Professor of Aerospace Studies (PAS).* The senior Air Force commissioned officer assigned to command an AFROTC detachment.

(s) *Pursuing student.* A designated applicant for POC membership who is temporarily ineligible for enlistment. He is not a member of the POC or the CSP.

(t) *Special student.* A nonmember student who is enrolled in AFROTC courses and/or corps training.

§ 870.4 AFROTC officer procurement.

AFROTC is a major active duty officer procurement program of the Air Force. It is conducted jointly with the cooperating educational institutions, as outlined in this part. AFROTC will continue to operate as the officer training program conducted at colleges and universities during a national emergency or war.

§ 870.6 AFROTC mission and objectives.

(a) The AFROTC mission is to commission, through a college campus program, second lieutenants in response to Air Force active duty requirements.

NOTE: AFROTC is also responsible for conducting an Air Force Junior ROTC (AFJROTC) program at selected secondary schools nationwide under Air Force Regulation (AFR) 45-39, "Air Force Junior Reserve Officers' Training Corps."

(b) The AFROTC objectives are to:

(1) Identify, motivate, and select qualified students to complete the Air Force ROTC program.

(2) Provide college-level education that will qualify cadets for commissioning in the U.S. Air Force.

(3) Strengthen each cadet's sense of personal integrity, honor, and individual responsibility; enchance his knowledge of how the U.S. Air Force serves the national interest; increase his understanding of officer professionalism in the U.S. Air Force; and develop his potential as a leader and manager.

§ 870.8 AFROTC organization.

The Department of the Air Force establishes policies and develops plans for the conduct of the AFROTC program. AFROTC is organized as a subordinate unit of Air University (AU) and consists of a central staff and detachments. An AFROTC detachment is established or disestablished only by direction of the Secretary of the Air Force.

§ 870.10 Establishment and continuation of AFROTC units at educational institutions.

(a) *Establishment of AFROTC units.* To receive consideration for establishment of an AFROTC unit, an educational institution must:

(1) Apply in writing to the Commandant, AFROTC, Maxwell Air Force Base, Alabama 36112.

(2) Be fully accredited by the appropriate regional or national authority.

(3) Agree to provide adequate physical facilities.

(4) Certify that it does not discriminate with respect to admission or subsequent treatment of students on the basis of race, creed, or national origin.

(5) Be capable of producing a sufficient number of officers to justify Department of Defense resources invested, considering (among other factors) the number of students enrolled who are prospective officer candiates and the proportion of each entering academic class that normally receives degrees from the institution.

(b) *AF Form 1268.* AF Form 1268, "Application and Agreement for the Establishment of a Senior Air Force Reserve Officers' Training Corps Unit," must be signed after establishment has been approved by the Secretary of the Air Force.

(c) *Establishment restrictions.* AF ROTC units will not be established or maintained at an educational institution unless:

(1) The senior commissioned officer of the AFROTC unit is given the academic rank of professor, including appropriate prerogatives and prerequisites (except tenure) associated with the position of a professor as head of a department or program at the institution. (Other AF ROTC officers will be evaluated by the host institution for appropriate academic rank using procedures comparable to those used for their civilian faculty colleagues.)

(2) The institution fulfills the terms of its agreement with the Secretary of the Air Force.

(3) The institution adopts as part of its curriculum a 4-year course of military instruction or a 2-year course of advanced military instruction, or both, which the Secretary of the Air Force prescribes and conducts. Student enrollment shall be elective or compulsory as provided by state law or the institution.

(d) *Descriptive titles.*—(1) As an alternative to the title of professor for the senior commissioned officer of the AFROTC unit, the most complimentary title is the officer's military title. Other titles, such as Visiting Professor, are acceptable provided the prerogatives and perquisites of professional rank (excluding tenure) accompany the position, and the title is not demeaning or indicative of some lessor status.

(2) As a descriptive term for the ROTC educational activity on campus, the word "Program" is acceptable instead of "Department" provided no extracurricular connotation is involved.

The term "Program," in this sense, would be applied to AFROTC in the same manner as other academic programs within the institution.

(e) *Institutional standing committees on ROTC.* The Air Force will cooperate with institutional standing committees on ROTC to develop a program of instruction consistent with the goals of both parties, but cannot accept changes inconsistent with the law or Department of Defense policies.

(f) *Disestablishment of AFROTC units.* The annual officer production or projected production from each AFROTC unit should be adequate to justify the investment.

(1) A unit will be considered substandard when its officer production based on the past two years and the production potential for the current and next projected year is below:

(i) Fifteen officers per year where an institution prescribes a 4-year or combination 4- and 2-year program.

(ii) Ten officers per year where the institution prescribes a 2-year program.

(2) Air University will forward recommendations to HQ USAF by December 15 of each year to:

(i) Place substandard units in probationary status for a 1-year school period or recommend for disestablishment. (AFROTC should work closely with any institution whose AFROTC production falls below the standard for any year to seek measures which will make the AFROTC unit fully productive. These efforts should be substantiated in writing.)

(ii) Release from probation units which meet or exceed the minimum production standard.

(iii) Disestablish units which do not meet production standards by the end of the 1-year probationary period. Units will be phased out with sufficient time to permit enrolled AFROTC students to complete the program or offer the students a practical alternative for obtaining commissions.

§ 870.12 The training program.

The training program includes two phases—the institutional phase and field training phase. Successful completion of academic and military requirements in both phases is a prerequisite for appointment as an officer in the U.S. Air Force.

(a) *The institutional phase.* This phase consists of GMC (AS 100 and AS 200), the POC (AS 300 and AS 400), and Corps Training (AS 100 through AS 400). Corps Training is an integral and mandatory portion of each Aerospace Studies year. The GMC and POC are each normally two academic years in length (four semesters, six quarters, or an equivalent number of trimesters or terms). Completion of the GMC, its equivalent or the 6-week field training session is a statutory prerequisite for, but does not guarantee, entrance into the POC.

(1) The 4-year program consists of the GMC, POC, Corps Training, and a 4-week field training session.

(2) The 2-year program consists of the 6-week field training, the POC, and the last two years of Corps Training.

(3) The College Scholarship Program (CSP) provides educational financial assistance (including tuition, fees, laboratory expenses, books, and a monthly subsistence allowance) for selected undergraduate or graduate cadets. Candidates for entry into, the 2- and 4-year programs, and members of the 4-year program, are eligible to compete for scholarships provided they have the requisite number of academic years remaining. Not more than 20 percent of the persons appointed as CSP cadets may be in the 2-year program. At least 50 percent of the CSP cadets enrolled in public institutions must qualify for in-state tuition rates. Scholarship recipients will be centrally selected by AU/AFROTC, Maxwell Air Force Base, Alabama 36112.

(b) *The field training phase.* The 6- and 4-week field training phases are conducted at Air Force bases as prescribed by current Air Force policy. Two-year program applicants must successfully complete the 6-week field training session prior to admission to the POC. This prerequisite is a statutory requirement, but does not guarantee membership in the 2-year program. Cadets in the 4-year program normally attend the 4-week field training session after successful completion of AS 200.

(c) *Curriculum and course support materials.* (1) *Curriculum.* The Commander, AU, develops and maintains the AFROTC education program according to the mission, objectives, and policies prescribed by the Chief of Staff, United States Air Force.

(2) *Academic credit.* AFROTC courses will be reviewed for credit on the same basis as other courses at the institution. Maximum credit should be granted. If credit is questioned, the institution should recommend changes which would make the courses credit worthy, but denial of degree credit would not in itself, necessarily mean withdrawal of the unit. Regardless of the amount of credit granted, AFROTC grades should appear on student's transcripts.

(3) *Course substitution.* Guest lecturers may provide specific hours of instruction in areas where they are academically qualified, provided the institution approves of the practice. Institutionally taught courses, or courses taught jointly by both civilian and military faculties, may be used when these courses satisfy the objectives of the AFROTC curriculum and exist or can be developed by the institution. These provisions shall not be used as a device to reduce the required minimum military contact hours of the AFROTC curriculum.

(4) *Drill.* Standards of performance in military drill are prescribed by Air University. The PAS determines the specific amount of drill needed to obtain the prescribed standards.

§ 870.14 Responsibilities of the Commander, AU.

(a) During any period of full-scale mobilization, the Commander, AU conducts an accelerated AFROTC program as directed by HQ USAF.

(b) The Commander, AU insures that all applicants enlisted as POC or CSP members, and all AFROTC graduates appointed as commissioned officers, meet Air Force personnel procurement standards.

§ 870.16 Major Command functions.

(a) Provide designated applicants for membership in the AFROTC program with:

(1) Subsistence, quarters, and necessary medical care while they are processing at Air Force installations. (Service charges for subsistence and quarters provided will be kept to a minimum.)

(2) On-base transportation to and from examining centers and medical facilities. (Off-base transportation may be provided to the nearest commercial transportation facility.)

(b) Provide for the administration of medical examinations and the Air Force Officer Qualifying Test (AFOQT) to designated finalists competing in the 4-year College Scholarship Program. (The provisions of paragraph (a) of this section apply.)

(c) Insure that adequate personnel and facilities are available to process AFROTC applicants so that a favorable and professional impression of the base and the military will be conveyed.

(d) Provide base facilities, personnel, and airlift in support of the AFROTC base visit and orientation program.

§ 870.18 Administrative services and supplies.

(a) *Uniforms.* The Commandant, AFROTC, prescribes the uniform, uniform devices, and manner of wear of the uniform by students, designated applicants, and cadets. Uniforms will be worn for drill and at other times prescribed by the PAS.

(b) *Monetary allowances.* Policies governing subsistence allowance and commutation in lieu of uniforms are prescribed by the Commandant, AFROTC, consistent with Air Force directives.

Subpart B—AFROTC Membership and Retention

§ 870.20 Basic membership requirements.

Title 10 U.S.C., chapter 103, requires that, at institutions hosting ROTC detachments, membership in the GMC will be elective or compulsory as provided by state law or the authorities of the institutions concerned. Except where GMC membership is compulsory, as many qualified students may be enrolled in the GMC of each AFROTC detachment as are necessary to meet production quotas established by HQ USAF. Entry into the POC is not subject to institutional jurisdiction, but is limited by production goals set by HQ USAF for the graduating class in which cadets will be appointed. Each cadet or applicant desiring membership in the POC must apply and compete with other cadets and applicants for membership in the POC. HQ USAF establishes AFROTC eligibility requirements. For students meeting these requirements,

the Commandant, AFROTC, prescribes admission and retention standards.

(a) *GMC membership.* An eligible student accepted by the PAS becomes a member on the first day he attends Aerospace Studies classes. He remains a member until he completes the GMC unless he is disenrolled sooner, except GMC members tentatively accepted as designated applicants for the POC who will remain members until they are disenrolled from the GMC or fail to be selected for the POC. The PAS will counsel each GMC cadet that acceptance for GMC training is not a guarantee of later admission into the CSP or POC.

NOTE: An individual accepted for membership, who because of accreditation of a portion of the GMC by virtue of equivalent training is excused from attending classes and corps training, is considered a cadet effective the date his application is accepted by the PAS.

(b) *POC membership.* An eligible student accepted by the PAS becomes a member on the date he is fully qualified under current Air Force and AFROTC directives, enlists or reenlists in the USAFR (ORS) according to Part 888d of this chapter and enrolls in courses of the POC. He remains a member until he is disenrolled from membership or is commissioned.

(c) *Designated applicant.* Once accepted as a designated applicant by the PAS, the individual remains a designated applicant until he is enrolled as a contract cadet, or is advised by the PAS that he has been released from further consideration. Normally designated applicant status will not exceed a 12-month period (Subpart C tells how to notify a Selective Service Board of an individual's designated applicant status). At the time of admission to membership in the POC, a designated applicant must have two academic years remaining at an institution hosting the AFROTC program (§ 870.82 note 2). A designated applicant who has completed the GMC, its equivalent, or the 6-week field training prior to enrollment in pursuing status and is thereafter to be accepted as a contract cadet, will meet this requirement if he had two academic years remaining at the time of enrollment in pursuing status. A designated applicant who is on academic probation or not in good academic standing at the institution normally will not be admitted to membership in the POC. Upon favorable recommendation from the Commandant, AFROTC, AU may grant a waiver (§ 870.84).

(d) *Nonmembers.* Pursuing and special students may be enrolled for academic credit although they are not members of the program. Nonmembers are not entitled to subsistence, a uniform allowance, or a uniform. If otherwise authorized, while in nonmember enrollment status, a special student may purchase a uniform at his own expense and wear it as authorized by the PAS. A pursuing student may be loaned a uniform at the discretion of the PAS and with concurrence of the institution. Section 870.22 (h) applies to wearing of the uniform by special and pursuing students. Equipment will not be purchased for the benefit of enrolled nonmembers. Special and pursuing students must acknowledge in writing understanding of their status in the AFROTC program.

§ 870.22 Other membership requirements.

For selection or retention in the AFROTC program, a student must meet and maintain the following standards as well as the requirements in § 870.82.

(a) *Moral character.* Good moral character is a prerequisite for membership and continuance in the AFROTC program. For purpose of membership in the GMC, admission to the institution is presumptive evidence of good character.

(b) *Military or civil offenses.* AFROTC is exempt from the requirement for the police record check required for enlistment in the United States Air Force Reserve. The Commandant, AFROTC, will establish procedures for verification of other than minor traffic violations which, together with the investigative actions inherent in the National Agency Check (NAC) or Background Investigation (BI), will insure proper review of involvements of each contract cadet. A student who has been convicted by a court-martial or civilian court for any offense will not be accepted for CSP/POC membership without a waiver (§ 870.84).

(c) *Medical qualification.* As provided in AFM 160–1, "Medical Examinations and Medical Standards," except for GMC cadets (§ 870.82).

(d) *Academic requirements.* For CSP and POC membership, a student must meet and maintain minimum requirements for good academic standing in the institution (§ 870.84 contains waiver authority).

(e) *Enrollment.* A member must maintain full-time enrollment in an AFROTC host institution or an institution having an approved agreement with an institution hosting AFROTC. Enrollment with less than the normal number of credit hours can be approved by the Commandant, AFROTC (§ 870.84). Undergraduate students will not be denied the opportunity to enroll in AFROTC solely because of their major course of study.

(f) *Elimination from service academies or other officer training programs.* Students who attended officer commissioning programs must be granted a waiver before entering AFROTC (§ 870.84). Applicants may be enrolled in nonmembership (pursuing or special student) status pending waiver determinations. Pending waiver evaluation, 2-year program designated applicants may attend 6-week field training if recommended for further officer training on their DD Form 785, "Record of Disenrollment from Officer Candidate Type Training."

(g) *Ineligibility for reenlistment.* A former serviceman whose DD Form 214, "Armed Forces of the United States Report of Transfer or Discharge," for his last period of service contains entries which render him ineligible to enlist in the Regular Air Force (Part 888 of this chapter) is not eligible for membership in the POC or CSP.

(h) *Loyalty requirements.* No U.S. citizen may be accepted as a member of AFROTC or wear the AFROTC uniform if he fails to fulfill the following:

(1) *For GMC, CSP, and POC.* Be administered and sign the Oath of Allegiance. The student must be administered and sign the following certificate, which becomes part of his record (he may, because of conscientious scruples, substitute "affirm" for "swear"):

I do solemnly swear or (affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservations or purpose of evasion.

(2) *For CSP and POC.* Complete and submit the DD Form 98, "Armed Forces Security Questionnaire."

(i) The student must file the DD Form 98 in advance of scheduled membership or attendance at 6-week field training, whichever occurs earlier.

(ii) If an applicant for POC or CSP fails or refuses, after instruction, to fill out DD Form 98 in its entirety, the PAS will deny him membership as a contract cadet. Also, if he makes entries on this form which provide reason to believe that his enrollment is not clearly consistent with the interests of national security, or if he qualifies an entry by a remark other than "none" or "none to my knowledge" in the remarks section, he will be denied membership or appointment until a full and complete investigation discloses that his membership or appointment is not prejudicial to the national interest.

(i) *Illegal or improper use of drugs.* Prior to enlistment for entry into the CSP or POC each applicant will execute AF Form 2061, "Drug Abuse Certificate (Appointment/Officer Training Applicants Only)." AF Form 2031, "Drug Abuse Circumstances," will be accomplished if applicant fails to certify to no prior drug abuse on AF Form 2061. The PAS will discuss these forms with the applicant and specifically explain the meaning of the terms used.

(j) *Assignment restrictions.* The PAS will counsel each POC and CSP applicant regarding the possibility that future duty with the Air Force may involve being associated with nuclear weapons systems. Applicants whose convictions will not allow them to accept such assignments or to accept worldwide assignment, including combat duty, will be identified, if possible, and denied membership.

§ 870.24 Conditional membership.

The Commandant, AFROTC, prescribes procedures which will allow the PAS to place a student in conditional membership either upon initial enrollment in the POC or during his tenure as a POC or CSP cadet when full membership is not possible. This conditional status is designed to permit correction of deficiencies (academic or otherwise)

within a specified period of time to preclude disenrollment from the program. Each conditional cadet will acknowledge in writing his understanding of the restrictions and requirements of conditional cadet status. Normally, this status is authorized only when the circumstances dictating conditional status will be removed in one academic term (semester, trimester, quarter, term). An individual who is on academic probation or not in good standing in the institution normally will not be designated as a conditional member for initial enrollment in contract cadet status; however, upon favorable recommendation from AFROTC, AU may grant a waiver in appropriate cases (§ 870.84, line 5).

§ 870.26 Concurrent enrollment in Aerospace Studies.

(a) *General Military Course (GMC).* The PAS may concurrently enroll a cadet in two GMC courses for a period not to exceed one academic year provided he obtains the same number of classroom and corps training hours as other GMC cadets at the same institution.

(b) *Professional Officer Course (POC).*—(1) The PAS may authorize concurrent enrollment provided the cadet's tenure will not be reduced to less than two years, for cadets who:

(i) During portions of the program, are absent from campus because of institutional, State Department, industry, or other approved programs;

(ii) Are enrolled in an AFROTC (officer-taught) POC course and a civilian-taught course approved under an alternate curriculum arrangement.

(2) The Commandant, AFROTC, may authorize concurrent enrollment as specified in § 870.84.

§ 870.28 Who may not be AFROTC members.

(a) Commissioned officers (present or former) of any component of the Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marine.

(b) Officers of the Public Health Service.

(c) Members of the National Oceanic and Atmospheric Administration (NOAA).

(d) Members on active duty in any military service. (Air Force enlisted members with a minimum of one year of active duty are eligible to compete for AFROTC scholarships.)

(e) Conscientious objectors.

§ 870.30 Investigative requirements.

The Commandant, AFROTC, will establish procedures to insure that all contract cadets meet the following investigative requirements:

(a) An NAC will be requested during the first academic term of membership as a contract cadet. NACs will not be requested on cadets who have previous investigations which are current as defined in AFR 205–32, "USAF Personnel Security Program," nor will NACs be requested on cadets who are required to have a BI under the provisions of paragraph (b) of this section.

(b) A BI must be completed and a favorable decision rendered before any designated applicant or CSP designee of the GMC may be enlisted if he has:

(1) Traveled or resided in one or more communist or communist-oriented countries listed in AFR 205–32, attachment 6, for more than 30 consecutive days, not under the auspices of the U.S. Government.

(2) A spouse, parent, brother, sister, or offspring currently residing in any country listed in AFR 205–32, attachment 6.

(3) Made entries or deletions on DD Form 98 or DD Form 398, "Statement of Personal History," indicating that enlistment may not be clearly consistent with the interests of national security. (AFR 205–32, attachment 4.)

NOTE: The PAS may permit 2-year program designated applicants to atend 6-week field training pending completion of a BI.

§ 870.32 Contract cadets.

The Commandant, AFROTC, will establish procedures for classifying contract cadets according to Air Force requirements, qualifications of the individuals, and the cadets' desire.

(a) *Classification of contract cadets.*—(1) *Category I.* Cadets who qualify and volunteer for flying training or missile launch officer duty.

(i) *IP-Pilot Candidate.* A candidate may not be classified IP if he has ever been eliminated from a military pilot training course or the Flight Instruction Program of the Army, Navy, or Air Force.

(ii) *IN-Navigator Candidate.* A candidate may not be classified IN if he has ever been eliminated from a military navigator-type training course.

(iii) *IM-Missile Duty Candidate.* A cadet not in category IP or IN who volunteers to be assigned to missile launch officer duty upon entry on active duty.

(2) *Category II.* Cadets not in Category I who are enrolled in a college program leading to at least a bachelor's degree with an academic major in specified scientific or engineering curriculums.

(3) *Category III.* Cadets not in Category I who are enrolled in a college program leading to at least a bachelor's degree with an academic major in other than those scientific or engineering curriculums specified in Category II.

(b) *AF Form 1056, "Air Force Reserve Officers' Training Corps Category Assignment."* Each contract cadet will be required to sign four copies of an AF Form 1056 which becomes effective upon the member's enlistment in the USAFR (ORS). The PAS will be certain that each cadet fully understands the terms of the category agreement. Disposition of the copies is as follows:

(1) Two copies are retained by the PAS and later forwarded to the Air Force Personnel Center (ARPC), through AFROTC as an attachment to the individual's application for appointment. Upon appointment, one copy is placed in the officer's Master Personnel Record (MPerR) and one in his Unit Personnel Record Group (UPRGp). If the cadet is disenrolled from AFROTC for any reason before commissioning, these copies may be used as supporting documents to the disenrollment investigation, if conducted, or retained for a specified period.

(2) One copy is furnished the member.

(3) The remaining copy is filed in the individual's AFROTC Cadet Record.

(c) *Acceptance of educational delay.* Cadets granted educational delays according to Part 875 of this chapter must, if they have not already done so, sign an AF Form 1056 specifying a date of separation (DOS).

§ 870.34 In-phase admission to the POC.

Admission to the POC is normally phased so that completion of the POC will not occur before completion of the requirements for a bachelor's degree. The Commandant, AFROTC, may prescribe exceptions to this policy (§ 870.82, note 2).

§ 870.36 Completed cadet status.

Completed cadet status is authorized for contract cadets who will complete bachelor's degree requirements within 12 months after completion of the AFROTC program. Students who have completed the AFROTC program and have been awarded a bachelor's degree or who will require completed status in excess of 12 months will not be retained in completed status without appropriate waiver (§ 870.84 gives waiver authority).

§ 870.38 Alien students.

(a) *Who may participate in AFROTC.* Aliens as defined in paragraph (a)(1) through (a)(3) of this section, are authorized to participate in the GMC and POC provided they are enrolled full time at a school hosting an AFROTC program or having cross-town agreement or consortium arrangement.

(1) Immigrants, regardless of their country of origin, who have been lawfully admitted for permanent residence in the United States and have in their possession Immigration Form I–151, "Alien Registration Receipt Card."

(2) Refugees still in a parole, conditional entry, or indefinite voluntary departure status, regardless of their country of orgin, and:

(i) They have in their possession Immigration Form I–94, "Arrival-Departure Record," bearing an Immigration and Naturalization Service stamp reading, "Refugee—Conditional Entry"; or

(ii) They are Cuban nationals who have in their possession Immigration Form I–94 endorsed by the Immigration and Naturalization Service to reflect either that they have been paroled into the United States for an indefinite period or have been granted "voluntary departure" for an indefinite period; or,

(iii) The Immigration and Naturalization Service has confirmed in writing that the alien is a refugee.

NOTE: A refugee is classified as an immigrant once he has been accepted for permanent residence and is issued an Immigration Form I–151.

(3) Nonimmigrant aliens, from countries shown on the list of countries approved by the Department of State whose citizens are eligible, may participate in the Senior ROTC program. An individual in this status has acknowledged that he does not intend to apply for U.S. citizenship. (The Commandant, AFROTC, will be furnished and retain custody of the list of countries approved by the Department of State. This list will be distributed on a "need-to-know" basis only.) The individual must:

(i) Have in his possession Immigration Form I-94.

(ii) Present to the Commandant, AFROTC, certification that his government has no objection to his receiving AFROTC training, or have in his possession Immigration Form I-94 stamped "paroled indefinitely" or "indefinite voluntary departure."

(b) *Enrollment limitations.*—(1) HQ USAF may limit alien enrollments of other than nonimmigrant aliens.

(2) Active recruiting of nonimmigrant alien students for the AFROTC program is prohibited.

(3) Alien students are eligible for enrollment in both the 2- and 4-year programs, and may be extended the advantages of membership thereof, except that they:

(i) May not receive a Selective Service deferment.

(ii) Will not be enlisted in the United States Air Force Reserve.

(iii) Will not be administered the Oath of Allegiance.

(iv) Are ineligible for bonetary assistance under the CSP.

(v) Will not be paid subsistence allowance prescribed by 37 U.S.C. 209(a).

(vi) Are ineligible for U.S. Air Force commissioning through the AFROTC program while still in alien status. (The Commandant, AFROTC, will establish procedures to insure that each alien student understands and has acknowledged that his participation in and completion of AFROTC will not result in his appointment as a Regular or Reserve officer of the United States Air Force.)

(4) Alien students will not be charged against the AFROTC enrollment limitations prescribed by HQ USAF.

(c) *Entitlements.* Alien students participating in AFROTC are entitled to:

(1) Wear the uniform. Institutions may be provided commutation funds at the rates prescribed by Part 874 of this chapter in lieu of issue-in-kind uniforms. The student must return uniform items to the institution when he completes or withdraws from the program.

(2) The same subsistence-in-kind and transportation-in-kind furnished other enrollees as prescribed by 10 U.S.C. 2110 (c).

(3) The same subsistence, transportation, medical attention, uniform clothing, and equipment furnished other enrollees while participating in field training (10 U.S.C. 2109(b)).

(4) Pay at the rate prescribed for cadets at the U.S. Air Force Academy (37 U.S.C. 209(c)), when participating in field training.

(d) *Attendance at field training.*—(1) Immigrants participating in the 4-year program will be permitted to attend 4-week field training only if they are admitted to membership.

(2) Immigrants who apply for entry into the 2-year program will be permitted to attend 6-week field training provided it can be reasonably assumed that they will qualify for membership prior to completion of the POC.

(3) Nonimmigrant aliens may attend either 4- or 6-week field training as normally scheduled.

(e) *Eligibility for membership.* Immigrants who become naturalized citizens of the United States may compete for GMC, POC, or CSP membership in the same manner as any other applicant and may request accreditation of successfully completed course work and corps training while in alien student status, in accordance with § 870.84, line 7. They are not authorized retroactive subsistence pay for any period of participation in the POC before attaining membership.

Subpart C—Selective Service Deferment of AFROTC Members and Designated Applicants

§ 870.40 Military colleges participating in the AFROTC program.

A member of an officer procurement program at a military college is not required to register under the Military Selective Service Act of 1967. In addition, he is relieved from liability for training and service and, therefore, need not execute AF Form 1041, "Deferment Agreement." The curriculum of the military college the student attends must be approved by the Secretary of Defense, Virginia Military Institute, The Citadel, and Norwich University, approved and designated as military colleges by the Secretary of Defense, participate in the AFROTC program. Membership in the AFROTC program at these institutions serves as the basis for ID classification.

§ 870.42 Deferment selection criteria.

The PAS at other than military colleges (§ 870.40) selects individuals for a deferment as follows:

(a) All members who have registered with Selective Service, have not completed their Military Service Obligation, and who are admitted to the:

(1) GMC as nonscholarship cadets will be given a deferment at the time of enrollment in their first Aerospace Studies Course, if they so elect, or any time thereafter at the cadets' request so long as they remain members of the GMC.

(2) POC under 10 U.S.C. 2104 or the CSP under 10 U.S.C. 2107 will be given a deferment or have it continued if one is in force at the time the AFROTC Category Agreement becomes effective.

(b) All other male members who are of draft are and who are:

(1) Scholarship cadets or nonscholarship POC cadets will be given a deferment at the time they register with Selective Service.

(2) Nonscholarship GMC cadets will be given a deferment at the time they register with Selective Service, if they so elect, or any time thereafter at the cadets' requests as long as they remain members of the GMC.

(c) Pursuing students may be deferred.

(d) GMC cadets who are members of a Reserve or National Guard unit need not be deferred, but will be reported according to § 870.56.

§ 870.44 Delay of induction.

(a) Designated applicants and 4-year CSP designees may not be deferred; however, their Selective Service boards may be requested to delay their induction pending enrollment as follows:

(1) *Designated applicants.* A letter may be sent once the individual is selected by the PAS as a designated applicant, but not earlier than the beginning of the spring term prior to the individual's scheduled enrollment in the POC.

(2) *Four-year CSP designees.* The PAS may notify the Selective Service board once it is determined that the individual requires a letter to permit his enrollment.

(b) If the designated applicant or CSP designee withdraws from consideration, the PAS must notify the board accordingly by letter.

(c) If the individual's board fails to honor the letter, the PAS may report the facts to AFROTC, who will in turn contact the Air Force Military Personnel Center if additional action is required.

§ 870.46 Length of deferment.

An individual's deferment normally remains in effect until he successfully completes the AFROTC program and accepts a commission. If he is disenrolled from AFROTC membership, his deferment will immediately be terminated unless he is recommended for involuntary call to extended active duty (EAD) in his enlisted grade.

§ 870.48 Actions required for deferment.

(a) The PAS (or his designated representative) will explain the following to the member:

(1) His military service obligation.

(2) The contractual obligation he assumes by signing the Deferment Agreement. Specifically, he agrees to accept an appointment, if offered, as a commissioned officer in the Air Force, and if:

(i) His services are required at the time of his appointment, he will serve on active duty for a minimum of two years and remain a member of a Regular or Reserve component until the sixth anniversary of his commission. (Note: The 6-year requirement applies notwithstanding the fact that the individual may have fulfilled the military service obligation specified in 10 U.S.C. 651.) Also, the active duty service commitment indicated in his AF Form 1056 takes precedence over the 2-year minimum prescribed by the Military Selective Service Act of 1967.

(ii) His services are not needed on active duty when he is appointed, he will serve on active duty for training for a period of three to six months and remain

a member of a Reserve component until the eighth anniversary of his commission.

(3) That if his ID classification is changed by his local Selective Service board, he must immediately:

(i) Notify the PAS.

(ii) Submit a written appeal of his classification to his local Selective Service board.

(b) The member certifies that he:

(1) Agrees to the provisions of the Deferment Agreement by signing the AF Form 1041.

(2) Understands that signing the AF Form 1041 does not relieve him of his obligation of keeping his local Selective Service board informed of his status.

§ 870.50 Notifying Board of deferments and transfers.

(a) After the individual has completed and signed the AF Form 1041, the PAS will notify the local Selective Service Board when the individual:

(1) Enrolls in the GMC.

(2) Enrolls in the POC in pursuing student status.

(3) Is enlisted in the USAFR (ORS).

(4) Is gained through transfer.

(b) If the individual's board fails to honor the DD Form 44, "Record of Military Status of Registrant", the PAS will report the facts to AFROTC who will contact the Air Force Military Personnel Center if additional action is required.

§ 870.52 Notifying Board of change of deferment status.

If there is a change in an individual's deferment status:

(a) The PAS is responsible for notifying the Selective Service System of changes of deferment status of all individuals who are disenrolled from membership for reasons other than commissioning.

(b) ARPC is responsible for advising Selective Service boards as follows:

(1) AFROTC graduates. A revised DD Form 44 will be forwarded to the AFROTC graduate's local Selective Service board immediately after appointment as a Reserve officer, indicating the date the registrant was commissioned.

(2) Former AFROTC contract cadets awaiting orders to involuntary extended active duty in their enlisted grade. Individuals will be retained in a deferred status until ordered to EAD in their enlisted grade. A DD Form 44 will be prepared and forwarded as prescribed by Air Force Manual (AFM) 35-3, "Air Reserve Forces Personnel Administration," chapter 14, section E, for other members of the Air Reserve Forces who are serving in a draft deferred status (obligors who have not served on active duty other than for training for at least one year). If the individual is discharged from the Reserves before his EAD date for medical reasons, a copy of the SF 88, "Report of Medical Examination," serving as the basis for the medical disqualification, will be attached to the DD Form 44.

(3) Members disenrolled from AF ROTC and approved for discharge. A revised DD Form 44 will be forwarded to the individual's local Selective Service board immediately after discharge, indicating the effective date the registrant was discharged. For a nonprior service cadet, the statement, "Individual is eligible for service under appropriate Selective Service directives. He has no prior active military service.", will be included.

§ 870.54 Transfer procedures.

On transfer of a member to another institution and enrollment into the AF ROTC, the gaining PAS will prepare a revised DD Form 44, entering the member's new unit and location and forward it to the local Selective Service board with which the member is registered, requesting that the previously submitted form be rescinded.

Subpart D—Special Procedures

§ 870.56 Participation and assignment in the Reserve establishment or National Guard.

(a) Members of the GMC who are not members of the CSP may participate in any element of the Reserve establishment or National Guard. At the end of each calendar year the PAS furnishes the reservist's unit of assignment a statement that his participation in the AFROTC program has been satisfactory or unsatisfactory.

(b) If a member of the Reserve ceases to participate or is disenrolled from GMC membership, the PAS will notify the GMC cadet's unit of assignment.

§ 870.58 Credit for previous education, training, and experience.

(a) A cadet may be credited with a portion or portions of the GMC or POC as shown in § 870.86.

(b) Credit may not be granted for ROTC training received at any institution that did not have a commissioned officer of the military forces (active or retired) assigned by orders of a military department as a professor of military science, professor of naval science, or professor of aerospace studies.

§ 870.60 Enlistment of a reservist of another service.

For a reservist of another armed service, the PAS will:

(a) Request the individual's Reserve unit of assignment to grant a conditional release as a prerequisite to enlistment in the United States Air Force Reserve (USAFR) and admission to membership in the CSP/POC.

(b) Upon receipt of the conditional release, enlist the individual under Part 888d of this chapter, assign him to ARPC (OSR) (AFROTC), and attach him to the AFROTC detachment concerned.

(c) Forward the cadet's records to ARPC.

(d) Notify the releasing service that the individual is enlisted.

§ 870.62 Transfer of ROTC cadets.

(a) Interservice transfer between Army ROTC and Air Force ROTC is authorized under the Statement of Joint ROTC Policies.

(b) Transfer of AFROTC cadets between detachments is authorized. When a contract cadet transfers to another detachment, the PAS of the losing detachment will publish a Reserve Order confirming the transfer and provide a copy to ARPC.

(c) There is no formal agreement between the Air Force and the Navy regarding transfer of contract cadets; each such case will be submitted to AFROTC for individual evaluation.

Subpart E—Disenrollment and Discharge

§ 870.64 Disenrollment of member from the AFROTC program.

(a) The Commandant, AFROTC, may disenroll a cadet from the GMC (with the concurrence of institutional authorities if required), disenroll a POC cadet from membership, or withdraw a cadet from the CSP for any of the following reasons:

(1) Inability, without discredit, to continue regular enrollment in the institution.

(2) Failure to remain medically qualified for commissioning.

(3) Failure to maintain acceptable retention standards under prescribed competitive criteria.

(4) Individual's request for release for justifiable reasons.

(5) Inaptitude, indifference to training, breach or anticipatory breach of the terms of the category agreement, disciplinary reasons, or reasons involving undersirable traits of character.

(b) The Commandant, AFROTC, may delegate to the PAS the authority to disenroll cadets and/or withdraw them from the CSP.

(c) When the PAS initiates a disenrollment action on a contract cadet for any of the reasons in paragraph (a)(3) through (a)(5) of this section, he appoints a commissioned officer (on active duty) to investigate the case and submit a written report. When the investigation is conducted because the student may be found to be in violation of his category agreement, at least one university official (an administrator or faculty member appointed by the institution) will be permitted to observe the investigation or consult in the review if the university desires.

(EXCEPTIONS: (1) In disenrollment actions taken under paragraph (a)(3) of this section, where failure to maintain academic retention standards is documented and the individual is on academic/scholastic probation for consecutive academic terms, or when the individual is forced to leave school because of academic suspension, the appointment of an investigating officer and a written report are not required; (2) Appointment of an investigating officer and a written report are not required when HQ USAF, AU, or the Commandant, AFROTC, has reviewed a cadet's records and directed disenrollment.)

§ 870.66 Discharge from the United States Air Force Reserve.

When a cadet is disenrolled from the CSP/POC, he will be discharged from the USAFR (OSR) unless he is a member reported for involuntary call to extended active duty under Part 888d of this chapter.

§ 870.68 Notifying ARPC of disenrollments.

A roster of cadets and disenrolled cadets qualified for discharge under Part 888d of this chapter is submitted by the Commandant, AFROTC, to ARPC at least once a week. The Commandant, AFROTC, determines if disenrollment was the result of indifference to training, disciplinary reasons, breach or anticipatory breach of the terms of the category agreement, or declining to accept a commission. The names of such individuals will be reported to ARPC for involuntary order to active duty, as prescribed in Part 888d of this chapter.

Subpart F—Readmission

§ 870.70 Readmission.

The Commandant, AFROTC, prescribes policy and procedures for readmitting individuals for program completion and commissioning in the U.S. Air Force. This readmission is restricted to persons who have been disenrolled for the reasons stated in § 870.64(a)(1) through (4). A cadet disenrolled for any of the reasons in § 870.64(a)(5), is ineligible to reenroll if any Air Force officer procurement program or be appointed in any Air Force component unless waiver is authorized (§ 870.84).

Subpart G—Appointment and Assignment of Graduates

§ 870.72 Appointment of graduates.

Membership in the program in itself does not constitute a right to a commission in any Air Force component. The Commandant, AFROTC, shall appoint as a second lieutenant a contract cadet who has successfully completed the military and academic requirements of the program once he has received a bachelor's degree or an authorized institutional official certifies he has qualified for a degree which will be conferred at a later date, provided the cadet is otherwise qualified and is not to be released to another service under § 870.78.

(a) The date of rank of May and June appointees in any year will be the same as the graduates of the United States Air Force Academy.

(b) The Commandant, AFROTC, may not commission in the Reserve of the Air Force without a waiver from HQ USAF, a former Service Academy cadet (including Coast Guard and Merchant Marine) prior to the commissioning date of his Service Academy exclassmates (§ 870.84).

(c) If a student becomes involved with civil authorities, and criminal charges (except minor traffic violations) are filed or pending against him, he will not be commissioned until final disposition of the case is made. If criminal charges are not expected to be disposed of within 120 days after the cadet's scheduled commissioning date, a complete case file will be forwarded to the Air Force Military Personnel Center for waiver determination.

(d) Each POC cadet must recertify the AF Form 2061 as prescribed in AFR 30-19, "Improper or Illegal Use of Drugs," before appointment.

§ 870.74 Extended active duty for AFROTC graduates.

A contract cadet receiving an Air Force commission will normally enter active duty within one year of his graduation, unless a delay is approved under AFR 45-31, "Delay in Active Duty for AFROTC Graduates". A graduate must serve the period specified in the agreement (AF Form 1056) under which he was originally appointed, even though he may later be reappointed (such as a commissioned officer in the Medical Corps, Nurse Corps, Medical Service Corps, or Biomedical Sciences Corps). AFR 45-48, "Air Force Reserve Officers' Training Corps (AFROTC)," is the authority for ordering AFROTC graduates to initial active duty. AFR 45-26, "Voluntary Entry on Extended Active Duty (EAD) of Commissioned Officers of the Armed Forces," authorizes higher temporary grades in which certain officers may be entitled to enter active duty.

§ 870.76 Distinguished graduates.

The Commandant, AFROTC may designate up to 20 percent of the best qualified AFROTC graduates as Distinguished Graduates (DGs) during each fiscal year provided the quality of the student body is sufficiently high. To insure that only the highest quality students in the entire program are designated as DGs, the percentage of graduates from each school may vary. However, the total number of graduates designated during any fiscal year may not be more than 20 percent of the combined total number of graduates of that year.

§ 870.78 Release of AFROTC graduates for appointment in another service.

An AFROTC graduate who meets eligibility requirements listed in this section may be released from the Air Force to accept an appointment as a commissioned officer in the Army or the Marine Corps. The Navy does not offer direct appointments to ROTC graduates of another service.

(a) *Eligibility.* In addition to meeting normal eligibility requirements for an Air Force commission, a cadet must either have served one year on active duty in the service in which he desires an appointment, or his parent must be an active or retired member of that service (or have died while an active or retired member). Except in unusual cases, the Marine Corps will approve only applications from distinguished cadets or distinguished graduates who have reached their 20th birthday, but not their 25th birthday as of July 1 of the calendar year in which they are to be appointed.

(b) *Application procedures.*—(1) Applications will be submitted to the PAS and include:

(i) Reason for requesting selected service.

(ii) Reasonable proof that applicant meets eligibility requirements.

(iii) College transcripts.

(iv) Full length photograph of the applicant, in uniform without a cap.

(v) Results of physical examination (SFs 88 and 93).

(2) The Commandant, AFROTC, may grant a conditional release to eligible applicants. The release and the applications are forwarded to the Department of the Army, The Adjutant General or to the Commandant of the Marine Corps, as appropriate.

§ 870.80 Air Force appointment of ROTC graduates from another service.

An ROTC graduate of another service may be appointed as a commissioned officer in the Air Force, provided he meets eligibility requirements listed in this section and is granted a conditional release from his parent service. Approved applicants will be ordered to active military service with the Air Force as Reserve of the Air Force officers and will be required to serve at least four years of active service before becoming eligible for separation or release from active duty. Applicants for flying training will be required to serve five years of active service after award of aeronautical rating.

(a) *Eligibility.* An applicant must meet minimum AFROTC eligibility requirements for an Air Force commission as outlined in Part 881 of this chapter and this part. Applicant must either have served one year on active duty in the Air Force or his parent must be an active or retired member of the Air Force (or have died while an active or retired member).

(b) *Application procedures.* A cadet who desires appointment in the Air Force must apply, using regulations of his parent service. However, the following will be required by the Air Force before commissioning and entry on active duty:

(1) Reasonable proof that applicant has served one year on active duty in the Air Force or that his parent is or has been a career active duty member of the Air Force. If applicant has prior active military service in the Air Force, a copy of DD Form 214 is required.

(2) An AF Form 24, "Application for Appointment as Reserves of the Air Force or USAF Without Component," in duplicate.

(3) A SF 88 and 93, in duplicate. Flying training applicants must be administered a flight physical by an Air Force Flight Surgeon or Flight Medical Officer (class I for pilots—class IA for navigators).

(4) The results of the Air Force Officer Qualifying Test (any Air Force recruiter will schedule testing).

(5) A DD Form 398, "Statement of Personal History," in duplicate.

(6) A DD Form 98, in duplicate.

(7) Transcript of college work, as evidence of the applicant's educational level.

(8) Evidence of favorable completion of a BI or NAC, date completed, and location filed.

(9) Men applicants who have not attained their 26th birthday and who have had no prior military status, must submit statement required by Part 881 of this chapter.

(10) An applicant who is not a citizen of the United States by birth must submit statement required by Part 881 of this chapter.

(11) Recommendation of the Professor of Military or Naval Science.

(12) An Active Duty Service Commitment Statement of Understanding, dated and signed by the applicant.

(13) An AF Form 2061 and, if required, AF Form 2031.

Subpart H—Tables

§ 870.82 Eligibility requirements for admission to membership in AFROTC.

Rule	An individual must	If he desires to participate in			
		GMC (AS 100 AS 200)	FT	POC (Notes 1 & 2) (AS 300 AS 400)	CSP (N Notes 1 & 3)
1	be a full time student	X		X	X
2	be of good moral character and be medically qualified under AFM 160-1, "Medical Exams and Medical Standards"	(note 4)	X	X	X
3	execute the Oath of Allegiance	X	X	X	X
4	be a U.S. citizen	X	X (note 5)	X	X
5	enlist in the USAFR (note 6)			X	X
6	not be a conscientious objector	X (note 7)	X	X (note 7)	X
7	have attained age of 14	X			
8	have attained age of 17 if male and 18 if female		X (note 8)	X (note 9)	X (note 10)
9	sign Deferment Agreement (Military colleges and women excepted)	(note 11)	X	X	X
10	execute Armed Forces Security Questionnaire		X	X	X
11	execute AFROTC Category Agreement, with parental consent if under 21 years of age		X	X	X
12	be enrolled in the 4-year program	X			
13	successfully complete any general survey or screening test prescribed for his category		X (note 12)	X (note 12)	X (note 12)
14	meet the two academic years remaining requirement at time of enrollment			X	
15	be in good academic standing and not be on academic probation		X	X	X
16	successfully complete or receive credit for the GMC or successfully complete 6-week FT			X	
17	execute USAF Drug Abuse Certificate (note 13)		X	X	X

NOTES: 1. A Former member of a service academy (including Coast Guard and Merchant Marine Academies) is ineligible unless a waiver has been granted by AFMPC. He may be enrolled as a pursuing student and be deferred subject to the restriction of § 870.84, line 2.

2. Undergraduate students having less than two academic years remaining before graduation and graduate students may be selected for the POC if they have two academic years remaining on campus. However:

(a) Approval of AFMPC must be obtained before selection of students who will not complete advanced degree requirements within 12 months after commissioning.

(b) Applicants must sign a statement acknowledging that the needs of the Air Force are paramount and no guarantee of assignment in or related to any academic discipline can be given.

(c) Applicants who will be studying law upon commissioning must sign a statement of understanding that completion of legal licensing requirements in no way constitutes a guarantee of assignment to judge advocate duties.

3. Cadets in the 2- and 4-year program are eligible for membership in the CSP. Cadets initially becoming scholarship recipients at the AS 300 level must have completed the GMC, have received GMC credit under § 870.86, or have completed the 6-week field training. Cadets initially becoming scholarship recipients at the AS 200 level must be capable of completing the GMC before entry into the POC. Students enrolled in law school are prohibited from the CSP by the Defense Appropriation Act.

4. For GMC cadets, enrollment in the institution is considered as evidence of good moral character. Medical qualification is determined by authorities of the institution for GMC cadets.

5. See § 870.38(d) for exceptions.

6. If already a member of any Reserve component of any military department, including the USAFR, he must be discharged and reenlist in the USAFR or transfer to the USAFR.

7. An individual who claims to be a conscientious objector will be denied membership, but he may participate as a special student.

8. Individuals may attend field training if they will attain the age of enlistment before entry into the POC.

9. Must be able to complete all requirements for appointment by age 26½ if he is a Category IP or IN and by age 30, if Category IM, II, or III. The Commandant, AFROTC, may waive the maximum age restriction for outstanding and deserving cadets, provided the Category IP or IN cadet is commissioned and entered into flying training by age 27½; he may also waive the maximum age restriction for Category IM, II, or III cadets who were scheduled for commissioning by age 30 but because of unusual circumstances were not appointed. Commissioning must occur before a cadet attains the age of 32.

10. Must be able to complete all Aerospace Studies courses, prescribed field training, and degree requirements and not have reached his 25th birthday by June 30 of the calendar year in which he is eligible for appointment. (This requirement is statutory and cannot be waived.)

11. Provisions for deferments for GMC members are stated in § 870.42.

12. Applicants for the POC or CSP will be administered the AFOQT and their scores will be evaluated as part of the selection process. Categories IP and IN applicants must attain qualifying scores as prescribed by AFR 51-4, "Application Procedures for Undergraduate Pilot Training (UPT) and Undergraduate Navigator Training (UNT)."

13. If applicant fails to certify to no prior drug abuse on AF Form 2061, AF Form 2031 will be accomplished as outlined in AFR 30-19. Eligibility for enlistment is given in AFR 30-19.

§ 870.84 Individuals who require a waiver and waiver granting authority.

	A	B		
	If an individual requires a waiver for retention in or admittance to the AFROTC program, and is	then a waiver must be obtained prior to commissioning or prior to entry into the program, and waiver authority is		
		AFMPC	AU	AFROTC
1	a POC/CSP cadet or applicant who was a former service academy cadet and who will complete commissioning requirements before his ex-academy classmates	X		
2	any applicant for membership who was previously eliminated from an officer-type training program because of military inaptitude, indifference to training, major honor violations, undesirable traits of character, disciplinary reasons, or who resigned in the face of impending charges. (He will not be enrolled or granted a Selective Service deferment until waiver is approved.)	X (note 1)	X (note 2)	
3	a POC/CSP applicant who has previously attended a service academy (including the Coast Guard and Merchant Marine Academies)	X		
4	a POC/CSP applicant who attended but did not complete a service academy preparatory school or who has been a member of any officer program except a service academy		X	(note 3)
5	a POC/CSP applicant who is on academic probation or not in good academic standing		X (note 4)	X (note 5)
6	A POC applicant who requires more than one academic term in pursuing status to become eligible for membership.			X
7	an individual who, to qualify for membership, requires accreditation of successfully completed Aerospace Studies course work and training while in special or alien student status.			X
8	a POC cadet who will require completed cadet status in excess of 12 months or who will require retention in completed status after award of baccalaureate degree.			X
9	a cadet who had two academic years remaining when admitted to the POC but who, by virtue of superior performance or unusual circumstances, is eligible for earlier graduation and commissioning. (This includes concurrent enrollment required by school disestablishment action.)			X
10	a cadet who requires relief from normal retention standards (academic or disciplinary). (PAS may waive less than full-time student status for nonscholarship GMC cadets, and for POC members for the last academic term provided the cadet is enrolled in at least one course in addition to Aerospace Studies, or during the last academic term a cadet is in completed status.)			X (note 6)
11	a category IP/IN POC cadet or applicant who would exceed age 26½ at time of commissioning (may be waived if individual can be commissioned and entered into flying training by age 27½); a category IM/II/III POC cadet who would exceed age 30 at time of commissioning (may be waived to age 32 if the cadet was scheduled for commissioning but because of unusual circumstances was not appointed)			X
12	A POC/CSP applicant or cadet who has been convicted by a court-martial or a civil court for any offense other than that which is minor		X (note 7)	X (note 7)
13	A POC/CSP applicant or cadet who had had minor civil or military convictions which would not be prejudicial to his performance of duty as an Air Force officer and which do not indicate unacceptable traits of character			X
14	a POC/CSP applicant or cadet who has committed an offense resulting in less than a conviction			X (note 8)
15	in a condition which requires a waiver for reason other than enumerated in lines 1 through 14 above	X		

NOTES: 1. Former service academy cadets only.

2. AU will determine eligibility in all cases not involving former service academy cadets.

3. AFROTC may approve the readmission of certain former AFROTC cadets (§ 870.70).

4. To activate a scholarship a student must be in good academic standing or, if not in good academic standing, have both a cumulative grade point average and preceding term grade point average of at least 2.0 on the scale A is equal to 4.0.

5. AFROTC may prescribe procedures for attendance at the 6-week field training and enrollment in pursuing status.

6. A cadet may not be retained in scholarship status for more than one academic term during which he is not in good academic standing unless he has a cumulative and a term grade point average of at least 2.0 on the scale A is equal to 4.0.

7. AU may approve or disapprove; AFROTC may disapprove only.

8. Involvements which do not result in a conviction (such as deferred prosecution or nonjudicial punishment under the UCMJ) may indicate unacceptable traits of character or be prejudicial to an applicant or member's performance of duty as an Air Force officer. The Commandant, AFROTC, has authority to evaluate the circumstances of such involvements and grant or deny a waiver.

§ 870.86 Credit for previous education, training and military experience.

Line	A If the applicant has successfully completed	B then the PAS may credit	C and additionally, the Commandant, AFROTC, may credit
1	a U.S. Armed Forces, Coast Guard, or Merchant Marine Academy preparatory school, or portions of the first two years at a U.S. Armed Forces, Coast Guard, or Merchant Marine Academy (note 1)	up to, but not exceeding an equivalent portion of the GMC	
2	the basic course or portions of the basic course while a member of Army, Navy, or Air Force ROTC		
3	at least two years of junior level (high school) ROTC, or equivalent training in the Civil Air Patrol	one academic term (semester, trimester, or quarter) of the GMC	
4	three years of junior level (high school) ROTC or equivalent training in the Civil Air Patrol (note 2)	one year of the GMC (note 3)	
5	four years of junior level ROTC (high school) at a military school or academy	the GMC or a portion of it (note 4)	
6	more than 60 days of active duty or active duty for training in any U.S. military department	the GMC or portion of it as prescribed by the Commandant, AFROTC (note 5)	(note 6)
7	portions of the last two years at a U.S. Armed Forces, Coast Guard, or Merchant Marine Academy	portions of the POC on a term-for-term/academic year basis (2d classman=AS 300) not to exceed one year	one additional term of the POC if the ex-academy cadet was disenrolled from the academy after successful completion of the first half of his senior year (note 1)
8	portions of the last two years of advanced training and/or field training of the Army	portions of the POC on a term-for-term/academic year basis not to exceed one year and field training	one additional term of the POC if the former ROTC cadet was disenrolled from Senior ROTC after successful completion of at least one academic term of the last year (note 7)

Notes: 1. Refer to § 870.84 to determine required waiver action.

2. CAP cadets who earned the Carl A. Spaatz Award may be credited with 75 percent of the GMC.

3. Students presenting evidence of successful completion of a junior ROTC program are entitled to one year's credit in the GMC upon their request.

4. Rather than waive the entire GMC, consider requiring the cadet to complete at least one quarter or semester to give a basis on which to evaluate him for entrance into the POC.

5. The entire GMC will not be waived for cadets with less than 180 days of active duty or active duty for training.

6. The Commandant, AFROTC, may establish requirements and procedures for accrediting 4-week field training on the basis of previous military training and experience.

7. An additional term or terms may be credited by AU.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.73-15803 Filed 8-3-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-1—GENERAL

PART 14-12—LABOR

Identical Bid Reports; Deviations From Listing of Employment Openings

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Part 14-1 and Part 14-12 of Chapter 14 of Title 41 of the Code of Federal Regulations, are hereby amended.

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rule-making process. However, the amendments herein are minor and entirely administrative in nature. Therefore, the public rulemaking process is waived and these changes will become effective on August 10, 1973.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

JULY 30, 1973.

1. Part 14-1 of the Interior procurement regulations is amended by adding the following to the table of contents:

Subpart 14-1.16—Reports of Identical Bids

Sec.
14-1.1603 Reporting requirements.

2. Part 14-12 of the Interior procurement regulations is amended by adding the following to the table of contents:

Subpart 14-12.11—Listing of Employment Openings

Sec.
14-12.1102 List of employment openings.
14-12.1102-3 Deviations.

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

2. Part 14-1 of the Interior Procurement Regulations is amended by adding the following § 14-1.1603 to Subpart 14-1.16.

Subpart 14-1.16—Reports of Identical Bids

§ 14-1.1603 Reporting requirements.

Reports on identical bids required by § 1-1.1603 of this title shall be submitted by the heads of bureaus and offices directly to the Attorney General in accord with § 1-1.1603-3 of this title. A copy of the transmittal letter and a copy of the abstract of bids shall be furnished to the Assistant Director for Procurement Policy, Office of Survey and Review.

3. Part 14-12 of the Interior Procurement Regulations is amended by adding the following to Subpart 14-12.11.

Subpart 14-12.11—Listing of Employment Openings

§ 14-12.1102 Listing of employment openings.

§ 14-12.1102-3 Deviations.

Any request to deviate from the requirements of Subpart 1-12.11 of this title shall be approved by the Director of Survey and Review before the request is sent to the Department of Labor.

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

[FR Doc.73-16099 Filed 8-3-73;8:45 am]

CHAPTER 15—ENVIRONMENTAL PROTECTION AGENCY

PART 15-16—PROCUREMENT FORMS

Subpart 15-16.5—Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other Than Construction and Architect-Engineer Contracts)

On January 10, 1973, a notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 1219-1223) stating that the Environmental Protection Agency proposed an amendment to 41 CFR 15-16.553, to add General Provisions to be used in Cost Reimbursement Contracts with Educational and other Nonprofit Institutions. Interested parties were invited to submit written data, views, or comments within 30 days after publication. Written comments were received, and after due consideration of the views presented, the regulation was revised and adopted as set forth below.

The purpose of this amendment is to illustrate EPA Form 1900-28, General Provisions for Use in Cost Reimbursement Contracts with Educational and Other Nonprofit Institutions.

Effective date. This amendment shall become effective on or before September 1, 1973.

