federal register

THURSDAY, SEPTEMBER 27, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 187

Pages 26885–27038

PART I

HIGHLIGHTS OF THIS ISSUE

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

(Continued inside)

September 27, 1973—Pages 26885–27038

REMINDERS

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

SEPTEMBER 27

FDA—Child protection packaging standards for certain liquid kindling and/or illuminating preparations containing petroleum distillates 2757; 1–30–73

FAA—Standard Instrument approach procedures; miscellaneous amendments 22121; 8–16–73, 23398, 8–30–73

federal register

Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Contents

(Continued on next page)

List of CFR Parts Affected

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

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.

6 CFR

150 26917

7 CFR

52 26903
908 26903
1421 26904

PROPOSED RULES:

1701 26919

9 CFR

73 26904
82 26904

12 CFR

207 26905

14 CFR

39 26905
71 (3 documents) 26905, 26906
73 26906
75 26907
97 26907
229 26908

PROPOSED RULES:

25 26939
71 26940
121 26939

15 CFR

377 26908
399 26908

16 CFR

1500 27012
1505 27012

17 CFR

PROPOSED RULES:

240 26943

20 CFR

PROPOSED RULES:

404 26921

21 CFR

121 26909
135a 26909
135b 26910
135c 26910
135e 26910
191 26910
191b 26910

24 CFR

1914 26911

PROPOSED RULES:

42 26923

26 CFR

1 (2 documents) 26911, 26912

PROPOSED RULES:

1 26918

28 CFR

0 26910

29 CFR

PROPOSED RULES:

202 26919
206 26919

32 CFR

881 26891

33 CFR

PROPOSED RULES:

117 26938

38 CFR

PROPOSED RULES:

21 26944

40 CFR

180 26913

41 CFR

1-1 26913
1-2 26913
1-3 26914
1-7 26916
1-16 26916

43 CFR

PROPOSED RULES:

3000 26918
3200 26918

45 CFR

233 26916

PROPOSED RULES:

250 26920

46 CFR

PROPOSED RULES:

Ch. IV 26943
160 26938

47 CFR

97 26942

49 CFR

PROPOSED RULES:

571 26940

50 CFR

32 (2 documents) 26917

Rules and Regulations

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER I—MILITARY PERSONNEL

PART 881—APPOINTMENT IN COMMISSIONED GRADES—RESERVE OF THE AIR FORCE AND UNITED STATES AIR FORCE (TEMPORARY)

This revision provides for waiver of retirement eligibility provisions for appointment of chaplains and certain categories of medical service personnel when a critical requirement exists; revises military service obligation, age, and education requirements for appointment of nonextended active duty Reserve airmen; stipulates that Department of State Form FS-240 is acceptable as proof of citizenship for persons born abroad of American parents; restates basic educational requirements; clarifies the maximum amount of constructive service credit awardable upon appointment in grade of second lieutenant; adds AF Form 2061, to the list of forms comprising the application; provides for the commissioning of medical service personnel for assignment to Ready Reserve units of the United States Air Force Reserve and Air National Guard of the United States prior to completion of a National Agency Check; revises the certificate containing conditions for retention of commission which must be signed by chaplain candidate applicants; updates Air Force Specialty Codes for officers appointed to undergo training in various health fields; defines the types of internships required for appointment as a dietitian; updates criteria for commissioning under the Dietetic Training Program; updates the educational requirements for appointment as a medical entomologist or clinical psychologist; updates the educational and experience requirements for appointment as a biomedical laboratory officer or a social worker; changes biomedical "therapist" to biomedical "specialist"; and updates references and terminology throughout the part.

Part 881, Subchapter I of Chapter VII of Title 32 of the Code of Federal Regulations is revised to read as follows:

AUTHORITY.—10 U.S.C. 591, 1211, 8012, 8067, 8353, 8359, and 9411 and chapter 103.

Subpart A—General Information

§ 881.1 Purpose.

(a) This part states the policies and procedures governing the direct appointment of commissioned officers as Reserves of the United States Air Force or as commissioned officers in the United States Air Force. It explains the method of application, eligibility requirements, and where to apply for appointment.

(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.

§ 881.2 Statutory authority.

The statutory authority for appointments tendered according to this part is contained in 10 U.S.C., sections 591, 593, 1211, 8067, 8353, 8358, 8359, 8444, and 9411 and chapter 103.

§ 881.3 Duration of appointment.

All Reserve of the Air Force (ResAF) appointments are for an indefinite term. All U.S. Air Force (Temporary) appointments effected during a war or National Emergency will continue for the duration of such war and for six months thereafter, unless sooner terminated.

§ 881.4 Temporary appointments.

(a) Appointments in the U.S. Air Force without component (Temporary) will be made only according to special instructions issued by Headquarters U.S. Air Force, except as stated in paragraph (b) of this section.

(b) Physicians and dentists who are resident aliens or conscientious objectors normally do not qualify for Reserve appointments; however, such persons who have a liability for training and service under the Military Selective Service Act may be appointed, if otherwise qualified, as follows:

(1) Applicants who are 26 years of age or over at time of appointment will be

tendered temporary appointments in the grades specified. Temporary appointments made under this authority terminate upon appointee's release from active duty.

(2) Applicants, including participants in the Armed Forces Physicians' Appointment and Residency Consideration Program (Berry Plan), who must be appointed on a date that will require acceptance of commission before age 26 will be initially tendered Reserve appointments. The provisions of §§ 881.11 (f) and 881.22(b) are waived in this instance.

(3) Noncitizen applicants must possess a valid Immigration and Naturalization Service (INS) Alien Registration Receipt Card (which may be obtained from the local Immigration and Naturalization Office), as evidence of lawful entry into the United States for permanent residence. Since reproduction of this form is prohibited, the applicant must submit the following statement signed by an officer, notary public or other person authorized to administer oaths:

I certify that I have this date seen INS Form I-151 issued to _____ (name of applicant) indicating lawful entry into the United States for permanent residence on _____ (date)

_____ (Signature) _____ (Date)

(c) Nondeclarant aliens who are appointed to commissioned status may place their present citizenship in jeopardy by executing the Oath of Office (Military Personnel). If a nondeclarant alien indicates, while being processed for a commission, that he does not desire to take the oath of allegiance prescribed by Air Force Regulation 36-39, he may be administered the following oath of service and obedience in the same manner as the Oath of Office (Military Personnel).

I _____ (typed/printed name), a citizen of _____, and without intention of surrendering such citizenship, having been appointed a _____ do solemnly swear (or affirm) that I will serve the United States against all its enemies whomsoever, and that I will honestly and faithfully discharge the duties of the office upon which I am about to enter, So Help Me God.

(d) Noncitizen physicians and dentists who receive temporary appointments may be tendered Reserve appointments upon request and submission of proof of citizenship as outlined in this part.

§ 881.5 Procurement objectives.

(a) Appointments will be made by grade and category in numbers required and authorized by Headquarters U.S. Air Force. Appointments will be made only to meet procurement objectives in the categories for which appointments are currently authorized and within the grade ceilings established by law. Reserve and temporary appointments above the grade of major are made at the direction of the President, by and with the advice and consent of the Senate.

(b) Persons selected for appointment must be fully qualified according to criteria in this part and/or other Air Force directives. Appointment is not assured merely by reason of meeting the established requirements. Only persons who are best qualified will be appointed.

(c) Appointments normally will be made to fill authorized Ready Reserve position vacancies or active duty requirements.

(d) Outstanding persons in business, scientific, professional, or technical fields who do not meet eligibility criteria, but who have demonstrated through their civilian occupation that they are outstanding in their field, may be appointed upon approval of the Secretary of the Air Force. Generally, they must have attained such prominence in their field or specialty as to be nationally known.

Subpart B—Eligibility Requirements

§ 881.10 Persons eligible for appointment.

A person with or without prior military service may apply unless he is ineligible under § 881.11. This authorization includes airmen and warrant officers who are Reserves of the Air Force or members of the Regular Air Force or the United States Air Force (Temporary).

§ 881.11 Persons ineligible for appointment.

(a) A commissioned officer of the Armed Forces serving on active duty, except as provided by this part. However, the Air Force does have provisions for interservice transfer of officers on active duty.

(b) An enlisted member or warrant officer of the Army, Navy, Marine Corps, or Coast Guard serving in the active service of the United States.

(c) An officer, warrant officer, or enlisted member in the Reserve Forces of the U.S. Army, Navy, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Health Services and Mental Health Administration, unless he has obtained a conditional release from his appointment or enlistment and is not on active duty or under orders to report for active duty.

(d) A person who has previously applied for appointment under this part, but was not selected, or who was selected and declined appointment is ineligible to apply for six months from the date of notification of previous rejection or declination.

(e) A person disenrolled or eliminated from a training program leading to a commission as an officer for the following reasons unless prior approval is obtained from Headquarters U.S. Air Force:

(1) Resignation or dismissal from an officer training program of the Army, Navy, Air Force, Coast Guard, or Merchant Marine, because of military inaptitude, indifference, undesirable traits of character, disciplinary reasons, evasion of a contractual agreement, or declination of a proffered commission. Superintendents of military academies and commanders of officer training programs may recommend waivers only in exceptional cases worthy of consideration.

(2) Elimination from an officer training program of the Army, Navy, Air Force, Coast Guard, or Merchant Marine for lack of academic progress or breaches of the honor code.

(3) Elimination from a civilian operated military institution by the educational authorities because of violations of the institution's honor code.

NOTE.—Requests for determination of the eligibility of applicants disenrolled or eliminated for any of the reasons stated above will be made only in rare cases of sufficient merit to justify consideration. The applications, together with the record of disenrollment from officer candidate type training will be reviewed by the Air Force Military Personnel Center before appointment. If approved, normally an individual will not be appointed until after the date of graduation of the class from which eliminated.

(f) A conscientious objector.

(g) A person who admits or whose records show that he has at any time engaged in any of the activities in Air Force Regulation 35-62 (Security Program) or who is reasonably believed to have done so.

(h) A person who intentionally fails or refuses to accomplish the Armed Forces Security Questionnaire, in its entirety. If a medical or dental applicant for appointment is subject to induction and intentionally fails or refuses to accomplish this questionnaire, he will not be appointed; his induction will be handled by the Selective Service System.

(i) A person with a record of conviction (for other than minor traffic violation) by any type of military or civil court. However, he may request the appointing authority to grant a waiver for other minor violations that are nonrecurrent and are not considered prejudicial to peformance of duty as an officer. The applicant must include a request for waiver with his application, stating fully the circumstances of the case. Each request for waiver will be considered on its own merit and evaluated in connection with the National Agency Check (NAC) or other appropriate security investigation.

(j) A former officer, warrant officer, or enlisted member of any of the Armed Forces who has been or is being released from active duty or discharged from the service for one of the following reasons:

(1) Conditions other than honorable.

(2) Unsatisfactory service or failure to meet standards of performance prescribed by the Secretary concerned.

(3) Resignation in lieu of court-martial, reclassification, elimination, or any form of corrective or disciplinary action.

(4) Court-martial or board action initiated because of his inefficiency or misconduct, or for security reasons.

(5) Failure of selection for promotion.

(6) Dropped from the rolls of the service concerned because of confinement to a State or Federal penitentiary

or correctional institution, or absence without authority for a period of three months.

(7) Failure to meet minimum Reserve participation requirements.

(8) Failure to respond to official correspondence.

NOTE.—Waivers may be granted for subparagraphs (7) and (8) of this paragraph on an individual basis for former rated officers applying under § 881.15 and for former line officers applying under Subpart F of this part.

(9) Elimination from the Inactive Status List Reserve Section (ISLRS).

(10) Physical disability.

(11) Any condition for which severance pay is received.

(12) Hardship or national health, safety, or interest reasons.

(13) Any other reason, when appointment would not be in the best interest of the service.

(k) A person on the retired roll of any of the Armed Forces, Health Service and Mental Health Administration, Coast Guard, or National Oceanic and Atmospheric Administration.

(l) A cadet of any of the service academies, including the Coast Guard and Merchant Marine, and persons enrolled in a course of training or instruction leading to a commission in any of the Armed Forces.

(m) An officer who is a deferred officer as defined in 10 U.S.C. 8368 or who has had his name removed from the recommended list under 10 U.S.C. 8377.

(n) A person who will not be available for active duty within 30 days:

(1) From date of acceptance of appointment, when appointment depends upon immediate entry on active duty.

(2) From date of issuance of the order calling him to active duty in time of war or National Emergency hereafter declared by the President or by Congress, or when otherwise authorized by law, if appointment is based upon Air Force Reserve requirements and not upon immediate entry on active duty.

(3) Because he is principally engaged or employed in a key position in an essential civilian or government activity related to the defense effort.

(4) Because he is undergoing apprenticeship training in a critical civilian occupation.

(o) A person who has been ordered to report for preinduction medical examination or other appropriate processing usually conducted immediately preceding induction under the Military Selective Service Act or who is classified 1–A unless he obtains statement from his Selective Service Board that he is not scheduled for induction within the following 120 days. A person who has applied and is later classified 1–A may remain eligible for consideration until the date he is notified to report for induction, at which time he becomes ineligible for further consideration or appointment.

(p) A person who cannot qualify for retirement under 10 U.S.C. 8911 (active duty retirement) or 10 U.S.C. 1331 (Reserve retirement), before or upon removal from an active status unless he acknowledges in writing that retention for retirement is not possible.

NOTE.—Current laws require the termination of active status of Reserve officers who reach age 60 and those in grades of lieutenant colonel and below who are not on a recommended list for promotion to colonel upon completion of 28 total years of service computed from total years service date (TYSD). Current laws also allow the Secretary of the Air Force to approve, on an individual basis, the retention of certain medical service officers and chaplains until age 60 regardless of total years of service.

§ 881.12 Former officers of the Regular Air Force.

(a) An officer of the Regular Air Force (RegAF) who is honorably separated by reason of unqualified resignation and has a remaining military service obligation (MSO) or unfulfilled contractual agreement may be separated contingent upon his acceptance of a Reserve appointment in the grade to which entitled.

(b) A former officer of the RegAF who has no MSO or unfulfilled contractual agreement and is honorably separated by reason of unqualified resignation may, at the time he renders his resignation, request an appointment as a ResAF officer. Appointment as a ResAF will be made by a letter of appointment, and acceptance must be accomplished after discharge from the RegAF.

(c) A RegAF officer who does not request a Reserve appointment at the time of his resignation may apply direct to AFMPC/DPMAJB1, Randolph Air Force Base, Texas 78148, and be considered up to one year from the date of his discharge.

(d) Appointment may be made in the permanent or temporary grade in which serving at time of discharge. Constructive service appropriate for the grade will be awarded based on length of active Federal commissioned service and education, where applicable. Constructive service will also be awarded for prior service in an active status as a Reserve officer not on extended active duty for the years in which minimum participation requirements for retention and retirement were satisfied.

(e) Air Force policy is to appoint as ResAF officers only individuals who normally may be expected to participate in Reserve activities and who will be available for immediate active service. Under current laws, an individual who is preparing for the ministry in a recognized theological or divinity school may not be required to serve on active duty or to participate in active duty training service, active duty for training, or inactive duty training. Accordingly, an officer of the RegAF who resigns to enter seminary training is not eligible for appointment as a ResAF officer. He may, however, apply for appointment as a Chaplain upon meeting specified requirements as issued in pertinent Air Force regulations.

(f) In addition to other requirements, a former chaplain of the RegAF must submit a current ecclesiastical endorsement for appointment as a ResAF. A former chaplain may not be appointed in any other category.

§ 881.13 Former officers of any of the services.

Except for those who are ineligible under § 881.11, former officers of any of the services may be appointed for duty in any specialty for which they are qualified and for which there is a procurement quota. Former officers may not be tendered appointments based solely on prior service, except as prescribed by Air Force directives.

§ 881.14 Reserve officers of other Armed Forces of the United States.

A Reserve officer of another Armed Service of the United States not on active duty may be appointed as a ResAF in any grade (or equivalent permanent grade) held as a Reserve of the Armed Forces concerned, without appearing before an examining board.

Exception: Appointment may be made in a lower or higher grade only when the Reserve commission held in the other Armed Force is in other than a professional category (medical, dental, legal, etc.) and the applicant desires and qualifies for appointment in a professional category in the Air Force for which a procurement authorization exists. He will be awarded a permanent Reserve grade and date of rank as determined by the appointment laws in effect for the U.S. Air Force.

§ 881.15 Former rated officers.

Former rated officers of any of the services (including RegAF officers who did not apply for a Reserve commission within one year after resignation) may be appointed in a grade held at time of discharge, not above O–4, to fill rated positions in the Ready Reserve.

§ 881.16 School of Military Sciences, Officer (SMSO), and AFROTC graduates.

(a) *SMSO graduates.* Applicants must have successfully completed the prescribed course and be recommended for appointment by a faculty board.

(b) *AFROTC graduates.* Applicants must have successfully completed the prescribed academic military training requirements.

§ 881.17 Appointment as a ResAF officer for assignment to the Retired Reserve and placement of name on the U.S. Air Force Reserve Retired List.

An individual who qualifies for membership in the Retired Reserve and does not hold a Reserve commission may be appointed under this section for the sole purpose of assignment to the Retired Reserve. Appointment will be made in the highest grade he has satisfactorily held or is eligible for by law. Former members separated for reasons involving

moral or professional dereliction normally will not be tendered an appointment. Eligibility for appointment under this section is not governed by the other conditions outlined in this part.

§ 881.18 Appointment as a ResAF upon removal from the Temporary Disability Retired List (TDRL) (10 U.S.C. 1211).

If a member is removed from the TDRL following a finding that he is physically fit, he will be appointed the day following discharge from the TDRL. Reappointment will normally be in the Reserve grade with promotion service date held at the time he was placed on the TDRL.

§ 881.19 Posthumous appointments.

A posthumous appointment as a ResAF may be issued in the name of a member of the Air Force who was selected for appointment or had successfully completed an officer training school and been recommended for appointment by the school's commander, but was unable to accept appointment because of death in the line of duty. (AFROTC cadets are ineligible for posthumous appointments.)

(a) No financial benefits will accrue as a result of a posthumous appointment.

(b) Authority: 10 U.S.C., chapter 77.

§ 881.20 Appointment of USAFR airmen not on extended active duty.

Direct appointment of qualified and deserving airmen not on extended active duty to officer status and a concurrent Ready Reserve assignment may be made under the quotas and criteria as prescribed by the U.S. Air Force.

§ 881.21 Appointment for entry on active duty.

Persons who are eligible and who meet recall criteria may be appointed for immediate recall to active duty. Appointments in grades above captain will be made only when vacancies exist. Appointments may be made under this authority only in skills listed on current recall requirements listings.

§ 881.22 Eligibility requirements.

(a) *Moral requirements.* Applicant must possess high moral character and personal qualifications.

(b) *Citizenship requirements.* A person appointed as a Reserve of the Air Force under this part must at the time of appointment be a citizen of the United States. An individual who is not a citizen by birth must submit the statement in subparagraph (1) of this paragraph, signed by an officer, notary public, or other person authorized by law to administer oaths. In no circumstances will facsimiles or copies (photographic or otherwise) of naturalization certificates, declarations of intention, certificates of citizenship, or alien registration receipt cards be made. Title 18 U.S.C. 1426(h) provides that "whoever, without lawful authority, prints, photographs, makes or executes a print or impression in the likeness of a certificate of arrival, declaration of intention to become a citizen, or certificate of naturalization or citizenship, or any part thereof, shall be fined not more than $5,000 or imprisoned not more than 5 years, or both." Submission of the document in subparagraph (2) of this paragraph is acceptable as proof of citizenship for persons born of American parent(s) outside the United States.

(1) For persons who are not citizens by birth:

I certify that I have this date seen the original certificate of citizenship No. _____ (or certified copy of the court order establishing citizenship) stating that _____ was admitted to United States citizenship by the court of at _____ (District or county)

_____, on _____
(City and State) (Date)

_____ _____
(Signature) (Date)

(2) For persons born of American parent(s) outside the United States. Authenticated copy of Department of State Form FS-240, Report of Birth Abroad of a Citizen of the United States of America. This form is referred to as the Consular Report of Birth and may be obtained from the Authentication Officer, Department of State, Washington, D.C. 20520.

NOTE.—Burden of proof is upon the applicant.

(c) *Medical requirements.* All applicants must be medically qualified, or medically acceptable with waiver for Air Force commission. A report of medical examination will be accomplished not more than 90 days before the date of application. Except for women applicants, medical examinations will be without expense to the Government. Women applicants for commission may be examined by qualified civilian physicians where no military examining capability exists. Funds provided for the operation of the U.S. Air Force Recruiting Service will be used for this purpose. Travel performed in connection with medical examination will be without expense to the Government.

(d) *Age, education, experience, and grade requirements*—(1) *Age.* By law, no person under the age of 18 years will be appointed as a Reserve of the Air Force. Age criteria for commissioning through AFROTC and SMSO are contained in directives relating to such programs.

(2) *Education.* Only education above high school level gained at accredited institutions will be acceptable for the purposes of this part. Institutions recognized for credit must have national or regional accreditation as listed in the current issue of the Education Directory, Higher Education, published by the Office of Education, Department of Health, Education, and Welfare, or from a college or university not so accredited but listed in the directory. An applicant whose credits are from a school which is neither accredited nor listed in the education directory must present a statement or transcript indicating that his credits are acceptable for unconditional admission into the graduate school of, or for full transfer to, a nationally or regionally accredited college or university, except as otherwise provided by Air Force directives.

(3) *Experience.* (i) Only experience gained through full-time employment in a responsible position directly related to the specialty of appointment is acceptable for making grade determination and the award of constructive service credit. Any additional education or training in a field allied to nursing (includes anesthesia training) attained after graduation from a school of nursing will be credited as experience. Normally an applicant must have completed at least 12 months of employment before his experience is acceptable. If an applicant's record of experience is questionable, a statement must be obtained from his employer.

(ii) Unless otherwise provided, only experience gained after applicant attained the appropriate degree is creditable as service in an active status for appointment to duty in one of the applicable specialties.

(5) *Grade.* Grade is determined by the combined education and experience constructive credits the applicant possesses. If on date of his application an applicant possesses experience pertinent to his specialty that is in excess of that required for appointment as second lieutenant, it will be converted to constructive service credits by year, month, and day on a day-to-day basis.

§ 881.23 Award of constructive service.

The award of constructive service to reflect an applicant's combined years of education and experience was originally authorized by Section 201 of the Reserve Officer Personnel Act of 1954 (ROPA), now codified as 10 U.S.C. 8353. ROPA became effective on July 1, 1955, and contains no retroactive provisions. Accordingly, persons appointed before the effective date of the law (July 1, 1955) are not eligible for any constructive service credit.

(a) The constructive service credit possessed by an applicant is the amount of education and experience credited for grade determination. Constructive credit in excess of that required for the next higher grade, will be awarded as promotion service in grade.

(b) The award of constructive service credit will be limited to the minimum amount required for appointment in the determined grade.

(c) The amount of constructive service awarded for education will be as specified by the U.S. Air Force regardless of the actual time spent in acquiring the degree. At time of appointment, the following conditions must be met:

(1) The degree must have been conferred; or

(2) An authorized official of the educational institution awarding the degree must certify that the applicant has completed all of the requirements for the degree which will be conferred at a later specified date; and

(3) The degree must relate to the specialty in which appointment is being made.

(d) Persons who earn a degree for which constructive service is allowable, but who do so while in a commissioned status may, upon an authorized reappointment, be credited with either constructive service or their commissioned time for total years service date, but not both.

(e) Persons commissioned during a portion of the time spent in earning a degree may, upon an authorized reappointment, be awarded constructive service credit for education for the time not duplicated by commissioned service.

§ 881.24 U.S. Air Force (Temporary) appointments.

Total year service date and promotion service date will not be computed for officers holding only U.S. Air Force (Temporary) appointments.

Subpart C—Application and Processing Procedures

§ 881.30 How to apply.

(a) Except for procedures that apply only to SMSO and AFROTC, the documents in subparagraphs (1) through (22) of this paragraph, properly completed, constitute the application. Documents required by subparagraphs (3) through (6), (9), (11), (12), (14), and (16) of this paragraph are not required for officers on extended active duty applying for reappointment as judge advocates under Subpart D. Officers already designated as judge advocates or assignment to the Judge Advocate General's Department who apply for reappointment under Subpart D need not submit documents previously submitted if they are still current. Line of the Air Force officers desiring reappointment to the Medical Service Corps or the Biomedical Science Corps should submit application by letter. Airmen on active duty need not submit documents required by subparagraphs (4) through (6) of this paragraph if a personnel security investigation has been completed.

(1) AF Form 24, Application for Appointment as Reserves of the Air Force or USAF Without Component.

(2) Original or photostat of honorable discharge certificate or certificate of service, a copy of the order effecting discharge, and statement of service, when applicable. Applicants with prior active military service will submit a photostatic copy of DD Form 214, Report of Separation from Active Duty. For judge advocate appointees, a copy of the individual's certificate of graduation from an accredited law school and a copy of his certificate of admission to the bar of a Federal court or the highest court of a State, as applicable, will be submitted.

(3) Standard Form SF 88, Report of Medical Examination, and SF 93, Report of Medical History.

(4) DD Form 398, Statement of Personal History.

(5) DD Form 98, Armed Forces Security Questionnaire.

(6) FD Form 258, FBI Fingerprint Card.

(7) Transcripts of college work as evidence of educational level. Graduates of recognized colleges of dentistry, medicine, optometry, pharmacy, and veterinary medicine, and applicants for appointment in the Medical Service Corps may submit a photostatic copy of college diploma in lieu of a transcript.

(8) Conditional release from another Armed Force or component in which appointment is currently held, if applicable.

(9) A certificate similar to the following, except for women and chaplain applicants:

I certify that I have not been ordered to report for induction under the Military Selective Service Act. After submitting application for appointment as a Reserve of the Air Force, I understand that any appointment, enlistment, or order to active military service in a branch of the service other than the Air Force automatically renders me ineligible to accept an appointment as a Reserve of the Air Force.

---------- ----------
(Signature) (Date)

(10) Any other documents or information the applicant may desire to submit as evidence of his qualifications for appointment.

(11) For a civilian employee of the Federal Government, a "Certificate of Availability of Federal Employee."

(12) DD Form 1644, Ready Reserve Service Agreement, for persons whose appointment is contingent upon assignment to a Ready Reserve unit or mobilization augmentation position.

(13) Persons applying under Subparts, D, E, F, G, or H of this part must submit the additional documents listed in those subparts.

(14) Men applicants, other than chaplains, physicians, dentists, and veterinarians, who have not attained their 26th birthday and who have had no prior military status must submit the following statement:

If I am tendered an appointment as a Reserve of the Air Force, I understand that upon acceptance of appointment I am required by law to serve on active duty and in a Reserve component for a total of 6 years unless sooner discharged in accordance with regulations and standards prescribed by the Secretary of Defense. I understand that although the appointment is tendered and accepted for an indefinite term, my obligated service will be for a period of 6 years. I understand that I may qualify for transfer to the Standby Reserve on completion of a combination of active duty and satisfactory Ready Reserve participation totaling at least 5 years or upon completion of a combination of my military service obligation, whichever is earlier. I further understand that if my appointment is contingent upon concurrent Ready Reserve assignment, I will be required to meet the participation requirements of the unit to which assigned. I understand that while I am serving in a draft-deferred status, I am subject to mandatory assignment. I have been counseled and understand that I will become subject to involuntary order to active duty for up to 24 months if I fail to satisfactorily perform training requirements.

---------- ----------
(Signature)

(15) Men physicians, dentists, and veterinarians, including those who have reached age 26 or over, whose appointments are contingent upon concurrent assignment to a Ready Reserve position must sign the following statement and have it witnessed:

If I am tendered an appointment as a Reserve of the Air Force, I understand and agree to accept Ready Reserve status for a period of 5 years, or until age 35, whichever occurs first, effective on the date of my appointment. Provided that I satisfactorily participate as a member of a Ready Reserve unit, I will not be liable, as provided under 50 U.S.C.A. App. 454(1) (1) for active military service as the result of special draft calls.

I understand that I must participate in 48 inactive duty training periods or assemblies and up to 15 days' active duty training annually, or 30 days of active duty training annually or as required by my Reserve assignment, unless excused therefrom by proper authority.

I understand that if I fail or refuse to participate satisfactorily as determined by the Secretary of the Air Force I may be discharged or referred to the appropriate Selective Service Board for induction, as appropriate.

Witnessed by:

(Signature of unit commander or authorized representative)

(Date)

(Signature of applicant)

(Date)

(16) For persons whose appointments are for inactive duty, AF Form 1288, Application for Reserve Assignment, and a statement from the commander of the Ready Reserve unit that a vacancy exists within the unit and the appointment of the applicant is requested to fill the vacancy.

(17) For an applicant who has been eliminated from a course of training leading to a commission, the commander or activity responsible for the preliminary processing of the application will obtain and attach DD Form 785, Record of Disenrollment from Officer Candidate Type Training.

(18) Appropriate certificate required by § 881.22(b), when applicable.

(19) For airmen applicants on extended active duty, the servicing Consolidated Base Personnel Office (CBPO) will furnish an AF Form 47, Certificate of Eligibility and Record of Personnel Security Clearance, as evidence of completed security investigation.

(20) For those seeking appointment as a judge advocate, a report of interview by an active duty career judge advocate, prepared according to separate instructions issued by the Judge Advocate General, USAF.

(21) AF Form 2061, USAF Drug Abuse Certificate (Appointment/Officer Training Applicants Only), an AF Form 2031,

Drug Abuse Circumstances (when applicant requests an individual evaluation on AF Form 2061).

(22) All applicants for commission in the medical services for assignment to USAFR Ready Reserve units or mobilization autmentee positions must sign the following statement and have it witnessed:

I agree to attend Medical Service Officers Orientation Course, MOBMO 104–1, as soon as possible but not later than 1 year after I receive my commission as an officer of the Medical Service.

Witnessed by:

(Signature of unit commander or authorized representative)

(Date)

(Signature of applicant)

(Date)

(b) Physicians and allied medical specialists allocated to the Air Force under special draft calls will be processed as follows:

(1) DD Form 1548, Preinduction Processing and Commissioning Date—Medical, Dental, and Allied Specialists Categories constitutes the application for appointment and active duty.

(2) Standard Forms 88 and 93, Report of Medical Examination and Report of Medical History will be submitted with the DD Form 1548. Reports of medical examinations are acceptable for 2 years from date of examination.

(3) Graduates of foreign medical schools must furnish evidence of permanent certification by the Educational Council for Foreign Medical Graduates.

§ 881.31 Examining boards.

(a) Examining boards will be appointed to make recommendations for individuals who have not held an appointment and are being considered above the grade of major under 10 U.S.C. 594.

(b) Examining boards will be composed of an uneven number of officers totaling not less than three, the majority of whom are Reserve and all of whom are in a grade equal to or higher than the grades for which applicants are being considered. When a woman applicant is being considered, one of the board members will be a woman officer. Reserve officers appionted to these boards may or may not be on active duty.

(c) Any person who receives a notice of induction under the Military Selective Service Act and is allocated to the Air Force, and is otherwise qualified for appointment as a physician or dentist in a grade higher than major, will be appointed in such grade without referral to a board of officers.

§ 881.32 Processing and testing.

(a) Within 15 workdays after the application has been received from the major command, the applicant will be notified of the time and place he must appear for processing and testing. Applicants not in the active military service must provide for travel, quarters, and meals at their own expense. Applicants will be scheduled so that, as far as practical, they will not have to spend more than 2 days at the place of processing. If an applicant fails to report for processing on the scheduled date, every reasonable attempt will be made to determine reasons for failure to report. A new reporting date will be established, if the applicant desires it.

(b) Testing. (1) Unless exempt, each applicant will be administered the Air Force Officer Qualifying Test (AFOQT). No minimum qualifying scores are established. The test will be conducted according to current and appropriate instructions for administering and scoring the AFOQT battery to derive the following:

(i) Officer quality.

(ii) Verbal aptitude.

(iii) Quantitative aptitude.

(2) The following categories are exempt: (i) Former Officers.

(ii) Officers of any of the services except those applying for entry into pilot or navigator training who must meet the established requirements.

(iii) Individuals applying under Subparts E, F, G of this part (§ 881.72), and Subpart H of this part.

(3) Testing requirements for AFROTC students and individuals enrolled in the School of Military Sciences, Officer, are outlined in directives relating to those programs.

(4) The AFOQT will be administered by a test control officer or authorized personnel of the Recruiting Service.

(c) Medical examination. Each applicant will be given a medical examination, if applicable.

(d) Fingerprinting. Examining centers will fingerprint each applicant. FD Form 258, FBI Fingerprint Card will be used.

§ 881.33 Selection of applicants.

Applicants will be selected through the use of a quality-oriented system including, but not limited to factors such as education, experience, test scores, potential and motivation.

§ 881.34 Personnel security investigations.

Rule	A If an applicant—	B Then he may not be tendered an appointment until (note 1)—
1	Is an immigrant alien physician or dentist	A report of a background investigation (BI) under AFR 205-32, USAF Personnel Security Program, has been completed and a favorable report rendered.
2	Has a father, mother, sisters, brothers, spouse, or children residing in one of the countries listed in AFR 205-32, atch 6.	
3	Is a U.S. citizen and has resided or traveled in a country listed in AFR 205-32, atch 6, for 30 or more continuous days after dates indicated (note 2).	
4	Made entries on DD Form 98 that provide reasons for belief that the appointment may not be clearly consistent with the interest of National security.	
5	Is not listed in rules 1–4	A National Agency Check (NAC) has been completed and a favorable decision rendered.
6	Is an Air Force member under consideration for appointment with a Limited National Agency Check (LNAC).	A NAC has been completed and a favorable decision rendered if the break in service or employment exceeds 1 year.
7	Has a break in service or employment after a prior investigation under AFR 205-32.	

NOTE—1. Individuals applying for appointment in any of the corps of the medical services for assignment to Ready Reserve units (USAFR and ANGUS) may be appointed prior to completion of the appropriate personnel security investigation provided the following Certificate of Understanding is submitted with the application.

I understand that my appointment as a commissioned officer in the Reserve of the Air Force is being accomplished prior to completion of the required security investigation. I further understand that if as a result of completion of the postcommissioning investigative procedures I am determined unacceptable for appointment as a commissioned officer, I will be discharged from the United States Air Force and that I will receive an Honorable Discharge Certificate.

2. Travel or residence in these countries under the auspices of the U.S. Government will not be considered.

§ 881.35 Appointment and notification.

(a) Appointments will be made by letter or administrative orders.

(1) The Air Force Specialty Code (AFSC) reflecting the appointee's education and experience which were considered in making the appointment will be shown in all appointment letters (except those for graduates of the AFROTC program).

(2) Graduates of the School of Military Sciences, Officer, will be notified by administrative orders instead of letters of appointment.

(3) Each applicant will be notified of his appointment or nonselection.

(b) Appointments will be issued as of current date and will be effective from the date of acceptance.

(c) When an appointee fails to accept an appointment, the appointing authority will cancel the appointment by reason of nonacceptance and notify the appointee.

§ 881.36 Validity of oaths of office and acceptances.

(a) When an individual is elected or appointed to an office of honor or trust under the Government of the United States, he is required, before entering upon the duties of the office, to take and subscribe to an oath of office or an oath of service and obedience under specified conditions without reservations or modifications. Appointment of any individual who does not desire to execute the oath of office or the oath of service and obedience without reservation will

be canceled. In the situations described in paragraphs (b) and (c) of this section, when an acceptance is established by other means, submission of a properly executed oath of office is a prerequisite for entitlement to full pay and allowances.

(b) Execution and return of the oath of office constitute a formal acceptance of appointment. No other evidence is needed or required. An acceptance may be "expressed," as by formal acceptance in writing, or "implied," as by entering upon the performance of the duties of the office pursuant to an order of competent authority. If an appointee enters on active duty before execution of the oath of office, the date of entry on active duty will be recorded as the implied or constructive date of acceptance. An oath of office is still required, however, and will be obtained as soon as possible. Such oath will be executed as of current date and when received by the appointing authority will be annotated as follows:

Date of entry on duty on _____ pursuant to Special Order _____ HQ _____, dated _____; constitutes constructive acceptance of appointment. Acceptance officially recorded as of

_____
(Date of extended active duty).

(c) An oath of office properly dated and signed by an appointee but not administered by an authorized offical, or one taken before a person believed authorized but actually not authorized to adminster oaths, is ineffective. However, it is valid as an acceptance and will be recorded as such. In such instances, a valid oath of office will be obtained and will be dated as of the date actually executed.

Subpart D—Appointment of Judge Advocate Officers

§ 881.40 Submitting applications.

Applicants for appointment as ResAF, Judge Advocate General's Department must submit in adition to the documents required by § 881.30(a):

(a) A certificate from the proper court clerk indicating original date of admission and present standing at the bar of a Federal court or of the highest court of a State.

(b) An affidavit from the applicant containing a chronological statement of his full legal experience. Legal experience may include governmental, judicial, teaching (in accredited law schools), and military experience and private practice.

(c) For officers applying for reappointment as judge advocates, a statement that the applicant understands that:

(1) Upon reappointment his current Reserve commission will be vacated;

(2) His service credit will be subject to recomputation;

(3) His total years service date and promotion service date will be adjusted accordingly; and

(4) The additional constructive service credit awarded counts toward mandatory transfer to the Retired Reserve under 10 U.S.C., chapter 863, as well as for appointment and promotion purposes under 10 U.S.C., chapter 837.

§ 881.41 Professional qualifications.

Applicants possessing the professional qualifications listed in this section for the grade concerned and who are otherwise qualified may apply for appointment as a ResAF, Judge Advocate General's Department.

(a) *First lieutenant.* For appointment as first lieutenant, the applicant must meet the age for grade requirements established by Air Force regulations and be a graduate of an accredited law school and a member of the bar of a Federal court or of the highest court of a State. A graduate of an accredited law school may apply for appointment before admission to the bar, provided appointment will not be tendered until he submits documentary evidence of admission to the bar. A senior attending an accredited law school may apply for appointment on the basis of his current transcript but not more than 90 days before his scheduled date of graduation. Final transcript must be submitted as soon as possible. In no event will he be tendered an appointment until he graduates from law school and submits both his final transcript and evidence of admission to the bar.

(b) *Grade above first lieutenant.* For appointment in grades above first lieutenant, applicant must possess all the qualifications specified in paragraph (a) of this section and meet the age and legal experience requirements. Normally, appointments will not be made in field grades. Exception: When the applicant has had the type of legal experience that, in the opinion of the Judge Advocate General, qualifies him to satisfactorily perform judge advocate duties in the grade sought and in a legal specialty critically required by the Air Force.

§ 881.42 Appointment and reappointment.

(a) *Appointment.* Original appointments in this specialty are contingent upon the applicants' consent to immediately enter extended active duty for 4 years, except for Air National Guard (ANG) applicants.

(b) *Reappointment.* Subject to the applicable provisions of the Air Force, ResAF officers who are not in a deferred status under 10 U.S.C. 8368 may apply for reappointment as judge advocates under the following conditions:

(1) Reappointment is limited to officers below the permanent or temporary grade of major who qualify for appointment as judge advocates but are not designated as judge advocates or assigned to the Judge Advocate General's Department.

(2) Officers reappointed under provisions of this section will be credited with constructive service under 10 U.S.C. 8353. This service counts for appointment and promotion and toward mandatory transfer to the Retired Reserve under 10 U.S.C., chapter 863.