Dated: August 1, 1973.

ROBERT W. FRI,
Acting Administrator.

A new Subpart 15-16.5, Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other than Construction and Architect-Engineer Contracts), consisting of § 15-16.553-4, is added to 40 CFR Part 15-16 to read as follows:

§ 15-16.553-4 General provisions.

GENERAL PROVISIONS

FOR USE IN COST REIMBURSEMENT CONTRACTS WITH EDUCATIONAL AND OTHER NONPROFIT INSTITUTIONS

The following listed clauses (1-39), previously published in the FEDERAL REGISTER, dated September 20, 1972, will be included:

1. Definitions
2. Disputes
3. Changes
4. Printing
5. Stop Work Order (Not applicable to contracts with Educational Institutions)

Sec.
6. Inspection.
7. Subcontracts
8. Competition in Subcontracting
9. Overtime
10. Foreign Travel
11. Services of Consultants
12. Insurance
13. Litigation and Claims
14. Notice to the Government of Delays
15. Limitation on Withholding of Payments
16. Interest (Not applicable to contracts with Educational Institutions)
17. Payment of Interest of Contractor's Claims
18. Audit and Records
19. Examination of Records by Comptroller General
20. Price Reduction for Defective Cost or Pricing Data
21. Subcontractor Cost and Pricing Data
22. Pricing of Adjustments
23. Assignment of Claims
24. Utilization of Small Business Concerns
25. Utilization of Labor Surplus Area Concerns
26. Utilization of Minority Business Enterprises.
27. Equal Opportunity
28. Listing of Employment Openings
29. Walsh-Healey Public Contracts Act
30. Contract Work Hours and Safety Standards Act—Overtime Compensation
31. Convict Labor
32. Buy American Act
33. Officials not to Benefit
34. Covenant Against Contingent Fees
35. Gratuities
36. Authorization and Consent
37. Rights in Data
38. Data Requirements
39. Notice and Assistance Regarding Patent and Copyright Infringement

In addition to the above, the following clauses will be included for use in cost reimbursement contracts with educational and other nonprofit institutions:

40. TERMINATION FOR CONVENIENCE OF THE GOVERNMENT

(a) The performance of work under this contract may be terminated, in whole or from time to time in part, by the Government whenever for any reason the Contracting Officer shall determine that such termination is in the best interest of the Government. Termination of work hereunder shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated and the date upon which such termination becomes effective.

(b) After receipt of the Notice of Termination the Contractor shall cancel his outstanding commitments hereunder covering the procurement of materials, supplies, equipment, and miscellaneous items. In addition, the Contractor shall exercise all reasonable diligence to accomplish the cancellation or diversion of his outstanding commitments covering personal services and extending beyond the date of such termination to the extent that they relate to the performance of any work terminated by the notice. With respect to such canceled commitments the Contractor agrees to (1) settle all outstanding liabilities and all claims arising out of such cancellation of commitments, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all purposes of this clause, and (2) assign to the Government, in the manner, at the time, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(c) The Contractor shall submit his termination claim to the Contracting Officer promptly after receipt of a Notice of Termination, but in no event later than one year from the effective date thereof, unless one or more extensions in writing are granted by the Contracting Officer upon written request of the Contractor within such one-year period or authorized extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any review required by the contracting agency's procedures in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Any determination of costs under paragraph (c) shall be governed by the contract cost principles and procedures in Subpart 1–15.3 of the Federal Procurement Regulations (41 CFR 1–15.3) in effect on the date of this contract, except that if the Contractor is not an educational institution any costs claimed, agreed to, or determined pursuant to paragraphs (c) or (e) hereof shall be in accordance with Subpart 1–15.2 of the Federal Procurement Regulations (41 CFR 1–15.2) in effect on the date of this contract.

(e) Subject to the provisions of paragraph (c) above, and subject to any review required by the contracting agency's procedures in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the termination under this clause, which amount or amounts may include any reasonable cancellation charges thereby incurred by the Contractor and any reasonable loss upon outstanding commitments for personal services which he is unable to cancel: *Provided, however*, That in connection with any outstanding commitments for personal services which the Contractor is unable to cancel, the Contractor shall have exercised reasonable diligence to divert such commitments to his other activities and operations. Any such agreement shall be embodied in an amendment to this contract and the Contractor shall be paid the agreed amount.

(f) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the terminated portion of this contract, whenever, in the opinion of the Contracting Officer, the aggregate of such payments is within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand; *Provided*, That if such excess is not so paid upon demand, interest thereon shall be payable by the Contractor to the Government at the rate of 6 percent per annum, beginning 30 days from the date of such demand.

(g) The Contractor agrees to transfer title to the Government and deliver in the manner, at the times, and to the extent, if any, directed by the Contracting Officer, such information and items which, if the contract had been completed, would have been required to be furnished to the Government, including:

(1) Completed or partially completed plans, drawings, and information; and

(2) Materials or equipment produced or in process or acquired in connection with the performance of the work terminated by the notice.

Other than the above, any termination inventory resulting from the termination of the contract may, with the written approval of the Contracting Officer, be sold or acquired by the Contractor under the conditions prescribed by and at a price or prices approved by the Contracting Officer. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of work covered by this contract or paid in such other manner as the Contracting Officer may direct. Pending final disposition of property arising from the termination, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

(h) Any disputes as to questions of fact which may arise hereunder shall be subject to the "Disputes" clause of this contract.

41. GOVERNMENT PROPERTY

(a) *Government-Furnished Property.* The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described as Government-furnished property in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay, if any, occasioned the Contractor and shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provisions affected by any such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes." In the event that Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt thereof notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return such property at the Government's expense or otherwise dispose of the property or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon written request of the Contractor shall equitably adjust the contract price, or delivery or performance dates, or all of them, and any other contractual provision effected by the return or disposition, or the repair or modification in accordance with the procedures provided for in the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a

condition not suitable for its intended use.

(b) *Changes in Government-Furnished Property.* (1) By notice in writing, the Contracting Officer may (i) decrease the property furnished or to be furnished by the Government under this contract, and/or (ii) substitute other Government-owned property for property to be furnished by the Government, or to be acquired by the Contractor for the Government, under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal and shipping of property covered by such notice.

(2) In the event of any decrease in or substitution of property pursuant to paragraph (1) above, or any withdrawal of authority to use property provided under any other contract or lease, which property the Government had agreed in the Schedule to make available for the performance of this contract, the Contracting Officer, upon the written request of the Contractor (or, if the substitution of property causes a decrease in the cost of performance, on his own initiative), shall equitably adjust such contractual provisions as may be affected by the decrease, substitution or withdrawal, in accordance with the procedures provided for in the "Changes" clause of this contract.

(c) *Title.* Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under the contract, shall pass to and vest in the Government upon (i) issuance for use of such property in the performance on this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government in whole or in part, whichever first occurs. All Government-furnished property, together with all property acquired by the Contractor, title to which vests in the Government under this paragraph, is subject to the provisions of this clause and is hereinafter collectively referred to as "Government property." Title to the Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(The following paragraph shall be substituted for (c) above when the contract is with an educational institution.)

(c) *Title.* Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor with the prior approval of the Contracting Officer shall be vested in the Contractor without further obligation to the Government except as provided below, unless it is determined by the Contracting Officer that such vesting is not in furtherance of the objectives of the Government or unless their is not proper authority to vest title in the Contractor. Such title shall be vested in the Contractor upon acquisition of the property or as soon as feasible thereafter provided that:

(i) The Contractor shall not under any Government contract, or subcontract thereunder, charge for any depreciation, amortization, or use of such property.

(ii) At any time prior to twelve (12) months after completion or termination of the contract, the Contracting Officer reserves the right to require the Contractor to transfer title to property costing $1,000 or more per unit to the Government or to a third party named by the Contracting Officer.

(iii) The Contractor shall, within 30 days after completion of the contract, furnish the Contracting Officer a list of all property where title is vested in the Contractor. If no such property has vested, the report shall so state.

All Government furnished property, together with all property title to which vests in the Government under this clause, is subject to the provisions of this clause and is hereinafter collectively referred to as "Government Property." Title to the Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reasons of affixation to any realty.

(d) *Property Administration.* The Contractor agrees to maintain and administer a property control system in accordance with EPA publication "Guide for Control of Government Property by Contractors," in effect as of the date of this contract, supplied by the Government. While the Contractor is responsible for the Government Property (Government furnished and Contractor acquired), the Government will maintain the official accountability records. For Government furnished property and Contractor acquired property to which the Government takes title.

(e) *Use of Government Property.* The Government property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(f) *Maintenance of Government Property.* The Contractor shall maintain and administer, in accordance with sound business practice, a program for the maintenance, repair, protection, and preservation of Government property so as to assure its full availability and usefulness for the performance of this contract. The Contractor shall take all reasonable steps to comply with all appropriate directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection and disposition of Government property.

(g) *Risk of Loss.* (1) The Contractor shall not be liable for any loss of or damage to the Government property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

(i) which results from willful misconduct or lack of good faith on the part of any one of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of—

(A) all or substantially all of the Contractor's business; or

(B) all or substantially all of the Contractor's operations at any one plant or separate location, in which this contract is being performed; or

(C) a separate and complete major industrial operation in connection with the performance of this contract;

(ii) which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in subparagraph (i) above—

(A) to maintain and administer, in accordance with sound industrial practice, the program for utilization, maintenance, repair, protection and preservation of Government property as required by paragraph (f) hereof, or to take all reasonable steps to comply with any appropriate written direction of the Contracting Officer under paragraph (f) hereof; or

(B) to establish, maintain and administer, in accordance with (d) above, a system for control of Government property;

(iii) for which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the Schedule;

(iv) which results from a risk expressly required to be insured under this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement.

(2) If more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception. The Contractor shall obtain the approval of the Contracting Officer prior to transferring any Goverment property to a subcontractor. If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of or damage to the property while in the latter's possession or control, except to the extent that the subcontract, with the prior approval of the Contracting Officer, provides for the relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract.

(3) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the Government property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provisions of this contract.

(4) Upon the happening of loss or destruction of or damage to the Government property, the Contractor shall notify the Contracting Officer thereof, take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order and furnish to the Contracting Officer a statement of—

(i) the lost, destroyed and damaged Government property;

(ii) the time and origin of the loss, destruction or damage;

(iii) all known interests in commingled property of which the Government property is a part; and

(iv) the insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall make repairs and renovations of the damaged Government property or take such other action, as the Contracting Officer directs.

(5) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, he shall use the proceeds to repair, renovate or replace the Government property involved, or shall credit such proceeds against the cost of the

work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction, or damage and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where the subcontractor has not been relieved from liability for any loss or destruction of or damage to Government property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government property for the benefit of the Government.

(h) *Access.* The Contractor agrees to make available to the Contracting Officer, at all reasonable times, at the office of the Contractor, all its property records under this contract, and the Government shall at all reasonable times have access to the premises where any of the Government property is located.

(i) *Final Accounting and Disposition of Government Property.* Upon the completion of this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit to the Contracting Officer in a form acceptable to him, inventory schedules covering all items of the Government property not consumed in the performance of this contract, or not theretofore delivered to the Government, and shall deliver or make such other disposal of such Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the cost of the work covered by the contract or shall be paid in such manner as the Contracting Officer may direct. The foregoing provisions shall apply to scrap from Government property; provided, however, that the Contracting Officer may authorize or direct the Contractor to omit from such inventory schedules any scrap consisting of faulty castings or forgings, or cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with the Contractor's normal practice and account therefor as a part of general overhead or other reimbursable cost in accordance with the Contractor's established accounting procedures.

(j) *Restoration of Contractor's Premises and Abandonment.* Unless otherwise provided herein, the Government:

(i) May abandon any Government property in place, and thereupon all obligations of the Government regarding such abandoned property shall cease; and

(ii) has no obligation to the Contractor with regard to restoration or rehabilitation of the Contractor's premises, neither in case of abandonment (paragraph (j)(1) above), disposition on completion of need or of the contract (paragraph (i) above), nor otherwise, except for restoration or rehabilitation costs caused by removal of Government property pursuant to paragraph (b) above.

(k) *Communications.* All communications issued pursuant to this clause shall be in writing.

42. Principal Investigators

Where principal investigators have been identified in this contract, it has been determined that such named investigators are necessary for the successful performance of this contract; and the Contractor agrees to assign such persons to the performance of the work under this contract, and shall not reassign or remove any of them without the consent of the Contracting Officer. Whenever, for any reason, one or more of the aforementioned investigators is unavailable for assignment for work under the contract, the Contractor shall immediately notify the Contracting Officer to that effect and shall, subject to the approval of the Contracting Officer without formal modification to the contract, replace such investigators with investigators of substantially equal ability and qualifications.

43. Allowable Cost and Payment

(a) For the performance of this contract, the Government shall pay to the Contractor the cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with:

(1) Subpart 1–15.3 of the Federal Procurement Regulations as in effect on the date of this contract except that if the Contractor is not an educational institution the allowable costs shall be determined by Subpart 1–15.2 of FPR; and

(2) The terms of this contract.

(b) Once each month (or more frequent intervals, if approved by the Contracting Officer), the Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost incurred by the Contractor in the performance of this contract and claimed to constitute allowable cost.

(c) Promptly after receipt of each invoice or voucher and statement of cost, the Government shall, except as otherwise provided in this contract, subject to the provisions of (e) below, make payment thereon as approved by the Contracting Officer.

(d) (The following paragraph is not applicable to contracts with educational institutions).

Payment of the fixed fee, if any, shall be made to the Contractor as specified in the Schedule: Provided, however, that after payment of eight-five percent (85%) of the fixed fee set forth in the Schedule, further payment on account of the fixed fee shall be withheld until a reserve of either fifteen percent (15%) of the total fixed fee, or fifteen thousand dollars ($15,000.00), whichever is less, shall have been set aside.

(e) At any time or times prior to final payment under this contract, the Contracting Officer may have the invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

(f) A "completion invoice" or "completion voucher" shall be submitted upon the physical completion of all performance provisions and when all cost applicable to the contract have been incurred.

The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than one (1) year (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion. Upon the completion of the final audit and the receipt of a "final invoice" or "final voucher," the Government shall promptly pay to the Contractor any balance of allowable costs, and any part of the fixed fee, if any, which has been withheld pursuant to (d) above or otherwise not paid to the Contractor.

(g) The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(1) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) property allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(2) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(A) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(B) Claims, together with reasonable expense incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that such claims are not known to the Contractor on the date of execution of the release; and provided further, that the Contractor gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and

(C) Claims for reimbursement of costs (other than expenses of the Contractor by reason of his indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

(h) Any cost incurred by the Contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or materials to be furnished by the Contractor at his expense or without cost to the Government.

44. Limitation of Cost

(a) It is estimated that the total cost to the Government, for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost. If, at any time, the Contractor has reason to believe that the cost which he expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the estimated cost set forth in the Schedule, or if, at any time, the Contractor has reason to believe that the total cost to the Government for the performance of his contract will be greater or substantially less than the then estimated cost hereof, the Contractor shall notify the Contracting

Officer in writing to that effect, giving the revised estimate of such total cost for the performance of this contract.

(b) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, the Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the Schedule, and the Contractor shall not be obligated to continue performance under the contract (including actions under the Termination Clause) or otherwise to incur costs in excess of the estimated cost set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. No notice, communication or representation in any other form or from any person other than the Contracting Officer shall affect the estimated cost of this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the estimated cost set forth in the Schedule, whether those excess costs were incurred during the course of the contract or as a result of termination. When and to the extent that the estimated cost set forth in the Schedule has been increased, any costs incurred by the Contractor in excess of the estimated cost prior to such increase shall be allowable to the same extent as if such costs had been incurred after the increase unless the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(c) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the estimated cost set forth in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the estimated cost.

(d) In the event this contract is terminated or the estimated cost not increased the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

45. NEGOTIATED OVERHEAD RATES

(a) The following provisions shall be applicable to Educational Institutions when post determined rates are used:

(1) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Payment" the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified in the Contract Schedule Article entitled "Negotiated Overhead Rates."

(2) The Contractor, as soon as possible but not later than ninety (90) days after the expiration of his fiscal year, or such other period as may be specified in the contract, shall submit to the Cost Review and Policy Branch of the Contracts Management Division, with one copy each to the cognizant audit activity and the cognizant negotiating agency delegated in Attachment "A" of Office of Management and Budget Circular A-88, a proposed final overhead rate or rates for that period based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the Contractor and the Government shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(3) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with paragraph (a)(1) of the clause of this contract entitled "Allowable Cost and Payment."

(4) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed final rates; (2) the bases to which the rates apply; and (3) the periods for which the rates apply. The incorporation of the negotiated final overhead rates by contract modification shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in the contract.

(5) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the Contract Schedule or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over and under payment, and to apply either retroactively or prospectively: (1) provisional rates may, at the request of either party, be revised by mutual agreement; and (2) billing rates may be adjusted at any time by the Contracting Officer. Any such revision of negotiated provisional rates provided in the contract shall be set forth in a modification to this contract.

(6) Any failure by the parties to agree on any final rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract.

(7) Nothing in this clause shall preclude the parties from negotiating final overhead rates applicable to this contract for any period, for the purpose of contract close out, provided that (1) the negotiated amount of overhead costs applicable hereto does not exceed $200,000.00 for any one fiscal year; (2) there is agreement between the Government and the Contractor that there will be no adjustment against other Government contracts for over or under recovery under this contract disclosed through a subsequent, regular final overhead rate negotiation or determination; and (3) this contract is appropriately modified to reflect the finality of this negotiation and the fact that other contracts shall not be affected by any over or under recovery resulting therefrom.

(b) The following provisions shall be applicable to Educational Institutions when predetermined rates are used:

(1) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Payment" the allowable indirect costs under this contract shall be obtained by applying predetermined overhead rates for the applicable periods, to the bases agreed upon by the parties, as specified in the Contract Schedule Article entitled "Negotiated Overhead Rates."

(2) The Contractor, as soon as possible but not later than ninety (90) days after the expiration of his fiscal year, or such other periods as may be specified in the contract, shall submit to the Cost Review and Policy Branch of the Contracts Management Division, with one copy each to the cognizant audit activity and the cognizant negotiating agency delegated in Attachment "A" of Office of Management and Budget Circular A-88, a proposed predetermined overhead rate or rates, based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotiation of predetermined overhead rates by the Contractor and the Government shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(3) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with paragraph (a)(1) of the clause of this contract entitled "Allowable Cost and Payment."

(4) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed predetermined overhead rates; (2) the bases to which the rates apply; and (3) the periods for which the rates apply.

(5) Pending establishment of predetermined overhead rates for the initial period of contract performance or for any fiscal year or different period agreed to by the parties, the Contractor shall be reimbursed either at (1) the rates fixed for the previous fiscal year or other period; or (2) billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that fiscal year or other periods are established.

(6) Any failure by the parties to agree on any predetermined overhead rate or rates under this clause shall not be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract. If for any fiscal year or other period of contract performance the parties fail to agree to a predetermined overhead rate or rates, it is agreed that the allowable indirect costs under this contract shall be obtained by applying negotiated final overhead rates in accordance with the terms of the "Negotiated Overhead Rates—Postdetermined" clause set forth in paragraph (a) of this "Negotiated Overhead Rate Clause."

(c) The following provisions shall be applicable to Educational Institutions when fixed rates subject to carry forward adjustments are used:

(1) Notwithstanding the provisions of the clause of this contract entitled, "Allowable Cost and Payment," the allowable indirect costs under this contract shall be obtained by applying negotiated fixed overhead rates for the applicable periods to bases agreed upon by the parties, as specified in the Contract Schedule Article entitled "Negotiated Overhead Rates." A negotiated fixed rate(s) is based on an estimate of the costs which will be incurred during the period for which the rate(s) applies. When the application of the negotiated fixed rate(s) against the actual base(s) during a given fiscal period produces an amount greater or less than the indirect costs determined for such period, such greater or lesser amounts will be carried forward to a subsequent period.

(2) The Contractor, as soon as possible but not later than ninety (90) days after the expiration of his fiscal year, or such other periods as may be specified in the contract, shall submit to the Cost Review and Policy Branch of the Contracts Management Division, with one copy each to the cognizant audit activity and the cognizant negotiating agency delegated in Attachment "A" of Office of Management and Budget Circular A-88, a proposed fixed overhead rate or rates based on the Contractor's actual cost experience during the fiscal year, including adjustments, if any, for amounts carried forward, together with supporting cost data. When the application of the negotiated fixed rate(s) against the actual base(s) for a given fiscal period produces an amount greater or less than the actual indirect costs determined for that period, such greater or lesser amounts will be carried forward and reflected in the negotiated fixed rate(s) of a subsequent period. Negotiation of the fixed overhead rate(s) by the Contractor and the Government shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(3) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with paragraph (a)(1) of the clause of this contract entitled "Allowable Cost and Payment."

(4) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed fixed overhead rates; (2) the bases to which the rates apply; and (3) the periods for which the rates apply.

(5) Pending establishment of fixed overhead rates for the initial period of contract performance or for any fiscal year or different period agreed to by the parties, the Contractor shall be reimbursed either at (1) the rates fixed for the previous fiscal year or other period; or (2) billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that fiscal year or other periods are established.

(6) Any failure by the parties to agree on any fixed overhead rate or rates or to the amount of any carry forward adjustment under this clause shall not be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract. If for any fiscal year or other period of contract performance the parties fail to agree to a fixed overhead rate or rates, it is agreed that the allowable indirect costs under this contract shall be obtained by applying negotiated final overhead rates in accordance with the terms of the "Negotiated Overhead Rates—Postdetermined" clause set forth in paragraph (a) of this "Negotiated Overhead Rate Clause."

(d) The following provisions shall be applicable to nonprofit institutions when post determined rates are used:

(1) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost and Payment" the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified in the Contract Schedule Article entitled "Negotiated Overhead Rates."

(2) The Contractor, as soon as possible but not later than ninety (90) days after the expiration of his fiscal year, or such other period as may be specified in the contract, shall submit to the Cost Review and Policy Branch of the Contracts Management Division, with a copy to the cognizant audit activity, a proposed final overhead rate or rates for that period based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotation of final overhead rates by the Contractor and the Cost Review and Policy Branch shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(3) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with paragraph (a)(1) of the clause of this contract entitled "Allowable Cost and Payment."

(4) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed final rates; (2) the bases to which the rates apply; and (3) the periods for which the rates apply. The incorporation of the negotiated final overhead rates by contract modification shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in the contract.

(5) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the Contract Schedule or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over and under payment, and to apply either retroactively or prospectively: (1) provisional rates may, at the request of either party, be revised by mutual agreement; and (2) billing rates may be adjusted at any time by the Contracting Officer. Any such revision of negotiated provisional rates provided in the contract shall be set forth in a modification to this contract.

(6) Any failure by the parties to agree on any final rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract.

(7) Nothing in this clause shall preclude the parties from negotiating final overhead rates applicable to this contract for any period, for the purpose of contract closeout, provided that (1) the negotiated amount of overhead costs applicable hereto does not exceed $200,000.00 for any one fiscal year; (2) there is agreement between the Government and the Contractor that there will be no adjustment against other Government contracts for over or under recovery under this contract disclosed through a subsequent, regular final overhead rate negotiation or determination; and (3) this contract is appropriately modified to reflect the finality of this negotiation and the fact that other contracts shall not be affected by any over or under recovery resulting therefrom.

37. RIGHTS IN DATA

Paragraph (f) of clause no. 37 is deleted in its entirety and the following is substituted therefor:

(f) Publications. (1) The contractor shall submit to the Contracting Officer or his designee at least 30 (thirty) days prior to publication, a copy of each publication and other dissemination of information (other than publicity) that contains information resulting directly or indirectly from a contract supported activity.

(2) Any publication or other dissemination of information shall acknowledge Federal contract assistance by including the following:

This project has been funded at least in part with Federal funds from the Environmental Protection Agency under contract number _____. The content of this publication does not necessarily reflect the views or policies of the U.S. Environmental Protection Agency; nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

(40 U.S.C. 486(c), sec. 205(c), 63 Stat. 377, as amended)

[FR Doc.73-16134 Filed 8-3-73;8:45 am]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

PART 17a—RULES FOR PROCEEDINGS UNDER TITLE VI, CIVIL RIGHTS ACT OF 1964

Transfer of Regulations

On July 21, 1972, there was published in the FEDERAL REGISTER (37 FR 14609–14614), pursuant to section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1) and Part 17 of this title, a notice and text of a proposal (1) to revise the regulations appearing in Part 17a of Title 43 of the Code of Federal Regulations for purposes of effecting clarifications and adapting the regulations to proposed amendments to Part 17 of this title, published December 9, 1971 (36 FR 23491–23494), pursuant to recommendations of an interagency committee for uniform Title VI regulations to effectuate the provisions of Title VI of the Civil Rights Act of 1964, and (2) to redesignate the revised regulations and incorporate them into the Department Hearings and Appeals Procedures contained in 43 CFR Part 4, as Subpart I thereof. The notice stated that Part 17a would thus be vacated.

Interested persons were given 30 days within which to participate in the rule making through the submission of written comments, suggestions or objections. No comments, suggestions or objections were received.

The amendments to Part 17 of this title, as proposed in the FEDERAL REGISTER publication of December 9, 1971, referred to above, to be consistent with the uniform amendments being adopted by Federal agencies, have now been published in the FEDERAL REGISTER as final rule making (38 FR 17975–17978, July 5, 1973). Certain additional amendments to conform to the uniform agency amendments, as well as other minor technical corrections, were included in this final rule making publication.

In view of the foregoing, the proposed revised regulations are adopted, without change other than correction of the obsolete term hearing examiner to administrative law judge (38 FR 10939–10940, May 3, 1973). The revised regulations are set forth below, and Part 17a of this title is vacated.

Effective date. These regulations shall be effective as of July 5, 1973, the effective date of the adoption by this Department of the uniform agency amendments referred to above.

Dated: July 30, 1973.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

1. Subpart I of 43 CFR Part 4 is added to read as set forth below.

Subpart I—Special Procedural Rules Applicable to Practice and Procedure for Hearings, Decisions, and Administrative Review Under Part 17 of this Title—Nondiscrimination in Federally-Assisted Programs of the Department of the Interior—Effectuation of Title VI of the Civil Rights Act of 1964

GENERAL

Sec.
4.800 Scope and construction of rules.
4.801 Suspension of rules.
4.802 Definitions.
4.803 Computation of time.
4.804 Extensions of time.
4.805 Reduction of time to file documents.

DESIGNATION AND RESPONSIBILITIES OF ADMINISTRATIVE LAW JUDGE

4.806 Designation.
4.807 Authority and responsibilites.

APPEARANCE AND PRACTICE

4.808 Participation by a party.
4.809 Determination of parties.
4.810 Complainants not parties.
4.811 Determination and participation of amici.

FORM AND FILING OF DOCUMENTS

4.812 Form.
4.813 Filing and service.
4.814 Certificate of service.

PROCEDURES

PREHEARING

HEARING

POSTHEARING PROCEDURES

AUTHORITY: The provisions of this Subpart I issued under 43 CFR 17.8 and 5 U.S.C. 301.

[CROSS REFERENCE: See Subpart A for the organization, authority and jurisdiction of the Office of Hearings and Appeals, including its Hearings Division. To the extent they are not inconsistent with these special rules, the general rules applicable to all types of proceedings before the Hearings Division and the several Appeals Boards of the Office of Hearings and Appeals, contained in Subpart B of this part, are applicable also to proceedings under these regulations.]

Subpart I—Special Procedural Rules Applicable To Practice and Procedure for Hearings, Decisions, and Administrative Review Under Part 17 of This Title—Nondiscrimination in Federally-Assisted Programs of the Department of the Interior—Effectuation of Title IV of the Civil Rights Act of 1964

GENERAL

§ 4.800 Scope and construction of rules.

(a) The rules of procedure in this Subpart I supplement Part 17 of this title and are applicable to the practice and procedure for hearings, decisions, and administrative review conducted by the Department of the Interior, pursuant to title VI of the Civil Rights Act of 1964 (section 602, 42 U.S.C. 2000d–1) and Part 17 of this title, concerning nondiscrimination in Federally-assisted programs in connection with which Federal financial assistance is extended under laws administered in whole or in part by the Department of the Interior.

(b) These regulations shall be liberally construed to secure the just, prompt, and inexpensive determination of all proceedings consistent with adequate consideration of the issues involved and full protection of the rights of all interested parties including the Government.

§ 4.801 Suspension of rules.

Upon notice to all parties, the responsible Department official or the administrative law judge, with respect to matters pending before him, may modify or waive any rule in this part upon his determination that no party will be unduly prejudiced and the ends of justice will thereby be served.

§ 4.802 Definitions.

(a) The definitions set forth in § 17.12 of this title apply also to this subpart.

(b) "Director" means the Director, Office for Equal Opportunity, Department of the Interior.

(c) "Administrative law judge" means an administrative law judge designated by the Office of Hearings and Appeals, Office of the Secretary, in accordance with 5 U.S.C. secs. 3105 and 3344.

(d) "Notice" means a notice of hearing in a proceeding instituted under Part 17 of this title and these regulations.

(e) "Party" means a recipient or applicant; the Director; and any person or organization participating in a proceeding pursuant to § 4.808.

4.803 Computation of time.

Except as otherwise provided by law, in computing any period of time under these rules or in an order issued hereunder, the time begins with the day following the act or event, and includes the last day of the period, unless it is a Saturday, Sunday, or Federal legal holiday, or other nonbusiness day, in which event it includes the next following day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When the period of time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays and other nonbusiness days shall be excluded in the computation.

§ 4.804 Extensions of time.

A request for extension of time should be made to the designated administrative law judge or other appropriate Departmental official with respect to matters pending before him. Such request shall be served on all parties and set forth the reasons for the request. Extensions may be granted upon a showing of good cause by the applicant. Answers to such requests are permitted if made promptly.

§ 4.805 Reduction of time to file documents.

For good cause, the responsible Departmental official or the administrative law judge, with respect to matters pending before him, may reduce any time limit prescribed by the rules in this part, except as provided by law or in Part 17 of this title.

DESIGNATION AND RESPONSIBILITIES OF ADMINISTRATIVE LAW JUDGE

§ 4.806 Designation.

Hearings shall be held before an administrative law judge designated by the Office of Hearings and Appeals.

§ 4.807 Authority and responsibilities.

The administrative law judge shall have all powers necessary to preside over the parties and the proceedings, conduct the hearing, and make decisions in accordance with 5 U.S.C. secs. 554–557. His powers shall include, but not be limited to, the power to:

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

(b) Require parties to state their position with respect to the various issues in the proceedings.

(c) Establish rules for media coverage of the proceedings.

(d) Rule on motions and other procedural items in matters before him.

(e) Regulate the course of the hearing, the conduct of counsel, parties, witnesses, and other participants.

(f) Administer oaths, call witnesses on his own motion, examine witnesses, and direct witnesses to testify.

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

(h) Fix time limits for submission of written documents in matters before him.

(i) Take any action authorized by these regulations, by 5 U.S.C. sec. 556, or by other pertinent law.

APPEARANCE AND PRACTICE

§ 4.808 Participation by a party.

Subject to the provisions contained in Part 1 of this subtitle, a party may appear in person, by representative, or by counsel, and participate fully in any proceeding held pursuant to Part 17 of this title and these regulations. A State agency or any instrumentality thereof, a political subdivision of the State or instrumentality thereof, or a corporation may appear by any of its officers or employees duly authorized to appear on its behalf.

§ 4.809 Determination of parties.

(a) The affected applicant or recipient to whom a notice of hearing or a notice of an opportunity for hearing has been mailed in accordance with Part 17 of this title and § 4.815, and the Director, are the initial parties to the proceeding.

(b) Other persons or organizations shall have the right to participate as parties if the final decision could directly and adversely affect them or the class they represent, and if they may contribute materially to the disposition of the proceedings.

(c) An person or organization wishing to participate as a party under this section shall submit a petition to the administrative law judge within 15 days after the notice has been served. The petition should be filed with the administrative law judge and served on the affected applicant or recipient, on the Di-

rector, and on any other person or organization who has been made a party at the time of filing. Such petition shall concisely state: (1) Petitioner's interest in the proceeding, (2) how his participation as a party will contribute materially to the disposition of the proceeding, (3) who will appear for petitioner, (4) the issues on which petitioner wishes to participate, and (5) whether petitioner intends to present witnesses.

(d) The administrative law judge shall promptly ascertain whether there are objections to the petition. He shall then determine whether petitioners have the requisite interest to be a party in the proceedings, as defined in paragraphs (a) and (b) of this section, and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interests, the administrative law judge may request all such petitioners to designate a single representative, or he may recognize one or more of such petitioners to represent all such petitioners. The administrative law judge shall give each such petitioner written notice of the decision on his petition. If the petition is denied, he shall briefly state the grounds for denial and shall then treat the petition as a request for participation as amicus curiae. The administrative law judge shall give written notice to each party of each petition granted.

(e) Persons or organizations whose petition for party participation is denied may appeal the decision to the Director, Office of Hearings and Appeals, within 7 days of receipt of denial. The Director, Office of Hearings and Appeals, will make the final decision for the Department to grant or deny the petition.

§ 4.810 Complainants not parties.

A person submitting a complaint pursuant to § 17.6 of this title is not a party to the proceedings governed by Part 17 of this title and these regulations, but may petition, after proceedings are initiated, to become an amicus curiae. In any event a complainant shall be advised of the time and place of the hearing.

§ 4.811 Determination and participation of amici.

(a) Any interested person or organization wishing to participate as amicus curiae in the proceeding shall file a petition before the commencement of the hearing. Such petition shall concisely state the petitioner's interest in the hearing and who will represent petitioner.

(b) The administrative law judge will grant the petition if he finds that the petitioner has an interest in the proceedings and may contribute materially to the disposition of the proceedings. The administrative law judge shall give the petitioner written notice of the decision on his petition.

(c) An amicus curiae is not a party and may not introduce evidence at a hearing but may only participate as provided in paragraph (d) of this section.

(d) An amicus curiae may submit a written statement of position to the administrative law judge at any time prior to the beginning of a hearing, and shall serve a copy on each party. He may also file a brief or written statement on each occasion a decision is to be made or a prior decision is subject to review. His brief or written statement shall be filed and served on each party within the time limits applicable to the party whose position he deems himself to support; or if he does not deem himself to support the position of any party, within the longest time limit applicable to any party at that particular stage of the proceedings.

(e) When all parties have completed their initial examination of a witness, any amicus curiae may request the administrative law judge to propound specific questions to the witness. The administrative law judge, in his discretion, may grant any such request if he believes the proposed additional testimony may assist materially in elucidating factual matters at issue between the parties and will not expand the issues.

FORM AND FILING OF DOCUMENTS

§ 4.812 Form.

Documents filed pursuant to a proceeding herein shall show the docket description and title of the proceeding, the party or amicus submitting the document, the dates signed, and the title, if any, and address of the signatory. The original will be signed in ink by the party representing the party or amicus. Copies need not be signed, but the name of the person signing the original shall be reproduced.

§ 4.813 Filing and service.

(a) All documents submitted in a proceeding shall be served on all parties. The original and two copies of each document shall be submitted for filing. Filings shall be made with the administrative law judge or other appropriate Departmental official before whom the proceeding is pending. With respect to exhibits and transcripts of testimony, only originals need be filed.

(b) Service upon a party or amicus shall be made by delivering one copy of each document requiring service in person or by certified mail, return receipt requested, properly addressed with postage prepaid, to the party or amicus or his attorney, or designated representative. Filing will be made in person or by certified mail, return receipt requested, to the administrative law judge or other appropriate Departmental official before whom the proceeding is pending.

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

§ 4.814 Certificate of service.

The original of every document filed and required to be served upon parties shall be endorsed with a certificate of service signed by the party or amicus curiae making service or by his attorney or representative, stating that such service has been made, the date of service, and the manner of service.

PROCEDURES

§ 4.815 How proceedings are commenced.

Proceedings are commenced by the Director by mailing to an applicant or recipient a notice of alleged noncompliance with the Act and the regulations thereunder. The notice shall include either a notice of hearing fixing a date therefor or a notice of an opportunity for a hearing as provided in § 17.8 of this title. The notice shall advise the applicant or recipient of the action proposed to be taken, the specific provisions of Part 17 of this title under which the proposed action is to be taken, and the matters of fact or law asserted as the basis of the action.

§ 4.816 Notice of hearing and response thereto.

A notice of hearing shall fix a date not less than 30 days from the date of service of the notice of a hearing on matters alleged in the notice. If the applicant recipient does not desire a hearing, he should so state in writing, in which case the applicant or recipient shall have the right to further participate in the proceeding. Failure to appear at the time set for a hearing, without good cause, shall be deemed a waiver of the right to a hearing under section 602 of the Act and the regulations thereunder and consent to the making of a decision on such information as is available which may be presented for the record.

§ 4.817 Notice of opportunity to request a hearing and response thereto.

A notice of opportunity to request a hearing shall set a date not less than 20 days from service of said notice within which the applicant or recipient may file a request for a hearing, or may waive a hearing and submit written information and argument for the record, in which case, the applicant or recipient shall have the right to further participate in the proceeding. When the applicant or recipient elects to file a request for a hearing, a time shall be set for the hearing at a date not less than 20 days from the date applicant or recipient is notified of the date set for the hearing. Failure of the applicant or recipient to request a hearing or to appear at the date set shall be deemed a waiver of the right to a hearing, under section 602 of the Act and the regulations thereunder and consent to the making of a decision on such information as is available which may be presented for the record.

§ 4.818 Answer.

In any case covered by § 4.816 or § 4.817, the applicant or recipient shall file an answer. Said answer shall admit or deny each allegation of the notice, unless the applicant or recipient is without knowledge, in which case the answer shall so state, and the statement will be considered a denial. Failure to file an answer shall be deemed an admission of all allegations of fact in the notice. Allegations of fact in tht notice not denied or controverted by answer shall be deemed admitted. Matters alleged in the answer as affirmative defenses shall be separately stated and numbered. The

answer under § 4.816 shall be filed within 20 days from the date of service of the notice of hearing. The answer under § 4.817 shall be filed within 20 days of service of the notice of opportunity to request a hearing.

§ 4.819 Amendment of notice or answer.

The Director may amend the notice of hearing or opportunity for hearing once as a matter of course before an answer is filed, and each respondent may amend his answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his original answer. Other amendments of the notice or of the answer to the notice shall be made only by leave of the administrative law judge. An amended notice shall be answered within 10 days of its service, or within the time for filing an answer to the original notice, whichever period is longer.

§ 4.820 Consolidated or joint hearings.

As provided in § 17.8(e) of this title, the Secretary may provide for proceedings in the Department to be joined or consolidated for hearing with proceedings in other Federal departments or agencies, by agreement with such other departments or agencies. All parties to any proceedings consolidated subsequently to service of the notice of hearing or opportunity for hearing shall be promptly served with notice of such consolidation.

§ 4.821 Motions.

Motions and petitions shall state the relief sought, the basis for relief and the authority relied upon. If made before or after the hearing itself, these matters shall be in writing. If made at the hearing, they may be stated orally; but the administrative law judge may require that they be reduced to writing and filed and served on all parties. Within 8 days after a written motion or petition is served, any party may file a response to a motion or petition. An immediate oral response may be made to an oral motion. Oral argument on motions will be at the discretion of the administrative law judge.

§ 4.822 Disposition of motions.

The administrative law judge may not grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response: *Provided, however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately.

§ 4.823 Interlocutory appeals.

Except as provided in § 4.809(e), a ruling of the administrative law judge may not be appealed to the Director, Office of Hearings and Appeals, prior to consideration of the entire proceeding by the administrative law judge unless permission is first obtained from the Director, Office of Hearings and Appeals, and the administrative law judge has certified the interlocutory ruling on the record or abused his discretion in refusing a request to so certify. Permission will not be granted except upon a showing that the ruling complained of involves a controlling question of law and that an immediate appeal therefrom may materially advance the final decision. An interlocutory appeal shall not operate to suspend the hearing unless otherwise ordered by the Director, Office of Hearings and Appeals. If an appeal is allowed, any party may file a brief within such period as the Director, Office of Hearings and Appeals, directs. Upon affirmance, reversal, or modification of the administrative law judge's interlocutory ruling or order, by the Director, Office of Hearings and Appeals, the case will be remanded promptly to the administrative law judge for further proceedings.

§ 4.824 Exhibits.

Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing, if the administrative law judge so directs. Proposed exhibits not so exchanged in accordance with the administrative law judge's order may be denied admission as evidence. The authenticity of all exhibits submitted prior to the hearing, under direction of the administrative law judge, will be deemed admitted unless written objection thereto is filed and served on all parties, or unless good cause is shown for failure to file such written objection.

§ 4.825 Admissions as to facts and documents.

Not later than 15 days prior to the date of the hearing any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in, and exhibited with, the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within a period of 10 days, the party to whom the request is directed serves upon the requesting party a statement either (a) denying specifically the matters as to which an admission is requested, or (b) setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

§ 4.826 Discovery.

(a) *Methods.* Parties may obtain discovery as provided in these rules by depositions, written interrogatories, production of documents, or other items; or by permission to enter property, for inspection and other purposes.

(b) *Scope.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the hearing.

(c) *Protective orders.* Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the administrative law judge may make any order which justice requires to limit or condition discovery in order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.

(d) *Sequence and timing.* Methods of discovery may be used in any sequence. The fact that a party is conducting discovery shall not operate to delay any other party's discovery.

(e) *Time limit.* Discovery by all parties will be completed within such time as the administrative law judge directs, from the date the notice of hearing is served on the applicant or recipient.

§ 4.827 Depositions.

(a) A party may take the testimony of any person, including a party, by deposition upon oral examination. This may be done by stipulation or by notice, as set forth in paragraph (b) of this section. On motion of any party or other person upon whom the notice is served, the administrative law judge may for cause shown enlarge or shorten the time for the deposition, change the place of the deposition, limit the scope of the deposition or quash the notice. Depositions of persons other than parties or their representatives shall be upon consent of the deponent.

(b)(1) The party will give reasonable notice in writing to every other party of the time and place for taking depositions, the name and address of each person to be examined, if known, or a general description sufficient to identify him or the particular class or group to which he belongs.

(2) The notice to a deponent may be accompanied by a request for the production of documents and tangible things at the taking of the deposition.

(3) A party may name as the deponent a corporation, partnership, association, or governmental agency and may designate a particular person within the organization whose testimony is desired and the matters on which examination is requested. If no particular person is named, the organization shall designate one or more agents to testify on its behalf, and may set forth the matters on which each will testify. The persons so designated shall testify as to matters known or reasonably available to the organization.

(c) Examination and cross-examination of witnesses may proceed as permitted at the hearing. The witness shall be placed under oath by a disinterested person qualified to administer oaths by the laws of the United States or of the place where the examination is held, and the testimony taken by such person shall be recorded verbatim.

(d) During the taking of a deposition a party or deponent may request suspension of the deposition on grounds of bad faith in the conduct of the examination, annoyance, embarrassment, oppression of a deponent or party or improper questions propounded. The deposition will then be adjourned. However, the objecting party or deponent must immediately move the administrative law judge for a ruling on his objections to the deposi-

tion conduct or proceedings. The administrative law judge may then limit the scope or manner of the taking of the deposition.

(e) The officer shall certify the deposition and promptly file it with the administrative law judge. Documents or true copies of documents and other items produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to the deposition.

(f) The party taking the deposition shall give prompt notice of its filing to all other parties.

§ 4.828 Use of depositions at hearing.

(a) Any part or all of a deposition so far as admissible under § 4.835 applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof as follows:

(1) Any deposition may be used for contradiction or impeachment of the deponent as a witness.

(2) The deposition of a party, or of an agent designated to testify on behalf of a party, may be used by an adverse party for any purpose.

(3) The deposition of any witness may be used for any purpose if the party offering the deposition has been unable to procure the attendance of the witness because he is dead; or if the witness is at a greater distance than 100 miles from the place of hearing, or is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or if the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or, upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(b) If only part of a deposition is offered in evidence, the remainder becomes subject to introduction by any party.

(c) Objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

§ 4.829 Interrogatories to parties.

(a) Any party may serve upon any other party written interrogatories after the notice of hearing has been filed. If the party served is a corporation, partnership, association, or governmental agency, an agent shall furnish such information as is available to the party.

(b) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney or other representative making them. Answers and objections shall be made within 30 days after the service of the interrogatories. The party submitting the interrogatories may move for an order under § 4.831 with respect to any objection to or other failure to answer an interrogatory.

(c) Interrogatories shall relate to any matter not privileged which is relevant to the subject matter of the hearing.

§ 4.830 Production of documents and things and entry upon land for inspection and other purposes.

(a) After the notice of hearing has been filed, any party may serve on any other party a request to produce and/or permit the party, or someone acting on his behalf, to inspect and copy any designated documents, phonorecords, and other data compilations from which information can be obtained and which are in the possession, custody, or control of the party upon whom the request is served. If necessary, translation of data compilations shall be done by the party furnishing the information.

(b) After the notice of hearing has been filed, any party may serve on any other party a request to permit entry upon designated property in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying or photographing, testing, or sampling the property or any designated object.

(c) Each request shall set forth with reasonable particularity the items to be inspected and shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

(d) The party upon whom the request is served shall respond within 15 days after the service of the request. The response shall state, with respect to each item, that inspection and related activities will be permitted as requested, unless there are objections in which case the reasons for each objection shall be stated. The party submitting the request may move for an order under § 4.831 with respect to any objection to or other failure to respond.

§ 4.831 Sanctions.

(a) A party, upon reasonable notice to other parties and all persons affected thereby, may move for an order as follows:

(1) If a deponent fails to answer a question propounded or submitted under § 4.827(c), or a corporation or other entity fails to make a designation under § 4.827(b)(3), or a party fails to answer an interrogatory submitted under § 4.829, or if a party, under § 4.830 fails to respond that inspection will be permitted or fails to permit inspection, the discovering party may move for an order compelling an answer, a designation, or inspection.

(2) An evasive or incomplete answer is to be treated as a failure to answer.

(b) If a party or an agent designated to testify fails to obey an order to permit discovery, the administrative law judge may make such orders as are just, including:

(1) That the matters regarding which the order was made or any other designated facts shall be established in accordance with the claim of the party obtaining the order;

(2) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence.

(c) If a party or an agent designated to testify fails after proper service (1) to appear for his deposition, (2) to serve answers or objections to interrogatories submitted under § 4.829 or (3) to serve a written response to a request for inspection, submitted under § 4.830, the administrative law judge on motion may make such orders as are just, including those authorized under subparagraphs (1) and (2) of paragraph (b) of this section.

§ 4.832 Ex parte communications.

(a) Written or oral communications involving any substantive or procedural issue in a matter subject to these proceedings, directed to the administrative law judge, the Director, or the Director, Office of Hearings and Appeals, shall be deemed ex parte communications and are not to be considered part of any record or the basis for any official decision, unless the communication is made by motion pursuant to these rules.

(b) The administrative law judge shall not consult any person, or party, on any fact in issue or on the merits of the matter before him unless upon notice and opportunity for all parties to participate.

(c) No employee or agent of the Federal Government engaged in the investigation and prosecution of a proceeding governed by these rules shall participate or advise in the rendering of any recommended or final decision, except as witness or counsel in the proceeding.

PREHEARING

§ 4.833 Prehearing conferences.

(a) Within 15 days after the answer has been filed, the administrative law judge will establish a prehearing conference date for all parties including persons or organizations whose petition requesting party status has not been ruled upon. Written notice of the prehearing conference shall be sent by the administrative law judge.

(b) At the prehearing conference the following matters, among others, shall be considered: (1) Simplification and delineation of the issues to be heard; (2) stipulations; (3) limitation of number of witnesses; and exchange of witness lists; (4) procedure applicable to the proceeding; (5) offers of settlement; and (6) scheduling of the dates for exchange of exhibits. Additional prehearing conferences may be scheduled at the discretion of the administrative law judge, upon his own motion or the motion of a party.

HEARING

§ 4.834 Purpose.

(a) The hearing is directed primarily to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. A hearing will be held only in cases where issues of fact must be resolved in order to determine whether the applicant or recipient has failed to comply with one or more applicable requirements of title VI of the Civil Rights Act of 1964 (sec. 602, 42 U.S.C. 2000d–1) and Part 17 of this title. However, this shall not prevent the parties from entering into a stipulation of the facts.

(b) If all facts are stipulated, the proceedings shall go to conclusion in accordance with Part 17 of this title and the rules in this subpart.

(c) In any case where it appears from the answer of the applicant or recipient to the notice of hearing or notice of opportunity to request a hearing, from his failure timely to answer, or from his admissions or stipulations in the record that there are no matters of material fact in dispute, the administrative law judge may enter an order so finding, vacating the hearing date if one has been set, and fixing the time for the submission of evidence by the Government for the record. Thereafter, the proceedings shall go to conclusion in accordance with Part 17 of this title and the rules in this subpart. An appeal from such order may be allowed in accordance with the rules for interlocutory appeal in § 4.823.

§ 4.835 Evidence.

Formal rules of evidence will not apply to the proceeding. Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded from the record of a hearing. Hearsay evidence shall not be inadmissible as such.

§ 4.836 Official notice.

Whenever a party offers a public document, or part thereof, in evidence, and such document, or part thereof, has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice as a public document item by specifying the document or relevant part thereof. Official notice may also be taken of other matters, at the discretion of the administrative law judge.

§ 4.837 Testimony.

Testimony shall be given under oath by witnesses at the hearing. A witness shall be available for cross-examination, and, at the discretion of the administrative law judge, may be cross-examined without regard to the scope of direct examination as to any matter which is material to the proceeding.

§ 4.838 Objections.

Objections to evidence shall be timely, and the party making them shall briefly state the ground relied upon.

§ 4.839 Exceptions.

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

§ 4.840 Offer of proof.

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

§ 4.841 Official transcript.

An official reporter will be designated for all hearings. The official transcripts of testimony and argument taken, together with any exhibits, briefs, or memoranda of law filed therewith, shall be filed with the administrative law judge. Transcripts may be obtained by the parties and the public from the official reporter at rates not to exceed the applicable rates fixed by the contract with the reporter. Upon notice to all parties, the administrative law judge may authorize such corrections to the transcript as are necessary to accurately reflect the testimony.

POSTHEARING PROCEDURES

§ 4.842 Proposed findings of fact and conclusions of law.

Within 30 days after the close of the hearing each party may file, or the administrative law judge may request, proposed findings of fact and conclusions of law together with supporting briefs. Such proposals and briefs shall be served on all parties and amici. Reply briefs may be submitted within 15 days after receipt of the initial proposals and briefs. Reply briefs should be filed and served on all parties and amici.

§ 4.843 Record for decision.

The administrative law judge will make his decision upon the basis of the record before him. The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceedings, shall constitute the record for decision and may be inspected and copied.

§ 4.844 Notification of right to file exceptions.

The provisions of § 17.9 of this title govern the making of decisions by administrative law judges, the Director, Office of Hearings and Appeals, and the Secretary. An administrative law judge shall, in any initial decision made by him, specifically inform the applicant or recipient of his right under § 17.9 of this title to file exceptions with the Director, Office of Hearings and Appeals. In instances in which the record is certified to the Director, Office of Hearings and Appeals, or he reviews the decision of an administrative law judge, he shall give the applicant or recipient a notice of certification or notice of review which specifically informs the applicant or recipient that, within a stated period, which shall not be less than 30 days after service of the notice, he may file briefs or other written statements of his contentions.

§ 4.845 Final review by Secretary.

Paragraph (f) of § 17.9 of this title requires that any final decision of an administrative law judge or of the Director, Office of Hearings and Appeals, which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under Part 17 of this title or the Act, shall be transmitted to the Secretary. The applicant or recipient shall have 20 days following service upon him of such notice to submit to the Secretary exceptions to the decision and supporting briefs or memoranda suggesting remission or mitigation of the sanctions proposed. The Director shall have 10 days after the filing of the exceptions and briefs in which to reply.

2. Part 17a of Title 43 of the Code of Federal Regulations is vacated and reserved.

[FR Doc.73-16009 Filed 8-3-73;8:45 am]

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5372]

[Oregon 8920]

OREGON

Withdrawal for Natural Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described land, which is under the jurisdiction of the Secretary of the Interior, is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, and reserved for scientific, educational, and research purposes:

WILLAMETTE MERIDIAN

LITTLE SINK NATURAL AREA

T. 8 S., R. 6 W.,
sec. 33, W½NW¼.

The area described aggregates 80 acres in Polk County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the land under lease, license, easement or permit, or governing the disposal of its mineral or vegetative resources other than under the mining laws.

JACK O. HORTON,
Assistant Secretary of the Interior.

JULY 30, 1973.

[FR Doc.73-16089 Filed 8-3-73;8:45 am]

[Public Land Order 5373]

[Idaho 07510]

IDAHO

Withdrawal for National Forest Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

BOISE NATIONAL FOREST

BOISE MERIDIAN

Sage Hen Reservoir Recreation Area

T. 11 N., R. 2 E.,
sec. 2, lots 1 thru 4;
sec. 3, lot 1.
T. 12 N., R. 2 E.,
sec. 34, SE¼NE¼, E½SE¼;
sec. 35, N½N½, E½E½SE¼NE¼, W½NE¼SW¼NE¼, NW¼SW¼NE¼, N½SE¼NW¼, N½SW¼NW¼, W½SE¼SW¼NW¼, SW¼SW¼NW¼, E½NE¼SE¼, E½W½NE¼SE¼, W½E½NW¼SW¼, W½NW¼SW¼, SE¼SE¼, E½SW¼SE¼, E½W½SW¼SE¼, W½SW¼SW¼SE¼, E½SE¼SE¼SW¼, SW¼SE¼SE¼SW¼, S½SW¼SE¼SW¼, SE¼SE¼SW¼SW¼, W½E½SW¼SW¼, W½SW¼SW¼;
sec. 36, NW¼NW¼, SW¼NW¼, NW¼SW¼.

The areas described aggregate 728.59 acres in Gem and Valley Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

JACK O. HORTON,
Assistant Secretary of the Interior.

JULY 30, 1973.