(3) If not in Career Reserve status, applicants on extended active duty must obtain approved dates of separation that are at least 4 years from date of designation as judge advocates.

(4) Reappointment of nonextended active duty USAFR applicants who have not served on extended active duty as commissioned officers is authorized to fill extended active duty requirements. Applicants complete AF Form 125, Application for Extended Active Duty with the USAF. Selection to enter active duty is made on a competitive basis within authorized recall quotas for judge advocates.

(5) Officers, except second lieutenants, holding Reserve grades lower than those to which they would be entitled by virtue of the additional constructive service credit are not eligible for reappointment.

Subpart E—Appointment of Chaplains

§ 881.50 Application for the Air Force chaplaincy.

(a) *General.* Applicants will be considered for appointment only when military and denominational authorizations exist within the Reserve quotas allocated.

(b) *Application procedures.* Applications must include all applicable documents listed in this subpart, plus the following:

(1) Ecclesiastical endorsement.

(2) Certified scholastic transcripts.

(c) *Qualification and requirements.* (1) Age and grade: 34 years for first lieutenant, and less than 40 years for captain.

(ii) In time of National emergency or war, or when a continuing serious shortage of Air Force chaplains exist, age waivers may be granted not to exceed the maxmum age of appointment by more than 3 years.

(2) Minimal education requirements: (i) Applicant must possess 120 semester hours of undergraduate credit from an accredited college or university.

(ii) Applicant must possess 90 semester hours of credit or an appropriate graduate degree from a theological seminary or from a graduate school of theology that is a component part of a university. The seminary or school of theology must be accepted as an accredited or associate member of the American Association of Theological Schools or meet the established criteria.

(3) Appointment in the grade of first lieutenant. Applicants may be initially appointed in the grade of first lieutenant if they are less than 34 years of age; have completed 3 years of graduate study or have a graduate theological degree from an accredited or recognized theological seminary; have attained full ecclesiastical ordination status; and have the professional experience required by their denomination.

(4) Appointment in the grade of captain. Applicants may be initially appointed in the grade of captain if they are less than 40 years of age and can qualify under one of the following constructive service credit categories:

(i) Have completed 3 years of graduate study in an accredited or recognized theological seminary; have attained full ecclesiastical ordination status; and have had a minimum of 4 years of full-time active professional experience as a minister, priest, or rabbi, following completion of undergraduate study.

(ii) Have completed an additional year of graduate study in an accredited or recognized theological seminary beyond the regular seminary course or first seminary degree; have attained full ecclesiastical ordination status; and have had a minimum of 3 years of full-time active professional experience as a minister, priest, or rabbi, following completion of undergraduate study.

§ 881.51 Compensatory professional considerations.

Applicants from religious denominations that do not operate accredited or recognized theological seminaries may be considered if they:

(a) Meet the requirements of § 881.50(c)(2)(i).

(b) Have earned a minimum of 90 semester hours of graduate credit in the social sciences, the humanities, or theology (or a combination of all three) at an accredited or recognized institution of learning.

(c) Have attained full ordination status as required by their particular denomination.

(d) Are actively engaged full-time in their religious vocation at the time of appointment and have had the professional experience required by their denomination.

§ 881.52 Ecclesiastical endorsement.

Applicants must request an endorsement from their ecclesiastical endorsing agency. When the endorsement has been received by the appropriate agency, application forms with instructions will be forwarded to the applicant provided there is a quota vacancy for his denomination.

(a) The ecclesiastical endorsement will be considered valid only if it has been issued by a religious endorsing agency that has been formally recognized by the Armed Forces Chaplain's Board of the Department of Defense. The appropriate endorsing agency must certify in the endorsement that the applicant:

(1) Is a fully ordained minister, priest, or rabbi of the denomination the agency is legitimately authorized to represent, giving day, month, year, and place of applicant's ordination.

(2) Is professional qualified and authorized to be appointed as a Reserve of the Air Force with the specialty of chaplain.

(3) Is authorized to enter on extended active duty in the active establishment of the Air Force or to fill a Ready Reserve, Catagory A, or mobilization augmentee position.

(4) Is engaged in the full-time pursuit of his religious vocation.

(5) Is best qualified intellectually, emotionally, and psychologically for the Air Force chaplaincy.

§ 881.53 The Chaplain Candidate Program.

(a) *Eligibility criteria.* In addition to being otherwise qualified, applicants seekng appointment as chaplain candidates must:

(1) Meet the educational requirements as outlined in § 881.50(c)(2)(i).

(2) Apply after completing the first semester of the first year but before the beginning of the last semester of the final year of study while enrolled as a full-time student in an accredited or recognized theological seminary or school of religion as outlined in § 881.50(c)(2)(ii).

(3) Possess the potential professional qualifications required for chaplains in § 881.50.

(4) Obtain ecclesiastical approval to enter the Chaplain Candidate Program from the endorsing agency of the denomination under whose auspices he will qualify himself as a fully ordained minister, priest, or rabbi.

(5) Be less than 30 years of age at the time of appointment.

(b) *Procedure.* The application must include a statement of ecclesiastical approval signed by the applicant's ecclesiastical endorsing agent.

(c) *Appointment.* Appointment is contingent upon a military authorization and a denominational quota vacancy.

(1) Approved applicants will be commissioned in the grade of second lieutenant. At the time of appointment each applicant will sign the following certificate, which will become part of his permanent record:

I understand that to retain my commission as a Reserve of the Air Force I must earn a minimum of 90 semester hours of graduate credit or an appropriate theological degree from a theological school accepted as a member of the American Association of Theological Schools, or from a graduate school of religion which is a component part of a university accredited by an appropriate regional accrediting agency. I further understand that failure to complete this theological training satisfactorily will result in the termination of my commission as a Reserve of the Air Force (Authority: AFM 35-3, chapter 31). Upon meeting the qualifications outlined in AFR 36-15, paragraph 5-1c(3), I must submit an application for appointment as an Air Force chaplain and agree to attend the Chaplain Orientation Course at the USAF Chaplain School as soon as possible but not later than 1 year after I receive my commission as a chaplain. I agree to participate actively and satisfactorily in the Ready Reserve for a minimum of 3 years and accept a Category A or Mobilization Augmentation position when one is available; otherwise, I agree to accept an assignment to the Chaplain Area Representative Program (CHAPAR).

---------- ----------
(Signature) (Date)

(2) On or before November 1 of each year the chaplain candidate must submit a certification by the registrar of the theological institution he is attending that he is a current student in good standing and has been accepted for enrollment for the ensuing academic year. The certification must include the estimated date of graduation.

(d) *Reappointment as chaplain.* A chaplain candidate applies for appointment as chaplain, first lieutenant, after he graduates from theological seminary and is fully ordained. An applicant will be approved for appointment if he is endorsed by this ecclesiastical endorsing agency and meets all requirements. He will be required to actively participate in the Ready Reserve for a minimum of 3 years unless selected by his endorsing agency to fill an active duty quota vacancy. If appointed as chaplain, he must agree to apply for the Chaplain Orientation Course as soon as possible, but no later than 1 year after date of reappointment. If no vacancy exists in a Category A Reserve unit or mobilization augmentation position, he will be assigned to CHAPAR.

(e) *Title of chaplain candidate.* A chaplain candidate, when in military status, will be addressed as "lieutenant." A chaplain candidate will not wear the chaplain insignia.

(f) *Termination of chaplain candidate status.* (1) The status of a chaplain candidate will be in force until his theological training has been completed, ordination rites have been conferred, and the candidate fully meets the requirements for appointment as an Air Force chaplain.

(2) A chaplain candidate's commission will be terminated if:

(i) He fails to complete the required theological studies;

(ii) He does not qualify as a chaplain according to § 881.50(c)(3);

(iii) He is not appointed as chaplain in the ResAF;

(iv) His ecclesiastical approval is withdrawn; or

(v) He fails to apply for reappointment as chaplain, first lieutenant, upon completion of the last semester of the final year of study and full ordination.

Subpart F—Appointments of Physicians (Includes Osteopath), Dentists, Veterinarians, and Nurses

§ 881.60 How to apply.

In addition to the documents required by § 881.30(a), applicant must submit:

(a) Two photostats of license to practice, except when waivers are permitted. Nurses must have current registration in at least one State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States. Nurse anesthetists must submit documentary evidence of current certification by the American Association of Nurse Anesthetists.

(b) Nurses must submit one official copy of transcript of grades from all schools of nursing, colleges, or universities and of any postgraduate training, such as anesthesia.

§ 881.61 Submission of DD Form 62, Statement of Acceptability.

(This section applies only to physician applicants who are allocated to the Air

Force under the Armed Forces Physicians' Appointment and Residence Consideration Program (Berry Plan).) DD Form 62, will be prepared for each physician only upon his being found medically qualified or medically acceptable with waiver of active military service. This form will be forwarded to the appropriate State Director, Selective Service System.

§ 881.62 General qualifications for appointment.

(a) Appointments will be based on criteria established for each specialty. Waiver of the maximum age requirement may be granted for persons concurrently requesting extended active duty.

(b) A Reserve first lieutenant or captain of the Medical or Dental Corps entering on active duty will be appointed to the grade of captain (temporary) effective the date of entry on active duty with the date of rank as of date of graduation from medical or dental school, as appropriate. Temporary appointment to the grade of captain is contingent upon the person's entry on active duty.

(c) Appointments may be tendered to draft-liable physicians for assignment to a Reserve unit, including the ANGUS except during the period a special physicians' draft call is being filled by the Selective Service System. Processing of appointees must be completed, except for security clearance, before the date Selective Service requisitioning begins.

§ 881.63 Doctors of medicine (MD).

(a) *Appointment as first lieutenant.* (1) For appointment as first lieutenant, the applicant must:

(i) Be a graduate of a medical school approved by the Surgeon General, or of a foreign medical school and furnish evidence of permanent certification by the Educational Council for Foreign Medical Graduates, or permanent and unrestricted licensure of a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States.

(ii) Have completed 1 year of postgraduate study and be engaged in the ethical practice of medicine.

(iii) Possess a license to practice medicine in a State or in the District of Columbia, or possess a diploma from the National Board of Medical Examiners.

(2) License and actual engagement in practice may be waived for graduates of approved medical schools and for those who have attained permanent certification by the Educational Council for Foreign Medical Graduates. Application for appointment must be made within 1 year after the completion of internship and residency training, provided formal postgraduate medical training has been continuous and uninterrupted since receipt of medical degree.

(b) *Reappointment as first lieutenant.* Regardless of the provisions of paragraphs (a)(1) (ii) and (iii) of this section, reappointment as first lieutenant will be tendered to persons who are participants in the Senior Medical Student Program, Early Commissioning Program, Medical Education Program, or Armed Forces Health Professions Scholarship Program upon receipt of the MD or Doctor of Osteopathy (DO) degree.

(c) *Appointment in higher grades.* Applicants must possess all of the qualifications specified in paragraph (a) of this section and must have had the minimum additional professional experience, including internship, residency, fellowship, or other graduate study at a hospital, public health agency, school of public health, research institute, laboratory, medical college, recognized teaching center, or similar institution.

§ 881.64 Doctors of osteopathy (DO).

(a) *Appointment as first lieutenant.* (1) For appointment as first lieutenant, applicant must have completed:

(i) Three years of college work before entering a college of osteopathy.

(ii) A 4-year course and been awarded a degree of Doctor of Osteopathy from a school of osteopathy (approved by the Surgeon General) whose graduates are eligible for licensure to practice medicine or surgery in a majority of the States and be licensed to practice medicine, surgery, or osteopathy in a State or Territory of the United States or in the District of Columbia.

(iii) One year of postgraduate study and be engaged in the ethical practice of osteopathy.

(2) License and actual engagement in practice may be waived for graduates of approved schools of osteopathy provided application for appointment is made within 1 year after completion of internship or residency training. Formal postgraduate training must be continuous and uninterrupted since receipt of degree in osteopathy.

(b) *Appointment in higher grades.* Applicants must possess all of the qualifications specified in paragraph (a) of this section and have the minimum additional professional experience, including internship, residency, fellowship, or other graduate study at a hospital, public health agency, school of public health, research institute, laboratory, medical college, recognized teaching center, or similar institution.

§ 881.65 Doctors of dentistry (DDS and DDM).

(a) *Appointment as first lieutenant.* (1) For appointment as first lieutenant, applicant must:

(i) Possess a degree of doctor of dental surgery (DDS) or doctor of dental medicine (DDM) from a school or dentistry acceptable to the Surgeon General, USAF.

(ii) Possess a license to practice dentistry in a State or in the District of Columbia.

(iii) Actually be engaged in the ethical practice of dentistry.

(2) Waiver of license and actual engagement in practice may be made for graduates of approved dental schools, if application for appointment is made within 1 year after graduation or while undergoing appropriate postgraduate instruction or engaged in a dental internship.

(3) Applications from dental students may be accepted and processed before receipt of the qualifying degree. The applicant must furnish a statement from the institution indicating he has completed all of the degree requirements or is expected to do so within 7 months. If otherwise qualified, the applicant will be tendered an appointment generally between 150 to 180 days before graduation. After appointment and following graduation, the officer must furnish evidence that the degree has been conferred and all other applicable requirements have been met. Officers so appointed who do not successfully complete their educational requirements or who fail to receive the qualifying degree will be discharged. At the time of application, each student must sign the following certificate which will become a part of his permanent file:

I understand that if appointed, continuation in the appointment is contingent upon my completing the requirements of the appropriate degree and that failure to receive my graduate degree on _____ will result in the termination of my appointment as a Reserve of the Air Force (Authority: AFM 35-3, chapter 31). Upon meeting the qualifications for appointment, I agree to serve a minimum of 2 full years on extended active duty unless sooner relieved by proper authority.

_____ _____
(Signature) (Date)

(b) *Reappointment as first lieutenant.* Regardless of the provisions of paragraphs (a)(1) (ii) and (iii) of this section, reappointment as first lieutenant will be tendered to persons who are participants in the Senior Dental Student Education Program, Early Commissioning Program, Dental Education Program, or Armed Forces Health Professions Scholarship Program upon receipt of the DDS or DDM degree.

(c) *Appointment in higher grades.* Applicants must possess all of the qualifications specified in paragraph (a) of this section for appointment to first lieutenant and must have the additional minimum experience or training in environments normally associated with high professional standards for the applicable grade.

(d) *Substituting graduate study for professional experience.* Graduate study, not to exceed 3 years, may be substituted for professional experience on a year-for-year basis.

§ 881.66 Doctors of veterinary medicine (DVM).

(a) *Appointment as first lieutenant.* (1) For appointment as first lieutenant applicant must:

(i) Be a graduate of a school of veterinary medicine or veterinary surgery approved by the Surgeon General, USAF.

(ii) Be licensed to practice veterinary mericine in a State or in the District of Columbia.

(iii) Be engaged in the ethical practice of veterinary medicine.

(2) License and actual engagement in practice may be waived for graduates of

approved schools of veterinary medicine or surgery who are commissioned immediately upon graduation.

(3) Appointment of veterinary students before graduation may be made as prescribed for dental students in § 881.65(a)(3).

(b) *Reappointment as first lieutenant.* Regardless of the provisions of paragraph (a)(1)(ii) and (iii) of this section, reappointment as first lieutenant will be tendered to persons who are participants in the Early Commissioning Program, Veterinary Education Program, or Armed Forces Health Professions Scholarship Program upon receipt of the DVM degree.

(c) *Appointment in other grades.* Applicants must qualify under paragraph (a)(1) of this section and be qualified by minimum periods of acceptable professional experience as follows:

(1) *Captain.* (i) Be engaged in practice of veterinary medicine, with a major portion of the practice being in environments normally associated with high professional standards.

(ii) Have 4 years of actual experience.

(2) *Major.* (i) Give evidence of sufficient independent experience to indicate mature judgment and ability to function in the specialty without professional supervision.

(ii) Ordinarily must have been certified by an American Veterinary Specialty Board.

(iii) Have 11 years of actual experience.

(3) *Lieutenant colonel.* (i) Give evidence of having achieved an unequivocal prominence that makes him an authority in his particular field. (For example, a person who is an outstanding contributor to scientific research; an administrator and contributor to development of the specialty under consideration.)

(ii) Have 18 years of actual experience.

(4) *Colonel.* (i) Have achieved the type of background described in subparagraph (3)(i) of this paragraph.

(ii) Have 20 years of actual experience.

§ 881.67 Appointment of nurses.

(a) *Appointment as second lieutenant.* (1) Applicant must:

(i) Be a graduate of a school of nursing that is accredited by the national professional agency recognized by the National Commission on Accrediting and acceptable to the Surgeon General, USAF.

(ii) Have successfully passed the State Board Test Pool Examination in Nursing and possess current registration in at least one State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States.

(iii) Be engaged in the ethical practice of nursing.

(2) An applicant who has a baccalaureate degree in nursing or an allied field may be granted 1 year of constructive service. However, if a year of constructive service is awarded for the degree, the same period of time may not be counted again as constructive experience.

(b) *Appointment in other grades.* Applicant must qualify under paragraph (a) of this section and be qualified by the indicated minimum number of years of professional experience and education requirements outlined in this paragraph. Constructive service in the amount of 1 year may be awarded to an applicant who has a baccalaureate degree; an additional year may be awarded for a master's degree. The period for which constructive service is granted for education may not again be counted toward meeting experience requirements. The period during which an applicant concurrently earns a degree and acquires experience may be counted as constructive service either for education or experience but not for both.

(1) *First lieutenant.* Must have constructive education and experience totaling 3 years in one of the following combinations:

(i) Three years' appropriate professional experience, of which at least 6 months were spent either in active nursing or pursuing additional education in a field allied to nursing within the 12-month period prior to appointment.

(ii) Two years' appropriate professional experience and a baccalaureate degree in nursing or a field allied to nursing.

(iii) One year's appropriate professional experience and a master's degree in nursing, a nursing specialty, or a field allied to nursing.

(iv) Two year's appropriate professional experience and at least 1 year of anesthesia training and subsequent qualification by examination as a nurse anesthetist by the American Association of Nurse Anesthetists (AANA).

(v) One year's appropriate professional experience, a baccalaureate degree in nursing or a nursing specialty, and at least 1 year of anesthesia training and subsequent qualification by examination as a nurse anesthetist by the AANA.

NOTE.—Applicants with more than 3 years of applicable experience who do not meet the qualifications for appointment in grade of captain will be given constructive service credit to which entitled under this part, except that in no case will the applicant be credited with more than 6 years.

(2) *Captain.* Must have constructive education and experience totaling 7 years in one of the following combinations:

(i) Six years' appropriate professional experience in addition to a baccalaureate degree in nursing or a field allied to nursing. (A minimum of 2 years of the required 6 years' professional experience must have been spent in public health, teaching, or an appropriate administrative position.)

(ii) Five years' appropriate professional experience plus a master's degree in nursing, a nursing specialty, or a field allied to nursing. Two years of the required 5 years' professional experience must have been spent teaching or in an appropriate administrative position.

(iii) Six years' appropriate professional experience and at least 1 year's anesthesia training and subsequent qualification by examination as a nurse anesthetist by the AANA. Applicant must have had at least 12 months' experience administering anesthetics within the 2-year period immediately prior to appointment.

(iv) Five years' appropriate professional experience, a baccalaureate degree in nursing or a nursing specialty, and at least 1 year's anesthesia training and subsequent qualification by examination as a nurse anesthetist by the AANA. Applicant must have at least 12 months' experience in administering anesthetics within the 2-year period immediately prior to appointment.

NOTE.—The maximum amount of constructive service that may be awarded upon appointment in grade of captain is 7 years.

(3) *Major and lieutenant colonel.* Appointees must possess outstanding qualifications for special positions determined by the Surgeon General, USAF, as requirements necessitate.

(c) *Appointment for training.* Applicants who meet appointment criteria may be appointed in the grade for which qualified and ordered to active duty for completion of final 12 months of educational requirements. After appointment and following graduation, the officer must furnish evidence that all applicable requirements have been met. Officers so appointed who do not successfully complete their educational requirements or who fail to receive the qualifying degree or certificate will, if eligible, be reassigned to an Air Force medical facility to fulfill the obligation incurred as a participant in the program. At the time of application, each student must sign the following statement which will be filed in the applicant's records as a permanent document:

I agree to remain on active duty for a minimum of 3 years after completion of training as evidenced by the degree or certificate. I have made no commitment which will prevent me from serving on active duty upon completion of my training. I assume full responsibility for payment of my tuition, fees, and other related training costs. I will not accept any monetary stipend paid to students receiving training in civilian institutions. Further I will not accept, without charge, quarters or meals from the training institution or its affiliates. I understand that if I fail to meet the standards of proficiency required and am eliminated from the course of training, I will be assigned to an Air Force medical facility to fulfill the obligation I incurred as a participant in this program.

---------- ----------
(Signature) (Date)

Subpart G—Appointment of Officers in the Medical Service Corps

§ 881.70 Application, processing and selection.

(a) In addition to documents required by § 881.30(a), each applicant must submit results of the AFOQT under § 881.32(b).

(b) Qualifying experience may include both active military and full-time civilian experience that is directly related to

the specialty for which application is made. For appointment in grades higher than second lieutenant, the experience must have been gained after the qualifying degree was attained.

§ 881.71 Health service administrator (AFSC 9021).

(a) *Grade.* Appointments for duty in this specialty may be made in grades of second lieutenant through lieutenant colonel as determined under § 881.22.

(b) *Education.* The minimum educational requirement for qualification in this specialty is a baccalaureate degree in business administration, management, or a related or included field of administration or management. A master's degree in hospital administration or a related field is desirable.

(c) *Area of experience.* Qualifying experience must have been gained in administrative or management positions, including planning, organizing, and directing such activities as hospital administration, medical resignation, personnel, finance, evacuation and debarkation of patients, recreation, welfare, and installation maintenance.

§ 881.72 Other applicants.

Reserve appointment, reappointment, or promotion list transfer to the Medical Service Corps with AFSC indicated:

(a) Will be made for the following:

(1) Students pursuing courses of study as physicians, osteopaths, dentists, veterinarians, or optometrists who apply and are selected for commissioning under Part 906 of this chapter (AFSC 9021).

(2) Students selected for participation in the following programs with primary and duty AFSC indicated:

(i) The Senior Medical Student Program (AFSC 0101).

(ii) The Senior Optometry School Program (AFSC 0102).

(iii) The Senior Dental Student Program (AFSC 0102).

(iv) Other health or health related fields (AFSC 0102).

(3) Persons selected for advanced training in medicine, dentistry, or veterinary medicine under Part 908 of this chapter. Award primary and duty AFSCs of 0103, 0104, and 0105, respectively.

(4) Persons participating in the Armed Forces Health Professions Scholarship Program under AFR 36-17 (Air Force Health Professions Scholarship Program) (AFSC 9021).

(b) May be made under paragraph (a)(1) of this section only in the grade of second lieutenant and under paragraph (a) (2), and (3) of this section in grades not to exceed captain. Qualification for a grade higher than second lieutenant is based on prior commissioned service.

Subpart H—Appointment of Officers in the Biomedical Science Corps

§ 881.80 Application, processing, and selection.

(a) In addition to documents required by § 881.30(a) each applicant must submit:

(1) One official copy of transcript of grades from college or university, plus one copy of certification in specialty, if applying for appointment as a dietitian, occupational therapist, or physical therapist.

(2) One photostat of license to practice if applying for appointment for duty in specialties requiring licensure, such as optometrists and pharmacists.

(b) Grades in which selected applicants are to be appointed will be determined according to the specific section that deals with the specialty and § 881.22.

(c) Qualifying experience may include both active military and full-time civilian experience that is directly related to the specialty for which application is made. For appointment in grades higher than second lieutenant, the experience must have been gained after the qualifying degree was attained.

(d) Biomedical specialist (podiatrist) and optometry officers who are not otherwise eligible for a higher grade shall be appointed in the temporary grade of first lieutenant effective on the date of entry on active duty.

§ 881.81 Dietitian (AFSC 9216A).

(a) *Appointment as second lieutenant.* Applicant must:

(1) Possess a bachelor's degree from an approved school, college, or university and have completed a hospital dietetic internship with equal emphasis on hospital food service administration and clinical dietetics, acceptable to the Surgeon General, USAF; or

(2) Have completed a coordinated degree/hospital dietetic internship program, acceptable to the Surgeon General, USAF, in which the intership is comparable to a hospital dietetic internship with equal emphasis on hospital food service administration and clinical dietetics.

(3) Current registration in the American Dietetic Association is desirable.

(b) *Appointment in higher grades.* Applicants must qualify under paragraph (a) of this section and be qualified by acceptable professional experience and training as follows:

(1) *First lieutenant.* At least 2 years' experience, exclusive of internship, one of which has been as dietitian in a hospital of 100 or more beds. Applicants with more than 3 years of applicable experience who do not meet the qualifications for appointment in grade of captain will be given constructive service credit to which entitled under this part, except that in no case will applicant be credited with more than 6 years of service.

(2) *Captain.* At least 6 years' experience, exclusive of internship, including 3 years in administration of a dietetic department of a hospital of 100 or more beds. The maximum amount of constructive service that may be awarded upon appointment to captain is 7 years.

(3) *Major and lieutenant colonel.* Appointees must possess outstanding qualifications for special positions determined by the Surgeon General USAF, as requirements necessitate.

§ 881.82 Occupational therapist (AFSC 9226).

(a) *Appointment as second lieutenant.* Applicant must:

(1) Possess a bachelor's degree from an approved school, college, or university and have completed an occupational therapy course acceptable to the Surgeon General, USAF; or

(2) Possess a bachelor's degree in occupational therapy from an approved school, college, or university.

(b) *Appointment in higher grades.* Applicant must possess all the qualifications in paragraph (a) of this section and be further qualified by acceptable professional experience and training as follows:

(1) *First lieutenant.* At least 2 years' professional experience in medical institutions following certification. Applicants with more than 3 years' applicable experience who do not meet the qualifications for appointment in the grade of captain will be given constructive service credit to which entitled under this part, except that in no case will the applicant be credited with more than 6 years' service.

(2) *Captain.* At least 6 years' professional experience in medical institutions following certification, 3 of which must have been in a supervisory or administrative capacity. The maximum amount of constructive service that may be awarded upon appointment as captain is 7 years.

(3) *Major or lieutenant colonel.* Appointees must possess outstanding qualifications for special positions determined by the Surgeon General, USAF, as requirements necessitate.

§ 881.84 Appointment for training.

Applicants who are not 28 years of age may be appointed as second lieutenants and ordered to active duty to complete training in one of the following courses:

(a) *Dietetic training.* (1) Applicant for the USAF Hospital Dietetic Internship must possess or be enrolled in the final year of a course leading to a baccalaureate degree from an accredited college or university, with a course emphasis which meets the academic requirements for entrance to a hospital/general dietetics internship approved by the American Dietetic Association. Through central screening procedures employed by the American Dietetic Association, the application must include evidence that the transcript of credits has been given this evaluation by the American Dietetic Association.

(2) Applicant for USAF-sponsored civilian hospital dietetic internship must possess or be enrolled in the final year of a coordinated degree/hospital dietetic internship program acceptable to the Surgeon General, USAF.

(3) At the time of application, each student must furnish the following signed certification, which will be filed in his Unit Personnel Record Group as a permanent document:

I understand that, if appointed, continuation in the appointment is contingent upon

my completing the requirements for (a baccalaureate degree and the USAF Hospital Dietetic Internship) (a baccalaureate degree and an approved hospital dietetic internship) (an approved coordinated degree/hospital dietetic internship program). Failure to complete requirements will result in the termination of my appointment as a Reserve of the Air Force (Authority: AFR 36-12). Upon being ordered to active duty, I agree to serve a minimum of 3 full years after completion of training unless sooner relieved by proper authority.

(Signature) (Date)

(4) For the USAF-sponsored civilian hospital dietetic internship, the following signed certificate must be obtained from the civilian institution:

(Name of dietetic intern), who is an applicant for USAF sponsorship, has been accepted in our internship program. We understand that, to meet Air Force needs, USAF sponsorship of dietetic interns is limited to programs categorized as hospital dietetic internships with equal emphasis on hospital food service administration and clinical dietetics, or to coordinated degree/hospital dietetic internship programs with this equal emphasis. The program which will be given the intern cited above is of such category.

(Official's signature) (Date)

(b) *Occupational therapy training.* Applicant must be enrolled in the final year of an approved course leading to a bachelor's degree in occupational therapy or possess a bachelor's degree and have completed all but the final year of an approved certificate course in occupational therapy.

(c) *Physical therapy training.* Applicant must possess a bachelor's degree and have been accepted for an approved certificate course in physical therapy or be enrolled in the final year of an approved course leading to a bachelor's degree in physical therapy.

(d) *Qualifying evidence.* After appointment and following graduation, each officer who has been appointed under paragraphs (b) and (c) of this section must furnish evidence that the applicable degree has been conferred and all other applicable requirements have been met. Officers so appointed who do not successfully complete their educational requirements, or who fail to receive the qualifying degree, will be discharged under AFR 36-12 (Administrative Separation of Commissioned Officers and Warrant Officers of the Air Force). At the time of application, each student must sign the following certificate, which will be filed in his records as a permanent document:

I understand that, if appointed, continuation in the appointment is contingent upon my completing the requirements for certification in (physical/occupational) therapy. Failure to meet certification requirements will result in the termination of my appointment as a Reserve of the Air Force (Authority: AFR 36-12). Upon being ordered to active duty, I agree to serve a minimum of 3 full years after completion of training unless sooner relieved by proper authority.

(Signature) (Date)

§ 881.85 Pharmacy officer (AFSC 9241).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* The minimum educational requirement is a baccalaureate degree in pharmacy.

(c) *Area of experience.* Qualifying experience must have been gained in pharmacy positions, including conducting laboratory tests, manufacturing medications, and directing pharmacy personnel. A current license to practice pharmacy is mandatory except that licensure may be waived for individuals appointed within 1 year after date of graduation to fill an active duty requirement.

§ 881.86 Optometry officer (AFSC 9251).

(a) *Grade.* Appointment may be made in grades of second lieutenant through colonel as determined under § 881.22. Students may be appointed before they attain the qualifying degree in the same way that dental students are under § 881.65(a)(3).

(b) *Education.* The minimum educational requirement is a degree in optometry from an accredited school of optometry.

(c) *Area of experience.* Qualifying experience must have been gained in optometry positions, including conducting examinations of the eye to determine the presence of visual defects; prescribing lenses and orthoptic therapy to correct, conserve, or improve vision; and examining and testing lenses for workmanship and conformance to prescriptions. Must possess a current license to practice optometry in a State or the District of Columbia or certification of the successful passing of all parts of the examination of the National Board of Examiners in optometry except that licensure may be waived for individuals appointed within 1 year after date of graduation to fill an active duty requirement.

§ 881.87 Bioenvironmental engineer (AFSC 9121).

(a) *Grade.* Appointments may be made in grades of second lieutenant through major as determined under § 881.22.

(b) *Education.* The minimum educational requirement is a baccalaureate degree in civil, chemical, sanitary, electrical, mechanical, or industrial hygiene engineering.

(c) *Area of experience.* Qualifying experience must have been gained in a professional capacity, including design, management, investigation, or construction of works or program for water supply, treatment, and disposal of community wastes (that is, sanitary sewage, industrial wastes, and refuse including salvage and reclamation of useful components of such wastes); the control of pollution of surface waterways and ground waters, and of surface and subsurface soils, milk, and food facilities, housing, hospital, and institutional facilities; insect and vermin control or eradication; rural, camp, and recreation place facilities; the control of atmospheric pollution and air quality, and of light, noise, vibration, and toxic materials, including application to work spaces in industrial establishments; the prevention of radiation exposure; professional research and development work; and responsible teaching positions in engineering subjects in educational institutions of recognized standing.

§ 881.88 Medical entomologist (AFSC 9131).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined in § 881.22.

(b) *Education.* The minimum educational requirement for qualification in this specialty is a master's degree in entomology.

(c) *Area of experience.* Qualifying experience must have been gained in medical entomology positions, including formulating policies and procedures, directing personnel engaged in medical entomological activities, and conducting field and laboratory studies on development, testing, and application of insect control measures.

§ 881.89 Biomedical laboratory officer (AFSC 9151).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* The minimum educational requirement for qualification in this specialty is a baccalaureate degree in medical technology or one of the following recognized field related to clinical laboratory work: chemistry, bacteriology, hematology, virology, toxicology, histology, parasitology, or pharmacology.

(c) *Area of experience.* Experience must be that gained in clinical laboratory positions, including analysis, development, and application of procedures in chemistry, bacteriology, hematology, virology, serology, and tissue pathology.

§ 881.90 Aerospace physiologist (AFSC 9161).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* The minimum educational requirement is a baccalaureate degree in physiology, biophysics, biochemistry, or zoology. A master's degree with a major study in one of the referenced fields is desirable.

(c) *Area of experence.* Qualifying experience must have been gained in aviation physiological or related positions. Experience in physiological research and development of physiological aids for aircrew personnel is desrable.

§ 881.91 Health physicist (AFSC 9171).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* The minimum educational requirement is a master's degree in health physics, nuclear physics, radiobiology, radiological physics, or biophysics.

(c) *Area of experience.* Qualifying experience must have been gained in controlling, shipping, and disposing of radiological materials; conducting radiological protection surveys; monitoring the treatment and disposal of radioactive wastes; calibrating instruments; instructing in health physics, and supervising and directing health physics programs.

§ 881.92 Clinical psychologist (AFSC 9181).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* An applicant may qualify in either of two ways:

(1) A doctoral degree in psychology from an accredited university acceptable to the Surgeon General, USAF, and completion of a clinical internship.

(2) Persons with master's degree in clinical psychology who are doctoral candidates within 2 years of completing academic requirements toward the doctoral degree may be offered an appointment and sponsorship under the Air Force Institute of Technology (AFIT) program to complete requirements for the doctoral degree. Each person appointed under this program will be required to sign the following statement:

I understand that, if appointed, continuation in the appointment is contingent upon my completing the requirements for a doctorate degree and/or 1 year internship. Failure to complete these requirements may result in the termination of my participation in the program and may result in my being utilized in another career field to meet the Air Force requirements. (Authority: AFR 36–12). Upon being ordered to active duty, I will be required to serve 3 years following any Air Force-sponsored internship, or 2 months for each month of academic training, whichever is greater.

(Signature) (Date)

(c) *Area of experience.* Qualifying experience must have been gained in clinically-oriented psychological positions and academic practice; administering, scoring and interpreting psychological procedures; counseling and guidance procedures; counseling and guidance; rehabilitation; or psychological research.

§ 881.93 Social worker (AFSC 9191).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* The minimum educational requirement for qualification in this specialty is a master's degree from an approved school of social work.

(c) *Area of experience.* Qualifying experience must be that gained in professional social work programs.

§ 881.94 Biomedical specialist (AFSC 9261).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* For podiatrists (AFSC 9261A), the minimum educational requirement is a Doctor of Podiatry degree from a school or college of podiatry. For all other subspecialties (AFSC 9261B, Audiologist; AFSC 9261C, Speech Therapist; and AFSC 9261D, Special), the minimum educational requirement is a master's degree in the appropriate specialty. All degrees must be from accredited institutions of higher learning acceptable to the Surgeon General, USAF.

(c) *Area of experience.* Qualifying experience must have been gained in full-time positions as a podiatrist, audiologist, speech pathologist, rehabilitation therapist (including providing care and treatment for human ailments) or planning, directing, and conducting research in the pertinent professional area of practice. License to practice in the pertinent specialty, when appropriate, or registration or certification by the special national accreditation body is mandatory except that licensure, registration, or certification may be waived for individuals appointed within 1 year after date of graduation.

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.73–20444 Filed 9–26–73;8:45 am]

Title 7—Agriculture

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

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Inspection and Certification

Correction

In FR Doc. 73–19178 appearing at page 25165 in the issue for Wednesday, September 12, 1973, make the following changes:

1. In § 52.2, the reference to "Pack certification" in the first line of the second paragraph of column 2, should be enclosed in quotation marks.

2. In § 52.38, in Table II, the first lot size for Group 2 reading "1,201–4,802" should read "1,201–4,800".

3. The second paragraph in § 52.52, currently undesignated, should be designated paragraph (b).

4. In § 52.52(c)(1) the item reading "Inspector(s) in charge—$9.65 per hour", should be deleted, and "Inspectors aide—$5.30 per hour" put in its place.

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

[Valencia Orange Regulation 451]

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

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Sept. 28–Oct. 4, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.751 Valencia Orange Regulation 451.

(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 recommendations 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 this section to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues to improve. Prices f.o.b. averaged $3.72 per carton on a sales volume of 576 carlots during the week ended September 20, 1973, compared with $3.52 per carton on sales of 510 carlots a week earlier. Track and rolling supplies at 299 cars were up 41 cars from last week.

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

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 25, 1973.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 28, 1973, through October 4, 1973, are hereby fixed as follows:

(i) District 1: Unlimited;

(ii) District 2: 700,000 cartons;

(iii) District 3: Unlimited.

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

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

Dated September 25, 1973.

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

[FR Doc.73-20771 Filed 9-26-73;11:23 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

[CCC Grain Price Support Regulations, 1973 Crop Corn Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1973 Crop Loan and Purchase Program

Correction

A correction to FR Doc. 73-18516 appearing at page 23935 for the issue of Wednesday, September 5, 1973, was made at page 26182 for the issue of Wednesday, September 19, 1973. In the correction document in the sixth line of paragraph 2, the entry for "Ellis" county Kansas reading "1.107" should read "1.07."

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

PART 73—SCABIES IN CATTLE

Area Released From Quarantine

This amendment releases Torrance County in New Mexico from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, do not apply to the excluded area, but will continue to apply to the quarantined areas described in § 73.1a. Further, the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 apply to the excluded area.

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, and the Act of July 2, 1962 (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f), Part 73, Title 9, Code of Federal Regulations, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

In § 73.1a paragraph (c) relating to the State of New Mexico is amended to read:

§ 73.1a Notice of quarantine.

* * * * *

(c) Notice is hereby given that cattle in certain portions of the State of New Mexico are affected with scabies, a contagious, infectious, and communicable disease; and therefore, the following areas in such State are hereby quarantined because of said disease:

New Mexico

(1) Curry County.

(2) Roosevelt County.

(Secs. 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; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective September 21, 1973.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies, and should 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 the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of September 1973.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.73-20600 Filed 9-26-73;8:45 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Released From Quarantine

This amendments excludes portions of San Diego and Riverside Counties in California from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas.

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, in paragraph (a) (1) relating to the State of California, subdivisions (ix) relating to San Diego County and (x) relating to Riverside County are deleted.

(Secs. 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; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f), 37 FR 28464, 28477; 38 FR 19141)

Effective date. The foregoing amendment shall become effective September 21, 1973.

The amendment relieves certain restrictions presently imposed but no

longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately 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 21st day of September 1973.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.73-20601 Filed 9-26-73;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. G]

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS

"Single Credit Rule" in Stock Option and Stock Purchase Plans

Pursuant to section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g), the Board is issuing the following amendment to Part 207 by revising § 207.4(a)(2)(i). The change deletes the "single credit rule" in § 207.4(a)(2)(i) and substitutes the provision that each extension of credit pursuant to that section may be treated separately. This clarifies that withdrawal of collateral may be made after proper repayments have been made for at least three years and the deficiency as defined in § 207.4(a)(2)(ii) has been repaid with respect to each extension of credit. The revised § 207.4(a)(2)(i) is set forth below.