[FR Doc.73-16090 Filed 8-3-73;8:45 am]

[Public Land Order 5374]

[New Mexico 16184]

NEW MEXICO

Partial Revocation of Executive Orders 6143, 6276, and 6583

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Executive Orders No. 6143 of May 23, 1933, No. 6276 of September 8, 1933, and No. 6583 of February 3, 1934, withdrawing lands in New Mexico to aid the State of New Mexico in making exchange selections, as provided for by the Act of June 15, 1926, 44 Stat. 746-748, are hereby revoked so far as they affect the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 20 S., R. 3 W.,
sec. 7, SE¼;
sec. 8, SW¼, N½SE¼;
sec. 9, SW¼;
sec. 17, N½NW¼.
T. 21 S., R. 6 W.,
sec. 24, N½;
sec. 26, NE¼SE¼.
T. 17 S., R. 7 W.,
sec. 6.
T. 19 S., R. 7 W.,
sec. 31, NE¼, NE¼NW¼.
T. 19 S., R. 8 W.,
sec. 21, NE¼, NE¼NW¼, S½NW¼;
sec. 22, SW¼NW¼.
T. 20 S., R. 8 W.,
sec. 8.
T. 20 S., R. 10 W.,
sec. 17, NE¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼.
T. 20 S., R. 11 W.,
sec. 11, E½, E½NW¼, SW¼;
sec. 14;
sec. 15, SE¼.
T. 26 S., R. 10 W.,
sec. 28, E½SW¼;
sec. 30, lots 3 and 4;
sec. 31, lots 1 thru 4, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
sec. 32, SE¼;
sec. 33, NW¼, W½SW¼, SE¼;
sec. 34, S½.
T. 27 S., R. 10 W.,
sec. 15, S½SW¼;
sec. 22, N½NW¼.
T. 28 S., R. 10 W.,
sec. 4, NW¼SE¼, S½SE¼;
sec. 9, E½;
sec. 21, E½;
sec. 30, lots 3, 4, E½SW¼, SE¼;
sec. 33, E½.
T. 19 S., R. 11 W.,
sec. 23, N½S½;
sec. 24, S½NE¼, N½SW¼, NW¼SE¼.
T. 24 S., R. 11 W.,
sec. 18, S½SE¼;
sec. 19, lots 1 thru 4, E½W½;
sec. 21, W½NW¼;
sec. 27, SW¼;
sec. 28, E½;
sec. 30, NE¼;
sec. 31, lots 3, 4, E½SW¼;
sec. 34, W½.
T. 25 S., R. 11 W.,
sec. 19, NE¼SW¼, N½SE¼, SE¼SE¼;
sec. 30, lot 1, N½NE¼, SW¼NE¼, NE¼NW¼, W½SE¼.
T. 26 S., R. 11 W.,
sec. 3, S½SW¼;
sec. 4, S½S½;
sec. 5, S½SE¼;
sec. 7, lot 4, N½NE¼, SE¼NW¼, E½SW¼, SW¼SE¼;
sec. 8, NW¼NW¼, SE¼;
sec. 9, S½;
sec. 10, NE¼, S½;
sec. 11, S½;
sec. 12, S½;
sec. 17, NE¼, SW¼, SW¼SE¼;
sec. 18, lots 1, 4, E½, E½SW¼;
sec. 19, lots 1, 2, NE¼, E½NW¼;
sec. 20, E½NW¼;
sec. 21, E½;
sec. 22, N½;
sec. 23, W½;
sec. 26, W½;
sec. 27, SW¼, S½SE¼;
sec. 28, SW¼;
sec. 29, N½NW¼, SE¼NW¼, E½SW¼;
sec. 33, E½W½;
sec. 34, E½;
sec. 35, NW¼NE¼, S½NE¼, NW¼.
T. 27 S., R. 11 W.,
sec. 1, NE¼;
sec. 13, S½;
sec. 24, N½;
sec. 28, N½SW¼;
sec. 29, SW¼NE¼, S½NW¼, NE¼SE¼;
sec. 30, lot 2, NW¼NE¼, S½NE¼, SE¼NW¼.
T. 24 S., R. 12 W.,
sec. 15, E½SE¼;
sec. 19, lots 1, 2, NE¼, E½NW¼;
sec. 20, N½;
sec. 22, NE¼NE¼.
T. 25 S., R. 13 W.,
sec. 15, S½S½;
sec. 22, N½N½;
sec. 33, S½;
sec. 34, S½;
sec. 35, S½.
T. 26 S., R. 13 W.,
sec. 6, lots 1, 2, SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼;
sec. 7, W½E½, E½W½;
sec. 11, E½;
sec. 14, NE¼, S½;
sec. 15, S½;
sec. 17, S½;
sec. 18, W½NE¼, E½W½, SE¼;
sec. 19, NE¼NE¼;
sec. 20, NW¼NW¼;
sec. 23, E½NE¼, SE¼;
sec. 24, E½SW¼;
sec. 25, W½NE¼, W½;
sec. 26, NW¼NE¼, E½NW¼, NE¼SW¼;
sec. 28, S½S½;
sec. 30, S½SE¼;
sec. 31, lots 1 thru 4, N½NE¼, E½W½;
sec. 34, SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼;
sec. 35, N½NE¼, SW¼NE¼, N½SW¼, SW¼SW¼, NW¼SE¼.
T. 27 S., R. 13 W.,
sec. 1, lot 2, SW¼NE¼, W½SE¼;
sec. 3, lots 2, 3, SW¼NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, NW¼SE¼;
sec. 4, S½S½;
sec. 5, S½S½;
sec. 6, lots 3 thru 7, SE¼NW¼, E½SW¼, SE¼;
sec. 7;
sec. 8, N½N½;
sec. 9, N½N½;
sec. 10, N½NW¼;
sec. 12, E½NW¼, W½SW¼;
sec. 13, NW¼;
sec. 15, N½;
sec. 19, lots 1 thru 4;
sec. 22, W½W½;
sec. 34, N½N½;
sec. 35, N½N½.
T. 27 S., R. 14 W.,
sec. 4, NW¼SE¼;
sec. 8, SE¼;
sec. 9, NE¼NE¼, S½NE¼, E½W½, SE¼;
sec. 10, SE¼;
sec. 11, S½;
sec. 13, E½, N½NW¼;
sec. 14, N½, NE¼SE¼;
sec. 15, N½N½;
sec. 24, E½;
sec. 25;
sec. 26, SE¼;
sec. 35, N½N½.

The areas described aggregate approximately 29,215.66 acres of land in Dona Ana, Grant, Luna and Sierra Counties, of which 1,600 acres are privately owned.

The topography consists of broad nearly level to gently sloping semi-desert plains from which rise relatively narrow, but steep and rugged mountain ridges, isolated peaks and ranges of hills. The elevation ranges between 3,500 to 5,500 feet. Soils are shallow to moderately deep sandy loams. Vegetation is of the southwestern desert shrub type, of which the most common are creosote bush, mesquite, cacti, black grama, tobosa and dropseed grasses.

2. At 10 a.m. on September 4, 1973, the public lands described in paragraph 1 of this order shall be open to the operation of the public land laws generally, sub-

ject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on September 4, 1973, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands shall be open to location for nonmetalliferous minerals at 10 a.m. on September 4, 1973. They have been and continue to be open to applications and offers under the mineral leasing laws and to locations under the United States mining laws for metalliferous minerals.

Inquiries concerning the lands should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

JACK O. HORTON,
Assistant Secretary of the Interior.

JULY 30, 1973.

[FR Doc.73-16091 Filed 8-3-73;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19735; FCC 73-803]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Lyon, Kans.

In the matter of Amendment of § 73.202(b), Table of assignments, FM broadcast stations. (Lyons, Kansas)

1. On May 9, 1973, the Commission issued a notice of proposed rule making (FCC 73-489, 38 F.R. 13386) in the above-entitled matter, proposing the substitution of Channel 291 for Channel 288A at Lyons, Kansas. The proceeding was instituted on the basis of a petition filed by Rice County Broadcasting Co., Inc., licensee of Station KLOQ(FM), Lyons, Kansas. Station KLOQ is presently operating on Channel 288A which is the sole assignment in Lyons. Interested parties were invited to comment on the proposal on or before June 22, 1973, and could reply to such comments on or before July 3, 1973. There were no oppositions to the proposal. Supporting comments were filed by petitioner.

2. Lyons, population 4,355, is the seat of Rice County, population 12,320.[1] There are no standard broadcast stations in Rice County.

3. Petitioner points out that it desires to switch from a Class A to a Class C assignment so that it may increase the power and antenna height of its station (KLOQ) to enlarge its present service area. It maintains that the increased coverage is necessary for competitive position in the market, and if the switch is made, it immediately intends to increase power to 25 Kw and tower height to 500 feet. It contends that based on the FCC method of prediction of service, this increase in facilities would bring a first FM service to 193 people and a second to 23,374. Preclusion areas occur in the co-channel and five of the six pertinent adjacent channels as a result of the assignment of Channel 291 to Lyons. However, most of the communities located within these areas either have or can be assigned FM broadcast channels. In supporting comments, petitioner states that through a number of carefully planned steps over a period of years as the audience responds to this new medium, he intends to build Station KLOQ to 100 Kw circular polarization with a tall tower.

4. The Commission would ordinarily assign a Class A channel to a community the size of Lyons, but under the above circumstances the proposal to substitute Channel 291 for Channel 288A at Lyons, has public interest value and is worthy of adoption, in our view, because it is a reasonable means to provide a first and second FM service to 193 and 23,374 persons, respectively. Since Channel 291 can be assigned to Lyons and used at the present site without any other changes in the Table and in full conformity with all spacing requirements, we believe it should be granted.

5. The authority for the action taken herein is contained in Sections 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended.

6. Accordingly, *It is ordered*, That effective September 7, 1973, the Table of FM Assignments (§ 73.202(b) of the rules) is amended with respect to the city listed below as follows:

City	Channel No.
Lyons, Kansas	291

7. *It is further ordered*, That effective September 7, 1973, and pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Rice County Broadcasting Co., Inc., for Station KLOQ(FM), Lyons, Kansas, is modified to specify operation on Channel 291 in lieu of Channel 288A subject to the following conditions.

(a) The licensee shall inform the Commission in writing by no later than September 27, 1973, of its acceptance of this modification.

(b) The licensee shall submit to the Commission by September 7, 1973, all necessary information complying with the applicable technical rules for modification of authorization to cover the operation of Station KLOQ(FM) on Channel 291 at Lyons, Kansas.

(c) The licensee may continue to operate on Channel 288A under its outstanding authorization until it is ready to operate on the new frequency. Ten days prior to commencing operation on Channel 291, the licensee shall submit the same measurement data normally required in an application for an FM broadcast station license.

(d) The licensee shall not commence operation on Channel 291 until the Commission specifically authorizes it to do so.

8. *Is is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

By the Commission.

Adopted: July 26, 1973.

Released: July 31, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[FR Doc.73-16138 Filed 8-3-73;8:45 am]

PART 87—AVIATION SERVICES

General Operator Requirements; Miscellaneous Amendment

In the matter of editorial amendment of Part 87 of the Federal Communications Commission's rules and regulations.

1. The Commission, by Memorandum Opinion and Order adopted December 8, 1971, granted a petition for reconsideration filed by the Aerospace and Flight Test Radio Coordinating Council to exempt certain aircraft stations from the requirement that operators hold a third class license or higher. Section 87.133 was thereby amended to limit the third class operator requirement to stations utilizing frequencies below 30 MHz not exclusively allocated to the aeronautical mobile service, or stations utilizing frequencies above 30 MHz not allocated exclusively to aeronautical mobile services and which are assigned for international use. This limitation was imposed to comply with Article 23 of the Radio Regulations of the International Telecommunication Union (ITU). Since Article 23 of the ITU Radio Regulations apply only to aircraft stations, it was the Commission's intention to require a third class or higher operator permit to aircraft stations operating in the frequency bands specified above. Section 87.133 is therefore editorially amended to eliminate any possible misinterpretation of the third class operator or higher requirement as applying to other classes of stations other than aircraft stations.

2. This amendment is editorial in nature, and hence the prior notice, and effective date provisions of 5 U.S.C. 553 are not applicable. Authority for the promulgation of this amendment is contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commissions rules.

3. Accordingly, *It is ordered*, effective August 10, 1973. That Part 87 of the rules and regulations is amended as set forth below.

Adapted: July 30, 1973.

Released: July 31, 1973.

FEDERAL COMMUNICATIONS COMMISSION.
[SEAL] JOHN M. TORBET,
Executive Director.

Section 87.133 is amended as follows:

§ 87.133 General operator requirements.

Except as provided for in §§ 87.134, 87.139 or as limited on the face of the

[1] Population figures cited are from the 1970 U.S. Census.

[2] Commissioner H. Rex Lee absent.

operator license or permit, all stations in the Aviation Services shall be operated by persons holding any class of commercial radio operator license or permit issued by the Commission: *Provided*, That, only a person holding a third class or higher operator permit shall operate aircraft stations (a) utilizing frequencies below 30 MHz not exclusively allocated to the aeronautical mobile service, or (b) utilizing frequencies above 30 MHz not allocated exclusively to aeronautical mobile services and which are assigned for international use. The licensed operator of a land or aeronautical public service station using telephony may permit other persons to transmit or to communicate under his direct supervision and responsibility over the facilities of the station in accordance with the terms of the station license.

[FR Doc.73-16140 Filed 8-3-73;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1132; Amdt. 1]

PART 1033—CAR SERVICE

Distribution of Freight Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 31st day of July 1973.

Upon further consideration of Service Order No. 1132 (38 FR 9668), and good cause appearing therefor:

It is ordered, That:

Section 1033.1132 Service Order No. 1132 (Distribution of freight cars) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 15, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 31, 1973.

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

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

By the Commission, Railroad Service Board.

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

[FR Doc.73-16149 Filed 8-3-73;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Interior

Correction

In FR Doc. 73-13249 appearing on page 17179 in the issue of Friday, June 29, 1973, the effective date in the second paragraph reading "June 20, 1973" should read "June 29, 1973".

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show that one position of Secretary to the Special Assistant to the Deputy Under Secretary for Field Operations is excepted under Schedule C.

Effective August 6, 1973, § 213.3384(a) (52) is added as set out below.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.*

* * * * *

(52) One Secretary to the Special Assistant to the Deputy Under Secretary for Field Operations.

(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.73-16258 Filed 8-3-73;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 130—COST OF LIVING COUNCIL FREEZE REGULATIONS

Low Wage Employees

Correction

In FR Doc. 73-15883 appearing at page 20461 in the issue for Wednesday, August 1, 1973, make the following changes: In the sixth line of the first paragraph, "section 207(d)" should read "section 203(d)"; and in the second line of § 130.36(b), "section 207(d)" should read "section 203(d)".

PART 150—COST OF LIVING COUNCIL PHASE IV REGULATIONS

Phase IV Questions and Answers No. 5

These "Questions and Answers", which are issued by the Cost of Living Council, are designed to provide immediate guidance in understanding and applying the new regulations governing Stage A of Phase IV for food. To achieve the broadest publication, these are hereby added to Appendix B of Part 150. Since they provide guidance of general applicability and are subject to clarification, revision or revocation, they do not constitute legal rulings with respect to specific fact situations.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489)

Issued in Washington, D.C., on August 1, 1973.

JAMES W. MCLANE, *Deputy Director, Cost of Living Council.*

Appendix B of Part 150 is amended by adding the following:

PHASE IV
QUESTIONS & ANSWERS

NO. 5

1.Q. A food processor has a freeze price of $1.50 and a freeze costs of $1.00 for a food product. During the freeze market conditions drove the food processor's price down and he sold his product to Firm A for $1.40. The food processor's current cost is $1.15 because of a 15¢ rise in raw agricultural costs. Due to a change in market conditions, the processor can now sell its same product for $1.60. May the food processor sell at this increased price? How much of an "allowable cost increase" may its processor certify on his invoice to Firm A?

A. The food processor has an "allowable cost increase" of $.15, i.e., $1.15 (current cost) minus $1.00 (freeze cost) = $.15. The processor could legally charge $1.65 for his product (his freeze price plus his allowable cost increase) and certify his full $.15 "allowable cost increase." However, because the market limits his price to $1.60, the processor can only certify $.10 of the allowable cost increase. The difference between the actual price charged during the freeze ($1.40) and the freeze price ($1.50) is not an allowable cost increase and may not be certified to Firm A as such. If the processor's current cost continues at $1.15, the processor may later raise his price to $1.65 to reflect the remaining allowable cost increase which has not yet been used to justify a price increase.

2.Q. A firm buys oats and barley from a farmer. He mixes them together, bags the mixture and sells it as mixed feed grain for animals. Is this a "food" product subject to the Stage A regulations?

A. Yes. Since the mixed oats and barley are for animal ingestion, the product falls within the definition of "food" under Phase IV, Stage A regulations, and because the product is processed, i.e., mixed, it is not exempt as a raw agricultural product under § 140.31.

3. Q. How may a restaurant distribute certified cost increases on food items it purchases in its menu prices?

A. In general the restaurant should pass-through the "allowable cost increases" on a basis proportional to the amount of the food item in the individual menu item. However, if such a proportional process is not feasible in light of customary business practices for cost allocation and repricing, the restaurant may increase prices in its

customary fashion so long as the total price increase does not exceed the total allowable cost increase. Further, the menu item to which an "allowable cost increase" is added must contain some portion of the food item that had a certified cost increase. For example, certified "allowable cost increases" on a head of lettuce may be distributed to a ham sandwich containing lettuce according to customary business practices, but may not be reflected in the price of a cup of coffee.

4. Q. What is the procedure for certifying constantly rising raw agricultural costs (i.e., $3.10 per week) under the Stage A food regulations?

A. "Allowable cost increases" may be calculated at the end of a firm's customary repricing period. These increases must be indicated on the invoice on a cumulative basis. Example:

Customary repricing period is each week:	
Freeze Price of Processor	$0.70
Freeze Price of Retailer	1.00
Week No. 1: Allowable Cost Increase=$.10	
Processor's Price	$0.80
Retailer's Price	1.10
Week No. 2: Additional Allowable Cost Increase=$.10	
Processor's Price	$0.90
Retailer's Price	1.20
Week No. 3: Additional Allowable Cost Increase=$.10	
Processor's Price	$1.00
Retailer's Price	1.30
INVOICES (Processor to Retailer)	
Week No. 1:	
Price	$0.80
Allowable Cost Increase	.10
Week No. 2:	
Price	$0.90
Allowable Cost Increase	.20
Week No. 3:	
Price	$1.00
Allowable Cost Increase	.30
In the case of a cost decrease:	
Week No. 4: Cost Decrease—$.17	
Processor's Price	$0.83
Retailer's Price	1.13
INVOICE (processor to Retailer)	
Price	$0.83
Allowable Cost Increase	.13

5. Q. A flour miller has a "freeze cost" for flour of $7.00/cwt. (cost of wheat during June 1–3). His freeze price is $6.00/cwt. of flour. How may this processor adjust his price on flour pursuant to the new Stage A food regulations?

A. Since the freeze cost for flour exceeds the freeze price, the miller may now charge a price in excess of the freeze price pursuant to the new § 140.93(d) on a dollar-for-dollar basis to the extent that he incurred increases in raw agricultural product costs between January 10, 1973, and the freeze base period with respect to the flour which are not otherwise reflected in the freeze price. For example, if the miller can document that he incurred a 50 cents/cwt. of flour increase in raw agricultural product cost between January 10, 1973, and the freeze base period not otherwise reflected in his freeze price, he may begin charging $6.50/cwt. of flour after 4:00 p.m., e.s.t., July 18, 1973. However, in no case may the adjusted price be permitted to exceed the freeze cost through application of 6 CFR 140.93(d).

In addition to raising prices above the freeze price as indicated above, the miller may also raise prices pursuant to 6 CFR 140.93(b) to reflect "allowable cost increases" since June 8. In the above example, the freeze cost for the flour (i.e., the cost of the wheat) was $7.00/cwt. If his current cost of wheat is $7.61/cwt. of flour, the miller's "allowable cost increase" is 61 cents/cwt. of flour. The maximum price the miller may now charge for flour is $7.11/cwt. of flour, calculated by adding to the freeze price of $6.00/cwt. (1) the 50 cent price increase allowed under 6 CFR 140.93(d) and (2) the 61 cent price increase attributable to allowable cost increases incurred since the freeze base period.

6. Q. A firm which processes raw agricultural products customarily conducts hedging operations in terms of the processed products it makes. For example, a soybean crusher hedges bean cost against soybean meal and oil futures. May the net losses or gains from those hedging operations be reflected as raw agricultural product costs?

A. Yes. Question No. 5 of Q&A Sheet No. 2 fully applies to this situation. Gains or losses incurred by a food firm in its customary practice of hedging raw agricultural costs against processed product price are considered to be raw agricultural product costs in Phase IV, Stage A. Comprehensive records must be kept to show evidence of an actual cash position and the records must be made available upon request to economic stabilization personnel of the Internal Revenue Service.

[FR Doc.73-16109 Filed 8-1-73;12:39 am]

Title 7—Agriculture

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

[Valencia Orange Reg. 442, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period July 27–August 2, 1973. The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and upon the basis of the recommendation and information submitted by the Valencia 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 Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 442 (38 FR 19958). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to given preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(ii) of § 908.742 (Valencia Orange Regulation 442 (38 FR 19958) are hereby amended to read as follows:

§ 908.742 Valencia Orange Regulation 442.

* * * * *

(b)(1) * * *

(ii) District 2: 500,000 cartons.

* * * * *

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

Dated: August 1, 1973.

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

[FR Doc. 73-16186 Filed 8-3-73;8:45 am]

[Pear Reg. 12]

PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Regulation by Grades and Sizes

This regulation prescribes the grade and size requirements for the Beurre D'Anjou, Beurre Bosc, Winter Nelis, and Doyenne du Comice varieties of winter pears shipped from Oregon, Washington, and California, during the period August 6, 1973, through June 30, 1974.

On July 27, 1973, notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 20092) regarding a proposed regulation to be made effective pursuant to the marketing agreement, as amended, and Order No. 927, as amended (7 CFR Part 927), which regulate the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California. The proposed regulation was recommended by the Control Committee established pursuant to said marketing

agreement and order. This section program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The notice allowed interested persons to submit, through July 30, 1973, written data, views, or arguments pertaining to the proposed regulation. None were submitted.

This section reflects the Department's appraisal of the winter pear crop and the current and prospective market conditions. Seasonal shipments of fresh winter pears are expected to begin on or about August 6, 1973. The grade and size requirements hereinafter provided are designed to prevent the handling, on and after August 6, 1973, of any Beurre D'Anjou, Beurre Bosc, Doyenne du Comice, or Winter Nelis varieties of winter pears of lower grades and smaller sizes than hereinafter specified so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while improving returns to the producers pursuant to the declared policy of the act.

In addition to the basic grade and size requirements specified for Beurre D'Anjou, Beurre Bosc, and Doyenne du Comice pears, the regulation permits the handling of such pears bearing limited damage from skin punctures, however, this reduction in market desirability would be offset by the requirement that any pears thus affected be of a specified higher grade and larger size. Likewise, Beurre D'Anjou pears, grown in the Wenatchee District, which fail to meet U.S. No. 2 grade requirements only because of specified types of damage are required to be considerably larger than the basic minimum size with at least half of each pear showing no such damage. The provisions that any handler may ship size 180 Beurre D'Anjou pears of at least U.S. No. 1 grade in an amount not exceeding 2 percent of his total seasonal Beurre D'Anjou shipments that are U.S. No. 1 grade, or better, would permit the marketing of pears of a desirable quality which offsets the smaller size.

The requirement that the core temperature of Beurre D'Anjou pears grown in the Oregon and Washington Districts and shipped prior to October 15, 1973, must have been lowered to the specified temperature (35° F.) is designed to assure proper ripening of such pears.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Control Committee, and other available information, it is hereby found and determined that the regulation hereinafter set forth is in accordance with the provisions of said marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the varieties hereinafter specified are expected to begin on or about the effective date hereof and this section should be applicable to all such shipments in order to effectuate the declared policy of the act; (2) notice of proposed rule making concerning this regulation, with an effective date as hereinafter specified, was published in the FEDERAL REGISTER (38 FR 20092), and no objection to this section or such effective date was received; and (3) compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time thereof.

§ 927.312 Pear Regulation 12.

Order. (a) During the period August 6, 1973, through June 30, 1974, no handler shall ship any of the following varieties of pears which do not meet the requirements hereinafter specified:

(1) Beurre D'Anjou pears shall be of a size not smaller than 165 size and shall grade at least U.S. No. 2 except that any handler may ship a quantity of Beurre D'Anjou pears that are not smaller than 180 size and not less than U.S. No. 1 grade which quantity shall not exceed 2 percent of the total U.S. No. 1 or better grades of such variety shipped by the handler, during the aforesaid period: *Provided,* That pears of such variety which bear unhealed skin punctures not exceeding $\frac{1}{8}$ of an inch in diameter may be shipped if they otherwise grade at least U.S. No. 1 and are of a size not smaller than 135 size: *Provided further,* That pears of such variety grown in the Wenatchee District which fail to meet the requirements of U.S. No. 2 grade only because of serious, but not very serious, damage caused by frost injury, healed hail marks, russeting, or limbrubs, may be shipped if they are of a size not smaller than 135 size and they are not so seriously misshapen as to preclude the cutting of at least one good half;

(2) Beurre D'Anjou pears shipped from the Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts prior to October 15, 1973, shall have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35° Fahrenheit or less;

(3) Beurre Bosc pears shall grade at least U.S. No. 1 and shall be of a size not smaller than 195 size: *Provided,* That pears of such variety which grade at least U.S. No. 2 may be shipped if they are of a size not smaller than 180 size: *Provided further,* That pears of such variety which bear unhealed skin punctures not exceeding $\frac{1}{8}$ of an inch in diameter may be shipped if they otherwise grade at least U.S. No. 1 and are of a size not smaller than 135 size;

(4) Doyenne du Comice pears shall be of a size not smaller than 165 size and shall grade at least U.S. No. 2: *Provided,* That pears of such variety which bear unhealed skin punctures not exceeding $\frac{1}{8}$ of an inch in diameter may be shipped if they otherwise grade at least U.S. No. 1 and are of a size not smaller than 135 size; and

(5) Winter Nelis pears shall be of a size not smaller than 195 size and shall grade at least U.S. No. 2.

(b) During the aforesaid period, each handler may ship on any one conveyance up to, but not to exceed, 200 standard western pear boxes of any variety of pears, or an equivalent quantity of pears in other containers computed by weight to the nearest 5 pounds, without regard to the inspection requirements of § 927.60 (a), under the following conditions:

(1) Each handler desiring to make shipment of pears pursuant to this paragraph (b) (1) shall first apply to the committee, on forms furnished by the committee, for permission to make such shipments. At the time of any such shipment the handler shall report to the committee, on forms supplied by the committee, the car or truck number and the destination of the shipment.

(2) On the basis of such individual reports the committee shall require spot check inspectors of such shipments.

(c) When used herein, "U.S. No. 1" and "U.S. No. 2" shall have the same meaning as when used in the United States Standards for Winter Pears such as Anjou, Bosc, Winter Nelis, Comice, and Other Similar Varieties (7 CFR 51.1300–51.1323); "135 size," "165 size," "130 size," and "195 size" shall mean that the pears are of a size which, as indicated by the size number, will pack, in accordance with the sizing and packing specifications of a standard pack as specified in said United States Standards, 135, 165, 180, or 195 pears, respectively, in a standard western pear box (inside dimensions 18 inches long by 11½ inches wide by 8½ inches deep); "very serious damage" shall mean any injury or defect which very seriously affects the appearance or the edible or shipping quality of the pears; and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

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

Dated: August 2, 1973.

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

[FR Doc.73-16185 Filed 8-3-73;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

Nonimmigrant Documentary Waivers

Correction

In FR Doc. 73-14442 appearing on page 18868 in the issue of Monday, July 16, 1973, in § 212.1 (e) (1), in the 25th and 26th lines the word "Vietnam" should read "Viet-Nam".

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS: EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

[Docket No. 73-522]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Areas Quarantined

This amendment excludes portions of Hamilton and Tipton Counties in Indiana from the areas quarantine because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantine areas contained in said Part 76 apply to the excluded areas. No areas in Indiana remain under quarantine.

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

In § 76.2, paragraph (e)(1) relating to the State of Indiana is deleted.

(Sec. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 37 F.R. 28464, 28477.)

Effective date. The foregoing amendment shall become effective July 31, 1973.

The amendment relieves restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera and must be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 31st day of July, 1973.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.73-16129 Filed 8-3-73;8:45 am]

CHAPTER II—PACKERS AND STOCKYARDS ADMINISTRATION, DEPARTMENT OF AGRICULTURE

PART 203—STATEMENT OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

Advertising Allowances and Other Merchandising Payments and Services

On April 12, 1973, a notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 9238) regarding the proposed issuance of a statement of general policy with respect to advertising payments and services provided by meat packers. Interested persons were given an opportunity to submit written data, views, and arguments concerning the proposed statement by no later than July 1, 1973.

One comment received agreed with the general requirement that a packer take reasonable precautions to see that services for which he is paying are actually performed and that he is not overpaying for them. It opposed the suggestion (found in the footnote to Example 1, paragraph 6) that "allowances that have little or no relationship to cost or approximate cost of the service provided by the retailer may be considered to be in violation of section 202 of the Act." The comment submits that an allowance or payment based upon the value of such service is not an unfair trade practice.

In determining the need for this statement of policy with respect to advertising allowances, consideration was given to the use of cost or value of services provided. Investigations of such matters disclosed discriminatory practices when actual cost was not used. Therefore, the Packers and Stockyards Administration must consider that an allowance that has little or no relationship to cost or approximate cost of the service provided by the retailer may be in violation of section 202 of the Act.

After consideration of all views, comments, and arguments received and all other relevant information, the following statement with respect to advertising allowances and other merchandising payments and services made by meat packers subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), has been formulated and adopted by the Packers and Stockyards Administration for the guidance of packers and other persons and is issued as § 203.14 of Part 203, Chapter II, Title 9, Code of Federal Regulations, to read as follows:

§ 203.14 Statement with respect to advertising allowances and other merchandising payments and services.

(a) The Packers and Stockyards Administration has received complaints during the past several years concerning payments made to customers or retailers by packers subject to the Packers and Stockyards Act, purportedly for advertising allowances and other promotional services. Investigations were conducted of these complaints, some of which disclosed apparent violations of the provisions of the Packers and Stockyards Act. It was found in some cases that there was no relationship between the payment made and the cost of furnishing the services. The investigations further disclosed that the terms of the contract were not always complied with in that the payments received by customers were not used for the purposes specified.

(b)(1) In view of the importance of this problem in the industry, it was determined that a policy statement should be issued to provide guidelines for the industry in order to assist firms in complying with the provisions of the Packers and Stockyards Act. This statement applies to any meat packer subject to the Packers and Stockyards Act, when such packer either directly or through an intermediary pays for or furnishes services to a customer who competes with any other customer in the resale of the packer's products of like grade and quality.

(2) The following statement of general policy has been developed after extensive consultations with members of the trade and represents the views of the Packers and Stockyards Administration with respect to the use of advertising allowances and other promotional services in connection with the sale of the packer's products.

THE GUIDELINES

1. *Who is a customer?* (a) A "customer" is a person who buys for resale directly from the packer, or through the packer's agent or broker; and in addition, a customer is any buyer of the packer's product for resale who purchases from or through a wholesaler or other intermediate reseller.

(NOTE: In determining whether a packer has fulfilled his obligations toward his customers, the Packers and Stockyards Administration will recognize that there may be some exceptions to this general definition of "customer." For example, the purchaser of distress merchandise would not be considered a "customer" simply on the basis of such purchase. Similarly, a retailer who purchases solely from other retailers, or one who makes only sporadic purchases, or one who does not regularly sell the packer's product or who is a type of retail outlet not usually selling such products will not be considered a "customer" of the packer unless the packer has been put on notice that such retailer is selling his product.)

(b) "Competing customers" are all businesses that compete in the resale of the packer's products of like grade and quality at the same functional level of distribution, regardless of whether they purchase direct from the packer or through some intermediary.

Example: A packer sells directly to some independent retailers, sells to the headquarters of chains and of retailer-owned cooperatives, and also sells to wholesalers. The direct-buying independent retailers, the headquarters of chains and of retailer-owned cooperatives, and the wholesalers' independent retailer customers are customers of the packer. Individual retail outlets which are part of the chains or members of the retailer-owned cooperatives are not customers of the packer.

2. *Definition of services.* "Services" are any kind of advertising or promotion of a packer's product, including but not limited to, cooperative advertising, handbills, window and floor displays, demonstrators and demonstrations.

3. *Need for a plan.* If a packer makes payments or furnishes services, he should do so under a plan that meets several requirements. If there are many competing customers to be considered, or if the plan is at all complex, the packer would be well advised

to put his plan in writing. Briefly, the requirements are:

(a) The payments or services under the plan should be available on proportionally equal terms to all competing customers.

(b) The packer should take action designed to inform all of his competing customers of the existence of and essential features of the promotion plan in ample time for them to take full advantage of it.

(c) If the basic plan is not functionally available to (i.e., suitable for and usable by) some customers competing in the resale of the packer's products of like grade and quality with those being furnished payments or services, alternatives that are functionally available should be offered to such customers.

(d) In informing customers of the details of a plan, the packer should provide them sufficient information to give a clear understanding of the exact terms of the offer, including all alternatives and the conditions upon which payment will be made or services furnished.

(e) The packer should take reasonable precautions to see that the services are actually performed and that he is not overpaying for them.

4. *Proportionally equal terms.* The payments or services under the plan should be made available to all competing customers on proportionally equal terms. This means that payments or services should be proportionalized on some basis that is fair to all customers who compete in the resale of the packer's products. No single way to proportionalize is prescribed, and any method that treats competing customers on proportionally equal terms may be used. Generally, this can best be done by basing the payments made or the services furnished on the dollar volume or on the quantity of goods purchased during a specified period. Other methods which are fair to all competing customers are also acceptable.

Example 1: A packer may properly offer to pay a specified part (say 50 percent) of the cost of local advertising up to an amount equal to a set percentage (such as 5 percent) of the dollar volume of purchases during a specified time.

Example 2: A packer may properly place in reserve for each customer a specified amount of money for each unit purchased and use it to reimburse those customers for the actual cost of their advertising of the packer's product.

Example 3: A packer should not select one or a few customers to receive special allowances (e.g., 5 percent of purchases) to promote his product while making allowances available on some lesser basis (e.g., 2 percent of purchases) to customers who compete with them.

Example 4: A packer's plan should not provide an allowance on a basis that has rates graduated with the amount of goods purchased, as for instance, 1 percent of the first $1,000 purchases per month, 2 percent on second $1,000 per month, and 3 percent on all over that.

Example 5: A packer should not identify or feature one or a few customers in his own advertising without making the same service available on proportionally equal terms to customers competing with the customer or customers.

Example 6: A packer should not offer to pay a straight line rate for advertising if such payment results in a discrimination between competing customers; e.g., the offer of $1 per line for advertising in a newspaper that charges competing customers different amounts for the same advertising space.

(The straight line rate for advertising is an acceptable method for allocation of advertising funds, if the packer offers an alternative to retailers that pays more than the lowest newspaper rate which enables small retailers to obtain the same percentage of the cost of advertising as large retailers. Example: A packer's straight line rate of payment of $1 per line is based on 50 percent of the newspaper's lowest contract rate of $2 per line. The packer should offer to pay 50 percent of the newspaper advertising cost of the smaller retailers who established by invoice or otherwise that they paid more than the lowest contract rate of $2 per line for advertising.)

Example 7: A packer should not refuse to participate in the cost of ads that feature prices other than the packer's suggested prices. (See Item 6.)

5. *Packer's duty to inform.* The packer should take reasonable action, in good faith, to inform all his competing customers of the availability of his promotional program. Such notification should include all the relevant details of the offer in time to enable customers to make an informed judgment whether to participate. In the alternative, such notification should include a summary of the essential features and a specific source to contact for further details on a specific promotion. Where such one-step notification is impracticable, the packer may, in lieu thereof, maintain a continuing program of first notifying all competing customers of the types of promotions offered by the packer and a specific source for the customer to contact in order to receive full and timely notice of all relevant details of the packer's promotions. Such notice should also inform all competing customers that the packer offers advertising allowances and/or other promotional assistance that are usable in a practical business sense by all retailers regardless of size. When a customer indicates his desire to be put on the notification list, the packer should keep that customer advised of all promotions available in his area as long as the customer so desires. The packer may make the required notification by any means he chooses; but in order to show later that he gave notice to a certain customer, he is in a better position to do so if it was given in writing or a record was prepared at the time of notification showing date, person notified, and contents of notification.

If more direct methods of notification are impracticable, a packer may employ one or more of the following methods, the sufficiency of which will depend upon the complexity of his own distribution system. Different packers may find that different notification methods are most effective for them.

(a) The packer may enter into contracts with his wholesalers, distributors or other third parties which conform to the requirements of item 10, infra.

(b) The packer may place appropriate announcements on product containers or inside thereof with conspicuous notice of such enclosure on the outside.

(c) The packer may publish notice of the availability and essential features of a promotional plan in a publication of general distribution in the trade.

Example 1: A packer has a plan for the retail promotion of his products in Philadelphia. Some of his retailing customers purchase directly, and he offers the plan to them. Some other Philadelphia retailers purchase his products through wholesalers. The packer may use the wholesalers to reach the retailing customers who buy through them, either by having the wholesalers notify those retailers in accordance with item 10 or by using the wholesalers' customer lists for direct notification by the packer.

Example 2: A packer has a plan for the retail promotion of his products in Kansas City. Some of his retailing customers purchase directly and he offers the plan to them. Others purchase his products through wholesalers. The packer may satisfy his notification obligations to them by undertaking, in good faith, one or more of the following measures:

(a) Placing on a shipping container or a product package in time to enable them to participate in the program a conspicuous notice of the availability and essential features of his proposals, identifying a specific source for further particulars and details. In lieu of identifying a source for further particulars, brochures describing the details of the offer may be included in the shipping containers. If it is impracticable to include the essential features of the proposal on or in the shipping container, the packer may substitute in the notice, as stated above, a summary of the types of promotions offered (e.g., allowances for advertising in newspapers, handbills, or envelope stuffers; allowances for radio or television advertising; short term display allowances, etc.) and a statement that such promotions are usable in a practical business sense by all retailers regardless of size.

(b) Including the materials within the product container, if a promotional plan simply consists of providing retailers with display materials.

(c) Advising customers from accurate and reasonably complete mailing lists.

(d) Placing an announcement of the availability and essential features of promotional programs, and identifying a specific source for further particulars and details, at reasonable intervals in publications which have general and widespread distribution in the trade and which are recognized in the trade as means by which packers announce the availability of such programs.

Example 3: A packer has a wholesaler-oriented plan directed to wholesalers distributing his products to retailing customers. He should notify all the competing wholesalers distributing his products of the availability of this plan, but the packer is not required to notify retailing customers.

Example 4: A packer who sells on a direct basis to some retailers in an area, and to other retailers in the area through wholesalers, has a plan for the promotion of his products at the retail level. If the packer directly notifies not only all competing direct purchasing retailers but also all competing retailers purchasing through the wholesalers as to the availability, terms and conditions of the plan, the packer is not required to notify his wholesalers.

Example 5: A packer regularly engages in promotional programs and the competing customers include large direct purchasing retailers and smaller customers who purchase through wholesalers. The packer may encourage, but not coerce, the retailer purchasing through a wholesaler to designate a wholesaler as his agent for receiving notice of, collecting, and using promotional allowances for him. If a wholesaler or other intermediary by written agreement with a retailer is actually authorized to collect promotional payments from suppliers, the packer may assume that notice of and payment under a promotional plan to such wholesaler or intermediary constitutes notice and payment to the retailer.

(A packer should not rely on a written agreement authorizing an intermediary to receive notice of and/or payment under a promotional plan for a retailer if the packer knows, or should know, that the retailer was coerced into signing the agreement. In addition, a packer should assume that an intermediary is not authorized to receive notice of and/or payment under a promotional plan

for a retailer unless there is a written authorization signed by such retailer.)

6. *Availability to all competing customers.* The plan should be such that all types of competing customers may participate. It should not be tailored to favor or discriminate against a particular customer or class of customers but should, in its terms, be usable in a practical business sense by all competing customers. This may require offering all such customers more than one way to participate in the plan or offering alternative terms and conditions to customers for whom the basic plan is not usable and suitable. The packer should not, either expressly or by the way the plan operates, eliminate some competing customers, although he may offer alternative plans designed for different customer classes. If he offers alternative plans, all of the plans offered should provide the same proportionate equality and the packer should inform competing customers of the various alternative plans.

With respect to promotional plans offered to retailers, the packer should insure that his plans or alternatives do not bar any competing retailer customers from participation whether they purchase directly from him or through a wholesaler or other intermediary.

When a packer, in good faith, offers a basic plan, including alternatives, which is reasonably fair and nondiscriminatory and refrains from taking any steps which would prevent any customer, or class of customers, from participating in his program, he shall be deemed to have satisfied his obligation to make his plan functionally available to all customers, and the failure of any customer or customers to participate in the program shall not be deemed to place the packer in violation of the provisions of the Packers and Stockyards Act.

Example 1: A packer offers a plan of short term store displays[1] of varying sizes, including some which are suitable for each of his competing customers and at the same time are small enough so that each customer may make use of the promotion in a practical business sense. The plan also calls for uniform, reasonable certification of performance by the retailer. Because they are reluctant to process a reasonable amount of paperwork, some small retailers do not participate. This fact is not deemed to place a packer in violation of Item 6 and he is under no obligation to provide additional alternatives.

Example 2: A packer offers a plan for cooperative advertising on radio, television, or in newspapers of general circulation.[2] Because the purchases of some of his customers are too small, this offer is not "functionally available" to them. The packer should offer them alternative(s) on proportionally equal terms that are usable by them and suitable for their business.

7. *Need to understand terms.* In informing customers of the details of a plan, the packer should provide them sufficient information to give a clear understanding of the exact terms of the offer, including all alternatives, and the conditions upon which payment will be made or services furnished.

8. *Checking customer's use of payments.* The packer should take reasonable precautions to see that services he is paying for are furnished and also that he is not overpaying for them. Moreover, the customer should expend the allowance solely for the purpose for which it was given. If the packer knows or should know that what he pays or furnishes is not being properly used by some customers, the improper payments or services should be discontinued.

A packer who, in good faith, takes reasonable and prudent measures to verify the performance of his competing customers will be deemed to have satisfied his obligations under the Act. Also, a packer who, in good faith, concludes a promotional agreement with wholesalers or other intermediaries and who otherwise conforms to the standards of Item 10 shall be deemed to have satisfied this obligation. If a packer has taken such steps, the fact that a particular customer has retained an allowance in excess of the cost, or approximate cost if the actual cost is not known, of services performed by him shall not alone be deemed to place a packer in violation of the Act.

(When customers may have different but closely related costs in furnishing services that are difficult to determine, such as the cost for distributing coupons from a bulletin board or using a window banner, the packer may furnish to each customer the same payment if it has a reasonable relationship to the cost of providing the service or is not grossly in excess thereof.)

9. *Competing customers.* The packer is required to provide in his plan only for those customers who compete with each other in the resale of the packer's products of like grade and quality. Therefore a packer should make available to all competing wholesalers any plan providing promotional payments or services to wholesalers, and similarly should make available to all competing retailers any plan providing promotional payments or services to retailers. With these requirements met, a packer can limit the area of his promotion. However, this section is not intended to deal with the question of a packer's liability for use of an area promotion where the effect may be to injure the packer's competition.

10. *Wholesaler or third party performance of packer's obligations.* (a) A packer may, in good faith, enter into written agreements with intermediaries, such as wholesalers, distributors or other third parties, including promoters of tripartite promotional plans, which provide that such intermediaries will perform all or part of the packer's obligations under this part. However, the interposition of intermediaries between the packer and his customers does not relieve the packer of his ultimate responsibility of compliance with the provisions of the Packers and Stockyards Act. The packer, in order to demonstrate his good faith effort to discharge his obligations under this part, should include in any such agreement provisions that the intermediary will:

(1) Give notice to the packer's customers in conformity with the standards set forth in items 5 and 7; supra.

(2) Check customer performance in conformity with the standards set forth in item 8; supra.

(3) Implement the plan in a manner which will insure its functional availability to the packer's customers in conformity with the standards set forth in item 6, supra. (This must be done whether the plan is one devised by the packer himself or by the intermediary for use by the packer's customers.); and

(4) Provide certification in writing and at reasonable intervals that the packer's customers have been and are being treated in conformity with the agreement.

(b) A packer who negotiates such agreements with his wholesalers, distributors or third party promoters will be considered by the Administration to have justified his "good faith" obligations under this section only if he accompanies such agreements with the following supplementary measures: At regular intervals the packer takes affirmative steps to verify that his customers are receiving the proportionally equal treatment to which they are entitled by making spot checks designed to reach a representative cross section of his customers. Whenever such spot checks indicate that the agreements are not being implemented in such a way that his customers are receiving such proportionally equal treatment, the packer takes immediate steps to expand or to supplement such agreements in a manner reasonably designed to eliminate the repetition or continuation of any such discriminations in the future.

(c) Intermediaries, subject to the Packers and Stockyards Act, administering promotional assistance programs on behalf of a

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[1] Allowances that have little or no relationship to cost or approximate cost of the service provided by the retailer may be considered to be in violation of section 202 of the Act, such as an allowance of $1 per case of goods purchased if the retailer furnishes a display or provides specific shelf space, or a promotional allowance of 10 percent of purchases during a specific period of time if the retailer places an ad of at least 3 column inches in a newspaper. In addition, a customer, subject to the Act, that induces such allowances may be proceded against under section 202 of the Act. Also, the purchase of display or shelf space, whether directly or by means of so-called allowances, may be considered an "unfair practice" in violation of section 202 of the Act.

[2] In order to avoid the tailoring of promotional programs that discriminate against particular customers or class of customers, the packer in offering to pay allowances for newspaper advertising should offer to pay the same percentage of the cost of newspaper advertising for all competing customers in a newspaper of the customer's choice, or at least in those newspapers that meet the requirements for second class mail privileges. Examples of promotional plans that may discriminate against small retailers are: (1) a plan that offers to pay 75 percent of the cost of advertising in daily newspapers, which are the regular advertising media of the packer's large or chain store customers, and only 50 percent of the cost of advertising in other newspapers that may be used by small retail customers; and (2) a plan that pays allowances for advertising in daily newspapers, which are the regular advertising media of the packer's large or chain store customers, but does not pay allowances for advertising in semi-weekly, weekly, or other newspapers that may be desirable to small retail customers, who are offered, as an alternative to advertising in daily newspapers, services such as envelope stuffers, handbills, window banners, etc. (See item 4.)

packer may be in violation of the provisions of the Packers and Stockyards Act if they have agreed to perform the packer's obligations under the Act with respect to a program which they have represented to be usable and suitable for all the packer's competing customers if it should later develop that the program was not offered to all or, if offered, was not usable or suitable, or was otherwise administered in a discriminatory manner.

11. *Customer's liability.* A customer, subject to the Packers and Stockyards Act, who knows, or should know, that he is receiving payments or services which are not available on proportionally equal terms to his competitors engaged in the resale of the same packer's products may be in violation of the provisions of the Act. Also, customers (subject to the Packers and Stockyards Act) that make unauthorized deductions from purchase invoices for alleged advertising or other promotional allowances may be proceeded against under the provisions of the Act.

Example 1: A customer subject to the Act should not induce or receive an allowance in excess of that offered in the packer's advertising plan by billing the packer at "vendor rates" or for any other amount in excess of that authorized in the packer's promotion program.

12. *Meeting competition.* A packer charged with discrimination under the provisions of the Packers and Stockyards Act may defend his actions by showing that the payments were made or the services were furnished in good faith to meet equally high payments made by a competing packer to the particular customer, or to meet equivalent services furnished by a competing packer to the particular customer. This defense, however, is subject to important limitations. For instance, it is insufficient to defend solely on the basis that competition in a particular market is very keen, requiring that special allowances be given to some customers if a packer is "to be competitive."

13. *Cost justification.* It is no defense to a charge of unlawful discrimination in the payment of an allowance or the furnishing of a service for a packer to show that such payment or service could be justified through savings in the cost of manufacture, sale, or delivery.

The foregoing are guidelines which set forth the general views of the Packers and Stockyards Administration regarding advertising allowances and other merchandising payments and services. In a particular situation in which the Administrator believes that the Act has been violated in connection with such activities, a complaint may be issued instituting a formal administrative proceeding under the Act. In such a proceeding, the Administrative Law Judge or the Judicial Officer of the Department will determine, after opportunity for full hearing, whether the packer has in fact violated the Packers and Stockyards Act and should be ordered to cease and desist from continuing such violation.

The foregoing statement of general policy shall become effective on Aug. 6, 1973.

(Sec. 202(a), 42 Stat. 161, as amended, 7 U.S.C. 192; sec. 402, 42 Stat. 168, as amended, 7 U.S.C. 222; sec. 407(a), 42 Stat. 169, as amended, 7 U.S.C. 228(a); sec. 6(g), 38 Stat. 721, 15 U.S.C. 46(g).)

Done at Washington, D.C., this 1st day of August 1973.

MARVIN L. MCLAIN,
Administrator, Packers and Stockyards Administration.

[FR Doc.73-16171 Filed 8-3-73;8:45 am]

Title 10—Atomic Energy

CHAPTER I—ATOMIC ENERGY COMMISSION

PART 40—LICENSING OF SOURCE MATERIAL

General License To Export Depleted Uranium

By letters dated May 9, 1972, May 4, 1973, and May 10, 1973, the General Electric Co., of San Jose, CA, filed with the Atomic Energy Commission a petition for rule making (PRM 40-17) to amend § 40.23(e)(1) of the Commission's regulation 10 CFR part 40 to authorize the export under general license of uranium which is used as shielding and constitutes part of packaging for the transportation of radioactive materials.

Uranium fabricated as shielding and contained in radiographic exposure or teletherapy devices, in quantities not to exceed 500 pounds per device, may be exported under the present provisions of the general license AEC-GRO-SME, issued in § 40.23(e)(1), from the United States to any foreign country or destination except Southern Rhodesia, Cuba, or countries or destinations listed in § 40.90, schedule A of 10 CFR Part 40.

The Commission has given careful consideration to the petition and has amended § 40.23(e)(1) to authorize the export of depleted uranium, when fabricated as shielding and contained in X-ray units, thermoelectric generators, and packaging for the transportation of radioactive materials, in quantities not to exceed 1000 kilograms per shipment, from the United States to any foreign country or destination, except Southern Rhodesia, Cuba, or countries or destinations listed in § 40.90, schedule A of 10 CFR Part 40. In amending § 40.23(e)(1), the Commission has included X-ray units and radioactive thermoelectric generators as well as packaging for the transportation of radioactive materials.

The term "packaging" means one or more receptacles and wrappers and their contents excluding fissile material and other radioactive material, but including radiation shielding and other supplementary equipment.

As amended, the general license in § 40.23(e)(1) applies only to depleted uranium when fabricated as shielding and contained in radiographic exposure or teletherapy devices, X-ray units, radioactive thermoelectric generators, or packaging for the transportation of radioactive materials. Any person who desires to export natural uranium contained in such products should apply for a specific license pursuant to § 40.33 of 10 CFR Part 40.

A general license is effective without the filing of an application with the Commission or the issuance of a licensing document to a particular person. Thus, it will not be necessary for the Commission to issue a specific license for the export of X-ray units, radioactive thermoelectric generators, or packaging, including shipping containers, falling within the scope of the general license issued in § 40.23(e)(1). The Commission has determined that such exports will not be inimical to the interests of the United States.

Because the amendments involve the foreign affairs functions of the United States, notice of proposed rule making and public procedure thereon are not required by section 553 of title 5 of the United States Code, and the amendments may be made effective without the customary 30-day notice.

Accordingly, 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 amendment of Title 10, Chapter I, Code of Federal Regulations, Part 40, is published as a document subject to codification to be effective on Aug. 6, 1973.

In 10 CFR Part 40, § 40.23(e)(1) is amended to read as follows:

§ 40.23 General licenses to export.

* * * * *

(e)(1) A general license, designated AEC-GRO-SME, is hereby issued authorizing the export of depleted uranium, when fabricated as shielding and contained in radiographic exposure or teletherapy devices, X-ray units, radioactive thermoelectric generators, or packaging for the transportation of radioactive materials, in quantities not to exceed 1000 kilograms per shipment, from the United States to any foreign country or destination, except Southern Rhodesia, Cuba, or countries or destinations listed in § 40.90.

* * * * *

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201. Interpret or apply sec. 64, 68 Stat. 933; 42 U.S.C. 2094)

Dated at Germantown, Maryland this 31st day of July 1973.

For the Atomic Energy Commission.

GORDON M. GRANT,
Acting Secretary of the Commission.

[FR Doc.73-16095 Filed 8-3-73;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 12, Amdt. 5]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Affiliates as Affecting State Development Companies

On May 25, 1973, there was published in the FEDERAL REGISTER (38 FR 13751) a notice that the Small Business Administration proposed to amend the definition of affiliates as affecting State development companies authorized to receive loans under sections 501 and 502 of the Small Business Investment Act of 1958, as amended.

Interested parties were given 25 days to submit written statements of facts, opinions, and arguments concerning the proposal.

On the basis of all information available, it has been determined to adopt the proposal, with language clarifying that the exception of State development companies applies only to State development companies qualifying under the Small

Business Investment Act of 1958 and the regulations issued pursuant thereto.

Accordingly, Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby amended by revising § 121.3–2(a) to read as follows:

§ 121.3–2 Definition of terms used in this part.

(a) Affiliates: Concerns, other than investment companies licensed or State Development companies qualifying under the Small Business Investment Act of 1958 and the regulations issued pursuant thereto, or investment companies registered under the Investment Company Act of 1940, are affiliates of each other when either directly or indirectly (1) one concern controls or has the power to control the other, or (2) a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships: *Provided, however,* that restraints imposed on a franchisee by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his effort, comensurate with ownership, and bears the risk of loss or failure. Where a concern is a subcontractor pursuant to section 8(a)(2) of the Small Business Act and, in connection therewith, is the subject of a divestiture agreement approved by SBA for the benefit of socially or economically disadvantaged individuals, the receipts, employment, and other factors of the concern attributable to the section 8(a)(2) subcontract shall not be included in determining the size of either concern during the term of such divestiture agreement. Other contracts and business of such subcontractor may also be excluded in determining the size if, in the judgment of SBA, substantial beneficiaries of such other contracts and business will be the socially or economically disadvantaged individuals in question.

* * * * *

Effective Date. This amendment shall become effective August 6, 1973.

Dated: July 25, 1973.

(Catalog of Federal Domestic Assistance Program No. 59.013, State and Local Development Company Loans.)

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73–16087 Filed 8–3–73;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

[13th Gen. Rev. Export Regs., Amdt. 69]

PART 377—SHORT SUPPLY CONTROLS

Exports of Soybeans

Section 377.3 of 15 CFR Part 377 is amended to read as set forth below.

Effective date: August 1, 1973.

RAUER H. MEYER,
Director, Office of Export Control.

The FEDERAL REGISTER issuance of July 3, 1973, announced the licensing system adopted by the Department of Commerce for exports of soybeans prior to September 1, 1973.

The purpose of this announcement is to announce the licensing policy for soybeans to be exported in September 1973. Validated licenses will be granted for 100 percent of the unfilled balance in the case of applications to export soybeans in respect of unfilled or partially filled orders calling for export of soybeans during the month of September 1973, which were accepted by an exporter on or before June 13, 1973. Such licenses, however, will be granted only if such orders were previously reported by such exporter as being scheduled for export shipment in September 1973, pursuant to the reporting requirements of § 376.3 of the Export Control regulations.

Under the policy previously announced on July 3, 1973, validated licenses for 50 percent of the unfilled balance were granted against orders accepted on or before June 13, 1973, which called for export prior to September 1, 1973. In no case could the unlicensed portion of such an order be eligible for licensing under the new policy hereby announced.

Accordingly, paragraph (b) of § 377.3 is amended by revising subparagraphs (1), (2), (3), and (4) to read as follows:

§ 377.3 Agricultural commodities.

* * * * *

(b) *Licensing System for Exports of Soybeans, Soybean Oil-cake and Meal, Cottonseed, and Cottonseed Oil-cake and Meal*—(1) *Licensing for exports of soybeans prior to September 1, 1973, soybean oil-cake and meal, cottonseed, and cottonseed oil-cake and meal*—(i) *Submission of application with supporting documentation.* All exporters who previously reported anticipated exports of soybeans (Schedule B No. 221.4000) for export prior to September 1, 1973, cottonseed (Schedule B No. 221.6000) for export prior to August 1, 1973, or soybean oil-cake and meal (Schedule B No. 081.3030) or cottonseed oil-cake and meal (Schedule B No. 081.3020) for export prior to October 1, 1973, and who wish to be considered for the issuance of a validated license for any export of such commodities, must file with the Office of Export Control (Attention: 546), U.S. Department of Commerce, Washington, D.C. 20230, an application with the following supporting documentation: (*a*) Photocopy or certified copy of the contract of sale for export to a foreign buyer, accepted by the applicant on or before June 13; (*b*) a sworn affidavit by the applicant as to the amount previously exported against such contract, if any; (*c*) a sworn affidavit by the applicant that the applicant is the exporter and that the contract to sell to the foreign firm is not offset in whole or in part by a similar contract to purchase the same grain from a foreign firm, whether that contract was entered into by the applicant or the applicant's supplier (If the contract to sell is offset by such a similar contract by a foreign firm, it will not be licensed. If it is offset in part, only that portion not offset will be available for license.); and (*d*) with the first application for export of soybeans or for export of soybean oil-cake and meal under this paragraph, the applicant will submit Form DIB–636P, Contract Detail Supporting Anticipated 1972–1973 Crop Year Exports as Reported June 13, 1973.[1] The application shall be submitted on Forms FC–419 and FC–420.[2] The above-mentioned documentation will serve in lieu of the Form FC–842, Single Transaction Statement by Consignee and Purchaser, that would otherwise be required pursuant to § 375.2 of this chapter.

(ii) *Issuance of licenses.* The Office of Export Control will verify the authenticity of each application and supporting documentation and will issue a validated export license against each verified contract submitted under the terms of subdivision (i) of this subparagraph, for the following percentages of the unfilled balance of each contract:

Soybeans	50%
Cottonseed	100%
Soybean oil-cake and meal	40%
Cottonseed oil-cake and meal	100%

(2) *Licensing for exports of soybeans in September 1973*—(i) *Submission of application with supporting documentation.* All exporters who previously reported anticipated exports of soybeans (Schedule B No. 221.4000) for export in September 1973, and who wish to be considered for the issuance of a validated license for any export of such commodity, must file with the Office of Export Control (Attention: 546), U.S. Department of Commerce, Washington, D.C. 20230, an application with the following supporting documentation: (*a*) Photocopy or certified copy of the contract of sale for export to a foreign buyer, accepted by the applicant on or before June 13; (*b*) a sworn affidavit by the applicant as to the amount previously ex-

[1] Forms FC–419, FC–420, and DIB–636P are available from the Office of Export Control (Attention: 547), U.S. Department of Commerce, Washington, D.C. 20230, or the nearest Department of Commerce District Office.

ported against such contract, if any; (c) a sworn affidavit by the applicant that the applicant is the exporter and that the contract to sell to the foreign firm is not offset in whole or in part by a similar contract to purchase the same grain from a foreign firm, whether that contract was entered into by the applicant or the applicant's supplier (If the contract to sell is offset by such a similar contract by a foreign firm, it will not be licensed. If it is offset in part, only that portion not offset will be available for license); and (d) with the first application for export of soybeans under paragraphs (b) (1) or (2) of this section, the applicant will submit Form DIB-636P, Contract Detail Supporting Anticipated 1972-1973 Crop Year Exports as Reported June 13, 1973.[1] The application shall be submitted on Forms FC-419 and FC-420.[2] The above-mentioned documentation will serve in lieu of the Form FC-842, Single Transaction Statement by Consignee and Purchaser, that would otherwise be required pursuant to § 2375.2 of this chapter.

(ii) *Issuance of licenses.* The Office of Export Control will verify the authenticity of each application and supporting documentation and will issue a validated export license for 100 percent of the unfilled balance against each verified contract submitted under the terms of paragraph (b)(2)(i) of this section. In no case will the unlicensed portion of any export order for soybeans accepted on or before June 13, 1973, be eligible for licensing under this subdivision if—(a) such unlicensed portion was on or before July 31, 1973, reported pursuant to § 376.3 of this chapter as scheduled for shipment prior to September 1, 1973; or (b) in violation of such section, such unlicensed portion was on or before July 31, 1973, unreported.

(3) *Special terms.* Each license issued under this paragraph will only be valid for shipment against the particular contract applicable. All licenses issued for export of soybeans shall expire on September 15, 1973; except however, that those issued for export of soybeans in September 1973, pursuant to paragraph (b)(2) of this section shall expire on October 15, 1973; all those issued for export of cottonseed shall expire on August 15, 1973; and all those issued for export of soybean oil-cake and meal and cottonseed oil-cake and meal shall expire on October 15, 1973. Any cancellation of a contract automatically revokes the license that was issued against it. Accordingly, exporters shall not export under a license before obtaining from the foreign buyer written confirmation that he will accept delivery under the contract of the quantity licensed for export. Any export without such confirmation would be in violation of the regulations. In the event of the cancellation of a contract, the applicant is required to file a report of such cancellation with the Office of Export Control no later than five days from the date of cancellation. If a license has been issued against such contract, the license shall be returned to the Office of Export Control with the notice of cancellation.

(4) *Reduction of shipping tolerance allowance.* Section 386.7(b)(1) of this chapter states, in part, that a shipping tolerance of 10 percent is allowed on the unshipped balance specified on a validated license for shipments of any commodities licensed in units of bushels or short tons. For licenses issued under the procedures set forth above, this shipping tolerance allowance is reduced to 5 percent for cottonseed and soybeans, and to 2½ percent for cottonseed oil-cake and meal and soybean oil-cake and meal.

* * * * *

[FR Doc.73-16282 Filed 8-3-73;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

Liquid Feed Supplements

In the FEDERAL REGISTER of December 19, 1972 (37 FR 27634) the Commissioner of Food and Drugs proposed a new § 135.112 *Liquid feed supplements; new animal drug requirements.* This proposed new section would require, (1) that all drugs labeled for use in liquid feed supplements be the subject of approved new animal drug applications pursuant to section 512(b) of the Federal Food, Drug, and Cosmetic Act, (2) that all liquid animal feed supplements bearing or containing a new animal drug be the subject of an approved application pursuant to section 512(m) of the act, and (3) that certain drug products bear in their labeling a statement that the product is not for use in liquid feed supplements, unless the product is the subject of an approved new animal drug application providing for such use.

This action was based on data which demonstrate the instability of certain animal drugs when incorporated into liquid feed supplements and the consequent need for safety and efficacy data for this dosage form under conditions of use.

Four responses were received to the proposal, one from an industry trade association and three from animal drug and medicated feed manufacturers.

Three of the four responses concurred with the Commissioner that the stability of drugs in liquid feed formulations may differ from their stability in dry feeds or in drinking water. It was pointed out, and the Commissioner agrees, that not all formulations of the named drugs are unstable under every condition and the final order is revised to reflect this fact.

Three of the respondents took exception to the requirement that a new animal drug application is required for each premix intended for use in the manufacture of liquid feed supplements. It was suggested that the order merely require the submission of stability data to supplement the information currently on file regarding the use of these drugs in dry feeds. This suggestion is rejected. A liquid animal feed supplement differs considerably from a dry feed or dry feed supplement. Data show that, unlike dry feeds, small variations in some of the components of liquid feed supplement formulations have a marked effect on the stability of added drugs which would be expected to have a corresponding effect on the safety and efficacy of such drugs. For this reason the Commissioner concludes that each premix intended for use in manufacturing medicated liquid feed supplements must be the subject of an approved application pursuant to section 512(b) of the act.

Two respondents expressed the view that certain medicated liquid feed supplements should be exempt from the requirements of an application pursuant to section 512(m) of the act where the dry counterparts of such supplements are currently not subject to this requirement. The Commissioner concludes that the manufacture of liquid feed supplements is inherently more difficult to control and that available data demonstrate the need for such products to be subject to all the requirements of section 512(m) of the act to ensure their safety and effectiveness.

Each of the respondents took issue with the proposed requirement that certain drug products bear in their labeling a statement that the product is not for use in liquid feed supplements. It was asserted that such a statement would constitute negative labeling and as such would be contrary to the intent of the act which directs all labeling towards the safe and effective administration of a drug for its intended use; 21 CFR 1.106(a)(1) was cited in support of this contention. The Commissioner disagrees. The use of so called "negative" labeling is not new. Section 1.106(a)(1) does not limit the Commissioner's authority in requiring labeling which is necessary to assure the safe and effective use of a drug, nor is it intended that all products not intended for use in liquid feeds be so labeled. The labeling statement required by this order will apply only to certain drugs labeled for use in dry feeds and/or drinking water.

One firm stated that the labeling requirement of the proposed regulation discriminates in favor of those drugs which were not named and for which the additional labeling is not required. The Commissioner concludes that the three drugs named in the proposal for which restrictive labeling applies constitute the major portion of the medicated liquid feed supplement market and thus represent the greatest potential for misuse. In addition, data are available which clearly demonstrate that these drugs are unstable when added to certain liquid feed supplements. Should data of a similar nature become available on other products, those products will also be made subject to this labeling requirement.

The view was expressed that the 60 day period provided for revising the labeling of products was inadequate, and that the labeling requirement should not apply to products which have already entered channels of distribution. The Commissioner agrees and the regulation has been revised to require that each article which is the subject of this new section shall bear labeling in compliance

with this section when introduced into interstate commerce after Nov. 5, 1973. Label revisions may be made by overprinting or placing stickers on labels of products prior to their introduction into interstate commerce, provided that use of such over-printing or stickers does not obliterate other mandatory labeling.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351, 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135 is amended in Subpart B by adding thereto the following new section:

§ 135.112 Liquid feed supplements; new animal drug requirements.

(a) Information available to the Commissioner of Food and Drugs shows that certain drugs are unstable when added to some liquid feed supplements. The demonstrated instability of these drugs gives rise to the question of the stability of other drugs when added to liquid feed supplements, except where specific approval has been granted for such use. Therefore, the labeling of a drug to provide for its use in a liquid feed supplement causes the drug to be a new animal drug for such use for which an approved new animal drug application is required pursuant to section 512(b) of the Federal Food, Drug, and Cosmetic Act.

(b) The addition of a drug to a liquid feed supplement causes such supplement to become an animal feed bearing or containing a new animal drug for which an approved application is required pursuant to section 512(m) of the act.

(c) Each drug product intended for oral administration to animals which contains any of the drugs listed in paragraph (d) of this section and which bears labeling for its use in animal feed and/or drinking water shall also include in such labeling the following statement: "FOR USE IN _____ ONLY. NOT FOR USE IN LIQUID FEED SUPPLEMENTS," the blank being filled in with the words "DRY FEEDS", "DRINKING WATER", "DRY FEEDS AND DRINKING WATER" as applicable, unless such drug product is the subject of an approved new animal drug application providing for its use in liquid feed supplements.

(d) The labeling provisions of paragraph (c) of this section apply to all forms of bacitracin, oxytetracycline, and chlortetracycline.

(e) For any drug which is the subject of an approved new animal drug application, the labeling provisions of paragraph (c) of this section may be implemented without prior approval as provided for in § 135.13a (d) and (e).

Effective date. This order shall become effective Nov. 5, 1973.

(Sec. 512, 82 Stat. 343–351; 21 U.S.C. 360b)

Dated: July 30, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-16104 Filed 8-3-73;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Zeranol

The Commissioner of Food and Drugs has evaluated supplemental new animal drug applications (38–233V) filed by Commercial Solvents Corp., 1331 South First St., Terre Haute, IN 47808, proposing revised specifications and labeling for the safe and effective use of zeranol as set forth below in order to: (1) Delete the claim for improved feed conversion for suckling beef calves; (2) add the word "weight" in reference to rate of gain for feedlot lambs, beef cattle, and suckling beef calves; (3) make an editorial change regarding the preslaughter withdrawal period for feedlot lambs, beef cattle, and suckling beef calves; and (4) revise the melting point specifications for the drug. The supplemental applications are approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended by revising paragraph (b)(1) and the table in § 135b.12 (f) as follows:

§ 135b.12 Zeranol.

* * * * *

(b) *Specifications.* (1) Melting point range 181°–185° C.

* * * * *

(f) *Conditions of use.* It is used as follows:

	Amount	Limitations	Indications for use
1. * * *	* * *	For feedlot lambs; for subcutaneous ear implantations; do not implant animals within 40 days of slaughter.	For increased rate of weight gain and improved feed conversion.
2. * * *	* * *	For beef cattle (including weaned beef calves, growing beef cattle, feedlot steers, and feedlot heifers); for subcutaneous ear implantation; do not implant animals within 65 days of slaughter.	Do.
3. Zeranol.....	Three 12 milligram implants per dose.	For suckling beef calves; for subcutaneous ear implantation; do not implant animals within 65 days of slaughter.	For increased rate of weight gain.

Effective date. This shall be effective on August 6, 1973.

(Sec. 412(i), 82 Stat. 347; 21 U.S.C. 360(i))

Dated: July 30, 1973.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.73-16002 Filed 8-3-73;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-184]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	San Luis Obispo	San Luis Obispo, City of.	----------	----------	----------	Aug. 3, 1973, Emergency
Tennessee	Coffee	Manchester, City of.	----------	----------	----------	Do.
Do.	do.	Tullahoma, City of.	----------	----------	----------	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: July 27, 1973.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.73-16037 Filed 8-3-73;8:45 am]

Proposed Rules

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

ACCOUNTING INTERPRETATIONS FOR RURAL ELECTRIC BORROWERS

Issuance of Two Accounting Interpretations

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), REA proposes to issue two new supplements to REA Bulletin 181-3, Accounting Interpretations for Rural Electric Borrowers.

Persons interested in the provisions of the two new supplements may submit written data, views, or comments to the Director, Accounting and Auditing Division, Room 4307, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, on or before Sept. 5, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Accounting and Auditing Division, during regular business hours.

ACCOUNTING INTERPRETATION NO. 113

ACCOUNTING FOR TERMINAL FACILITIES

I. *General.* Borrowers are sometimes required to construct terminal facilities in the transmission line of another utility to receive power from their power supplier. The document executed between the borrower and the utility is normally referred to as the "License Agreement." The licensee agreement may stipulate that certain items of the terminal facilities are to be transferred to and become the property of the utility upon completion of the construction.

II. *Questions and Answers.* 1. *Question.* How are the construction costs accounted for?

Answer. All construction costs are charged to a work order. Upon completion of the construction and accumulation of all costs, the costs of the facilities which become the property of the utility with whom the license agreement is executed are transferred to Account 186, Miscellaneous Deferred Debits. The costs for the plant which the borrower retains title to is transferred to the appropriate plant account.

2. *Question.* What is the disposition of the amount transferred to Account 186, Miscellaneous Deferred Debits?

Answer. The amount is amortized to Account 557, Other Expenses, over the estimated "Service Life" of the plant. If the related contract or contracts for this power supply are terminated, the unamortized balance is transferred to Account 557.

ACCOUNTING INTERPRETATION NO. 617

ACCOUNTING FOR CONTRIBUTIONS MADE TO THE BREEDER REACTOR CORPORATION (BRC)

I. *General.* The Utility Contribution Agreement, executed by the borrower with the Breeder Reactor Corporation, obligates the borrower to contribute an amount equal to .025 mills per kWh for total kWh sold to consumers for the 1970 calendar year. The amount is to be paid to BRC in ten equal installments. Each installment is to be paid on or before December 31 of the years 1972 through 1981, subject to the conditions described in paragraph No. 5 of the agreement. Any past due installments shall bear interest at the rate of six percent per annum from the date payment of such installments become due.

II. *Questions and Answers.* 1. *Question.* Should the entire amount stipulated in the agreement be recorded in the general ledger upon execution of the agreement?

Answer. Yes. The amount should be recorded by debiting Account 188, Research and Development Expenditures, and crediting Account 224.14, Other Long-Term Debt—Miscellaneous. The amount recorded in Account 188 should be amortized over the ten-year period to Account 930, Miscellaneous General Expenses. The annual payment to BRC is charged to Account 224.14, Other Long-Term Debt—Miscellaneous.

2. *Question.* What account is charged for the interest on late payments?

Answer. Account 431, Other Interest Expense.

Dated: July 31, 1973.

DAVID A. HAMIL,
Administrator.

[FR Doc.73-16168 Filed 8-3-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73-GL-32]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to alter the control zone at Battle Creek, Michigan.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before September 5, 1973 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The Battle Creek Combined Station/Tower hours of operation are planned to be reduced from 24 hour operations to 16 hour operations in the fall of 1973. The Battle Creek control zone is designated as continuous. Weather reporting, which is required for the control zone, is provided by the CS/T and therefore will only be available during the CS/T hours of operation.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.171 (37 FR 2056), the following control zone is amended to read:

BATTLE CREEK, MICH.

Within a 5 mile radius of Kellogg Field (latitude 42°18'31"N., longitude 85°14'57" W.) within 2 miles each side of the Battle Creek VORTAC 050°, 117° and 215° radials extending from the 5 mile radius zone to 8 miles NE, SE and SW of the VORTAC; and within 2 miles each side of the Kellogg Field ILS localizer SW course extending from the 5 mile radius zone to 5 miles SW of the approach end of runway 4. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Des Plaines, Illinois on July 13, 1973.

H. W. POGGEMEYER,
Acting Director,
Great Lakes Region.

[FR Doc.73-16097 Filed 8-3-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-CE-18]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the

Federal Aviation regulations so as to alter the transition area at Cape Girardeau, Missouri.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before September 5, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace at Cape Girardeau, Missouri, an ILS has been installed on Runway 10 at the Cape Girardeau Municipal Airport. Accordingly, it is necessary to alter the Cape Girardeau transition area to adequately protect aircraft utilizing the new ILS approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (38 FR 435) the following transition area is amended to read:

CAPE GIRARDEAU, MISSOURI

That airspace extending upward from 700 feet above the surface within a 10 mile radius of Cape Girardeau Municipal Airport (latitude 37°13'30"N, longitude 89°34'10"W) within 4½ miles east and 9½ miles west of the Cape Girardeau VOR 194 radial, extending from the 10 mile radius area to 18½ miles south of the VOR; and within 4½ miles north and 9½ miles south of the Cape Girardeau VOR 279° radial, extending from the 10 mile radius area to 18½ miles west of the VOR, excluding the portion which overlies the Sikeston, Missouri transition area; and that airspace extending from 1,200 feet above the surface within 4.5 miles north and 9.5 miles south of the Cape Girardeau ILS localizer west course, extending from the LOM to 18.5 miles west of the LOM.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri on July 17, 1973.

JOHN R. WALLS,
Acting Director, Central Region.

[FR Doc.73-16098 Filed 8-3-73;8:45 am]

Office of Pipeline Safety

[49 CFR Parts 192 and 195]

[Notice 73-1A; Docket No. OPS-23]

BENDING LIMITATIONS

Extension of Comment Period

On May 31, 1973, the Department of Transportation issued an advance notice of proposed rule making, Notice 73-1, Docket OPS-23 (38 FR 14969, June 7, 1973) proposing an amendment to Part 192 and Part 195 which would provide more realistic pipe bending limitations and to make the standards in this regard for gas and liquid pipelines consistent insofar as practicable.

The date for return of comments was set as August 6, 1973. Since the Pipeline Contractors Association, American Petroleum Institute (API) and the Independent Natural Gas Association of America (INGAA) on behalf of their respective memberships have asked for an extension of time to adequately prepare and submit comments, and since these organizations represent a large segment of operators and contractors who would be affected by a rule change in this area, the date for submission of comments on Notice 73-1 is extended to August 30, 1973.

This notice is issued under the authority of section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672), sections 831-835 of Title 18, United States Code, section 6(e)(4) of the Department of Transportation Act (49 U.S.C. 1655(e)(4)), § 1.58(d) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D.C., on August 1, 1973.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety.

[FR Doc.73-16135 Filed 8-3-73;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. R-405]

RELIABILITY OF ELECTRIC AND GAS SERVICE

Order Updating Nationwide Investigation

AUGUST 1, 1973.

In our notice of investigation and proposed rulemaking with respect to developing emergency plans which was issued in this docket on November 4, 1970, we sought with regard to the natural gas industry to elicit information so as to enable us to assess the adequacy and reliability of the gas supply and deliverability to meet consumer demand for the oncoming winter season and four winters following. Evidence of anticipated curtailment of necessary service has impelled the Commission to take continuing affirmative steps in the public interest to obtain reliable factual information regarding the sources of available gas and the facilities existing and planned to deliver such gas to meet consumer demands and to determine the terms and conditions of a rule or rules necessary to avoid or minimize the consequences of any emergencies that may develop. On September 12, 1972, the Commission issued an order updating its investigation. Amendments of the Commission's regulations proposed in this docket are still under Commission consideration.

Pursuant to this action and in the implementation thereof the Commission directed all of the large gas producers whose individual jurisdictional sales of natural gas totalled in excess of 10 million Mcf annually to respond thereto on forms designed to elicit the information necessary for Commission consideration. The responses were designed to cover separately the time frames set forth in the notice and in the updated order.

The responses received pursuant to said orders have been particularly useful to the Commission in enabling it to assess problems which have arisen as a result of shortages in the gas supply and to take steps designed to meet them.

To enable the Commission to have a better understanding of the problems prevailing in the industry, data almost identical in form to that previously supplied should be submitted for evaluation and appropriate action. For the purpose of this continued investigation the current data should relate also to two time periods, one as of December 31, 1972, and the other as of June 30, 1973. After receipt and analysis of such information, the sources thereof may be subject to audit by the Commission's staff.

Because of steps required to be taken by the Commission pursuant to Congressional subpoena duces tecum issued June 21, 1973, our treatment of information submitted pursuant to this order cannot be accorded the confidentiality heretofore authorized and honored by the Commission. The Commission's orders issued November 4, 1970, and September 12, 1972, providing for the nationwide investigations of reserves of natural gas directed that the reserves data submitted pursuant thereto would be held in a confidential status in accordance with the provisions of section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (9).

The Chairman of the Senate Judiciary Committee's Subcommittee on Antitrust

and Monopoly requested disclosure to the Subcommittee and the Federal Trade Commission of such data, and our efforts to comply with such requests as fully as possible without violating the conditions of confidentiality under which the reserves data had been obtained were unavailing. Instead, the Chairman of the Subcommittee acting on behalf of the Subcommittee, issued a subpoena duces tecum directing the Commission's Chairman to appear before the Subcommittee on June 26, 1973, and to produce all data in the Commission's possession, custody or control or of any member or employee thereof referring or relating to the Commission's order dated September 12, 1972, including all workpapers and composites resulting from the material received in connection with that order.

In order to avoid placing the Commission's Chairman in jeopardy of contempt of Congress by refusing to disclose the data protected by our order of September 12, 1972, by order issued June 22, 1972, the Chairman was authorized to deliver, under protest, the data described in the subpoena. The Subcommittee has not decided whether to maintain the confidential status of the subpoenaed data, whether to publicly disclose such data, or whether to disclose such data to the Federal Trade Commission. Inasmuch as the protection heretofore provided for proprietary data can no longer be assured, we are unable to represent to the respondents that the data submitted will not be made public.

We have heretofore recognized that data such as that sought by this order is confidential and proprietary in nature, the public disclosure of which could result in irreparable injury to the owner and to the public. We will not, therefore, require filing of the data herein sought until any producer who opposes the filing of data without an assurance of confidentiality has been afforded an opportunity for hearing on this issue.

It is ordered, That:

1. The investigation initiated by further notice issued on November 4, 1970, in Docket No. R–405 be further updated, and the natural gas companies listed in Appendix A are requested to file responses to the questionnaires set forth in Appendix B; that such responses may be submitted in hand to Mr. Leon H. Friedlander at Room 7312L, 825 North Capitol Street, NE., Washington, D.C. 20426, in a sealed envelope plainly marked "Responses to Order issued August 1, 1973, Docket No. R–405" on or before August 22, 1973. Any questions regarding said forms should be directed to Mr. Friedlander, who may be reached by telephone at 202–386–5735.

2. For the purposes of this investigation any responses submitted in compliance herewith shall be made available for inspection or copying by the public; individual company information received as a result of this continued investigation will not be maintained in confidential status. The Commission cannot, in the light of Congressional demands as above set forth, assure confidential status for the data to be submitted pursuant to this order. See "Order of Modification to Authorize Compliance With Congressional Subpoena Duces Tecum" issued June 22, 1973, in this docket. It should be noted that all responses will be made at the Federal Power Commission Offices in Washington, D.C.

3. After receipt and analysis of the information requested pursuant to paragraph 1. hereof, the data upon which the responses were predicated shall be made available for audit by the Commission's staff in the offices of the producers.

4. If voluntary response to the data request herein made is not sufficient for Commission assessment of gas supply and deliverability, appropriate proceedings may be instituted, after notice, to consider whether the reporting and disclosure of uncommitted reserve data by producers should be compelled.

5. The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

APPENDIX A–1

Amerada Hess Corporation
American Petrofina Company of Texas
Amoco Production Company
Anadarko Production Company
Ashland Oil and Refining Company
Atlantic-Richfield Company
Austral Oil Company, Inc.
Aztec Oil and Gas Company
Bass Enterprises Production Company
Perry R. Bass
Belco Petroleum Corporation
Beta Development Company
Cabot Corporation
California Company, A Division of Chevron Oil Company
Champlin Petroleum Company
Chevron Oil Company, Western Division
Cities Service Oil Company
Clinton Oil Company
Coastal States Gas Producing Company
Colorado Oil and Gas Corporation
Coltexo Corporation
Columbia Gas Development Corporation
Continental Oil Company
Edwin L. Cox
Diamond Shamrock Corporation
Dorchester Gas Production Company
Exchange Oil and Gas Company
Exxon Corporation
Forest Oil Corporation
General American Oil Company of Texas
Getty Oil Company
Gulf Oil Corporation
Helmerick & Payne, Inc.
J. M. Huber Corporation
Hassie Hunt Trust
Hunt Oil Company
Imperial American Resources Fund, Inc.
The Jupiter Corporation
Kerr-McGee Corporation
King Resources Company
Lone Star Producing Company
Louisiana Land and Exploration Company
LVO Corporation
McCulloch Gas Processing Corporation
Mapco Production Company
Marathon Oil Company
Mobil Oil Corporation
Monsanto Company
Murphy Oil Corporation
Natural Gas and Oil Corporation, A Division of River Corporation
North East Blanco Development Corporation
Northern Natural Gas Producing Company
Ocean Drilling & Exploration Company
Petroleum Inc.
Phillips Petroleum Company
Pioneer Production Corporation
Placid Oil Company
Pennzoil Company
Pennzoil Producing Company
Pubco Petroleum Corporation
The Rodman Corporation
Shell Oil and Gas Company
Signal Oil and Gas Company
Signal Petroleum Successor of Lake Washington Inc. and U.S. Oil of Louisiana Inc.
Skelly Oil Company
Sohio Petroleum Company
The South Coast Corporation
Southern Natural Gas, Jr. Venture
Southern Union Gathering Company
Southern Union Production Company
Stephens Production Company
Suburban Propane Gas Corporation
Sun Oil Company
The Superior Oil Company
Tenneco Oil Company
Tennessee Gas Supply Company
Terra Resources Inc.
Texaco Inc.
Texas Gas Exploration Corporation
Texas Oil and Gas Corporation
Texas Pacific Oil Company, Inc.
Transocean Oil, Inc.
Union Oil Company of California
Union Texas Petroleum, A Division of Allied Chemical
Warren Petroleum Company, A Division of Gulf Oil Corporation

APPENDIX B–1

Q. A. Will you please state your name, the name of your company and your position with the company?

Q. B. Are you authorized by your company to furnish the information requested in the following interrogarories?

Q. C. If not, will you please state the name or names of the official or officials of your company who have such information?

Q. D. Do you understand that the designated Commission employee will combine the information obtained from you with information obtained from others and file a composite report in the public files in Docket No. R–405?

CERTIFICATION

I certify that the information hereon is correct to the best of my knowledge.

APPENDIX B–2

Q. E. Will you please state the net working interest volumes, including associated royalty interest volumes, of proved recoverable reserves of non-associated natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1972, for the areas hereinafter designated? (For the purpose of questions E–J, the term "proved reserves" is used as defined by the Committee on Natural Gas Reserves of the American Gas Association and such definition is set forth on Appendix B–8 of this letter. The volumes held "available for sale" in questions E–J are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, not company use-warranty gas or not company use-fuel and feedstock.)

What are the volumes in:

1. Alaska?
2. Northern Arkansas? [1]
3. Southern Arkansas?
4. California?
5. Offshore California? [2]
   a. Federal
   b. State
6. Colorado?
7. Illinois ?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? [2]
   a. Federal
   b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? [3]
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 5?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas? [2]
   a. Federal
   b. State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? [4]
38. What is the total of the volumes furnished in response to questions 1–37?

APPENDIX B–3

Q. F. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of associated and dissolved natural gas in MMcf, at 14.73 psia, and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1972, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? [1]
3. Southern Arkansas?
4. California?
5. Offshore California? [2]
   a. Federal
   b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? [2]
   a. Federal
   b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? [3]
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas? [2]
   a. Federal
   b. State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? [4]
38. What is the total of the volumes furnished in response to questions 1–37?

APPENDIX B–4

Q. G. Will you please state the *total* net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated and of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1972, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? [1]
3. Southern Arkansas?
4. California?
5. Offshore California? [2]
   a. Federal
   b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? [2]
   a. Federal
   b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? [3]
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9.
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas? [2]
   a. Federal
   b. State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? [4]
38. What is the total of the volumes furnished in response to questions 1–37?

APPENDIX B–5

Q. H. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated natural gas in Mcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of June 30, 1973, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? [1]
3. Southern Arkansas?
4. California?
5. Offshore California? [2]
   a. Federal
   b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? [2]
   a. Federal
   b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?

[1] For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

[2] For the purpose of this question, the offshore area shall be measured from the coastline seaward.

[3] For the purpose of questions 23–25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

[4] For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

[1] For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

[2] For the purpose of this question, the offshore area shall be measured from the coastline seaward.

[3] For the purpose of questions 23–25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E. and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

[4] For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

[1] For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

[2] For the purpose of this question, the offshore area shall be measured from the coastline seaward.

[3] For the purposes of questions 23–25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

[4] For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

23. Oklahoma Panhandle area? [3]
24. Oklahoma Anardarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas? [2]
    a. Federal
    b. State.
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? [4]
38. What is the total of the volumes furnished in response to questions 1–37?

APPENDIX B–6

Q. I. Will you please state the net working interest volumes, including royalty interest volumes, or proved recoverable reserves of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degree Fahrenheit, that your company had available for sale as of June 30, 1973, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? [1]
3. Southern Arkansas?
4. California?
5. Offshore California? [2]
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? [2]
    a. Federal
    b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? [3]
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas? [2]
    a. Federal
    b. State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? [4]
38. What is the total of the volumes furnished in response to questions 1–37?

[1] For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

[2] For the purpose of this question, the offshore area shall be measured from the coastline seaward.

[3] For the purpose of questions 23–25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

[4] For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

APPENDIX B–7

Q. J. Will you please state the *total* net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated and of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of June 30, 1973, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? [1]
3. Southern Arkansas?
4. California?
5. Offshore California? [2]
    a. Federal.
    b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? [2]
    a. Federal
    b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota
22. Ohio?
23. Oklahoma Panhandle area? [3]
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas? [2]
    a. Federal
    b. State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? [4]
38. What is the total of the volumes furnished in response to questions 1–37?

[1] For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

[2] For the purpose of this question, the offshore area shall be measured from the coastline seaward.

[3] For the purpose of questions 23–25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugeton and Anadarko by the Panhandle Meridian separating Ranges E and W.

[4] For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

APPENDIX B-8

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE [1]

(MMCF at 14.73 psia, 60° F.)

State	Volumes as of 12-31-72			Volumes as of 6-30-73		
	Non-Associated	Associated-Dissolved	Total	Non-Associated	Associated-Dissolved	Total
Alaska						
Arkansas: [2]						
Northern						
Southern						
California:						
Offshore Calif. [3]						
a. Federal						
b. State						
Colorado						
Illinois						
Indiana						
Kansas						
Kentucky						
Louisiana:						
North						
South						
Offshore [3]						
a. Federal						
b. State						
Michigan						
Mississippi						
Montana						
Nebraska						
New Mexico:						
Northwest						
Southwest						
New York						
North Dakota						
Ohio						
Oklahoma: [4]						
Panhandle						
Anadarko						
Eastern						
Pennsylvania						
Texas:						
RR Dist. No. 9						
RR Dist. No. 10						
RR Dist. Nos. 8, 8A, 7B, 7C						
RR Dist. Nos. 5, 6						
RR Dist. Nos. 1, 2, 3, 4						
Offshore [3]						
a. Federal						
b. State						
Utah						
Virginia						
West Virginia						
Wyoming						
Miscellaneous [5]						
Total						

FOOTNOTES:

[1] *Proved Reserves* are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test.

"The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contracts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contracts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the Committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

[FR Doc.73-16238 Filed 8-3-73;8:45 am]

NATIONAL MEDIATION BOARD

[29 CFR Parts 1201, 1203, 1207]

ADMINISTRATIVE FEES

Notice of Proposed Rulemaking

Pursuant to the authority contained in 44 Stat. 577, as amended, (45 U.S.C. 151-163), notice is hereby given that the National Mediation Board proposes to amend Part 1201 of its rules (13 F.R. 8740) by the addition of new §§ 1201.7-1201.9; to amend Part 1203 of its rules (13 FR 8740) by the addition of new § 1203.4; and, to revise Part 1207 of its rules (36 FR 12451) to conform new definitional language and administrative fee requirements to all boards of adjustment established pursuant to section 3 of the Railway Labor Act. These proposed amendments and revisions are set forth herein.

These proposals provide for the assessment of administrative fees for the appointment of neutrals under section 3 of the Railway Labor Act and describe the definitional language and requirements for payment and collection of said administrative fees prior to the appointment of neutrals by the National Mediation Board.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments and revisions to the National Mediation Board, Washington, DC 20572, on or before September 5, 1973.

It is the intent of the National Mediation Board to publish these rules on or about October 1, 1973, after evaluation of comments, suggestions or objections, and to make the rules effective thirty (30) days thereafter.

ROWLAND K. QUINN, Jr.,
Executive Secretary.

PART 1201—DEFINITIONS

§ 1201.7 Special board.

The term "special board" shall mean any board of adjustment created or established under section 3, Second of the Railway Labor Act.

§ 1201.8 Grievance cases.

The term "grievance case" means any dispute between an employee or group of employees and a carrier or carriers growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions. This term shall also include unresolved matters with respect to the establishment and jurisdiction of special boards.

§ 1201.9 Party.

The term "party" when used in connection with grievance cases submitted to the National Railroad Adjustment Board means either the petitioner or the respondent. When used in connection with grievance cases involving a Special Board, the term "party" means the carrier and the representative of the employees involved.

PART 1203—APPLICATIONS FOR SERVICE

§ 1203.4 Appointment of neutrals.

(a) *Request for appointment.* Requests for the services of the National Mediation Board under section 3, First of the Railway Labor Act to appoint a referee to any division of the National Railroad Adjustment Board may be made through the Staff Director-Grievances. A request under Section 3, Second to appoint a neutral member(s) to a special board may be made on NMB Form 5 (revised). Such referees and neutral member(s) shall hereinafter be referred to as "neutrals". Requests for the appointment of neutrals shall be filed with the Staff Director-Grievances of the National Mediation Board.

(b) *Format of request.* (1) Requests for the appointment of neutrals and all correspondence connected therewith should be submitted in duplicate. The request must define and list the specific grievance case(s) to be heard and name the carrier and labor organization involved.

(2) If a request is made pursuant to Section 3, Second, a copy of the agreement, if any, establishing or proposing the establishment of the special board should be included in addition to the other information required.

(c) *Administrative fee.* (1) An administrative fee of $25.00 from each party for each grievance case to be heard shall be due and payable at the time a request for the appointment of a neutral is made.

(Request for a neutral to dispose of a procedural issue will be considered one case.)

(2) Upon receipt of a request for the appointment of a neutral, where appropriate fees have not been paid, the Staff Director-Grievances shall notify all parties by registered mail return receipt, that they have thirty (30) calendar days from the receipt of notification to pay the required administrative fee.

(d) *Failure to pay administrative fee.* (1) If neither party pays the administrative fee, no neutral will be appointed.

(2) If only one party has paid the administrative fee, after notification considered in paragraph (c) of this section, a neutral will be appointed and directed that the hearings will proceed ex parte and a decision will be rendered on the relevant evidence in the ex parte submission.

(e) *Certification of grievance cases.* The Staff Director-Grievances must certify the number of grievance cases and the collection of appropriate administrative fees before the National Mediation Board will appoint a neutral. Only those grievance cases so certified shall be heard by the neutral appointed.

(f) *Addition and withdrawal of grievance cases.* (1) After the appointment of a neutral, grievance cases may be added only if appropirate administrative fees have been paid and the request has been approved by the National Mediation Board.

(2) Cases may be withdrawn, however, no refunds will be made by the Government.

(g) *Designation of special boards.* Effective November 1, 1973, all new boards of adjustment established pursuant to Section 3, Second of the Railway Labor Act will be designated special boards (S.B.) and will be numbered serially commencing with No. 1, in the order of their docketing by the National Mediation Board (e.g., S.B.–1). Cross-referencing to prior existing Public Law Boards and Special Boards of Adjustment will be made where appropriate.

(h) *Filing of agreement.* The original agreement creating the special board shall be filed with the Staff Director-Grievances National Mediation Board at the time it is executed by the parties.

(i) *Filing of awards.* Two copies of all awards made by a special board together with the record of proceedings upon which the awards are based, shall be forwarded by the neutral who is a member of the special board to the Staff Director-Grievances, National Mediation Board, for filing, safekeeping and handling under the provisions of section 3, First (q) of the Railway Labor Act.

(j) *Effective date for administrative fee.* The $25.00 administrative fee will become effective for grievance cases assigned to neutrals after November 1, 1973. Grievance cases assigned to neutrals before November 1, 1973, and not resolved by October 31, 1974, will be subject to the administrative fee as if the cases were assigned to the neutral after November 1, 1973. No hearings will be held subsequent to October 31, 1974, on cases assigned to a neutral before November 1, 1973, until appropriate administrative fees have been paid to the National Mediation Board and certification to that effect is forwarded by the National Mediation Board to all concerned.

PART 1207—SPECIAL BOARDS ESTABLISHED PURSUANT TO PUBLIC LAW 89–456

Sec.

AUTHORITY: Railway Labor Act, as amended (45 U.S.C. 151–163).

§ 1207.1 Establishment of special boards of adjustment.

Public Law 89–456 (80 Stat. 208) governs procedures to be followed by carriers and representatives of employees in the establishment and functioning of certain special boards of adjustment, hereinafter referred to as "special boards". Public Law 89–456 requires action by the National Mediation Board in the following circumstances:

(a) *Designation of party member of such special Board.* Public Law 89–456 provides that within thirty (30) days from the date a written request is made by an employee representative upon a carrier, or by a carrier upon an employee representative, for the establishment of a special board, an agreement establishing such a board shall be made. If, however, one party fails to designate a member of the board, the party making the request may ask the National Mediation Board to designate a member on behalf of the other party. Upon receipt of such request, the National Mediation Board will notify the party which failed to designate a partisan member for the establishment of a special board of the receipt of the request. The National Mediation Board will then designate a representative on behalf of the party upon whom the request was made. This representative will be an individual associated in interest with the party he is to represent. The designee, together with the member appointed by the party requesting the establishment of the special board, shall constitute the board.

(b) *Appointment of a procedural neutral to determine matters concerning the establishment and/or jurisdiction of such special board.* (1) When the members of a special board constituted in accordance with paragraph (a) of this section, for the purpose of resolving questions concerning the establishment of the board and/or its jurisdiction, are unable to resolve these matters, then and in that event, either party may ten (10) days thereafter request the National Mediation Board to appoint a neutral to determine these procedural issues.

(2) Upon receipt of this request, the National Mediation Board will notify the other party to the special board. Upon receipt from the Staff Director-Grievances of the necessary certification as described in § 1203.4(e) of this chapter, the National Mediation Board will designate a neutral to sit with the special board and resolve the procedural issue(s) in dispute. When the neutral has determined the procedural issue(s) in dispute, he shall cease to be a member of the special board.

(c) *Appointment of neutral to sit with such special boards and dispose of grievance cases.* When the members of a special board constituted by agreement of the parties, or by the appointment of a party member by the National Mediation Board as described in paragraph (a) of this section, are unable within ten (10) days after their failure to agree upon an award to agree upon the selection of a neutral, either member of the special board may request the National Mediation Board to appoint such neutral. Upon receipt from the Staff Director-Grievances of the necessary certification described in § 1203.4(e) of this chapter, the National Mediation Board will promptly make such appointment.

(d) *Docketing of special board agreements.* The National Mediation Board will docket agreements establishing special boards, when such agreements meet the requirements of coverage as specified in Section 3 of the Railway Labor Act. Docketing procedures for special boards are described in § 1203.4(g). No neutral will be appointed under paragraph (c) of this section until the agreement establishing the special board has been docketed by the National Mediation Board.

§ 1207.2 Requests for National Mediation Board action.

(a) Requests for the National Mediation Board to appoint neutrals or party representatives should be made on NMB Form 5. A request for the appointment of a neutral made under paragraphs (b) or (c) of § 1207.1 shall:

(1) Show the authority for the request;

(2) Define and list the proposed grievance cases to be heard; and

(3) Otherwise comply with § 1203.4 of this chapter.

(b) Those authorized to sign request on behalf of parties:

(1) The "representative of any craft or class of employees of a carrier", making request for National Mediation Board action, shall be either the General Chairman, Grand Lodge Officer (or corresponding officer of equivalent rank), or the Chief Executive of the representative involved. A request signed by a General Chairman or Grand Lodge Officer (or corresponding officer of equivalent rank) shall bear the approval of the Chief Executive of the employee representative.

(2) The "carrier representative" making such a request for the National Mediation Board's action shall be the highest carrier officer designated to handle matters arising under the Railway Labor Act.

§ 1207.3 Compensation of neutrals.

(a) *Neutrals appointed by the National Mediation Board.* (1) All neutrals appointed by the National Mediation Board under the provisions of § 1207.1 (b) and (c) will be compensated by the National Mediation Board in accordance with legislative authority. Certificates of appointment will be issued by the National Mediation Board in each instance.

(2) In no event will the Board issue a certificate of appointment and compensate a neutral unless the requirements of § 1203.4 of this chapter have been met.

(b) *Neutrals selected by the parties.* (1) In cases where the party members of a special board mutually agree upon a neutral to be a member of the board, the party members will jointly so notify the National Mediation Board Staff Director-Grievances. Upon receipt from the Staff Director-Grievances of the necessary certification as described in § 1203.4 (e) the National Mediation Board will issue a certificate of appointment to the neutral and arrange to compensate him as under paragraph (a) of this section.

(2) The same procedure will apply in cases where carrier and employee representatives are unable to agree upon the establishment and jurisdiction of a special board, and mutually agree upon a procedural neutral to sit with them as a member and determine such issues.

§ 1207.4 Designation as special boards, filing of agreements, and disposition of records.

(a) *Designation as special boards.* All special boards of adjustment created under Public Law 89–456 will be designated special boards and will be docketed in accordance with § 1203.4 (g) of this chapter.

(b) *Filing of agreements and disposition of records.* Filing of agreements and disposition of records for special boards created under Public Law 89–456 will be in accordance with § 1203.4 (h) and (i) of this chapter.

[FR Doc.73–15657 Filed 8–3–73;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 3]

DEPENDENCY AND INDEMNITY COMPENSATION

Supplemental Security Income

The Administrator of Veterans' Affairs proposes regulatory changes relating to computation of income in determining entitlement to benefits under programs administered by the Veterans Administration.

Public Law 92–603 (86 Stat. 1329), the Social Security Amendments of 1972, provides a new Federal program of Supplemental security income effective January 1, 1974. This program replaces as of that date, State-administered programs of aid to aged, blind and disabled under titles I, X, XIV and XVI of the Social Security Act except in Puerto Rico, Virgin Islands and Guam. Benefits under these State-administered programs were considered as charitable donations and as such excluded from computation of income. The proposed changes extend the exclusions to the new supplemental security income benefit. To effect this change it is proposed to amend Part 3, Title 38, Code of Federal Regulations, as set forth below.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (232H), Veterans Administration, Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before September 5, 1973 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address of the above room number.

The proposed changes would be effective January 1, 1974.

1. In § 3.261(a), subparagraph (17) is amended to read as follows:

§ 3.261 Character of income; exclusions and estates.

* * * * *

	Dependency (parents)	Dependency and Indemnity compensation (parents)	Pension; protected (veterans, widows and children)	Pension; Public Law 86–211 (veterans, widows and children)	See
(a) *Income:*					
* * *	* * *	* * *	* * *	* * *	
(17) Social security benefits:					§ 3.262(f).
Old age and survivors, and disability insurance.	Included	Included	Included	Included	
Charitable programs	Excluded	Excluded	do	Excluded	
Lump sum death payments	Included	do	do	do	
Supplemental security income	Excluded	Excluded	do	do	
* * *	* * *	* * *	* * *	* * *	

2. In § 3.262, paragraph (f) is amended to read as follows:

§ 3.262 Evaluation of income.

* * * * *

(f) *Social security benefits.* Old age and survivor's insurance and disability insurance under title II of the Social Security Act will be considered income as a retirement benefit under the rules contained in paragraph (e) of this section. Benefits received under noncontributory programs, such as old age assistance, aid to dependent children, and supplemental security income are subject to the rules contained in paragraph (d) of this section applicable to charitable donations. The lumpsum death payment under title II of the Social Security Act will be considered as income except in claims for dependency and indemnity compensation and for pension under Public Law 86–211 (73 Stat. 432).

* * * * *

Approved: July 31, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.73–16137 Filed 8–3–73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 416]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

National Program Policies

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that amendments to the regulations set forth in tentative form are proposed by the Acting Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments add a new Part 416, comprising the policies and procedures for payment of supplemental income to aged, blind, or disabled individuals under title XVI of the Social Security Act, as amended by section 301 of the Social Security Amendments of 1972 (P.L. 92–603), enacted October 30, 1972. These amendments to title XVI of the Social Security Act are effective January 1, 1974.

The proposed new Part 416 is designed to embrace all substantive rules and other provisions having general applicability and legal effect, that are necessary to the implementation of the statute, or relevant to an understanding of the policies affecting payments under it. In this regard, it will comprehend the full range of rules required to be published, or serving to give direction and guidance to the public; and contemplates the grouping of related provisions into appropriate subparts of Part 416 designated by letters of the alphabet. Initial publication of Part 416 is limited in content, however, to Subparts T and U pertaining to provisions for State Supplementation and State Medicaid agreements respectively.

Proposed Subpart T would establish the conditions under which the Secretary of Health, Education, and Welfare would enter into an agreement with a State to make optional supplementary payments to persons eligible (or eligible but for income) for benefits under title XVI of the Act. Proposed regulations implementing the mandatory State supple-

mentation provisions contained in P.L. 93-66 will be published at a later date.

Proposed Subpart U (Medicaid Eligibility Determinations) sets forth the conditions under which the Secretary of Health, Education, and Welfare will enter into an agreement with a State to determine eligibility for medical assistance in the case of aged, blind, or disabled individuals under such State's plan approval under title XIX of the Social Security Act.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before September 5, 1973.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendment is to be issued under the authority contained in sections 1102, 1601, 1616, 1631, and 1634, 49 Stat. 647, as amended, 86 Stat. 1465, 1474, 1475, 1478; 42 U.S.C. 1302, 1381 et seq.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: July 20, 1973.

ARTHUR E. HESS,
Acting Commissioner of Social Security.

Approved: August 2, 1973.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

Chapter III of Title 20 of the Code of Federal Regulations is amended by adding a new Part 416 to read as follows:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED (1974.....)

Subparts A—S [reserved]

Subpart T—State Supplementation Provisions; Agreements; Payments

Subpart U—Medicaid Eligibility Determinations

AUTHORITY: secs. 1102, 1601, 1616, 1631, 1634, 49 Stat. 647, as amended, 86 Stat. 1465, 1474, 1475, 1478; 42 U.S.C. 1302, 1381, et seq.

Subparts A—S [reserved]

Subpart T—State Supplementation Provisions; Agreements; Payments

§ 416.2001 State supplementation agreements; general.

Any State (or political subdivision) may, at its option, provide a payment in supplementation of the Federal supplemental security income benefit to aged, blind, or disabled individuals and/or couples. The State may, subject to the provisions of § 416.2003 enter into an agreement with the Secretary of Health, Education, and Welfare (hereinafter referred to as the Secretary) under which the Secretary will administer the State supplementary payments on behalf of a State (or political subdivision). Under such an agreement between the Secretary and a State, specific Federal and State responsibilities for administration and fiscal responsibilities of the State supplement will be stipulated. The regulations in effect for the supplemental security income program shall be applicable in the Federal administration of a State supplementary payment program by the Secretary except as provided in this subpart. Those rules regarding eligibility and payment will be sufficiently uniform to allow the Secretary to administer both the basic Federal benefit and the State supplementary payment efficiently and effectively.

§ 416.2003 Essentials of the State supplementation agreements.

(a) *Payments.* Any agreement between the Secretary and a State made pursuant to § 416.2001 must provide that the State supplementary payments are made to all individuals and/or couples who are:

(1) Receiving (or at the option of the State would, but for the amount of their income, be eligible to receive) supplemental security income benefits under title XVI of the Social Security Act, and

(2) Within the variations and categories (as defined in § 416.2052(c)) for which the State (or political subdivision) wishes to provide a supplementary payment, and

(3) Residing, subject to the provisions of paragraph (f) of this section, in such State (or political subdivision thereof).

(b) *Payment level.* The level of State supplementary payments may vary for each category the State elects to include in its Federally administered supplement. These categorical variations of payment levels must be specified in the agreement between the Secretary and the State.

(1) *Geographical variations.* A State may elect to include two different geographical variations. A third may be elected if adequate justification, e.g., substantial differences in living costs, can be demonstrated. All such variations must be readily identifiable by county or ZIP code or other readily identifiable factor (§ 416.2060).

(2) *Living arrangements.* In addition, a State may elect no more than five variations in recognition of the different needs which result from various living arrangements. Types of living arrangements for which variations shall be allowed include:

(i) Living alone,

(ii) Living with an ineligible spouse,

(iii) Personal care facility,

(iv) Domiciliary or congregate care facility.

(c) *Relationship to actual cost differences.* Under the agreement, variations in State supplementary payment levels will be permitted for each living arrangement the State elects. These differences must be based on rational distinctions between both the types of living arrangements and the costs of those arrangements.

(d) *Earned and unearned income.* No less than the amounts of earned or unearned income which were excluded in determining eligibility for or amount of a title XVI supplemental security income benefit must be excludable by a State in the Federal-State agreement for purposes of determining eligibility for or amount of the State supplementary payment.

(e) *Additional income exclusions.* Any State (or political subdivisions thereof) may, at its option, specify in the agreement amounts of earned or unearned income in addition to the amounts it is required to exclude under paragraph (d) of this section in determining an individual's eligibility for State supplementary payments.

(f) *Residency requirement.* A State or political subdivision may impose, as a condition of eligibility, a residency requirement which excludes from eligibility for State supplementary payment any individual who has resided in such State (or political subdivision thereof) for less than a minimum period prescribed by the State. Any such residency requirement will be specified in the agreement.

(g) *Lien and relative responsibility.* A State which elects Federal administration of its supplementary payments may place a lien upon property of an individual as a consequence of the receipt of such payments or may require that a relative of the individual contribute to

a reasonable extent to the support of the individual, providing it is stated in the agreement that:

(1) The Secretary has determined that the specific State laws and their enforcement are consistent with the supplemental security income program purpose of providing unencumbered cash payments to recipients; and

(2) The Federal Government is not involved in the administration of such laws and will not vary the State supplementary payment amount it makes to comply with such laws; and

(3) Neither the basic Federal benefit nor any part of the State supplementary payment financed by Federal funds will be subject to the liens or encumbrances of such laws.

(h) *Audit and verification.* The agreement between a State and the Secretary will specify the dollar amount(s) of the adjusted payment level(s), as defined in § 416.2014. The non-Federal share of expenditures for calendar year 1972 as defined in § 416.2012 will also be stated in the agreement. These amounts, if not known at the time the agreement is entered into, may be provisionally agreed upon and subsequently verified by Department of Health, Education, and Welfare audits.

(i) *Administrative costs.* The agreement between the State and the Secretary shall specify that all administrative costs incurred by the Secretary will be paid by the Federal Government.

(j) *Agreement period.* The agreement period for a State which, prior to January 1, 1974, elects Federal administration of its supplement will extend from January 1, 1974, through June 30, 1974. The agreement will be automatically renewed for a period of 1 year unless either the State or the Secretary gives written notice not to renew, at least 120 days before the beginning of the new period. For a State to elect Federal administration after January 1, 1974, it must notify the Secretary of its intent to enter into an agreement, at least 120 days before the first day of the month for which it wishes Federal administration to begin, and complete such agreement at least 30 days before such day. Such a State's initial agreement period will run until the following June 30 at which time its agreement will be automatically renewed for 1 year unless it has given written notice not to renew at least 120 days before the end of that period.

(k) *Modification or termination.* The agreement may be modified or terminated by either party. A 120-day prior notice must be given by the initiating party for such modifications or terminations. Modifications must be agreed to by both parties.

§ 416.2005 State funds advanced for supplementary payments.

(a) *Advance payment and adjustment.* Any State which has entered into an agreement with the Secretary which provides for Federal administration of such State's supplementation program shall pay to the Secretary an amount equal to the Secretary's estimate of State supplementary payments for any month which shall be made by the Secretary on behalf of such State. In order for the Secretary to make State supplementary payments as provided by the agreement, the necessary amount of State funds must be on deposit with the Secretary prior to the month for which the supplementary payments are to be made on behalf of such State. The amount of State funds paid to the Secretary for State supplementary payments will be adjusted as necessary to maintain the balance with State supplementary payments paid out by the Secretary on behalf of the State.

(b) *Accounting of State funds.* (1) The Secretary shall provide an accounting of State funds received and paid as State supplementary payments within 3 calendar months following:

(i) The close of each fiscal year to which the agreement applies; or

(ii) The termination of such agreement if the agreement is terminated other than at the close of the fiscal year.

(2) Adjustment will be made because of State funds due and payable or amounts of State funds recovered for calendar months for which the agreement was in effect. No interest shall be charged or payable by the Secretary or the State with respect to the adjustment and accounting of State supplementary funds.

(c) *State audit.* Any State entering into an agreement with the Secretary which provides for Federal administration of the State's supplementary payments may audit the payments made by the Secretary on behalf of such State. State audit of supplementary payments made by the Secretary, in accordance with the agreement, is limited to no more than one such audit in each fiscal year provided in the agreement, and shall be made at State expense. Resolution of audit findings shall be made in accordance with the provisions of the State's agreement with the Secretary. In addition, the State and the Secretary may further agree to provide for interim quality assurance procedures compatible with efficient administration where justified by circumstances.

§ 416.2010 Limitation of fiscal liability of States.

(a) *Fiscal limits.* The amount payable to the Secretary by a State for the amount of the supplementary payments made on its behalf for any fiscal year pursuant to the State's agreement with the Secretary as described in § 416.2001 shall not exceed the total amount of the State's calendar year 1972 non-Federal share of expenditures as aid or assistance under the State plan(s) approved under titles I, X, XIV, or XVI of the Social Security Act (hereinafter referred to as the Act), as set forth in § 416.2012.

(b) *Less than full fiscal year period.* Should the agreement cover less than a full fiscal year, the limitation on the amount of the State's fiscal liability protection is the same as described in paragraph (a) of this section. The only exception is the fiscal liability protection for States for January through June of 1974 which will be determined by dividing the calendar year 1972 non-Federal share of expenditures as described in § 416.2012 by one-half.

(c) *State fiscal projection.* Except as provided in paragraph (e) of this section, the provisions of paragraphs (a) and (b) of this section shall apply only to that portion of the State supplementary payments made by the Secretary on behalf of a State under an agreement for any month which do not exceed, in the case of any individual, the difference between:

(1) The adjusted payment level as defined in § 416.2014 under the appropriate approved State plan(s) as in effect for January 1972, and

(2) The benefits paid for such month under title XVI plus any income not excluded under the provisions of section 1612 of the Act.

(d) *Unprotected payments.* Except as provided in paragraph (e) of this section, the portion of the State supplementary payment which is, in the case of any individual, in excess of this difference between the State's January 1972 adjusted payment level and the Federal benefit (plus income counted under Federal eligibility rules) will be made entirely at State expense.

(e) *Credits and debits.* For purposes of determining the extent of protected payments where State supplementary payments are paid at varying levels, to the extent that payments above the adjusted payment level do not exceed the difference by which variations in payment levels (variant payment levels) are established below the adjusted payment level, payments count toward the amount of a State's fiscal liability protection. This provision is explained as follows:

(1) The variant payment levels must be both above and below the adjusted payment level. The variant payment level is the sum of the Federal benefit plus income counted under Federal eligibility rules plus the State supplementary payment.