§ 207.4 Miscellaneous provisions.

(a) *Stock option and employee stock purchase plans.*

* * * * *

(2) * * *

(i) Each such credit extended to any officer or employee pursuant to this subparagraph (2) in connection with the exercise of rights under one or more plans or with the periodic exercise of rights under a single plan, when such credits shall be outstanding at the same time, may be treated separately from any other credit extended pursuant to this subparagraph (2) and shall be treated separately from any other credit extended pursuant to §§ 207.1 (c), (d) and (g) of this part: *Provided*, That the collateral with respect to each individual credit extended pursuant to such plan or plans shall be identified with, and shall have loan value only with respect to, such individual credit.

The requirement of section 553(b) of Title 5, United States Code, with respect to public participation was not followed in connection with this amendment since it relieves a restriction.

This amendment shall become effective October 29, 1973.

By order of the Board of Governors, September 14, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-20536 Filed 9-26-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-CE-12-AD; Amdt. 39-1708]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 18 Series Airplanes; Correction

In FR Doc. 73-18793, appearing on Pages 24347, 24348, and 24349, in the issue of Friday, September 7, 1973, P/N 414-181200 and (Branson Model 103) specified in paragraph A(2) on page 24347 are incorrect and should be deleted and P/N 404-181000 and (Branson Model 104) substituted therefor.

Issued in Kansas City, Mo., on September 18, 1973.

A. L. COULTER,
Director, Central Region.

[FR Doc.73-20591 Filed 9-26-73;8:45 am]

[Airspace Docket No. 72-WA-31]

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

Alteration of Control Zone and Terminal Control Area at Chicago, Illinois

On January 5, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 890) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Chicago, Illinois, terminal control area (TCA) by expanding the area from 20 to 25 miles; eliminating Area D in the vicinity of Meigs Airport; reducing the size of Area D in the vicinity of Northbrook VORTAC; and redefining certain TCA boundaries by the use of VORTAC radials and DME arcs. Subsequent to the publication of the proposal, problems in distribution of the notice arose. Therefore, on February 2, 1973, the public comment period was extended to February 26, 1973, in order to insure ample opportunity for all interested persons to participate in the rulemaking.

Because of comments received in response to this notice, an alternate proposal was formulated, by an appointed working group made up of FAA and user representatives, that differed from the airspace configuration specified in the original NPRM.

On June 29, 1973, a Supplemental NPRM which reflected the planning carried out by the working group, was published in the FEDERAL REGISTER (38 FR 17251) with the revised airspace configuration that proposed to alter the Chicago, Illinois, TCA by redefining certain TCA boundaries by use of VORTAC radials and DME arcs; extending the TCA from a 20-mile to a 25-mile radius of the Chicago-O'Hare VORTAC in an area extending from the north-northeast to the south-southeast, and two "SPUR" extensions, one southwest and the other northwest of Chicago-O'Hare; adjusting the boundaries between Areas C and D north of Chicago-O'Hare; and lowering the TCA floor over the Meigs Airport to 3,000 feet.

Interested persons were afforded an opportunity to participate in the rulemaking through the submission of comments. Forty comments were received in response to the Supplemental NPRM. Favorable comments were received from the U.S. Navy and the Air Transport Association. A total of thirty eight objections were received, thirty of which were from members of Sky Soaring, Inc., a glider club that operates out of AAVANG airport, which is located three miles east of Huntley, Illinois. On September 2, 1973, the FAA held a meeting with representatives of Sky Soaring, Inc., to resolve the club's objections to the addition of the northwest "SPUR" extension between 20–25 miles from the Chicago-O'Hare VORTAC. A compromise solution was reached, and the dimensions agreed upon at that meeting are reflected in this document.

Statements were made that noise, air pollution, and wake turbulence would result from jet aircraft using the northwest "SPUR" area. This "SPUR", and the other Area C and D additions, are necessary because present arrival patterns cannot be contained within the present TCA during heavy traffic periods. This action will contain the existing traffic flows, not introduce new ones. Therefore, there will be no significant changes in the existing environment.

Objections were made to the altitudes being used in the Crystal Lake area for Chicago-O'Hare Runway 14 arrivals, especially as they relate to the FAA's "KEEP-EM-HIGH" policy, and also to aircraft being vectored outside and below the outermost boundaries. The ATC procedures required for conducting simultaneous parallel ILS approaches require the use of the floor altitudes as proposed in the notice. This expansion of the existing TCA will contain these vector patterns and altitudes, thus reducing the possibility of arrivals having to exist the TCA. This was the primary objective of this rulemaking action.

Seven comments suggested raising the existing floor of the TCA airspace from 1,900 feet to 2,500 feet MSL in the vicinity of Schaumburg Airport. The existing airspace has been in effect since 1970 and experience gained during this period indicates that this airspace is necessary to accommodate departure and arrival operations at the Chicago-O'Hare airport.

Subsequent to the issuing of these notices, the Chicago O'Hare International

Airport geographical position, from which a portion of the control zone is centered, has been recomputed. Accordingly, action is taken herein to amend the control zone to reflect the revised geographical position coordinates.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 8, 1973, as hereinafter set forth.

1. In § 71.171 (38 FR 351), the Chicago, Ill., (O'Hare International Airport) control zone is amended by deleting the coordinates "latitude 41°59'10" N., longitude 87°54'30" W." and substituting therefor the coordinates "latitude 41°58'57" N., longitude 87°54'25" W."

2. In § 71.401(a) (38 FR 622), the Chicago, Ill., terminal control area is amended as follows:

CHICAGO, ILL., TERMINAL CONTROL AREA

A. PRIMARY AIRPORT

Chicago-O'Hare International Airport (Lat. 41°58'57" N., Long. 87°54'25" W.)
Chicago-O'Hare VORTAC (Lat. 41°59'16" N., Long. 87°54'17" W.)

b. *Boundaries*—(1) *Area A.* That airspace extending upward from the surface to and including 7,000 feet MSL within the Chicago, Ill. (O'Hare International Airport), control zone and including that airspace within 2 statute miles northwest of the centerline extended of Runway 4L, and 2 statute miles southeast of the centerline extended of Runway 4R, extending from the 5-statute mile radius control zone to 2 statute miles southwest of the Pine Outer Marker.

(2) *Area B.* That airspace extending upward from 1,900 feet MSL to and including 7,000 feet MSL within a 10.5-mile radius of Chicago O'Hare VORTAC, excluding Area A previously described and that area bounded on the southeast by a line 2 miles northwest and parallel to the centerline extended of Runway 22R, on the south and southwest by the southwest boundary of Glenview, Ill., control zone, on the north by a 10.5-mile radius arc of the Chicago-O'Hare VORTAC, and excluding Area E described hereinafter.

(3) *Area C.* That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 25-mile radius of Chicago-O'Hare VORTAC excluding Areas A and B, previously described, Areas D and E described hereinafter, and excluding those areas between the 20 and 25-mile radii of Chicago-O'Hare VORTAC from a line 7 miles southwest of and parallel to the extended centerline of Runway 32L, clockwise to a line 7 miles southeast of and parallel to the extended centerline of Runway 4R and from a line 7 miles northwest of and parallel to the extended centerline of Runway 4L, clockwise to a line beginning at a point 7 miles southwest of the Runway 14R extended centerline on the 20-mile radius arc of the Chicago-O'Hare VORTAC, extending to a point 6 miles southwest of the Runway 14R extended centerline on the 25-mile radius of the Chicago-O'Hare VORTAC.

4. *Area D.* That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL north of Chicago bounded on the west by the Chicago-O'Hare VORTAC 321° radial, on the south by the Northbrook VORTAC 269° and 094° radials, on the east by the Chicago-O'Hare VORTAC 018° radial and on the north by a 25-mile radius arc of the Chicago-O'Hare VORTAC and an area southwest of Chicago bounded on the northwest by a line 2 miles southeast of and parallel to the extended centerline of Runway 4L, on the southwest by a 25-mile radius arc of Chicago-O'Hare VORTAC, on the southeast by a line 7 miles southeast of and parallel to the extended centerline of Runway 4R, on the northeast by a 20-mile radius arc of Chicago-O'Hare VORTAC and that portion of a 1.5-mile radius arc of Clow Airport which is north of a 20-mile radius arc of Chicago-O'Hare VORTAC.

(5) *Area E.* That airspace northeast of Chicago extending upward from 2,500 feet MSL to and including 7,000 feet MSL bounded on the northeast by a 10.5-mile radius arc of Chicago-O'Hare VORTAC, on the south by the extended centerline of Runway 9/27 at NAS Glenview and on the northwest by a line 2 miles northwest of and parallel to the extended centerline of Runway 22R at Chicago-O'Hare International Airport.

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

Issued in Washington, D.C., on September 20, 1973.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-20594 Filed 9-26-73;8:45 am]

[Airspace Docket No. 73-SW-19]

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

Alteration of VOR Federal Airways; Correction

On July 10, 1973, FR Doc. 73-13875 was published in the FEDERAL REGISTER (38 FR 18363) which amends Part 71 of the Federal Aviation Regulations, effective 0901 G.m.t., November 8, 1973, by realigning several VOR Federal Airways in the vicinity of Monroe, La., simultaneously with the relocation of the Monroe VORTAC. However, the date for commissioning the relocated facility has been delayed and action is taken herein to amend the effective date for the realignment of the airways utilizing the VORTAC.

Since amending the effective date for the realignment of these airways is a minor editorial change on which the public would have no particular reason to comment, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, effective 30 days after publication, FEDERAL REGISTER document 73-13875 (38 FR 18363) is amended, as hereinafter set forth.

"Effective 0901 G.m.t., November 8, 1973," is deleted and "effective 0901 G.m.t., February 28, 1974," is substituted therefor.

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

Issued in Washington, D.C., on September 19, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-20592 Filed 9-26-73;8:45 am]

[Airspace Docket No. 73-RM-21]

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

PART 73—SPECIAL USE AIRSPACE

Designation of Restricted Area and Alteration of Continental Control Area

On July 27, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 20097) stating that the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate a joint-use restricted area, R-6413, at Green River, Utah, and include it in the continental control area.

The NPRM stated that the missile impacts at the White Sands Missile Range (WSMR), N. Mex., would occur in Restricted Areas R-5107B and R-5103. These impact areas have subsequently been changed and they are included in the existing restricted areas at WSMR.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No objections to the NPRM were received.

Since a situation exists wherein military operations require immediate adoption of these amendments, it is found that good cause exists for making these amendments effective in less than 30 days notice.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective September 27, 1973, as hereinafter set forth.

In § 73.64 (38 FR 670), the Green River, Utah, Restricted Area, R-6413 is added:

R-6413, GREEN RIVER, UTAH

Boundaries.
Beginning at Lat. 38°57'00"N., Long. 110°09'40"W.; thence to Lat. 38°46'03"N., Long. 110°06'00"W.; to Lat. 38°31'30"N., Long. 109°57'00"W.; to Lat. 38°31'30"N., Long. 109°51'00"W.; to Lat. 38°33'27"N., Long. 109°46'00"W.; to Lat. 38°49'15"N., Long. 109°57'02"W.; to Lat. 38°58'02"N., Long. 110°05'33"W.; thence to point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. As published by NOTAM issued 48 hours in advance of area activation.
Controlling agency. Federal Aviation Administration, Denver ARTC Center.
Using agency. Air Force Special Weapons Center, Air Force Systems Command, Kirtland AFB, New Mexico.

In § 71.151 (38 FR 341), R-6413, Green River, Utah, is added.

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

Issued in Washington, D.C., on September 19, 1973.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-20593 Filed 9-26-73;8:45 am]

[Airspace Docket No. 73-SW-29A]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Routes

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to realign Jet Route No. 29 south of Brownsville, Tex., realign Jet Route No. 22 west of Laredo, Tex., and to change the numbered identifier of the jet route south of Tucson, Ariz., from J–11 to J–92.

At the request of the Mexican Government, minor changes are made herein to three jet routes which, effective October 11, 1973, will extend from navigational aids in the United States to the United States/Mexican border. Effective October 11, 1973, J–11 will extend from Tucson, Ariz., via the Tucson 185° radial to the United States/Mexican border. The numbered identifier of this route is changed herein from J–11 to J–92. Effective October 11, 1973, J–22 will extend from Laredo, Tex., to the United States/Mexican border via the direct routing between Laredo, Tex., and Monterrey, Mexico. The alignment of J–22 is changed herein to extend from Laredo, Tex., to the United States/Mexican border via the direct routing between Laredo, Tex., and Nuevo Laredo, Mexico. Effective October 11, 1973, J–29 will be aligned from Brownsville, Tex., to the United States/Mexican border via the direct routing between Brownsville and Tampico, Mexico. This portion of J–29 is changed herein to extend from Brownsville via the 187° radial to the United States/Mexican border.

Since this amendment is minor in nature and in response to a request from the Government of Mexico, notice and public procedure thereon are unnecessary. However, in order to allow sufficient time for these changes to be depicted on appropriate aeronautical charts, this amendment will become effective more than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 8, 1973, as hereinafter set forth.

Section 75.100 (38 FR 681, 24107, 19962) is amended as follows:

a. In J–11 "From the INT of the United States/Mexican border and the Tucson, Ariz., 185° radial via Tucson;" is deleted and "From Tucson, Ariz., via" is substituted therefor.

b. In J–22 "From Monterrey, Mexico," is deleted and "From Nuevo Laredo, Mexico," is substituted therefor.

c. In J–29 "From Tampico, Mexico, via Brownsville, Tex.;" is deleted and "From the INT of the United States/Mexican Border and the Brownsville, Tex., 187° radial via Brownsville;" is substituted therefor.

d. In J–92 "INT of Casa Grande 145° and Tucson 298° radials to Tucson, Ariz." is deleted and "INT of Casa Grande 145° and Tucson, Ariz., 298° radials; Tucson; to the INT of the Tucson 185° radial and the United States/Mexican border." is substituted therefor.

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

Issued in Washington, D.C., on September 20, 1973.

CHARLES H. NEWPOL,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-20595 Filed 9-26-73;8:45 am]

[Docket No. 13210; Amdt. No. 883]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 FR 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW, Washington, D.C. 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.21 is amended by originating, amending, or canceling the following L/MF SIAP's, effective November 8, 1973.

Anchorage, Alas.—Anchorage International Airport, LFR–A, Amdt. 12, canceled.
Anchorage, Alas.—Merrill Field, LFR–A, Amdt. 17, canceled.
Farewell, Alas.—Farewell Airport, LFR–A, Amdt. 17, canceled.
Skwentna, Alas.—Skwentna Airport, LFR–1, Original, canceled.

2. Section 97.23 is amended by originating, amending, or canceling the following VOR–VOR/DME SIAP's, effective November 8, 1973.

Bellingham, Wash.—Bellingham International Airport, VOR/DME A, Amdt. 2, canceled.
Bellingham, Wash.—Bellingham International Airport, VOR 1 Runway 16, Amdt. 3.
Bellingham, Wash.—Bellingham International Airport, VOR 2 Runway 16, Amdt. 3.
Bloomington, Ind.—Monroe County Airport, VOR Runway 6, Amdt. 9.
Bloomington, Ind.—Monroe County Airport, VOR Runway 17, Amdt. 4.
Bloomington, Ind.—Monroe County Airport, VOR Runway 24, Amdt. 2.
Bloomington, Ind.—Monroe County Airport, VOR Runway 35, Amdt. 4.
Burley, Ida.—Burley Municipal Airport, VOR–A, Amdt. 1.
Burley, Ida.—Burley Municipal Airport, VOR/DME A, Original, canceled.
Burley, Ida.—Burley Municipal Airport, VOR/DME B, Original.
Hartford, Wis.—Hartford Municipal Airport, VOR–A, Original.
International Falls, Minn.—Falls International Airport, VOR Runway 13, Amdt. 8.
International Falls, Minn.—Falls International Airport, VOR Runway 31, Amdt. 9.
Jacksonville, Fla.—Craig Municipal Airport, VOR–A, Amdt. 6.
Jacksonville, Fla.—Craig Municipal Airport, VOR Runway 31, Amdt. 1.
Kansas City, Mo.—Kansas City International Airport, VOR Runway 9, Amdt. 4.
Kansas City, Mo.—Kansas City International Airport, VOR Runway 27, Amdt. 3.
Kansas City, Mo.—Municipal Airport, VOR Runway 18, Amdt. 11.
Port Isabel, Tex.—Port Isabel—Cameron County Airport, VORTAC–A, Original.
Rio Vista, Cal.—Rio Vista Municipal Airport, VOR–1, Amdt. 1, canceled.
Rio Vista, Cal.—Rio Vista Municipal Airport, VOR–A, Original.
St. Petersburg-Clearwater, Fla.—St. Petersburg-Clearwater International Airport, VOR Runway 17, Amdt. 5.
Talladega, Ala.—Talladega Municipal Airport, VOR–A, Amdt. 5.
Talladega, Ala.—Talladega Municipal Airport, VOR/DME Runway 3, Amdt. 3.

* * * effective October 4, 1973:

Ewa, Hawaii—NAS Barbers Point, VOR–1, Original, canceled.
Marshalltown, Iowa—Marshalltown Municipal Airport, VOR/DME–A, Original, canceled.
Marshalltown, Iowa—Marshalltown Municipal Airport, VOR Runway 30, Original.

* * * effective September 27, 1973:

McAllen, Tex.—Miller International Airport, VOR–A, Amdt. 8.

* * * effective September 14, 1973:

Livermore, Cal.—Livermore Municipal Airport, VOR/DME–A, Amdt. 1.

3. Section 97.25 is amended by originating, amending, or canceling the following SDF–LOC–LDA SIAPs, effective November 8, 1973:

International Falls, Minn.—Falls International Airport, LOC/DME (BC) Runway 13, Amdt. 1.

Kansas City, Mo.—Kansas City International Airport, LOC (BC) Runway 19, Amdt. 2, Canceled.
Kansas City, Mo.—Kansas City International Airport, LOC (BC) Runway 27, Amdt. 3.

* * * effective October 4, 1973:

Oshkosh, Wis.—Wittman Field, LOC/DME (BC) Runway 18, Original.
Somerset, Pa.—Somerset County Airport, LOC Runway 24, Amdt. 1.

* * * effective September 13, 1973:

St. Paul, Minn.—St. Paul Downtown Holman Field, LOC Runway 30, Amdt. 3.

4. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective November 8, 1973:

Anchorage, Alas.—Anchorage International Airport, NDB–A, Original.
Anchorage, Alas.—Merrill Field, NDB–B, Original.
Farewell, Alas.—Farewell Airport, NDB Runway 8, Original.
International Falls, Minn.—Falls International Airport, NDB Runway 31, Amdt. 2.
Juneau, Wis.—Dodge County Airport, NDB Runway 2, Amdt. 4.
Juneau, Wis.—Dodge County Airport, NDB Runway 20, Amdt. 2.
Kansas City, Mo.—Kansas City International Airport, NDB Runway 1, Amdt. 9.
Kansas City, Mo.—Kansas City International Airport, NDB Runway 9, Amdt. 3.
Latrobe, Pa.—Latrobe Airport, NDB Runway 23, Amdt. 5.
Sebring, Fla.—Sebring Air Terminal, NDB Runway 36, Original.
Sedalia, Mo.—Sedalia Memorial Airport, NDB Runway 23, Amdt. 2.
Skwentna, Alas.—Skwentna Airport, NDB–A, Original.
Trenton, Mo.—Trenton Municipal Airport, NDB Runway 17, Original.

* * * effective October 4, 1973:

Guam, Marianas Is.—Andersen AFB, ADF–1, Amdt. 3, Canceled.
Ogallala, Neb.—Searle Field, NDB Runway 8, Original.
Oshkosh, Wis.—Wittman Field, NDB Runway 36, Original.
Somerset, Pa.—Somerset County Airport, NDB Runway 24, Amdt. 1.

5. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective November 8, 1973:

International Falls, Minn.—Falls International Airport, ILS Runway 31, Amdt. 2.
Kailua-Kona, Hawaii—Ke-ahole Airport, ILS/DME Runway 17, Amdt. 1.
Kansas City, Mo.—Kansas City International Airport, ILS Runway 1, Amdt. 2.
Kansas City, Mo.—Kansas City International Airport, ILS Runway 9, Amdt. 4.
Kansas City, Mo.—Kansas City International Airport, ILS (BC) Runway 19, Original.
Latrobe, Pa.—Latrobe Airport, ILS Runway 23, Amdt. 5.
Lebanon, N.H.—Lebanon Regional Airport, ILS Runway 7, Amdt. 2.
North Bend, Ore.—North Bend Municipal Airport, ILS Runway 4, Amdt. 1.

effective October 18, 1973:

Atlanta, Ga.—The William B. Hartsfield Atlanta International Airport, ILS Runway 9R, Amdt. 3.

effective October 4, 1973:

New York, N.Y.—John F. Kennedy International Airport, ILS Runway 4L, Amdt. 1.
Oshkosh, Wis.—Wittman Field, ILS Runway 36, Original.

* * * effective September 18, 1973:

Atlanta, Ga.—Fulton County Airport, ILS Runway 8R, Amdt. 2.

6. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective October 4, 1973:

Guam, Mariana Is.—Andersen AFB, RADAR–1, Amdt. 5, Canceled.

7. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective November 8, 1973:

Burley, Ida.—Burley Municipal Airport, RNAV, Runway 20, Original.
Cleveland, Ohio—Cleveland-Hopkins International Airport, RNAV Runway 10L, Amdt. 3.
Cleveland, Ohio—Cleveland-Hopkins International Airport, RNAV Runway 18R, Amdt. 3.
Cleveland, Ohio—Cleveland-Hopkins International Airport, RNAV Runway 36L, Amdt. 3.
East Stroudsburg, Pa.—Stroudsburg-Pocono Airpark, RNAV Runway 26, Amdt. 1.
Jacksonville, Fla.—Craig Municipal Airport, RNAV Runway 31, Amdt. 2.
Kansas City, Mo.—Kansas City International Airport, RNAV Runway 1, Amdt. 1.
Pekin, Ill.—Pekin Municipal Airport, RNAV Runway 9, Original.
Springfield, Mo.—Springfield Municipal Airport, RNAV Runway 13, Amdt. 1.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948 (49 U.S.C. 1438, 1354, 1421, 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) (5 U.S.C. 552(a)(1).)

Issued in Washington, D.C., on September 20, 1973.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the FEDERAL REGISTER on May 12, 1969.

[FR Doc.73-20590 Filed 9-26-73;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-823]

PART 229—SPECIAL PROVISIONS UNDER PRICE STABILIZATION PROGRAM

Repeal of Part

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on September 21, 1973.

Part 229 of the Board's Economic Regulations has contained criteria for the Board's use in assessing increases in rates, fares, and charges for certain services subject to its jurisdiction during Phases II and III of the Economic Stabilization Program. The special provisions prescribed by Part 229, as amended, were imposed in compliance with Cost of Living Council and Price Commission directives. However, since § 150.56 of the Cost of Living Council's Phase IV Regulations (38 FR 21592), which are now in effect, exempts public utilities, including the air transportation industry, from coverage, the special provisions of Part 229 of our Economic Regulations are no longer necessary. The general provisions set forth in our § 221.165 will continue to be applicable to such rate changes. In the Board's judgment, these provisions, together with the ratemaking criteria established in such cases as the Domestic Passenger-Fare Investigation, Docket 21866, will ensure that the objectives of the price stabilization program are being met in the air transportation industry.

Since repeal of Part 229 reflects the exemption of the air transportation industry from the Economic Stabilization Program, which had necessitated the adoption and continuance of the special provisions set forth in the part, and such repeal imposes no burden on any one, the Board finds that notice and public procedure hereon are not necessary and the within repeal may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby repeals Part 229 of the Economic Regulations (14 CFR Part 229), effective September 21, 1973.

(Sec. 204 of the Federal Aviation Act of 1958, as amended 72 Stat. 743; (49 U.S.C. 1324).)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-20651 Filed 9-26-73;8:45 am]

Title 15—Commerce and Foreign Trade

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

SUBCHAPTER B—EXPORT REGULATIONS

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

PART 377—SHORT SUPPLY CONTROLS

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Discontinuance of Short Supply Controls on Agricultural Commodities

The FEDERAL REGISTER issuances of June 27 and July 5, 1973 imposed validated license controls on exports of certain agricultural commodities to all foreign destinations, including Canada. These controls were imposed to assure adequate domestic availability of soybeans, cottonseed, and their oilcake and meals, as well as oils, protein feeds, and animal fats substitutable for those commodities. The availability of new crop soybeans in sufficient quantities for anticipated needs, both domestic and foreign, has made continuation of these controls unnecessary.

The purpose of this document is to announce discontinuance of short supply controls on all agricultural commodities as of October 1, 1973. The agricultural commodities listed below will no longer require a validated license for export to Canada and Country Groups Q, T, V, W, and Y. Effective 12:01 a.m., October 1, 1973, these commodities may be exported to the above named destinations under the provisions of General License G-DEST.

0(1a) Oil-cake and meal, the following only: cottonseed, soybean, linseed, sunflower, safflower, and peanut, classified under Schedule B Nos. 081.3020, 081.3030, 081.3040 and 081.3050.

0(1b) Corn gluten feed classified under Schedule B No. 081.2015.

0(1c) Meatmeal and tankage, and fish meal, inedible, classified under Schedule B Nos. 081.4020 and 081.4040.

0(1d) Animal feeds, prepared, the following only: feather meal classified under Schedule B No. 081.9910; poultry feeds classified under Schedule B No. 081.9920; dairy cattle feeds classified under Schedule B No. 081.9930; livestock feeds classified under Schedule B No. 081.9940; and alfalfa meals classified under Schedule B Nos. 081.9960 and 081.9970.

0(1a) Lard and grease classified under Schedule B Nos. 091.3010 and 091.3020.

22(1a) Safflower seed; sunflower seed; peanuts, shelled and unshelled, green; and cottonseed; classified under Schedule B Nos. 221.0510, 221.0520, 221.1010, 221.1020, and 221.6000.

22(1b) Soybeans and flaxseed (Linseed) classified under Schedule B Nos. 221.4000 and 221.5000.

29(1a) Bone meal classified under Schedule B No. 291.0075.

29(1b) Blood flour and blood meal, classified under Schedule B No. 291.0090.

4(1a) Vegetable oils and mixtures thereof, the following only: soybean oils classified under Schedule B Nos. 421.2010, 421.2020, and 431.2010; cottonseed oils classified under Schedule B Nos. 421.3010, 421.3020, 421.3030 and 431.2020; cottonseed and soybean oil mixtures classified under Schedule B No. 431.2030; peanut oils classified under Schedule B Nos. 421.4010 and 421.4020; sunflower seed oils classified under Schedule B Nos. 421.8010, 421.8020, and 421.8040; linseed oils classified under Schedule B Nos. 422.1000 and 431.1010; corn oils classified under Schedule B Nos. 422.9020 and 431.2030; safflower seed oil classified under Schedule B No. 422.9030; and fish oil, maize oil and peanut oil classified under Schedule B No. 431.2030.

4(1b) Tallow, edible and inedible, classified under Schedule B Nos. 411.3210 and 411.3220.

512(32a) Vegetable lecithin, soybean, classified under Schedule B No. 512.0965.

Accordingly, § 377.3 and the "Agricultural Commodities" portion of Supplement No. 1 to Part 377 of the Export Control Regulations are deleted, and the Commodity Control List (§ 399.1 of the Export Control Regulations) is revised to delete the above listed entries and to delete the word "other" from entries 0(1f), 22(1c), 29(1c), and 4(1c). Replacement pages for the Export Control Regulations will be published in a forthcoming Export Control Bulletin.

This action in no way modifies or affects the reporting requirements set forth in Part 376, which remain in full force and effect.

Effective date of action: 12:01 a.m. October 1, 1973.

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

[FR Doc.73-20742 Filed 9-26-73;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in the Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

SUBCHAPTER C—DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Chlortetracycline, Sulfamethazine, and Penicillin

The Commissioner of Food and Drugs has evaluated a new animal drug application (91-668V) filed by Rachelle Labs., Inc., 700 Henry Ford Avenue, P.O. Box 2029, Long Beach, CA 90801, proposing the safe and effective use of chlortetracycline, sulfamethazine and penicillin in swine feed. The application is approved.

The provision for use of the product in swine feed in Part 121 of the food additive regulations is being deleted as part of this order and recodified in Part 135e.

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), Parts 121 and 135e are amended as follows:

§ 121.208 [Amended]

1. Part 121 is amended in § 121.208(d) by deleting item 2. "chlortetracycline combined with penicillin, sulfamethazine" in Table 2 and reserving the item for future use.

2. Part 135e is amended by adding thereto a new section to read as follows:

§ 135e.61 Chlortetracycline, procaine penicillin, and sulfamethazine.

(a) *Specifications.* (1) Chlortetracycline is the antibiotic substance produced by growth of *Streptomyces aureofaciens* or the same antibiotic substance produced by any other means and, for the purpose of this section, refers to chlortetracycline or feed grade chlortetracycline as the specified salt.

(2) Procaine penicillin is the procaine salt of the antibiotic substance produced by the growth of *Penicillium notatum* or *Penicillium chrysogenum* or the same antibiotic substance produced by any other means and, for the purposes of this section, refers to procaine penicillin or feed grade procaine penicillin.

(3) Sulfamethazine is the chemical N'-(4,6-Dimethyl-2-pyrimidinyl) sulfanilamide.

(4) The antibiotic activities authorized are expressed in this section in terms of the weight of the appropriate antibiotic standards.

(5) Finished feed contains in each ton, 100 grams of chlortetracycline, 50 grams of penicillin as procaine penicillin, and 100 grams of sulfamethazine.

(b) *Approvals.* Premix level of 20 grams of chlortetracycline per pound, 4.4 percent of sulfamethazine, and procaine penicillin equivalent in activity to 10 grams of penicillin per pound has been granted; for sponsor see Code Nos. 004 and 071 in § 135.501(c) of this chapter.

(c) *Assay limits.* Finished feed must contain not less than 70 percent nor more than 130 percent of labeled amount of chlortetracycline and procaine penicillin and not less than 80 percent nor more than 120 percent of labeled amount of sulfamethazine.

(d) *Special considerations.* Finished feeds conforming to the requirements of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See §§ 135g.8, 135g.12, and 135g.27 of this chapter.

(f) *Conditions of use.* (1) It is administered to swine in a complete feed for reduction of the incidence of cervical abscesses; treatment of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis* and vibrionic dysentery); prevention of these diseases during times of stress; maintenance of weight gains in the presence of atrophic rhinitis; growth promotion and increased feed efficiency in swine weighing up to 75 pounds.

(2) Withdraw 7 days prior to slaughter.

Effective date. This order shall be effective on September 27, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated September 20, 1973.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.73-20636 Filed 9-26-73;8:45 am]

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

Dimethyl Sulfoxide Gel, Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (47-925V) filed by Syntex Laboratories, Inc., Stanford Industrial Park, Palo Alto, CA 94304 proposing the safe and effective use of dimethyl sulfoxide gel, veterinary for the treatment of horses. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding a new section as follows:

§ 135a.49 Dimethyl sulfoxide gel, veterinary.

(a) *Specifications.* Dimethyl sulfoxide gel, veterinary contains 90 percent dimethyl sulfoxide in an aqueous gel.

(b) *Sponsor.* See code No. 036 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is recommended for use on horses as a topical application to reduce acute swelling due to trauma.

(2) It is administered topically to the skin over the affected area. Liberal application should be administered 2 to 3 times daily. Total daily dosage should not exceed 100 grams. Total duration of therapy should not exceed 30 days.

(3) Not to be administered to horses that are to be slaughtered for food or intended for breeding purposes. For topical application only. Do not administer by any other route. No other medications should be present on the skin prior to application of the drug.

(4) Federal law restricts this drug to used by or on the order of a licensed veterinarian.

Effective date.—This order shall be effective on September 27, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated September 20, 1973.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.73-20635 Filed 9-26-73;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Neostigmine Methylsulfate

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (8-097V) filed by Pitman-Moore, Inc., Washington Crossing, NJ 08560, proposing the safe and effective use of neostigmine methylsulfate for the treatment of cattle, horses, sheep and swine. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended by adding a new section as follows:

§ 135b.97 Neostigmine methylsulfate injection, veterinary.

(a) *Specifications.* Neostigmine methylsulfate injection, veterinary contains two milligrams of neostigmine methylsulfate in each milliliter of sterile aqueous solution.

(b) *Sponsor.* See code No. 066 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is intended for use for treating rumen atony; initiating peristalsis which causes evacuation of the bowel; emptying the urinary bladder; and stimulating skeletal muscle contractions. It is a curare antagonist.

(2) It is administered to cattle and horses at a dosage level of 1 milligram per 100 pounds of body weight subcutaneously. It is administered to sheep at a dosage level of 1 to 1½ milligrams per 100 pounds body weight subcutaneously. It is administered to swine at a dosage level of 2 to 3 milligrams per 100 pounds body weight intramuscularly. These doses may be repeated as indicated.

(3) The drug is contraindicated in mechanical, intestinal or urinary obstruction, late pregnancy, and in animals treated with other cholinesterase inhibitors.

(4) Not for use in animals producing milk, since this use will result in contamination of the milk.

(5) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date.—This order shall be effective on September 27, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated August 31, 1973.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.73-20634 Filed 9-26-73;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Phenylbutazone

The Commissioner of Food and Drugs has evaluated a new animal drug application (91-939V) filed by Norden Laboratories, Inc., Lincoln, NE 68501, proposing the safe and effective use of phenylbutazone tablets for the treatment of dogs. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended in § 135c.57 by adding a new paragraph (h) as follows:

§ 135c.57 Phenylbutazone tablets and boluses.

* * * * *

(h)(1) *Specifications.* The drug is in tablet form with each tablet containing 100 milligrams of phenylbutazone.

(2) *Sponsor.* See code No. 026 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) It is used for the relief of inflammatory conditions associated with the musculoskeletal system in dogs.

(ii) It is administered orally to dogs at a dosage level of 20 milligrams per pound of body weight in three divided doses daily given at 8 hour intervals with a maximum dosage level of 800 milligrams per day regardless of body weight.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date.—This order shall become effective on September 27, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated August 31, 1973.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.73-20633 Filed 9-26-73;8:45 am]

SUBPART E—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

PART 191b—REQUIREMENTS FOR ELECTRICALLY OPERATED TOYS OR OTHER ELECTRICALLY OPERATED ARTICLES INTENDED FOR USE BY CHILDREN

Revision and Transfer

Appearing elsewhere in this issue of the FEDERAL REGISTER is a document deleting 21 CFR Parts 191 and 191b and revising and reissuing the material, for reasons given, as Parts 1500 and 1505, respectively, of Title 16, Chapter II, Subchaper C.

Dated September 20, 1973.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.73-20424 Filed 9-26-73;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order 540-73]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Civil Rights Issues Affecting American Indians

This order clarifies the assignment of matters regarding civil rights issues affecting American Indians. Matters arising under Title II of the Civil Rights Act of 1968, 82 Stat. 77; 25 U.S.C. 1301 et seq. (the Indian Bill of Rights) are assigned to the Civil Rights Division, and other Indian-related matters primarily involving natural resources issues will continue to be handled by the Land and Natural Resources Division.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Chapter I of Part 0 of Title 28, Code of Federal Regulations, is amended as follows:

§ 0.50 [Amended]

1. Paragraph (a) of § 0.50 of Subpart J is amended by deleting the word "and" immediately before the word "housing" and by adding immediately after the word "housing," the phrase "and the constitutional and civil rights of Indians arising under 25 U.S.C. 1301 et seq."

§ 0.65 [Amended]

2. Paragraph (b) of § 0.65 of Subpart M is amended by adding at the end thereof: "(except matters involving the constitutional and civil rights of Indians assigned to the Civil Rights Division by Subpart J of this part)."

Dated September 19, 1973.

ELLIOT RICHARDSON,
Attorney General.

[FR Doc.73-20543 Filed 9-26-73;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-214]

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
*	*	*	*	*	*	*
Texas	Harris	Houston, City of				Sept. 14, 1973, Emergency.

(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, Pub. L. 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 September 14, 1973.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.73-20477 Filed 9-26-73;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[INCOME TAX REGULATIONS]

[T.D. 7286]

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

Time for Filing Application for Change of Annual Accounting Period

This document contains an amendment to the Income Tax Regulations (26 CFR Part 1) under sections 442 and 706 of the Internal Revenue Code of 1954. The amendment is designed to change the due date for filing an application for a change of a taxpayer's annual accounting period.

Section 442 of the Code provides that a taxpayer may change his annual accounting period ("taxable year") only if the permission of the Secretary of the Treasury or his delegate is obtained. Present regulations provide that a request for such permission must be filed not later than the last day of the month following the close of the short taxable period which would be created by the change of taxable year. In response to comments from the public, the regulations lengthen the period for filing the application to the 15th day of the second month following the close of the short taxable period. The change is effective for changes involving short periods ending after December 31, 1973.

A conforming change is made to the regulations under Code section 706, relating to application for change of taxable year of a partnership.

Amendments to the regulations. In order to lengthen the time for filing an application for change of annual accounting period the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. Paragraph (b)(1) of § 1.442-1 is amended to read as follows:

§ 1.442-1 **Change of annual accounting period.**

* * * * *

(b) *Prior approval of the Commissioner*—(1) *In general.* In order to secure prior approval of a change of a taxpayer's annual accounting period, the taxpayer must file an application on Form 1128 with the Commissioner of Internal Revenue, Washington, D.C. 20224, to effect the change of accounting period. If the short period involved in the change ends after December 31, 1973, such form shall be filed on or before the 15th day of the second calendar month following the close of such short period; if such short period ends before January 1, 1974, such form shall be filed on or before the last day of the first calendar month following the close of such short period. Approval will not be granted unless the taxpayer and the Commissioner agree to the terms, conditions, and adjustments under which the change will be effected. In general, a change of annual accounting period will be approved where the taxpayer establishes a substantial business purpose for making the change. In determining whether a taxpayer has established a substantial business purpose for making the change, consideration will be given to all the facts and circumstances relating to the change, including the tax consequences resulting therefrom. Among the nontax factors that will be considered in determing whether a substantial business purpose has been established is the effect of the change on the taxpayer's annual cycle of business activity. The agreement between the taxpayer and the Commissioner under which the change will be effected shall, in appropriate cases, provide terms, conditions, and adjustments necessary to prevent a substantial distortion of income which otherwise would result from the change. The following are examples of effects of the change which would substantially distort income: (i) Deferral of a substantial portion of the taxpayer's income, or shifting of a substantial portion of deductions, from one year to another so as to reduce substantially the taxpayer's tax liability; (ii) causing a similar deferral or shifting in the case of any other person, such as a partner, a beneficiary, or a shareholder in an electing small business corporation as defined in section 1371 (b); or (iii) creating a short period in which there is either (*a*) a substantial net operating loss, or (*b*) in the case of an electing small business corporation, a substantial portion of amounts treated as long-term capital gain. Even though a substantial business purpose is not established, the Commissioner in appropriate cases may permit a husband or wife to change his or her taxable year in order to secure the benefits of section 1(a) (relating to tax in case of a joint return). See paragraph (e) of this section for special rule for newly married couples.

* * * * *

PAR. 2. Paragraph (b)(4)(i) of § 1.706-1 is amended to read as follows:

§ 1.706–1 Taxable years of partner and partnership.

* * * * *

(b) *Adoption or change in taxable year.* * * *

(4) *Application for approval*—(i) *Change.* Application for a change in a taxable year shall be filed on Form 1128 with the Commissioner of Internal Revenue, Washington, D.C. 20224. If the short period involved in the change ends after December 31, 1973, such form shall be filed on or before the 15th day of the second calendar month following the close of such short period; if such short period ends before January 1, 1974, such form shall be filed on or before the last day of the first calendar month following the close of such short period.

* * * * *

Because this Treasury decision merely lengthens the time period within which an application for change of annual accounting period may be filed, it is found unnecessary to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code.

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

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved September 20, 1973.

FREDERICK W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.73–20662 Filed 9–26–73;8:45 am]

[Income Tax Regulations]

[T.D. 7287]

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

Deductibility and Inclusion in Gross Income of Family Allowances

By a notice of proposed rule making appearing in the FEDERAL REGISTER for Friday, December 22, 1972 (37 FR 28302), amendments to the Income Tax Regulations (26 CFR Part 1) under sections 661 and 662 of the Internal Revenue Code of 1954 were proposed in order to conform the Income Tax Regulations to the decision of the Tax Court in *Estate of Lawrence R. McCoy*, 50 T.C. 562 (1968). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed are adopted by this document without change.

Under the regulations adopted by this document, an amount paid, or required to be paid, by a decedent's estate as an allowance or award for the support of a beneficiary, who is the decedent's widow or dependent, is deductible by the estate in computing its taxable income and includible in the gross income of the beneficiary to the extent of the beneficiary's share of the estate's distributable net income. This treatment would apply to such amounts, commonly called a "widow's allowance" or "family allowance," paid by the estate from either income or corpus. The revised regulations apply to taxable years beginning after December 31, 1953 and ending after August 16, 1954.

Heretofore, the regulations provided that any such allowance was deductible by the estate, and includible in the gross income of the widow or other dependent, only to the extent payable out of and chargeable to income under the applicable order, decree, or local law providing for such allowance. Many comments by interested persons objected to the retroactive application of the proposed regulations. Accordingly, the Internal Revenue Service has set forth in a Revenue Procedure the circumstances under which the treatment of such allowances, in a manner consistent with the regulations prior to the amendment made by this document, will not be disturbed. (Rev. Proc. 73–4, 1973 Int. Rev. Bull. No. 6, at 32.) Generally, with respect to returns heretofore filed for taxable years ending before the date of approval of this document, such consistent treatment will not be disturbed unless the estate files a claim for refund based on a distribution deduction for a "widow's" or "family" allowance. However, if the estate has filed a claim for refund and does not withdraw it, the Internal Revenue Service will require the widow or other dependent to include such allowance in gross income.

Several comments were received indicating some possible confusion as to whether the regulations would apply to certain distributions which, in light of local law, would not be considered distributions of the estate. Because it is implicit in the regulations that their application is limited only to estate distributions, no amendment to the regulations was made as a result of the comments.

Adoption of amendments to the regulations. On Friday, December 22, 1972, notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) under sections 661 and 662 of the Internal Revenue Code of 1954 in order to provide revised rules for the treatment of an amount paid, or required to be paid, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent during the administration of the estate, was published in the FEDERAL REGISTER (37 FR 28302). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted effective for returns with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

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

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved September 21, 1973.

JOHN H. HALL,
Deputy Assistant Secretary of the Treasury.

In order to provide revised rules for the treatment of an amount paid, or required to be paid, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent during the administration of the estate, the Income Tax Regulations (26 CFR Part 1) under sections 661 and 662 of the Internal Revenue Code of 1954 are amended to read as follows. These amendments are applicable to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

PARAGRAPH 1. Section 1.661(a)–2 is amended by revising paragraph (e) to read as follows:

§ 1.661(a)–2 Deduction for distributions to beneficiaries.

* * * * *

(e) The terms "income required to be distributed currently" and "any other amounts properly paid or credited or required to be distributed" include amounts paid, or required to be paid, during the taxable year pursuant to a court order or decree or under local law, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent for a limited period during the administration of the estate. The term "any other amounts properly paid or credited or required to be distributed" does not include the value of any interest in real estate owned by a decedent, title to which under local law passes directly from the decedent to his heirs or devisees.

* * * * *

PAR. 2. Section 1.662(a)–2 is amended by revising paragraph (c) to read as follows:

§ 1.662(a)–2 Currently distributable income.

* * * * *

(c) The phrase "the amount of income for the taxable year required to be distributed currently" includes any amount required to be paid out of income or corpus to the extent the amount is satisfied out of income for the taxable year. Thus, an annuity required to be paid in all events (either out of income or corpus) would qualify as income required to be distributed currently to the extent there is income (as defined in section 643(b)) not paid, credited, or required to be distributed to other beneficiaries for the taxable year. If an annuity or a portion of an annuity is deemed under this paragraph to be income required to be distributed currently, it is treated in all respects in the same manner as an amount of income actually required to be distributed currently. The phrase "the amount of income for the taxable year required to be distributed currently" also includes any amount required to be paid during the taxable year in all events (either out of income or corpus) pursuant to a court order or decree or under local law, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent for a limited period during the administration of the

estate to the extent there is income (as defined in section 643(b)) of the estate for the taxable year not paid, credited, or required to be distributed to other beneficiaries.

* * * * *

PAR. 3. Section 1.662(a)–3 is amended by revising paragraph (b) to read as follows:

§ 1.662(a)–3 Other amounts distributed.

* * * * *

(b) Some of the payments to be included under paragraph (a) of this section are: (1) A distribution made to a beneficiary in the discretion of the fiduciary; (2) a distribution required by the terms of the governing instrument upon the happening of a specified event; (3) an annuity which is required to be paid in all events but which is payable only out of corpus; (4) a distribution of property in kind (see paragraph (f) of § 1.661 (a)–2); (5) an amount applied or distributed for the support of a dependent of a grantor or a trustee or cotrustee under the circumstances specified in section 677(b) or section 678(c) out of corpus or out of other than income for the taxable year; and (6) an amount required to be paid during the taxable year pursuant to a court order or decree or under local law, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent for a limited period during the administration of the estate which is payable only out of corpus of the estate under the order or decree or local law.

* * * * *

[FR Doc.73-20663 Filed 9-26-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

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

O,O-Diethyl O-(2-Isopropyl-6-Methyl-4-Pyrimidinyl) Phosphorothioate

Correction

In FR Doc. 73–18626 appearing at page 23781 in the issue of Tuesday, September 4, 1973, in § 180.153, in the first line following the five stars, the word "mission" should read "million".

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 119]

PART 1–1—GENERAL

Subpart 1–1.7—Small Business Concerns

CERTIFICATE OF COMPETENCY PROGRAM

This amendment clarifies in Subpart 1–1.7, Small Business Concerns, the procedures for (1) resolving disagreements between contracting officers and the Small Business Administration (SBA) regional offices over the issuance of certificates of competency, (2) processing appeals by an agency to the SBA Central Office, and (3) conforming the procedures in the FPR to the actual practices followed by SBA.

1. Section 1–1.708–2 is amended by revising paragraph (d) and adding a new paragraph (e). As amended, the section reads as follows:

§ 1–1.708–2 Applicability and procedure.

* * * * *

(d) After a contracting officer refers a negative finding regarding the capacity or credit of a small business concern to the SBA regional office, the SBA office shall notify the contracting officer if it plans to issue a certificate of competency or to refer the application to the SBA Central Office, Washington, D.C. The contracting officer shall also be informed of any new or additional facts in the case which have been developed. If these facts warrant, the contracting officer should consider a reversal of his negative finding. Every effort should be made to resolve the differences between SBA and the contracting agency through a complete exchange of preaward information.

(e) If agreement cannot be reached between the SBA regional office and the contracting officer, the contracting officer shall request the SBA regional office to suspend action and to forward the case to the SBA Central Office, Washington, D.C., for review. The SBA Central Office may decline to issue a certificate of competency and inform the contracting officer of this decision, or it may inform the contracting officer and higher authority within the procuring agency of the reasons for SBA's proposed affirmative action. The procuring agency shall notify the SBA Central Office within 10 workdays after receipt of written notification of SBA's proposed affirmative action whether a formal appeal will be made at the Central Office level. The appeal shall be presented within 10 workdays after the SBA Central Office is notified that an appeal will be made or at such later date as may be agreed upon by SBA and the procuring agency. Following the appeal, the SBA Associate Administrator shall make a determination relative to the certificate of competency action and his determination will be considered final.

2. Section 1–1.708–3 is revised to delete the last two sentences. As revised, the paragraph reads as follows:

§ 1–1.708–3 Conclusiveness of certificate of competency.

As provided in the Small Business Act (15 U.S.C. 637(b)(7)), procurement agencies are required to accept SBA certificates of competency as conclusive of a prospective contractor's responsibility as to capacity and credit.

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

Effective date.—These regulations are effective on September 27, 1973.

Dated September 20, 1973.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.73-20649 Filed 9-26-73;8:45 am]

LATE BIDS AND PROPOSALS

This amendment of the Federal Procurement Regulations prescribes revised and new policies and procedures pertaining to the receipt and consideration for award of bids and proposals that have been received after the exact time set for opening or receipt in the solicitation document. In the future, bids will be considered timely if mailed by registered or certified mail 5 or more days before the time set for the opening of bids. In the case of negotiated procurement two procedures for handling late proposals are prescribed. The general procedure requires that late proposals shall be treated in essentially the same manner as late bids. An alternate procedure has been prescribed which allows for the consideration of late proposals if they are received prior to a determination of the competitive range and offer significant cost or technical advantages to the Government. This alternate procedure may be used only when the head of the agency, or his designee, determines that it is applicable to certain classes of procurements conducted by his agency.

PART 1–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 1–2.2—Solicitation of Bids

[FPR Amdt. 118]

Section 1–2.201 is amended to add a new paragraph (a)(31), as follows:

§ 1–2.201 Preparation of invitations for bids.

* * * * *

(a) * * *

(31) The following provision regarding the receipt and consideration of bids for award that are received after the exact time set for opening in the invitation for bids shall be placed in each solicitation:

LATE BIDS, MODIFICATIONS OF BIDS, OR WITHDRAWAL OF BIDS

(a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and either:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th or earlier); or

(2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in (a), above. A bid may also be withdrawn in

person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is made prior to the exact time set for receipt of bids.

(c) The only acceptable evidence to establish:

(1) The date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the bid, modification, or withdrawal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service.)

(2) The time of receipt at the Government installation is the time-date stamp of such installation on the bid wrapper or other documentary evidence of receipt maintained by the installation.

(d) Notwithstanding (a) and (b) of this provision, a late modification of an otherwise successful bid which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

* * * * *

Subpart 1–2.3—Submission of Bids

1. Section 1–2.303–3 is revised to read as follows:

§ 1–2.303–3 Mailed bids.

A late bid, modification of bid, or withdrawal of bid shall be considered only if the circumstances set forth in the provision in § 1–2.201(a)(31) are applicable.

2. Section 1–2.303–4 is revised to read as follows:

§ 1–2.303–4 Telegraphic bids.

A late telegraphic bid received before award shall not be considered for award, regardless of the cause of the late receipt, including delays caused by the telegraph company, except for delays due to mishandling on the part of the Government in its transmittal to the office designated in the invitation for bids for the receipt of bids, as provided for bids submitted by mail (see § 1–2.303–3).

3. Section 1–2.303–6 is revised to read as follows:

§ 1–2.303–6 Notification to late bidders.

(a) When a late bid is received and it is clear from available information that under § 1–2.303–2 such late bid cannot be considered for award, the contracting officer, or his authorized representative, shall promptly notify the bidder that it was received late and will not be considered (see also § 1–2.303–7). However, when a late bid is transmitted by registered or certified mail and is received before award but it is not clear from available information whether it can be considered, the bidder shall be promptly notified substantially as follows:

Your bid in response to Invitation for Bids Number _____, dated _____, was received after the time for opening specified in the Invitation. Accordingly, your bid will not be opened or considered for award unless there is received from you by _____ (date) the original post office receipt for registered or certified mail showing a date of mailing not later than the fifth calendar day prior to the date specified for opening (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th or earlier).

(b) When a late telegraphic bid is received and it is clear from available information that under § 1–2.303–2 such late bid cannot be considered, the contracting officer, or his authorized representative, shall promptly notify the bidder that his bid was received late and will not be considered (see also § 1–2.303–7).

PART 1–3—PROCUREMENT BY NEGOTIATION

The table of contents for Part 1–3 is amended to include new entries in Subpart 1–3.8, as follows:

Sec.
1–3.802–1 Consideration of late proposals.
1–3.802–2 Alternate procedures for consideration of late proposals.

Subpart 1–3.8—Price Negotiation Policies and Techniques

1. Section 1–3.802 is amended by revising paragraph (c). As revised, paragraph (c) reads as follows:

§ 1–3.802 Preparation for negotiation.

* * * * *

(c) *Requests for proposals.* Requests for proposals shall contain the information necessary to enable a prospective offeror to properly prepare a quotation or proposal. The request for proposals shall be as complete as possible with respect to: Item description or statement of work; specifications; Government-furnished property, if any; required delivery schedule; special provisions; cost or pricing data requirements (see § 1–3.807–3); and contract clauses. Requests for proposals shall specify a date and time for submission of proposals. Any extension of time granted to one prospective offeror shall be granted uniformly to all. Each request for proposals shall be released to all prospective offerors at the same time and no offeror shall be given the advantage of advance knowledge that proposals are to be requested. Requests for proposals shall be in writing except in those cases where the urgency of the procurement is such that there is not sufficient time to prepare a written request. In such cases oral requests are authorized.

2. Section 1–3.802 is amended to add new §§ 1–3.802–1 and 1–3.802–2, as follows:

§ 1–3.802–1 Consideration of late proposals.

(a) Except as provided in § 1–3.802–2, the following provision regarding the receipt and consideration of proposals for award that are received after the exact time set for receipt in the request for proposals shall be placed in each solicitation:

LATE PROPOSALS, MODIFICATIONS OF PROPOSALS, AND WITHDRAWALS OF PROPOSALS

(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made, and:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th or earlier);

(2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or

(3) It is the only proposal received.

(b) Any modification of a proposal, except a modification resulting from the Contracting Officer's request for "best and final" offer, is subject to the same conditions as in (a)(1) and (a)(2) of this provision.

(c) A modification resulting from the Contracting Officer's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the Government after receipt at the Government installation.

(d) The only acceptable evidence to establish:

(1) The date of mailing of a late proposal or modification sent either by registered or certified mail is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the proposal or modification shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service.)

(2) The time of receipt at the Government installation is the time-date stamp of such installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

(e) Notwithstanding (a), (b), and (c), of this provision, a late modification of an otherwise successful proposal which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(f) Proposals may be withdrawn by written or telegraphic notice received at any time prior to award. Proposals may be withdrawn in person by an offeror or his authorized representative, provided his identity is made known and he signs a receipt for the proposal prior to award.

(b) Proposals and modifications of proposals received in the office designated in the request for proposals after the exact time specified are late proposals and shall be considered for award only if the circumstances set forth in the provision in § 1–3.802–1(a), above, are applicable. When a late proposal or modification of proposal is received and it is clear from available information that it cannot be considered for award (e.g., when the postmark clearly shows that the proposal was mailed later than

the fifth day prior to the date specified), the contracting officer, or his authorized representative, shall promptly notify the offeror that it was received late and will not be considered for award. However, when a late proposal or modification of proposal is transmitted by registered or certified mail and it is received before award but it is not clear from the available information whether it can be considered, the offeror shall be promptly notified substantially in accordance with the notice in § 1–2.303–6, appropriately modified to relate to proposals. Disposition of late proposals that cannot be considered for award shall be in accordance with agency procedures.

(c) Where only one proposal is involved and it is received after the time specified, it may be evaluated and considered for award in accordance with agency procedures. As used in this section the term "only proposal received" means a proposal which is one submitted by (1) the only offeror responding to the request for proposals, (2) a sole source, or (3) an offeror who is offering proprietary items in response to a request for proposals which specifies that awards will be made on the basis of proprietary items identified by the offeror by brand name, model, type, or other identification. With respect to (3) of this paragraph (c), the term does not mean an offer which is based on a performance specification or a brand name product which is specifically identified in the request for proposals.

(d) The normal revisions of proposals by offerors selected for discussion during the usual conduct of negotiations with such offerors are not to be considered as late proposals or later modifications to proposals but shall be handled in accordance with § 1–3.805.

§ 1–3.802–2 Alternate procedures for consideration of late proposals.

(a) When the head of the agency, or his designee, determines that the procedures set forth in § 1–3.802–1 are not applicable to certain classes of negotiated procurement conducted by his agency, he may authorize the adoption of the following procedures for consideration of late proposals and modifications (except where the procurement of general purpose automated data processing equipment is involved unless use of the procedures set forth in this § 1–3.802–2 is expressly authorized by the Commissioner, Automated Data and Telecommunications Service, GSA).

(b) Requests for proposals that fall within a class of negotiated procurement for which it has been determined, in accordance with § 1–3.802–2(a), that the requirements of § 1–3.802–1 are not applicable shall contain the following provision:

LATE PROPOSALS, MODIFICATIONS OF PROPOSALS, AND WITHDRAWALS OF PROPOSALS

(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made, and:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th day of the month must have been mailed by the 15th or earlier);

(2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation;

(3) It is the only proposal received; or

(4) It offers significant cost or technical advantages to the Government, and it is received before a determination of the competitive range has been made.

(b) Any modification of a proposal is subject to the same conditions as in (a) of this provision.

(c) The only acceptable evidence to establish:

(1) The date of mailing of a late proposal or modification sent either by registered mail or certified mail is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the proposal or modification of proposal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service.)

(2) The time of receipt at the Government installation is the time-date stamp of such installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

(d) Notwithstanding (a) and (b) of this provision, a late modification of an otherwise successful proposal which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(e) Proposals may be withdrawn by written or telegraphic notice received at any time prior to award. Proposals may be withdrawn in person by an offeror or his authorized representative, provided his identity is made known and he signs a receipt for the proposal prior to award.

(c) Proposals that are received in the office designated in the request for proposals before the time specified for their receipt shall be evaluated to determine which proposals are within the competitive range established for the procurement action. There may be cases where lateness due solely to a delay in the mails or mishandling after receipt at the Government installation results in a proposal being received by the contracting officer after the competitive range has been determined. In such cases the late proposal shall be evaluated, and, if found to be within the competitive range, shall be given the same consideration as other proposals within the competitive range.

(d) A late proposal that is delayed due to circumstances other than those set forth in the provision contaned in § 1–3.802–2(b) which offers significant cost or technical advantages to the Government shall be evaluated provided it is received before a determination of the competitive range has been made. Where the evaluation results in a determination that the proposal is within the competitive range, the proposal shall be given the same consideration as other proposals within the competitive range. However, where only one proposal is involved and it is received after the time specified, a determination of the competitive range is not to be made and the proposal may be evaluated and considered for award provided that the receipt of the proposal is prior to a decision made by the contracting officer to resolicit. See § 1–3.802–1(c) for the meaning of the term "only proposal received."

(e) Late proposals that are delayed under circumstances other than delays in the mails or mishandling at the Government installation which are received after a determination of the competitive range shall not be evaluated or considered for award. Also, where the request for proposals provides that award may be made without discussions with offerors, a late proposal shall not be evaluated or considered if it is received after the successful offeror has been selected and the contract has been awarded.

(f) Generally, contracting officers, assisted by audit or pricing personnel, will be able to make a determination of the significance of any reduction in cost to the Government offered by a late proposal. Determinations regarding significant technical advantages shall be made in accordance with agency procedures.

(g) Determination of the competitive range shall be made in accordance with agency procedures. All offerors shall be notified at the same time whether or not their proposals are within the competitive range, and the date of such notification shall be considered to be the date of the determination. Debriefings of unsuccessful offerors shall be conducted in accordance with agency procedures; however, debriefings should be conducted only after award has been made.

(h) An offeror who has submitted a late proposal that has not been accepted for consideration shall be notified in writing that the proposal was received late and will not be considered. The notification shall set forth the reason why the late proposal was not considered; e.g., did not offer significant cost or technical advantage, received after a determination of the competitive range, received after award.

(i) Modifications of proposals are categorized on the basis of time of receipt as: (1) Receipt prior to a determination of the competitive range, (2) receipt from offerors within the competitive range during negotiations, and (3) receipt at any time from an otherwise successful offeror. Modifications received prior to a determination of the competitive range shall be considered in the evaluation of the proposals which they modify. Modifications received after a determination of the competitive range shall be considered only if they modify proposals which are within the competitive range and are received prior to the date for completion of negotiations established by the contracting officer. All offerors within the competitive range shall be notified in writing of the date for completion of negotiations. Modifications received af-

ter the date set shall not be considered. However, a modification received from an otherwise successful offeror which is advantageous to the Government shall be considered at any time.

PART 1–7—CONTRACT CLAUSES

Subpart 1–7.1—Fixed-Price Supply Contracts

Section 1–7.103–23 is revised to read as follows:

§ 1–7.103–23 Late offers and modifications or withdrawals.

(a) Insert the provision set forth in § 1–2.201(a)(31) in all formally advertised solicitations.

(b) The provision set forth in § 1–3.802–1(b) shall be used in all negotiated solicitations except as provided by § 1–3.802–2(a).

(c) The provision set forth in § 1–3.802–2(b) may be used in negotiated solicitations under the conditions prescribed in § 1–3.802–2(a).

Subpart 1–7.6—Fixed-Price Construction Contracts

Section 1–7.602–1 is revised to read as follows:

§ 1–7.602–1 Late bids and modifications or withdrawals.

(a) Insert the provision set forth in § 1–2.201(a)(31) in all formally advertised solicitations.

(b) The provision set forth in § 1–3.802–1(b) shall be used in all negotiated solicitations except as provided by § 1–3.802–2(a) (see also § 1–18.306).

(c) The provision set forth in § 1–3.802–2(b) may be used in negotiated solicitations under the conditions prescribed in § 1–3.802–2(a) (see also § 1–18.306).

PART 1–16—PROCUREMENT FORMS

Subpart 1–16.1—Forms for Advertised Supply Contracts

Section 1–16.101 is amended by revising paragraph (b). As revised, paragraph (b) reads as follows:

§ 1–16.101 Contract forms.

* * * * *

(b) Solicitation Instructions and Conditions (Standard Form 33A, March 1969 edition). Pending the publication of a new edition of the form, the Late Bids, Modifications of Bids, or Withdrawal of Bids provision prescribed by § 1–2.201(a)(31) shall be substituted for provision 8 entitled Late Offers and Modifications or Withdrawals whenever the form is used in the procurement of supplies or services by formal advertising, and the Late Proposals, Modifications of Proposals, and Withdrawals of Proposals provision prescribed by § 1–3.802–1(a) or the Late Proposals, Modifications of Proposals, and Withdrawals of Proposals prescribed by § 1–3.802–2(b) (when authorized by the head of the agency) shall be substituted for provision 8 entitled Late Offers and Modifications or Withdrawals whenever the form is used in procurement by negotiation.

* * * * *

Subpart 1–16.4—Forms for Advertised Construction Contracts

Section 1–16.401 is amended by revising paragraph (f). As revised, paragraph (f) reads as follows:

§ 1–16.401 Forms prescribed.

* * * * *

(f) Instructions to Bidders (Construction Contract) (Standard Form 22, October 1969 edition). Pending the publication of a new edition of the form, the Late Bids, Modifications of Bids, or Withdrawal of Bids provision prescribed by § 1–2.201(a)(31) shall be substituted for provision 7 entitled Late Bids and Modifications or Withdrawals whenever the form is used in the procurement of construction by formal advertising; and the Late Proposals, Modifications of Proposals, and Withdrawals of Proposals provision prescribed by § 1–3.802–1(a) or the Late Proposals, Modifications of Proposals, and Withdrawals of Proposals prescribed by § 1–3.802–2(b) (when authorized by the head of the agency) shall be substituted for provision 7 entitled Late Bids and Modifications or Withdrawals whenever the form is used in procurement by negotiation.

* * * * *

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

Effective date.—This amendment is effective with respect to invitations for bids and requests for proposals issued on and after October 25, 1973, but may be observed earlier.

Dated September 20, 1973.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.73–20648 Filed 9–26–73;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Age and School Attendance in AFDC

Notice of proposed rulemaking for the program of Aid to Families with Dependent Children (AFDC) was published in the FEDERAL REGISTER on December 19, 1972 (37 FR 27637). The Notice included proposed regulations related to age and school attendance, in response to the Supreme Court decision in Townsend v. Swank.

There were no objections to the age and school attendance requirements, but one State asked for an additional requirement that children age 18 or over who are in school or training must be achieving passing grades or making satisfactory progress.

After consideration of the comments, the provisions regarding age and school attendance are adopted with clarifying changes in the provisions regarding Federal financial participation (§ 233.90(c)(1)(vi)).

Section 233.90, Part 233, Chapter II, Title 45 of the Code of Federal Regulations is amended by adding subparagraphs (2) and (3) to paragraph (b) and by revising paragraph (c)(1)(vi) as set forth below:

§ 233.90 Factors specific to AFDC.

* * * * *

(b) *Condition for plan approval.* (1) A child may not be denied AFDC either initially or subsequently "because of the conditions of the home in which the child resides", or because the home is considered "unsuitable", unless "provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child". (Section 404(b) of the Social Security Act.)

(2) An otherwise eligible child who is under the age of 18 years may not be denied AFDC, regardless of whether he attends school or makes satisfactory grades.

(3) If a State elects to include in its AFDC program children 18 and over, it must include all children 18 years of age and under 21 who are students regularly attending a school, college, or university, or a course of vocational or technical training designed to fit them for gainful employment.

(c) *Federal financial participation.* (1) * * *

(vi) *"Student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment."* A child may be considered a student regularly attending a school or a training course:

(A) If he is enrolled in and physically attending a full-time (as certified by the school or institute attended) program of study or training leading to a certificate, diploma or degree; or

(B) If he is enrolled in and physically attending at least half-time (as certified by the school or institute attended) a program of study or training leading to a certificate, diploma or degree and is regularly employed in or available for and actively seeking part-time employment; or

(C) If he is enrolled in and physically attending at least half-time (as certified by the school or institute attended) a program of study or training leading to a certificate, diploma or degree and is precluded from full-time attendance or part-time employment because of a verified physical handicap.

Under this interpretation:

(D) Full-time and half-time attendance are defined, as set forth in Veterans Administration requirements:

(*1*) In a trade or technical school, in a program involving shop practice, full-time is 30 clock hours per week and half-time is 15 clock hours; in a program without shop practice, full-time is 25 clock hours and half-time is 12 clock hours;

(2) In a college or university, full-time is 12 semester or quarter hours and half-time is 8 semester or quarter hours;

(3) In a secondary school, full-time is 25 clock hours per week or 4 Carnegie units per year and half-time is 12 clock hours or 2 Carnegie units;

(4) In a secondary education program of cooperative training or in apprenticeship training, full-time attendance is as defined by State regulation or policy; and

(E) A child shall be considered in regular attendance in months in which he is not attending because of official school or training program vacation, illness, convalescence, or family emergency, and for the month in which he completes or discontinues his school or training program.

(Sec. 1102, Stat. 647 (U.S.C. 1302)).

Effective date.—These regulations in this section shall become effective on November 26, 1973.

Dated August 20, 1973.

JAMES S. DWIGHT, Jr.,
Administrator, Social and Rehabilitation Service.

Approved September 21, 1973.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.73-20603 Filed 9-26-73;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Bear River Migratory Bird Refuge, Utah

The following special regulation is issued and is effective September 27, 1973.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

UTAH

BEAR RIVER MIGRATORY BIRD REFUGE

Public hunting of pheasants on the Bear River Migratory Bird Refuge, Utah, is permitted from November 10 through December 9, 1973, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 9,495 acres, is delineated on maps and shown as "Area A" which are available at refuge headquarters, Brigham City, Utah, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West 6th Avenue, Denver, Colo. 80215. Hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants subject to the following special conditions:

(1) IRON SHOT. The exclusive use of 12 gage iron shot in Area A will be required on odd numbered days beginning November 11, 1973 and continue through the balance of the hunting season or until the refuge supply of iron shot is exhausted if this occurs first.

(2) ROADS. No hunting is permitted from roadways or within 100 yards of roadways.

(3) HUNTER CHECK STATION. Each hunter who enters Area A is required to register at the checking station and check out before leaving the refuge.

(4) PARKING. Hunters may park cars only at designated areas within the refuge.

(5) ROUTES OF TRAVEL. To reach open hunting area, travel is permitted on foot or bicycle from refuge checking station over roads between Units 1 and 2 and Units 2 and 3.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 9, 1973.

LLOYD P. GUNTHER,
Refuge Manager, Bear River Migratory Bird Refuge, Brigham City, Utah.

SEPTEMBER 18, 1973.

[FR Doc.73-20534 Filed 9-26-73;8:45 am]

PART 32—HUNTING

Salt Plains National Wildlife Refuge, Okla.

The following special regulation is issued and is effective September 27, 1973.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

OKLAHOMA

SALT PLAINS NATIONAL WILDLIFE REFUGE

Public hunting of deer is permitted on the Salt Plains National Wildlife Refuge, Oklahoma, but only on the area designated by signs as open to hunting. This open area, comprising 2,347 acres, is delineated on maps available at refuge headquarters, Jet, Oklahoma, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, P.O. Box 1306, Albuquerque, N. Mex. 87103. Participants are to be selected on the basis of a special drawing, and applications are to be submitted to the Oklahoma Department of Wildlife Conservation, 1801 North Lincoln, Oklahoma City, Okla. 73105. Application may be made by letter, and must contain the Applicant's name, address, and Oklahoma deer hunting license number. Application for bow hunting may be made between September 1 and September 30, 1973. Application for gun hunting may be made between September 15 and October 15, 1973. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) The bow hunting season is October 27, 28 and November 3, 4, 10 and 11, 1973.

(2) The gun hunting season is November 17, 18, 20, 21, 24 and 25, 1973.

(3) Hunters must check in at the refuge office prior to entering the assigned hunting area and must check out at the refuge office before leaving the area.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 25, 1973.

RONALD S. SULLIVAN,
Refuge Manager, Salt Plains National Wildlife Refuge, Jet, Oklahoma.

SEPTEMBER 15, 1973.

[FR Doc.73-20535 Filed 9-26-73;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—COST OF LIVING COUNCIL; PHASE IV PRICE REGULATIONS

Correction

In FR Doc. 73-20469 appearing at page 26611 for the issue of Monday, September 24, 1973, change the third paragraph of the preamble to read as follows:

"The present small business exemption in § 150.60 does not apply to firms engaged in construction operations. That section is being amended to exempt from the operation of Phase IV price regulations those small firms which are engaged in construction operations but have annual sales and revenues from construction operations of no more than $1 million."

Issued in Washington, D.C. on September 25, 1973.

WILLIAM N. WALKER,
General Counsel, Cost of Living Council.

[FR Doc.73-20751 Filed 9-26-73;10:27 am]

Proposed Rules

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

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Medical Expense Deduction for Operation and Maintenance of Capital Assets

Notice is hereby given that the regulations set forth in tentative form in the attached appendix below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by October 29, 1973. Written comments or suggestions which are not exempt from disclosure by the Internal Revenue Service may be inspected by any person upon compliance with 26 CFR 601.702(d)(9). The provisions of 26 CFR 601.601(b) shall apply with respect to the designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by October 29, 1973. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the Federal Register, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)).

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains a proposed amendment to paragraph (e)(1)(iii) of § 1.213–1 of the Income Tax Regulations (26 CFR Part 1) to clarify the deduction for medical expenditures. Although capital expenditures do not generally qualify as deductible medical expenses, such expenditures are, however, deductible if their primary purpose is the medical care of the taxpayer, his spouse, or his dependent. If such expenditure does not result in the permanent improvement or betterment of property, the expenditure is fully deductible when paid. On the other hand, if such expenditure results in the betterment of property (such as an elevator or air conditioner in the taxpayer's home) and otherwise qualifies as a deductible medical expense, such expenditure is deductible as a medical expense only to the extent the expenditure exceeds the increase in the value of the related property. The amendment to the present regulations is to make clear that expenditures for the operation and maintenance of a capital asset are deductible medical expenses when such expenditures have as their primary purpose the medical care of the taxpayer, his spouse, or his dependent.

Proposed amendments to the regulations. In order to clarify the deduction for medical expenses, paragraph (e)(1)(iii) of § 1.213–1 of the Income Tax Regulations (26 CFR Part 1) is amended to read as follows:

§ 1.213–1 **Medical, dental, etc. expenses.**

* * * * *

(e) *Definitions*—(1) *General.* * * *

(iii) Capital expenditures are generally not deductible for Federal income tax purposes. See section 263 and the regulations thereunder. However, an expenditure which otherwise qualifies as a medical expense under section 213 shall not be disqualified merely because it is a capital expenditure. For purposes of section 213 and this paragraph, a capital expenditure made by the taxpayer may qualify as a medical expense, if it has as its primary purpose the medical care (as defined in subdivisions (i) and (ii) of this subparagraph) of the taxpayer, his spouse, or his dependent. Thus, a capital expenditure which is related only to the sick person and is not related to permanent improvement or betterment of property, if it otherwise qualifies as an expenditure for medical care, shall be deductible; for example, an expenditure for eye glasses, a seeing eye dog, artificial teeth and limbs, a wheel chair, crutches, an inclinator or an air conditioner which is detachable from the property and purchased only for the use of a sick person, etc. Moreover, a capital expenditure for permanent improvement or betterment of property which would not ordinarily be for the purpose of medical care (within the meaning of this paragraph) may, nevertheless, qualify as a medical expense to the extent that the expenditure exceeds the increase in the value of the related property, if the particular expenditure is related directly to medical care. Such a situation could arise, for example, where a taxpayer is advised by a physician to install an elevator in his residence so that the taxpayer's wife who is afflicted with heart disease will not be required to climb stairs. If the cost of installing the elevator is $1,000 and the increase in the value of the residence is determined to be only $700, the difference of $300, which is the amount in excess of the value enhancement, is deductible as a medical expense. If, however, by reason of this expenditure, it is determined that the value of the residence has not been increased, the entire cost of installing the elevator would qualify as a medical expense. Expenditures made for the operation or maintenance of a capital asset are likewise deductible medical expenses if they have as their primary purpose the medical care (as defined in subdivisions (i) and (ii) of this subparagraph) of the taxpayer, his spouse, or his dependent. Normally, if a capital expenditure qualifies as a medical expense, expenditures for the operation or maintenance of the capital asset would also qualify provided that the medical reason for the capital expenditure still exists. The entire amount of such operation and maintenance expenditures qualifies, even if none or only a portion of the original cost of the capital asset itself qualified.

* * * * *

[FR Doc.73–20661 Filed 9–26–73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 3000, 3200]

GEOTHERMAL RESOURCES

Leasing on Public, Acquired and Withdrawn Lands; Extension of Time for Public Comment

The purpose of this notice is to extend the time for public comment on proposed geothermal regulations published on pages 19748–19765 of the July 23, 1973, FEDERAL REGISTER and amended by a notice published August 8, 1973 on page 21416.

The period for submitting written comments, suggestions, or objections, is hereby extended to a date 24 days after the final environmental impact statement regarding the development of geothermal resources is filed with the Council on Environmental Quality in accordance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Notice of the availability of the statement and final date for receipt of comments on the proposed regulations will be published in the FEDERAL REGISTER. It is anticipated that the statement will become available in early October.

Interested parties may submit written comments, suggestions, or objections with respect to the proposed regulations to the Geothermal Coordinator, Department of the Interior, Washington, D.C. 20240.

LAURENCE E. LYNN JR.,
Secretary of the Interior.

SEPTEMBER 21, 1973.

[FR Doc.73-20525 Filed 9-26-73;8:45 am]

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Labor-Management Relations

[29 CFR Parts 202, 206]

GRANTING OFFICIAL TIME FOR ELECTIONS & HEARINGS

Notice of Proposed Rulemaking

Notice is hereby given that pursuant to section 6(d) and 18(d) of Executive Order 11491 (34 FR 17605) as amended by Executive Order 11616 (36 FR 17319), the Assistant Secretary of Labor for Labor-Management Relations proposes to amend Parts 202 and 206 of Chapter II, Subtitle B, of Title 29 of the Code of Federal Regulations as set forth below.

These proposed amendments would authorize the granting of official time status to authorized representation election observers and to necessary employees participating in hearings held pursuant to the Assistant Secretary's authority under section 6(a) of Executive Order 11491 as amended.

Interested persons are invited to submit written comments, suggestions, or objections regarding this proposal to the Assistant Secretary of Labor for Labor-Management Relations, Attn: Office of Federal Labor-Management Relations, U.S. Department of Labor, Washington, D.C. 20216 not later than October 12, 1973.

All written materials or suggestions submitted in response to this notice of proposed rulemaking will be available for inspection at the Office of Federal Labor-Management Relations, U.S. Department of Labor, Room 418, 8757 Georgia Avenue, Silver Spring, Maryland during regular business hours.

Chapter II, Subtitle B, of Title 29 is proposed to be amended as follows:

1. Paragraph (f) of § 202.17 is proposed to be amended to read as follows:

§ 202.17 Election procedure.

* * * * *

(f) Any party may be represented at the polling place(s) by observers of its own selection, subject to such limitations as the Area Administrator may prescribe. Necessary employees in active duty status who are requested to serve as authorized representation election observers pursuant to an approved "Request for Appearance of Authorized Representation Election Observers" shall be on official time, which shall include the payment of any necessary transportation and per diem expenses by the employing agency or activity.

2. The title and text of § 206.7 is proposed to be amended as follows:

§ 206.7 Requests for appearance of witnesses and production of documents at hearing and requests for authorized representation election observers.

(a) Assistant Regional Directors for Labor-Management Services, Hearing Officers, or Administrative Law Judges, as appropriate, upon their own motion or upon the motion of any party to a proceeding, may issue a "Request for Appearance of Witnesses" or a "Request for Production of Documents" at a hearing or a "Request for Authorized Representation Election Observers" at a representation election supervised by a representative of the Assistant Secretary, pursuant to Parts 202, 203, 204, and 205 of this chapter.

(b) A party's motion to an Assistant Regional Director for Labor-Management Services shall be in writing and filed with the Assistant Regional Director for Labor-Management Services not less than ten (10) days prior to the opening of a hearing or the supervising of a representation election by a representative of the Assistant Secretary, pursuant to Parts 202, 203, 204, and 205 of this chapter. After the opening of a hearing, such motions shall be made to the Hearing Officer or Administrative Law Judge. All such motions shall name and identify the witnesses, documents, or authorized representation election observers sought, and state the reasons therefor. Copies shall be served on the other parties simultaneously with the filing of the motion with the Assistant Regional Director for Labor-Management Services, and a written statement certifying service shall also be filed with the Assistant Regional Director for Labor-Management Services.