(2) In each case where the variant payment level is below the adjusted payment level, a credit will be given to the extent of the difference between the adjusted payment level and the variant payment level. While countable income affects the amount of the State's supplementary payment, it has no effect on the amount of credit given. Cumulative credit will be given for the number of cases in each variation below the adjusted payment level. The credit given to each case within such a variation is always the same because it is not adjusted to reflect payments that are reduced due to income.

(3) In each case where the variant payment level is above the adjusted payment level and a State supplementary payment is made which equals either the full or partial difference between the variant payment level and the adjusted payment level, a debit will be given to the extent of such difference. A cumulative debit amount will be given for such cases in each variation that exceeds the adjusted payment level.

(4) Neither a credit nor a debit is applicable to those cases where a State's

variant payment level is equal to the adjusted payment level.

(5) For those States which apply additional income exclusions as explained in § 416.2003(e), the computation of credits and debits will be made as if supplementary payments had been made without regard to such additional income exclusions.

(6) For purposes of paragraph (e)(4) of this section, credits may be applied to debits at any time within a fiscal year. The amount that would count toward a State's fiscal liability protection once the non-Federal share of 1972 expenditures has been met will be determined by the extent to which total credits within each category of supplementation equal total debits within each category of supplementation in a fiscal year. The amount by which total debits exceed total credits will be borne entirely at State expense.

(f) *Payment variations.* States which supplement and whose adjusted payment level exceeds $130 in the case of eligible individuals and $195 in the case of eligible couples ($140 and $210 respectively effective July 1, 1974) will be afforded the limitation on fiscal liability protection when the amounts of such State supplemental payments vary by aged, blind, or disabled individuals or couples and by geographic locales or living arrangements as described in § 416.2003, provided that such payments are made to each individual or eligible couple within a particular category subject to the residency requirement that a State may opt to impose. The limitation on fiscal liability provision will not apply to any State supplementary payments which are made to individuals or couples within any category for which the January 1972 adjusted payment level was less than, or equal to, the supplemental security income benefit level.

(g) *Fiscal limit not applicable.* The provisions of paragraph (a) of this section shall not apply to the amount of any State supplementary payment which results from the application of additional income exclusions specified by the State in its agreement with the Secretary (see § 416.2003(e)). In addition, the provisions of paragraph (a) of this section shall not apply with respect to supplementary payments to any individual or couple who is both:

(1) Not required to be included in the agreement administered by the Secretary (see § 416.2003(a)(1)), and

(2) Would have been ineligible (for reasons other than income) for payments under the appropriate approved State plan as in effect for January 1972.

§ 416.2012 Non-Federal share of expenditures; defined.

The term "non-Federal" share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of a State approved under titles I, X, XIV, or XVI of the Act means the difference between:

(a) The total matchable expenditures as aid or assistance for such plans (excluding expenditures authorized under section 1119 of the Act as in effect prior to October 30, 1972, for repairing the home of an individual who was receiving aid or assistance under one of the appropriate approved State plans); and

(b) The total of the amounts determined under sections 3, 1003, 1118, 1403, and 1603 of the Act and under section 9 of the Act of April 19, 1950, for such State with respect to such expenditures in such quarters.

§ 416.2014 Adjusted payment level.

(a) *Adjusted payment level; defined.* "Adjusted payment level" means the amount of the money payment under the appropriate State plan(s) approved under titles I, X, XIV, or XVI of the Social Security Act to individuals within a category who had no other income (excluding eligible recipients who received no payments) for the month of January 1972; plus (at State option) an amount no greater than the sum of a payment level modification (as described in paragraph (d) of this section) and (at State option) the bonus value of food stamps in the State for January 1972 (as described in paragraph (e) of this section).

(1) *Amount of money payment.* The amount of the money payment will be determined by computing the average of the cash payments made for basic needs and special needs, (but excluding cases involving only personal needs payments to recipients residing in medical facilities, and payments that included an amount for the needs of an "essential person") to individuals who were not living in the household of another, whose support and maintenance was not contributed to by another, and who had no other income. In addition, States may include domiciliary care payments to individuals with no other income (within each category).

(2) *No other income.* Cases in which income which was totally disregarded by a State in determining the amount of the money payment will be considered cases in which there was "no other income." For these purposes, in-kind or imputed income will be treated the same as cash income.

(b) *Adjusted payment levels for couples.* With respect to couples, the adjusted payment level will be determined by multiplying the sum of the average money payment to individuals in the appropriate category (as defined in § 416.2052(c)) and the payment level modification for that category by the ratio of the payment standard for a couple to the payment standard for an individual in that category, and then adding the bonus value of food stamps to the result. In no case, however, can the ratio of the payment standards be smaller than 1.5 or greater than 2.0; actual ratios less than 1.5 shall be raised to 1.5; actual ratios in excess of 2.0 shall be lowered to 2.0.

(c) *Payment standard.* "Payment standard" (PS) means the amount specified as the "payment standard" in the approved State plan as in effect for January 1972 under titles I, X, XIV, or XVI of the Act.

(d) *Payment level modification.* "Payment level modification (PLM) with respect to any State plan means the amount by which a State which paid less than 100 percent of its standard of need could have increased its January 1972 money payments for basic needs to persons with no other income by reducing the need standard and raising the maximum amount payable so that the increased payments equal 100 percent of the new standard without increasing the non-Federal share of expenditures under titles I, X, XIV, and XVI of the Act for calendar year 1972.

(1) *Maximum amount payable.* The "maximum amount payable" (M) means the amount specified as the largest amount payable for basic needs in the approved State plan as in effect for January 1972 under title I, X, XIV, or XVI of the Act.

(2) *Computing the payment level modification.* The payment level modification shall be determined by computing a Reduced Payment Standard (RS) and subtracting the maximum amount payable (PLM=RS—M).

(i) The Reduced Payment Standard shall be computed (within a category) by use of the following formula:

$$RS=\frac{TP+TCI}{TR}$$

(TP=Total Payments for January 1972 for basic needs,
TCI=Total Countable Incomes of recipients for January 1972, and
TR=Total Number of Recipients for January 1972.)

(ii) For a State entitled to a payment level modification and for which State total countable incomes of recipients for January 1972 cannot be determined, TCI may be estimated using the following formula:

$$TCI=TN-\frac{TP\ (PS)}{M}.$$

TN=PS×TR=Total Needs for January 1972.)

(e) *Bonus value of food stamps.* (1) The term "bonus value of food stamps in a State for January 1972" means (with respect to any individual) the difference between:

(i) The face value of the coupon allotment which would have been provided to such individual under the Food Stamp Act of 1964 (7 U.S.C. 2011 ff.) for January 1972, and

(ii) The charge which such individual would have paid for such coupon allotment.

(2) *Income schedules.* The total face value of such coupon allotment and the cost thereof for January 1972 shall be determined in accordance with the schedules prescribed by the Secretary of Agriculture. Such schedules for 48 States and the District of Columbia are those published in the FEDERAL REGISTER on January 26, 1972 (37 FR 1180). Such schedules for Alaska and Hawaii are those published in the FEDERAL REGISTER on March 3, 1972 (37 FR 4456–58). The schedule as applicable to a household of one shall be used with respect to an individual, and the schedule as applicable

to a household of two shall be used with respect to a couple.

(3) *Determining bonus value.* In determining the charge such individual (or couple) would have paid for such coupon allotment, the individual's (or couple's) monthly net income will be considered to equal the State's January 1972 adjusted payment level as set forth in § 416.2014, including the results of any payment level modification as described in § 416.2014(d), but excluding the bonus value of food stamps.

§ 416.2051 State supplementary payments; general.

(a) *Payments excluded from income.* Any payments made by a State (or one of its political subdivisions) to a recipient of supplemental security income benefits (or to an individual who would be eligible for such benefits except for income), will be excluded from income when determining the amount of those benefits, if the payments are made:

(1) In supplementation of the Federal supplemental security income benefits; i.e., as a complement to the Federal benefit amount, thereby increasing the amount of income available to the recipient to meet his needs; and

(2) Regularly, on a periodic recurring, or routine basis of at least once a quarter; or made to a specific group or class of individuals in similar circumstances or situations (such as burnouts, utility turnoffs, evictions); and

(3) In cash, which may be actual currency or any negotiable instrument, convertible into cash upon demand; and

(4) In an amount based on the need or income of an individual or couple.

(b) *Administration.* If the State elects to provide assistance and the payments meet the criteria of paragraph (a) of this section, it has the option of administering the payment itself, or entering into an agreement with the Secretary to administer the payment in its behalf. If the State chooses to administer the payment itself, it may establish its own criteria for determining eligibility requirements as well as the amounts.

(c) *Federal administration.* If the State elects Federal administration, it will have to agree to those eligibility rules and payment amounts pursuant to the agreement entered into between the State and the Secretary and which the Secretary finds necessary to achieve efficient and effective administration of both the supplemental security income benefit and the State supplementary payment. However, the State will be able to establish certain variations in its payment amounts, within limits prescribed by the Secretary.

§ 416.2052 Federal administration of State supplementary payments.

(a) *Secretary paying supplementary payments.* As specified in § 416.2001, a State may choose to have the Secretary administer its supplementary payments. If it so chooses, it will enter into an agreement whereby the Secretary will pay a supplementary payment on the State's behalf to all individuals or couples eligible to receive (or at the State's option those who would but for their income be eligible to receive) a Federal benefit within those categories (aged, blind, or disabled) for which the State elects to make a supplementary payment, subject to those limitations on eligibility found in § 416.2058.

(b) *Recipients.* For purposes of the State supplementary payment:

(1) The terms "eligible individual" and "eligible couple" (i.e., eligible individual and eligible spouse) are the same as for the supplemental security income benefit as described in section 1614 of the Act.

(2) The terms "aged, blind, and disabled" are the same as for the supplemental security income benefit as described in section 1614 of the Act.

(c) *Nine categories possible.* A State may elect Federal administration of its supplementary payments for up to nine categories, depending on the assistance titles in effect in that State in January 1972 (i.e., titles I, X, XIV, or XVI). It can have no more than two categories (one for individuals and one for couples) for each title in effect for January 1972:

(1) Since a State with a title XVI had just the one title in effect, it can supplement only to two categories, the individual (aged, blind, or disabled), the couple (both of whom are aged, blind, or disabled).

(2) Other States could supplement up to nine categories, depending on the plans they had in effect. Six of these categories would be for:

(i) Aged Individual,
(ii) Aged Couple,
(iii) Blind Individual,
(iv) Blind Couple,
(v) Disabled Individual,
(vi) Disabled Couple

(3) In addition to those enumerated in paragraph (c)(2) of this section, there are three additional couple categories for which a State may elect to provide a Federally administered supplement. These categories are created when one individual in the couple is:

(1) Aged and the other blind, or
(2) Aged and the other disabled, or
(3) Blind and the other disabled.

(d) *Residency.* No Federally administered payments can be made to individuals or couples who do not meet the State (or political subdivision's) minimum residency requirements as specified in the Federal-State agreement (§ 416.2003). These residency requirements pertain only to the supplemental payment; they do not affect the eligibility for and receipt of the Federal supplemental security benefit amount for which the individual or couple is eligible.

§ 416.2054 Establishing eligibility.

(a) *Applications.* The supplemental security income application form will serve as the application form for any Federally administered State supplementary payment (except as specified under § 416.2065). In order to apply for such a State supplementary payment, an applicant must first file for a supplemental security income benefit. Recipients of assistance under a State plan for December 1973 who are transferred to the Federal payment system during the conversion period do not have to file an application. The conversion will be based on established State records; however, a supplemental application or statement will be required where it is necessary to gather additional information that is not on the State records or where there is a significant difference between the State records and those of the Social Security Administration.

(b) *Evidentiary requirements.* The evidentiary requirements and developmental procedures of the supplemental security income program will be utilized (in the same manner and to the same extent) for the purposes of a Federally administered State supplementary payments program.

(c) *Determination.* As under the Federal supplemental security income program, eligibility for and the amount of the State supplementary payment will be determined on a calendar quarter basis, except for the quarter of application. If an application is filed in the second or third month of a calendar quarter, eligibility and payment amount will be determined and payment will be made for the remaining month or months of that calendar quarter. An applicant cannot be eligible for a Federally administered State supplementary payment for any month prior to the month in which his application is filed for the Federal supplemental security income benefit.

(d) *Categories; aged, blind, disabled.* An applicant will be deemed to have filed for the State supplementary payment amount provided for the category under which his application for a Federal supplemental security income benefit is filed. As in the Federal supplemental security income program, an individual who establishes eligibility as a blind or disabled individual, and continually remains on the rolls, will continue to be considered blind or disabled after he attains age 65. An individual who is over age 65 at the time of his initial application will be eligible only for the State supplementary payment provided for the aged category.

(e) *Changes of category.* In States where the supplementary payment provided for the aged category is higher than the State supplement for the blind or disabled category, the States shall permit blind or disabled recipients to reapply for the State supplementary payment on the basis of age.

§ 416.2058 Limitations on eligibility.

Notwithstanding any other provision of this subpart, the eligibility of an individual (or couple) for State supplementary payments administered by the Federal Government in accordance with this subpart shall be limited as follows:

(a) *Inmate of public institution.* No person shall be eligible for a State supplementary payment with respect to any month if, throughout such month, he is an inmate of a public institution.

(b) *Supported by title XIX funds.* No person who is, throughout any month, in a medical facility receiving payments with respect to such person under a State plan approved under title XIX at a level exceeding 50 percent of the cost of such person's care, or in a medical facility which is not certified under the State's title XIX program, shall be eligible for a State supplementary payment for that month.

(c) *Ineligible persons.* No person who is ineligible for a Federal benefit under sections 1611(e) (1), (2), (3), and (f) of the Act (failure to file; refuses treatment for drug addiction or alcoholism; outside the United States) or section 1615 of the Act (refuses vocational rehabilitation) or other reasons (other than the amount of income) shall be eligible for a State supplementary payment under the provisions of this subpart.

§ 416.2060 Amount of State supplementary payments.

(a) *Maximum amount.* There is no restriction on the amount of a State supplementary payment that the Federal Government will administer on behalf of a State. The amount of such State supplementary payment will be specified in the State's agreement with the Secretary. (See § 416.2003.)

(b) *Minimum amount.* The Federal Government will not administer State supplementary payments in amounts less than $1 per month, i.e., $3 per quarter. Hence, supplementary payment amounts of less than $1 will be raised to a dollar.

(c) *Variations in payment amounts.* The amounts of State supplementary payments made to eligible individuals and couples may vary subject to the provisions of § 416.2003(b)–(e).

(d) *Effect of countable income on payment amounts.* "Countable income" of an eligible individual or eligible couple is determined in the same manner as such income is determined under the title XVI supplemental security income program. Countable income will affect the amount of the State supplementary payments as follows:

(1) Countable income will first be deducted from the Federal benefit amount payable to an eligible individual or eligible couple.

(2) If countable income is equal to or less than the amount of the Federal benefit rate, the full amount of the State supplementary payment as specified in the Federal agreement will be made.

(3) If countable income exceeds the amount of the Federal benefit rate, the State supplementary payment will be reduced by the amount of such excess.

(4) No State supplementary payment will be made where countable income is equal to or exceeds the sum of the Federal benefit rate and the State supplementary payment rate.

(e) *Effect of additional income exclusions on payment amounts.* A State has the option of excluding types and amounts of earned or unearned income in addition to the amounts it is required to exclude under § 416.2003(d) in determining a person's eligibility for State supplementary payments. Such additional income exclusions affect the amount of the State supplementary payments as follows:

(1) Countable income (as determined under the Federal eligibility rules) will first be deducted from the Federal benefit amount payable to an eligible individual or eligible couple.

(2) Such countable income is then reduced by the amount of the additional income exclusion specified by the State.

(3) If the remaining countable income is equal to or less than the amount of the Federal benefit, the full amount of the State supplementary payment will be made.

(4) If the remaining countable income exceeds the amount of the Federal benefit, the State supplementary payment will be reduced by the amount of such excess. (See § 416.2010(g) for the effect of additional income exclusions on a State's fiscal liability protection.)

(f) *Payment procedures.* A Federally administered State supplementary payment will be made on a monthly basis and will be included in the same check as a Federal benefit that is payable. A State supplementary payment shall be for the same month as the Federal benefit.

§ 416.2064 Overpayments and underpayments.

(a) *Overpayments.* Upon determination that an overpayment has been made, adjustments will be made against future State supplementary payments for which the person is entitled. Recoupment procedures in effect for recovery of supplemental security income benefit overpayments shall also apply to the recovery of State supplementary overpaid amounts. If the overpaid person's entitlement to the State supplementary payments is terminated prior to recoupment of the overpaid State supplementary payment amount the person's record will be annotated (specifying the amount of the overpayment) to permit recoupment if the person becomes reentitled to State supplementary payments. If the overpaid person dies prior to recoupment of the overpaid amount the State will be notified so that recoupment may be made from the person's estate.

(b) *Underpayments.* Upon determination that an underpayment of State supplementary payments is due and payable, the underpaid amount shall be paid to the underpaid claimant directly, or his representative, as may be specified in the agreement. If the underpaid person dies before receiving the underpaid amount of State supplementary payment the underpaid amount shall be paid to the claimant's eligible spouse. If the deceased claimant has no eligible spouse, no payment of the underpaid amount shall be made.

§ 416.2065 Waiver of State supplementary payments.

(a) *Waiver request in writing.* Any individual who is eligible to receive State supplementary payments or who would be eligible to receive such State supplementary payments may waive his right to receive such payments if the person makes a written request for waiver of State supplementary payments.

(b) *Revocation of waiver.* Any individual who has waived State supplementary payments may revoke such waiver at any time by making a written request to any social security office. The revocation will be effective the month in which it is filed. The date such request is received in a social security office or the postmarked date, if the written request was mailed, will be the filing date, whichever is earlier.

Subpart U—Medicaid Eligibility Determinations

§ 416.2101 Authority to perform State Medicaid functions.

(a) *Section 1634 of the Act.* Pursuant to section 1634 of the Act, the Secretary may, should a State so desire, enter into an agreement with that State to determine the eligibility for medical assistance on behalf of such State in the case of aged, blind, and disabled individuals under such State's medical assistance plan approved for Federal financial participation under title XIX of the Act.

(b) *Data exchange.* Pursuant to authority under the Intergovernmental Cooperation Act (42 U.S.C. 4222), the Secretary will enter into an agreement with a State, if the State so desires, to provide information obtained through the administration of the title XVI program and other additional assistance or support related to the administration of the State's medical assistance programs where administratively feasible and subject to such limitations as may be necessary for the efficient and effective administration of the title XVI program.

§ 416.2104 Renewal, termination, or modification of agreement.

(a) *Terms of agreement.* An agreement between the Secretary and a State described in § 416.2101 remains in effect for the term specified in the agreement and shall be automatically renewed for a period of 1 year except that the Secretary or the State may terminate the agreement by written notice at least 120 days in advance of the proposed termination date.

(b) *Modification or termination of agreement.* The Secretary or the State may modify or terminate the agreement at any time by mutual consent.

§ 416.2107 Effect of agreement on existing Federal-State responsibilities.

The terms and conditions for approval of a State's medical assistance plan under title XIX of the Act and the State's responsibility under such plan remain unchanged except to the extent otherwise specifically provided for in the agreement. Thus, a State will continue to be responsible for any aspects of medical assistance eligibility determinations and other functions not specifically undertaken to be performed by the Secretary pursuant to the agreement. Functions permitted or required by title XIX

of the Act that shall remain as State responsibilities include, but are not limited to:

(a) Issuance of emergency authorizations for medical service pending processing of applications;

(b) Outstationing of medical assistance eligibility workers at providers of medical services to receive Medicaid applications;

(c) Establishment, administration, and operation of the cost-sharing systems (including spend-down computations) for medical assistance recipients;

(d) Issuance, control, and termination of medical assistance identification cards and other notices to individuals within the purview of the agreement;

(e) Determination of retroactive eligibility for medical assistance.

§ 416.2111 Conditions for agreement to determine eligibility for medical assistance.

As a condition for having the Secretary agree to determine or redetermine eligibility for medical assistance under a State's approved plan, the plan must specify that:

(a) Such eligibility is to be determined using the criteria established under title XVI of the Act to determine eligibility for benefits as a disabled, blind, or aged individual; and

(b) Such Medicaid eligibility is provided to all individuals of a particular category (i.e., aged, blind, or disabled) eligible for benefits under title XVI of the Act.

§ 416.2112 Limitations as to individuals covered by agreement to determine eligibility for medical assistance.

Determinations of Medicaid eligibility pursuant to an agreement are limited to individuals who have been determined to be eligible individuals under title XVI of the Act or who are receiving a State supplementary payment which is federally administered, or both (see § 416.2003 and § 416.2052 in connection with federally administered State supplementary payments).

§ 416.2116 Terms of agreement; functions performed by the Secretary.

Under the agreement the Secretary may perform the following:

(a) *Determinations and redeterminations.* (1) Make determinations of eligibility for medical assistance pursuant to the agreement on behalf of a State so requesting;

(2) Make redeterminations of eligibility for medical assistance as frequently and to the same extent that redeterminations of eligibility for benefits are made under the title XVI program or as frequently and to the same extent as may be mutually agreed upon.

(b) *Notification to States.* Notify the State in a manner mutually agreed upon concerning:

(1) Individuals determined or redetermined to be eligible to receive a benefit under title XVI or a federally administered State supplementary payment, or both;

(2) Changes in status of individuals covered under the agreement;

(3) Individuals determined or redetermined to be ineligible to receive a benefit under title XVI or a federally administered State supplementary payment, or both.

(c) *Quality reviews and program integrity reviews.* Apply the same procedures established for the performance of quality assurance reviews and program integrity reviews for the title XVI program to determinations made under the agreement and to notify the State of findings that affect the status of individuals covered under the agreement.

(d) *Other items of mutual concern.* Other matters of mutual concern relevant to the purpose of the agreement or related functions may, in the Secretary's discretion, be incorporated into its terms.

§ 416.2118 State requests for studies, evaluations, and other information or assistance.

(a) *Studies and evaluations.* The Secretary may, in a separate agreement, agree to conduct such studies and evaluations as the State may request, provided that:

(1) The costs of such studies and evaluations shall be borne by the State, and

(2) The Secretary determines that any such study or evaluation requested by the State is consistent with effective and efficient administration of the title XVI program and does not interfere with the administration of that program.

(b) *Information sharing.* The Secretary may provide the State with information obtained upon an application for title XVI benefits which may be relevant to medical assistance eligibility determinations in a manner mutually agreed upon.

(c) *Coordination with title XVI program.* The Secretary may provide such other assistance with respect to coordination between the State medical assistance programs and the title XVI program, such as the gathering of additional information required by a State to make eligibility determinations for medical assistance, the referral of applicants under the title XVI program to the appropriate State agency, and the placement of State medical assistance workers in offices of the Social Security Administration, as may be administratively feasible and subject to such limitations as may be necessary for the efficient and effective administration of the title XVI program.

§ 416.2119 Functions performed by the State.

(a) *Agreements for Federal determination of eligibility for medical assistance.* The State shall make a timely payment to the Secretary as specified in the agreement of an amount equal to one-half of the administrative costs incurred in carrying out the agreement. In determining such administrative costs only the costs that are necessitated by the agreement and that are additional to the Secretary's costs incurred in administering the title XVI program shall be included.

(b) *Agreements for data exchange.* The State shall make a timely payment to the Secretary, as specified in the agreement of the identifiable costs incurred in carrying out the agreement. Only those costs, necessitated by the agreement that are additional to the Secretary's costs incurred in administering the title XVI program shall be included.

(c) *Notification to Secretary of events affecting eligibility.* The State shall notify the Secretary of all necessary information received concerning the occurrence of events affecting the eligibility status of individuals within the purview of the agreement.

[FR Doc.73-16236 Filed 8-3-73;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 DEFENSE

Department of the Army, Corps of Engineers

COASTAL ENGINEERING RESEARCH BOARD

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given of a meeting of the consultants to the Coastal Engineering Research Board on August 7-8, 1973.

This meeting will be held at the Casa Sirena Motor Hotel, Channel Islands Harbor, Oxnard, California, from 0900 hours to 1600 hours on 7 August 1973 and at the Point Mugu Naval Air Station from 0830 to 1145 on 8 August.

The August 7 session will be devoted to technical discussions of prototype experimental groin research, radioisotopic sand tracer studies, inner continental shelf studies, and wave measurements.

The 8 August session will be a field inspection of a prototype experimental groin on the grounds of the Point Mugu Naval Air Station.

The sessions will be open to the public subject to the following limitations:

1. Seating capacity of the meeting room limits public attendance to not more than 20 people. Advance notice of intent to attend is requested in order to assure adequate and appropriate arrangements.

2. Written statements may be submitted prior to, or up to 30 days following the meeting, but oral participation by the public is precluded because of the time schedule.

3. Each person planning to attend the field inspection trip at Moint Mugu must: furnish his own transportation, leave his vehicle outside the Point Mugu Naval Air Station, enter by Gate 5 at Arnold Road, and comply with Point Mugu Naval Air Station restrictions.

Inquiries may be addressed to Colonel James L. Trayers, Commander and Director, U.S. Army Coastal Engineering Research Center, Kingman Building, Fort Belvoir, Virginia 22060; telephone 202-325-7000.

For the Adjutant General.

JULY 27, 1973.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.73-16088 Filed 8-3-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[INT FES 73-40]

BANDELIER NATIONAL MONUMENT, N.M.

Proposed Wilderness Classification; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental statement for proposed Wilderness Classification for Bandelier National Monument, New Mexico.

The final environmental statement considers the designation of 21,110 acres of Bandelier National Monument as wilderness.

Copies are available from or for inspection at the following locations:

Southwest Regional Office
National Park Service
Old Santa Fe Trail
P.O. Box 728
Santa Fe, New Mexico 87501

Office of the Superintendent
Bandelier National Monument
Los Alamos, New Mexico 87544

Dated: July 26, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary of the Interior.

[FR Doc.73-16102 Filed 8-3-73;8:45 am]

[INT DES 73-47]

OLYMPIC NATIONAL PARK, WASH.

Master Plan; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for a Master Plan for Olympic National Park, Washington.

The statement considers the management and use of Olympic National Park.

Written comments on the environmental statement are invited and will be accepted on or before October 5, 1973. Comments should be addressed to the Regional Director, Pacific Northwest Region, or the Superintendent, Olympic National Park at the addresses given below.

Copies are available from or for inspection at the following locations:

Pacific Northwest Region
National Park Service
523 Fourth and Pike Building
Seattle, Washington 98101

Superintendent
Olympic National Park
600 E. Park Avenue
Port Angeles, Washington 98362

Dated: July 26, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary of the Interior.

[FR Doc.73-16101 Filed 8-3-73;8:45 am]

[INT DES 73-48]

OLYMPIC NATIONAL PARK, WASHINGTON

Wilderness Proposal; Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed wilderness designation for Olympic National Park, Washington, and invites written comment to be submitted on or before October 5, 1973. Written comments should be addressed to the Regional Director, Pacific Northwest Region, or the Superintendent, Olympic National Park at the addresses given below.

The draft environmental statement considers the designation of 834,890 acres in Olympic National Park as wilderness.

Copies are available from or for inspection at the following locations:

Pacific Northwest Region
National Park Service
523 Fourth and Pike Building
Seattle, Washington 98101

Superintendent
Olympic National Park
600 E. Park Avenue
Port Angeles, Washington 98362

Dated: July 26, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary of the Interior.

[FR Doc.73-16100 Filed 8-3-73;8:45 am]

[INT FES 73-41]

THEODORE ROOSEVELT NATIONAL MEMORIAL PARK, N. DAK.

Proposed Wilderness Classification; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the

Department of the Interior has prepared a final environmental statement for proposed wilderness classification for Theodore Roosevelt National Memorial Park, North Dakota.

The final environmental statement considers the designation of 28,335 acres of Theodore Roosevelt National Memorial Park as Wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, Nebraska 68102

Theodore Roosevelt National Memorial Park
Medora
North Dakota 58645

Dated: July 26, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary of the Interior.

[FR Doc.73-16103 Filed 8-3-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

ALPINE LAKES AREA

Recommended Land Use Plan; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for a Recommended Land Use Plan for the Alpine Lakes Area in the State of Washington.

The environmental statement concerns a proposed plan for the management of lands including wilderness in the Alpine Lakes Area on portions of the Snoqualmie and Wenatchee National Forests in the State of Washington. USDA-FS-DES (Adm.) 73-91.

This draft environmental statement was filed with CEQ July 30, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., S.W.
Washington, D.C. 20250

USDA, Forest Service
Pacific Northwest Region
319 S.W. Pine Street
Portland, Oregon 97204
Snoqualmie National Forest
1601 Second Avenue Building
Seattle, Washington 98101
Wenatchee National Forest
3 S. Wenatchee Avenue
Wenatchee, Washington 98801

A limited number of single copies are available upon request to Regional Forester, T. A. Schlapfer, Pacific Northwest Region, 319 SW. Pine Street, Portland, Oregon 97204.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to T. A. Schlapfer, Pacific Northwest Region, 319 SW. Pine Street, Portland, Oregon 97204. Comments must be received by November 20, 1973 in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

JULY 31, 1973.

[FR Doc.73-16170 Filed 8-3-73;8:45 am]

RED RIVER GORGE PLANNING UNIT

Multiple Use Plan; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Multiple Use Plan for the Red River Gorge Planning Unit, Forest Service report number USDA-FS-DES (Adm.) 73-92.

The environmental statement concerns a proposed long-range multiple use plan for the Red River Gorge Planning Unit on the Stanton Ranger District of the Daniel Boone National Forest.

This draft environmental statement was filed with CEQ on July 30, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW.
Washington, D.C. 20250

USDA, Forest Service
Southern Region
1720 Peachtree Road, NW.
Atlanta, Georgia 30309

USDA, Forest Service
Daniel Boone National Forest
27 Carol Road
Winchester, Kentucky 40391

USDA, Forest Service
Stanton Ranger District
Highway No. 15
Stanton, Kentucky 40380

A limiited number of single copies are available upon request to John E. Alcock, Forest Supervisor, Daniel Boone National Forest, 27 Carol Road, Winchester, Kentucky 40391.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to John E. Alcock, Forest Supervisor, Daniel Boone National Forest, 27 Carol Road, Winchester, Kentucky 40391. Comments must be received by September 15, 1973 in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

JULY 31, 1973.

[FR Doc.73-16169 Filed 8-3-73;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

PROVIDENCE HOSPITAL-RCR CENTER ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

Correction

In FR Doc. 73-14343 appearing at page 18699 in the issue of Friday, July 13, 1973, in the entry for Docket No. 73-00574-33-46040, in the fifth line the reference to "Model SM" should read "Model EM".

Maritime Administration

[Docket No. S-373]

MOORE-McCORMACK BULK TRANSPORT, INC.

Application for Operating-Differential Subsidy

Notice is hereby given that Moore-McCormack Bulk Transport, Inc., a wholly owned subsidiary of Moore and McCormack Co., Inc., has filed an application for operating-differential subsidy on three (3) proposed new tankers of approximately 38,300 deadweight tons each to be operated in worldwide tanker trades in the foreign commerce of the United States.

Any party having an interest in such application and who would contest a finding of the Board that the service now provided by vessels of United States registry for the worldwide carriage of liquid and dry bulk cargoes moving in the foreign commerce of the United States or in any particular trade in the foreign commerce of the United States is inadequate, must, on or before August 16, 1973, notify the Secretary in writing of his interest and of his position and file a petition for leave to intervene in accord-

ance with the Board's Rules of Practice and Procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Merchant Marine Act, 1936, as amended, and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event that a section 605(c) hearing is ordered to be held, the purpose of such hearing will be to receive evidence relevant to whether the service already provided by vessels of U.S. registry for the worldwide movement of liquid and dry bulk cargoes in the foreign oceanborne commerce of the United States is inadequate and whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated: August 1, 1973.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-16166 Filed 8-3-73;8:45 am]

[Docket No. S-374]

OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO BETWEEN THE U.S. AND U.S.S.R.

Notice of Multiple Applications

Notice is hereby given that applications have been filed under the Merchant Marine Act of 1936, as amended, for extension of operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on December 31, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the applicants listed in Appendix A and/or related persons or firms, employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such applicant if its application for operating-differential subsidy is granted.

Said applicants have requested written permission involving the domestic, intercoastal or coastwise services likewise described in Appendix A.

Said applicants have previously been granted written permission with respect to such services in fiscal year 1973.

Interested parties may inspect these applications in the Office of The Secretary, Maritime Administration, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on August 10, 1973, file same with the Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief. Further, each petition shall identify the applicant or applicants against which the intervention is lodged.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled commencing at 10 a.m., August 13, 1973 and continuing on succeeding business days if required, in Room 4896, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations. Evidence concerning each application will be heard in the order in which applicants are listed in Appendix A.

Dated: August 1, 1973.

By Order of the Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

APPENDIX A

I. Name of Applicant: Academy Tankers, Inc. (Academy)

Description of Domestic Service and Vessels: The applicant, Academy, owns and operates the vessels listed hereafter, which vessels have operated in the domestic, intercoastal and/or coastwise service, and Academy's parent, Petrolane, Inc. also owns the Arthur Levy Boat Service which comprises a number of corporations owning or leasing vessels operating in domestic commerce serving offshore oil drilling rigs. Academy has requested written permission to continue its domestic operations as well as those of its various sister corporations:

THOMAS A
THOMAS M
THOMAS Q

Written permission is now required by the applicant, Academy, notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessels carried domestic commerce of the United States on that voyage.

II. Name of Applicants:

Willamette Transport, Inc. (Willamette)
Wabash Transport, Inc. (Wabash)
Connecticut Transport, Inc. (Connecticut)
Albany River Transport, Inc. (Albany River)
Empire Transport, Inc. (Empire)
Meadowbrook Transport, Inc. (Meadowbrook)
Ogden Merrimac Transport, Inc. (Ogden Merrimac)
Platte Transport, Inc. (Platte)
Rio Grande Transport, Inc. (Rio Grande)
Mohawk Shipping Co., Inc. (Mohawk)
Ogden Sacramento Trans., Inc. (Ogden Sacramento)
Ogden Sea Transport, Inc. (Ogden Sea)
James River Transport, Inc. (James River)

Description of Domestic Service and Vessels: Willamette, Wabash, Connecticut, Albany River, Empire, Meadowbrook, Ogden Merrimac, Platte, Rio Grande, Mohawk, Ogden Sacramento, Ogden Sea and James River, all affiliates of one another and of the other owning companies listed hereafter, have each requested written permission to continue employment in the domestic intercoastal and/or coastwise service for the below listed vessels owned by each or their affiliates.

Ship	*Owning Company*
ALBANY	Albany River
CONNECTICUT	Connecticut
JAMES	James River
MISSOURI	Meadowbrook
MOHAWK	Mohawk
OGDEN WABASH	Wabash
OGDEN WILLAMETTE	Willamette
OGDEN YUKON	Ogden Sea
YELLOWSTONE	Rio Grande

Written permission is now required by the applicants notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

III. Name of Applicant: Sea Tankers, Inc. (Sea Tankers)

Description of Domestic Service and Vessels: The applicant, Sea Tankers, is a subsidiary of Overseas Shipholding Group, Inc. (Shipholding), whose subsidiaries have engaged in domestic coastwise, intercoastal and non-contiguous petroleum trades with tanker vessels, and the applicant has requested written permission for it and its related companies to continue such operations. The following tanker vessels are owned by the applicant and related companies, all subsidiaries of Shipholding:

Ship	*Owner*
OVERSEAS ALASKA	Intercontinental Bulktank Corporation
OVERSEAS ALICE	Intercontinental Bulktank Corporation
OVERSEAS ALEUTIAN	Ocean Transportation Company, Inc.
OVERSEAS ULLA	Ocean Transportation Company, Inc.
OVERSEAS ARTIC	Overseas Bulktank Corporation
OVERSEAS VALDEZ	Overseas Bulktank Corporation
OVERSEAS JOYCE	Overseas Oil Carriers, Inc.

OVERSEAS ANCHORAGE	Globe Seaways, Inc.
OVERSEAS VIVIAN	Ocean Tankships Corporation
OVERSEAS ROSE (ALPHA RESERVE).	Sea Tankers
BETA RESERVE	Sea Tankers
OVERSEAS EVELYN (GAMMA RESERVE).	Sea Tankers

Written permission is now required by the applicant, Sea Tankers, notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

[FR Doc.73-16165 Filed 8-3-73;8:45 am]

[Docket No. S-376]

OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO BETWEEN THE U.S. AND U.S.S.R.

Notice of Multiple Applications

Notice is hereby given that the corporations listed in Appendix A have filed applications for extension of operating-differential subsidy contracts to carry bulk cargoes to expire, unless extended, on December 31, 1973 except for subsidized voyages in progress on that date. The bulk cargo carrying vessels proposed to be subsidized and a description of each of such vessels are also presented in Appendix A.

Said applications may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C., during regular working hours.

These vessels are to engage in the carriage of export bulk, raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the United States to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk, raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk, raw and processed agricultural commodities subsidy program, including terms, conditions, and restrictions upon both the subsidized operators and vessels, appear in the regulation published in the FEDERAL REGISTER on October 21, 1972 (37 FR 22747).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that each vessel named will engage in the trades described on a full-time basis through December 31, 1973 (with extension to termination of approved subsidized voyages in progress on that date). Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the individual operating-differential subsidy contract for which there is no requirement for further notices under section 605(c) of the Act.

The Board has previously found during fiscal year 1973, that section 605(c) was no bar to the grant of operating-differential subsidy to each of the applicants listed in Appendix A.

Any person having an interest in the granting of one or any of such applications and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before August 10, 1973, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing. Further, each such statement shall identify the applicant or applicants against which the intervention is lodged.

In the event requests for hearing and petitions regarding the relevant section 605(c) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled commencing at 10 a.m., August 13, 1973, and continuing on succeeding business days if required, in Room 4896, Department of Commerce Building, 14th and E Streets, N.W., Washington, D.C. 20235. The purpose of the hearing will be to receive evidence relevant to (1) whether the application(s) hereinabove described is one with respect to vessels to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon. Evidence concerning each application will be heard in the order in which applicants are listed in Appendix A.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

Dated: August 2, 1973.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

APPENDIX A

Name of Applicant	Vessel Names	Type of Ship
American Rice Steamship Co.	SS American Rice	Bulk carrier
Chas. Kurz & Co., Inc.	SS Julesburg	Tanker
	SS Tullahoma	"
	SS Sandy Lake	"
	SS Birch Coulie	"
	SS Fort Fetterman	"
	SS Gaines Mill	"
	SS Mill Spring	"
	SS Northfield	"
Penn Tanker Company.	Penn Champion	Tanker
	Penn Challenger	"

[FR Doc.73-16206 Filed 8-3-73;8:45 am]

[Docket No. S-377]

OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO BETWEEN U.S. AND U.S.S.R. AND OTHER FOREIGN TRADE

Notice of Multiple Applications

Notice is hereby given that applications have been filed under the Merchant Marine Act of 1936, as amended, for extension of operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire unless extended, on December 31, 1973 (except for subsidized voyages in progress on that date). Inasmuch as the Applicants listed in Appendix A and/or related persons or firms, employ ships in the domestic, intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such applicant if its application for extension of operating-differential subsidy is granted.

Said Applicants have requested permission involving the domestic, intercoastal or coastwise services described in Appendix A.

Said Applicants have previously been granted written permission with respect to such services in fiscal year 1973.

Interested parties may inspect these applications in the Office of The Secretary, Maritime Administration, Department of Commerce Building, Fourteenth & E Streets, NW., Washington, D. C. 20230.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on August 10, 1973, file same with the Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

In no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do

not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 A.M., August 13, 1973 in Room 4896 Department of Commerce Building, Fourteenth & E Streets, NW., Washington, D. C. 20230. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

Dated: August 2, 1973.

By order of the Maritime Administration.

JAMES S. DAWSON, Jr.
Secretary.

APPENDIX A

I. *Name of applicant.* Chas. Kurz & Co., Inc. (Kurz)

Description of domestic service and vessels. On January 6, 1972, a related company of Kurz, Margate Shipping Co. (Margate), was granted written permission for Margate's affiliates to own and operate a total of 31 U.S. flag vessels to transport liquid bulk cargoes within or between the following coastal areas with free interchange of the vessels among these various domestic trades. The following list shows the maximum number of vessels to be employed in each Domestic Trade at any one time:

U.S. Gulf/Atlantic Coastwise	17 vessels
U.S. Gulf/Atlantic, Puerto Rico	2 vessels
U.S. Atlantic/Gulf Intercoastal (including Alaska and Hawaii)	5 vessels
Pacific Coast-Alaska and Hawaii	10 vessels

The following U.S. flag tankers are owned, managed or operated by affiliates of Kurz:

Chancellorville	Catawba Ford
Perryville	Keytanker
Shenandoah	Keystoner
Fort Fetterman	Keytrader
Julesburg	Ticonderoga
Naeco	Valley Forge
Bennington	Golden Gate
Cherry Valley	Edgar M. Queeny
Gaines Mill	P. C. Spencer
Mill Spring	J. E. Dyer
Northfield	Sinclair Texas
Tullahoma	David E. Day
Meadowbrook	Mobile Gas
Sandy Lake	Mobile Power
Monmouth	Mobile Fuel
Spirit of Liberty	

Written permission is now required by the applicant (Kurz) notwithstanding the previous grant to a related company (Margate) or the fact that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

II. *Name of applicants.* Sea Transport Corporation (Sea Trans.), and Eagle Terminal Tankers, Inc. (Eagle).

Description of domestic service and vessels. The applicants, Sea Trans. and Eagle, affiliates of one another and of the owning company listed hereafter, have each requested written permission for the continuance of domestic, intercoastal and coastwise service for the following vessels owned by each of the affiliates:

Ship	*Owner*
Eagle Charter	Eagle
Eagle Leader	Eagle
Eagle Courier	Eagle
Eagle Transporter	Eagle
Eagle Traveler	Sea Trans.
Eagle Voyager	Sea Trans.
Nashbulk	Nashbulk, Inc.

Written permission is now required by the applicants (Sea Trans. and Eagle) notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

III. *Name of Applicant.* Penn Tanker Company (Penntanker).

Description of domestic service and vessels. The applicant, Penntanker, has engaged in the domestic intercoastal and coastwise service with the tankers Penn Challenger and Penn Champion and may operate in the future in various domestic trades commercially, under charter to the Military Sealift Command or others, and has requested written permission for Penntankers and its affiliates to engage in the domestic trades as well as the right to move a vessel from one domestic trade to another, and/or from a foreign trade(s) to a domestic trade(s).

Written permission is now required by the applicant, Penntanker, notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

IV. *Name of applicant.* American Rice Steamship Co. (Rice).

Description of domestic service and vessels. Freighters, Inc., parent company of the Applicant, owns and operates the SS American Wheat, which vessel has from time to time tramped in the United States coastwise trade, particularly in the carriage of bulk sugar from the State of Hawaii to the United States Gulf. Written permission is required by Rice for its parent company to continue domestic coastwise service for that vessel.

V. Name of Applicant: *Atlantic Richfield Company.*

Description of domestic service and vessels. Applicant owns, operates and charters vessels engaged in domestic, intercoastal and and coastwise services and has requested written permission for it and related companies to continue operations in the domestic service. The following wholly owned subsidiaries own vessels, chartered to Applicant, which engage in domestic, intercoastal and coastwise services; namely, Philadelphia Tankers, Inc. and Tankers Leasing Corporation.

U.S. flag vessels owned, chartered to and operated by Applicant are listed below:

Arco Prudhoe Bay	Atlantic Navigator
Arco Sag River	Atlantic Prestige
Atlantic Endeavor	Atlantic Trader
Atlantic Enterprise	David E. Day
Atlantic Communicator	Sinclair Texas
Atlantic Heritage	Chancellorsville
	Texan

Written permission is now required by the Applicant, Atlantic Richfield Company, notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessels carried domestic commerce of the United States on that voyage.

[FR Doc.73-16205 Filed 8-3-73;8:45 am]

National Oceanic and Atmospheric Administration

[Docket No. Sub-B-50]

PAN-ALASKA FISHERIES, INC.

Change of Hearing Date and Location

Whereas, on July 12, 1973, there was published at 38 FR 18571 a supplementary notice of hearing in the above-entitled matter to be held in Washington, D.C., on August 13, 1973;

Whereas such notice of hearing provided that any person desiring to intervene must file a petition of intervention with the Director, National Marine Fisheries Service, as proscribed in 50 CFR Part 257 at least 10 days prior to the date set for hearing;

Whereas several persons have filed petitions for leave to intervene and/or have expressed in writing their interests in this matter (such persons hereinafter referred to as putative intervenors);

Whereas these putative intervenors have expressed the desire to have a hearing in this matter at a location other than in Washington, D.C.; and

Whereas the undersigned Administrative Law Judge assigned to hear and adjudicate the application herein has taken the foregoing matters under advisement and has concluded that the establishment of a different hearing date and hearing location would facilitate a determination of this matter and be in the interest of the public:

It is accordingly hereby ordered, That the hearing in this matter originally scheduled for August 13, 1973, in Washington, D.C., be, and it hereby is, rescheduled to be held commencing August 21, 1973, in Seattle, Washington, and continue until completion. The exact time and location of the hearing will be given to all parties by written notification at least 10 days in advance of said hearing.

ERNEST G. BARNES,
Administrative Law Judge.

AUGUST 2, 1973.

[FR Doc.73-16194 Filed 8-3-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[CAP 5C0028, ET AL.]

COSMETIC, TOILETRY, AND FRAGRANCE ASSOCIATION, INC.

Notice of Filing of Petitions Regarding Color Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (d), 74 Stat. 402; 21 U.S.C. 376(d)), notice is given that the following petitions have been filed by Cosmetic, Toiletry and Fragrance Association, Inc. (formerly the Toiletry Goods Association, Inc.), c/o Hazleton Laboratories, Inc., Post Office Box 30, Falls Church, VA 22406, proposing the issuance of color additive regulations (21 CFR Part 8) to provide for the safe use and certification of the color additives specified below:

Cap No.	Color additives	Uses
5C0028	D&C Red No. 8 D&C Red No. 9	In drugs and cosmetics.
5C0029	D&C Red No. 10 D&C Red No. 11 D&C Red No. 12 D&C Red No. 13	Do.
5C0032	D&C Red No. 31	In externally applied drugs and cosmetics.
5C0040	D&C Red No. 6 D&C Red No. 7	In drugs and cosmetics.
5C0041	D&C Orange No. 5	Do.
6C0042	D&C Orange No. 10 D&C Orange No. 11	Do.
6C0043	D&C Red No. 21 D&C Red No. 22	Do.
6C0044	D&C Red No. 27 D&C Red No. 28	In drugs and cosmetics.
7C0055	Ext. D&C Green No. 1.	In coloring drug and cosmetic products for external applications.
8C0087	D&C Brown No. 1	In externally-applied cosmetics.
9C0089	D&C Red No. 36	In drugs and cosmetics.
9C0090	D&C Orange No. 17	Do.
9C0091	D&C Red No. 19 D&C Red No. 37	Do.
9C0095	FD&C Blue No. 1	In externally-applied drugs and cosmetics, including lipsticks.
9C0096	FD&C Red No. 3	Do.

Dated: July 25, 1973.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.73-16107 Filed 8-3-73;8:45 am]

[CAP 8C0070, ET AL.]

COSMETIC, TOILETRY AND FRAGRANCE ASSOCIATION, INC.

Notice of Filing of Petitions Regarding Color Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (d), 74 Stat. 402; 21 U.S.C. 376(d)), notice is given that the following petitions have been filed by Cosmetic, Toiletry and Fragrance Association, Inc. (formerly The Toilet Gods Association, Inc.), c/o Hazleton Laboratories, Inc., Post Office Box 30, Falls Church, VA 22046, proposing the issuance of color additive regulations (21 CFR Part 8) to provide for the safe use and exemption from certification of the color additives specified below:

Cap No.	Color additives	Uses
8C0070	Azulene	In externally-applied cosmetics.
8C0071	Aluminum stearate, calcium stearate, magnesium stearate, lithium stearate, zinc stearate.	In externally-applied cosmetics, including those for use in the area of the eye; and, with the exception of lithium stearate, in lipsticks.
8C0075	Ultramarine blue Ultramarine green Ultramarine violet Ultramarine red Ultramarine pink	In externally-applied cosmetics, including those for use in the area of the eye.
8C0079	Chromium oxide green and chromium hydroxide green.	Do.
8C0080	Graphite	Do.
8C0082	Ferric ferrocyanide	In externally-applied cosmetics, including those for use in the area of the eye.
8C0074	Natural pearl essence	In externally-applied cosmetics, including lipsticks and those for use in the area of the eye.
8C0076	Mica	Do.
8C0078	Bentonite Kaolin Magnesium aluminum silicate (Veegum).	Do.
8C0081	Manganese violet	Do.
8C0083	Bronze powder	Do.
9C0088	Iron oxides	Do.
9C0094	Calcium silicate	In externally-applied cosmetics including those for use in the area of the eye.

Dated: July 25, 1973.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.73-16108 Filed 8-3-73;8:45 am]

[CAP 7C0056, ET AL.]

PROCTER AND GAMBLE CO.

Notice of Filing of Petitions Regarding Color Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (d), 74 Stat. 402; 21 U.S.C. 376(d)), notice is given that the following petitions have been filed by The Procter and Gamble Co., Toilet Goods Division, 6000 Center Hill Road, Cincinnati, OH 45224, proposing the issuance of color additive regulations (21 CFR Part 8) to provide for the safe use and certification of the color additives specified below:

Cap No.	Color additives	Uses
7C0056	Ext. D&C Yellow No. 1.	For use in coloring drug and cosmetic products for external applications.
7C0059	D&C Red No. 33	Do.
9C0098	D&C Green No. 8	Do.

Dated: July 25, 1973.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.73-16106 Filed 8-3-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Management

[Docket No. D-73-244]

DEPUTY ASSISTANT SECRETARY FOR HOUSING MANAGEMENT ET AL.

Designation as Acting Assistant Secretary for Housing Management

SECTION A. *Designation.* The officials appointed to, or designated to serve as Acting during a vacancy in, the following positions are hereby designated to serve as Acting Assistant Secretary for Housing Management during the absence of the Assistant Secretary for Housing Management with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Housing Management: *Provided,* That no official is authorized to serve as Acting Assistant Secretary for Housing Management unless all other officials whose appointed, or designated Acting, position titles precede his in this designation are unable to act by reason of absence:

1. Deputy Assistant Secretary for Housing Management.

2. Executive Assistant to the Assistant Secretary for Housing Management.

3. Director, Office of Housing Programs.

4. Director, Office of Property Disposition.

5. Director, Office of Administrative and Program Services.

SEC. B. *Authorization.* Each head of an organizational unit of Housing Management is authorized to designate an employee under his jurisdiction to serve as Acting during the absence of the head of the unit.

SEC. C. *Supersedure.* This designation supersedes the designation of Acting Assistant Secretary for Housing Management published at 37 FR 7536, April 15, 1972.

(Secretary's delegation of authority to designate Acting officials, 36 FR 5004, March 17, 1971)

Effective date. This designation to serve as Acting Assistant Secretary for Housing Management is effective as of April 12, 1973.

H. R. CRAWFORD,
Assistant Secretary for Housing Management.

[FR Doc.73-16111 Filed 8-3-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-335]

FLORIDA POWER AND LIGHT CO.

Notice of Evidentiary Hearing

On January 9, 1973, the Atomic Energy Commission published in the FEDERAL REGISTER (38 FR 1139) a notice of hearing pursuant to 10 CFR Part 50, Appendix D, section B, to consider environmental issues relating to Construction Permit No. CPPR-74 issued on July 1, 1970, to Florida Power and Light Company authorizing the construction of St. Lucie Nuclear Power Plant, Unit 1 (formerly Hutchinson Island Nuclear Power Plant).

The matter having come before this Atomic Safety and Licensing Board at a prehearing conference held on June 5, 1973, and counsel for the parties having been present and participating in said conference, it was agreed that the evidentiary hearing in this proceeding would commence in Ft. Pierce, Florida on August 28, 1973.

The notice of hearing directed that the Licensing Board will, without conducting a de novo evaluation of the application, determine whether the environmental review conducted by the

Commission's Regulatory Staff pursuant to Appendix D of 10 CFR Part 50 has been adequate. The Board will also in accordance with section A.11 of Appendix D to 10 CFR Part 50—(a) determine whether the requirements of section 102 (2) (c) and (D) of the National Environmental Policy Act of 1969, and Appendix D to 10 CFR Part 50 of the Commission's Regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; and (c) determine, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, whether the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

It is hereby ordered, That the initial session of the evidentiary hearing in this proceeding shall convene at 1 p.m. local time on August 28, 1973, at the County Commissioners' Hearing Room No. 203, County Courthouse, 2nd Street, Ft. Pierce, Florida 33450.

The public is invited to attend the hearing. Any person who has requested the opportunity to make a limited appearance will be afforded an opportunity to state his views or to file a written statement on the first day of the hearing or at such other times as the Licensing Board may for good cause designate.

The following agenda will in general be followed:

1. Disposition of preliminary matters raised by the Atomic Safety and Licensing Board;
2. Opening statements of the parties;
3. Statements by persons permitted to make limited appearances;
4. Disposition of preliminary motions of the parties and related matters;
5. Introduction of testimony; and
6. Questioning of witnesses by parties and by members of the Licensing Board.
7. Closing matters.

It is so ordered.

Issued at Washington, D.C., this 1st day of August 1973.

The Atomic Safety and Licensing Board.

ROBERT M. LAZO,
Chairman.

[FR Doc.73-16094 Filed 8-3-73;8:45 am]

[Docket No. 50-346]

TOLEDO EDISON CO. AND THE CLEVELAND ELECTRIC ILLUMINATING CO.

Notice for Evidentiary Session

In the Matter of Toledo Edison Co. and The Cleveland Electric Illuminating Co. (Davis-Besse Nuclear Power Station).

By agreement of the parties, approved by the Board, the Evidentiary Session in this proceeding will continue commencing on August 6, 1973, at 11 a.m., local time in Room 2069 of the Anthony Celebrezzi Building, at 1230 E. 9th Street, Cleveland, Ohio 44199.

It is so ordered.

Issued at Washington, D.C., this 31st day of July, 1973.

The Atomic Safety and Licensing Board.

JOHN B. FARMAKIDES,
Chairman.

[FR Doc.73-16093 Filed 8-3-73;8:45 am]

[Docket Nos. 50-424, 50-425, 50-426, 50-427]

GEORGIA POWER CO.

Availability of AEC Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Directorate of Licensing related to the proposed Vogtle Nuclear Plant, Units 1, 2, 3 & 4, to be constructed by Georgia Power Company in Burke County, Georgia is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the Burke County Library, Fourth Street, Waynesboro, Georgia 30830. The Draft Statement is also being made available at the Georgia State Clearinghouse, 270 Washington Street, SE. Atlanta, Georgia 30334. Copies of the Commission's Draft Environmental Statement may be obtained by request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The Applicant's Environmental Report, as supplemented, submitted by Georgia Power Company is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on April 27, 1973 FR 10495.

Pursuant to 10 CFR Part 50, Appendix D, interested persons may, on or before September 17, 1973 submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). When comments thereon by Federal, State, and local officials are received by the Commission, such comments will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Burke County Library, Fourth Street, Waynesboro, Georgia 30830. Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 30th day of July 1973.

For the Atomic Energy Commission.

GORDON K. DICKER,
Chief, Environmental Projects Branch 2 Directorate of Licensing.

[FR Doc.73-15922 Filed 8-3-73;8:45 am]

[Dockets Nos. 50-270, 50-287]

DUKE POWER CO.

Order Extending Completion Dates

Duke Power Company is the holder of Provisional Construction Permits Nos. CPPR-34 and CPPR-35 issued by the Commission on November 6, 1967, for the construction of the Oconee Nuclear Station, Units 2 and 3, two 2568 megawatt (thermal) pressurized water nuclear reactors presently under construction at the Company's site in Oconee County, South Carolina, approximately eight miles northeast of Seneca, South Carolina.