* * * * *

(e) A motion shall be granted by the Assistant Regional Director for Labor-Management Services, Hearing Officer, or Administrative Law Judge after careful consideration of any objections and upon the determination (1) that the testimony, documents, or the presence of authorized representation election observers appears to be necessary to the matters involved and (2) that the motion describes with sufficient particularity the documents sought. Service of an approved "Request for Appearance of Witnesses", "Request for Authorized Representation Election Observers", or "Request for Production of Documents" is the responsibility of the requesting party. If any party, officer, or official of any party fails to comply with such a request or obstructs service of a request, the Assistant Regional Director for Labor-Management Services, Hearing Officer, Administrative Law Judge, or the Assistant Secretary may disregard all related evidence offered by the party failing to comply or to take such other action as may be appropriate.

* * * * *

(g) Necessary employees in active duty status, requested to attend a hearing as witnesses pursuant to an approved "Request for Appearance of Witnesses" in any case under Parts 202, 203, 204, or 205 of this chapter, shall be on official time, which shall include the payment of any necessary transportation and per diem expenses by the employing agency or activity.

Signed at Washington, D.C., this 21st day of September 1973.

PAUL J. FASSER, JR.,
Assistant Secretary of Labor for Labor-Management Relations.

[FR Doc.73-20589 Filed 9-26-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

REA SPECIFICATIONS FOR RURAL TELEPHONE FACILITIES

Proposed Revision of Telephone System Construction Contract, Labor and Materials and Associated Specifications and Drawings

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), including the amendment thereto enacted by Pub. L. 93-32, REA proposes to issue REA Bulletin 381-2 to announce a revision of REA Forms 511, 511a, 511c, and 511d, as well as the introduction of new REA Forms 511f and 511g. REA Form 511 is entitled "Telephone System Construction Contract, Labor and Materials," while REA Forms 511a through 511g cover specifications and drawings for different classes of telephone plant construction. On issuance of REA Bulletin 381-2, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the revision of REA Forms 511 and 511a through 511g may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than October 29, 1973. All written submissions made pursuant to this notice will be available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the revision of each of the above mentioned REA Forms may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of REA Bulletin 381-2 announcing the revision of these forms is as follows:

REA BULLETIN 381-2

TELEPHONE SYSTEM CONSTRUCTION CONTRACT, LABOR AND MATERIALS REA FORM 511

I. *Purpose.* To announce a general revision of the Telephone System Construction Contract, Labor and Materials, REA Form 511; changes in REA Forms 511a, 511c, and 511d;

and the introduction of new REA Forms 511f and 511g.

II. *General.* A. While references will be made in this bulletin to some of the changes, it is important that those who work with this document obtain a copy and become familiar with its contents. The revised REA Form 511 is available from the Superintendent of Documents, Public Documents Distribution Center, Pueblo Industrial Park, Pueblo, Colorado 81008. Orders for the purchase of REA Form 511 should be prepared on REA Form 33. Copies of Form 33 are available from REA upon request.

B. REA Forms 511a through 511g are set up to provide specifications and drawings for the different classes of construction. Each of these forms is available at no charge from REA upon request.

C. Borrowers' engineers are to use the newly revised REA Form 511 on all plans and specifications prepared for projects to be bid after January 1, 1974. This is not intended to restrict its use before January 1, 1974.

III. *Principal Changes in the Construction Contract.*—A. *REA Form 511 (10–73).* 1. Section 6 in the Notice and Instructions to Bidders and Section 14 in the Contractor's Proposal have been reworded to include reference to taxes on services or labor of installation of materials, supplies and equipment. The unit prices for assembly units include the cost of such taxes, if applicable.

2. The listing of REA Forms on page 9 has been revised by deleting the reference to REA Form 511b and by including additional references to REA Forms 511f and 511g. The title of REA Form 511a has also been changed. The reference to REA Splicing Standard PC–1 has also been deleted.

3. Provisions have been included for the engineer to specify salt type wood preservatives (CCA or ACA) for pole units in Section 1 of the Contractor's Proposal.

4. A provision on environmental protection, Article II, Section 1, (e), has been added relating to the contractor's responsibilities in performance of work under the contract.

B. *REA Form 511a (10–73).* 1. The title of this form has been changed from "Specifications and Drawings for Construction of Pole Lines, Aerial Cables and Wires, Buried Cables and Wires, and Station Installations," to read "Specifications and Drawings for Construction of Buried Cables and Wires."

2. The BW assembly units associated with the use of nonfilled buried distribution wire have been deleted.

3. New BWF assembly units covering one-pair, two-pair, and three-pair sizes of filled buried wire have been added.

4. New assembly units BDF, BGF, HBF and HCF have been added for the purpose of providing for compensation when working with filled cables and wires.

5. Provisions have been included for the use of the vibratory type of plow.

6. Provisions were included for the use of a rodent repellent applied in the soil during the burial of the cable and wire. Assembly unit BM74 has been established for this purpose.

C. REA Form 511b (10–73). 1. This form entitled "Specifications and Drawings for Open Wire Construction" will no longer be available from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. This type of construction is extremely limited. However, if a copy is desired in the future, it will be available at no charge from REA upon request.

D. REA Form 511c (10–73). 1. Minor changes in the description of the UD assembly unit have been made. This form entitled "Specifications and Drawings for Conduit and Manhole Construction" will bear a new date and be available at no charge from REA upon request.

E. REA Form 511d (10–73). 1. New assembly units UF and HUF have been included in this document to provide for compensation when working with filled cables. This form entitled "Specifications and Drawings for Underground Cable Installation" will bear a new date and be available at no charge from REA upon request.

2. New assembly units HCF for filled buried cable splicing, as well as UGF for filled cable plant loading coils, building out capacitors, and junction impedance compensators have also been included.

F. REA Form 511e (11–70). 1. This particular document has not been revised and bears its original issue date. This form entitled "Specifications and Drawings for Station Carrier Equipment Installation" will be available at no charge from REA upon request.

G. REA Form 511f (10–73). 1. This new document entitled "Specifications and Drawings for Construction of Pole Lines and Aerial Cable and Wires." Its contents were formerly in REA Form 511a. Copies will be available at no charge from REA upon request.

2. The CF assembly units covering the installation of Figure 8 cables were deleted.

3. Restrictions on the number of pairs and size of support wire messenger have been imposed under the DW assembly units.

4. All details relating to the installation of paper-insulated, lead-sheathed cables and the accessory items such as cable terminals, have been deleted.

H. REA Form 511g (10–73). 1. This is a new document entitled "Specifications and Drawings for Station Installations." Its contents were formerly in REA Form 511a. Copies will be available at no charge from REA upon request.

2. New BKBP assembly units were also added to provide for the use of filled buried wire for services.

Questions concerning the revised Contract and Specifications may be referred to the Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, United States Department of Agriculture, Washington, D.C. 20250, Area Code 202–447–2837.

Dated September 21, 1973.

C. R. BALLARD,
Assistant Administrator, Telephone.

[FR Doc.73–20599 Filed 9–26–73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 250]

FRAUD IN MEDICAL ASSISTANCE PROGRAM

Notice of Proposed Rulemaking

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations implement sections 229(c), 235, and 242(c), of Pub. L. 92–603, Social Security Amendments of 1972, which relate to the medical assistance program administered under title XIX of the Social Security Act. The regulations prohibit Federal financial participation in Medicaid payments to providers who may not receive payments under Medicare because of a determination by the Secretary relating to false or excessive claims; require that Federally-matched mechanized claims processing and information retrieval systems include provision for notice to recipients of services furnished; and require States to notify providers and recipients of the Federal penalties for fraudulent acts and false reporting.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue, SW., Washington, D.C. 20201 on or before October 29, 1973. Comments received will be available for public inspection in Room 5121 of the Department's offices at 301 C Street, SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202–963–7361).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

Dated July 26, 1973.

JAMES S. DWIGHT, Jr.,
Administrator, Social and Rehabilitation Service.

Approved September 19, 1973.

CASPER W. WEINBERGER,
Secretary.

Section 250.80 of Part 250, Chapter II, Title 45 of the Code of Federal Regulations is revised to read as set forth below:

§ 250.80 Fraud in the medical assistance program.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

(1) Provide that the State agency will establish and maintain (i) methods and criteria for identifying situations in which a question of fraud in the program may exist, and (ii) procedures developed in cooperation with State legal authorities for referring to law enforcement officials situations in which there is valid reason to suspect that fraud has been practiced. The definition of fraud for purposes of this section will be determined in accordance with State law.

(2) Provide for methods of investigation of situations in which there is a question of fraud that do not infringe on the legal rights of persons involved and are consistent with principles recognized as affording due process of law.

(3) Provide that the State agency will designate positions that are responsible for referring situations involving suspected fraud to the proper authorities.

(4) Provide that the State agency will establish and maintain procedures for reporting promptly to the Social and Rehabilitation Service (i) by a numbering system which does not disclose identity of the provider (unless the Social and Rehabilitation Service specifically requests such disclosure) each case of suspected fraud by a provider which has been referred by the State or local agency

to law enforcement officials for appropriate action and subsequently (ii) the disposition thereof by such law enforcement officials.

(5) (i) Provide for the following statements (or alternate wording approved by the Social and Rehabilitation Service Regional Commissioner) to be imprinted in boldface type on all provider claims forms above the claimant's signature:

(A) "This is to certify that the foregoing information is true, accurate, and complete."

(B) "I understand that payment and satisfaction of this claim will be from Federal and State funds, and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under applicable Federal or State laws"; or alternatively,

(ii) Provide for the following wording to appear on the reverse of checks (or warrants) payable to all providers above the claimant's endorsement:

I understand that endorsement hereon or deposit to the accounts of the within named payee is done with the understanding that payment will be from Federal and State funds and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under applicable Federal or State laws.

(6) Provide for establishing a basis for verifying with recipients whether services billed by providers were actually received. Such basis may be by random sample of patients for each provider who is paid significant amounts under the program and for groups of providers, none of whom receive a significant amount, except that a State which under section 1903(a)(3)(B) of the Act receives Federal matching of expenditures for operation of a mechanized claims processing and information retrieval system must include in that system provision for prompt written notice to each individual who is furnished services covered by the State plan of the specific services so covered, the name of the provider furnishing the services, the date or dates on which the services were furnished, and the amount of the payment or payments made under the plan on account of the services.

(7) Provide for a method of notification to providers and recipients of medical care of the contents of section 1909 of the Social Security Act which provides Federal penalties for fraudulent acts and false reporting.

(b) *Federal financial participation.* There shall be no Federal financial participation in payment for services furnished under the State plan after December 31, 1972, by a provider or other person during any period with respect to which payments may not be made under title XVIII of the Social Security Act because of a determination by the Secretary pursuant to section 1862(d)(1) or section 1866(b)(2)(D), (E) or (F) of the Act (relating to false or excessive claims). The Social and Rehabilitation Service and the Social Security Administration will establish joint procedures for the prompt notification to the State agency of such providers or persons with respect to whose services payments may not be made under title XVIII of the Social Security Act.

[FR Doc.73-20604 Filed 9-26-73;8:45 am]

Social Security Administration

[20 CFR Part 404]

[Reg. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Disability Waiting Period Requirement

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form below are proposed by the Acting Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments reflect changes effected by section 116 of Pub. L. 92-603, which lowers the waiting period an individual must serve in order to receive benefits under title II of the Act on the basis of his disability and/or to establish a period of disability. The amendment is effective for benefits payable after December 1972 based on applications filed in or after October 1972, or applications filed prior to October 1972 on which notice of a final decision had not been given the applicant or a decision in a civil action commenced pursuant to section 205(g) of the Act had not become final before October 1972.

Prior to final adoption of the proposed amendments 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, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before October 29, 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 amendments are to be issued under the authority contained in sections 205, 1102, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; (42 U.S.C. 405, and 1302).

(Catalog of Federal Domestic Assistance Program No. 13.802 Social Security—Disability Insurance.)

Dated August 24, 1973.

ARTHUR E. HESS,
Acting Commissioner of Social Security.

Approved September 21, 1973.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Regulations No. 4 of the Social Security Administration, as amended (20 CFR 404.1 et seq.), are further amended to read as follows:

1. Section 404.308 is amended by revising paragraph (a), redesignating paragraphs (b) and (c) as (c) and (d), respectively, and adding thereto a new paragraph (b), as follows:

§ 404.308 Disability insurance benefits; waiting period.

(a) *Benefits payable for months prior to January 1973.* An individual's waiting period for benefits payable prior to January 1973 is the earliest period of 6 full consecutive calendar months throughout which the individual has been under a disability (as defined in section 223(c) of the Act); however, an individual's "waiting period" can begin no earlier than the later of:

(1) The first month such individual is insured for disability insurance benefits (see § 404.116);

(2) The 18th month before the month in which such individual's application for disability insurance benefits is filed; or

(3) January 1, 1957.

For purposes of this paragraph, where the individual's disability begins on the first day of the month and continues through the last day of the month, such month is considered as a full calendar month.

(b) *Benefits payable for months after December 1972.* An individual's waiting period for benefits payable after December 1972 is the earliest period of 5 full consecutive calendar months throughout which he has been under a disability (as defined in section 223(c) of the Act); provided that:

(1) The application is filed:

(i) After September 1972; or

(ii) Before October 1972, and

(A) Notice of the final decision of the Secretary was not given to the applicant before October 1972; or

(B) Notice of the final decision of the Secretary was given to the applicant before October 1972 but a civil action with respect to such final decision is commenced under section 205(g) of the Act (whether before, in, or after October 1972) and the decision in such civil action did not become final before October 1972; however

(2) An individual's "waiting period" can begin no earlier than the later of:

(i) The first month such individual is insured for disability insurance benefits (see § 404.116); or

(ii) The 17th month before the month in which such individual's application for disability insurance benefits is filed.

For purposes of this paragraph, where the individual's disability begins on the first day of the month and continues through the last day of the month, such month is considered as a full calendar month.

* * * * *

§ 404.309 [Amended]

2. Paragraph (a) of § 404.309 is amended by adding "and (b)" to the parenthetical reference "(see § 404.308(a))" and by changing the parenthetical reference "(see § 404.308(c))" to "(see § 404.308 (d))."

3. Paragraph (a)(4) of § 404.310 is revised to read as follows:

§ 404.310 Period of disability; conditions of entitlement.

(a) *General.* An individual is entitled to the establishment of a period of disability (beginning as described in § 404.311 and ending as described in § 404.311a) if:

* * * * *

(4) Except as provided in paragraph (d) of this section.

(i) Not less than 6 full consecutive calendar months have elapsed from the date on which a period of disability could begin (as determine under § 404.311) for such individual and before the date on which such period of disability could end (as determined under § 404.311a); or

(ii) Not less than 5 full consecutive calendar months have elapsed from the date on which a period of disability could begin (as determined under § 404.311) for such individual and before the date on which such period of disability could end (as determined under § 404.311a), provided an application is filed:

(A) After September 1972; or

(B) Before October 1972, and

(*1*) Notice of the final decision of the Secretary was not given to the applicant before October 1972; or

(2) Notice of the final decision of the Secretary was given to the applicant before October 1972 but a civil action with respect to such final decision is commenced under section 205(g) of the Act (whether before, in, or after October 1972) and the decision in such civil action did not become final before October 1972.

For purposes of this subparagraph (4) where the beginning date of the period of disability is the first day of a month and the disability continues through the last day of the month, such month is considered a full calendar month.

* * * * *

4. Paragraph (e)(2) of § 404.328 is revised to read as follows:

§ 404.328 Widow's insurance benefits; conditions of entitlement.

* * * * *

(e) *Widow's entitlement based on disability.* * * *

(2) *"Waiting period" defined*—(i) *Benefits payable for months prior to January 1973.* The "waiting period," for purposes of entitlement of a widow or surviving divorced wife by virtue of a disability to benefits payable for months prior to January 1973, is the earliest period of 6 full consecutive calendar months throughout which she was under a disability and which began no earlier than the later of:

(A) The first day of the 18th month before the month in which she files application for widow's insurance benefits, or

(B) The first day of the sixth month before the month in which the period described in subparagraph (1) of this paragraph began.

(ii) *Benefits payable for months after December 1972.* (A) The "waiting period," for purposes of entitlement of a widow or surviving divorced wife by virtue of a disability to benefits payable for months after December 1972, is the earliest period of 5 full consecutive calendar months throughout which she was under a disability, provided the application is filed:

(*1*) After September 1972; or

(2) Before October 1972, and

(*i*) Notice of the final decision of the Secretary was not given to the applicant before October 1972; or

(*ii*) Notice of the final decision of the Secretary was given to the applicant before October 1972 but a civil action with respect to such final decision is commenced under section 205(g) of the Act (whether before, in, or after October 1972) and the decision in such civil action did not become final before October 1972.

(B) However, the waiting period can begin no earlier than the later of:

(*1*) The first day of the 17th month before the month in which she files application for widow's insurance benefits, or

(2) The first day of the fifth month before the month in which the period described in subparagraph (1) of this paragraph began. Months in which a widow was disabled before the month of the wage earner's death, and such months before the months of termination of entitlement to mother's insurance benefits may be counted as months in the waiting period if they otherwise meet the requirements of subdivisions (i)(A), (i)(B), or (ii)(B) of this subparagraph (2) as applicable. If the widow was previously entitled to a widow's insurance benefit based on disability, entitlement to which benefit terminated prior to the month in which she again becomes disabled, a waiting period is not required if she again becomes disabled and meets all other requirements for entitlement. For purposes of this subparagraph (2) where the widow's disability begins on the first day of the month and continues through the last day of the month, such month is considered as a full calendar month.

* * * * *

5. Paragraph (c)(2) of § 404.331 is revised to read as follows:

§ 404.331 Widower's insurance benefits; conditions of entitlement.

* * * * *

(c) *Widower's entitlement based on disability.* * * *

(2) *"Waiting period" defined*—(i) *Benefits payable for months prior to January 1973.* The "waiting period," for the purposes of entitlement to a widow by virtue of a disability to benefits payable for months prior to January 1973, is the earliest period of 6 full consecutive calendar months throughout which he was under a disability and which began no earlier than the later of:

(A) The first day of the 18th month before the month in which he files application for widower's insurance benefits, or

(B) The first day of the sixth month before the month in which the period described in subparagraph (1) of this paragraph began.

(ii) *Benefits payable for months after December 1972.* (A) The "waiting period," for purposes of entitlement of a widower by virtue of a disability to benefits payable for months after December 1972, is the earliest period of 5 full consecutive calendar months throughout which he was under a disability, provided the application is filed

(*1*) After September 1972; or

(2) Before October 1972; and

(*i*) Notice of the final decision of the Secretary was not given to the applicant before October 1972; or

(*ii*) Notice of the final decision of the Secretary was given to the applicant before October 1972 but a civil action with respect to such final decision is commenced under section 205(g) of the Act (whether before, in, or after October 1972) and the decision in such civil action did not become final before October 1972.

(B) However, the waiting period can begin no earlier than the later of:

(*1*) The first day of the 17th month before the month in which he files application for widower's insurance benefits, or

(2) The first day of the fifth month before the month in which the period described in subparagraph (1) of this paragraph began. Months in which a widower was disabled before the month of the wage earner's death may be counted as months in the waiting period if they otherwise meet the requirements of subdivision (i)(A), (i)(B), or (ii)(B) of this subparagraph (2) as applicable. If the widower was previously entitled to a widower's insurance benefit based on disability, entitlement to which benefit terminated prior to the month in which he again becomes disabled, a waiting period is not required if he again becomes disabled and meets all other requirements for entitlement. For purposes of this subparagraph, where the widower's disability begins on the first day of the month and continues through the last day of the month, such month is considered a full calendar month.

[FR Doc.73-20605 Filed 9-26-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 42]

[Docket No. R-73-241]

RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Notice of Proposed Rulemaking

Pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894 (42 U.S.C. 4601)), the Department proposes to amend Title 24, Part 42 of the Code of Federal Regulations to incorporate revisions in the Guidelines for Issuance of Regulations and Procedures Implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Office of Management and Budget Circular No. A-103) published on May 1, 1972. In addition, amendments are proposed to simplify and consolidate certain provisions and correct an error occurring in § 42.95(c)(2).

Principal provisions of the newly proposed amendments to Part 42 are summarized below:

Section 42.20 has been revised to incorporate changes in the definitions of "comparable replacement dwelling", "dwelling" and "person" and to include a definition of the term "family"; this section now also includes an expanded definition of the term "initiation of negotiations" as this relates to the low-rent housing program.

Section 42.25 has been expanded to include a statement of the applicability of these regulations to the low-rent housing program.

Section 42.55(b) has been redesignated § 42.55(d). Actual acquisition as a basis of eligibility for relocation benefits has been deleted. This requirement has been rewritten to include new qualifications on eligibility. Section 42.55 has also been expanded to include the eligibility requirements relating to the low-rent public housing program.

Section 42.65 has been extensively rewritten to incorporate new provisions dealing with the relocation payments for moving expenses in cases of improvements or alterations to structures or premises, self-moves, and temporary moves by displaced persons.

Section 42.70, dealing with actual direct losses of tangible personal property, has been revised in conformity with OMB Circular No. A-103.

Section 42.85(b)(3), relating to a requirement that businesses seeking a payment in lieu of moving and related expenses must contribute materially to the income of a displacee, has been deleted in conformity with OMB Circular A-103. Section 42.85 has been reviewed to include new eligibility requirements, and for greater clarity, as well.

Section 42.90 has been revised to cover cases of displacement by code enforcement activities in which substandard dwellings are not immediately demolished, and has been extensively rewritten to clarify the computation of the interest differential payment and the payment for incidental expenses. This section has also been expanded to include requirements relating to the low-rent public housing program.

Section 42.95 has been similarly revised and has been amended to include new subparagraphs (d) and (e) in accordance with OMB Circular No. A-103, and to include eligibility requirements for the low-rent public housing program. This section also included a revised concept "base monthly rental" and "ability to pay".

Section 42.120(c) has been redesignated as § 42.120(b). Section 42.120(c) has been amended to include requirements for temporary moves by displaced business concerns. Section 42.120(b)(4) has been revised to conform to the amendments to § 42.65(c)(2) relating to temporary moves.

Section 42.135 has been extensively rewritten to reflect the Department's policy on acquisition practices in greater detail.

Section 42.136 has been added to include the contents of the notice of land acquisition procedures.

Section 42.137 has been added to include the contents of the notice of the State agency's determination not to acquire.

Section 42.165 has been amended in conformity with OMB Circular No. A-103, and has been otherwise revised to indicate that the use of schedules for the computation of the replacement housing payment for homeowners and the replacement housing payment for tenants and certain others shall take place only in those cases in which a State agency is required to use such schedules by HUD.

A new section 42.166, dealing with the manner of notifying persons of impending displacement, has been added.

Section 42.180 has been amended in conformity with OMB Circular A-103.

The former § 42.185, relating to HUD approval of payment claims, has been deleted and the former § 42.190 has been deleted pending incorporation of the Department's proposed grievance procedures and the subsequent sections have been renumbered to reflect these deletions.

Interested persons are invited to participate in the making of the proposed rules by submitting written data, views, or statements. Communications should identify the proposed rule by above docket number and title, and should be filed in triplicate with the Rules Docket Clerk, Office of General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. All relevant material received on or before October 29, 1973, will be considered before adoption of final rules. Copies of comments submitted will be available for examination during business hours at the above address.

Issued at Washington, D.C., September 21, 1973.

JAMES T. LYNN,
Secretary of Housing and Urban Development.

* * * * *

PART 42—RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Subpart A—General

Subpart B—Relocation Payments

Subpart C—Relocation Assistance Advisory Program and Assurance of Adequate Replacement Housing

Subpart D—Real Property Acquisition

Subpart E—Administration

Subpart A—General

§ 42.1 Purpose.

The purpose of this subpart is to set forth provisions of general applicability with respect to the regulations in this part. Such provisions relate to (a) the effect of the regulations in this part on previously issued regulations pertaining to relocation payments, (b) statements of applicable policy and law, (c) definitions of pertinent terms, (d) a description of the dates, and the entities or persons, on or to which the regulations in this part are applicable, and the assurances required in connection with such applicability, (e) the extent of Federal participation in the costs of relocation payments and assistance, and (f) the effect on payments provided under the regulations in this part of duplicate payments made in condemnation proceedings and negotiated purchases.

§ 42.5 Supersedure.

The regulations in this part supersede those appearing at Part 41 of this subtitle (35 FR 14307–14, effective September 10, 1970) to the extent that the regulations issued hereunder are, under § 42.25, applicable. The regulations in this part also supersede those appearing at Part 42 of this subtitle (36 FR 8785–98) effective May 13, 1971, as amended (37 FR 16603 effective August 17, 1972).

§ 42.10 Statement of policy.

The purpose of the regulations in this part is to carry out the following policies of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ((42 U.S.C. 4601); 84 Stat. 1899; Pub. L. 91–646) (hereinafter referred to as the "Act"):

(a) To insure that uniform, fair and equitable treatment be afforded persons displaced as a result of federally assisted projects in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole, and

(b) In the acquisition of real property for a federally assisted project, to encourage and expedite acquisition by agreements with owners of such property, to avoid litigation and relieve congestion in courts, to assure consistent treatment for owners of real property to be so acquired, and to promote public confidence in Federal land acquisition.

§ 42.15 Statement of applicable law.

(a) Section 210 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1899; Pub. L. 91–646) requires satisfactory assurances from a State agency that specified relocation payments and relocation assistance will be provided, and replacement dwellings will be available to displaced persons as a condition to Federal approval of any grant or loan to, or contract or agreement with, such State agency under which Federal financial assistance will be made available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of the Act.

(b) Section 305 of the Act requires satisfactory assurances from a State agency that in acquiring real property it will be guided, to the greatest extent practicable under State law, by specified land acquisition policies, and that specified payments will be made to property owners, as a condition to Federal approval of any grant or loan to, or contract or agreement with, any State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after the effective date of the Act.

(c) Section 211(c) of the Act provides that any grant to, or contract or agreement with, a State agency executed before the effective date of the Act under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after such date, shall be amended to include the cost of providing payments and services under the Act.

(d) Section 211(a) of the Act provides that the cost to a State agency of providing such payments and assistance shall be included as part of the cost of a program or project for which Federal financial assistance is available to such State agency. Section 211(a) also provides that where the Federal financial assistance is by grant or contribution, the Federal Government shall pay the full amount of the first $25,000 of the cost of such payments and assistance so provided by the State agency to a displaced person on account of any acquisition or displacement occurring prior to July 1, 1972, and where such Federal financial assistance is by loan, the Federal agency shall loan the State agency the first $25,000 of such costs.

(e) Subject to section 221(c) of the Act, section 220(a) repealed the following provisions of law: Section 114 of the Housing Act of 1949 (42 U.S.C. 1465); paragraphs (7)(b)(iii) and (8) of section 15 of the United States Housing Act of 1937 (42 U.S.C. 1415, 1415(8)), except the first sentence of paragraph (8); section 404 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3074); section 107 (b) and (c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3307). Subject to section 221(c) of the Act, section 306 repealed sections 401, 402, and 403 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3071–3073). Sections 220(b) and 306 of the Act provide that any rights or liabilities existing under prior Acts shall not be affected by such repeals.

(f) Section 221 of the Act provides that the Act shall take effect on the date of its enactment (January 2, 1971) except that with regard to acquisitions or displacements occurring prior to July 1, 1972, sections 210 and 305 of said Act with respect to assurances required of State agencies shall be held applicable to a State only to the extent that such State was able under its laws to comply with these sections, and that certain repeals (specified in paragraph (e) of this section) made by sections 220(a) and 306 of the Act do not apply to any State so long as sections 210 and 305 were not applicable in such State prior to July 1, 1972.

§ 42.20 Definitions.

For the purpose of the regulations in this part, the following terms shall mean:

(a) *Business.* Any lawful activity, excepting a farm operation, conducted primarily: (1) For the purchase, sale, lease, and rental of personal and real property, and the manufacture, processing, or marketing of products, commodities, or any other personal property; (2) for the sale of services to the public; (3) by a nonprofit organization; or (4) solely for the purposes of payments under §§ 42.65, 42.70 and 42.75, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(b) *Comparable replacement dwelling.* A dwelling which is (1) decent, safe and sanitary, and comparable to the acquired dwelling with respect to number of rooms, but in any event adequate to accommodate the displaced person; (2) in an area not subjected to unreasonable adverse environmental conditions from either natural or manmade sources, and not generally less desirable than the acquired dwelling with respect to public utilities, public and commercial facilities and reasonably accessible to the displaced person's present or potential place of employment; (3) available on the private market to the displaced person and available to all persons regardless of race, color, religion, or national origin in a manner consistent with title VIII of the Civil Rights Act of 1968; and which is available to all persons regardless of sex; (4) to the extent practicable; and where consistent with subparagraph (1) of this paragraph, functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing; and (5) within the financial means of the displaced person, provided that this subparagraph (5) shall be construed only in accordance with the intent to put such person in an equal or better position: *Provided*, That if housing meeting the requirements of this subparagraph (b) is not available, the State agency may, upon proper finding of the need therefor, consider available housing exceeding these basic criteria.

(c) *Decent, safe and sanitary housing.* Housing in sound, clean and weathertight condition, in conformance with local housing codes (or in the absence of local housing codes, or where the standards contained in any such code are determined by HUD to be inadequate, in conformance with standards established by HUD) and which meets the following minimum standards:

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

(2) Each nonhousekeeping unit shall be in conformance with local code standards for boarding houses, hotels and other dwellings for congregate living. If such local codes do not include requirements relating to space and sanitary facilities in this connection, standards shall be subject to the approval of HUD.

(3) Occupancy standards shall be in conformance with local codes or HUD-approved requirements, whichever of these is higher.

(d) *Displaced person.*

(1) A person as defined in § 42.20(1) who meets the basic eligibility requirements specified in § 42.55, and (except for the low-rent public housing program) as set out in general terms below:

(i) Such person moves from real property within the project area or moves his personal property from such real property on or after the applicable date specified in § 42.55 and either,

(ii) Such person is displaced as a result of (*a*) acquisition of such real property in whole or in part for a project, (*b*) the receipt of a written order from the acquiring agency to vacate such property for a project or (*c*) the receipt of a written notice from the acquiring agency of its intent to acquire such property for a project, or

(iii) Such person is displaced as a result of code enforcement, voluntary rehabilitation, improvement of private property, or demolition, as provided in paragraphs (c), (d), and (e) of § 42.55, or

(2) Solely for the purpose of qualifying for the payments specified in paragraph (a)(3) of § 42.55, a person who moves from real property, or who moves his personal property from real property on or after the applicable date specified in paragraph (a)(1) of § 42.55 as a result of such acquisition of or displacement from other real property on which such person conducts a business or farm operation.

(e) *Dwelling.* The place of permanent or customary and usual abode of a person, including a single-family dwelling, a single-family unit in a two-family, multifamily or multipurpose dwelling, a unit of a condominium or cooperative housing project; or any other residential unit, including a mobile home which is either considered to be real property under State law or which cannot be moved without substantial damage or unreasonable cost.

(f) *Family.* Two or more individuals who by blood, marriage, adoption, or mutual consent live together as a family unit.

(g) *Farm operation.* Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities.

(h) *Federal financial assistance.* A grant, loan, or contribution (except any Federal guarantee or insurance) made by HUD, including a grant, loan or contribution specified below:

(1) A loan, a grant, or a loan and grant, for an urban renewal project under title I of the Housing Act of 1949 (63 Stat. 413, 414, (42 U.S.C. 1450));

(2) A grant for concentrated code enforcement and public improvements under section 117 of the Housing Act of 1949 (79 Stat. 478 (42 U.S.C. 1468));

(3) A grant for the demolition of unsafe structures under section 116 of the Housing Act of 1949 (79 Stat. 477 (42 U.S.C. 1467));

(4) A grant for interim assistance to slums or blighted areas under section 118 of the Housing and Urban Development Act of 1949 (82 Stat. 525 (42 U.S.C. 1468a));

(5) A loan or annual contribution, made in connection with low-rent public housing projects under the U.S. Housing Act of 1937 (50 Stat. 888 (42 U.S.C. 1401 et seq.));

(6) A grant for open-space use or for a historic preservation or urban beautification project under title VII of the Housing Act of 1961 (75 Stat. 183 (42 U.S.C. 1500) as amended);

(7) A grant for a neighborhood facilities program under title VII of the Housing and Urban Development Act of 1965 (79 Stat. 489 (42 U.S.C. 3101));

(8) A public facility loan under title II of the Housing Amendments of 1955 (69 Stat. 642 (42 U.S.C. 1491));

(9) A water and sewer facilities grant under title VII of the Housing and Urban Development Act of 1965 (79 Stat. 489 (42 U.S.C. 3101));

(10) A grant for advance acquisition of land under title VII of the Housing and Urban Development Act of 1965 (79 Stat. 489 (42 U.S.C. 3101));

(11) A grant for the purpose of carrying out a comprehensive city demonstration program under title I of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255 (42 U.S.C. 3301));

(12) Loans or grants to assist educational institutions in construction of housing and other educational facilities under title I of the Housing Act of 1950 (64 Stat. 48, 77 (12 U.S.C. 1749)) where such payments are made to a State agency;

(13) Loans for housing for the elderly or handicapped under section 202 of the Housing Act of 1959 (73 Stat. 654, 667 (12 U.S.C. 1701q)) where such loans are made to a State agency;

(14) Where contributions are made to a State agency and the performance by such State agency, or by a private body acting on behalf of such State agency and of undertakings necessary to enable it to receive such contributions will be the direct cause of displacement, the payment of contributions specified below.

(i) Assistance payments under section 235 and interest reduction payments under section 236 of the National Housing Act (48 Stat. 1246 (12 U.S.C. 1715z and 1715z–1)),

(ii) Below market interest rates provided under section 221(d)(3) of the National Housing Act (12 U.S.C. 1715–1),

(iii) Rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 (79 Stat. 451 (12 U.S.C. 1701s)),

(iv) Grants under section 713(a) and loans under section 714(a) of title VII of the Housing and Urban Development Act of 1970 (Pub. L. 91–609, 84 Stat. 1791) to assist in financing new community development programs.

(i) *HUD.* The Secretary of Housing and Urban Development or an officer or employee duly authorized to perform the functions of the Secretary.

(j) *Initiation of negotiations.* Except as provided in § 42.90(b)(3) and § 42.95(b)(5), the initial written offer made by the acquiring agency to the owner of real property to be acquired for a project of the amount established as just compensation for such property in accordance with § 42.135.

(k) *Mortgage.* Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(l) *Person.* Any individual, family, partnership, corporation, or association. For purposes of an alternate payment under § 42.80 and a replacement housing payment under §§ 42.90 and 42.95, two or more individuals (regardless of whether they are family members or not) living together in, and displaced from, a single dwelling, shall be regarded as one person.

(m) *Personal property (tangible personal property).* (1) Tangible property which is situated on the real property vacated or to be vacated by a displaced person and which is considered personal property and is noncompensable (other than for moving expenses) under the State law of eminent domain, and (2) in the case of a tenant, fixtures and equipment, and other property which may be characterized as real property under State or local law, but which the tenant may lawfully, and at his election determines to, move and for which the tenant is not compensated in the real property acquisition. In the case of an owner of real property, the determination as to whether an item of property is personal or real shall depend upon how it is identified in the acquisition appraisals and the closing or settlement statement with

respect to the real property acquisitions: *Provided*, That no item of property which is compensable under State and local law to the owner of real property in the real property acquisition may be treated as tangible personal property in computing actual direct losses of tangible personal property under § 42.70.

(n) *Plan.* (1) A duly approved formal plan, as exists from time to time, for any project as defined in this part and any action program implementing such plan, or (2) in the case of a project for which no formal plan is required, the application by the State agency as approved by HUD and modified from time to time.

(o) *Project.* Any undertaking which receives Federal financial assistance and to which the Act is applicable pursuant to § 42.25.

(p) *Project area.* An area which HUD has approved for the carrying out of project activities.

(q) *Relocation payment.* A payment specified under §§ 42.65 through 42.95.

(r) *State.* Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(s) *State agency.* The National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or of a political subdivision of a State or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States. Unless otherwise indicated in the context of a specific provision of these regulations, the term "State agency" as used in these regulations shall mean the particular State agency to which Federal financial assistance is made available for a specific project.

(t) *Voluntary rehabilitation.* Structural or other substantial repairs to, or alterations to, or demolition of, any building or other improvement on land within a project area, undertaken by an owner in order to conform to the property rehabilitation standards or other applicable provisions set forth in the applicable Plan.

§ 42.25 Applicability of regulations.

(a) *Applicability of the regulations in this part.* (1) Except as provided in subparagraph (2), these regulations are applicable to all acquisition and displacements occurring on or after January 2, 1971, and prior to July 1, 1972, to the extent that a State agency has furnished the Department of Housing and Urban Development with satisfactory assurances under § 42.30 of these regulations with respect to the federally assisted activity under which such acquisition or displacement takes place. The regulations in this part are fully applicable to all acquisition or displacements occurring on or after July 1, 1972.

(2) For the low-rent public housing program under the U.S. Housing Act of 1937, Subpart D of these Regulations (implementing Title III of the Act) is applicable to all acquisitions of real property by the State agency except: (i) Acquisitions by the turnkey method; (ii) acquisitions in connection with construction for leasing projects (i.e., leases or agreements to lease) where such acquisitions result from proposals submitted in response to public invitation; and (iii) leasing or acquisition of existing structures after rehabilitation where such leasing or acquisition results from proposals submitted in response to public invitation. For the purposes of this subparagraph (2), a lease is considered to be an "acquisition of real property" where the term, including options for extension, is for more than ten years.

(b) *Applicability of previously published regulations.* The regulations covering Relocation Payments appearing at Part 41 of this subtitle and at 35 FR 14307–14 (effective Sept. 10, 1970) shall apply to (1) displacement occurring on or after September 10, 1970, and prior to January 2, 1971, and (2) displacement occurring on or after January 2, 1971, and prior to July 1, 1972, to the extent that the regulations issued hereunder do not, pursuant to paragraph (a) of this section, apply.

(c) *Continuation of rights and liabilities.* Nothing in paragraph (a) or (b) of this section shall be deemed to affect any rights or liabilities in existence as of January 2, 1971, under any laws repealed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

§ 42.30 Assurances.

(a) *Displacement.* As a condition to any grant, contract, or agreement approved by HUD on or after January 2, 1971, under which Federal financial assistance will be available to pay all or part of the cost of any undertaking which will result in the displacement of any person on or after such date, a State agency shall submit assurances (either separately or by contract) satisfactory to HUD that with respect to such displacement—

(1) Relocation payments shall be provided to displaced persons in accordance with §§ 42.65 through 42.95;

(2) Relocation assistance programs offering the services described in Subpart C shall be provided to such displaced persons;

(3) Within a reasonable period of time prior to displacement, decent, safe and sanitary replacement dwellings will be available to displaced persons in accordance with § 42.120;

(4) Affected persons will be adequately informed of the benefits, policies and procedures provided in these regulations; and

(5) The relocation process will be carried out in such a manner as to provide displaced persons with uniform and consistent services, and replacement housing under § 42.120 will be available and the same range of choices with respect to such housing will be offered to all displaced persons regardless of race, color, religion or national origin pursuant to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3501 et seq.) and Executive Order 11063 (27 FR 11527) and which is available to all persons regardless of sex.

(b) *Acquisition.* As a condition to any grant, contract, or agreement approved by HUD on or after January 2, 1971, under which Federal financial assistance will be available to pay all or a part of the cost of any undertaking which will result in the acquisition of real property on or after such date the State agency shall, to the extent it is authorized under State law, submit assurances (either separately or by contract) satisfactory to HUD that with respect to such acquisition:

(1) It will, to the greatest extent practicable under State law, be guided by the land acquisition policies and provisions in § 42.135;

(2) Property owners will be paid or reimbursed for necessary expenses specified in §§ 42.140 and 42.145; and

(3) Affected persons will be adequately informed of the benefits, policies and procedures provided in the regulations in this part.

§ 42.35 Federal share of costs of relocation payments and assistance.

Payments made and assistance provided in accordance with Subparts B and C of this part and §§ 42.140 and 42.145, and pursuant to a grant, loan, contract, or agreement for Federal financial assistance for a project, shall be included as a part of the cost of such project and shared in the same manner and to the same extent as other program or project costs: *Provided*, That where such Federal financial assistance is by loan, HUD shall loan the full amount of the first $25,000 of the cost to the State agency for providing such payments and assistance to an eligible displaced person or a person from whom property is acquired, and where such Federal financial assistance is by grant or contribution HUD shall pay the first $25,000 of such costs with respect to an eligible displaced person or a person from whom property is acquired on account of displacement or acquisition occurring prior to July 1, 1972.

§ 42.40 Payments in condemnation proceedings and negotiated purchases.

No payment shall be made under the regulations in this part which would duplicate a payment received by a displaced person or owner under the State law of eminent domain, and which is included in an award in eminent domain or in the purchase price for any property acquired by negotiation, if such payment so received is determined by HUD to have the same purpose or effect as a payment under this part.

Subpart B—Relocation Payments

§ 42.45 Purpose.

The purpose of this subpart is to set forth the types of, and specific eligibility

criteria for, relocation payments to displaced persons.

§ 42.50 Relocation payments by State agency.

The State agency shall make relocation payments to or on behalf of eligible displaced persons in accordance with and to the full extent permitted by §§ 42.65 through 42.95.

§ 42.55 Basic eligibility conditions.

(a) *General.* The rules set forth in this paragraph shall apply to all displaced persons except those who move from real property or move personal property from real property as the result of activities undertaken pursuant to the low-rent housing or model cities programs. A person qualifies as a displaced person for purposes of establishing basic eligibility for a relocation payment if:

(1) Such person moves from real property within the project area or moves his personal property from such real property (i) on or after the date of the pertinent contract for Federal financial assistance for a project, or (ii) on or after the date of HUD approval of a budget for project execution activities resulting in displacement, provided that the contract for Federal financial assistance for the contemplated project is thereafter executed, and

(2) Such person is displaced as a result of (i) the acquisition of such real property, in whole or in part, for a project as further provided in paragraph (d) of this section, (ii) code enforcement, voluntary rehabilitation, improvement of private property, or demolition as provided in paragraphs (e), (f), and (g) of this section.

(b) *Model cities program.* A person qualifies as a displaced person for purposes of establishing basic eligibility for a relocation payment under the model cities program if:

(1) Such person moves from real property within the project area or moves his personal property from such real property (i) on or after the date of the pertinent contract for Federal financial assistance for a project or (ii) if the displacement occurs prior to the approval of the contract for Federal financial assistance, on or after the date approved by HUD for a specific undertaking upon the request of the State agency: *Provided,* That a contract of Federal financial assistance is thereafter executed: *And provided further,* That the comprehensive city demonstration program thereafter identifies the undertaking as one being carried out in connection with such program, and

(2) Such person is displaced as a result of (i) the acquisition of such real property, in whole or in part, for a project as further provided in paragraph (d) of this section, or (ii) code enforcement, voluntary rehabilitation, or demolition as provided in paragraphs (e), and (g) of this section.

(c) *Low-Rent Public Housing Program.* A person qualifies as a displaced person for purposes of establishing basic eligibility for a relocation payment if such person moves, including a move of personal property, under the following circumstances:

(1) *Conventional bid, or acquisition of existing housing other than under paragraph (2) below.* If (i) such person moves from the project site on or after the date of the annual contributions contract, or the date of tentative site approval by HUD, if it is later, and (ii) the move is a displacement by acquisition as provided in paragraph (d) of this section: *Provided,* That an option agreement shall not be considered as a notice of intent to acquire or a firm offer to acquire as provided in paragraph (d)(3).

(2) *Turnkey new construction or rehabilitation.* If such person (i) moves from the project site, other than for cause, on or after the date of the Contract of Sale, or (ii) moves from the project site on or after the date of the annual contributions contract and prior to the date of the Contract of Sale, but in such case only if the move is the result of an order to vacate not based upon cause. "Cause", as used herein and in paragraph (3) below, means nonpayment of rent or other breach of an obligation of the tenancy.

(3) *Leasing.* If (i) such person moves from a dwelling on or after the date of an agreement to lease or lease of such dwelling to the State agency, and (ii) the move is not the result of: (*a*) Voluntary decision of occupant, (*b*) action by landlord for cause, or (*c*) other action by landlord clearly unrelated to leasing of the unit to the State agency.[1]

(d) *Displacement by acquisition.* Displacement as a result of the acquisition of real property includes displacement which is a result of:

(1) The obtaining by the acquiring agency of title to or the right to possession of such real property for a project;

(2) The written order of the acquiring agency to vacate such property for a project; or

(3) The issuance by the acquiring agency of a written notice to the owner of its intent to acquire the real property for such project; or, if no other written notice of intent to acquire the real property is issued, the issuance by the acquiring agency to the owner of a firm offer to acquire: *Provided,* That no person moving from real property after the State agency has served upon him the notice described in § 42.137 of this part shall be deemed eligible for any of the relocation assistance or relocation payments described in this part.

Displacement as a result of acquisition of real property in the urban renewal, neighborhood development, and model cities programs shall include displacement which is a result of the acquisition of real property by a State agency other than the State agency receiving Federal financial assistance as defined in § 42.20(h), to the extent that the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is not applicable to such other State agency in connection with such displacement, and if the acquisition is undertaken in accordance with the plan for the project, or, in the case of the model cities program, if the comprehensive city demonstration program identifies the acquisition as being carried out in connection with such program.

(e) *Displacement by code enforcement and voluntary rehabilitation.*—(1) *Urban renewal, neighborhood development, and code enforcement programs.* A person shall be deemed displaced by code enforcement or voluntary rehabilitation under the urban renewal, neighborhood development, and code enforcement programs if the vacation of the real property is the result of code enforcement, as further specified in paragraph (e)(3) of this section, or of voluntary rehabilitation, as further specified in paragraph (e)(4) of this section with respect to the property occupied and if such activities are undertaken in accordance with the plan.

(2) *Model cities program.* A person shall be deemed displaced by code enforcement or voluntary rehabilitation under the model cities program if the vacation of the real property is the result of code enforcement, as specified in paragraph (e)(3) of this section, or of voluntary rehabilitation activities, as further specified in paragraph (e)(4) of this section, with respect to the property occupied and if such activities are undertaken in accordance with the comprehensive city demonstration program which identifies the undertaking as being carried out in connection with such program.

(3) *Code enforcement*—(i) Tenants. A tenant shall be deemed to be displaced as a result of code enforcement if the vacating of real property occurs on or after:

(*a*) The receipt of a notice to vacate from the owner on the ground that code enforcement activities will be undertaken; or

(*b*) The commencement of code enforcement activities: *Provided,* That the State agency shall have concluded, in accordance with HUD policies and requirements, either:

(*1*) That the owner has increased the rent or has notified the tenant of an increase in rent amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family: *Provided,* That in the case of an individual or family the increase shall also result in a rent exceeding the standards established by the State agency for the persons' ability to pay, or

(*2*) That the code enforcement could not reasonably be undertaken without the vacation of the real property by the tenant; or

(*c*) A notice from the owner or the State agency that code enforcement activities will be required: *Provided,* That the State agency shall have concluded, in accordance with HUD policies and

[1] See FR Doc. 73-13850 appearing at page 18262 in the issue for July 9, 1973.

requirements, that such tenant has moved in reasonable anticipation of such code enforcement activities and has made either of the findings required under paragraph (e)(3)(i) (*b*)(*1*) or (*2*) of this section.

(ii) Owners. An owner of real property shall be deemed displaced as a result of code enforcement if the vacating of the real property occurs on or after the receipt of notice from the State agency that code enforcement will be required and the State agency concludes, in accordance with HUD policies and requirements, that the code enforcement could not reasonably have been undertaken without the vacation of the real property by the owner.

(4) Voluntary rehabilitation—(i) Tenants. A tenant shall be deemed to be displaced as a result of voluntary rehabilitation if the vacating of real property occurs on or after:

(*a*) The receipt of a notice to vacate from the owner on the ground that voluntary rehabilitation will be undertaken; or

(*b*) The commencement of voluntary rehabilitation: *Provided*, That the State agency shall have concluded in accordance with HUD policies and requirements either:

(*1*) That the owner has increased the rent or has notified the tenant of an increase in rent amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family: *Provided*, That the increase shall also result in a rent exceeding the standards established by the State agency for the person's ability to pay, or

(*2*) That the voluntary rehabilitation could not have reasonably been undertaken without the vacation of the real property by the tenant; or

(*c*) The receipt of a notice from the owner or the State agency that voluntary rehabilitation will be required: *Provided*, That the State agency shall have concluded, in accordance with HUD policies and requirements, that such tenant has moved in reasonable anticipation of such voluntary rehabilitation and has made either of the findings required under paragraph (e)(3)(i)(*b*) (*1*) or (*2*) of this section.

(ii) Owners. An owner of real property shall be deemed displaced as a result of voluntary rehabilitation if the vacating of the real property occurs on or after the commencement of voluntary rehabilitation and the State agency concludes, in accordance with HUD policies and requirements, that the voluntary rehabilitation could not reasonably have been undertaken without the vacation of the real property by the owner.

(f) *Displacement by improvement of private properties in the interim assistance program.* A person shall be deemed displaced by the improvement of private property under the interim assistance program if the vacating of the real property is the result of:

(1) Improvement with respect to the property occupied and undertaken in accordance with the plan; and

(2) Where the displaced person is a tenant, the vacating of real property occurs on or after:

(i) The receipt of a notice to vacate from the owner on the ground that such improvement will be undertaken, or

(ii) The commencement of such improvement: *Provided*, That the State agency shall have concluded, in accordance with HUD policies and requirements, either (*a*) that the owner has increased the rent or has notified the tenant of an increase in rent amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family: *Provided*, That in the case of an individual or family the increase shall also result in a rent exceeding the standards established by the State agency for the person's ability to pay, or (*b*) that such improvement could not have reasonably been undertaken without the vacation of the real property by the tenant, or

(iii) A notice from the owner or the State agency that the improvement will be required: *Provided*, That the State agency shall have concluded, in accordance with HUD policies and requirements that such tenant has moved in reasonable anticipation of such improvement and has made the finding required under paragraph (f)(2)(ii) of this section, or

(3) Where the displaced person is an owner if the vacating of the real property occurs on or after the commencement of such improvement and the State agency concluded, in accordance with HUD policies and requirements, that the improvement could not reasonably have been undertaken without the vacation of the real property by the owner.

(g) *Displacement by demolition.* A person shall be deemed displaced as a result of demolition if the vacating of real property is the result of demolition undertaken in accordance with the plan for a project, and occurs on or after the date on which the State agency has ordered the real property to be vacated and demolished under State and local law on the ground that it is structurally unsound or unfit for human habitation.

(h) *Moves from dwellings as a result of displacement from a business or farm operation.* Notwithstanding any other provision of this Subpart, any person who moves from real property or moves his personal property from real property on or after the applicable date specified in paragraphs (a), (b), or (c) of this section as a result of displacement (as specified in paragraphs (a), (b), or (c) of this section) from other real property on which such person conducts a business or farm operation shall qualify as a displaced person for the purposes of establishing basic eligibility for the following payments and assistance: (1) Actual reasonable moving expenses under § 42.65, (2) actual direct losses of personal property under § 42.70, (3) actual reasonable expenses in searching for a replacement business or farm under § 42.75, (4) an alternate payment for individuals and families under § 42.80, and (5) relocation advisory assistance under Subpart C of this part.

§ 42.56 Displacement resulting from activities later included in the model cities program.

In all cases in which a comprehensive city demonstration program is amended to incorporate any of the activities specified in § 42.55 of this subpart which were carried out prior to the date of such amendment, and to recognize the eligibility of persons displaced by reason of any of such activities, a person so displaced shall qualify as a displaced person for purposes of establishing basic eligibility for a relocation payment: *Provided*, That the date of displacement for such person shall be deemed to be the date on which the comprehensive city demonstration program was amended to include the activity bringing about displacement: *And provided further*, That the regulations in effect at the time of such amendment shall be fully applicable to each such displacement.

§ 42.60 Filing of claims.

(a) *General.* All claims shall be submitted to the State agency on the appropriate HUD form, supported by such documentation as may be required by the specific provisions of the regulations in this part applicable to the payment claimed, and by such other documentation as may be required by the State agency.

(b) *Time for filing claims.* Any claim for a payment (other than a claim for a replacement housing payment for homeowners under § 42.90 or for an amount necessary to enable a displaced person to make a downpayment on a replacement dwelling under § 42.95(a)(2) of this part) shall be submitted to the State agency within a period of 6 months after displacement of a claimant. Any claim under § 42.90 or § 42.95(a)(2) shall be submitted to the State agency within a period of 18 months after the displacement of the claimant.

§ 42.65 Actual reasonable moving expenses.

(a) *General.* A State agency shall make a payment to a displaced person who satisfies the pertinent eligibility requirements of § 42.55 and the requirements of paragraph (b) of this section, for actual reasonable expenses specified below and subject to the limitations set forth in paragraph (c) of this section for moving himself, his family, business, farm operation or other personal property. In all cases the amount of a payment shall not exceed the cost of the least expensive feasible method of accomplishing the activity in connection with which a claim has been filed, as determined by the State agency. The moving and related expenses for which claims may be filed shall include:

(1) Transportation not to exceed a distance of 50 miles from the site from which displaced, except where the State agency determines in accordance with HUD policies and requirements that relocation beyond such distance of 50 miles is justified;

(2) Packing, crating, unpacking and uncrating personal property;

(3) Obtaining (including advertising for) bids or estimates for such transportation, packing, crating, unpacking and uncrating;

(4) Such storage of personal property, for a period generally not to exceed 12 months, as the State agency determines to be necessary in connection with relocation;

(5) Insurance of personal property while in storage or transit;

(6) Disconnecting, dismantling, removing, reassembling, reconnecting and reinstalling machinery, equipment or other personal property (including goods and inventory kept for sale) not acquired by the State agency;

(7) The cost, subject to the limitations imposed by this paragraph, of any addition, improvement, alteration or other physical change in or to any structure or its premises, whether in connection with the reassembling, reconnection, or reinstallation of machinery, equipment or other personal property or otherwise required, to render such structure or premises suitable for a displaced business. Claims for payment under this paragraph shall be subject to the following limitations:

(i) Reimbuseable costs shall be limited to 10 percent of a displaced person's entitlement pursuant to subparagraphs (1), (2), (3), (5), and (6) of this paragraph or $10,000, whichever is the greater amount;

(ii) The cost shall be found by the State agency to be required by law or ordnance or to be otherwise necessary to the reestablishment of a displaced business operation;

(iii) In any case in which costs exceed $1,000, the State agency shall obtain the concurrence of HUD before making payment;

(iv) The State agency shall determine that there is no suitable structure or premises available for the relocation of the displaced business concern which would not require such addition, improvement, alteration, or other physical change; and

(v) Under no circumstance shall this subparagraph be construed to authorize the inclusion in a claim for a relocation payment of the cost of substantial construction, completion, or rehabilitation of a replacement facility for any displaced business concern.

(8) The reasonable replacement value of property lost, stolen or damaged (not through the fault or negligence of the displaced person, his agent, or employee) in the process of moving, where insurance covering such loss, theft or damage is not reasonably available; and

(9) Where an item of personal property which is used in connection with any business or farm operation is not moved but is replaced with a comparable item, reimbursement in an amount not to exceed (i) the replacement cost, minus any proceeds received from the sale, or (ii) the estimated cost of moving, whichever is less.

(b) *Requirements—Moving a business or farm operation.* Except as provided in this paragraph, no payment for actual reasonable moving expenses shall be made to a displaced person for moving his business or farm operation unless:

(1) The State agency has received, at least 30 days (or such earlier date as the State agency may determine necessary, but not earlier than 90 days) prior to the moving date, written notice from such displaced person of his intention to move or dispose of personal property used in connection with such business or farm operation (which property shall be described generally in the notice), and the date of such intended move or disposition; and

(2) The displaced person has permitted, at all reasonable times, the inspection by or on behalf of the State agency of such property at the site from which the business or farm operation is displaced. For the purpose of this subsection, "moving date" shall mean the date on which the first item of such property is intended to be moved or disposed of. The State agency may make a relocation payment notwithstanding nonreceipt of such timely notice only if the agency has determined that there was reasonable cause for the failure of the displaced person to give such notice, and the agency has adequately verified the facts pertaining to the move or disposition and the requested relocation payment.

(c) *Special requirements and limitations.*

(1) *Temporary moves—individuals, families, and business concerns.* A displaced person (as defined in § 42.20(d) of this subpart) who moves into temporary housing or into a temporary business location (as defined in § 42.120(b) and (c) of this part) with HUD concurrence may be compensated for (i) the actual cost of moving to the temporary housing or business location; and (ii) in the case of a displaced person who rents the dwelling or business location from which he is being displaced the actual difference, if any, between the rental paid at such location and the rental paid at the temporary housing or temporary business location or; (iii) in the case of a displaced owner of a home or business the actual cost of the rental of such temporary location, including reasonable utility charges. Compensation for such expenses (which, in the case of displaced business concerns may also include claims for actual direct losses of personal property, as defined in § 42.70 of this subpart and for expenses in searching for a temporary replacement business or farm, as defined in § 42.75 of this subpart) shall be a part of the cost of the program but shall not be considered to be a relocation payment as defined in § 42.20(q) of this part. A person who is displaced after the applicable date of the regulations in this part as set forth in § 42.25 who moves into temporary housing or a temporary business location is eligible for full relocation payments and assistance under this part upon his subsequent move from such temporary location to a permanent location.

(2) *Businesses and farm operations—general limitation on moving expenses.* Except as provided in paragraph (c)(3) of this section, relating to business self-moves, payment to a displaced person for moving expenses in connection with moving a business or farm operation shall not exceed the amount of the low bid submitted in accordance with paragraph (d)(2) of this section.

(3) *Business and farm operations—self-moves.* A displaced person electing to self-move a business or farm operation may do so, unless the State agency concludes that such self-move is not warranted. In any case in which the claim for moving expenses in connection with a self-move is in an amount not exceeding the lowest of the bids obtained in accordance with paragraph (d)(2) of this section (or if no such bids can be obtained) no documentation of actual moving expenses shall be required by the State agency, which shall determine the amount of the payment on the basis of such factors as (i) the manner in which the move is accomplished, (ii) the relationship of the proposed move to the scope of work covered by the lowest received bid or estimate, if any (iii) the labor and the supervisory costs associated with the move and (iv) the cost of the use of equipment employed in the move. In all cases in which the amount claimed for moving expenses in connection with a self-move exceeds the amount of the lowest of the bids obtained in accordance with paragraph (d)(2) of this section, full documentation of such expenses shall be required.

(4) *Personal property of low value and high bulk—Business or farm operation.* Where, in the judgment of the State agency, the cost of moving any item of personal property of low value and high bulk which is used in connection with any business or farm operation would be disproportionate in relation to its value, the allowable reimbursement for the expense of moving such property shall not exceed the difference between the cost of replacing the same with a comparable item available on the market and the amount which would have been received for such property on liquidation. This subparagraph shall apply to such situations as the moving of junkyards, stockpiles, sand, gravel, minerals, and metals.

(d) *Documentation in support of a claim—*(1) *All claimants.* A claim for a payment under paragraph (a) of this section shall be supported by a bill or other evidence of expenses incurred. By prearrangement between the State agency, the site occupant, and the mover, evidenced in writing, the claimant or the mover may present an unpaid moving bill to the State agency, and the agency may pay the mover directly.

(2) *Businesses and farm operations.* Except in those situations in which the provisions of § 42.65(c)(3) are applicable and/or no such bids can be obtained, each claim in excess of $500 for the costs incurred by a displaced person for moving his business or farm operation shall be supported by bids submitted to the

State agency at least 15 days prior to the commencement of the move from three reputable firms covering the moving costs involved. Whenever it is not feasible to obtain three bids for any category of work, a lesser number of bids shall be submitted, together with a written justification by the displaced person; and no relocation payment shall be allowed in such cases unless the State agency has approved the justification. Where such bid requirement cannot be compiled with under State law, or where estimates in an amount of less than $500 were obtained in good faith by the displaced person, such claim shall be supported by estimates in lieu of bids.

§ 42.70 Actual direct losses of tangible personal property.

(a) *General.* A State agency shall make a payment to a displaced person who satisfies the eligibility requirements of § 42.65, and this section, for actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, in an amount determined by the State agency in accordance with the provisions of this section.

(b) *Determining actual direct loss of property.* Subject to the limitations provided in this section, the amount of actual direct loss shall be determined as follows:

(1) The fair market value of the property for continued use at its location prior to the displacement shall be ascertained by an appraisal either secured by the claimant and concurred in by the State agency, or secured by the State agency and concurred in by the claimant.

(2) If the value of the property is such as not to warrant the expense of an appraisal, its fair market value shall be computed by multiplying the original cost of the item to the claimant (exclusive of installation), by the figure obtained by dividing the period of the remaining useful life of the property at the date of displacement by the period of the normal useful life of the property at the date of its acquisition by the claimant.

(3) Wherever possible, the property shall be disposed or by a bona fide sale at the highest price offered after reasonable efforts have been made over a reasonable period of time to interested prospective purchasers. The displaced person shall be reimbursed for the reasonable costs incurred in arranging for such sale.

(4) If the amount realized from the sale, minus the reasonable expenses of the sale, is less than the fair market value for continued use of the property at its location, the difference between the net amount realized and the fair market value is the amount of actual direct loss.

(5) A trade-in of property may be considered a sale, and the trade-in allowance, exclusive of any amount of discount that would be allowed on the property being acquired in the absence of the trade-in, shall be the amount realized upon the sale.

(6) If a bona fide sale is not effected because no offer is received for the property, after reasonable efforts have been made over a reasonable period of time to sell it, its fair market value for continued use prior to displacement, ascertained as provided in this section, is the amount of actual direct loss of the property.

(c) *Limitations.* (1) When a business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the property for continued use at its location prior to displacement, and the sale proceeds, or the estimated costs of moving 50 miles, whichever is less.

(2) When a displaced person does not move his personal property, he shall be required to make a bona fide effort to sell it.

(3) When the property is abandoned after reasonable efforts to effect a bona fide sale, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement, or the estimated costs of moving 50 miles, whichever is less.

(4) In no case shall the payment for actual direct loss of any property exceed the amount as provided for herein, or the estimated amount that would have been required to relocate such property, whichever is less.

(5) No payment shall be made for any item of property sold or traded in and replaced with a substitute item, except as provided for in § 42.65 (a)(9).

(6) The cost of an initial appraisal to determine actual loss of property shall, notwithstanding § 42.35, be included as a project cost to the same extent as other project costs. No payment shall be made to a displaced person for the cost of an appraisal subsequent to the initial appraisal.

(d) *Documentation to support claim.* A claim for payment hereunder shall be supported by written evidence of loss which may include appraisals, certified prices, bills of sale, receipts, cancelled checks, copies of advertisements, offers to sell, auction records, and other records appropriate to support the claim.

§ 42.75 Actual reasonable expenses in searching for a replacement business or farm.

A displaced person who satisfies the pertinent eligibility requirements of § 42.65 with respect to actual reasonable moving expenses, is eligible for actual reasonable expenses, in an amount not to exceed $500 unless the State agency determines that a greater amount is justified, in searching for a replacement business or farm, including expenses incurred for: (a) Transportation; (b) meals and lodging away from home; (c) time spent in searching, based on the hourly wage rate of the salary or earnings of the displaced person or his representative, but not to exceed $10 per hour; and (d) fees paid to a real estate agent or broker to locate a replacement business or farm.

§ 42.80 Alternate payments—individuals and families.

(a) *General.* A person or family, who is displaced from a dwelling who is eligible for a payment for actual reasonable moving expenses under § 42.65, may elect to receive and shall be paid, in lieu of such payment: (1) A moving expense allowance not to exceed $300 and determined in accordance with approved Federal Highway Administration schedules established by the State in which the displacement occurred, and (2) a dislocation allowance of $200.

(b) *Limitations—joint occupants of single-family dwellings.* If individuals (regardless of whether they are family members, or not) who are joint occupants of a single-family dwelling submit more than one claim, an eligible claimant for a payment under paragraph (a) of this section may be paid only his reasonable prorated share (as determined by the State agency) of the total payment applicable to a single individual, and the total of alternate payments made to all such claimants moving from such dwelling shall not exceed the total fixed payment applicable to a single individual.

§ 42.85 Alternate payments—businesses and farm operations.

(a) *General.* A displaced person who is displaced from his place of business or farm operation and is eligible for payments under § 42.65, § 42.70, or § 42.75 and complies with the requirements set out in paragraph (b) of this section may elect to receive and shall be paid, in lieu of such payments, a payment equal to the average annual net earnings of the business or farm operation (but not including a business as defined in § 42.20(a)(4) of this part) as determined in accordance with paragraph (b) of this section, except that such payment shall be not less than $2,500 nor more than $10,000. For purposes of this section, the dollar limitation specified in the preceding sentence shall apply to a single business, regardless of whether it is carried on under one or more legal entities.

(b) *Requirements—businesses and farm operations.* No payment shall be made under this section unless the State agency determines that (1) the business cannot be relocated without a substantial loss of its existing patronage, based on a consideration of all pertinent circumstances including such factors as the type of business conducted, the nature of the clientele, and the relative importance to the displaced business of its present and proposed location; (2) the business is not part of a commercial enterprise having another establishment which is not being acquired for a project and which is engaged in the same or similar business; and (3) the displaced business or farm operation (i) had average annual gross receipts of at least $2,000 during the two taxable years prior to

displacement; or (ii) the displaced business or farm operation had average annual net earnings of at least $1,000 during the two taxable years prior to displacement; or (iii) the displaced business or farm operation contributed at least 33⅓ percent of the total income of the owner(s) during each of the two taxable years prior to displacement: *Provided*, That if in any case the State agency determines that the two year period prior to displacement is not representative of average receipts, earnings or income, it may make use of a more representative period.

(c) *Determination of number of "businesses"*. In determining whether one or more legal entites constitute a single business, the following factors, among others, shall be considered:

(1) The extent to which the same premises and equipment are shared;

(2) The extent to which substantially identical or intimately interrelated business functions are pursued and business and financial affairs are commingled;

(3) The extent to which such entities are held out to the public, and to those customarily dealing with such entities, as one business; and

(4) The extent to which the same person or closely related persons own, control or manage the affairs of the entities.

(d) *Requirements—farms*. In the case of a farm operation, no payment shall be made under this section unless the State agency determines that (1) the farm met the definition of a farm operation prior to its acquisition; and (2) if the displacement is limited to only part of the farm operation, the property remaining after the acquisition can no longer meet the definition of a farm operation.

(e) *Requirements—nonprofit organizations*. In the case of a nonprofit organization, no payment shall be made under this section unless the State agency determines that (1) the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. (The term "existing patronage" as used in connection with a nonprofit organization includes the membership, persons, community, or clientele served or affected by the activities of the nonprofit organization); and (2) the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

(f) *Net earnings*. The term "average annual net earnings" as used in this section means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for such project, or during such other period as the head of the State agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such period.

(g) *Determination of ownership*. The term "owner" as used in this section includes the sole proprietor in a sole proprietorship, the principal partners in a partnership, and the principal stockholders of a corporation, as determined by the State agency. For purposes of determining a principal stockholder, stock held by a husband, his wife and their dependent children shall be treated as one unit.

(h) *Documentation in support of a claim*. A claim for payment under paragraph (a) of this section shall be supported by such reasonable evidence of earnings as may be approved by HUD. If no other evidence is available, such claim shall be supported by copies of Federal income tax returns.

§ 42.90 Replacement housing payments for homeowners.

(a) *General*. A state agency shall make to a displaced person except those temporarily displaced within the meaning of § 42.65(c)(1) who is displaced from a dwelling and who satisfies the pertinent eligibility requirements of § 42.55 and the conditions of paragraph (b) of this section, a payment not to exceed a combined total of $15,000 for:

(1) The amount, if any, which when added to the acquisition cost of the dwelling acquired for the project equals the reasonable cost (as determined in accordance with paragraph (c)(1) of this section) of a comparable replacement dwelling: *Provided*, That such amount shall not exceed the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(2) The amount, if any, to compensate the displaced person for any increased interest costs, as determined in accordance with paragraph (c)(2) of this section, which such displaced person is required to pay for financing the acquisition of a replacement dwelling: *Provided*, That no such payment shall be made unless the dwelling acquired by the State agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for acquisition of such dwelling.

(3) Reasonable expenses, determined in accordance with paragraph (c)(3) of this section, incurred by the displaced person incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(b) *Eligibility conditions*. (1) A displaced person is eligible for the payments specified in paragraph (a) of this section if such displaced person (i) is displaced from a dwelling that (*a*) is acquired for a project, or (*b*) in connection with a project and in accordance with local code, is demolished, is declared unfit for human habitation, or requires vacation for any other reason, such as overcrowding; (ii) has actually owned and occupied such dwelling for not less than 180 days prior to the initiation of negotiations for its acquisition; (iii) purchases and occupies a replacement dwelling which is decent, safe, and sanitary, within 1 year subsequent to the date on which he received final payment from the State agency of all costs of the acquired dwelling or the date on which he moves from the acquired dwelling, whichever is later.

(2) For the purpose of this paragraph (b), a person has "owned" a dwelling if he (i) held fee title, a life estate, a 99-year lease, or a lease with not less than 50 years to run from date of acquisition of the property for the project; (ii) held an interest in a cooperative housing project which includes the rights of occupancy of a dwelling unit therein, (iii) is the contract purchaser of any of the foregoing estates or interest, or (iv) has a leasehold interest with an option to purchase.

(3) The term "initiation of negotiations" shall mean, for the purposes of this paragraph (b), the following:

(i) In the case of code enforcement, voluntary rehabilitation, improvement of private property, or demolition in connection with a project, the date such person vacates the dwelling.

(ii) In the case of a low-rent public housing project carried out by means of the turnkey method (new construction or rehabilitation), the date of the letter from the State agency notifying a developer of his tentative selection in connection with such project, except: (*a*) For turnkey new construction cases where the State agency obtains control of the site prior to tentative selection of the developer, the date of the initial written offer to the owner by or on behalf of the State agency of the amount established as just compensation in accordance with § 42.135, and (*b*) for turnkey rehabilitation cases where the State agency enters into an agreement with a developer for unidentified properties, the date of the initial written offer for each property by the developer to the owner or the date of the contract between the developer and the State agency, whichever is later.

(4) The term "Purchases", for the purpose of this paragraph (b), includes the acquisition, construction or rehabilitation of a dwelling, the purchase and rehabiliation of a substandard dwelling, the relocation or relocation and rehabilitation of an existing dwelling, or the entering into a contract to purchase, or for the construction of, a dwelling to be constructed on a site to be provided by a builder or developer or on a site which the displaced person owns or acquires for such purpose. Where completion of construction, rehabilitation, or relocation of a replacement dwelling is delayed, for reasons beyond control of the displaced person, beyond the date by which occupancy is required under this paragraph (b), the State agency may determine the date of occupancy to be the date the displaced person enters into a contract for such construction, rehabilitation, or relocation or for the purchase, upon completion, of a dwelling to be constructed or rehabilitated, if, in fact, the displaced person occupies the replacement dwelling when the construction or rehabilitation is completed.

(5) Where, for reasons of hardship and beyond the control of the displaced person, such person is unable to occupy the replacement dwelling by the date by

which occupancy is required under this paragraph (b), the State agency may determine the date of occupancy to be the date on which the displaced person became entitled to possession of such dwelling: *Provided*, That the displaced person occupies the replacement dwelling within such reasonable period of time as shall be determined by HUD.

(c) *Computation of replacement housing payment.*—(1) *Cost of comparable replacement dwelling.* The cost of a comparable replacement dwelling for purposes of paragraph (a)(1) of this section, shall be determined by the method specified in paragraph (c)(1)(i) except as provided in paragraph (c)(1)(ii) or (iii);

(i) *Comparative method.* On a case-by-case basis by determining the sales price of one or more dwellings which have been selected by the State agency or by the displaced person with the approval of the State agency, and which are most representative of the acquired dwelling unit and meet the definition of "comparable replacement housing" set out in § 42.20(b);

(ii) *Schedule method.* In accordance with a schedule as specified in § 42.160 and only under the circumstances described therein;

(iii) *Alternative method.* Where the State agency determines that neither the schedule nor comparative method is feasible in a given situation, by the use of such other method as may be approved by HUD.

(2) *Interest payments.* Interest payments shall be equal to the difference between (i) the aggregate interest and other debt service cost of the amount of the principal of the mortgage on the acquired dwelling over its remaining term at the time of acquisition, and (ii) the aggregate interest and other debt service costs paid on the mortgage on the replacement dwelling: *Provided*, That the term and amount of the mortgage on the replacement dwelling for purposes of this paragraph shall be the lesser of (iii) the remaining term and amount of the mortgage on the acquired dwelling, or (iv) the actual term and amount of the mortgage on the replacement dwelling: *And provided further*, That the amount of the debt service cost with respect to the replacement dwelling shall be the lesser of (v) the debt service cost based on the amount of the mortgage remaining on the acquired dwelling, or (vi) the debt service cost based on the actual amount of the mortgage on the replacement dwelling: *And provided further*, That such differential shall be reduced to discounted present value. In making such computation, the aggregate interest and other debt service costs with respect to the replacement dwelling shall not exceed the prevailing interest rate currently charged by the mortgage lending institutions in the general area in which the replacement dwelling is located. The discount rate for computing the present worth of future payments of increased interest shall be computed at the prevailing interest rate paid on savings deposited by commercial banks in the general area in which the replacement dwelling is located. (An example of computation of payment for increased interest cost is set forth below in the Appendix to this part.)

(3) *Expenses incident to the purchase of the replacement dwelling.* Such payments shall be the amount necessary to reimburse the displaced person for actual costs incurred by him incident to the purchase of the replacement dwelling, including (i) legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings or plats, and charges paid incident to recordation. (ii) Lender, FHA or VA appraisal. (iii) FHA or VA application fee. (iv) Certification of structural soundness. (v) Credit report. (vi) Owner's and mortgagee's evidence or assurance of title. (vii) Escrow agent's fee. (viii) Sales or transfer taxes: *Provided*, That no payment for any such expenses shall exceed the amount attributable to the purchase of a comparable dwelling, as defined by § 42.20(b) and selected in accordance with this section.

No reimbursement shall be made for any fee, cost, charge, or expense which is determined to be a part of the debt service or finance charge under Title I of the Truth in Lending Act (Pub. L. 90-321), and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System.

(d) *Limitation-joint owner-occupants of single-family dwellings.* The total amount of payment under this section to individuals who were joint owner-occupants of a single-family dwelling acquired as a result of the project shall be subject to the limitation of § 42.80(b).

(e) *Descent and distribution of replacement housing payments.* A replacement housing payment computed in accordance with this section or with § 42.95 shall be personal to the displaced person claiming such payment, and shall not be paid to his heirs or assigns to the extent to which such payment, or any portion thereof, has not been disbursed prior to the death of such displaced person (except as to the amount attributable to such displaced person's actual period of occupancy of comparable replacement housing): *Provided*, That such payment shall be fully disbursed in any case in which the displaced person was a member of a family living with him in the dwelling or dwelling unit from which he was displaced, which continues to occupy together the comparable dwelling selected in accordance with the regulations in this part: *And provided further*, That so much of a replacement housing payment as will satisfy the legal obligation of an estate in connection with the selection of a comparable dwelling by or on behalf of a deceased displaced person shall be disbursed to the estate.

§ 42.95 Replacement housing payments for tenants and certain others.

(a) *General.* A state agency shall make to a displaced person except those temporarily displaced within the meaning of § 42.65(c)(1) who satisfies the eligibility requirements of § 42.55 and the conditions of paragraph (b) of this section, a payment not to exceed $4,000 for either:

(1) An amount, computed in accordance with paragraph (c)(1) of this section, necessary to enable such displaced person to lease or rent a comparable replacement dwelling for a period not to exceed 4 years; or

(2) An amount, computed in accordance with paragraph (c)(2) of this section, necessary to enable such displaced persons to make a downpayment (including incidental expenses described in § 42.90(a)(3)) on the purchase of a comparable dwelling: *Provided*, That if such amount exceeds $2,000, such displaced person shall equally match any such amount in excess of $2,000 in making the downpayment.

(b) *Eligibility conditions.* A displaced person is eligible for the payments specified in paragraph (a) of this section if such displaced person:

(1) Has actually and lawfully occupied the dwelling from which he is displaced for a period of not less than 90 days prior to the initiation of negotiation for acquisition of such dwelling; and

(2) Is not eligible to receive a replacement housing payment for homeowners under § 42.90; and

(3) Where such displaced person was the owner of the dwelling, such dwelling is (i) acquired for a project or (ii) in connection with a project and in accordance with local code, is demolished, is declared unfit for human habitation, or requires vacation for any other reason, such as over-crowding; and

(4) In cases in which a payment specified in paragraph (a)(2) of this section is sought such displaced person shall within one year from the date of displacement purchase a replacement dwelling. For purposes of this paragraph, the term "purchase" shall be defined in accordance with § 42.90(b)(4).

(5) The term "initiation of negotiations" shall mean, for the purposes of this paragraph (b), the following:

(i) In the case of code enforcement, voluntary rehabilitation, improvement of private property, or demolition in connection with a project, the date such person vacates the dwelling.

(ii) In the case of a low-rent public housing project carried out by means of the turnkey method (new construction or rehabilitation), the date of the letter from the State agency notifying a developer of his tentative selection in connection with such project, except: (*a*) For turnkey new construction cases where the State agency obtains control of the site prior to tentative selection of the developer, the date of the initial written offer to the owner by or on behalf of the State agency of the amount established as just compensation in accordance with § 42.135, and (*b*) for turnkey rehabilitation cases where the State agency enters into an agreement with a developer for unidentfied properties, the date of the

initial written offer for each property by the developer to the owner or the date of the contract between the developer and the State agency, which ever is later.

(c) *Computation of payment.*

(1) *Rentals.* The amount of payment necessary to lease or rent a comparable replacement dwelling, as specified under paragraph (a)(1) of this section, shall be computed by subtracting 48 times the base monthly rental of the displaced person (as determined in accordance with paragraph (c)(1)(i) of this section), from 48 times the comparable monthly rental for a replacement dwelling (as determined in accordance with paragraph (c)(1)(ii) of this section): *Provided,* That in no case may such amount exceed the difference between 48 times the base monthly rental as determined in accordance with this paragraph and 48 times the monthly rental actually required for the comparable dwelling occupied by the displaced person.