On July 3, 1973, the Company requested an extension of the completion dates because construction of Units 2 and 3 have been delayed due to (i) diversion of construction forces from Units 2 and 3 to Unit 1 to solve problems occasioned by the lateness of Unit 1, (ii) delay in delivery of major reactor coolant components, and (iii) modifications required to the reactor vessel internals for Unit 2. The Director of Regulation having determined that this action involves no significant hazards consideration, and good cause having been shown, the bases for which are set forth in a memorandum dated July 30, 1973, from R. C. DeYoung to A. Giambusso:

It is hereby ordered, That the latest completion date for CPPR-34 (Unit 2) is extended from September 1, 1973 to October 1, 1973, and the lastest completion date for CPPR-35 (Unit 3) is extended from August 1, 1973 to June 30, 1974.

Date of Issuance: July 30, 1973.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.73-16092 Filed 8-3-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24694]

MIAMI-LOS ANGELES COMPETITIVE NONSTOP CASE

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on September 26, 1973, at 10 a.m. (local time) in Room 1027, Universal Building, 1825 Con-

necticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., July 31 1973.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.73-16143 Filed 8-3-73;8:45 am]

COMMISSION ON CIVIL RIGHTS

COLORADO STATE ADVISORY COMMITTEE

Notice of Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 707) notice is hereby given that the Colorado State Advisory Committee to the U.S. Commission on Civil Rights will meet in a closed session at 9:00 A.M., Monday, August 6, 1973, in Room 216, Ross Building, 1726 Champa Street, Denver, Colorado 80202.

The agenda will consist of discussions leading to recommendations on proposed revisions to the first draft of the Colorado Prison preliminary report.

I have determined that this meeting would fall within exemption (5) of 5 U.S.C. 522(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C. on August 1, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-16284 Filed 8-3-73;8:45 am]

NEW MEXICO STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Mexico State Advisory Committee to this Commission will convene at 6:00 p.m. on August 6, 1973, at the Four Seasons, 2500 Carlisle Boulevard, North East, Albuquerque, New Mexico 87110.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Southwestern Regional Office of the Commission, Room 209, New Moore Building, 106 Broadway, San Antonio, Texas 78205.

The purpose of this meeting shall be to review plans for the Navajo Indian Hearing to be held in Window Rock, Arizona in September 1973, in which the New Mexico Committee will participate.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., August 1, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-16285 Filed 8-3-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS OF PERFORMANCE FOR NEW SOURCES

Advance Notice of Public Review Procedures

Advance notice is hereby given concerning notices of proposed rule making to be published by the Environmental Protection Agency ("EPA") with respect to effluent limitations guidelines, standards of performance, and pretreatment standards for new sources pursuant to sections 304(b) 306 and 307(c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1314, 1316 and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500) ("the Act"). The purpose of this notice is to facilitate public comment upon the regulations to be promulgated under sections 304(b), 306 and 307(c), both before and after the publication of the notices of proposed rule making. In addition, this notice will explain EPA's overall plans for development of effluent limitations guidelines and standards of performance for new sources and the approach which is being taken by the Agency in discharging the duties placed upon the Administrator under sections 304(b), 306 and 307(c) of the Act.

EPA believes that the exposure of the technical basis and reasoning underlying regulations to be established pursuant to sections 304(b), 306 and 307(c) is essential to the promulgation of sound effluent limitations guidelines and standards of performance for new sources. At the same time, because of the deadlines for action imposed upon the Administrator under the Act, both EPA and the public will be pressed to analyze and resolve highly complex and important issues in a relatively short time. In order both to develop sound regulations and meet the time schedules set by the Act, EPA intends to identify as many issues and elicit points of criticism at the earliest possible time. To resolve such issues often will require further staff work and management decision-making within EPA and may necessitate substantial redrafting of regulations and support documents. Therefore, extensive external review cannot be postponed until internal EPA review of initial recommendations for effluent limitations guidelines and standards of performance has been completed, but must proceed concurrently with EPA's own internal review and decision-making if the Act's deadlines are to be met.

EPA has already begun this process by seeking comments upon draft technical reports from persons and organizations known to be interested in particular source categories. These reports (which are discussed further below) contain tentative recommended effluent limitations guidelines and standards of performance. This notice seeks to supplement this already initiated external review and facilitate further review and public comment in late August and early September, when notices of proposed rule making will be published in the FEDERAL REGISTER. The notice is divided into three parts. First, the basic legal authority for regulations concerning effluent limitations guidelines and standards of performance for new sources will be set forth. Second, EPA's general methodology will be described. Third, the means by which EPA has to date, and will in the future, seek the widest possible public scrutiny of the technical and legal basis for the regulations to be established will be explained.

1. *Legal authorities* — (a) *Existing point sources.* Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available (the 1977 requirement) and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods and other alternatives (the 1963 requirement).

(b) *New sources.* Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b)(1)(B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306(b)(1)(A) of the Act. The Administrator published in the FEDERAL REGISTER of January 16, 1973, (38 FR 1624) a list of source categories for which standards of performance for new sources will initially be established. Section 306(a)(2) defines "new source" as "any source, the construction of which is commenced after the publication of proposed regulations prescribing a stand-

ard of performance under this section which will be applicable to such source * * *."

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for a category of new sources at the same time that standards of performance for that category are promulgated pursuant to section 306. EPA presently plans to include in proposed and promulgated regulations establishing standards of performance for new sources, provisions which will require application of pretreatment standards which are consistent with EPA's proposed pretreatment standards for existing sources. The basis for the latter standards is set forth in the FEDERAL REGISTER of July 19, 1973 (38 FR 19236) under 40 CFR Part 128. The provisions and rationale of Part 128 are equally applicable to sources which would constitute "new sources", under section 306 if they were to discharge pollutants directly to navigable waters, except for § 128.133. That section provides a pretreatment standard for "incompatible pollutants" which requires application of the "best practicable control technology currently available," subject to an adjustment for amounts of pollutants removed by the publicly owned treatment works. Since the pretreatment standards to be promulgated under section 307(c) apply to new sources, the regulations establishing standards of performance for new sources will amend § 128.133 to require application of the standard of performance for new sources rather than the "best practicable" standard applicable to existing sources under sections 301 and 304(b) of the Act.

2. *EPA's methodology*—(a) *Overall approach.* The technical studies discussed below and the development of regulations for effluent limitations guidelines and standards of performance are undertaken in the following manner. The point source category is first studied for the purpose of determining whether separate limitations and standards are appropriate for different segments within the category. This analysis includes a determination of whether differences in raw material used, product produced, manufacturing process employed, age and size of plants, waste water constituents and other factors require development of separate limitations and standards for different segments of the point source category. The raw waste characteristics for each such segment are then identified. This includes an analysis of (1) the source, flow and volume of water used in the process employed and the sources of waste and waste waters in the plant; and (2) the constituents of waste waters. The constituents of the waste waters which should be subject to effluent limitations guidelines and standards of performance are then identified.

Next, the control and treatment technologies existing within each segment are identified. This includes an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which exists or is capable of being designed for each segment. It also includes an identification of the effluent level resulting from the application of each of the treatment and control technologies, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants. The problems, limitations and reliability of each treatment and control technology are also identified. In addition, any non-water quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise and radiation is examined. Finally, the energy requirements of each control and treatment technology are determined, as well as the cost of the application of such technologies.

This information is then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available", "best available technology economically achievable" and the "best available demonstrated control technology, processes, operating methods, or other alternatives." In identifying such technologies, various factors are considered including the total cost of the application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes and non-water quality environmental impact (including energy requirements).

The data on which the above analysis was performed included EPA permit applications, EPA sampling and inspections, industry submissions and consultant reports, including the reports discussed below.

(b) *Technical studies.* Studies of some thirty point source categories for which regulations will initially be promulgated were instituted by EPA as soon as possible after passage of the Federal Water Pollution Control Act Amendments of 1972 (October 18, 1972). These studies constitute in-depth analyses of the technological feasibility and economic costs of reducing or eliminating discharges of pollutants. The studies, along with other information obtained by EPA in the course of internal and external review of the resulting reports or otherwise available to EPA, will serve as a foundation for the regulations to be issued under sections 304(b) and 306 of the Act.

To have attempted to amass within the Agency in a very short period of time the large number of technical personnel with experience in the many diverse point source categories to be covered would have been impractical. Therefore, the overall data base and initial analysis has been obtained through contracts with qualified technical consultants. These consultants were instructed to perform in-depth studies of each point source category, under the supervision and with the assistance of EPA, in accordance with the methodology described above The resulting draft reports include initial tentative recommendations with respect to the effluent limitations guidelines and standards of performance for the particular point source category concerned. The draft reports and recommendations are then subjected to extensive internal and external review. The contractors are assisting in the initial collection and collation of the data base. The responsibility for establishing effluent limitations guidelines and standards of performance for new sources, of course, remains with EPA.

For each of the point source categories covered by the technical studies, EPA is also conducting supplementary studies of the economic impact which could result from application of alternative control and treatment technologies. These studies add to the economic analyses already undertaken as part of the technical studies, which center upon the investment and operating costs associated with various alternative control and treatment technologies, by estimating the broader economic effects which might result from the required application of various technologies. The economic impact studies will investigate effects of alternative approaches in terms of product price increases, effects upon employment and the continued viability of affected plants, effects upon foreign trade and other competitive effects. These reports may be obtained in the same manner as the EPA draft reports, as discussed in section 3(c) below.

Contractors' technical studies of the following point source categories have been completed:

1. Pulp, Paper and Paperboard Mills
2. Builders Paper and Board Mills
3. Meat Product and Rendering Processing
4. Dairy Product Processing
5. Grain Mills
6. Canned and Preserved Fruits and Vegetables Processing
7. Canned and Preserved Seafood Processing
8. Beet Sugar Processing
9. Cane Sugar Processing
10. Textile Mills
11. Cement Manufacturing
12. Feedlots
13. Electroplating
14. Organic Chemicals Manufacturing
15. Inorganic Chemicals Manufacturing
16. Plastics and Synthetic Materials Manufacturing
17. Soap and Detergent Manufacturing
18. Fertilizer Manufacturing
19. Petroleum Refining
20. Iron and Steel Manufacturing
21. Nonferrous Metals Manufacturing
22. Phosphate Manufacturing
23. Steam Electric Powerplants
24. Ferroalloy Manufacturing
25. Leather Tanning and Finishing
26. Glass Manufacturing
27. Insulation Fiberglass Manufacturing
28. Timber Products Processing
29. Beet Sugar Processing Industry
30. Insulation Fiberglass Industry

3. *Public participation in the development of regulations*—(a) *Review of the draft contractors' reports.* The completed contractors' reports are presently undergoing intensive analysis within

EPA and are also receiving extensive external review and comment. This process of internal and external review is being carried on simultaneously in order to make the most of the time available under the Act. Once the contractors' draft reports are received by EPA, they are immediately distributed to a list of external reviewers for critical analysis. The persons or institutions listed below have been sent the draft reports. They have been asked to comment within 30 days so there will be time for their comments to be taken into account by EPA when preparing proposed rule making documents.

STATES

Alabama Water Improvement Commission
State Office Building
Montgomery, Alabama 36104

State of Alaska
Department of Environmental Conservation
Pouch O
Juneau, Alaska 99801

Commission of Arizona State Department of Health
4019 N. 33rd Avenue
Phoenix, Arizona 95017

Department of Pollution Control and Ecology
1100 Harrington Avenue
Little Rock, Arkansas 72202

California State Water Resources Control Board
Sacramento, California 95814

Water Pollution Control Division
Colorado Department of Health
4210 E 11th Avenue
Denver, Colorado 80220

Division of Water Compliance and Hazardous Substances
Department of Environmental Protection
State Office Building
Hartford, Connecticut 06115

Department of Natural Resources and Environmental Control
Capitol Complex
Tatnall Building
Dover, Delaware 19901

Department of Pollution Control
2562 Executive Center Circle East
Tallahassee, Florida 32301

Environmental Protection Division
Department of Natural Resources
47 Trinity Avenue, S.W.
Atlanta, Georgia 30334

Assistant Director for Environmental Health
Hawaii State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801

Indiana Stream Pollution Control Board
1330 West Michigan Street
Indianapolis, Indiana 46206

State of Idaho
Department of Environmental and Community Services
State House
Boise, Idaho 83720

Water Quality Management Division
Department of Environmental Quality
Lucos State Office Building
Des Moines, Iowa 50319

Division of Environmental Health
Kansas State Department of Health
535 Kansas Avenue
Topeka, Kansas 66603

Kentucky Water Pollution Control Commission
275 East Main Street
Frankfort, Kentucky 40601

Louisiana Stream Control Commission
P.O. Drawer FC
University Station
Baton Rouge, Louisiana 70803

Environmental Health Division
Louisiana State Board of Health
New Orleans, Louisiana

Department of Environmental Protection
State House
Augusta, Maine 04430

Water Resources Administration
Tower State Office Building
D2 Water Resources
Annapolis, Maryland 21401

Division of Water Pollution Control
State Office Building
100 Cambridge Street
Boston, Massachusetts 02202

Michigan Water Resources Commission
Steven T. Mason Building
Lansing, Michigan 45916

Minnesota Pollution Control Agency
State Board of Health Building
717 Delaware Street, SE
Minneapolis, Minnesota 55440

Mississippi Air and Water Pollution Control Commission
P.O. Box 827
Jackson, Mississippi 39205

Missouri Clean Water Commission
P.O. Box 154
Jefferson City, Missouri 65101

Division of Environmental Sanitation
State Department of Health
Cogswell Building
Helena, Montana 59601

Department of Environmental Control
1420 P Street
Lincoln, Nebraska 60509

Nevada Commission of Environmental Protection
201 South Fall Street
Carson City, Nevada 89701

New Hampshire Water Supply and Pollution Control Commission
Prescott Park
105 Loudon Road
Concord, New Hampshire 03301

Department of Environmental Protection
P.O. Box 1390
Trenton, New Jersey 08625

New Mexico Environment Improvement Agency
P.O. Box 2348
Santa Fe, New Mexico 87501

Industrial Waste Bureau
New York State Department of Environmental Conservation
50 Wolf Road
Albany, New York 12201

Office of Air and Water Resources
Department of Natural and Economic Resources
P.O. Box 27687
Raleigh, North Carolina 27611

Environmental Health and Engineering Services
Department of Health
State Capitol
Bismarck, North Dakota 58501

Ohio Environmental Protection Agency
Columbus, Ohio 43216

Department of Pollution Control
2241 N.W. 40th Street
Oklahoma City, Oklahoma 73112

Oregon Department of Environmental Quality
1234 S.W. Morrison
Portland, Oregon 97205

Bureau of Sanitary Engineering
Department of Environmental Resources
P.O. Box 2351
Harrisburg, Pennsylvania 17120

Division of Water Pollution Control
Rhode Island Department of Health
State Office Building
Providence, Rhode Island 02903

South Carolina Pollution Control Authority
P.O. Box 11628
Columbia, South Carolina 29311

Division of Sanitary Engineers and Environmental Protection
State Department of Health
State Capitol
Pierre, South Dakota 57501

Division of Water Quality Control
Department of Public Health
621 Cordell Hull Building
Nashville, Tennessee 37219

Texas Water Control Board
P.O. Box 13246
Capitol Station
Austin, Texas 78711

Bureau of Environmental Health
Division of Health
44 Medical Drive
Salt Lake City, Utah 84113

Vermont Agency of Environmental Conservation
Montpelier, Vermont 05602

Virginia State Water Control Board
1010 State Office Building
Richmond, Virginia 23219

Washington Department of Ecology
P.O. Box 829
Olympia, Washington 98504

West Virginia Division of Water Resources
Department of Natural Resources
1201 Greenbriar Street
Charleston, West Virginia 25311

Division of Environmental Protection
Wisconsin Department of Natural Resources
P.O. Box 450
Madison, Wisconsin 53701

Sanitary Engineering Services
Division of Health and Medical Services
Department of Health and Social Services
State Office Building
Cheyenne, Wyoming 82001

TERRITORIES

Environmental Quality Commission
Government of Samoa
Pago-Pago, Tutuila
American Samoa 96920

Water Pollution Control Program
Government of Guam
P.O. Box 2816
Agana, Guam 96910

Environmental Quality Board
P.O. Box 11785
San Juan, Puerto Rico 00910

Office of High Commission
Division of Environmental Health
Trust Territory of the Pacific Islands
Saijsan, Mariana Island 92950

RIVER BASIN COMMISSIONS

Delaware River Basin Commission
25 State Police Drive
West Trenton, New Jersey 08628

New England Interstate Water Pollution Control Commission

607 Boylston Street
Boston, Massachusetts 02116
Ohio River Valley Sanitation Commission
414 Walnut Street
Cincinnati, Ohio 45202

The reports have also been transmitted to the following agencies or organizations:

AGENCIES AND OFFICES OF/OR RELATED TO THE FEDERAL GOVERNMENT

Department of Agriculture
Atomic Energy Commission
Department of Commerce
Department of Defense
Federal Power Commission
Department of Health, Education, and Welfare
Department of Housing and Urban Development
Department of the Interior
Office of the Energy Advisor
Department of the Treasury
National Industrial Pollution Control Council
U.S. Department of Commerce
Water Resources Council
Tennessee Valley Authority

PUBLIC INTEREST GROUPS

The American Society of Civil Engineers
The American Society of Mechanical Engineers
Businessmen for the Public Interest
Conservation Division
National Wildlife Federation
The Conservation Foundation
Environmental Defense Fund, Inc.
Hudson River
Sloop Restoration, Inc.
Natural Resources Defense Council
Water Pollution Control Federation

INDUSTRY TRADE ASSOCIATIONS OR COMPANIES

The Aluminum Association
Aluminum Smelting and Recycling Institute
American Corn Millers Federation
American Electroplaters' Society
American-Florida Sugar Cane League
American Frozen Food Institute
American Hardboard Association
American Iron and Steel Institute
American Livestock Feeders Association
American Meat Institute
American Mining Congress
American National Cattleman's Association
American Paper Institute
American Petroleum Institute
American Plywood Association
American Public Power Association
American Shrimp Canners Association
American Wood Preservers Association
American Wood Preservers Institute
American Textile Manufacturers Institute
A.S.G. Industries, Inc.
Atomic Industrial Forum, Inc.
Beet Sugar Development Foundation
Carpet and Rug Institute
Catfish Farmers of America
Chesapeake Bay Seafood Industries Association, Inc.
Chlorine Institute
Copper and Brass Fabricators Council
Corn Refiners Association, Inc.
Dairy Industry Committee
Dimmitt Agricultural Industry
Edison Electric Institute
Environmental Pollution Control Program
Glass Container, Inc.
The Ferroalloy Association
The Fertilizer Institute
Ford Motor Company
Glass Division
Glass Containers Manufacturers Institute
Hawaiian Sugar Planters Association
Hardwood Plywood Manufacturing Association
Institute of American Poultry Industries
International Institute of Synthetic Rubber Producers
Libbey-Owens-Ford Co.
Manufacturing Chemists Association
Metal Finishers Suppliers Association
Miller's National Federation
National Association of Electric Companies
National Association of Metal Finishers
National Broiler Council
National Canners Association
National Council of the Paper Industry for Air and Stream Improvement, Inc.
National Independent Meat Packers Association
National Fisheries Association
National Forest Products Association
National Milk Producers Federation
National Pork Producers Association
National Renders Association, Inc.
National Rural Electric Cooperative Association
Northern Textile Association
National Soft Wheat Millers Association
Portland Cement Association
P.P.G. Industries, Inc.
Protein Cereal Products Institute
Puerto Rico Land Administration
Rice Millers Association
Rubber Manufacturing Association
Technical Association of the Pulp and Paper Industry
Soap and Detergent Association
Synthetic Organic Chemical Manufacturers Association
Tanner's Council of America, Inc.
Tennessee Valley Public Power Association
Tuna Research Foundation, Inc.
Technical Association of the Pulp and Paper Industry
United States Beet Sugar Association
United States Cane Sugar Refiner's Association
Western States Meat Packers Association
Western Wood Preserver Association

(b) *Public availability of draft technical reports.* The draft reports are voluminous and rapid reproduction in large quantities is difficult to accomplish. In order to maximize the usefulness of early external review of the reports, the reports must be transmitted to interested persons immediately upon receipt by EPA. Printing of substantial quantities of the reports would consume two to three weeks and, under applicable federal regulations, no more than approximately 160 copies of the reports may be provided through outside printing contracts. The 160 copies of the report supplied by the contractors have already been largely exhausted in transmissions to the organizations listed above, and for internal review purposes within EPA. However, a copy of every report is available in each of EPA's regional offices, which are listed in the Appendix to this notice, and a complete set of the reports is also available in EPA's Washington offices (Office of Public Affairs, Environmental Protection Agency, Room W-227, Waterside Mall, Washington, D.C. 20460). The Washington Office will also maintain a complete set of comments received from the public upon draft reports and upon the notices of proposed rule making which will subsequently be published. The draft reports, revised EPA reports which are described below, and all public comments, will be available for inspection and copying during regular business hours. Under EPA's information regulations (40 CFR, Part 2), a fee may be required for making copies.

In addition to review of the EPA copies of the reports, interested persons may in many instances obtain a copy of a draft report by contacting an organization listed above with which they have an affiliation or by seeking to review a copy in the possession of the appropriate State agency.

(c) *Public availability of EPA draft reports.* Upon conclusion of internal and external review of the initial draft reports and their tentative recommendations, an EPA draft report will be prepared in support of proposed regulations to be issued in the FEDERAL REGISTER. The EPA draft report will be published simultaneously with the notice of proposed rule making. The EPA draft report may be different from the contractors' reports, particularly as to the assessment of practicability or availability of technology, and the conclusions reached with respect to effluent limitations guidelines and standards of performance for new sources.

However, EPA does not anticipate that the EPA report will be markedly different in terms of the fundamental data base for the regulations. In most cases, major issues or objections to the approach taken or the conclusions reached in the EPA draft report will have already been raised by the contractors' draft report. Criticisms of the adequacy of the data base and the analytical methods employed should therefore be expressed now rather than after the notice of proposed rule making.

Nevertheless, EPA does not regard the contractors' draft report as an official EPA document and additional comments will, of course, be solicited once the EPA draft report and the associated proposed regulations are published (A final EPA report will also be prepared and published in support of the final regulations promulgated under sections 301, 304(b), 306 and 307(c)). The EPA draft report will be sent to the list of reviewers set forth earlier in this notice. In addition, EPA is establishing a mailing list of other persons wishing to obtain a copy of the EPA draft report. Any person wishing to be included on the list should so request as soon as possible, but no later than August 20, 1973. The request should be addressed to the "EPA Information Center, Attention: Mr. Philip B. Wisman, Environmental Protection Agency, Room W-327, Waterside Mall, Washington, D.C. 20460", and should indicate which specific reports the person or organization is interested in receiving. EPA will transmit a copy of the EPA draft report to those on the mailing list, as soon as the report is available. Copies of the EPA draft reports will otherwise be transmitted, upon request to EPA, at the address just quoted, as soon as possible. The economic studies referred to in section 2(b) above will be made available upon request in the same manner as the EPA draft reports.

EPA desires to make copies of all reports available to interested parties wishing to comment as soon as possible. EPA therefore requests the cooperation of the

public who are interested in, but not directly affected by, the proposed regulations in awaiting the final EPA report to be published after the final regulation is printed in the FEDERAL REGISTER, rather than requesting copies of the EPA draft reports.

(d) *Solicitation of public comments.* By seeking comments upon the initial draft reports which have already been prepared, and the initial recommended guidelines and standards which those reports contain, much of the analysis and comment which would ordinarily occur after notices of proposed rule making are published is taking place now. In this way the resolution of many issues can be accomplished even before notices of proposed rule making are published. These issues will be identified and their resolution explained in the notices of proposed rule making. Issues which remain unresolved will be highlighted in the notices. In addition, EPA hopes to enable all interested parties to be sufficiently familiar with the complex technical details underlying the proposed effluent limitations and standards so that they can respond to notices of proposed rule making in a relatively short time. In order to meet the deadlines imposed by the Act, the present plan is that the notices of proposed rule making will request formal, public comments within 21 days of publication of the notices in the FEDERAL REGISTER. Those persons who have indicated their desire to be included on the mailing list described above will receive copies of EPA's draft report supporting the proposed regulations in the FEDERAL REGISTER. As noted, these reports will reflect EPA's judgment as to the proper regulations; however, they will be based in large part upon the initial draft reports (which will have been available in most cases since early July 1973) and any comments received thereon.

EPA will consider all comments received up to the time indicated in the notices of proposed rule making. In addition, to the extent time allows, early comments upon the initial draft reports will be considered when developing proposed rule making regulations.

(e) *Conclusion.* In summary, EPA is, by this notice, seeking to encourage as wide ranging and thorough public review prior to proposal and promulgation of effluent limitations guidelines and standards of performance as is possible within the time allowed. The following specific steps may be taken by interested persons:

1. Submit comments upon initial draft reports and economic studies. To facilitate rapid transmission of comments to the persons concerned within EPA, and also have a copy which is immediately available for public review, EPA requests that comments be submitted in triplicate. All comments received before or after publication of the notice of proposed rule making, as well as all technical and economic reports, will be available for inspection and copying at the Office of Public Affairs, Room 227, West Tower, Waterside Mall, during regular business hours (8:00 a.m.–4:30 p.m.).

2. Request inclusion on a mailing list for the EPA draft reports and economic studies which will be published about the same time as notices of proposed rule making in the FEDERAL REGISTER. Requests to be included on the mailing list should be received by August 20, 1973 and should indicate which specific reports are requested.

3. Comment upon the notices of proposed rule making and the associated draft EPA technical and economic reports. All comments received within 21 days after publication of the notices in the FEDERAL REGISTER will be considered.

4. All public comments, requests to be included on the mailing list for reports and other requests for reports may be addressed to "EPA Information Center, Attention: Mr. Philip B. Wisman, Environmental Protection Agency, Room W–327, Waterside Mall, Washington, D.C. 20460."

In conclusion, it should be emphasized that EPA seeks comments upon its overall approach and legal interpretation of its responsibilities under sections 304(b), 306 and 307(c) of the Act, as well as upon the technical aspects of the initial draft reports, and the EPA reports to be issued. However, it should be also emphasized that the early expression of comments is essential if EPA is to be able to make whatever adjustments and responses which may be necessary in time to satisfy its responsibilities under the Act. In the event comments are in the nature of criticisms as to the adequacy of data which is available or which may be relied upon by the Agency, comments should identify any additional data which may be available and should indicate how such data is pertinent to the development of regulations under sections 301, 304(b), 306 and 307(c) of the Act. In the event comments address the approach taken to establishing an effluent limitation guideline or standard of performance, EPA solicits suggestions as to what alternative approach should be taken, or result reached, and why and how this fits with the detailed requirements of sections 304(b), 306 and 307(c) of the Act.

Dated: July 31, 1973.

ROBERT L. SANSOM,
Assistant Administrator for Air and Water Programs.

APPENDIX

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[FR Doc.73-16133 Filed 8-3-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 659]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

JULY 30, 1973.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) Within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be con-

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

sidered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

APPENDIX

APPLICATION ACCEPTED FOR FILING:

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20070–C2–P–74 Dakota Radio Paging, Inc. (KQK777) C.P. to add additional facilities to operate on 152.06 MHz at a new location described as Loc. #2: Water Tower 2 miles SSW of Sioux Falls, (Lincoln) S. Dakota.

20071–C2–P–74 Miami Valley Radiotelephone (KLF577) C.P. for additional facilities to operate on 35.22 MHz located at 2400 Lehman Road, Cincinnati, Ohio, described as Loc. #2.

20072–C2–P–74 Raleigh Radio Paging Service, Inc. (KIY409) C.P. to replace transmitter operating on 35.22 MHz at 5 West Hargett Street, Wake, North Carolina.

20073–C2–P–74 Radio Telephone Service, Inc. (New) C.P. for a new 2-way station to operate on 152.21 MHz located at 2210 Boardwalk, Atlantic City, New Jersey.

20074–C2–P–74 Coosa Valley Telephone Company (New) C.P. for a new 2-way station to operate on 152.510 MHz located at: 0.8 mile NW of intersection of U.S. Hwy 78 & U.S. Hwy 231 in Pell City, Alabama.

20075–C2–P–(7)–74 South Central Bell Telephone Company (KIB532) C.P. to replace transmitter operating on 152.81 MHz; additional facilities to operate on 152.51, 152.66, & 152.72 MHz; change antenna system and relocate all base facilities to Sharps Ridge, Memorial Park, Knoxville, Tennessee; also establish test facilities to operate on 157.77, 157.89, 157.92, 157.95, 157.98, 158.07 to be located at 312 North Broadway, Knoxville, Tennessee.

20076–C2–P–(4)–74 Airsignal International, Inc. (New) C.P. for a new 2-way station to operate on 454.075 454.150 454.200 and 454.325 located at: SE corner of I–40 & North Avalon, West Memphis, Arkansas.

20077–C2–(4)–74 Kwik Kall Communications Co. (New) C.P. for a new 2-way station to operate on 454.075 454.200 454.275 and 454.350 located at: 5321 First Place, N.E., Washington, D.C.

20078–C2–P–74 Elyria Telephone Company (KQK581) C.P. to replace transmitter to operate on 152.66 MHz located at 124–126 Middle Avenue, Elyria, Ohio.

20079–C2–P–74 Radiocall, Inc. (New) C.P. for a new 1-way signaling station to operate on 152.24 MHz, Base, to be located at Loc. #1: 1.3 miles S.W. of Maui County Farm, Kula, Hawaii and 454.025 MHz, Control, to be located at Loc. #2: 1977 Kaohu Street, Wailuku, Hawaii.

Renewals of Licenses expiring July 1, 1973. TERM: July 1, 1973 to July 1, 1978

LICENSEE	*Call Sign*
Florida Telephone Corporation	KIJ360
Georgia State Tel. Co	KIY351
Same	KIY791
Headwaters Tel. Co	KSD681
Kalama Telephone Co	KOP330
Lake Dallas Tel. Co	KLB495
Mid-Rivers Tel. Coop., Inc	KOH282
Pioneer Tel. Assoc., Inc	KAL877

MAJOR AMENDMENT

6465–C2–P–73 (KSV965) General Communications Service, Inc., Tucson, Arizona. Amend to add additional location on 35.22 MHz on Blackjack Mountain, Marietta, Georgia. All other particulars are to remain the same as reported on PN #639 dated March 12, 1973.

RURAL RADIO SERVICE

60020–C6–P–74 Cameron Telephone Company (New) C.P. for a new rural subscriber station to operate on 157.95 MHz located at approximately 22 miles Southeast of Cameron, Louisiana, Gulf of Mexico.

POINT-TO-POINT MICROWAVE RADIO SERVICE

124–C1–P–74 American Television Relay, Inc. (KPV76) White Tank Mountain, 10.5 Miles NNW of Perryville, Arizona. Lat. 33 34 10 N.—Long. 112 33 33 W. C.P. to add freqs. 6212.0H 6271.4H 6330.7H 6390.0H MHz via power split toward Casa Grande, Ariz. on azimuth 135°46'. (INFORMATIVE: Applicant proposes to provide Arizona Cable TV, Inc. in Casa Grande/Eloy, Arizona with television signals KTLA, KHJ, KCOP & KHV of Los Angeles, California.)

131–C1–P–74 Southern Bell Telephone & Telegraph Company (KJL24) 2.5 Miles South of Gordon, Georgia. Lat. 32 50 52 N.—Long. 83 20 22 W. C.P. to add freqs. 6123.1V MHz toward Round Oak, Ga. on azimuth 318°14'; freq. 6152.8V MHz toward Nickelsville, Ga. on azimuth 126°26'.

132–C1–P–74 Same (KJG94) Rockdale, Approx. 3 Miles SE of Conyers, Georgia. Lat. 33 37 42 N.—Long. 83 58 47 W. C.P. to add freq. 6197.2V MHz toward Jackson, Ga. on azimuth 172°26'.

133–C1–P–73 Same (KJG93) 1.4 miles ENE of Jackson, Georgia. Lat. 33 17 53 N.—Long. 83 55 39 W. C.P. to change alarm center location and add freq. 5945.2H MHz toward Rockdale, Ga. on azimuth 352°28'; freq. 6123.1V MHz toward Round Oak, Ga. on azimuth 126°01'.

134–C1–P–74 Same (KJG92) .25 Mile South of Round Oak, Georgia. Lat. 33 06 19 N.—Long. 83 36 47 W. C.P. to add freq. 6404.8V MHz toward Jackson, Ga. on azimuth 306°11'; freq. 6404.8V MHz toward Gordon, Ga. on azimuth 138°05'.

135–C1–P–74 Same (KJL23) 4.2 Miles SE of Nickelsville, Georgia. Lat. 32 39 15 N.—Long. 83 01 48 W. C.P. to add freq. 6375.2V MHz toward Gordon, Ga. on azimuth 306°36'.

136–C1–P–74 Same (KJG27) 212 McLean Street, Laurinburg, North Carolina. Lat. 34 46 25 N.—Long. 79 27 55 W. C.P. to add freq. 3810H MHz toward Maxton, N.C. on azimuth 105°20'.

137–C1–P–74 Same (KIR23) On Hwy. #71, 1.1 Miles NE of Maxton, North Carolina. Lat. 34 44 44 N.—Long 79 20 30 W. C.P. to change polarizations on freqs. 3770 4090 MHz from H to V toward Smiths, N.C.; add freq. 3850V MHz toward Smiths, N.C.; add freq. 4090H MHz toward Laurinburg, N.C. on azimuth 285°25'.

138–C1–P–74 Same (KIR24) 2.4 Miles NE of Smiths, North Carolina. Lat. 34 41 03 N.—Long. 78 51 07 W. C.P. to add freq. 3810H MHz toward Council, N.C. on azimuth 131°-92'; change polarization on freqs. 3730 3810 3890 MHz from H to V toward Maxton, N.C.; add freq. 4050V MHz toward Maxton, N.C. on azimuth 278°46'.

139–C1–P–74 Same (KIR25) On Highway #211, 1.8 Miles West of Council, North Carolina. Lat. 34 25 39 N.—Long. 78 30 08 W. C.P. to change polarizations on freqs. 3770 4090 4170 MHz from H to V toward Bishop, N.C.; add freq. 3850V MHz toward Bishop, N.C. on azimuth 121°52'; add freq. 4090H MHz toward Smiths, N.C. on azimuth 311°40'.

140–C1–P–74 Southern Bell Telephone and Telegraph Company. (KIR26) 3.3 Miles NW of Bishop, North Carolina. Lat. 34 13 23 N.—Long. 78 06 27 W. C.P. to change polarizations on freqs. 3730 3810 3890 MHz from H to V toward Council, N.C.; add freqs. 4050V toward Council, N.S. on azimuth 42°8' and 3810H toward Wilmington, N.C. on azimuth 15°1'.

141–C1–R–74 Same. (KIR27). 102 North Fourth Street, Wilmington, North Carolina. Lat. 34 14 13 N.—Long. 77 56 42 W. C.P. to add freq. 4090H toward Bishop, N.C. on azimuth 15°1'.

142–C1–P–74 Navajo Communications Company, Inc. (WCZ45). Cottonwood Junction, 6.5 Miles SW of Chinle, Arizona. Application for Renewal of Radio Station for Term: August 31, 1973 to August 31, 1974.

143–C1–R–74 Same. (WCZ44). Chinle, Arizona. Application for Renewal of Radio Station for Term: August 31, 1973 to August 31, 1974.

144–C1–R–74 Same. (WCZ50). Graveyard Junction, 0.6 Mile West of Tuba City, Arizona. Application for Renewal of Radio Station for Term: August 31, 1973 to August 31, 1974.

145–C1–R–74 Same. (WCZ47). Defiance Summit, 8.5 Miles West of Window Rock, Arizona. Application for Renewal of Radio Station for Term: August 30, 1973 to August 30, 1974.

146–C1–R–74 Same. (WCZ38). Kayenta, Arizona. Application for Renewal of Radio Station for Term: August 31, 1973 to August 31, 1974.

147–C1–R–74 Same. (WCZ39). Black Mesa, 8.1 Miles SW of Kayenta, Arizona. Application for Renewal of Radio Station for Term: August 31, 1973 to August 31, 1974.

148–C1–R–74 Same. (WCZ41). Peabody Coal Mine, 12.5 Miles NW of Forest Lake, Arizona. Application for Renewal of Radio Station for Term: August 31, 1973 to August 31, 1974.

149–C1–R–74 Same. (WCZ49). Shonto, Arizona. Application for Renewal of Radio Station for Term: August 31, 1973 to August 31, 1974.

150–C1–R–74 Same. (WCZ42). Navajo National Monument, 9.0 Miles SW of Shonto, Arizona. Application for Renewal of Radio Station for Term: August 31, 1973 to August 31, 1974.

151–C1–R–74 Same. (WCZ43). Preston Mesa, 15 Miles NW of Tuba City, Arizona. Application for Renewal of Radio Station for Term: August 31, 1973 to August 31, 1974.

152–C1–R–74 Navajo Communications Company, Inc. (WCZ46). Ganado Mesa, 5 Miles NW of Ganado, Arizona. Application for Renewal of Radio Station for Term: August 31, 1973 to August 31, 1974.

153–C1–P–74 Eastern Microwave, Inc. (KEA29). C.P. to change Frequency 6167.6V MHz to 5960.0H MHz toward Blue Hill (KEA66) and Carthage, Pennsylvania. Station location Turin Mt., New York Lat. 43 38 58 N. –Long. 75 29 00 W.

154–C1–P–74 Same. (WQR41). C.P. to add frequency 11305V MHz toward Scranton, Pennsylvania. (Informative: Applicant proposes to provide the television signal WPHL–TV of Philadelphia, Pa. to Verto Corporation in Scranton, Pa.).

250–C1–ML–74 The Ohio Bell Telephone Company. (KQM37). Mod. of C.P. to change from vertical to horizontal polarization on frequencies 11115 and 10875 toward KQM38 at Warren, Ohio.

251–C1–ML–74 Same. (KQM38). Mod. of C.P. to change from vertical to horizonal polarization on frequencies 11325 and 11565 toward Station KQM37, at Shalersville, Ohio.

252–C1–P–74 General Telephone Company of the Northwest, Inc. (New) 11.5 Miles SW of Wenatchee, Washington. Lat. 47 16 31 N. –Long. 120 25 38 W. C.P. for a new station on frequencies: 6034.2V toward Wymer, Washington on azimuth 48° 57'; 11445.0H 11665.0H toward Wenatchee, Washington on azimuth 18° 51'; 6078.6H toward Chelan Butte, Washington on azimuth 66° 46'.

253–C1–P–74 Same. (New). 100 S. Chelan Avenue, Wenatchee, Washington. Lat. 47 25 20 N. –Long. 120 18 43 W. C.P. for a new station on frequencies; 10915.0H 11135.OH toward Mission Peak, Washington on azimuth 18° 51'.

254–C1–P–74 Same. (KTF80). 2.9 Miles SW of Chelan, Washington. C.P. for additional facilities on frequencies: 6330.7H toward Mission Peak, Washington on azimuth 66° 46'; 2110.8H toward Mansfield, Washington on azimuth 29° 63'; and 2126.8H toward Harmony Heights, Washington on azimuth 36° 72'.

255–C1–P–74 Same. (New). Main Street adjacent to City Park, Mansfield, Wash. Lat. 47 48 45 N. –Long. 119 38 16 W. C.P. for a new station on frequency: 2160.8H toward Chelan Butte, Washington on azimuth 29° 63'.

256–C1–P–74 Same. (New). 15 First, SW, Brewster, Washington. Lat. 48 05 52 N. –Long. 119 46 46 W. C.P. for a new station on frequency: 2176.8H toward Harmony Heights Passive, Washington on azimuth 3° 86'.

257–C1–P–74 The Mountain States Telephone and Telegraph Company. 120 4th Street, N.W., Albuquerque, New Mexico. Lat. 35 05 06 N.—Long. 106 39 03 W. C.P. to change antenna system. (KLC49).

258–C1–P–74 Same. (KLD48). 12 Miles NW of Jemez. Lat. 35 41 43 N.—Long. 106 51 29 W. C.P. to add frequencies: 10955V and 10715H MHz toward new points of communication at San Ysidro, New Mexico, on azimuth 16° 6'.

260–C1–P–74 Wyoming Microwave Corporation. (KPS63). C.P. to add frequencies 6234.3V, 6323.3V, 6382.6V and 6412.2H MHz (via power split) toward Lovell, Wyoming on azimuth 57 degrees 36 minutes. Station location Cedar Mountain, Wyoming. (Lat. 44 29 46 N.—Long. 109 09 16 W.). (Informative: Applicant proposes to provide the television signals KSL, KUED, KCPX, and KUTV of Salt Lake City, Utah to Lovell Cable TV Company in Lovell, Wyoming).

261–C1–R–74 Indiana Bell Telephone Company. (KYS50). In any temporary fixed location within the territory of the grantee. Application for Renewal of Radio Station for Term: September 12, 1973 to September 12, 1974.

Major Amendments

3778–C1–P–72 United Video, Inc. (New) Change azimuth from 90 degrees 07 minutes to 88 degrees 00 minutes toward Bloomingdale, Ga.

3779–C1–P–72 Same Change location to west side of Ga. Hwy. 17, 0.9 mile north of U.S. Hwy 80 intersection. Lat. 32 degrees 09 minutes 30 seconds N. and Long. 81 degrees 20 minutes 59 seconds W. Change azimuth from 131 degrees 41 minutes to 131 degrees 52 minutes toward WJCL; from 114 degrees 28 minutes to 115 degrees 50 minutes toward WSAV; and from 110 degrees 36 minutes to 112 degrees 22 minutes toward WTOC.

3780–C1–P–72 Same Change azimuth from 171 degrees 22 minutes to 168 degrees 43 minutes toward Jesup, Ga.

3781–C1–P–72 Same Change azimuth from 24 degrees 12 minutes to 23 degrees 41 minutes toward Jesup.

3785–C1–P–72 Same Change location to south side of U.S. Hwy. 341, 3.6 miles NW of Jesup, Ga. Lat. 31 degrees 38 minutes 16 seconds N. and Long. 81 degrees 57 minutes 23 seconds W. Change azimuth from 351 degrees 24 minutes to 348 degrees 45 minutes toward Tison; and from 204 degrees 13 minutes to 203 degrees 46 minutes toward Owen.

5199–C1–P–66 United Video, Inc. (New) 2.5 Miles East of Gridley, Illinois (Lat. 40 45 12 N.—Long. 88 49 57 W.): Application amended (a) to relocate station to foregoing coordinates and (b) to change frequencies to 10775V MHz and 11015V MHz toward Bloomington, Illinois, on azimuth 204 degrees 18 minutes.

6402–C1–P–70 Southern Pacific Communications Company (New) Amended to change coordinates of station to Lat. 38 23 10 N.—Long. 90 09 02 W. (All other particulars same as reported in Public Notice dated March 15, 1971).

CORRECTIONS

8399–C1–TC–73 Olympic Telephone Company. (WHB45). Change File No. 8530–C1–TC–73 to 8399–C1–TC–73. (All other particulars same as reported in Public Notice No. 651, dated June 4, 1973).

The following File Number will be changed from 1973 to 1974.

09–C1–P–74 thru 18–C1–P–74
20–C1–P–74 thru 33–C1–P–74
39–C1–P–74
40–C1–P–74
41–C1–MP–74
43–C1–MP–74 thru 46–C1–P–74

(All other particulars remain same as reported in Public Notice No. 658, dated July 23, 1973).

[FR Doc.73–16040 Filed 8–3–73;8:45 am]

[Docket No. 19684; FCC 73–811]

ITT WORLD COMMUNICATIONS INC.

Telex and Message Telegraph Services to Guam; Memorandum Opinion and Order Amending and Adding Issues

In the matter of ITT World Communications Inc. Petition under section 201(a) of the Communications Act of 1934 for connection with RCA Global Communications, Inc. (38 FR 14436) to enable ITT World Communications Inc. to provide telex and message telegraph services to Guam.

1. The Commission is considering, on its own motion, pursuant to sections 201 (a) and 4(i) of the Communications Act of 1934, an amendment to the issues set for hearing in this matter in the Commission's Memorandum Opinion and Order of February 20, 1973 (FCC 73–144).

BACKGROUND

2. This proceeding was instituted by Memorandum Opinion and Order of February 20, 1973 (FCC 73–144) on petition of ITT World Communications Inc. (ITT WC), requesting that the Commission, pursuant to section 201(a) of the Communications Act of 1934, direct RCAGC to cooperate with ITTWC in establishing an electrical interconnection between RCAGC's telegraph message and telex systems on Guam and ITTWC's telegraph message and telex systems, establishing through routes and charges applicable thereto and the division of such charges, and establishing and providing facilities and regulations for operating such through routes.[1]

3. Subsequently RCAGC filed on March 19, 1973, a motion to clarify and enlarge the hearing issues to specifically include whether ITTWC had any right under the International Formula prescribed by the Commission pursuant to Section 222 of the Communications Act of 1934[2] to unrouted Guam-bound message telegraph traffic originating in the Western Union Telegraph Company (WU) domestic network, whether there should be an amendment to the Formula, and the financial effect on RCAGC in the event of any redistribution of traffic under the Formula. RCAGC rep-

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[1] The hearing order encompassed the following issues:

"(1) Whether it is necessary or desirable in the public interest to require RCAGC to interconnect its telegraph message and telex facilities with facilities of ITTWC for the provision of service to and from Guam.

(a) The effects, financial and other, on ITTWC and RCAGC telex and message services, and the public, were no interconnection to be established; and

(b) the manner in which ITTWC customers are able to send or receive messages to and from Guam in the absence of interconnection.

(2) The points at which interconnection, if any, should be established, and the financial and other effects on the ITTWC and RCAGC telex and message services and the public.

(a) The through routes and charges to be established; and

(b) the facilities and regulations appropriate to the operation of such routes.

(c) The charges and the classifications, regulations and practices affecting such charges; and

(d) the appropriate division of such charges."

[2] Merger of Western Union Telegraph Company and Postal Telegraph Company, Separate Report of the Commission on the Formula, 10 FCC 2d 184 (1943). The Formula, which has been amended subsequent to its inception in 1943, governs the distribution among international telegraph carriers of message traffic filed with the Western Union Telegraph Company. It sets out a quota system for the distribution to the international carriers of unrouted outbound messages which, added to messages specifically routed via such carrier, gives each such amount of gross international tolls to a geographical subarea as is proportionate to its share of total industry tolls to such areas in a base period.

resented that it received no quota under the Formula for Guam-bound traffic since it did not operate facilities to that point until 1952. It is to be noted, however, that all unrouted Guam-bound message telegraph traffic has been distributed to RCAGC because it alone has been authorized to serve Guam.[3] If a present right to unrouted traffic were successfully established by ITTWC and interconnection were ordered at a point outside of the United States Mainland, RCAGC expects that ITTWC would receive the total unrouted message telegraph traffic presently handled by RCAGC.[4]

4. In our Order of May 29, 1973, we denied the RCAGC motion for enlargement,[5] finding that ITTWC's petition for interconnection and subsequent associated pleadings (including those of WUI) were directed solely at gaining direct access to Guam for exclusive telex subscribers and control over telegraph messages specifically routed via ITTWC (or WUI) facilities and contained nothing to indicate that there was any intent to claim rights to unrouted traffic under the Formula, or to request an amendment to the Formula. Accordingly, we concluded that there was "no reason to include in the instant proceeding any issue addressing the necessity or desirability of effecting a change in the current distribution of Guam-bound message telegraph traffic pursuant to the International Formula as an incident to interconnection." We provided, however, that if ITTWC (and/or WUI) informed the Commission within 15 days of the release of the order it intended to seek a redistribution of unrouted traffic under the Formula were interconnection ordered, we would take appropriate steps to consider such issue in conjunction with Docket No. 19660, In the Matter of International Record Carriers' Scope of Operations in the Continental United States, Including Possible Revisions of the Formula Prescribed under Section 222 of the Communications Act.

5. On June 13, 1973, ITTWC timely filed notice of its intention to seek a redistribution of Guam-bound unrouted message traffic in the event the requested interconnection is ordered. At the conclusion of its filing ITTWC added the following:

> Being unaware of any basis for such action, we assume that the normal administration of the Formula will not be stayed respecting the initial determination and recognition of any carrier's Guam quota rights.

6. Responding to such language, RCAGC filed on June 28, 1973, a motion for clarification requesting that in the event interconnection is ordered herein, the Commission "make it explicit that the present existing distribution of unrouted message telegrams will not be affected by any action except after completion of the necessary proceedings in Docket 19660." RCAGC asserts that if ITTWC were free to effect the distribution of unrouted traffic through other means (e.g., by virtue of the independent operation of the terms of the Formula), the Commission's Order of May 29, 1973 does not adequately protect the rights of RCAGC in the interconnection proceeding.

7. ITTWC filed an opposition to the RCAGC motion on July 11, 1973. It argues that the question raised by RCAGC is purely academic in the absence of the establishment of a Guam telegraph interconnection on a normal correspondancy basis, an assertion by ITTWC of quota rights prior to disposition of Docket 19660, and the recognition of such rights by the "Formula's administrative apparatus." It also asserts that RCAGC's effort to stay the "normal administration of the Formula" while ITTWC's Guam quota rights are studied (presumably within Docket 19660) is inconsistent with RCAGC's position in Docket No. 19660 that the existing Formula is not unjust, unreasonable or inequitable. Finally, it argues that adoption of the RCAGC view would constitute an unprecedented and discriminatory suspension of ITTWC's rights under the Formula pending final disposition of Docket 19660.

Discussion

8. Upon review of ITTWC's June 13, 1973 filing and its recent pleading in opposition to RCAGC's motion for clarification, it appears that, contrary to the impression derived from earlier pleadings in this matter, ITTWC intends to apply under the existing International Formula for a share of unrouted Guam-bound message telegraph traffic if an interconnection with RCAGC is ordered in this proceeding (in addition to its clearly stated desire to handle telex and routed message telegraph traffic via such interconnection). ITTWC appears to believe it is entitled to such traffic under the Formula as presently written and that it need not wait for the conclusion of Docket No. 19660 to accomplish a redistribution of Guam traffic, as we originally contemplated.

9. When the question as to ITTWC's precise position with respect to unrouted traffic was raised initially by RCAGC in its March 12, 1973 motion for clarification and enlargement of the issues, ITTWC in its opposition referred to the remoteness of Formula considerations to this proceeding and the frivolity of Formula revision outside the pending Docket No. 19660. It left open the question of whether it would seek, as a consequence of an affirmative decision in this proceeding, a redistribution of traffic under the International Formula as it presently exists. In its June 13 filing, however, ITTWC's concluding remark suggested that a change in the current distribution of unrouted Guam-bound message traffic may be sought as an incident to interconnection, pursuant to the "normal administration of the Formula," pending conclusion of the broader policy concerns in Docket No. 19660.

10. When the question as to ITTWC's intentions with respect to unrouted traffic was raised a second time in RCAGC's June 29, 1973 motion for clarification, ITTWC again argued the irrelevancy of the redistribution issue in this proceeding. It also expanded on its concern that the normal administration of the Formula and the recognition of quota rights by the Formula's administrative apparatus not be stayed pending Docket No. 19660, thus intimating further, but without detail, that a change in the current distribution of Guam traffic would be sought as an incident to interconnection other than in the context of Docket No. 19660.

11. We disagree with the position taken by ITTWC that a change in the current distribution of unrouted Guam-bound message traffic as an incident to interconnection would have no relevant impact on RCAGC (on the theory that the hearing herein relates only to the Guam half of the interconnected circuit and not the Mainland half). It is clear that should ITTWC be entitled as a matter of law to such unrouted traffic under the present Formula, the effect on RCAGC, which has heretofore handled 100% of unrouted Guam message traffic, would be relevant to a resolution of the financial issues set for hearing in the Commission's Order of February 20, 1973.

12. Accordingly, we find it appropriate to add to this proceeding the issue of whether ITTWC, in the event interconnection is ordered, would be entitled to quota rights under the existing International Formula. If ITTWC is entitled to such rights, we would then consider projected financial and other effects of the consequent redistribution of traffic on RCAGC. The quota rights question appears to be one of law; therefore, it should be addressed in the form of written briefs submitted to the Commission for its determination. The hearing need not be deferred pending the resolution of this issue since it is likely that testimony offered in response to the issues originally set for hearing in the Com-

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[3] The only companies operating on Guam during the base period were Commercial Pacific Cable Company, now defunct, and Globe Wireless, now absorbed into ITTWC. Globe Wireless was acquired in 1960 by AC&R, a subsidiary of International Telephone and Telegraph Corporation. According to RCAGC, it could theoretically be argued that ITTWC has succeeded to the quota of Globe Wireless, even though in the 32 years since the base period it has never applied for it.

[4] ITTWC opposed RCAGC's motion for enlargement, arguing that formula considerations would have no effect on the amount of revenue derived by RCAGC from its operations on Guam and thus were remote from the central issues in the subject proceeding, and consideration of a revision of the Formula would be frivolous in light of the pending Commission Inquiry, *In the Matter of International Record Carriers' Scope of Operations in the Continental United States, Including Possible Revisions of the Formula Prescribed under Section 222 of the Communications Act* (Docket No. 19660).

[5] At the same time the Commission granted a motion of Western Union International, Inc., amending the issues in the instant proceeding to include WUI wherever mention is made of ITTWC.

mission's February 20, 1973 Order will produce sufficient traffic and revenue data to enable consideration of the effect of any possible redistribution of traffic should the Commission find in favor of ITTWC. If necessary, however, appropriate steps may be taken to incorporate additional oral testimony into the hearing record.

CONCLUSION

13. In light of ITTWC's recent intimations that it may seek a redistribution of unrouted Guam-bound message traffic as an incident to interconnection prior to the conclusion of Docket No. 19660 and the clear relevancy of such a possibility to the instant proceeding, we are compelled to amend the issues identified for Commission inquiry in this proceeding in the February 20, 1973 Order.[6]

14. Accordingly, *it is ordered*, That:

(A) The second issue of the Commission's inquiry in Docket No. 19684, initiated by Memorandum Opinion and Order released February 20, 1973 (amended by Memorandum Opinion and Order released May 29, 1973, to include WUI wherever mention is made of ITTWC) shall be amended to read as follows:

(2) The points at which interconnection, if any, should be established and the financial and other effects, including the redistribution of unrouted Guam-bound message telegraph traffic pursuant to the International Formula, on the ITTWC, WUI and RCAGC telex and message services and the public * * *

(B) A third issue shall be added to the inquiry in Docket No. 19684, as follows:

(3) The rights of RCAGC, ITTWC and WUI to unrouted Guam-bound message telegraph traffic under the existing International Formula.

(C) The third issue referenced in (B) above shall be addressed by the parties in the form of written briefs submitted to the Commission within 15 days of the release of this Order. Such briefs shall be personally served by each party on the other parties herein, and a certificate to such effect shall be filed with the Commission. Replies may be filed by any party within 5 days thereafter. A determination may be made by the Commission independently of the scheduled hearing in this matter. The hearing shall continue as scheduled, and the Administrative Law Judge shall defer the closing of the record until further order of the Commission.

By the Commission.

Adopted: July 27, 1973.

Released: July 31, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[7]

[SEAL] VINCENT J. MULLINS, *Acting Secretary.*

[FR Doc.73-16139 Filed 8-3-73;8:45 am]

[6] In light of this conclusion, there is no apparent need to consider on its merits and dispose of RCAGC's pending Motion for Clarification filed June 28, 1973.

[7] Commissioner Johnson concurring in the result; Commissioner H. Rex Lee absent.

FEDERAL DEPOSIT INSURANCE CORPORATION

LOANS TO CORPORATION EXAMINERS BY NATIONAL BANKS, DISTRICT BANKS AND STATE MEMBER BANKS OF FEDERAL RESERVE SYSTEM

Policy Statement

Any officer, director or employee of a bank the deposits of which are insured by this Corporation is prohibited from making a loan to any governmental examiner "who examines or has authority to examine" such bank (18 U.S.C. 212). A governmental bank examiner, in turn, is prohibited from "accept[ing] a loan from any bank, corporation, association or organization examined by him or from any person connected therewith" (18 U.S.C. 213). Section 10(b) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1820(b)), provides in pertinent part:

The Board of Directors shall appoint examiners who shall have power, on behalf of the Corporation, to examine any insured State nonmember bank (except a District bank), any State nonmember bank making application to become an insured bank, and any closed insured bank, whenever in the judgment of the Board of Directors an examination of the bank is necessary. In addition to the examinations provided for in the preceding sentence, such examiners shall have like power to make a special examination of any State member bank and any national bank or District bank, whenever in the judgment of the Board of Directors such special examination is necessary to determine the condition of any such bank for insurance purposes. In making examinations of insured banks, examiners appointed by the Corporation shall have power on behalf of the Corporation to make such examinations of the affairs of all affiliates of such banks as shall be necessary to disclose fully the relations between such banks and their affiliates and the effect of such relations upon such banks. Each examiner shall have power to make a thorough examination of all of the affairs of the bank and its affiliates, and shall make a full and detailed report of the condition of the bank of the Corporation.

The Corporation has rarely exercised its power under section 10(b) to make a special examination of a national bank, a State bank operating under the laws of the District of Columbia ("District Bank"), or a State bank which is a member of the Federal Reserve System ("State member bank"), which are regularly examined by examiners appointed by the Comptroller of the Currency and the Board of Governors of the Federal Reserve System, respectively. Nevertheless, the second sentence of section 10(b) might be interpreted as conferring on all FDIC examiners general authority to examine any national bank, District bank or State member bank, thereby precluding a loan to an FDIC examiner from any such bank.

In the Corporation's opinion, attribution of such general authority to FDIC examiners would be an overly broad construction of section 10(b). Literally read, that provision empowers Corporation examiners to make a special examination of a national bank, District bank or State member bank only "whenever in the judgment of the [Corporation's] Board of Directors such special examination is necessary to determine the condition of [the] bank for insurance purposes." The Corporation interprets this provision as requiring a specific judgmental determination by the Board of Directors as a precondition for a special examination of a national bank, District bank or State member bank by Corporation examiners. It would thus seem wholly anomalous, as well as contrary to the clear meaning of section 10(b), to conclude that a Corporation examiner could, without express prior authorization by the Board of Directors, conduct a special examination of a national bank, District bank or State member bank which is not affiliated with an insured State nonmember bank which he does examine. Although express authorization presently exists with respect to examinations of State nonmember insured banks, which are regularly examined by the Corporation, no such authorization has been generally granted with respect to national banks, District banks or State member banks—nor does the Corporation foresee any circumstances under which such a general authorization would be granted in the future with respect to such banks.

On the contrary, any special examination of a national bank, District bank or State member bank hereafter conducted by Corporation examiners will be undertaken only pursuant to specific authorization by the Board of Directors. In order to avoid any possibility that a Corporation examiner might be assigned to examine a national bank, District bank or State member bank from which he has a loan outstanding, Corporation examiners will be required to report to the Corporation the name of any such bank from which they have credit outstanding. Furthermore, the specific authorization for special examination of a national bank, District bank or State member bank will be predicated upon actual notice to the particular bank at the time the special examination begins to the effect that the bank shall thereafter make no loans to the examiners specifically designated in the notice to conduct the special examination. Absent such specific notice, any such bank may assume that Corporation examiners do not have authority from the Corporation's Board of Directors to examine the bank.

In addition, as noted above, a Corporation examiner is prohibited from accepting a loan from, among others, "any person connected [with]" any bank actually examined by him (18 U.S.C. 213). Since this prohibition could be construed to apply to a Corporation examiner's acceptance of a loan from a national bank, District bank or State member bank which is affiliated with an insured State nonmember bank examined by him, no loan to a Corporation examiner should be made by a national bank, District bank or State member bank which is affiliated in a holding company system or otherwise with an insured State nonmember bank and no such loan should be accepted by a Corporation examiner. In the event a national bank, District bank or State member bank

making a loan to a Corporation examiner becomes affiliated with an insured State nonmember bank subsequent to the making of the loan, the loan should be promptly removed and other suitable arrangements made. Prior to removal of the loan, the examiner in question will not be permitted to examine an insured State nonmember bank affiliated under a holding company system or otherwise with a national bank, District bank or State member bank which has made a loan to him.[1]

Dated at Washington, D.C., this 31st day of July, 1973.

By order of the Board of Directors.

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

[FR Doc.73-16096 Filed 8-3-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI74-45]

ANADARKO PRODUCTION CO.

Notice of Application

JULY 30, 1973.

Take notice that on July 23, 1973, Anadarko Production Company (Applicant), P.O. Box 9317, Fort Worth, Texas 76107, filed in Docket No. CI74-45 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 Panhandle Eastern Pipe Line Company from the No. 1 Light "D" Well, Stevens County, Kansas, 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 up to 1,000 Mcf of natural gas per day for one year from the first day of the month following the date of initial delivery at 45.0 cents per Mcf, subject to Btu 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 August 13, 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.73-16116 Filed 8-3-73;8:45 am]

[Docket No. E-8324]

BLACKSTONE VALLEY ELECTRIC CO.

Amendment to Agreement

JULY 30, 1973.

Take notice that Blackstone Valley Electric Company (Blackstone), on July 13, 1973, tendered for filing a supplement to its Rate Schedule FPC No. 6. Blackstone states that the supplement constitutes an amendment to an agreement of November 18, 1974 between Blackstone and Pascoag Fire District. (Pascoag)

According to Blackstone, the amendment was necessary to remove a restrictive clause of the agreement. The clause provided that Pascoag needed to secure Blackstone's approval before selling energy to any manufacturing concern in Harrisville Fire District whose requirements exceed 10 KW. Blackstone claims that the amendment has no effect upon service or charges; therefore, no estimate can be made regarding sales, services, or revenues.

Blackstone requests waiver of the notice requirements of the Commission's rules and regulations so that the amendment would become effective as of June 18, 1973. Blackstone claims that neither party would be adversely affected by such a waiver.

Any person desiring to be heard or to protest should file a petition to intervene or protest with the Federal Power Commission 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Commission's rules of practice and procedure. All such petitions or protests should be filed on or before August 9, 1973. Protests will be considered by the Commission in determining the appropriate action, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16118 Filed 8-3-73;8:45 am]

[Docket No. E-8317]

MONTAUP ELECTRIC CO.

Notice of Agreement

JULY 27, 1973.

Take notice that on July 16, 1973, Montaup Electric Company (Montaup) tendered for filing a letter agreement between Montaup and New Bedford Gas and Edison Light Company (New Bedford). The agreement provides for the use of Montaup's Bell Rock Road Switching Station by New Bedford.

According to Montaup, New Bedford is installing a substation adajacent to the Bell Rock Road Station and will obtain its 115 KV supply by connecting to the Bell Rock Road facilities. Montaup estimates the total cost of construction at $380,700 of which New Bedfords share will be $176,310. Montaup states the station will be completed by August 15, 1973 and therefore requests that be the effective date of this application.

Any person desiring to be heard or to protest should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Commission's rules of practice and procedure. All such petitions or protests should be filed on or before August 9, 1973. Protests will be considered by the Commission in determining the appropriate action, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16114 Filed 8-3-73;8:45 am]

[Docket No. E-8322]

MONTAUP ELECTRIC CO.

Amendment to Agreement

JULY 30, 1973.

Take notice that on July 16, 1973, Montaup Electric Company (Montaup) ten-

[1] The above procedures, of course, are merely designed to permit borrowing by an FDIC examiner from a national bank, District bank or State member bank in a bona fide transaction under circumstances where there is no likelihood of contravention of the congressional purpose underlying the criminal statutes discussed herein (18 U.S.C. 212 and 213). Those statutes are designed "to proscribe certain financial transactions which could lead to a bank examiner carrying out his duties with less than total, unbiased objectivity." United States v. Bristol, 473 F. 2d 439, 442 (5th Cir. 1973). As in the Bristol case, it may be expected that courts will have little difficulty in penetrating a subterfuge which attempts to camouflage criminal conduct that does violate the clear intent of those statutes.

dered for filing a supplement to its FPC Rate Schedule No. 1. According to Montaup, the rate schedule above represents a contract among Montaup, Fall River Electric Light Company, Brockton Edison Company, and Blackstone Valley Electric Company, the latter three companies being the owners of Montaup.

Montaup states that the sole purpose for the amendment is to reflect the fact that the other three parties to the contract are retiring from service all of their generating capacity. Montaup asserts that there are no rate changes involved in the amendment and requests an effective date of August 16, 1973.

Any person desiring to be heard or to protest should file a petition to intervene or protest with the Federal Power Commission 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Commission's rules of practice and procedure. All such petitions or protests should be filed on or before August 9, 1973. Protests will be considered by the Commission in determining the appropriate action, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16117 Filed 8-3-73;8:45 am]

[Docket No. CP71-308, as Amended]

PENNZOIL PIPELINE CO.

Notice of Filing

JULY 27, 1973.

Take notice that on July 17, 1973, Pennzoil Pipeline Company (Pennzoil) tendered for filing a statement showing emergency purchases of natural gas by United Gas Pipe Line Company from Pennzoil during the period July 1, 1972 to June 30, 1973, and First Revised Sheet No. 11 to its FPC Gas Tariff canceling Rate Schedule X-3. Pennzoil states that service under the aforementioned rate schedule was discontinued at 7 a.m., June 30, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16115 Filed 8-3-73;8:45 am]

[Docket No. E-8321]

SOUTHERN CALIFORNIA EDISON CO.

Initial Rate Schedule

JULY 27, 1973.

Take notice that on July 16, 1973, Southern California Edison Company (SCEC) tendered for filing as an initial rate schedule a letter of agreement with Portland General Electric Company (Portland) dated May 30, 1973. SCEC states that the agreement provides that if Portland's available resources are or are expected to be insufficient to meet its short term system demands and spinning reserve requirements, SCEC will supply firm capacity and associated energy in the amounts requested, if available, delivered at the Oregon-California border over the facilities of the Pacific Intertie. The company further states that no new facilities are to be installed nor existing facilities modified in order to supply the service to be furnished under the proposed rate schedule. SCEC submits that no estimate of future sales and revenue can be made because such sales will be dependent upon availability of hydroelectric power in the Pacific Northwest. An effective date thirty days after filing date is requested.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16112 Filed 8-3-73;8:45 am]

TRANSCONTINENTAL GAS PIPELINE CORP.

Proposed Rates and Charges

JULY 30, 1973.

Take notice that on July 16, 1973, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing Second Revised Sheet No. 346, First Revised Sheet No. 347, and First Revised Sheet No. 348. (constituting part of Rate Schedule X-46) to its FPC Gas Tariff, Original Volume No. 2.

Transco states that these sheets are part of an exchange agreement between United Gas Pipe Line Company (United) and Transco. The proposed rates are necessary, Transco asserts, to effectuate amendments to that exchange agreement that were approved by Commission order of July 5, 1973, in Docket No. CP67-286.

Transco also requests waiver of the notice requirements of the Commission's rules and regulations. Since the exchange agreement has been in effect since its approval on July 5, 1973, that is the requested effective date of the proposed rates.

Any person desiring to be heard or to protest should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D. C. 20426, in accordance with Commission's rules of practice and procedure. All such petitions or protests should be filed on or before August 9, 1973. Protests will be considered by the Commission in determining the appropriate action, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16119 Filed 8-3-73;8:45 am]

[Docket No. CP73-187]

UNITED GAS PIPE LINE CO.

Revision to Tariff

JULY 27, 1973.

Take notice that on July 13, 1973, United Gas Pipe Line Company (United) tendered for filing as a part of its FPC Gas Tariff, Original Volume No. 2, the following:

Revised Sheets

Fourth Revised Sheet No. 176
Fourth Revised Sheet No. 179
Fourth Revised Sheet No. 180
Original Sheet No. 180-A

Superseded Sheets

Third Revised Sheet No. 176
Third Revised Sheet No. 179
Third Revised Sheet No. 180

United states that the purpose of this filing is to reflect an exchange agreement with Mid Louisiana Gas Company. An effective date of August 16, 1973, is proposed.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D. C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16113 Filed 8-3-73;8:45 am]

[Docket No. CI74-49]

CITIES SERVICE OIL CO.

Notice of Application

JULY 30, 1973.

Take notice that on July 23, 1973, Cities Service Oil Company (Applicant), P.O. Box 300, Tulsa, Oklahoma 74102, filed in Docket No. CI74-49 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 El Paso Natural Gas Company from the State No. 1 Well, South Carlsbad Field, Eddy County, New Mexico, 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 commenced the sale of gas on July 22, 1973, within the contemplation of § 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale until May 1, 1975, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell all the gas it can produce, estimated to be approximately 3,000 Mcf per day, at 52.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment. Deliveries are estimated to be approximately 90,000 Mcf per month.

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 August 16, 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, 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 section 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.73-16126 Filed 8-3-73;8:45 am]

[Docket No. E-8323]

FLORIDA POWER AND LIGHT CO.

Notice of Agreement and Proposed Changes in Rates and Charges

JULY 27, 1973.

Take notice that on July 16, 1973, Florida Power and Light Company (Florida) tendered for filing a letter agreement dated April 16, 1973, between Florida and the city of Homestead providing for electrical service under the currently effective Rate Schedule WH. Also tendered was an application to substitute Florida FPC Electric Tariff Original Volume No. 1 and the accompanying Rate Schedule SR for the currently effective Rate Schedule WH under the tendered agreement. An effective date of September 1, 1973 is requested for implementing the new rate schedule, while a September 16, 1973 effective date is requested for the entire agreement.

Florida states that the proposed agreement will supersede the contract between Florida and the city of Homestead and currently on file with the Commission as Florida Rate Schedule FPC No. 9. The new agreement, according to Florida, contains authorization for it to seek to unilaterally change the applicable rates as it does in this application. Florida notes that the requested rates would be subject to refund in accordance with Commission order of March 29, 1973 in Docket No. E-8008.

Any person desiring to be heard or to protest should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Commission's rules of practice and procedure. All such petitions or protests should be filed on or before August 14, 1973. Protests will be considered by the Commission in determining the appropriate action, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16125 Filed 8-3-73;8:45 am]

MID LOUISIANA GAS CO.

Notice of Exchange Agreement Amendment

JULY 30, 1973.

Take notice that on July 16, 1973, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing the following tariff sheets as a part of First Revised Volume No. 2 of its FPC Gas Tariff:

	Superseding
Second Revised Sheet No. 27	First Revised Sheet No. 27
Second Revised Sheets No. 30 through 34	First Revised Sheets No. 30 through 34
Original Sheet No. 34a	

Mid Louisiana states that the proposed tariff sheets are for the purpose of incorporating into Rate Schedule X-3 an amendment of the exchange agreement between Mid Louisiana and United Gas Pipe Line Company (United) dated November 27, 1972. The Company submits that by Order issued July 2, 1973, in Docket No. CP73-187, the Commission granted a Certificate of Public Convenience and Necessity authorizing the amendment to the exchange agreement. The Company further states that no change in rate level to its customers is proposed by these tariff sheets. An effective date of August 16, 1973, is proposed.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16124 Filed 8-3-73;8:45 am]

[Docket No. CI74-44]

MOBIL OIL CORP.

Notice of Application

JULY 30, 1973.

Take notice that on July 23, 1973, Mobil Oil Corporation (Applicant), Three Greenway Plaza East, Suite 800, Houston, Texas 77046, filed in Docket No. CI74-44 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 Northern Natural Gas Company from the Vacuum (Morrow) Field, Lea County, New Mexico, 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 commenced sale of gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for two years from the end of the sixty-day emergency period within the contemplation of § 2.70 of the Commission's Gen-

eral Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 2,500 Mcf of gas per day at 50.0 cents per Mcf at 14 65 psia, subject to upward and downward Btu adjustment. Deliveries are estimated to be 75,000 Mcf per month.

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 August 16, 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.73-16127 Filed 8-3-73; 8:45 am]

[Docket No. CP61-79]

TEXAS GAS TRANSMISSION CORP.

Notice of Revision to Tariff

JULY 30, 1973.

Take notice that on July 16, 1973, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Fifth Revised Sheet No. 317 and Original Sheet No. 317-A to its FPC Gas Tariff, Original Volume No. 2. Texas Gas states that this filing is made to reflect authorization for the operation of a certain existing delivery point for use in the exchange of natural gas with United Gas Pipe Line Company, pursuant to Commission order issued July 5, 1973, in Docket No. CP61-79. Waiver of § 154.22 of the Commission's regulations is requested to permit an effective date of July 5, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16121 Filed 8-3-73; 8:45 am]

[Docket No. E-8316]

UNION ELECTRIC CO.

Notice of Service Agreement

JULY 30, 1973.

Take notice that Union Electric Company (Union) on July 16, 1973, tendered for filing a service agreement between Union and the city of Hannibal, Missouri (Hannibal). The agreement would provide estimated revenues from jurisdictional sales of $1,137,224 for the 12 month period ending May 31, 1974.

Union states that the new agreement, which provides for Union to provide the total energy requirements of Hannibal, supersedes Union FPC Rate Schedule No. 71. Union claims that the new agreement is necessary because the recent flooding of the Mississippi River caused extensive damage to Hannibal's power plant, forcing it to seek alternative sources of power.

The rate to be assessed, according to Union, is the same as is presently on file with the Commission in Union's FPC Electric Rate Schedule W-2. The only deviation would occur if Hannibal decides to install peaking capacity, such deviation to result in a reduction of Hannibal's monthly bills.

Because of the inoperative conditions of Hannibal's plant, service under the agreement began on June 1, 1973. Accordingly Union seeks waiver of the notice requirement of the Commission's rules and regulations so that June 1, 1973 might be the effective date of the agreement.

Any person desiring to be heard or to protest should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Commission's rules of practice and procedure. All such petitions or protests should be filed on or before August 9, 1973. Protests will be considered by the Commission in determining the appropriate action, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16122 Filed 8-3-73; 8:45 am]

[Docket Nos. CP61-79, CP67-286]

UNITED GAS PIPE LINE CO.

Notice of Revision to Tariff

JULY 30, 1973.

Take notice that on July 13, 1973, United Gas Pipe Line Company (United) tendered for filing as a part of its FPC Gas Tariff, Original Volume No. 3, the following:

Revised Sheets	*Superseded Sheets*
Fourth Revised Sheet No. 68.	Third Revised Sheet No. 68.
Fifth Revised Sheet No. 70.	Fourth Revised Sheet No. 70.

United states that this filing is made to reflect authorization for an additional delivery point in the amended exchange agreement between United and Texas Gas Transmission Corporation, pursuant to Commission orders issued July 5, 1973, in Docket Nos. CP61-79, Amended and CP67-286, Amended. Waiver of § 154.22 to the Commission's regulations is requested to permit an effective date of July 5, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16120 Filed 8-3-73; 8:45 am]

[Docket Nos. CP61-79, CP67-286]

UNITED GAS PIPE LINE CO.

Notice of Revision to Tariff

JULY 30, 1973.

Take notice that on July 13, 1973, United Gas Pipe Line Company (United) tendered for filing as a part of its FPC Gas Tariff, Original Volume No. 2, the following:

Revised Sheets	*Superseded Sheets*
Second Revised Sheet No. 171.	First Revised Sheet No. 171.
First Revised Sheet No. 172.	Original Sheet No. 172.
Second Revised Sheet No. 173.	First Revised Sheet No. 173.

United states that this filing is made to reflect authorization for an additional delivery point in the amended exchange agreement between United and Transcontinental Gas Pipe Line Corporation, pursuant to Commission orders issued July 5, 1973, in Docket Nos. CP61–79, Amended and CP67–286, Amended. Waiver of § 154.22 of the Commission's regulations is requested to permit an effective date of July 5, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73–16123 Filed 8–3–73;8:45 am]

FEDERAL RESERVE SYSTEM

ALABAMA BANCORPORATION

Order Approving Acquisition of Bank

Alabama Bancorporation, Birmingham, Alabama, 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 per cent (less directors' qualifying shares) of the voting shares of the successor by merger to The American National Bank of Huntsville, Huntsville, Alabama ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 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.

Applicant controls five banks with total deposits of $972.6 million, representing 14.3 per cent of the total deposits of commercial banks in Alabama.[1] Acquisition of Bank (deposits of $22.7 million) would not significantly increase the concentration of banking resources in Alabama.

Bank is the smallest of six banks serving Madison County (the relevant market) where it holds a market share of approximately 7.5 percent. Applicant presently has no banking subsidiaries in this market, and its closest subsidiary draws only a small percentage of any type of account from Madison County. Consequently, approval of this application would not eliminate any substantial existing competition between Bank and Applicant's banking subsidiaries. The relevant banking market appears attractive for de novo entry; however, Applicant's acquisition of Bank is comparable to, and would have the same economic effect as, a de novo entry by Applicant.[2] Consequently, approval of this application would not have a substantially adverse effect on future competition between Applicant and Bank.

Applicant's nonbanking subsidiary, Engel Mortgage Company ("Engel"), has an office in Huntsville. Engel's mortage loans are primarily on one-to-four family houses. However, in both 1971 and 1972 Bank made no permanent mortgage loans on one-to-four family homes so that acquisition of Bank by Applicant would not eliminate any actual competition in this product line. Though consumation of the transaction would possibly eliminate some future competition between Bank and Engel, there are many alternative sources of mortage credit in the market. Consequently, approval of the application would not have substantially adverse effects on competition in mortgage banking. On the basis of the facts of record, the Board concludes that competitive considerations are consistent with approval of the application.

The financial condition and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are satisfactory, particularly in light of Applicant's commitment to increase the capital of Bank. This factor provides added weight to the banking factors involved in the Board's consideration of the application. Considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be 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 thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta, pursuant to delegated authority.

By order of the Board of Governors,[3] effective July 27, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73–16152 Filed 8–3–73;8:45 am]

FIRST ALABAMA BANCSHARES, INC.

Acquisition of Bank

First Alabama Bancshares, Inc., Birmingham, Alabama, 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 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Selma National Bank, Selma, Alabama. 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 August 23, 1973.

Board of Governors of the Federal Reserve System, July 27, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73–16154 Filed 8–3–73;8:45 am]

BARNETT BANKS OF FLORIDA, INC.

Order Approving Acquisition of Banks

Barnett Banks of Florida, Inc., Jacksonville, Florida, 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 90 per cent or more of the voting shares of Delray Beach National Bank, Delray Beach, Florida ("Delray Beach Bank"), and 51 per cent or more of the voting shares of Fidelity Bank of West Delray Beach, Delray Beach, Florida ("Fidelity 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 § 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 41 banks with total deposits of $1.3 billion, representing approximately 7 per cent of the total de-

[1] All banking data are as of December 31, 1972, except where otherwise noted, and represent bank holding company formations and acquisitions approved by the Board through May 31, 1973.

[2] See Mr. Justice Marshall's suggestion that "the practical difference between entry by acquisition and entry de novo may be marginal in the case of a dominant entrant" in his concurring opinion in United States v. Falstaff Brewing Corp., 41 LW 4352, fn 14. (1973)

[3] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Daane.

posits of commercial banks in the State, and is the second largest banking organization in Florida. (All banking data are as of December 31, 1972, and reflect holdin company acquisitions approved through June 30, 1973, including four new acquisitions since January 1, 1973.) The acquisitions of Delray Beach Bank (deposits of $45 million) and Fidelity Bank (deposits of $1.0 million as of March 28, 1973) would increase Applicant's share of the total State deposits by .21 per cent, and it would remain the second largest banking organization in Florida.

Both Fidelity Bank and Delray Beach Bank are located in the West Palm Beach banking market (the relevant market) where they, combined, control 3.9 per cent of market deposits. Applicant presently operates two banks in the West Palm Beach area; these banks are, respectively, the 17th and 24th largest of the 27 area banks. Applicant's present share of deposits in the West Palm Beach area is but 3.3 per cent. Thus, consummation of the proposal will not place Applicant in a dominant position in the area nor have any adverse effect on competing area banks.

Applicant's present banking subsidiaries in the West Palm Beach area are 15 miles north of Delray Beach and attract a negligible amount of deposits and loans from the service area of either Delray Beach Bank or Fidelity Bank. Thus there would be no significant elimination of competition between Applicant's subsidiaries and the banks to be acquired. Nor would consummation of the proposal eliminate present or future competition between Fidelity Bank and Delray Beach Bank since both banks are under common management and control. On this basis, the Board finds that competitive considerations are consistent with approval of the application.

Applicant has recently injected capital into certain of its subsidiary banks and has completed a public stock offering to increase its own equity capital. In addition, Applicant has committed itself to improve the capital position at Delray Beach Bank through an injection of equity capital and a conversion of capital debt to equity capital. In light of these actions, the Board finds the financial condition and managerial resources of Applicant, its subsidiaries and the banks to be acquired as satisfactory; and prospects for each are favorable.

There is no evidence that the 27 banks in the market are failing to meet the banking needs of the community, and Applicant does not intend any immediate change in services offered by the proposed subsidiaries. These new subsidiaries, however, will be able to draw on the expertise and resources of the holding company in areas of investments and lending, and this should improve their competitive position. Accordingly, considerations relating to convenience and needs of the communities to be served are consistent with approval. It is the Board's judgment that consummation of the proposed acquisitions would be 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 transactions shall not be consummated (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective July 26, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-16159 Filed 8-3-73;8:45 am]

COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank

Commerce Bancshares, Inc., Kansas City, Missouri, 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 80 per cent or more of the voting shares of Commerce Bank of Independence, National Association, Independence, Missouri ("Bank"), a proposed new 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, the third largest banking organization in Missouri and largest of 110 such organizations in the Kansas City banking market (approximated by the old Kansas City SMSA, less that portion of Cass County south of Harrisonville), controls 25 banks with aggregate deposits of $1,024 million, which represent 8.15 per cent of total deposits in commercial banks in Missouri and 15.79 per cent of all such deposits in the Kansas City banking market.[2] Consummation of the proposed acquisition would not immediately increase Applicant's shares of commercial bank deposits either in Missouri or in the Kansas City market. Applicant's nearest present subsidiary, Commerce Bank of Blue Hills, is located thirteen miles away, outside of Bank's proposed service area. Within that service area, Bank will face competition from twelve other banks, including one subsidiary of the seventh largest banking organization in the Kansas City market. Accordingly, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

During the course of its consideration of this application, the Board has received adverse comments from an Independence, Missouri bank, which contends that affiliation of Applicant with Bank would offend Missouri's statute prohibiting branch banking. The facts of record indicate that Bank will be a separate corporation, with its own capital stock and a loan limit based on such capital stock; that Bank will be managed by its own officers; that Bank's board of directors will be generally independent from that of Applicant's lead bank (Commerce Bank of Kansas City); that no employees of Applicant's lead bank will perform services for customers of Bank or perform management or supervisory functions with respect to Bank; and that Applicant will acquire Bank by purchase with cash from Applicant's own cash assets. The Board has repeatedly stated that a State's restrictive branch banking laws are not automatically applicable to bank holding company operations, and the Board, in this case, has found, based upon the above and other facts of record, that Bank will not be operated in such manner that it and any banking subsidiary of Applicant could be characterized as being engaged in unitary operations. The Board concludes, therefore, that Bank will not constitute a branch office of any banking subsidiary of Applicant.

The financial and managerial resources of Applicant, its present subsidiary banks, and Bank are satisfactory and prospects are considered favorable. Considerations relating to the convenience and needs of the community are consistent with approval. It is the Board's judgment that the proposed acquisition 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 thirtieth calendar day following the effective date of this order or (b) later than three months after that date, and (c) Commerce Bank of Independence, National Association, shall be opened for business not later than six months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[3] effective July 26, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-16162 Filed 8-3-73;8:45 am]

[1] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governors Daane and Holland.

[2] Banking data are as of June 30, 1972, adjusted to reflect holding company acquisitions and formations approved through June 29, 1973.

[3] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan and Bucher. Absent and not voting: Chairman Burns and Governors Daane and Holland.

FIRST FLORIDA BANCORPORATION

Order Approving Acquisition of Southside Bank of St. Petersburg

First Florida Bancorporation, Tampa, Florida, 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 all of the voting shares of The Southside Bank of St. Petersburg, St. Petersburg, Florida ("Southside Bank"). The name of Applicant was changed to United First Florida Banks, Inc., Tampa, Florida, upon consummation on June 29, 1973, of the merger approved by the Board on February 16, 1973, under section 3(a)(5) of the Bank Holding Company Act between First Florida Bancorporation and United Bancshares of Florida, Inc., Miami, Florida.[1]

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 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 controls 35 banks with aggregate deposits of $1.2 billion, representing 6.2 percent of total deposits of commercial banks in Florida and is the fourth largest banking organization in the State. (All banking data are as of December 31, 1972, and reflect acquisitions and formations approved by the Board through June 15, 1973.) The acquisition of Southside Bank ($4 million deposits) would increase Applicant's share of Florida deposits by less than one-tenth of one percentage point, and it would remain the fourth largest State banking organization.

Southside Bank is located in St. Petersburg in the South Pinellas County banking market. In terms of deposits, it ranks as the twenty-second largest of 28 market banks and holds approximately 0.22 per cent of total deposits for that area. Twelve bank holding companies are represented in the market and hold deposits ranging from 18 per cent to 3 per cent of total market deposits.

Applicant is presently represented in the South Pinellas County banking market by two subsidiary banks that hold $33 million and $5 million, respectively, in area deposits, representing approximately 3 per cent of total market deposits. However, Southside Bank receives less than 4 per cent of IPC demand and savings deposits and less than 5 per cent of its commercial and installment loans from the service areas of these subsidiaries. Applicant's nearest subsidiary bank is located approximately nine miles from Southside Bank. No meaningful competition exists between these, or any of Applicant's present subsidiary banking offices and Southside Bank, and it appears unlikely that significant future competition would develop between them in view of the presence of intervening banks and State laws restricting branching. Competitive considerations are consistent with approval of the application.

The financial and managerial resources and prospects of Applicant, its subsidiaries, and Southside Bank are satisfactory in light of Applicant's commitment to increase capital in its subsidiary banks and banking factors are consistent with approval of the application. Although there is no evidence in the record to indicate that the banking needs of the area are currently not being satisfied by existing financial institutions, Applicant proposes to make trust and international services available to Southside Bank's customers on a referral basis. Considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the transaction is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2] effective July 26, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-16161 Filed 8-3-73;8:45 am]

[1] 1973 Bulletin 183.

FIRST INTERNATIONAL BANCSHARES, INC.

Acquisition of Bank

First International Bancshares, Inc., Dallas, Texas, 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 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Dallas County State Bank, Carrollton, Texas. 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 Dallas. 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 August 23, 1973.

Board of Governors of the Federal Reserve System, July 27, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-16155 Filed 8-3-73;8:45 am]

[2] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governors Daane and Holland.

FIRST INTERNATIONAL BANCSHARES, INC.

Acquisition of Bank

First International Bancshares, Inc., Dallas, Texas, 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 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Citizens National Bank in Abilene, Abilene, Texas. 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 Dallas. 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 August 23, 1973.

Board of Governors of the Federal Reserve System, July 23, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-16156 Filed 8-3-73;8:45 am]

FIRST & MERCHANTS CORP.

Proposed Acquisition of Equitable Leasing Corporation

First & Merchants Corporation, Richmond, Virginia, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Equitable Leasing Corporation, Asheville, North Carolina. Notices of the application were published between May 29 and June 1, 1973, inclusive, in newspapers of general circulation in the following locations: Birmingham, Alabama; Denver, Colorado; Clearwater, Florida; Atlanta, Georgia; Asheville, Charlotte, Greensboro, and Winston-Salem, North Carolina; Columbia and Greenville, South Carolina; and Dallas, Texas.

Applicant states that the proposed subsidiary would engage in the following activities: leasing of personal property and equipment on a full-payout basis, or acting as agent, broker, or advisor in leasing of such property. Such actvities have been specified by the Board in § 225.4(a) of regulation Y as generally 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 per-

son 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 Richmond.

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 August 19, 1973.

Board of Governors of the Federal Reserve System, August 25, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-16157 Filed 8-3-73;8:45 am]

FIRST & MERCHANTS CORP.

Order Approving Acquisition of Bank

First & Merchants Corporation, Richmond, Virginia, 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 First & Merchants National Bank of Tidewater, Chesapeake, Virginia ("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 for in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three banks with aggregate deposits of $1.0 billion, and is the third largest banking organization in the State of Virginia. Bank is a proposed new bank (projected deposits of approximately $70 million) that will acquire substantially all of the assets and liabilities of the fourteen Tidewater area branches of First & Merchants National Bank, Richmond, Virginia. (All banking data are as of December 31, 1972.)

The proposal constitutes a corporate reorganization and represents no expansion of corporate interests.[1] Consummation of the proposed transaction, therefore, would not eliminate either existing or potential competition.

The financial and managerial resources and future prospects of Applicant are satisfactory. Bank, which at the outset will depend on those members of management of Applicant who are familiar with the Tidewater area, appears to have satisfactory management. The financial resources of Bank appear adequate. The initial capitalization of Bank is $1 million, but upon acquisition of the fourteen branches, capital will be increased to $6.5 million. The future prospects of Bank also are good. There is evidence that the market is somewhat underbanked at present and so factors relating to the convenience and needs of the community lend some weight in favor of approval of the application.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after that date, and (c) First & Merchants National Bank of Tidewater, Chesapeake, Virginia, shall be opened for business not later than six months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[2] effective July 27, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-16151 Filed 8-3-73;8:45 am]

FIRST & MERCHANTS CORP.

Order Approving Acquisition of Bank

First & Merchants Corporation, Richmond, Virginia, 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 per cent of the voting shares of the successor by merger to Mountain Trust Bank, Roanoke, Virginia ("Bank"). The bank into which Bank is to be mreged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of the 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 § 3(b) of the Act. The time for filing comments and views has expired. 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)), and finds that:

Applicant controls three subsidiary banks with aggregate deposits of $1.0 billion, is the third largest banking organization in Virginia, and holds 9.4 per cent of all commercial bank deposits in the State. (All banking data are as of December 31, 1972.) Bank is the third largest of seven banks operating in the Roanoke market, operates nine offices, and holds deposits of approximately $80 million, or approximately 14 per cent of the commercial bank deposits in the Roanoke SMSA, the relevant market.

The Roanoke SMSA is expanding and is expected to show favorable growth even though the population of the city proper has been declining in recent years. Bank is headquartered in the downtown area. The banking alternatives in the SMSA now include banking offices of five of Virginia's top twelve banking organizations. Dominion Bankshares' lead bank, First National Exchange Bank, controls nearly 47 per cent of the market, up from about 43 per cent a year ago. Colonial American Bank is the second largest bank and controls nearly 20 per cent of market deposits.

Applicant has no banking offices in the Roanoke market. The nearest office of any banking subsidiary of Applicant to Bank is in the city of Bedford, approximately 28 miles east of Bank. There is no present competition between any of Applicant's banking subsidiaries and Bank and little likelihood that future competition would develop in view of the fact that the Bedford market is effectively separated from the Roanoke market by the Blue Ridge Mountains, and Applicant's banking subsidiaries are precluded from branching into the Roanoke market by Virginia's restrictive branching laws.

The United States Department of Justice has commented that, in its opinion, the proposed acquisition would have significantly adverse competitive effects. In the Department's view, this acquisition would eliminate existing competition between Applicant's mortgage company subsidiaries and Bank in mortgage lending and mortgage banking, remove potential competition of Applicant as a likely de novo entrant into the Roanoke banking market, further entrench the existing concentrated market structure in Roanoke, and adversely affect the development of a more competitive banking structure in Virginia by removing one of the few remaining large independent banks capable of anchoring the formation of an additional bank holding company either as a lead bank or as a significant member thereof.

For the reasons hereinafter stated, the Board does not believe that consummation of the proposal would have significant adverse effects on competition. To the contrary, the Board believes that the proposed acquisition may possibly have salutary effects on competition in the Roanoke market by strengthening Banks' managerial and financial resources enabling it to compete more effectively with the dominant bank in the market which has recently made significant gains in market share.

Applicant does compete directly with Bank in the first mortgage market through Applicant's subsidiary, First Mortgage Corporation, Richmond, Virginia ("FMC"), which has a branch in Roanoke. However, the combined market share f first mortgage loans for FMC and Bank in the Roanoke market is believed

[1] Bank will be able to expand in an area approximated by the Tidewater area banking market, whereas First & Merchants National Bank could not expand. Appropriate regulatory approval will be needed for each new branch.

[2] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns and Governor Daane.

to be approximately 5 per cent. The Board does not regard as significant possible elimination of competition between FMC and Bank in this product line.

It is possible that Applicant might enter the Roanoke market through the formation of a new bank, if the application were not approved. Nevertheless, the Board is inclined to discount the significance of any possible adverse effect on potential competition in any relevant area for the reasons hereinafter stated. First, the complexion of banking competition in the Roanoke market has been affected by recent developments. Two bank holding companies have received permission to enter that market de novo, potentially increasing the number of bank competitors to eight. The new subsidiary bank of one of these holding companies, First Virginia Bankshares Corp., has already commenced operations. As a result both of new entry and additional branching by existing banks in the market, the population per banking office in the Roanoke market is now below the Statewide average.

Second, Bank does not have the potential, in the Board's judgment, to be the lead bank in developing a new regional bank holding company. Its management depth appears to be too thin for such an undertaking, and its financial resources are already strained to capacity. For example, Bank's loan-to-deposit ratio, at approximately 80 per cent, is well above average, and its loan portfolio is aggressively committed in the area of construction lending. Moreover, Bank has virtually no correspondent business and is therefore an unlikely organizer of a new holding company. The Board finds it difficult to conclude that continuation of Bank as an independent bank would significantly improve the chances for formation of a new bank holding company within the near future, and believes that there is not adequate probability of such a development to justify denial of Bank's opportunity to affiliate with an existing holding company.

Furthermore, in view of the significant increase in the market share of the largest bank in the market during the past year, the Board believes that the immediate entry of a strong competitor such as Applicant may possibly assist, rather than hinder, the deconcentration of banking resources in the market at this time.

Consummation of the proposed acquisition should therefore have no significant adverse effects on existing or potential competition in any relevant area, and competitive factors are viewed by the Board as being consistent with approval of the application.[1]

The financial and managerial resources and future prospects of Bank and of Applicant and its present subsidiary banks are regarded as satisfactory. An improvement in Bank's capital position might be desirable in view of its aggressive posture as a lender, and the Board views favorably the undertaking of Applicant to invest additional capital in Bank upon its acquisition by Applicant. Considerations relating to managerial and financial resources lend some weight in favor of approval of the application. There is no evidence that the major banking needs of the Roanoke SMSA are not being adequately served at present. Considerations relating to the convenience and needs of the community to be served are viewed as being consistent with approval.

On the basis of the record,[2] the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[3] effective July 26, 1973:

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-16160 Filed 8-3-73;8:45 am]

FIRST PENNSYLVANIA CORP.

Order Approving Acquisition of Continental Finance Corporation of America

First Pennsylvania Corporation, Philadelphia, Pennsylvania, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to acquire all of the voting shares of Continental Finance Corporation of America, Aurora, Colorado ("CFCA"). CFCA through various of its subsidiaries engages in the activities of (1) operating industrial banks, in the manner authorized by Colorado law, that receive time and savings deposits and make loans to individuals and (2) making consumer finance loans and purchasing installment sales finance contracts. Its subsidiaries also engage in the sale of credit life and credit accident and health insurance, physical damage insurance, and casualty insurance in connection with their extensions of credit. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1), (2), and (9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published 38 FR 6318. The time for filing comments and views has expired, and none have been received. The Board has considered the application in the light of the public interest factors set forth in section 4(c)(8) of the Act.

Applicant controls the second largest bank in Pennsylvania with total deposits of $2.6 billion, representing 7.9 per cent of the total commercial bank deposits in that State (as of June 30, 1972). Applicant's nonbanking subsidiaries engage in mortgage banking, investment and management services for a real estate investment trust and others, personal property and equipment leasing, data processing services, holding real estate, and consumer finance activities.

CFCA and its subsidiaries have total assets of $13.5 million (as of August 31, 1972). With regard to its finance company activities, CFCA presently operates through wholly-owned subsidiaries, 10 offices located in Denver, Colorado, and Los Angeles County, California. The industrial bank subsidiaries of CFCA are operated on the premises of, and in conjunction with, those consumer finance offices located in Denver. The proposed acquisition would have no adverse effect on existing competition since Applicant's subsidiaries neither serve nor maintain offices in any geographic market served by subsidiaries of CFCA. Applicant would not appear to be a likely de novo entrant into CFCA's market areas; and, in any event, CFCA has only a very small share of the business in the Denver market area and the Los Angeles metropolitan market area. The Board concludes that the proposed acquisition would have no adverse effects upon future competition. Further, there is no evidence in the record to suggest that the acquisition of CFCA by Applicant would have adverse effects on credit made available to independent finance companies by Applicant's subsidiary bank.

There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interests, or unsound banking practices. Approval of the application, by permitting CFCA to gain access to Applicant's financial resources, should

[1] In the Board's judgment, this application presents a different set of factors, as discussed in the text, than those that led the Board to deny the application of Virginia National Bankshares, Inc., Norfolk, Virginia, for approval to become a bank holding company through the acquisition of the Colonial-American National Bank of Roanoke. (1972 Federal Reserve Bulletin 494.) The attractiveness of Roanoke to de novo entry was relatively greater at the time of that application than at present, and Colonial-American had prime capability of being the lead bank in its own bank holding company system, should it choose to form one, from the standpoint of its managerial and financial resources and significant correspondent business. Furthermore, the combined market share of first mortgage loans for Virginia National Bank's mortgage banking subsidiary, Mortgage Investment Corporation, and Colonial-American in the Roanoke market appeared to be considerably larger, at approximately 10 per cent, than that of FMC and Bank.

[2] 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 Richmond. Concurring statement of Governor Daane filed as part of the original document and available upon request.

[3] Voting for this action: Vice Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns.

enhance CFCA's competitive effectiveness an enable it to expand the range of services it offers. On the basis of the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable.

The proposed transaction is expected to be consummated by means of an exchange by Applicant of its shares for all of the shares of CFCA. For the past few years, Applicant has engaged in a vigorous expansion program through the acquisition of many consumer finance companies throughout the United States. These acquisitions have been effected either by Applicant directly or by one of Applicant's consumer finance subsidiaries. Two of Applicant's consumer finance subsidiaries, Investors Loan Corporation ("Investors") and Industrial Finance and Thrift Corporation ("Industrial Finance"), were acquired by Applicant in 1970; and, under the provisions of section 4(a)(2) of the Act, Applicant may not retain ownership of these companies beyond December 31, 1980, without Board approval. Applicant has not yet filed applications to retain shares of these companies, nor has the Board, in its consideration of the instant proposal, passed on the desirability of permitting retention beyond 1980. Under these circumstances, the Board believes that it would be in the public interest to approve the acquisition of CFCA on the condition that Applicant maintain the assets of CFCA separate and apart from those of either Investors or Industrial Finance, and, upon consummation of these acquisitions, operate CFCA as a separate business entity. This condition may be lifted at such time as the Board has an opportunity to make a determination on any application subsequently filed to retain the shares of Investors or Industrial Finance.

Accordingly, this application is hereby approved on the condition that Applicant maintain the assets of CFCA and its subsidiaries separate and apart from those of Investors and Industrial Finance and operate the company sought to be acquired as a separate business entity. The transaction shall not be consummated later than three months after the effective date of this order, unless such period is extended for good cause by the Board. This determination is further subject to the conditions set forth in § 225.4(c) of regulation Y and the Board's authority to require such modification or termination of the activities of the holding company or any of its subsidiaries as the Board finds necessary to ensure compliance with the conditions and purposes of the Act and the Board's regulations and orders issued thereunder or to prevent evasion thereof.

By order of the Board of Governors,[1] effective July 26, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-16164 Filed 8-3-73;8:45 am]

HATHDEL INC.

Formation of Bank Holding Company

Hathdel Inc., New Bedford, Massachuchetts, 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 97.7 per cent of the voting shares of The Illinois National Bank & Trust Co. of Rockford, Rockford, Illinois ("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, a nonoperating Delaware corporation, was organized as a subsidiary of Berkshire Hathaway Inc. ("Berkshire"), New Bedford, Massachusetts (a Massachusetts corporation), a bank holding company which presently owns 97.7 per cent of the outstanding voting shares of Bank. The proposal involves Applicant's acquisition of all the assets (including shares of Bank) of and assumption of the liabilities of Berkshire through the merger of the latter into the former under the charter of the former. The proposed transaction is merely a corporate reorganization whereby an existing one-bank holding company will change its state of incorporation from Massachusetts to Delaware; the location, nature and scope of Applicant's banking and nonbanking activities will be identical to that of the predecessor corporation.

Bank ($136.1 million in deposits) operates its only office in Rockford. It controls approximately 22 per cent of the deposits in commercial banks in Winnebago County (which approximates the relevant market) and approximately 0.3 per cent of the total desposits held by all commercial banks in Illinois, making it the largest bank in the county and 28th largest in the State.[2] Since the proposal to acquire Bank involves a corporate reorganization representing no expansion of the holding company system, the Board concludes that consummation of the proposal will not have any adverse competitive effects.

The financial and managerial resources and future prospects of Bank and of Applicant are regarded as satisfactory and are consistent with approval of the application. Consummation of the transaction would have no immediate effect on the convenience and needs of the community to be served; considerations relating to convenience and needs are consistent with approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be consistent with the public interest and that the application should be approved.

The merger of Berkshire into Applicant involves the acquisition by the latter of the nonbanking activities of the former, some of which are grandfathered under section 4(a)(2) of the Act. The Board regards Applicant as a successor to Berkshire within the meaning of section 2(e) of the Act and believes that Hathdel may engage in the nonbanking activities so transferred to the same extent as Berkshire is entitled to engage in these activities at the present time. Berkshire has filed an irrevocable declaration, pursuant to section 4(c)(12) of the Act and § 225.4(d) of Regulation Y, that it will cease to be a bank holding company by December 31, 1980. As a successor, Applicant is subject to this commitment of its predecessor, and the application is approved on the condition that Applicant, at the time of consummation of the proposal, file an irrevocable declaration to the same effect as that filed by Berkshire.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] effective July 26, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-16163 Filed 8-3-73;8:45 am]

UNION PLANTERS CORP.

Acquisition of Bank

Union Planters Corporation, Memphis, Tennessee, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Tennessee National Bancshares, Inc., Maryville, Tennessee. 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 St. Louis. Any person wishing to comment on the

[1] Voting for this action: Vice Chairman Mitchell, and Governors Brimmer, Sheehan and Bucher. Absent and not voting: Chairman Burns and Governors Daane and Holland.

[2] All banking data are as of December 31, 1972.

[3] Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Sheehan and Bucher. Absent and not voting: Governors Daane and Holland.

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 August 23, 1973.

Board of Governors of the Federal Reserve System, July 27, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-16153 Filed 8-3-73;8:45 am]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR E-118]

SEDANS, STATION WAGONS, AND TRUCKS

Reduction of Fuel Consumption

1. *Purpose.* This bulletin solicits the cooperation of Federal agencies in reducing motor vehicle fuel consumption through the acquisition of sedans, station wagons, and trucks which provide the greatest fuel economy while fulfilling the intended use.

2. *Expiration date.* This bulletin expires June 30, 1974, unless sooner rescinded.

3. *General.* In furtherance of the Government-wide program for conservation of energy, immediate consideration should be concentrated on the procurement of motor vehicles equipped with engines and accessories to achieve reduced gasoline consumption. The acquisition of such vehicles will accrue to the Government the cost-avoidance of higher overall operating costs and the long-range benefits of fuel economy.

4. *Suggested action.* a. Agencies should give careful consideration to requisitioning those vehicles which provide minimum performance characteristics and accessories essential for their intended use. For example, based on the vehicle definitions contained in Interim Federal Standard No. 00122, a type I, class A, subcompact vehicle may serve messenger-type functions effectively or be appropriate when projected utilization involves two occupants including the operator or equivalent loading. In such instances, this type of vehicle should be procured in lieu of a larger vehicle. Similarly, careful planning of vehicle use should be undertaken to maximize procurement of compact-type vehicles, type I, class B, in lieu of intermediate vehicles (type II), and the use of intermediate vehicles in lieu of regular vehicles, type III.

b. Power absorbing accessories and weight-adding equipment such as power brakes and steering, air conditioning, higher horsepower engines, and other similar items listed in Table VIII of Interim Federal Standard No. 00122M should be acquired only when deemed absolutely essential to operating requirements.

c. The principles outlined above should be applied in requisitioning light and heavy trucks under Interim Federal Standands No. 00307, 00292, and Interim Federal Specifications KKK-T-00720, -00701 and -00706.

d. Law enforcement vehicles are not included among those covered in this bulletin.

5. *Assistance.* The General Services Administration will assist agencies in the acquisition of vehicles. Information on specifications and their interpretation may be obtained from the Automotive Standards Division (FMA), telephone 703-557-7525. Inquiries pertaining to procurement matters should be directed to the Automotive Branch (FPNM), telephone 703-557-8300. The mailing address for both organizational elements is General Services Administration ((FMA) or (FPNM)), Washington, DC 20406.

ARTHUR F. SAMPSON,
Administrator of General Services.

AUG 1, 1973.

[FR Doc.73-16283 Filed 8-3-73;8:45 am]

Public Buildings Service

[Wildlife Order 109; D-Mass-6380]

FORT DEVENS; HARVARD, MASS.

Transfer of Property

Pursuant to section 2 of Public Law 537, Eightieth Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By letter from the General Services Administration, Boston, Massachusetts, Regional Office, dated July 19, 1973, the property, comprised of approximately 662 acres of land and one building and identified as a portion of Fort Devens, Harvard, Massachusetts, has been transferred to the Department of the Interior.

2. The above described property was conveyed for wildlife conservation purposes in accordance with the provisions of section 1 of said Public Law 537 (16 U.S.C. 667c), as amended, by Public Law 92-432.

Date: July 31, 1973.

LARRY F. ROUSH,
Acting Commissioner,
Public Buildings Service.

[FR Doc.73-16167 Filed 8-3-73;8:45 am]

COST OF LIVING COUNCIL

FOOD INDUSTRY ADVISORY COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that meetings of the Food Industry Advisory Committee, created by section 7(b) of Executive Order 11695, will be held on August 13 and August 14, 1973 at 9:00 A.M., at O'Hare Plaza, 5725 East River Road, Chicago, Ill.

Since the meetings will consider sensitive policy issues and possible governmental actions in connection therewith, I have determined that the meetings would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C. on August 3, 1973.

HENRY H. PERRITT, Jr.,
Executive Secretary,
Cost of Living Council.

[FR Doc.73-16323 Filed 8-3-73;10:52 am]

SMALL BUSINESS ADMINISTRATION

[License No. 09/14-5086]

LA RAZA INVESTMENT CORP.

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that La Raza Investment Corporation (licensee), 132 South Central Avenue, Phoenix, Arizona 85004, a small business investment company licensed under section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), has filed an application for exemption from the provisions of 13 CFR 107.1004 (1973).

Licensee proposes to provide $14,800 of financing to James Lucero, d/b/a Lucero Reprographics, 98 South Swadley Street, Lakewood, Colorado 80228, which financing will be evidenced by 10-year subordinated debentures bearing interest at the rate of 8.5 percent and having warrants attached to purchase approximately 25 percent of the small business concern's stock. Licensee's proposed financing represents the amount of additional injection required as a condition for a $40,000 loan to be made by a local bank.

The proposed financing comes within the purview of 13 CFR 107.1004 (1973) by virtue of the fact that Mr. James Lucero, the owner of the small business concern to be financed, is the brother of Mr. Edward R. Lucero, a director of the licensee and an officer of Colorado Economic Development Association which owns more than 10 percent of licensee's stock. However, neither of the Lucero brothers is a stockholder of the licensee.

Notice is hereby given that any person may, not later than Aug. 21, 1973, submit comments to SBA on the proposed transaction. Any such comments should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

Notice is further given that any time after said date, SBA may dispose of the application on the basis of the information set forth therein and other relevant data.

Dated: July 26, 1973.

JAMES THOMAS PHELAN,
Deputy Associate Administrator
for Investment.

[FR Doc.73-16010 Filed 8-3-73;8:45 am]

[Delegation of Authority 30, Region IV, Amdt. 6]

REGIONAL COUNCIL ET AL.

Delegation of Loan Closing Authority

Delegation of Authority No. 30 (Region IV) (37 FR 17603) as amended (38 FR 1159), (38 FR 3553), (38 FR 7290), (38 FR 13404), (38 FR 15399) is hereby further amended as follows:

PART VI—LEGAL SERVICES

SECTION B. *Loan closing authority.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

(a) Regional Counsel.
(b) Regional Attorneys.
(c) District Director.
(d) District Counsel.
(e) District Attorneys.
(f) Branch Manager, Gulfport, Mississippi, Branch Office.
(g) Branch Counsel, Gulport, Mississippi, Branch Office.
(h) Loan Closing Assistant, as assigned.

* * * * *

3. To close approved EDA loans as authorized:

(a) Regional Counsel.
(b) Regional Attorneys.
(c) District Director.
(d) District Counsel.
(e) District Attorneys.
(f) Branch Manager, Gulfport, Mississippi, Branch Office.
(g) Branch Counsel, Gulfport, Mississippi, Branch Office.
(h) Loan Closing Assistant, as assigned.

* * * * *

Effective date: July 12, 1973.

WILEY S. MESSICK,
Regional Director,
Region IV.

[FR Doc.73-16086 Filed 8-3-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 312]

ASSIGNMENT OF HEARINGS

AUGUST 1, 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 111424 Sub 4, Shippers Truck Service, Inc., now being assigned hearing October 1, 1973 (1 week), at New York, New York, in a hearing room to be later designated.

MC-FC-73661, Bianchi Transportation Company, Inc., Old Bridge, New Jersey, Transferee and Bianchi Truck Line, Inc., Kiemmer Kalteissen, Trustee, Old Bridge New Jersey, Transferor, now being assigned further hearing August 24, 1973 (1 day) at New York, N.Y., in a hearing room to be later desig.

MC 138504, Hatfield Recon Center, Inc., now being assigned hearing October 1, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 127834 Sub 87, Cherokee Hauling & Rigging, Inc., now being assigned hearing October 2, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138517, Metropolitan Trucking, Inc., now being assigned hearing October 2, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11840, Consolidated Freightway Corporation of Del.—Purchase—Harris Motor Express, Inc., now being assigned October 3, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-8100, Western Express, Inc.—Investigation and Revocation of Certificate—, now being assigned hearing October 3, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 114004 Sub 124, Chandler Trailer Convoy, Inc., now being assigned hearing October 10, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 97310 Subs 11 and 12, Bell Transfer Company, Inc., now assigned August 13, 1973, at Birmingham, Ala., will be held at the Admiral Benbow Inn, 260 West Oxmoor Road, instead of Department of Labor Conference Room, 2nd Floor, 908 South 20th Street.

MCC-8041, Garrett Freight Lines, Inc., Et Al-V-Puget Sound Truck Lines, Inc., now being assigned hearing October 15, 1973 (2 days), at Olympia, Washington., in a hearing room to be later designated.

No. 35843, Maritime Administration, United States Department of Commerce V. Seaboard Coast Line Railroad Co., et al., now being assigned for Pre-Hearing Conference September 19, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138097 Sub 2, Percy Kagel, Dba Kagel Trucking, now being assigned hearing October 10, 1973 (3 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 114789 Sub 41, Nationwide Carriers, Inc., now being assigned hearing October 9, 1973 (1 day), at St. Paul, Minn., in a hearing room to be later designated.

MC 108119 Sub 37, E. L. Murphy Trucking Company, now being assigned hearing October 15, 1973 (1 week), at St. Paul, Minn., in a hearing room to be later designated.

No. 35832, Aluminum Company of America Devenport, Rock Island & Northwestern Railway, now being assigned Pre-hearing Conference September 24, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 62690 Sub 3, Carey F. Weathers Transfer & Storage Co., now being assigned hearing October 10, 1973 (3 days), at Atlanta, Ga., in a hearing room to be later designated.