(i) *Base monthly rental.* The base monthly rental shall be the average monthly rental paid by the displaced person for the 3-month period prior to initiation of negotiations: *Provided,* That the base monthly rental shall be the average monthly rental during such 3-month period for similar dwellings in an area not generally less desirable than that of the dwelling from which such person was displaced (hereinafter referred to as the economic rent) the displaced person was the owner of the dwelling from which he was displaced; *And provided further,* That where necessary to satisfy the definition under § 42.20(b)(5) of comparable replacement housing as being within the financial means of the displaced person, the amount of such base monthly rental shall not exceed 25 percent of such person's monthly income.

(ii) *Comparable monthly rental.* The comparable monthly rental shall be the amount of rental determined by the State agency by the method specified in paragraph (a), except as provided in paragraph (b) or (c);

(a) *Comparative method.* On a case by case basis by determining the average month's rent for one or more dwellings which have been selected by the State agency or by the displaced person with the approval of the State agency, and which are most representative of the acquired dwelling and meet the definition of "comparable replacement dwelling" set out in § 42.20(b);

(b) *Schedule method.* In accordance with a schedule as specified in § 42.160, and only under the circumstances described therein;

(c) *Alternative method.* Where the State agency determines that neither the schedule nor comparative method is feasible in a given situation, by the use of such other method as may be approved by HUD.

(2) *Downpayment.* The downpayment for which a payment specified under paragraph (a)(2) of this section may be made, together with any matching share which may be required, shall not exceed (i) the amount ordinarily required for a downpayment for the purchase of a comparable dwelling where such purchase is financed by a conventional loan, and (ii) expenses incident to the purchase of a replacement dwelling computed in accordance with § 42.90(c)(3): *Provided,* That if the amount actually required of the displaced person as a downpayment for the purchase of a comparable dwelling is more than the amount specified in paragraph (c)(2)(i) of this section, such amount shall be the amount which the State agency determines to be necessary for such downpayment. The full amount of a downpayment under this section shall be applied to the purchase price of the replacement dwelling and shall be shown on the closing statement.

(d) *Limitation on payments and disbursement of payments.*—(1) *Joint occupants of single-family dwellings.* The total amount of payment under this section to individuals who were joint occupants of a single-family dwelling acquired for the project shall be subject to the limitation of § 42.80(b).

(2) *Rental replacement housing for displaced owner-occupant.* A displaced person who is not eligible for a replacement housing payment under § 42.90 because he elects to rent rather than purchase a replacement dwelling, and who meets the eligibility conditions specified in paragraph (b) of this section, is eligible for the payment specified in paragraph (a)(1) of this section.

(3) *Rental replacement housing payments for dependents.* Notwithstanding the provisions of paragraph (c) of this section, the amount of payments necessary to lease or rent a comparable replacement dwelling, as specified under paragraph (a)(1) of this section, shall, in the case of displaced persons designated dependents in accordance with this subparagraph, be limited to the difference between 48 times the rental actually paid for the unit previously occupied by the displaced person/and 48 times the monthly rental actually required for the comparable dwelling presently occupied or to be occupied by the displaced person. For purposes of this subparagraph, a "dependent" shall be any person who derives fifty-one percent or more of his income in the form of gifts from another private person or from any academic scholarship or stipend. Full-time students and persons residing in hospitals, sanitariums and similar institutions shall be presumed to be dependents: *Provided,* That any displaced person presumed to be a dependent may rebut this presumption by demonstrating that fifty percent or more of his income is derived from sources other than gifts from another private person or academic scholarships or stipends.

(e) *Disbursement.* The Secretary shall have the authority to prescribe the manner for the disbursement of payments under this section and may from time to time establish procedures governing such disbursements.

Subpart C—Relocation Assistance Advisory Program and Assurance of Adequate Replacement Housing

§ 42.100 Purpose.

The purpose of this subpart is to set forth requirements with respect to the development and implementation of a relocation assistance advisory program for the provision of specified services, and to prescribe the obligation of the State agency not to displace, or cause the displacement of any person from his dwelling without adequate notice and unless adequate replacement housing is available.

§ 42.105 Relocation assistance advisory program.

State agencies shall develop and implement a relocation assistance advisory program which satisfies the requirements of § 42.115 and of Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968. Such program shall be administered so as to provide advisory services which offer maximum assistance, to minimize the hardship of displacement, and to assure that (a) all persons displaced from their dwellings are relocated into housing meeting the criteria described in § 42.120, and (b) all persons displaced from their places of business or farm operations are assisted in reestablishing with a minimum of delay and loss of earnings.

§ 42.110 Eligibility for services.

Relocation assistance advisory services shall be available to:

(a) Any person who occupies property from which he will be displaced for a project or whose personal property will be so displaced;

(b) Any person who occupies property immediately adjacent to the project and who is determined by the State agency to be caused substantial economic injury or substantial injury or threat to his health or personal safety of the project; and

(c) Any person who moves from real property or moves his personal property from real property, because he is displaced from other real property on which he conducts a business or farm operation.

For purposes of § 42.110, any person or persons described in paragraphs (a) through (c) of this section shall be an "eligible person."

§ 42.115 Minimum requirements of relocation assistance advisory program.

Each relocation assistance advisory program undertaken pursuant to § 42.105 shall include, at a minimum, such measures, facilities or services as may be necessary or appropriate in order to:

(a) Fully inform eligible persons under this subpart at the earliest possible date as to the availability of relocation payments and assistance and the eligibility requirements therefor, as well as the procedures for obtaining such payments and assistance;

(b) Through direct personal interview, determine the extent of the need of each such eligible person for relocation assistance;

(c) Provide current and continuing information on the availability, prices and rentals of comparable sales and rental housing, and of comparable commercial properties and locations;

(d) Assure that, within a reasonable period of time prior to displacement, there will be available adequate replacement housing meeting the criteria described in § 42.120 equal in number to the number of, and available to, such eligible persons who will be displaced;

(e) Assist any such eligible person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(f) Supply to such eligible persons information concerning Federal and State housing programs, disaster loan and other programs administered by The Small Business Administration, and other Federal or State programs, offering assistance to displaced persons;

(g) Provide other advisory services to such eligible persons, such as counselling and referrals with regard to housing financing, employment, training, health, welfare, and other assistance, in order to minimize hardships to such persons;

(h) Assist each such eligible person in completing any required applications and forms;

(i) Inform all persons who are expected to be displaced by acquisition as to the eviction policies to be pursued in carrying out the project;

(j) Insure adequate inspection of all relocation housing resources utilized by displaced persons prior to and subsequent to occupancy by such persons; and

(k) Provide any services required to insure that the relocation process does not result in different or separate treatment on account of race, color, religion, national origin, sex or source of income.

§ 42.120 Requirement of adequate replacement housing prior to displacement; temporary moves; notices to displacees.

(a) *Availability.* No person shall be required to move from his dwelling on account of a project unless within a reasonable period of time prior to displacement there are available to such person replacement dwellings which are:

(1) Decent, safe and sanitary;

(2) Demonstrated to be open to all persons regardless of race, color, religion, or national origin in a manner consistent with Title VIII of the Civil Rights Act of 1968, and available without discrimination based on sex or source of income;

(3) In an area not subjected to unreasonable adverse environmental conditions from either natural or manmade sources, and in an area not generally less desirable nor less accessible with regard to public utilities and services, schools, churches, recreation, transportation, and other public and commercial facilities; and

(4) Reasonably accessible to the displaced person's place of employment or potential employment;

(5) Adequate in size, facilities and amenities to accommodate the needs of the displaced person and his family; and

(6) Available on the market at a rental or price within the financial means of the displaced person, but not exceeding a rental equal to 25 percent of his income or a purchase price of 2 to 2½ times his annual income.

(b) *Use of temporary housing.* Subject to the prior approval of HUD, a person to be displaced from a dwelling for a project may be provided temporary housing (1) in cases of emergency or where such person is subject to economic hardship or conditions hazardous to his health or safety, or (2) in extraordinary situations where in the absence of such temporary move, the progress of the project would be substantially delayed, or (3) in cases in which the HUD-approved project plan anticipates moves back into permanent accommodations in the project or program area, or (4) where the displacement is caused by code enforcement activities which do not necessitate such person's permanent relocation: *Provided*, That the following conditions are satisfied:

(i) Such temporary housing is decent, safe, and sanitary and within the financial means of such person;

(ii) Such temporary housing is demonstrated to be open to all persons regardless of race, color, religion, or national origin in a manner consistent with Title VIII of the Civil Rights Act of 1968, and available without discrimination based on sex or source of income;

(iii) The State agency has determined that within 12 months of the date of the temporary move or such longer period as HUD may approve, replacement housing meeting the criteria specified in paragraph (a) of this section will be available for occupancy by such persons.

(iv) Prior to the temporary move, such person shall be given a written assurance that (*a*) replacement housing meeting the criteria specified in paragraph (a) of this section will be available at the earliest possible time, but in any event not later than the date provided under section (b)(4)(*a*)(2) of this paragraph; (*b*) to the extent practicable, such replacement housing will be made available to such person on a priority basis; and (*c*) such person may, notwithstanding the provisions of paragraph (b)(2) of this section and without prejudicing any rights under paragraph (b)(1) of this section with respect to available replacement housing, reject offers of replacement housing in the expectation of the availability of replacement housing by the time such person would have ordinarily been displaced in accordance with the construction or development schedule of the project.

(c) *Use of temporary facilities by business concerns and nonprofit organizations.* Subject to the prior approval of HUD, a person to be displaced from a business or nonprofit organization may be provided a temporary facility (1) in cases of emergency or where such person is subject to economic hardship or conditions hazardous to his health or safety, or (2) in extraordinary situations where in the absence of such temporary move, the progress of the project would be substantially delayed, or (3) in cases in which the HUD-approved project plan anticipates moves back into permanent accommodations in the project or program area, or (4) where the displacement is caused by code enforcement activities which do not necessitate the permanent relocation of the business or non-profit organization.

(d) *Continuing obligations of State agency.* The State agency shall continue to furnish to all persons provided temporary housing or facilities under this section all relocation assistance provided for under this Subpart C.

(e) *Preservation of eligibility.* The eligibility of any person for a payment specified under any section of the regulations in this part shall not be affected by a move to temporary housing or facilities under this section.

(f) *Notice.* No person lawfully occupying real property shall be required to move from a dwelling or to move his business or farm operation, without at least 90 days' written notice from the State agency acquiring the real property or ordering its demolition: *Provided*, That a shorter period of notice may be given when the State agency determines, with HUD concurrence, that a 90-day period is impracticable. In addition, State agencies shall simultaneously notify each individual tenant to be displaced as well as each owner. Where persons are expected to be displaced by code enforcement, voluntary rehabilitation or the improvement of private properties as defined in § 42.55 (e) and (f), the State agency shall take all reasonable steps to urge and assure that owners of real property give tenants to be displaced at least 90 days' written notice that the activities will take place or that the premises must be vacated (except where the continued occupancy of the dwelling constitutes a substantial danger to the health or safety of the occupants). This policy shall be included by the State agency in all notices served on property owners requiring that code enforcement work be done.

(g) *Waiver.* The requirement in paragraph (a) of this section may be waived only by the Secretary of Housing and Urban Development under the following circumstances:

(1) When displacement is necessitated by a major disaster as defined in section 102(1) of the "Disaster Relief Act of 1970" (84 Stat. 1745, Pub. L. 91-606); or

(2) During periods of Presidentially declared national emergencies; or

(3) Such other extraordinary or emergency situations where immediate possession of real property is of crucial importance.

§ 42.125 Coordination of relocation activities.

State agencies shall contact other Federal, State, and local governmental

agencies to determine the extent of present and proposed governmental actions in or affecting the locality (or localities) which may affect the carrying out of their relocation assistance program and the availability of housing resources. State agencies shall be required to stage the project activities in a manner which assures the availability of a sufficient supply of adequate replacement housing meeting requirements of § 42.120(a), giving consideration to the relocation needs of other programs being carried out in a locality and the progress of construction or rehabilitation of replacement dwellings or other relocation accommodations. In addition, State agencies should cooperate with other displacing agencies to insure that relocation assistance and relocation payments will be administered in a manner consistent with the promotion of uniform treatment of displacees from all such programs.

Subpart D—Real Property Acquisition

§ 42.130 Purpose.

The purpose of this subpart is to set forth the practices to be followed with respect to acquisition of real property for a project, and to provide for payments to property owners for expenses incidental to transfer of title and, in limited situations, payments for litigation expenses (see § 42.25(a)(2) for applicability of this Subpart to the low-rent public housing program).

§ 42.135 Real property acquisition practices.

In order to carry out the purpose of the regulations in this Part, as set out in § 42.10(b) with respect to the acquisition of real property, the State agency shall, to the greatest extent practicable under State law, be guided by the following policies in acquiring real property for any project:

(a) The State agency shall make every reasonable effort to acquire such real property expeditiously by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner or his representative designated in writing shall be given an opportunity, by reasonable advance written notice or otherwise, to accompany the appraiser during his inspection of the property. The Secretary of HUD shall designate the minimum required number of appraisals to be so obtained.

(c) Before the initiation of negotiations for the acquisition of such real property, the State agency shall establish an amount it believes to be just compensation therefor. Such amount shall be (1) the State agency's review appraiser's determination of the fair market value of the property, or (2) if HUD concurrence is required, the fair market value as concurred in by HUD, or (3) if required by specific HUD program regulations, the amount determined by HUD to be just compensation. The date of valuation ordinarily will be the date of the appraisal review.

(d) Promptly after the amount of just compensation is established in accordance with this section, the State agency shall offer to acquire the property for the full amount so established, and shall provide the owner with a written Statement of the Basis for Determination of Just Compensation (the Statement), and summary of the basis for such amount. The Statement shall include, as a minimum, the following:

(1) An accurate legal description and location identification of the real property and the interest thereon to be acquired.

(2) An inventory identifying the buildings, structures, fixtures, and other improvements, including appurtenant removable building equipment, which are considered to be part of the real property for which the offer of just compensation is made, and an identification of the owner of each item of the inventory not owned by the owner of the land.

(3) A recital of the amount of the offer and a statement that such amount:

(i) Is the full amount believed by the State agency to be just compensation for the property;

(ii) Is not less than the approved appraisal of the fair market value of the property;

(iii) Is based on the State agency's inspection of the property and its consideration of a stated number of appraisals of the property made independently by competent professional appraisers, or is based on the amount determined by HUD to be just compensation.

(iv) Disregards any decrease or increase in the fair market value caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner;

(v) Does not reflect any consideration of or allowance for any relocation assistance and payments which the owner is entitled to receive under Title II of the Act or for the State agency's agreement to pay certain settlement costs.

(e) If only a portion of the property of an owner is to be acquired, the Statement shall also set forth the basis for the determination of just compensation, i.e., the amount by which the fair market value of the property in its entirety belonging to the owner exceeds the fair market value of the remainder. The recognized definition of the term "fair market value" shall be set forth by the State agency in the Statement.

(f) If only a portion of the property is to be acquired, an additional statement must be provided the property owner, to be identified as being for information purposes only and not constituting the basis for the determination of just compensation, which shall allocate the total estimated just compensation for the partial taking to: (1) an amount representing estimated just compensation for the real property to be acquired, which compensation shall be the amount considered to be the fair market value of the part or interest to be acquired as part of the whole property, and (2) an amount representing any net damages or benefits to the remaining property.

(g) If there are separately held interests in the real property to be acquired, the Statement shall include an apportionment of the total just compensation for each such interest to be acquired.

(h) If any buildings, structures, fixtures, or other improvements, comprising part of the real property, have been identified as being the property of a tenant notwithstanding the right or obligation to remove them at the expiration of his term, the total just compensation for the real property, including the property of such tenant, shall be apportioned to the land owner and to the tenant so that the amount apportioned to the tenant's improvements to the real propery will be the greater of:

(1) The amount which the tenant's improvements contribute to the fair market value of the real property to be acquired; or

(2) The fair market value of the tenant's improvements for removal from the real property.

An explanation of such apportionment shall be included in the statement.

(i) If the State agency acquires any interest in real property, it shall acquire at least an equal interest in all buildings, structures, fixtures, or other improvements located thereon and which it requires to be removed from the real property or which it determines will be adversely affected by the use to which the real property will be put.

(j) Payment under this section shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the real property involved disclaims all interest in the improvements of the tenant and the tenant assigns, transfers, and releases to the State agency all his right, title, and interest in and to such improvements. Nothing in this section shall deprive the tenant of the right to reject payment thereunder and to obtain payment of just compensation for his property interest as otherwise provided for by applicable law.

(k) An owner, or his written designee, shall be afforded an opportunity to accompany each appraiser during the inspection of the property.

(l) If the acquisition of any part of the property would leave an owner with an uneconomic remnant, the State agency shall offer to acquire the entire property.

(m) Construction or development of a project shall be so scheduled that no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by § 42.120(a) will be available) or to move his business or farm operation, without at least 90 days' written notice from the State agency of the date by which such move is required: *Provided*, That shorter notice may be given

where HUD determines that such 90-day notice is impracticable.

(n) If arrangements are made to rent the property to the owner, or his tenant, for a short term, or for a period subject to termination by the State agency on short notice, the rental shall not exceed the lesser of:

(1) The fair rental value of the property to a short-term occupier;

(2) The pro rata portion of the fair rental value for a typical rental period; or

(3) If the owner or his tenant is an occupant of the property as a dwelling, twenty-five (25) percent of his income.

(o) The State agency shall make every reasonable effort to discuss with the owner its offer to purchase his real property, including all relevant terms and conditions. The owner shall be given reasonable opportunity to present material which he believes to be relevant as to the question of value and to suggest modification in the proposed terms and conditions of the purchase, and the State agency shall carefully consider the owner's presentation.

(p) If the evidence presented by an owner or a material change in the character on condition of the property indicates the need for new appraisal evidence, or if a significant delay has occurred since the time of an appraisal, the Agency shall have the appraisal updated or obtain a new appraisal. If a modification in the Agency's determination of just compensation is warranted, an appropriate price adjustment shall be made and the new amount determined to be just compensation shall be promptly offered in writing to the owner.

(q) No owner shall be required to surrender possession of real property before the State agency pays the agreed purchase price, or deposits with the court in which the State agency has instituted a condemnation proceeding for such property, for the benefit of the owner, an amount not less than the fair market value of such property, determined in accordance with paragraph (c) of this section, or the amount of the award of compensation in the condemnation proceeding for such property.

(r) In no event shall the State agency either advance the time of condemnation or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action which is coercive or misleading in nature (including the offer of payments under the regulations in this part) in order to compel or induce an agreement on the price to be paid for the property.

(s) If any interest in real property is to be acquired by exercise of the power of eminent domain, the State agency shall institute formal condemnation proceedings. No State agency shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(t) In any case in which a notice is served by the State agency of its intention to acquire real property, initiation of negotiations shall occur within 90 days of the service of such notice of intention.

§ 42.136 Notice of land acquisition procedures.

(a) At the time the State agency notifies an owner of its intention to acquire the real property, it shall furnish him a written Notice of Land Acquisition Procedures, describing, in nontechnical terms, the State agency's acquisition procedures and the principal rights and options available to such owner.

(b) Such Notice shall include the following:

(1) A description of the basic objectives of the State agency's land acquisition program and a reference to the availability of the State agency's statement covering relocation benefits for which an owner-occupant may be eligible;

(2) A statement that the owner or his representative designated in writing shall be given the opportunity to accompany each appraiser during his inspection of the property;

(3) A statement that if the acquisition of any part of his real property would leave him with an uneconomic remnant, the agency will offer to acquire the entire property;

(4) A statement that if the owner is not satisfied with the State agency's offer of just compensation, he may refuse to accept it and that if he can provide evidence concerning value or damage that warrants a change in the State agency's determination of just compensation, the price will be adjusted accordingly, and that if a voluntary agreement cannot be reached, the State agency will institute a formal condemnation proceeding against the property, depositing in the court the full amount of the State agency's estimate of just compensation;

(5) A statement identifying settlement and related costs that will be paid by the State agency;

(6) A statement that construction or development of a project shall be so scheduled that no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by § 42.120(a) will be available) or to move his business or farm operation, without at least 90 days' written notice from the State agency of the date by which such move is required: *Provided*, That shorter notice may be given where HUD determines that such 90-day notice is impracticable.

(7) A statement that if arrangements are made to rent the property to an owner or his tenant for a short term or for a period subject to temination by the Agency on short notice, the rental will not exceed the lesser of:

(i) The fair rental value of the property to a short-term occupier;

(ii) The prorata portion of the fair rental value for a typical rental period; or

(iii) If the owner or his tenant is an occupant of the property as a dwelling, twenty-five (25) percent of his income.

§ 42.137 Notice of State agency's determination not to acquire.

Whenever a State agency which has issued a written notice of its intent to acquire or a firm offer to acquire subsequently determines not to acquire said acquire or a firm offer to acquire said property, the State agency shall serve a written notice on the owner, all persons occupying the property and any other person potentially eligible for relocation payments and assistance. This notice shall state that the State agency has determined not to acquire the property and that any person moving from the premises thereafter will not be eligible for relocation payments and assistance. This notice shall be served no later than 10 days from the date of the State agency's determination not to acquire.

§ 42.140 Payments—expenses incidental to transfer of title.

(a) *General.* The State agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is earlier, shall reimburse the owner, to the extent the State agency deems fair and reasonable, for expenses such owner necessarily incurred for:

(1) Recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the State agency;

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

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

(b) *Documentation in support of a claim.* If real property is acquired by condemnation, a claim for payment under paragraph (a) of this section shall be submitted to the State agency and supported by such documentation as my be required by the State agency. If the real property is acquired by purchase, payment shall be made at settlemay be required by the State agency. If ment of the acquisition and accounted for in the settlement statement, on the basis of such documentation as may be required by the State agency.

(c) *Time for filing claims.* Each such claim shall be submitted to the State agency within a period of six months after the acquisition of the property, the publication of the regulations in this part, or the filing of assurances in accordance with § 42.30, whichever is later.

§ 42.145 Payments—litigation expenses.

(a) *General.* The State agency shall reimburse the owner of any real proprety for the owner's reasonable costs, disbursements, and expenses of litigation, including attorney, appraisal, and

engineering fees, actually incurred because of condemnation proceedings, if:

(1) In a condemnation proceeding instituted by the State agency to acquire such real property for a project, the final judgment of the court having jurisdiction over such proceeding is that the State agency cannot acquire the real property by condemnation; or

(2) Such proceeding is abandoned by the State agency other than pursuant to an agreed-upon settlement of the proposed acquisition of the property by direct purchase; or

(3) A court of competent jurisdiction renders a judgment in favor of the owner as plaintiff in an inverse condemnation proceeding or the State agency effects a settlement of such proceeding.

(b) *Limitations.* No payment under paragraph (a) of this section shall be made unless HUD is satisfied that the costs involved are reasonable and directly and necessarily related to such condemnation proceedings.

(c) *Documentation in support of a claim.* A claim for a payment under paragraph (a) of this section shall be submitted to the State agency and HUD.

(d) *Time for filing claims.* Each claim shall be submitted to the State agency within a period of six months after final judgment in accordance with paragraph (a)(1) or (3) of this section, or the abandonment of a condemnation proceeding by a State agency, whichever is applicable.

§ 42.150 Effect upon property acquisition.

(a) The provisions of this Subpart D create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

(b) Nothing in these regulations shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of value or of damage not in existence immediately prior to January 2, 1971, the date of enactment of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Subpart E—Administration

§ 42.155 Purpose.

The purpose of this subpart is to set forth the provisions relating to the overall administration of the regulations in this part.

§ 42.160 Schedules of prices of comparable replacement dwellings.

In order to promote the uniform administration of relocation payments where several federally-assisted projects or programs are causing displacement in a single locality, or in cases in which a State agency otherwise determines that the use of a schedule is desirable, it may, with HUD concurrence, make use of schedules of representative price ranges of comparable replacement dwellings in the locality. Such schedules shall be used for determining the amount of replacement housing payments under §§ 42.90 (a)(1) and (c)(1) and 42.95 (a)(2) and (c)(2) and a separate schedule for determining the amount of payments under §§ 42.95 (a)(1) and (c)(1) of this Part. In all cases in which the State agency is required to do so, it shall submit its schedules for HUD approval. The schedules shall be consistent with the regulations in Subpart C of this Part; shall be kept current; shall, to the maximum extent possible, reflect the costs set forth in schedules used by other State agencies in the locality; and shall be available in written form to all persons in the office of the State agency. If there is an insufficient supply of comparable replacement housing meeting the definition of § 42.20(b), new, rehabilitated or more recently constructed housing, including publicly assisted housing, shall be used in developing the schedules.

§ 42.165 Notice to persons in project area.

The State agency shall furnish, at the earliest possible date, to all persons who own or occupy property within a project area (or the area of the federally-assisted activities) and who are anticipated to be displaced, a notice or information statement advising them of (a) the availability of payments under these regulations to eligible persons, (b) the office where the conditions under which such payments will be made are available for inspection, and (c) the earliest date on which such persons may move and still qualify as a displaced person. The State agency shall take reasonable steps to publicize this information in language(s) and in a fashion most likely to be understood by the persons to be affected, such as by using the local media, posters in public places and other forms of public communication, and (d) such other information as may be prescribed by HUD.

§ 42.166 Manner of Notice.

Any notice required by this Part shall be personally served or sent by certified or registered first-class mail (return receipt requested).

§ 42.170 Review of claims.

The State agency is initially responsible for determining the eligibility of a claim for, and the amount of, any payment under the regulations in this part and shall maintain in its files complete and proper documentation supporting the determination. The determination on each claim shall be made or approved either by the governing body of the agency or by the principal executive officer of the agency or his duly authorized designee.

§ 42.175 Prompt payment.

A payment shall be made by the State agency as promptly as possible after a person's eligibility has been determined in accordance with the regulations in this part.

§ 42.180 Agency setoff against claim.

The State agency may set off against the claim of an otherwise eligible person any financial claim the agency may have against the person arising out of the use of the real property, subject to the qualification set forth below. Before taking any setoff action, the State agency shall notify the displaced person of its intention to setoff the claim and shall advise the person that he may within 30 days file a statement denying or disputing the claim. If such statement is filed by the person, the State agency may tentatively set off the claim if it institutes within 30 days and diligently prosecutes a judicial action to obtain a judgment for the claim. Once the State agency obtains a judgment for the claim, the setoff will be deemed final. If judicial proceedings are instituted and the State agency is denied a judgment or if the State agency does not institute and prosecute proceedings as set forth above, the State agency shall pay the full amount of the relocation claim if otherwise eligible. The cost of removal of personal property shall not be considered as an offsetting charge against the claim of an otherwise eligible person.

§ 42.185 Accounts and records.

Accounts and records shall be subject to inspection or audit at all reasonable times by HUD. Records pertaining to eligibility for payments, including all claims, receipted bills, or other documentation in support of a claim, and records pertaining to action on a claim, shall be retained by the State agency for not less than 3 years after the completion of the project. Timely and complete reports shall be submitted in accordance with HUD requirements.

§ 42.190 Payments not to be considered as income.

No payment received under these regulations by a displaced person shall be considered as income for the purposes of the Internal Revenue Code of 1954; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

§ 42.195 Displacement in connection with more than one project.

No person shall be entitled to more than one payment under each of §§ 42.65–42.95 and §§ 42.140 and 42.145 on account of a single displacement or a single acquisition, notwithstanding that the displacement or acquisition is in connection with more than one Federal or federally assisted project.

§ 42.200 Policies and requirements of HUD.

All determinations or other actions by the State agency provided for under the regulations in this part shall be undertaken in accordance with the policies and requirements of HUD as issued from time to time.

§ 42.205 Waivers.

A waiver of any section of these regulations not required by law, may be

authorized only with respect to a particular claim and by the Secretary of Housing and Urban Development or his authorized designee after such claim has been reviewed by HUD: *Provided*, That the limitations provided in § 42.60 with respect to the time of filing of claims may be waived by the State agency for good cause.

APPENDIX *A.—Example of computation of payment for increased interest cost under § 42.90(c)(2)*[1]

Dwelling to be acquired:	
Acquisition price	$12,000.00
Existing mortgage:	
Interest rate (percent)	6
Remaining term (years)	10
Remaining principal balance	$7,295.93
Monthly principal and interest payment	$81.02
Owner's equity	$4,704.07
Available comparable decent, safe, and sanitary dwelling:	
Price	$15,000.00
Prevailing interest rate (percent)	8
Supplemental payment for replacement housing cost differential	$3,000.00
Payment for increased interest cost	$700.00
Computation of payment for increased interest cost:	
Monthly principal and interest cost for new mortgage of $7,295.93 for 10 years at 8 percent interest	$88.57
Monthly principal and interest cost for existing mortgage of $7,295.93—for 10 years at 6 percent interest	$81.02
Monthly interest difference	$7.55
Present worth of $7.55 monthly interest difference for 10 years, discounted at the assumed interest rate paid on savings deposits, at 5 percent	$700.00
Increased interest cost payment due property owner	$700.00

[1] The example of computation of payment for increased interest cost set out above appears on p. 10 of H. Rept. No. 91-1656, 91st Cong., 2d sess. (Report of the Committee on Public Works, House of Representatives accompanying S. 1, the proposed Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970).

[FR Doc.73-20607 Filed 9-26-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 73-214P]

DRAWBRIDGES ACROSS NAVIGABLE WATERS IN LOUISIANA

Notice of Proposed Rulemaking

The Coast Guard is considering amending the regulations for 31 highway drawbridges in Louisiana to allow closed periods from 9 p.m. to 5 a.m., however, the draws would open during this period if at least 12 hours notice is given. This is being considered because of limited openings during this period. All of these bridges are presently required to open on signal.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander (oan), Eighth Coast Guard District, Customhouse, New Orleans, Louisiana, 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons to the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before October 30, 1973, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new § 117.545 immediately after § 117.540 to read as follows:

§ 117.545 Bridges in Louisiana where constant attendance is not required.

(a) The following bridges shall open on signal from 5 a.m. to 9 p.m.

U.S. 90 drawbridge, West Penn River, mile 7.9.
S-433 drawbridge, Liberty Bayou, mile 2.0.
S-433 drawbridge, Bonfouca Bayou, mile 7.0.
S-22 drawbridge, Amile River, mile 6.0.
U.S. 90 drawbridge, Houma Canal, mile 1.7.
S-631 drawbridge, Des Allemands Bayou mile 13.9.
S-58 drawbridge, Little (Petit) Caillou Bayou, mile 25.7.
S-24 drawbridge, Little (Petit) Caillou Bayou, mile 33.7.
S-3087 drawbridge, Terrebonne Bayou, mile 33.9.
U.S. 90 drawbridge, Lafourche Bayou, mile 58.2.
S-829-18 drawbridge, Vermilion River, mile 22.4.
S-14 drawbridge, Vermilion River, mile 25.4.
S-14 drawbridge, Vermilion River, mile 26.0.
S-92 drawbridge, Vermilion River, mile 37.6.
S-733 drawbridge, Vermilion River, mile 41.6.
S-3073 drawbridge, Vermilion River, mile 44.9.
S-3069 drawbridge, Teche Bayou, mile 1.72.
S-322 drawbridge, Teche Bayou, mile 19.8.
S-323 drawbridge, Teche Bayou, mile 22.3.
S-324 drawbridge, Teche Bayou, mile 32.5.
S-670 drawbridge, Teche Bayou, mile 37.0.
S-671 drawbridge, Teche Bayou, mile 41.8.
S-320 drawbridge, Teche Bayou, mile 48.7.
S-344 drawbridge, Teche Bayou, mile 62.5.
S-86 drawbridge, Teche Bayou, mile 69.0.
S-96 drawbridge, Teche Bayou, mile 75.2.
S-350 drawbridge, Teche Bayou, mile 82.0.
S-330 drawbridge, Tigre Bayou, mile 2.3.
S-82 drawbridge, Superior Oil Co. Canal.
S-83 drawbridge, Patout Bayou, mile 0.4.

(b) From 9 p.m. to 5 a.m. the draws of the bridges listed in paragraph (a) shall open on signal if at least 12 hours notice is given, however, constant attendance is not required from 9 p.m. to 5 a.m.

(c) In all other respects, the regulations contained in § 117.240 of this part shall govern the operation of these bridges.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655 (g)(2)) 49(c)(5), 33 CFR.)

Dated September 19, 1973.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.73-20584 Filed 9-26-73;8:45 am]

[46 CFR Part 160]

[CGD 73-160P]

INFLATABLE LIFERAFTS

Notice of Proposed Rulemaking

The Coast Guard is considering amending the specifications for inflatable liferafts by outlining more explicitly the conditions under which they are tested to verify their inflation capability after exposure to various temperatures.

Interested persons may submit written data, views, or arguments concerning this notice to the Commandant (G-CMC/82), U.S. Coast Guard, Washington, D.C. 20590. Written comments should include the docket number of this notice (CGD 73-160), the name and address of the person submitting the comments, the section number of the proposal to which the comment is addressed, any specific wording recommended, and the reason for any recommended change.

Comments received on or before October 31, 1973, will be fully considered and evaluated before final action is taken on this proposal. Copies of all written communications received will be available for examination in Room 8234, Commandant (G-CMC/82), U.S. Coast Guard, Washington, D.C. both before and after the closing date for the receipt of comments. The proposal contained in this document may be changed in the light of the comments received. However, it is anticipated that the effective date of the final rule will be 1 July 1974.

For the past three years, the Coast Guard has been investigating the performance of marine liferafts at low temperatures. The investigation was initiated as part of a review of the in-service performance of liferafts and other lifesaving appliances. In anticipation of more service in cold regions together with consideration of proposals under study by the Intergovernmental Maritime Consultative Organization and several vessel operators and designers to fit only liferafts on vessels as primary lifesaving appliances, performance of the rafts at low temperatures was simulated in laboratory climatic chambers. These tests also were used to measure performance against the results of SOLAS 1960 for inflation at −22°F.

The first series of tests conducted by the Coast Guard in December 1970 offerred the following conclusions:

1. The effect of low temperature on the inflation of a CO_2 raft begins at a level between 15°F and 0°F.

2. The rafts presently approved will have to be altered if they are to fully comply with the intent of SOLAS 1960 or be used in polar regions.

A second series of tests conducted by the Coast Guard in March 1973 supplemented the above as follows:

1. For the rafts tested, the present inflation cylinder gas quantities and ratios are inadequate to achieve a satisfactory inflation at −22°F.

2. It is technically and economically feasible to achieve raft design shape in a period of 3 minutes by modifying existing installed raft cylinders.

3. The present accepted 24-hour period for the low temperature exposure of a raft is not sufficient in all cases. Either this period should be extended or thermocouples employed to achieve at the interior of a raft the −22°F temperature required in the SOLAS convention.

In view of the intended usage of liferafts and the results of the tests conducted by the U.S. Coast Guard, it is proposed to amend Subchapter Q, specifications, of Title 46, Code of Federal Regulations as follows:

1. Section 160.051–5(c)(4) is amended by revising the sixth sentence which follows the sentence ending with the words "required to be fully erect" and § 160.051–5 is amended by revising subparagraph (e)(11) to read as follows:

§ 160.051–5 Inspections and tests.

* * * * *

(c) * * *

(4) *Inflation Test.* * * * required to be fully erect. The specimen shall reach its designed working pressure with the canopy fully erect in not more than 1 minute 30 seconds after the first carbon dioxide inflation valve is operated. * * *

* * * * *

(e) * * *

(11) *Temperature Exposure.* (i) *General.* The packed raft must be exposed in a test chamber to a temperature of −22° F. inflated and then repacked and exposed to a temperature of 150° F and inflated.

(ii) *Procedure.* (*a*) Thermocouples or similar instrumentation must be located at the inflation cylinders and at the center of the packed raft. (*b*) The packed raft must remain exposed in the chamber until the test temperature has been reached. (*c*) Inflation must take place in the test chamber. However, for elevated temperature test, raft may be removed from chamber if inflation begins within one minute of its removal.

(iii) *Results.* (*a*) The raft must achieve design shape with its canopy erect within three minutes after exposure to the low temperature. (*b*) The raft fabric may not show signs of cracking, tackiness, or slipping seams and must be in all respects ready for use after exposure to the elevated temperature.

* * * * *

(46 U.S.C. 375, 416, 49 U.S.C. 1655(b)); 49 CFR 1.4(b) and 1.46(b).)

D. H. CLIFTON,
Captain, U.S. Coast Guard,
Acting Chief, Office of Merchant Marine Safety.

SEPTEMBER 21, 1973.

[FR Doc.73-20585 Filed 9-26-73;8:45 am]

Federal Aviation Administration

[14 CFR Parts 25, 121]

[Docket No. 10460; Reference Notice 72-7]

PILOT COMPARTMENT SECURITY: LARGE TURBOJET POWERED PASSENGER-CARRYING AIRPLANES

Withdrawal of Notice of Proposed Rule Making

The purpose of this notice is to withdraw Notice 72–7, published in the FEDERAL REGISTER on March 17, 1972 (37 FR 5638), in which the FAA solicited comments on proposed amendments of Parts 25 and 121 of the Federal Aviation Regulations that would prescribe requirements to improve the security of the pilot compartment on all large turbojet powered passenger-carrying airplanes operated under Part 121. The FAA received nine comments favoring adoption of the proposed regulations and 20 comments in opposition to the proposal.

A number of the commentators supporting the proposals did so simply for the reason that they believe anything should be done that might possibly stop hijacking. Several airline captains indicated that they would like the added protection offered by the proposed regulations.

The Air Line Pilots Association (ALPA) stated that the proposals, with minor changes, would completely satisfy its requirements. The ALPA contended that, if the crew were able to communicate with a hijacker from a secure position, it might be able to dissuade him from completing the crime, but if it were unable to do so, it could comply with the hijacker's transportation demands more safely without him in the cockpit. It also expressed the view that the bulletproofing of the crew compartment would offer protection from the possibility of gunfire in the passenger cabin.

In general, the comments in opposition to the proposals asserted that the proposed changes in the crew compartment would not have prevented past aircraft hijackings, and, therefore, will not prevent or deter hijacking in the future. Most of these commentators were of the opinion that the only way to prevent aircraft hijacking is to keep the hijacker and his weapon off the airplane.

The Air Transport Association (ATA) in its comment asserted that the proposed requirements would not result in any improvement in inflight security, since hostages could continue to be used to gain entry to the crew compartment. The ATA expressed the view that any slight miscalculation on the part of the flight crew in attempting negotiation from a secured position could trigger violence; and that the risk of a hijacker firing into an unsecured crew compartment is minimal, since the hijacker needs the pilots to fly him to his destination. In the opinion of the ATA and other commentators, the proposed improvements in the physical security of the crew compartment would lead to more extensive use of explosives to threaten the crew. The ATA also believes that it would naturally tend to discourage desirable face-to-face negotiation between the flight crew and the hijacker.

A physician who commented on the proposed requirements expressed the view of several commentators that setting up obstacles in the path of a mentally incompetent individual, who is obsessed with a need to commit an act such as hijacking, may only make him modify his approach and increase his desperation, and that turning the crew compartment into a fortress may only serve as a challenge to certain mentally unbalanced individuals.

In light of the comments received and considering the various hijacking schemes used to date, it does not appear that a bulletproof crew compartment would make it possible to force a hijacker to remain in the passenger compartment while he is negotiating with the flight crew. Furthermore, the FAA believes that the possibility of injury or death to a hostage will cause most flight crewmembers to admit the hijacker to the crew compartment.