MC 127418 Sub 7, Trop-Arctic Refrigerated Service Inc., now being assigned hearing October 15, 1973 (1 week), at Atlanta, Ga., in a hearing room to be later designated.

MC 92633 Sub 22, Zirbel Transport, Inc., now being assigned hearing October 29, 1973 (1 week), at Portland, Oreg., in a hearing room to be later designated.

MC-2202 (Sub 435), Roadway Express, Inc., now being assigned hearing October 15, 1973, (3 days), at Lansing, Mich., in a hearing room to be later designated.

MC 263 Sub 205, Garrett Freightlines, Inc., now being assigned hearing October 29, 1973 (2 weeks), at Denver, Colo., in a hearing room to be later designated.

MC 128648 Sub 3, Trans-United, Inc., now being assigned hearing September 24, 1973 (1 day), at Chicago, Illinois, in a hearing room to be later designated.

MC-C-8048, Forlow Travel Bureau, Inc., -V- Mrs. Leland (Romine) Hostetler and Mrs. Hugh (Orpha) Easterday, dba Wana-Go Club, et al, now being assigned hearing September 25, 1973, (1 day), at Chicago, Illinois, in a hearing room to be later designated.

MC 111375 Sub 67, Pirkle Refrigerated Freight Lines, Inc., now being assigned hearing September 26, 1973, (3 days), at Chicago, Illinois, in a hearing room to be later designated.

MC 118959 Sub 100, Jerry Lipps, Inc., now being assigned continued hearing October 1, 1973 (1 week), at Chicago, Illinois, in hearing room to be later designated.

MC 82063 Sub 43, Klipsch Hauling Co., MC 106400 Sub 92, Kaw Transport Company, MC 107496 Sub 873, Ruan Transport Corp., MC 111401 Sub 376, Groendyke Transport, Inc., MC 115331 Sub 336, Truck Transport, Inc., now being assigned hearing September 17, 1973 (1 week), at Kansas City, Mo., in a hearing room to be later designated.

No. 35831, Container Interchange Contracts-Petition for Investigation, & No. 35835, American Export Lines, Inc., et al V. The Alabama Great Southern Railroad Company, et al., now being assigned for Pre-Hearing Conference September 19, 1973, at the Offices of the Interstate Commerce Commission, Washington D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-16144 Filed 8-3-73;8:45 am]

[Ex Parte 241; Rule 19, 5th Rev. Exemption 43]

BURLINGTON NORTHERN INC., ET AL.

Exemption Under Mandatory Car Service Rules

To: Burlington Northern Inc., Chicago and North Western Transportation Company, Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Chicago, Rock Island and Pacific Railroad Company, Illinois Central Gulf Railroad Company, Missouri Pacific Railroad Company, Norfolk and Western Railway Company, Soo Line Railroad Company, Union Pacific Railroad Company.

It appearing, that there is a massive harvest of wheat in progress in the states of Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wyoming; that present supplies of plain boxcars owned by the railroads serving these states are inadequate to move the newly harvested grain to terminal elevators for safe storage; that use of available plain boxcars owned by other carriers for movements of this grain will substantially augment the car supplies of the railroads named herein.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the railroads named herein, and

their short line connections, are hereby authorized to use and to accept from shippers shipments of grain originating at stations located in Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wyoming, when loaded into plain 40-ft. narrow-door boxcars of various ownerships without regard to the requirements of Car Service Rule 2.

Exception. This exemption shall not apply to plain boxcars subject to Association of American Railroads' Car Relocation Directive No. 44.

Effective 11:59 p.m., July 31, 1973.
Expires 11:59 p.m., August 15, 1973.

Issued at Washington, D.C., July 30, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-16147 Filed 8-3-73;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 1, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 42723—*Class and Commodity Rates Between Points in Texas.* Filed by Texas-Louisiana Freight Bureau, Agent, (No. 673), for interested rail carriers. Rates on clinker, cement and paper, newsprint, in carloads, as described in the application, from, to and between points in Texas, over interstate routes through adjoining states.

Grounds for relief—Intrastate rates and maintenance of rates from and to points in other states not subject to the same competition.

Tariff—Supplement 28 to Texas-Louisiana Freight Bureau, Agent, tariff 87-J, I.C.C. No. 1159. Rates are published to become effective on August 30, 1973.

AGGREGATE-OF-INTERMEDIATES

FSA No. 42724—*Class and Commodity Rates Between Points in Texas.* Filed by Texas-Louisiana Freight Bureau, Agent, (No. 672), for interested rail carriers. Rates on clinker, cement and paper, newsprint, in carloads, as described in the application, from, to and between points in Texas, over interstate routes through adjoining states.

Grounds for relief—Maintenance of depressed rates published to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 28 to Texas-Louisiana Freight Bureau, Agent, tariff 87-J, I.C.C. No. 1159. Rates are published to become effective on August 30, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-16145 Filed 8-3-73;8:45 am]

[Notice 328]

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 August 27, 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-74476. By order of July 26, 1973 the Motor Carrier Board approved the transfer to Ernest Raymond Frame and Raymond Frame, A Partnership, doing business as E. Frame and Son, 1518 Fenton Hills Road, Fenton, Mo. 63026, of the operating rights in Permit No. MC-127262 issued August 4, 1966, to Ernest Raymond Frame, 1518 Fenton Hills Road, Fenton, Mo. 63026, authorizing the transportation of scrap iron and scrap metal, except those because of size or weight, require the use of special equipment, in shipper-owned trailers, from points in Illinois and Missouri, to St. Louis, Mo. The operations authorized herein are limited to transportation service to be performed under a contract with Lefton Iron and Metal Co.

No. MC-FC-74548. By order of July 26, 1973 the Motor Carrier Board approved the transfer to R. E. R. Trucking Co., Inc., Totowa, N.J., of Permit No. MC-128425 Sub-No. 1, issued September 15, 1967, to Alan William Transfer Co., Inc., Bergenfield, N.J., authorizing the transportation of polyurethane and vinyl foam from Moonachie, N.J., to points in New York, New Jersey, Pennsylvania, Connectciut, Massachusetts and Rhode Island; and vinyl foam from Lawrence, Mass., to Moonachie, N.J. Edward F. Bowes, Bowes & Millner, 744 Broad Street, Newark, N.J. 07102, Attorney for Applicants.

No. MC-FC-74561. By order of July 26, 1973, the Motor Carrier Board approved the transfer to John N. Apgar, Sr. (Irving L. Apgar, John N. Apgar, Jr., and the First National Bank of Central Jersey, Executors and Trustees), Sterling E. Apgar (Morris Ruter, Trustee), and Dorothy Anderson, a partnership, doing business as Apgar Bros., Bound Brook, N.J., of the operating rights in Permit No. MC-33322 issued May 21, 1969, to John N. Apgar, Sr., Sterling E. Apgar, and Dorothy E. Anderson, a partnership, doing business as Apgar Bros., Bound Brook, N.J., authorizing the transportation of numerous specified commodities, including machinery, building and contractors' material, supplies, and equipment, tile, pumps, railroad ties, magnesia products, pipe, compressed gases, in cylinders, and chemicals, between and from and to, named points in New Jersey, Pennsylvania, New York, Delaware, Maryland, Connecticut, Rhode Island, Massachusetts, and the District of Columbia. Herbert Alan Dubin, 1819 H Street, N.W., Washington, D.C. 20036 Attorney for applicants.

No. MC-FC-74589. By order of July 26, 1973 the Motor Carrier Board approved the transfer to C. J. R. Cartage Corp., Melvindale, Mich., of Certificates Nos. MC-39167 and MC-39167 Subs 2, 3, 6, 9, and 10, issued July 26, 1943, January 2, 1962, May 27, 1970, October 14, 1966, May 13, 1970, and April 21, 1972, respectively to Charles J. Rogers Transportation Company, Melvindale Mich., authorizing the transportation of iron and steel and various specified commodities, from, to and between specified points in Michigan, Kentucky, Ohio, Indiana, Arkansas, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, Oklahoma, Tennessee and Wissonsin. Eugene C. Ewald, Matheson, Bieneman, Veale & Parr, Suite 1700, One Woodward Avenue, Detroit, Mich. 48226, Attorney for Applicants.

No. MC-FC-74608. By order of July 26, 1973 the Motor Carrier Board approved the transfer to Anderson Brothers, Inc., Edgeley, N. Dak., of Certificate No. MC-2252 issued June 6, 1941, to Charles Anderson, doing business as Anderson Truck Line, Edgeley, N. Dak., authorizing the transportation of: Household goods and general commodities, with the usual exceptions, between Minneapolis, St. Paul, Newport, and South St. Paul, Minn., on the one hand, and, on the other, Streeter, Gackle, Litchville, Hastings, and Kathryn, and points in La Moure, and Ransom Counties, N. Dak.; and livestock between Edgeley, N. Dak., and points in North Dakota within 50 miles of Edgeley, on the one hand, and, on the other, Minneapolis, St. Paul, Newport, and South St. Paul, Minn.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-16148 Filed 8-3-73;8:45 am]

[I.C.C. Order 108; Rev. S.O. 994]

CERTAIN RAILROADS OPERATING IN CANADA

Rerouting or Diversion of Traffic

In the opinion of R.D. Pfahler, Agent, certain railroads operating in Canada are unable to transport traffic over their lines because of a strike of certain of their employees.

It is ordered, That:

(a) Certain railroads operating in Canada, being unable to transport traffic over their lines because of a strike of certain of their employees, these carriers and their connections are hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroads desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

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

(f) *Effective date.* This order shall become effective at 6:00 a.m., July 26, 1973.

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 2, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 26, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-16146 Filed 8-3-73;8:45 am]

CUMULATIVE LISTS OF PARTS AFFECTED—AUGUST

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MONDAY, AUGUST 6, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 150

PART II

DEPARTMENT OF TRANSPORTATION

Coast Guard

■

PUGET SOUND VESSEL TRAFFIC SYSTEM

Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 160]

[CGD-73-158 PH]

PUGET SOUND VESSEL TRAFFIC SYSTEM

Notice of Proposed Rulemaking

This notice proposes regulations for the vessel traffic system that the Coast Guard is operating in Puget Sound, Washington, and adjacent waters. The proposal would require vessels that are required by the Bridge-to-Bridge Radiotelephone regulations (33 CFR 26) to be equipped with a radiotelephone to comply with the system's rules for communications, for movement, reporting and for transiting Rosario Strait. The proposal would also require all vessels, including small craft, to comply with the system's navigation rules when operating in its traffic separation scheme.

These proposed regulations would be added to the Code of Federal Regulations as a new part 160 to a new Subchapter P of Chapter I of Title 33. The new Subchapter P would be entitled "Vessel Traffic Services and Systems" and would contain regulations implementing Title I of the Ports and Waterways Safety Act of 1972 (Public Law 92-340; 86 Stat. 424).

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments regarding the proposal to the Commandant (G-CMC), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD73-158) and give reasons for any recommended change in proposal. Copies of all written comments received will be available for examination both in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. and at the Office of the Commander, Thirteenth Coast Guard District in Seattle, Washington.

All comments received on or before September 17, 1973, will be fully considered before final action is taken on this proposal.

The Coast Guard will hold a public hearing on this proposal on August 30, 1973 at 9:00 a.m. in the Orcas Room, Seattle Center, Seattle, Washington. All interested persons are invited to be present or to be represented at this public hearing. All persons will be given an opportunity to express their views on the proposed regulations and to suggest any changes that may be considered desirable. Oral statements will be heard, but for completeness and accuracy of the record, all facts and arguments should also be presented in writing at the hearing.

On July 10, 1972, the President signed into law the "Ports and Waterways Safety Act of 1972" (Public Law 92-340 86 Stat. 424). The purpose of title I of this act is "to prevent damage to, or the destruction or loss of any vessel, bridge, or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to those waters; and to protect the navigable waters and the resources therein from environmental harm resulting from vessel or structure damage, destruction, or loss." The authority to implement the provisions of title I of this Act except in the St. Lawrence Seaway has been delegated to the Commandant of the Coast Guard who may:

(1) Establish, operate, and maintain vessel traffic services and systems for ports, harbors, and other waters subject to congested vessel traffic;

(2) Require vessels which operate in an area of a vessel traffic service or system to utilize or comply with that service or system, including the carrying or installation of electronic or other devices necessary for the use of the service or system;

(3) Control vessel traffic in areas which he determines to be especially hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances by—

(i) Specifying time of entry, movement, or departure to, from, within, or through ports, harbors, or other waters;

(ii) Establishing vessel traffic routing schemes;

(iii) Establishing vessel size and speed limitations and vessel operating conditions; and

(iv) Restricting vessel operation, in a hazardous area or under hazardous conditions, to vessels which have particular operating characteristics and capabilities which he considers necessary for safe operation under the circumstances; * * *

(6) Establish procedures, measures, and standards for the handling, loading, discharge, storage, stowage, and movement, including the emergency removal, control and disposition, of explosives or other dangerous articles or substances * * * on structures subject to this title * * *.

At the present time the Coast Guard is operating voluntary vessel traffic systems in the Puget Sound area, in the port area of San Francisco, and on the Ohio River at Louisville, Kentucky during periods of high water 15 or more feet above flood stage. Also, vessel traffic systems are currently being developed for the Houston/Galveston area, the lower Mississippi River from Baton Rouge to the Head of Passes, and the New York area. Regulations to require vessels to comply with these vessel traffic systems will be developed. This notice proposes regulations for the Puget Sound area. The determination of the need for vessel traffic systems in other ports and waterways is the subject of a separate study presently being conducted.

The Coast Guard established the Puget Sound vessel traffic system because that area is subject to congested vessel traffic and hazardous weather conditions. More than 140 vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act other than ferry vessels, transit the Puget Sound area each day. There are seven ferry routes on which ferry vessels operate on daily established schedules. Weather conditions in Puget Sound often make these vessels transits hazardous. Reduced visibility caused by precipitation occurs 225 days out of the year. Heavy fog is present 50 days out of the year making visibility one quarter mile or less, and winds of 30 m.p.h. or more can be expected during any month. Strong tidal current prevail over much of the area.

Puget Sound also supports a valuable fishery and a habitat for an abundance of wildlife. The unpolluted beaches and clean waters of Puget Sound are situated in an area of rare natural beauty. These are valuable assets and are vulnerable to pollution. With congested vessel traffic and poor weather conditions, there exists an ever present threat of collisions, groundings, and ensuing oil pollution. The vessel traffic system in Puget Sound reduces the probability of such occurrences.

The voluntary vessel traffic system was put into operation in Puget Sound in September, 1972. Its development was based on an extensive Coast Guard-industry study. Comments and suggestions from interested parties were welcome, and many of the ideas were included in the voluntary system. The success of the voluntary system has been demonstrated by the fact that 98 percent of the commercial freighters and tankers and 40 percent of the towing vessels operating in Puget Sound during the last ten months have participated.

The regulations in this proposal would make participation in the Puget Sound vessel traffic system mandatory. They would apply to vessels in the navigable waters of the United States east of the line of demarcation for the Puget Sound area. This area would include the eastern end of the Strait of Juan de Fuca, Rosario Strait, Bellingham Bay, Padilla Bay, Admiralty Inlet, Puget Sound, Possession Sound, Elliot Bay, Hood Canal, Commencement Bay and the Narrows West of Tacoma. In the proposed regulations this area is defined as the "VTS area."

It is emphasized that the regulations in this proposal incorporate many of the features of the voluntary system. The Coast Guard VHF-FM radiocommunications capability already established in the system would be used, and those vessels subject to the Bridge-to-Bridge Radiotelephone Act, when in the VTS area, would be required to report their movements to a vessel traffic center in accordance with stated rules. These reporting rules are patterned after the reporting procedures used in the voluntary system. Also the proposal would incorporate most of the existing traffic separation scheme which consists of several pairs of one-way traffic lanes 1,000 yards wide separated by a 500 yard wide separation zone. Each pair of traffic lanes is connected at each end by a precautionary area that is circular in most cases. In Rosario Strait, however, the scheme consists only of one traffic lane connected at each end by a precautionary area. The traffic separation scheme extends from Tacoma northward through the east end of the Strait of Juan de Fuca and Rosario

Strait to the area off Lummi Bay. The existing traffic separation scheme is marked by buoys and indicated on the current charts for Puget Sound.

Under the proposal all vessels operating in the traffic separation scheme would be required to proceed in the same directions that vessels now follow under the voluntary system. The proposal would not impose any restrictions on the direction of vessel movement in the waters outside the traffic separation scheme.

The proposal, in addition to implementing the procedures of the voluntary system, also provides rules for crossing, joining, and leaving the traffic separation scheme. The proposal further provides for mandatory use of the Bridge-to-Bridge Radiotelephone frequency by vessels entering or navigating in Rosario Strait, rules for the operation of ferry vessels and vessels with low power or awkward handling characteristics, and rules for emergencies, failure of equipment, and authorization to deviate from the regulations. It is important to note that the proposal includes a rule allowing control by the vessel traffic center of the time of entry, movement in, or departure from the system when necessary to prevent damage to, or loss of, any vessel.

It is anticipated that many of the rules in this proposal would be used in vessel traffic systems that are under consideration, or will be under consideration, in other ports and waterways to solve navigation problems that are similar to those in the Puget Sound area. It is recognized, too, that each other vessel traffic system will probably have navigation problems that could require the use of rules not contained in this proposal to solve those problems.

Various interested parties have been consulted in developing the voluntary vessel traffic system that is currently in operation. Interested parties consulted include Foss Launch and Tug Company, Canadian Pacific Ferries, Northwest Towboat Association, Puget Sound Pilots, Puget Sound Gillnetters Association, National Federation of Fishermen, Weyerhauser Company, Port of Olympia, Williams & Diamond and Company, American Mail Line, Ltd., Seattle Chamber of Commerce, Port of Seattle, Washington States Ferries, Alaska Maine Highways System, Commandant, 13th Naval District, American Tug Boat Company, District Engineer (U.S. Army, Seattle District, Corps of Engineers), Chevron Shipping Company, Military Sealift Command (Seattle), Puget Sound Freight Lines, States Steamship, and Sea-Land Services, Inc.

The proposed rules are designed to cope with vessel congestion, reduced visibility, adverse weather, and navigation hazards not only by requiring vessels to comply with these rules but also by providing the vessels in the system with timely, pertinent information needed for safe navigation. By providing navigation information each vessel could be made aware of the surrounding vessel traffic and developing vessel congestion and could adjust its speed and course accordingly to avoid a collision or grounding. The existing VHF-FM radiocommunications system would be the primary means of providing this information.

The communications system of the vessel traffic system has been designed to allow both transmission and reception of information in the VTS Area with a high degree of reliability. The vessel traffic center (VTC) in Seattle would operate with few exceptions in the same manner that it has operated under the voluntary system. Channel 13 is now in use for vessel traffic system communications and the VTC maintains a continuous guard on Channel 16. Remote transceivers are linked to the VTC. All transmissions from the VTC or from vessels in the system would be recorded in the VTC. The recording equipment has the capability to provide instant playback to the VTC personnel of messages received. Based on reports from vessels, the Coast Guard personnel in the VTC would manually plot the progress of each vessel in the system. Accuracy of position and speed would be dependent on reports received. Vessels would be informed of other vessels that could be encountered along their intended routes. Vessels would also be advised of abnormal conditions along their routes including reported defects in aids to navigation, reduced visibility, adverse weather, concentrations of fishing vessels or pleasure craft that would affect navigation, and concentrations of floating logs. Also, vessels would be advised of vessels along their routes which had experienced difficulties in navigation or which were carrying cargoes of particular hazard. If vessel reports indicated a danger of a potential collision situation, the VTC would coordinate traffic flow to eliminate the hazard of collision by specifying times of vessel movement. Unlike the voluntary system, however, the VTC could, under the proposal, require vessels to comply with VTC directions issued to coordinate movement of vessel traffic.

In order to assist the user of the system to operate in compliance with the proposed rules, the Coast Guard will prepare a manual to describe the Puget Sound Vessel Traffic System and suggested procedures to follow to facilitate compliance with system's rules. The manual would be updated and reissued as necessary. It will be available from the Coast Guard.

The proposed rules for the Puget Sound Vessel Traffic System are presented in six subparts. Subpart A, General, gives the definitions and explanatory rules necessary for understanding and using the system. Subpart B, Communications Rules, establishes the basic provisions for communication procedures, equipment, and use of equipment when in the VTS area. Subpart C, Vessel Movement Reporting Rules, contains the requirements for vessel movement reporting. Subpart D, Traffic Separation Scheme Rules, sets forth requirements for the navigation of vessels operating in, crossing, joining, or leaving the traffic separation scheme. Subpart E contains rules that must be followed, in addition to the other rules in this proposal, when transiting Rosario Strait. Subpart F, Description and Geographic Coordinates, presents a description of the geographic areas comprising the vessel traffic system and identifies precisely the coordinates by which these areas are defined.

An explanation of the rules in the proposal follows:

The term "master or person in charge," as defined in § 160.3(h), appears only in §§ 160.20 and 160.70 of this part. The term is intended to apply only to persons named in section 5 of the Bridge-to-Bridge Radiotelephone Act, who are required by that Act to maintain a listening watch on the designated frequency, Channel 13. The applicability of §§ 160.20 and 160.70 to persons is limited because these two rules are intended to apply only to those persons aboard a vessel who must monitor channel 13 under the Bridge-to-Bridge Radiotelephone Act.

Section 160.7 authorizes the VTC to specify times of vessel entry, movement in, or departure from the vessel VTS Area when it is necessary to prevent damage, destruction or loss of any vessel. It is expected that the need to exercise this authority will occur infrequently. The Coast Guard anticipates that VTC control that is exercised will occur primarily in harbor areas and in and around Rosario Strait. Section 160.7 also prohibits any person from operating a vessel contrary to a direction of the VTC issued under this authority.

Section 160.9(a) provides that the District Commander may authorize a deviation from any regulation in this part. It is intended that authorizations issued under this section would be issued for an extended but definite duration. These authorizations would be kept on file at the Office of the District Commander and would be available for public inspection. The VTC would advise vessels in the VTS area of the presence of vessels operating under an authorization to deviate when that information was necessary for safe navigation.

Section 160.9(b) provides that the VTC may authorize a deviation from any regulation in this part but only for a voyage or part of a voyage. These authorizations would accommodate unusual circumstances in vessel operation that could not be foreseen in advance. For example, a VTC authorization to deviate from § 160.52(a) for the period of time that a vessel could not navigate in the direction of traffic in a traffic lane because of strong currents or excessive draft.

Section 160.13 delegates the authority to the District Commander to make temporary amendments in the description of the traffic separation scheme (TSS) to provide for temporary precautionary areas necessary for the safe passage of vessels. For example, the TSS in the area off Foulweather Bluff could

be amended at certain times during the fishing season to provide for a temporary precautionary area to ensure safe passage of vessels and to protect fishing gear of fishing vessels. When this temporary precautionary area was in effect it could be necessary to remove temporarily one or more buoys from the area in order to accommodate the requirements of seasonal fishing. Notification of temporary amendments to the TSS would be published in the FEDERAL REGISTER and in the notice to Mariners.

Section 160.20 requires the operator of each vessel in the VTS area to monitor continuously a frequency designated in the Puget Sound VTS Operating Manual. This rule is essential for effective communications between the VTC and vessels required to have a radiotelephone while in the VTS area. The rule is also essential to ensure that these vessels can respond quickly to a call initiated by the VTC. The VTC would maintain an effective and continuous watch on each frequency designated in order to respond promptly to any call from a vessel. Because reception over a given frequency is blanked out while a vessel is transmitting on that same frequency, § 160.20 also provides that the designated frequency need not be monitored when the vessel is transmitting on that frequency.

Since vessels subject to the Bridge-to-Bridge Radio-telephone Act were already equipped to communicate on Channel 13 when the Puget Sound voluntary vessel traffic system was established, this channel was selected for use in the system. The Coast Guard contemplates continued use of Channel 13 as the designated frequency for the Puget Sound vessel traffic system until such time as it is found that congestion on this channel results in a degradation of either bridge-to-bridge communications or communications between vessels and the VTC. Should either occur, it may be necessary to employ a frequency or frequencies specifically designated for VTS operations. Until such time as there is more than one frequency designated for communications between vessels and the VTC, there will be only one sector, which will comprise the whole VTS Area. With respect to possible frequency congestion, it should be understood that an extension of the present VTS from Port Angeles to Cape Flattery, for participation on a voluntary basis, is under active consideration at this time. The Coast Guard is aware that establishment of a similar system in the adjoining Canadian waters is under development by the Canadian government. These actions may have impact on the use rate experienced on Channel 13.

Section 160.22 requires that the radiotelephone equipment that is used to transmit reports required by the proposed rules and to receive information from the VTC and other vessels must be capable of operation from the navigational bridge or principal control station of the vessel. Communications sent and received over this equipment bear on the safety of navigation and are initiated by, or intended for the urgent attention of, the person on the navigation bridge or principal control station who is directing the movements of the vessel.

Section 160.24 requires reports to be made in the English language. The purpose of this rule is to insure that the reports required by this part and navigating information transmitted by the VTC and by vessels in the VTS area would be understood by all users of the system.

Section 160.25 requires the use of Pacific Standard time or Pacific Daylight Time, as appropriate, and the use of the 24-hour clock system. The purpose of the rule is to insure that all persons receiving transmissions would be keeping the same time and expressing it in the same terms. Accurate and uniform time used in reports of positions and movements of vessels are essential to the success of the Puget Sound vessel traffic system.

Section 160.28 requires that at least one hour before entering the VTS area, or getting underway from a berth or anchorage in the VTS area, each vessel described in § 160.1(c) of Subpart A would be required to file an initial report with the VTC. This report would provide the VTC with pertinent facts concerning the vessel and its voyage during transit of the VTS area. This report also would inform the VTC of any condition, such as fire or defective electrical or mechanical equipment, that could affect its navigation, and would notify the VTC of any explosives or specified dangerous cargo carried. This information is necessary so that the VTC could keep vessels apprised of hazardous conditions and the positions of nearby vessels.

Section 160.30 requires a follow-up report to be made shortly before the vessel commences to operate in the VTS area. The report would provide VTC with updated information including any corrections to the initial report and the speed at which the vessel intended to proceed in the VTS area. This information would alert the VTC that the vessel was just about to commence operating in the VTS area.

Section 160.31 requires a final report to be made advising the VTC that the vessel has arrived at its destination or has departed from the VTS area. The VTC could then terminate its plot of this vessel.

The purpose of § 160.33 is to exempt vessels from required reports while in the VTS area far from a place where repairs could be made. This rule does not allow repairs to radiotelephone equipment necessary to make the required reports to be unreasonably delayed.

Section 160.34 requires that any deviation from the rules caused by emergency or radio failure be reported to the VTC as soon as practicable. It is recognized that an emergency or a radiotelephone failure could require deferring a report to the VTC.

The purpose of § 160.35 is to require that a report of vessel defects be made to the VTC as soon as possible so that the VTC could advise other vessels along the vessel's intended track of the need for caution. Defective machinery or electrical equipment that affects the safe navigation of a vessel could create a situation in which that vessel would constitute a hazard to other vessels navigating in the system. Similarly, a tow that is not under complete control of the towing vessel, due to wind, current or other reason, could create a situation which could be a hazard to other vessels.

Section 160.36 provides for limited reporting requirements for most ferry vessels. There are approximately 530 ferry vessel crossings per day in the VTS area. These vessels operate on published schedules, and for the most part, on routes which cross the TSS. Characteristics of these ferry vessels are well known to the VTC, and it would be unnecessary to transmit repeatedly the information listed in the initial report and follow-up report. Communications reports, if required of ferry vessels, would, due to the large number of sailings tend to overload the frequency required to be monitored.

Section 160.38 proposes a list of hazardous circumstances to be reported. The purpose of this report is to provide information necessary for the safe navigation of vessels in the VTS area. The hazards include occasional large concentrations of recreational craft, and of fishing vessels during the fishing season. These concentrations could block the passage of larger vessels creating a hazardous circumstance.

Section 160.42 contains the proposed vessel movement reporting rules. It applies to those vessels subject to the Bridge-to-Bridge Radiotelephone Act. These reports are required to provide information concerning vessel position and intentions to the VTC for use in apprising other vessels in the system.

Section 160.52 sets forth the requirements for the direction of traffic in the TSS. When in traffic lanes, vessels would be required to proceed in a direction that would keep the separation zone on the port side. When in most of the precautionary areas, vessels would be required to proceed in a counterclockwise direction, keeping the center of the precautionary area on the port side. It is intended that vessels transiting a precautionary area would govern their movements with special caution taking into account the presence of other vessels in the precautionary area.

The TSS is designed for the safe movement of vessels along identified lanes. Thus § 160.54 would prohibit vessels from anchoring in the TSS. As a practical matter it is recognized that under conditions of imminent danger or peril, it could be necessary to anchor for the safety of the vessel. Allowance is made under section 160.15 for anchoring in the TSS during an emergency. It is intended that when it is necessary for a vessel to anchor during emergency, it would do so whenever possible, as far away from the separation zone as possible or in the separation zone.

Section 160.56 sets forth the rules

under which vessels could join, leave or cross the TSS. The preferred points of joining, leaving or crossing the TSS are at the precautionary areas. Because precautionary areas are in some cases separated by considerable distances, provision is made in the rule for vessels to join, leave or cross at points other than at the precautionary areas. Vessels subject to the Bridge-to-Bridge Radiotelephone Act would be required to give the VTC advance notification upon entering the TSS at other than a precautionary area. Vessels crossing the TSS would have to do so on a course as nearly perpendicular to the traffic lane as practicable. The procedure for vessels joining or leaving a traffic lane, would depend upon whether a right turn or a left turn was involved. In the right turn situation, vessels would proceed from a traffic lane to adjacent water outside the TSS, or vice-versa. Vessels joining or leaving a traffic lane in the right turn situation would be required to steer to converge on or diverge from the direction of traffic flow in the traffic lane at as small an angle as practicable. In the left turn situation the vessel would be required to cross the separation zone and the opposing traffic lane. In this situation the vessel would be required to steer courses to converge on or diverge from the direction of traffic flow of the traffic lane being joined or left at as small an angle as practicable, but would be required to cross the opposing traffic lane on a course that was as near perpendicular to the separation zone as practicable.

The purpose of § 160.58 is to prevent the situation in which a large vessel in the TSS would have to take evasive action to avoid a small vessel. It is recognized that a small vessel is relatively maneuverable and that if a large vessel were required to take evasive action to avoid a small vessel ensuing maneuvers in the TSS could create hazardous situations that the TSS has been established to prevent. The Coast Guard anticipates that the rule will find most of its application to situations in which a small vessel would cross a traffic lane by crossing ahead of a large vessel already navigating in the TSS. Though the rule does not apply to larger vessels that also may cross a traffic lane by crossing ahead of another vessel navigating in the TSS, the larger vessel in most cases already must provide advance notification of entry in the TSS as required by § 160.56(a). It is anticipated that information gained by this advance notification could be used to avoid hazardous crossing situations involving two large vessels if necessary by controlling the time of vessel movement under § 160.7. However, the Coast Guard recognizes that prevention of hazardous crossing situations in the TSS may also necessitate making the § 160.58 requirement apply to all vessels. Comments are specifically requested concerning whether the requirement in § 160.58 should apply to all vessels rather than just to small vessels.

Subpart E proposes specific rules for application in Rosario Strait to solve specific navigation problems in that area. Rosario Strait is a deep and narrow body of water with hard bottom in which the few submerged dangers are well marked. Strong currents are experienced in this reach. Visibility is frequently reduced in rain or fog. Vessels proceeding along the reach experience crossing traffic in the vicinity of the passes between islands bordering the Strait. There is room in this reach sufficient to provide for only one traffic lane, in which large vessels usually will be able to proceed at the same time only if they proceed in the same direction.

The Bridge-to-Bridge Radiotelephone regulations at 33 CFR 26.04(b) provide that each person required to maintain a listening watch under the Bridge-to-Bridge Radiotelephone regulations "shall when necessary transmit and confirm, on the designated frequency, the intentions of his vessel and any other information necessary for the safe navigation of vessels." Section 160.70, in effect, specifies the conditions under which these transmissions are necessary when in or approaching Rosario Strait.

Section 160.72 requires that a report be made to the VTC 15 minutes prior to entering Rosario Strait so that the VTC can coordinate the entry of vessels into this Strait. The rule is intended to provide the information to the VTC necessary to prevent encounters between vessels in this reach.

The purpose of § 160.74 is to ensure that the VTC is aware of all vessels in Rosario Strait and to ensure that the vessel's radio, any radar and other electrical and mechanical equipment that affects navigation is operating.

The traffic separation scheme described by geographic coordinates in Subpart F contains certain changes from the existing traffic separation scheme which are the result of experience in operating the vessel traffic system on a voluntary basis. The configuration of these lanes was developed through cooperative effort between the Coast Guard and the local marine community. This traffic separation scheme was overprinted on the charts for Puget Sound. After a period of actual use, users of the vessel traffic system have recommended that several changes be made in the positions of buoys and the layout of the traffic lanes and separation zones, in order to make the TSS compatible with the needs of the vessels that operate in the VTS area. The Coast Guard agrees with these changes recommended in the traffic separation scheme and is in the process of making them. The traffic separation scheme as altered will be used in the voluntary vessel traffic system, and this proposal incorporates the changes in the description of the traffic separation scheme in subpart F. These changes are:

(a) Relocate the center of precautionary area "TC" approximately 2,700 yards northeast of its present position to latitude 47°19'30" N., longitude 122°-27'12" W. The present center of this precautionary area is located in an area of heavy tidal currents and most towing vessels experience difficulties in entering and leaving the present precautionary area in the proper manner. Pilots navigating large vessels have also experienced difficulties in making this turn. Relocating the center of the precautionary area should eliminate this problem.

(b) Relocate the center of precautionary area "SF" approximately 1,200 yards northeast of its present position to latitude 47°39'42" N., longitude 122°27'48" W. This new position is the preferred position for all vessels entering and leaving Elliott Bay and the Port of Seattle. This change will then allow the mariner to make the necessary course change when abeam of West Point. This precautionary area will be redesignated "SH".

(c) Relocate the center of precautionary area "SD" approximately 2,800 yards south to latitude 47°53'10" N., longitude 122°27'48" W. The present position of this precautionary area causes all northbound traffic to swing east, away from the preferred and most used navigation marks, and toward the shallow flats just south of Indian Point, Whidbey Island, and Scatchet Head. This maneuvering has been of some concern among the Puget Sound pilots navigating large vessels. The new position places the traffic lanes and turn several hundred yards southwest of the flats, considerably improving the general navigation picture in this area. This precautionary area will be redesignated "SF".

(d) Two new buoys will be placed designated as buoy "SE" and buoy "SD" realigning the traffic lanes and separation zone off Skunk Bay. "SE" will be located at latitude 47°57'21" N., longitude 122°30'16" W., and "SD" will be located at latitude 47°57'21" N., longitude 122°34'12" W. The realigning of the traffic lanes will reduce the angle of turn required by vessels navigating the area.

(e) Relocate the center of precautionary area "SC" northwesterly approximately 5,000 yards to latitude 48°01'06" N., longitude 122°37'54"W. The buoy marking the center of this precautionary area, in its present position, has been a serious problem to the gill-netter fleet this past season. In its present position, it is directly in the "driftline" the fishing vessels use while netting in this area. The season is only eight weeks, and the state of Washington severely restricts the areas and times that are open to fishing. This area is one of those open; therefore it is heavily fished. The new position of the buoy marking the center of precautionary area "SC" will remove it to the north of the normal gill net fisheries driftline; it will retain its purpose as a departing or entering point for the Hood Canal, and will allow a

closer preferred course between Foul Weather Bluff and Double Bluff.

(f) With addition of the additional buoys, buoy "SE" will be redesignated "SG".

(g) Relocate the center of precautionary area "CA" located in the northern end of Rosario Strait, southward approximately 5 miles to latitude 48°45'19" N., longitude 122°46'26" W. and reduce the radius of the precautionary area from 3,000 yards to 2,500 yards. This precautionary area is presently used, only marginally, by large vessels going into or out of Cherry Point. All traffic to Vancouver and other Canadian ports now exit the traffic lanes south of the present position. Vessels going to and from the oil dock at Ferndale also enter and exit the lanes south of the present area. This buoy in its present position also interfered with the gill-netters operating in this area. The relocation of the area will eliminate the situations outlined above, and still could be utilized by vessels going to and returning from Cherry Point. With respect to the reduction in size of the area, all other precautionary areas in the system are either 2,500 yards radius or 1,250 yards radius.

With the repositioning of precautionary area "CB", the buoy "CA" marking a turn in this traffic will be removed, as the turn has now been eliminated.

Although application of the proposed regulations will have a potential beneficial effect upon the environment, their promulgation is not considered a "major Federal action" within the meaning of the National Environmental Policy Act of 1969, because the regulation will make mandatory, as to certain classes of vessels, procedures heretofore voluntarily observed.

In consideration of the foregoing, the Coast Guard proposes to amend Chapter I of Title 33 of the Code of Federal Regulations by adding Subchapter P consisting at this time of Part 160 to follow reserved Part 159 to read as follows:

SUBCHAPTER P—VESSEL TRAFFIC SERVICES AND SYSTEMS

PART 160—PUGET SOUND VESSEL TRAFFIC SYSTEM

Subpart A—General

Sec.

Subpart B—Communications Rules

Subpart C—Vessel Movement Reporting Rules

Sec.

Subpart D—Traffic Separation Scheme Rules

Subpart E—Rosario Strait Rules

Subpart F—Description and Geographic Coordinates

AUTHORITY: Sec. 104, Pub. L. 92-340, 86 Stat. 424; 37 FR 21943, 49 CFR 146(o)(4).

Subpart A—General

§ 160.1 Purpose and applicability.

(a) This part prescribes rules for the operation of vessels in the Puget Sound vessel traffic system area (VTS Area) to prevent collisions and groundings and to protect the navigable waters of the VTS Area from environmental harm.

(b) Subparts A, E, and F of this part apply to all vessels.

(c) Subparts B, C, and D of this part apply only to—

(1) Each vessel of 300 or more gross tons that is propelled by machinery;

(2) Each vessel of 100 or more gross tons that is carrying one or more passengers for hire;

(3) Each commercial vessel of 26 feet or over in length engaged in the towing of another vessel astern, alongside, or by pushing ahead; and

(4) Each dredge or floating plant.

§ 160.3 Definitions.

As used in this part—

(a) "Vessel traffic center" (VTC) means the shore based facility that operates a vessel traffic system;

(b) "Vessel traffic system area" (VTS Area) means an area subject to regulations for a vessel traffic system;

(c) "Traffic separation scheme" (TSS) means the network of traffic lanes, separation zones, and precautionary areas in a VTS Area;

(d) "Traffic lane" means an area of the TSS in which all vessels ordinarily proceed in the same direction;

(e) "Separation zone" means an area of the TSS which is located between two traffic lanes to keep vessels proceeding in opposite directions a safe distance apart;

(f) "Precautionary area" means an area of the TSS at the entrance of one or more traffic lanes where vessel traffic converges from two or more directions;

(g) "Operator" with respect to vessels means any person who uses, causes to use, or authorizes the use of a vessel for the purpose of navigation;

(h) "Master or person in charge of a vessel" includes the person designated by the master or person in charge to pilot or direct the movement of the vessel;

(i) "Person" includes an individual, firm, corporation, association, and a partnership;

(j) "Reporting point" means a geographical position in the TSS where a vessel is required to make a report to the VTC; and

(k) "ETA" means estimated time of arrival.

§ 160.5 Law and regulations not affected.

Nothing in this part is intended to relieve any person from complying with—

(a) The Navigation Rules for Harbors, Rivers and Inland Waters Generally (33 U.S.C. 151–232);

(b) Part 26 of this chapter (Vessel Bridge-to-Bridge Radiotelephone Regulations);

(c) Part 80 of this chapter (Pilot Rules for Inland Waters);

(d) 33 CFR 206.93 (Puget Sound gill net fishing rule); or

(e) Any other laws or regulations.

§ 160.7 Control of vessels by the VTC.

When necessary to prevent damage to, or destruction or loss of, any vessel in the VTS Area during conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances, the VTC may direct time of vessel entry in, time of movement through, or time of departure from the VTS Area, including the TSS. No person may operate a vessel contrary to any VTC direction issued under this section.

§ 160.9 Authorization for deviation from these regulations.

(a) The Commander, Thirteenth Coast Guard District, may authorize a deviation from any regulation in this part if application for the proposed authorization is submitted in writing to the District Commander at least 30 days before the operations under the proposed authorization are to begin, unless a shorter time is authorized by the District Commander. The application must state the reasons for needing the authorization and provide a comprehensive explanation of the proposed operations under the authorization.

(b) The VTC may, upon request, authorize a deviation from any regulation in this part for a voyage or part of a voyage on which a vessel is embarked or about to embark.

§ 160.11 Penalty.

Public Law 92-340 prescribes civil and criminal penalties for violations of the regulations in this part. The maximum civil penalty is $10,000. The criminal penalty for a willful violation is a fine of not less than $5,000 nor more than $50,000 and/or imprisonment for not more than 5 years.

§ 160.13 Temporary precautionary areas.

The Commander, Thirteenth Coast Guard District, may amend the description of the TSS in Subpart F of this part to establish temporary precautionary areas to provide for seasonal activities such as fishing that affect the safe passage of vessels in the TSS. The regulations establishing temporary precautionary areas are published in the FEDERAL REGISTER and in the Notice to Mariners.

§ 160.15 Emergencies.

In an emergency, any person may deviate from any regulation in this part to the extent necessary to avoid endangering persons, property, or the environment.

Subpart B—Communication Rules

§ 160.18 Applicability.

This subpart applies to the vessels described in § 160.1(c).

§ 160.20 Radio listening watch.

The master or person in charge of a vessel in the VTS Area shall continuously monitor the radio frequency designated in the Puget Sound VTS Operating Manual for the sector in which the vessel is operating, except when transmitting on that frequency.

§ 160.22 Radiotelephone equipment.

The radiotelephone equipment that is used to meet the requirements of this part must be capable of operation on the navigational bridge of the vessel, or in the case of a dredge, at its main control station.

§ 160.24 English language.

Each report required by this part must be made in the English language.

§ 160.26 Time.

Each report required by this part must specify time—

(a) In Pacific Standard Time or Pacific Daylight Time, whichever time system is in effect in the VTS Area; and

(b) Using the 24-hour clock system.

§ 160.28 Initial report.

At least one hour before a vessel enters or begins to navigate in the VTS Area, unless a shorter period is allowed by the VTC, the operator of the vessel shall report the following information to the VTC:

(a) The name of the vessel.

(b) The position of the vessel.

(c) The estimated time of entering or beginning to navigate in the VTS Area.

(d) Point of entry in the VTS Area.

(e) Destination in the VTS Area.

(f) ETA of the vessel at its destination.

(g) Any condition on the vessel, such as fire or defective mechanical or electrical equipment, that may affect its navigation in the VTS Area.

(h) Whether or not any dangerous cargo listed in § 124.14 of this part is on board the vessel.

§ 160.30 Follow-up report.

At least 15 minutes, but not more than 30 minutes, before a vessel enters or begins to navigate in the VTS Area, the operator of the vessel shall report the following information to the VTC:

(a) Name, type, length and draft of vessel.

(b) Any revisions to the initial report in § 160.28.

(c) The speed at which the vessel will proceed.

(d) Any tow not under complete control of the towing vessel.

(e) If the vessel intends to enter the TSS, the ETA and point of entry in the TSS.

§ 160.31 Final report.

When a vessel anchors in, moors at a berth in, or departs from the VTS area, the operator of the vessel shall report the place of anchoring, mooring, or departing to the VTC.

§ 160.33 Radio failure.

Whenever a vessel's radiotelephone equipment fails—

(a) Compliance with §§ 160.30, 160.38 and 160.40 is not required; and

(b) Compliance with §§ 160.28 and 160.31 is not required unless the report can be made by telephone.

§ 160.34 Report of emergency or radio failure.

Whenever a person deviates from a requirement of this part because of emergency or radio failure, he shall report the deviation to the VTC as soon as practicable.

§ 160.35 Report of impairment to the operation of the vessel.

The operator of any vessel in the VTS Area shall report to the VTC as soon as possible—

(a) Any condition on the vessel, such as fire or defective mechanical or electrical equipment, that affects its navigation; and

(b) Any tow not under complete control of the towing vessel.

§ 160.36 Ferry vessels.

(a) A ferry vessel that is operated in the VTS Area on a schedule and route that crosses the TSS, both of which have been furnished the VTC, need not comply with §§ 160.28, 160.30, and 160.42.

(b) Between sunset and sunrise and during fog, mist, falling snow, or heavy rain, the operator of each ferry vessel shall report the following information to the VTC at least five minutes before the vessel enters the TSS at any place other than Rosario Strait:

(1) The name of the vessel.

(2) Direction the vessel will proceed when crossing the TSS.

(3) The point of entering the TSS.

(4) The estimated time in the TSS.

§ 160.38 Report of hazardous circumstances.

Each operator of a vessel in the VTS Area should report by radiotelephone to the VTC any hazardous circumstances whenever observed including the following:

(a) Concentrations of fishing vessels.

(b) Reduced visibility or other adverse weather conditions.

(c) Concentrations of floating logs or other obstructions.

(d) Any defect in an aid to navigation.

(e) Any defect observed on another vessel that may affect the navigation of that vessel in the VTS Area.

Subpart C—Vessel Movement Reporting Rules

§ 160.40 Applicability.

This Subpart applies to the vessels described in § 160.1(c).

§ 160.42 Movement Reports.

(a) Whenever a vessel passes a reporting point, the operator of the vessel shall report the following information to the VTC by radiotelephone:

(1) The name of the vessel.

(2) The reporting point.

(3) The time of passing the reporting point.

(4) ETA at the the next reporting point.

(5) The next reporting point.

(6) If the vessel is at a point of entry in the TSS, any change in speed of the vessel from the speed reported in § 160.30 (c).

(7) If the vessel is at a point of departure from the TSS, the course, and destination or intentions of the vessel.

(b) Whenever the ETA of a vessel at a reporting point changes by more than 10 minutes, the operator of the vessel shall report a revised ETA to the VTC by radiotelephone.

Subpart D—Traffic Separation Scheme Rules

§ 160.48 Applicability.

This Subpart applies to all vessels.

§ 160.50 Conformance with the Traffic Separation Scheme (TSS).

The operator of each vessel in the TSS shall comply with TSS rules in §§ 160.50–160.58 and 160.74, except as allowed by § 160.15.

§ 160.52 Direction of traffic.

(a) A vessel in a traffic lane shall keep the separation zone to port.

(b) In a precautionary area, except the Port Angeles precautionary area or any temporary precautionary area, a vessel shall proceed in a counterclockwise direction and keep the center of the precautionary area to port.

§ 160.54 Anchoring in the TSS.

A vessel may not anchor in the TSS.

§ 160.56 Joining, leaving, and crossing the TSS.

(a) A vessel described in § 160.1(c) may not join, cross, or leave a traffic lane except at a precautionary area unless advance notification has been given the VTC of the point at which the vessel will join, cross, or leave the traffic lane.

(b) A vessel crossing the TSS at a traffic lane shall, to the extent practicable,

maintain a course that is approximately perpendicular to the direction of the flow of traffic in the traffic lane.

(c) A vessel joining or leaving a traffic lane without crossing a separation zone shall steer a course to converge on or diverge from the direction of traffic flow in the traffic lane at as small an angle as practicable.

(d) A vessel joining or leaving a traffic lane in a direction that requires crossing a separation zone and another traffic lane shall steer courses to converge on or diverge from the direction of traffic flow in the traffic lane being joined or left at as small an angle as practicable, but shall cross the other traffic lane on a course that is as near perpendicular to the separation zone as practicable.

§ 160.58 Small vessel navigation rule.

A vessel not described in § 160.1(c) when in the TSS, may not hamper the safe passage of vessels named in § 160.1 (c) that are navigating in the TSS.

Subpart E—Rosario Strait Rules

§ 160.68 Applicability.

This subpart applies to the vessels described in § 160.1(c).

§ 160.70 Communications in Rosario Strait.

Before a vessel meets, overtakes or crosses ahead of any vessel in Rosario Strait the master or person in charge shall transmit the intentions of his vessel to the master or person in charge of the other vessel on the frequency designated under the Bridge-to-Bridge Radiotelephone Act for the purpose of arranging safe passage.

§ 160.72 Report before entering Rosario Strait.

At least 15 minutes before a vessel enters the TSS at Rosario Strait, unless a shorter period is authorized by the VTC, the operator of the vessel shall report the vessesl's ETA at, and point of entry in, Rosario Strait to the VTC by radiotelephone.

§ 160.74 Entering Rosario Strait.

A vessel may not enter Rosario Strait unless—

(a) The report in § 160.72 has been made;

(b) The radio equipment on the vessel that is used to transmit the reports required by this part is operating;

(c) The radar on a vessel so equipped is operating and manned during periods of visibility of 2 miles or less; and

(d) The vessel is free of any conditions, such as fire or defective mechanical or electrical equipment, that may affect its navigation.

Subpart F—Description and Geographic Coordinates

§ 160.78 Applicability.

This Subpart applies to all vessels.

§ 160.80 VTS Area.

The VTS Area consists of the area enclosed by the line described in § 82.120 of this chapter (which is the line dividing the high seas from inland waters between Angeles Point, Washington, and Point Roberts Light); thence easterly and northerly along the shoreline to the international boundary between Canada and the United States; thence easterly along the international boundary to the shoreline; thence along the shoreline of the United States to the point of beginning.

§ 160.83 Separation zones.

(a) The area of each separation zone is based on a centerline that extends from one point to another, or through several points, described in paragraph (d) of this section.

(b) Each separation zone consists of the area within two parallel boundaries 250 yards on each side of the centerline. These boundaries extend to and intersect with the boundary line of a precautionary area.

(c) No part of any separation zone is contained in a precautionary area.

(d) The latitude and longitude describing the centerline of the separation zone are:

(1) Between precautionary area "S" and "SA",

(i)	48°12'24" N.	123°06'30" W.
(ii)	48°11'33" N.	122°51'30" W.

(2) Between precautionary area "R" and "RA",

(i)	48°16'24" N.	123°06'30" W.
(ii)	48°19'06" N.	123°00'09" W.

(3) Between precautionary area "RA" and "SA",

(i)	48°18'39" N.	122°57'27" W.
(ii)	48°12'27" N.	122°50'48" W.

(4) Between precautionary area "RA" and "RB",

(i)	48°20'24" N.	122°56'54" W.
(ii)	48°24'12" N.	122°48'00" W.
(iii)	48°25'24" N.	122°46'24" W.

(5) Between precautionary area "RB" and "SA",

(i)	48°25'11" N.	122°44'36" W.
(ii)	48°24'06" N.	122°44'12" W.
(iii)	48°12'39" N.	122°49'12" W.

(6) Between precautionary area "SA" and "SC",

(i)	48°10'48" N.	122°48'06" W.
(ii)	48°07'42" N.	122°39'48" W.
(iii)	48°01'42" N.	122°38'06" W.

(7) Between precautionary area "SC" and "SF",

(i)	48°00'36" N.	122°37'24" W.
(ii)	47°57'21" N.	122°34'12" W.
(iii)	47°55'24" N.	122°30'16" W.
(iv)	47°53'42" N.	122°28'18" W.

(8) Between precautionary area "SF" and "SH",

(i)	47°52'33" N.	122°27'36" W.
(ii)	47°44'36" N.	122°25'42" W.
(iii)	47°40'18" N.	122°27'30" W.

(9) Between precautionary area "SH" and "T",

(i)	47°39'06" N.	122°27'36" W.
(ii)	47°34'54" N.	122°26'48" W.

(10) Between precautionary area "T" and "TC",

(i)	47°33'42" N.	122°26'36" W.
(ii)	47°26'54" N.	122°24'12" W.
(iii)	47°23'06" N.	122°21'06" W.
(iv)	47°19'54" N.	122°26'36" W.

(11) Between precautionary area "CA" and "C",

(i)	48°44'12" N.	122°45'36" W.
(ii)	48°41'33" N.	122°43'36" W.

§ 160.85 Traffic lanes.

(a) Except as provided in paragraph (b) of this section, each traffic lane consist of the area within two parallel boundaries that are 1000 yards apart and that extend to and intersect with the boundary of a precautionary area. One of these parallel boundaries is parallel to and 250 yards from the centerline of a separation zone.

(b) No part of any traffic lane is contained in a precautionary area.

(c) Rosario Strait is the traffic lane consisting of the area enclosed by a line beginning at latitude 48°26'48" N., longitude 122°43'24" W.; thence northerly to latitude 48°36'06" N., longitude 122°45'00" W.; thence northeasterly to latitude 48°39'18" N., longitude 122°42'42" W.; thence westerly and northwesterly along the boundary of precautionary area "C" to latitude 48°39'36" N., longitude 122°44'00" W.; thence southerly to latitude 48°38'24" N., longitude 122°44'06" W.; thence southwesterly to latitude 48°36'06" N., longitude 122°45'42" W.; thence southerly to latitude 48°29'42" N., longitude 122°44'42" W.; thence southwesterly to latitude 48°27'36" N., longitude 122°45'30" W.; thence northeasterly and southeasterly along the boundary of precautionary area "RB" to the point of beginning.

§ 160.87 Precautionary areas.

The precautionary areas consist of:

(a) *Port Angeles precautionary area.* An area enclosed by a line beginning on the shoreline at New Dungeness Spit at latitude 48°11'00" N., longitude 123°06'30" W.; thence due north to latitude 48°17'12" N., longitude 123°27'36" W.; thence due south to the shorelines; thence along the shoreline to the point of beginning.

(b) *Precautionary area "RA".* A circular area of 2,500 yards radius centered at latitude 48°19'45" N., longitude 122°58'36" W.;

(c) *Precautionary area "RB".* A circular area of 2,500 yards radius centered at latitude 48°26'24" N., longitude 122°45'12" W.;

(d) *Precautionary area "C".* A circular area of 2,500 yards radius centered at latitude 48°40'33" N., longitude 122°42'42" W.;

(e) *Precautionary area "CA".* A circular area of 2,500 yards radius centered at latitude 48°45'19" N., longitude 122°46'26" W.;

(f) *Precautionary area "SA".* A circular area of 2,500 yards radius centered at latitude 48°11'28" N., longitude 122°49'43" W.;

(g) *Precautionary area "SC".* A circular area of 1,250 yards radius centered at latitude 48°01'06" N., longitude 122°37'54" W.;

(h) *Precautionary area "SF".* A circular area of 1,250 yards radius centered at latitude 47°53'10" N., longitude 122°-27'48" W.;

(i) *Precautionary area "SH".* A circular area of 1,250 yards radius centered at latitude 47°39'42" N., longitude 122°-27'48" W.;

(j) *Precautionary area "T".* A circular area of 1,250 yards radius centered at latitude 47°34'18" N., longitude 122°-26'48" W.;

(k) *Precautionary area "TC".* A circular area of 1,250 yards radius centered at latitude 47°19'30" N., longitude 122°-27'12" W.

§ 160.89 **Reporting points.**

(a) Buoy "R" at latitude 48°16'24" N., longitude 123°06'30" W.

(b) Buoy "S" at latitude 48°12'24" N., longitude 123°06'30" W.

(c) Buoy "SA" at latitude 48°11'28" N., longitude 122°49'43" W.

(d) Buoy "RB" at latitude 48°26'24" N., longitude 122°45'12" W.

(e) Buoy "C" at latitude 48°40'33" N., longitude 122°42'42" W.

(f) Buoy "SC" at latitude 48°01'06" N., longitude 122°37'54" W.

(g) Buoy "SH" at latitude 47°39'42" N., longitude 122°27'48" W.

(h) Buoy "TB" at latitude 47°23'06" N., longitude 122°21'06" W.

(i) The boundary of the TSS.

(Sec. 104, Public Law 92-340, 86 Stat. 424; 37 FR 21943, 49 CFR 1.46(o)(4))

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W. M. BENKERT,
Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

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