The FAA agrees with those commentators who believe that the greatest effort should be concentrated on apprehending any person intent on interfering with the operation of an airplane before he boards that airplane. Since the issuance of Notice 72–7, the FAA has amended the security programs of all Part 121 certificate holders subject to § 121.538 to provide that no such certificate holder may permit any passenger to board its aircraft unless all carry-on baggage items are inspected to detect weapons, explosives, or other dangerous objects, and each passenger is cleared by a detection device without indication of unaccounted-for metal on his person, or, in the absence of a detector, each passenger has submitted to a consent search prior to boarding. In addition, the FAA has amended Part 107 of the Federal Aviation Regulations to require that each airport operator subject to Part 107 amend its master security plan to provide for the presence of at least one law enforcement officer at the point of, and prior to and throughout, the final passenger screening process prior to boarding, for each flight conducted by a certificate holder required to have a security program under § 121.538 and by each foreign carrier that requests such law enforcement support.

By reason of the foregoing, the FAA has determined that further rule-making action on the proposed amendments is not appropriate at the present time, and that Notice 72–7 should be withdrawn. The withdrawal of this notice, however,

does not preclude the FAA from issuing similar notices in the future or commit the FAA to any course of action.

In consideration of the foregoing, the notice of proposed rulemaking published in the FEDERAL REGISTER on March 17, 1972 (37 FR 5638) and circulated as Notice 72-7, entitled "Pilot Compartment Security: Large Turbojet Powered Passenger-Carrying Airplanes" is hereby withdrawn.

(Sections 313(a), 601, 603, 604, and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424, and 1425.) sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on September 13, 1973.

JAMES F. RANDOLPH,
Director,
Flight Standards Service.

[FR Doc.73-20596 Filed 9-26-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-AL-10]

SITKA, ALASKA CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Sitka, Alaska, Control Zone and Transition Area to comply with U.S. Standard for Terminal Instrument Procedures (TERPs) and revised criteria for establishment of terminal controlled airspace.

The proposed alteration would increase the length of the control zone northwest extension from 10 miles to 14 miles and the width from two miles to 2.5 miles each side of the localizer northwest course. The 700-foot transition area northwest extension would be redefined as within 2.5 miles each side of the localizer northwest course, extending from 14 miles to 22 miles northwest of the localizer. Additionally redefined coordinates of the Airport Reference Point (ARP) and minor editorial changes are contained in this docket.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before October 29, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, SW, Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting State, derived from ICAO, wherein air traffic services are provided and also whenever a contracting State accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting State accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting State, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

In consideration of the foregoing, it is proposed that Part 71 of the Federal Aviation Regulations be amended as hereinafter set forth:

1. In § 71.171 (38 FR 351) the Sitka, Alaska, Control Zone would be amended to read as follows:

SITKA, ALASKA

Within a 5-mile radius of the Sitka Airport (Lat. 57°02'55" N., Long. 135°21'45" W.); within 2 miles each side of the Biorka Island VORTAC 029°T (001°M) and 209°T (181°M) radials, extending from the 5-mile radius zone to 2 miles southwest of the VORTAC; within 2 miles each side of the Sitka RBN 027°T (359°M) and 207°T (179°M) bearings, extending from the 5-mile radius zone to 2 miles southwest of the RBN; and within 2.5 miles each side of the localizer northwest course, extending from the 5-mile radius zone to 14 miles northwest of the localizer.

2. In § 71.181 (38 FR 435) the Sitka, Alaska, 700-foot transition area would be amended to read as follows:

SITKA, ALASKA

That airspace extending upward from 700 feet above the surface within 3 miles northwest and 2 miles southeast of the Sitka RBN 207°T (179°M) bearing, extending from the RBN to 8 miles southwest of the RBN; within 2 miles each side of the Biorka Island VORTAC 148°T (120°M) radial, extending from the VORTAC to 8 miles southeast of the VORTAC; within 2 miles each side of the Sitka RBN 147°T (119°M) bearing, extending from the RBN to 8 miles southeast of the RBN; and within 2.5 miles each side of the localizer northwest course, extending from 14 miles northwest to 22 miles northwest of the localizer.

The 1,200-foot portion of the transition area would remain unchanged.

(Sec. 307(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on September 19, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-20597 Filed 9-26-73;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 1-18; Notice 10]

CONTROLS AND DISPLAYS

Motor Vehicle Safety Standards

This notice proposes an amendment of Motor Vehicle Safety Standard No. 101 that would add certain foot-operated controls to those presently required to be operable by a restrained driver, and requirements for location, identification, and illumination of certain motor vehicle displays. The proposed effective date is September 1, 1975.

Properly located, effectively identified, and correctly illuminated controls and displays can reduce the amount of time a driver must divert his attention from the road, and increase his effectiveness as a safe vehicle operator. Standard No. 101 currently requires a number of hand-operated controls, if provided, to be operable by a driver restrained by belts provided in accordance with Standard No. 208. The NHTSA has tentatively decided that foot-operated controls should be added to this location requirement. They are: service brake, accelerator, clutch pedal, high beam switch, and windshield washer control.

Certain displays, if provided, should also be observable by a restrained driver, and not obscured by the steering wheel. They are: speedometer, odometer, turn signal indicator, gear position indicator, brake failure warning indicator, coolant temperature indicator, oil pressure indicator, high beam indicator, and electrical charge indicator. All these displays (except the turn signal indicator and high

beam indicator, whose function is evident) should be identified in a consistent, simple manner, and the notice proposes such identification.

Displays should also be illuminated, and the NHTSA is proposing green for inside-mounted turn signal indicators and blue for high beam indicators. If lights are used instead of gauges, the color red would be used for any light indicating a hazard requiring immediate corrective action, such as a brake failure warning. The color yellow would be used for any light indicating a possible need for future corrective action, such as the initial warning of a low fuel level, if an early warning feature is incorporated in the system. Finally, green would be used for any light indicating information unrelated to any need for corrective action, such as the gear position indicator. If illumination of controls and displays not listed in the standard is provided, it should be variable in intensity in the same manner as that required by the standard.

The permissible symbols for headlamps and taillamps, and windshield wiping system would be modified slightly, to conform to those adopted by the International Standards Organization. Two new ISO symbols would also be adopted, those for a combination wipe-wash system and for the heating and air conditioning system fan control.

The proposed standard also incorporates interpretations previously published in a preamble to amendments, relating to appearance of identification to the driver, and color coding of heating and air conditioning controls (36 FR 8296).

In consideration of the foregoing, it is proposed that 49 CFR 571.101, Motor Vehicle Safety Standard No. 101 be amended as set forth below.

Interested persons are invited to submit written data, views, and arguments on this proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted. All comments received on or before the closing date indicated below will be considered and will be available in room 5221 for examination both before and after the closing date. To the extent possible comments filed after the closing date will be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The National Highway Traffic Safety Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

Comment closing date: November 26, 1973.

Proposed effective date: September 1, 1975.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718, (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 501.8 and 1.51.)

Issued on September 20, 1973.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

§ 571.101 Standard No. 101; controls and displays. (Effective September 1, 1974).

S1. *Scope.* This standard specifies requirements for the location, identification, and illumination of motor vehicle controls and displays.

S2. *Purpose.* The purpose of this standard is to insure the accessibility of motor vehicle controls and displays and to facilitate their selection under daylight and nighttime conditions, in order to reduce the safety hazards caused by the diversion of the driver's attention from the driving task.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

S4. *Requirements.* Each passenger car, multipurpose passenger vehicle, truck, and bus manufactured with any control listed in S4.1 or Column 1 of Table 1, or any display listed in S4.1 or Column 1 of Table 2, shall meet the requirements of this standard for the location, identification, and illumination of such control or display.

S4.1 *Location of controls and displays.* Each of the following hand-operated and foot-operated controls shall be operable, and each of the following displays shall be visible, under the conditions of S5, by the driver:

HAND-OPERATED CONTROLS

(a) Steering wheel.
(b) Horn control.
(c) Transmission shift lever, except transfer case.
(d) Ignition switch.
(e) Headlamp switch.
(f) Turn signal control.
(g) Illumination intensity control.
(h) Windshield wiper control.
(i) Windshield washer control.
(j) Manual choke.
(k) Driver's sun visor.

FOOT-OPERATED CONTROLS

(a) Service brake.
(b) Accelerator.
(c) Clutch pedal.
(d) High beam switch.
(e) Windshield washer control.

DISPLAYS

(a) Speedometer.
(b) Odometer.
(c) Turn signal indicator.
(d) Gear position indicator.
(e) Brake failure warning indicator.
(f) Fuel level indicator.
(g) Coolant temperature indicator.
(h) Oil pressure indicator.
(i) High beam indicator.
(j) Electrical charge indicator.

S4.2 *Identification of controls and displays.*

S4.2.1 If any control listed in Column 1 of Table 1 is hand-operated, the control shall be identified as a minimum by the word or abbreviation specified in Column 2. A control may, in addition, be identified by a symbol, but only a symbol shown in Column 3 shall be used. However, if the word "None" appears in Column 3, no symbol shall be provided. Identification shall be placed on or adjacent to the control, visible to the driver and shall appear to the driver in a perceptually upright position.

S4.2.2 Identification shall be provided for each function of any automatic vehicle speed system control and any heating and air conditioning system control, and for the extreme positions of any such control that regulates a function over a quantitative range. Color coding may be used as an aid to identification, e.g., red for hot, blue for cold.

Example 1. A slide level controls the temperature of the air in the vehicle heating system over a continuous range, from no heat to maximum heat. Since the control regulates a single function over a quantitative range, only the extreme positions require identification.

Example 2. A switch has three positions, for heat, defrost, and air conditioning. Since each position regulates a different function, each position must be identified.

S4.2.3 Any display listed in Column 1 of Table 2 shall be identified, as a minimum, by the word or abbreviation specified in Column 2. However, if the word "None" appears in Column 2, no word or abbreviation shall be provided. Identification shall be placed on or adjacent to the display, visible to the driver and shall appear perceptually upright.

S4.3 *Illumination of controls and displays.*

S4.3.1 Except for foot-operated controls or hand-operated controls mounted upon the floor, the steering column, or in the windshield header area, the identification of any control listed in Column 1 of Table 1, and accompanied by the word "Yes" in the corresponding space in Column 4, and any display listed in Column 1 of Table 2 shall be illuminated whenever the headlamps are activiated. The illumination color shall be green for an inside-mounted turn signal indicator, and blue for the high beam indicator. Control and display identification need not be illuminated when the headlamps are being flashed. Control identification for a heating and air-conditioning system need not be illuminated if the system does not direct air directly upon the windshield.

S4.3.2 If a light is provided instead of a gauge to indicate whether a vehicle system is functioning or malfunctioning, the color red shall be used for any light indicating a hazard requiring immediate corrective action, the color yellow for any light indicating a possible need for future corrective action, and the color green for any light, other than a high beam indicator, indicating information unrelated to any need for corrective action.

S4.3.3 A control shall be provided to adjust the intensity of control and display illumination continuously variable from a position at which either there is

no light emitted or the light emitted is barely discernible to a driver who has adapted to dark ambient roadway conditions, to a position providing illumination sufficient for the driver to identify the control or display readily under all daytime and nighttime conditions. If illumination of controls and displays not listed in paragraph S4.1 is provided, its intensity shall be variable in a manner that complies with this paragraph. The light intensity of the turn signal indicator, high beam indicator, and warning or caution lights shall not be variable.

S5. *Conditions.*

S5.1 Except as provided in S5.2, the driver is restrained by a nonextending Type 1 seat belt assembly fastened so that there is no slack between the belt and the pelvis.

S5.2 The driver of a passenger car (except for a convertible passenger car), or of any multipurpose passenger vehicle, truck, or bus required by Motor Vehicle Safety Standard No. 208 to have a Type 2 seat belt assembly installed at the driver's seating position, is restrained by a nonextending Type 2 seat belt assembly fastened so that the upper torso restraint can be moved 4 inches away from the sternum and there is no slack between the lap belt and the pelvis.

TABLE 1.—*Identification and illumination of hand operated controls*

Column 1	Column 2	Column 3	Column 4
Motor vehicle equipment control	Word or abbreviation	Permissible symbol.	Illumination.
Engine start	Engine start [1]	None	
Engine stop	Engine stop [1]	None	Yes.[2]
Manual choke	Choke	None	
Hand throttle	Throttle	None	
Automatic vehicle speed control	(Mfr. option)	None	Yes.
Headlamps and taillamps	Lights [3]	 [4]	
Vehicular hazard warning signal	Hazard	 [4]	Yes.
Clearance lamps	Clearance lamps [3] or CL LPS		Yes.
Identification lamps	Identification lamps or ID LPS	None	Yes.
Windshield wiping system	Wiper or wipe		Yes.
Windshield washing system	Washer or Wash		Yes.
Windshield washing and wiping combined	Wash-Wipe		Yes.
Windshield defrosting and defogging system	Defrost or DEF	None	Yes.
Heating and air conditioning system	(Mfr. option)	None	Yes.
Heating and/or air conditioning fan	Fan		Yes.

[1] Use when engine control is separate from the key locking system.
[2] Use also when clearance, identification, parking and/or side marker lamps are controlled with the headlamp switch.
[3] Use also when clearance lamps, identification lamps and/or side marker lamps are controlled with one switch other than the headlamp switch.
[4] Framed areas may be filled.

TABLE 2.—*Display identification*

Column 1.—Motor vehicle display	*Column 2.—Word or abbreviation*
Speedometer	MPH.
Odometer	Miles.
Turn signal indicator	(None).
Automatic gear position indicator	PRND (+ numerals to indicate additional forward gear points, e.g. 2, 1).
Brake failure warning light	Brake.
Fuel level indicator	Fuel.
Coolant temperature indicator	Temp.
Oil pressure indicator	Oil.
High beam indicator	(None).
Electrical charge indicator	Amp.

[FR Doc.73-20476 Filed 9-26-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 97]

[Docket No. 19759]

CITIZENS RADIO SERVICE

Proposed Creation of New Class and Reallocation of Frequencies; Extension of Time for Filing Comments

In the matter of the creation of a new class of Citizens Radio Service and the reallocation of frequencies between 224 MHz and 225 MHz in the band 220–225 MHz now allocated for shared use by stations in the Amateur Radio Service and Government Radiolocation Stations for that purpose, Docket No. 19759, RM–1633, RM–1656, RM–1747, RM–1761, RM–1793, RM–1841.[1]

1. The Acting Chief, Safety and Special Radio Services Bureau on his own motion has under consideration a 30 day extension of the time in which to file comments and reply comments in Docket 19759.

2. The Commission on September 19, 1973, denied the American Radio Relay Leagues (ARRL) application for review filed in response to our denial of their petition for an extension of time in which to file comments. While we still find that a five month extension is unreasonable, we believe that a 30 day extension has become appropriate for the convenience of the parties who may wish to file comments. We note in this regard the inordinate delay in the release of the Order denying the EIA petition for an extension of time. Further, we note in regard to reply comments, that renovation of the Commission's public reference room potentially may create some difficulties for interested parties desiring to obtain and study the comments filed in this Docket. The date set for reply comments herein should alleviate any possible problem if interested parties promptly begin to examine the comments already on file in this Docket. Accordingly, we are ordering a 30 day extension for the filing of both original and reply comments.

3. *It is therefore ordered,* Pursuant to § 0.331(b)(4) of the Commission's rules,

[1] Published at 38 FR 15854, June 18, 1973.

that the time for filing comments and reply comments in the above captioned proceeding is extended to October 19, 1973, and to November 23, 1973, respectively.

Adopted: September 19, 1973.

Released: September 20, 1973.

[SEAL] CHARLES A. HIGGINBOTHAM,
Acting Chief, Safety and Special Radio Services Bureau.

[FR Doc.73-20646 Filed 9-26-73;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Ch. IV]

INTERMODAL CONTAINER TRANSPORT SERVICES

Notice of Petition for Rulemaking

On September 12, 1973, American Mail Line Ltd. and American President Lines, Ltd. petitioned the Commission for institution of a proposed rulemaking proceeding "in respect of intermodal service and tariffs." The petition was served on a large number of counsel for varying interested parties.

The Commission has determined to receive replies to the petition. Accordingly, replies may be filed on or before October 8, 1973.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-20669 Filed 9-26-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-10397; File No. S7-473]

EXCHANGE TRANSACTIONS IN OPTIONS

Request for Comments on the Chicago Board Options Exchange, Inc. Plan

The Securities and Exchange Commission announced today the republication for comment of proposed Rule 9b-1 (17 CFR 240.9b-1) under the Securities Exchange Act of 1934 (the Act). As revised, the proposed rule would prohibit exchange transactions in puts, calls, straddles, and other options or privileges of buying or selling a security except in accordance with a plan established by the exchange that the Commission had declared to be effective as being necessary or appropriate in the public interest or for the protection of investors.

Proposed Rule 9b-1 (17 CFR 240.9b-1), in its original form, was released for public comment on January 9, 1973.[1] In view of the comments received by the Commission, the rule has been revised, primarily for purposes of simplicity and clarity. Following is a description of the revised proposal.

Rule 9b-1 (17 CFR 240.9b-1) would make it unlawful for an exchange to effect any transactions in options or to permit its facilities to be used to effect such transactions except in accordance with a plan regulating option trading declared effective by the Commission after consideration of such a plan in light of the statutory standards: The public interest and the protection of investors. The proposed rule also provides that the Commission, in order to implement these statutory standards, may require the exchanges to make changes in their plans. Pursuant to the rule, exchanges proposing to use their facilities for trading options would be required to file with the Commission copies of any amendments to the plan. The Commission would review and, if appropriate, disapprove such amendments prior to their becoming effective. In each of these situations—original approval of the plan and modification at the initiation of either the exchange or the Commission—interested persons, in accordance with the explicit rulemaking procedures of the Administrative Procedure Act, as codified, 5 U.S.C. 553, would be given notice of the proposal and have an opportunity to submit written data, views or arguments. Plans filed by exchanges pursuant to Rule 9b-1 would be required to include all rules, regulations, by-laws and other requirements of the exchange that relate solely or significantly to transactions in options, and would have to contain specific provisions relating to:

(1) The effectuation of transactions in options on the exchange by members thereof for their own account and the accounts of customers;

(2) The clearance and settlement of transactions in options;

(3) The endorsement and guarantee of performance of options;

(4) The reporting of transactions in options; and

(5) The listing and delisting of and the admission to and removal of trading privileges on the exchange for options.

As orignally proposed, Rule 9b-1 would have regulated the rules of an exchange relating to options indirectly by making it unlawful for members to trade on the exchange if the exchange had failed to comply with the provisions of the Rule. Rule 9b-1 as now proposed, would be applicable to exchanges, which would have to comply with specific requirements of the rule, as well as to the exchange's members. Rule 9b-1, as originally proposed, did not distinguish between exchange provisions of general applicability and provisions relating particularly to option trading. Rule 9b-1 as now proposed, would limit the scope of the plan exchanges must file with the Commission and have declared effective to those provisions of exchange rules that relate solely or significantly to transactions in options and lists various specific categories of exchange provisions to be included in a plan.

By proposing revised Rule 9b-1, the Commission does not wish to imply that it has made any definitive determination with respect to option trading on exchanges or that the rule, if adopted, will ultimately be found to be necessarily the best way to promote the public interest or to assure the protection of investors in connection with trading of options on exchanges. Nor has the Commission made any final decision with respect to the trading of options simultaneously on more than one exchange or on exchanges that also trade other forms of securities. The operation of the Chicago Board Options Exchange (CBOE) is presently on a pilot basis[2] and further evaluation will be required before these and other policy questions can be decided more definitively.

The Commission considers that the constitution and rules of the CBOE and its clearing corporation would constitute the CBOE's plan pursuant to Rule 9b-1, if adopted. In connection with the registration of the CBOE as a national securities exchange the Commission sought and obtained public comment on substantially the same constitution and rules as are now in effect and gave careful consideration to those comments before concluding that the rules of the exchange are just and adequate to insure fair dealing and to protect investors under section 6(d) of the Act, 15 U.S.C. 78f(d).[3] And the amendments adopted since that time have also been given close scrutiny. Accordingly, the Commission expects to be able to determine that the constitution and rules of the CBOE are necessary or appropriate in the public interest or for the protection of investors, as required by proposed Rule 9b-1 if adopted. If the Commission were to adopt Rule 9b-1, it would hope to be able to declare CBOE's plan effective simultaneously with the effectiveness of the rule, so as not to interrupt the operation of CBOE's experimental project. Interested persons are invited to submit their views and comments on whether this determination should be made.

Statutory basis. The Securities and Exchange Commission acting pursuant to the provisions of the Securities Exchange Act of 1934, and particularly sections 9(b), 9(c), and 23(a) thereof, and deeming it necessary and appropriate in the public interest and for the protection of investors proposes hereby to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adopting § 240.9b-1 as set forth below.

§ 240.9b-1 Prohibition of exchange transactions in options except pursuant to an effective plan.

(a) It shall be unlawful for a national securities exchange, or for any member

[1] *See* Commission Rel. No. 34-9930 (January 9, 1973) and FEDERAL REGISTER for January 17, 1973, at 38 FR 1646, entitled "Proposal to Adopt Rule 9b-1 Specifying Special Procedures in Connection With Exchange Rules Concerning Acts or Transactions in Options," which also includes a description of the background leading to the proposal of Rule 9b-1.

[2] *In the Matter of the Application of the Chicago Board Options Exchange, Inc. for Registration as a National Securities Exchange*, Securities Exchange Act Release No. 34-9985 (February 1, 1973).

[3] *Ibid.*

thereof, to effect any transaction in an option, or to permit any transaction in an option to be effected, by the use of the facilities of the exchange, except in accordance with a plan regulating transactions in options on the exchange that is declared effective by the Commission pursuant to this rule.

(1) Before an exchange or a member may effect any transaction in options or permit any transaction in options to be effected by use of the facilities of the exchange, the exchange shall propose and file with the Commission a plan regulating transactions in options on the exchange. After appropriate notice and opportunity for interested persons to submit written data, views or arguments, the Commission shall declare the plan effective if it finds the plan to be necessary or appropriate in the public interest or for the protection of investors.

(2) The Commission shall give prompt notice of any proposal filed by an exchange to alter, amend, supplement, or rescind a plan in effect pursuant to paragraph (a)(1) of this section, and the proposed change shall become effective upon the 30th day after notice has been given by the Commission, or upon such earlier date as the Commission may allow, unless the Commission shall disapprove the change in whole or in part as being inconsistent with the public interest or the protection of investors. Interested persons may submit to the Commission written data, views or arguments with respect to any proposed change either before or after it has become effective.

(3) After appropriate notice and opportunity for submission by interested persons of written data, views or arguments, the Commission may require that an exchange alter, amend, supplement, or rescind its plan in the manner and to the extent that the Commission finds to be necessary or appropriate in the public interest or for the protection of investors.

(4) The Commission may take action under any provision of this paragraph (a) without notice and opportunity for interested persons to submit written data, views or arguments when the Commission, for good cause, finds that notice and public procedure thereon are impractical, unnecessary or contrary to the public interest; but in any such case, the Commission shall incorporate its finds and a brief statement of reasons therefor in a public announcement of the action taken.

(b) Plans filed pursuant to this rule contain those provisions of the regulations, rules, by-laws, constitutional provisions and other requirements of the exchange that relate solely or significantly to transactions in options on the exchange, and shall include provisions relating to:

(1) Effecting transactions in options on the exchange by members thereof for their own account and the accounts of customers;

(2) The clearance or settlement of transactions in options;

(3) The endorsement and guarantee of performance of options;

(4) The reporting of transactions in options; and

(5) The listing and delisting of, and the admission to and removal of trading privileges on the exchange for options.

(c) For purposes of this rule, the term "option" shall include any put or call, straddle or other option or privilege of buying or selling a security without being bound to do so, but shall not include any registered warrant, right or convertible security.

(d) An exchange shall file with the Commission three copies of any plan or any alternation, amendment, supplementation, or rescission of any plan submitted to the Commission pursuant to this rule, and may incorporate by reference material filed with the Commission.

All interested persons are invited to submit their views and comments on the proposed rule and CBOE's plan. Written statements of views and comments should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, on or before October 19, 1973. Reference should be made to file number S7-473. All such comments will be available for public inspection.

(Secs. 9(b), 9(c), 23(a); 48 Stat. 889, 901; as amended 49 Stat. 1379, (15 U.S.C. 78i(b), 78i(c), 78w(a)))

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

SEPTEMBER 21, 1973.

[FR Doc.73-20547 Filed 9-26-73;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 21]

INDEPENDENT STUDY PROGRAM

Payments

It is proposed to amend Part 21 to set forth provisions for payments to veterans and eligible persons who are enrolled in independent study programs leading to a standard college degree which may include an external degree awarded by an accredited college or university.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (27H), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All relevant material received before October 26, 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 furnished the address and the above room number.

Notice is also given that it is proposed to make any regulations that are adopted effective the date of final approval.

1. In § 21.201, paragraph (j) is added to read as follows:

§ 21.201 Types of courses.

* * * * *

(j) *Independent study course leading to a degree.* A course pursued by independent study under the following conditions:

(1) The course is offered by an accredited college or university.

(2) The course leads to or is fully creditable toward a standard college degree which may include external degree programs given by accredited colleges and universities.

(3) The college or university evaluates the course in semester or quarter hours, or the equivalent, and prescribes a period for completion.

(4) Subsistence allowance is payable at the institutional rates prescribed in § 21.133. (If independent study subjects and subjects requiring class attendance are pursued concurrently and both are measured on a credit hour basis, the allowable rate shall be determined on the basis of the combined training load.)

2. In § 21.226(a), subparagraph (1) is amended to read as follows:

§ 21.226 Training while a patient in a Veterans Administration hospital.

(a) Subject to the provisions of other applicable Veterans Administration regulations, an eligible veteran may be entered or reentered into training prior to release from a Veterans Administration hospital when all the following conditions are met:

(1) The Veterans Administration hospital has determined that the proposed training will not materially interfere with the veteran's regime of medical treatment nor delay hospital discharge and that the disabled veteran will be able to spend a significant part of the day away from the hospital at the proposed training facility or in a program of independent study.

* * * * *

3. In § 21.261(b), subparagraph (4) is added to read as follows:

§ 21.261 Ordinary leave.

* * * * *

(b) *Charging of ordinary leave.* * * *

(4) For veterans in programs of independent study which are not on a semester or quarter basis, leave between designated periods of study may be authorized and will be charged on same basis as leave between terms.

4. In § 21.4131, paragraph (b) is amended to read as follows:

§ 21.4131 Commencing dates.

* * * * *

(b) *Certification by school; course leads to standard college degree.* (1) The date of registration, or the date of reporting where the student is required by

published standards of the school to report in advance of registration, but not later than the date the person first reports for classes.

(2) The date of enrollment in a subject or in an area of independent study.

* * * * *

5. In § 21.4136, paragraph (a) is amended to read as follows:

§ 21.4136 Rates: educational assistance allowance; 38 U.S.C. Ch. 34.

(a) *Rates.* Educational assistance allowance is payable at the following monthly rates:

Type of courses	Monthly rate			
	No dependent	One dependent	Two dependents	Additional for each additional dependent
Institutional:				
Full time	$220	$301	$298	$18
¾ time	165	196	224	14
½ time	110	131	149	9
Less than ½ but more than ¼ time [1]	[2] 110			
¼ time or less	[2] 55			
Cooperative, other than farm cooperative (full time only)	177	208	236	14
Apprentice or on-job (full time only but see footnote [3] below)				
Payment designated training assistance allowance:				
First 6 months	160	179	196	8
Second 6 months	130	139	156	8
Third 6 months	80	99	116	8
Fourth 6 months and succeeding periods	40	59	76	8
Correspondence	90 per centum of the established charge for number of lessons completed by veteran and serviced by school [4]—Allowance paid quarterly.			
Flight training	90 per centum of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay—Allowance paid monthly based on actual flight training received.			
Farm Cooperative:				
Full time	177	208	236	14
¾ time	133	156	177	11
½ time	89	104	118	7

[1] If a veteran under chapter 34 or an eligible person under chapter 35 receiving benefits under § 21.4280(b)(2) completes his program before the designated completion time, his award will be recomputed to permit payment of tuition and fees not to exceed $130 per month if the maximum allowance was not initially authorized.

[2] See paragraph (b) of this section.

[3] See footnote 3 of § 21.4270(c) for measurement of full time and paragraph (j) of this section for proportionate reduction in award for completion of less than 120 hours per month.

[4] Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost for the eligible veteran whichever is the lesser. Enrollments before January 1, 1973, will receive 100 percent of the established charges.

(38 U.S.C. 1677, 1682, 1796, 1787.)

* * * * *

6. In § 21.4200, paragraph (d) is amended to read as follows:

§ 21.4200 Definitions.

* * * * *

(d) *External degree.* This term means a standard college degree given by an accredited college or university based on satisfactory completion of a prescribed program of independent study. The program may require occasional attendance for a workshop or seminar and may include some regular residence course work.

7. In § 21.4203(b), subparagraph (4) is added to read as follows:

§ 21.4203 Reports by schools; requirements.

* * * * *

(b) *Entrance or reentrance.* The certification must clearly specify the program objective. Upon receipt of a certification of enrollment, an official authorization will be issued showing the beginning and ending dates of each period for which an allowance may be paid. The authorization will be for the period of enrollment or the extent of the eligible person's entitlement, whichever is the lesser.

* * * * *

(4) Where the veteran or eligible person is enrolling for independent study leading to a standard college degree, the school's certification will include enrollment date, established charges for tuition and fees, and the ending date for completion of the study being certified. If the school has no prescribed maximum time for completion, the certification must include an ending date based on the school's estimate of the time for completion.

* * * * *

8. In § 21.4253(e), subparagraph (3) is amended to read as follows:

§ 21.4253 Accredited courses.

* * * * *

(e) *College level.* Under the provisions of paragraph (a)(1) of this section, any course at college level approved by the State approving agency as an accredited course will be accepted by the VA as an accredited course when all of the following conditions are met:

* * * * *

(3) Credit for the course is awarded in terms of standard semester or quarter hours or by recognition at completion by the granting of a standard college degree.

* * * * *

9. In § 21.4270, paragraphs (c) and (d) are amended to read as follows:

§ 21.4270 Measurement of courses.

Clock hours and class sessions mentioned in this table mean clock hours and class sessions per week.

Kind of school	Kind of course	Full time	¾ time	½ time	Less than ½ more than ¼ time	¼ time or less
*	*	*	*	*	*	*
(c) Collegiate undergraduate.	Standard collegiate courses including cooperative and external degree programs.	14 semester hours or equivalent.[3]	10 thru 13 semester hours or equivalent.	7 thru 9 semester hours or equivalent.	4 thru 6 semester hours or equivalent.	1 thru 3 semester hours or equivalent.
(d) Collegiate graduate.	Standard collegiate graduate courses including law and external degree programs.	As in paragraph (c) of this section or certified by responsible official of school.	As in paragraph (c) of this section or certified by responsible official of school.	As in paragraph (c) of this section or certified by responsible official of school.	As in paragraph (c) of this section or certified by responsible official of school.	As in paragraph (c) of this section or certified by responsible official

10. Section 21.4280 is added to read as follows:

§ 21.4280 Independent study leading to a standard college degree.

(a) An eligible veteran or person may receive an educational assistance allowance for pursuit of an independent study course under the following conditions:

(1) The course is offered by an accredited college or university and is approved by the State approving agency; and

(2) The course leads to or is fully creditable toward a standard college degree which may include external degree programs given by accredited colleges and universities.

(b) The independent study program shall be measured as follows:

(1) If the college or university evaluates the course in semester or quarter-hours of credit and prescribes a period for completion, the course shall be measured in credit hours under § 21.4270 (c) or (d) with equivalency computed under § 21.4272(d) as appropriate; or

(2) If the college or university does not evaluate the course in standard semester or quarter-hours or the equivalent, the course shall be measured as less than one-half time training.

(c) An eligible veteran or person who is pursuing an independent study program shall be paid an educational assistance allowance at the institutional rate prescribed in § 21.4136(a). If independent study subjects and subjects requiring class attendance are pursued concurrently and both are measured on a credit hour basis, the allowable rate shall be determined on the basis of the combined training load. When measurement is different (i.e., class attendance on credit hour basis and independent study under paragraph (b)(2) of this section), the appropriate rate for each part shall be determined and the combined rates paid, but not to exceed the full time institutional allowance rate.

Approved September 20, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.73-20474 Filed 9-26-73;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 Air Force

USAF SCIENTIFIC ADVISORY BOARD

Notice of Meeting

SEPTEMBER 25, 1973.

The USAF Scientific Advisory Board Ad Hoc Committee on B-1 Aerodynamics will hold a closed meeting on October 1 and 2, 1973, from 8:00 a.m. until 5:00 p.m., at the Management Information Conference Room, Rockwell International Plant, Los Angeles, CA.

The committee will receive classified briefings on the status and projected plans of the B-1 program.

STANLEY L. ROBERTS,
Colonel, USAF, Acting Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.73-20712 Filed 9-26-73;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

GUARDS AND INVESTIGATIONS COMMITTEE OF THE PRIVATE SECURITY ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given that the Guards and Investigations Committee of the Private Security Advisory Council to the Law Enforcement Assistance Administration will meet on Tuesday, October 9, 1973, from 9:30 a.m. to 4:00 p.m. The place of the meeting will be the Fontebleau Motor Hotel, 4040 Tulane Avenue, New Orleans, Louisiana.

The meeting will be open to the public. Any interested person may file a written statement with the council for its consideration.

Statements may be sent to or information requested from Robert Macy, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20530.

JACK A. NADOL,
Advisory Committee Management Officer, Office of General Counsel.

[FR Doc.73-20598 Filed 9-26-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[N. Mex. 12964]

NEW MEXICO

Order Providing for Opening of National Forest Lands

SEPTEMBER 21, 1973.

By published notice (38 FR 10825-10826, May 2, 1973), the U.S. Geological Survey cancelled Power Site Classification No. 371 of October 31, 1944 as to the lands described below.

The purpose of this order is to restore to the operation of applicable public land laws the national forest lands involved in that notice.

1. The following described lands are hereby restored to such forms of disposition as may by law be made of national forest lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 24 N., R. 4 E.,
Sec. 11, lot 8 (formerly a portion of lot 4).

The land described aggregates 3.31 acres in Rio Arriba County.

B. BUFFINGTON,
Acting State Director.

[FR Doc.73-20531 Filed 9-26-73;8:45 am]

[U-17864, U-18018, U-21328]

UTAH

Notice of Proposed Exchange and Notice of Proposed Classification

Notice is hereby given that:

(1) Title to the national resource lands described below is proposed to be transferred to the State of Utah by exchange under the regulations in 43 CFR, Part 2200, and

(2) Those lands so designated in paragraphs (b) and (c) below are proposed to be classified for disposal through exchange under the regulations in 43 CFR 2200.0-8.

National resources lands which have been identified for selection by the State of Utah are situated in Castle Valley, approximately 18 miles northeast of Moab, Grand County, Utah, and are described as:

(a) Lands proposed for exchange under section 8(c) of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), for the benefit of the Corps of Engineers of the Department of the Army and the Bureau of Land Management of the Department of the Interior. The lands the State proposes to transfer to the United States through this exchange are located in the Green River Missile Base and in the Monticello BLM District. Under the terms of this act and the regulations in 43 CFR 2211.0-3(b)(2) classification action is not involved in the transfer of these lands.—Serial No. U-17864:

T. 25 S., R. 23 E., SLM, Utah
Sec. 9, SW¼NE¼;
Sec. 10, SW¼, W½SE¼, SE¼SE¼;
Sec. 13, SW¼SW¼;
Sec. 23, SW¼, W½SE¼;
Sec. 25, N½NE¼NE¼, SW¼NE¼NE¼, E½NW¼NE¼, N½SW¼NW¼NE¼, W½NE¼SW¼NE¼, W½SW¼NE¼, SE¼SW¼NE¼, W½, SE¼;
Sec. 26, all;
Sec. 27, all;
Sec. 34, lots 1, 2, NW¼NE¼, NE¼NW¼;
Sec. 35, lots 1, 2, 4, N½, N½SE¼, SW¼SE¼.
T. 25 S., R. 24 E., SLM, Utah
Sec. 19, lot 4, SE¼SW¼;
Sec. 29, E½SW¼, SE¼;
Sec. 30, lots 1, 4, NE¼NW¼.
Containing 3,536.08 acres.

(b) Lands proposed for classification for exchange under the Canyonlands National Park Act of September 12, 1964 (78 Stat. 934), as amended by the Act of November 12, 1971 (85 Stat. 421), for the benefit of the National Park Service of the Department of the Interior. The lands the State proposes to transfer to the United States in this exchange are located in the extension to Canyonlands National Park.—Serial No. U-18018:

T. 25 S., R. 23 E., SLM, Utah
Sec. 6, N½SE¼, SE¼SE¼;
Sec. 9, E½NW¼, NW¼NW¼, S½;
Sec. 15, all;
Sec. 16, all;
Sec. 21, lots 1, 2, 3, 4, N½, E½SE¼;
Sec. 22, all;
Sec. 28, lots 1, 2, 3, 5, 6, SW¼NE¼.
Containing 3,247.32 acres.

(c) Lands proposed for classification for exchange under the Act of July 15, 1968 (16 U.S.C. 460L-22), for the benefit of the National Park Service of the Department of the Interior. The lands the State proposes to transfer to the United States in this exchange are located in Capitol Reef National Park and Natural Bridges National Monument.—Serial No. U-21328:

T. 25 S., R. 23 E., SLM, Utah
Sec. 14, NW¼, S½;
Sec. 23, N½, E½SE¼;
Sec. 24, W½, SE¼.
Containing 1,360.00 acres.
Total 8,143.40 acres.

All mineral rights are to be exchanged.

Maps showing these lands and files containing reports on the lands are available for review in the Utah State Office, Bureau of Land Management, Room 8339, Federal Building, 125 South State Street, P.O. Box 11505, Salt Lake City, Utah 84111, for use by all persons who wish to submit comments, suggestions, or objections to the undersigned officer at the above address in connection with this proposed classification on or before November 26, 1973.

A detailed environmental assessment has been prepared on these exchange

proposals. Copies are available in this office, and in the Monticello District Office, 284 S. 1st W., P.O. Box 1327, Monticello, Utah 84535, and our Moab Area Office, 446 S. Main St., Moab, Utah 84532, for review, or for sale to all persons and organizations who may request them at a cost of $2 per copy. If upon analysis of the comments received it is concluded that this is a major Federal action which would have a significant impact on the human environment, an environmental impact statement as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 853) will be prepared.

I certify this to be a true copy of the original.

WILLIAM G. LEAVELL,
Acting State Director.

[FR Doc.73-20566 Filed 9-26-73;8:45 am]

Office of Hearings and Appeals

[Docket No. M 74-15]

MOUNTAIN DRIVE COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Mountain Drive Coal Co. has filed a petition to modify the application of 30 CFR 77.1605(k) to its Mine No. 1 located at Middlesboro, Kentucky.

30 CFR 77.1605(k) reads as follows:

(k) Berms or guards shall be provided on the outer bank of elevated roadways.

In support of its petition, petitioner states that the addition of berms or guardrails would make it impossible to maintain proper drainage and would hamper snow removal. The road would ice over during winter months and the grader now used for maintenance could no longer be used. Petitioner also states that additional man-hours and equipment would be needed for road maintenance which would result in an increased accident potential during snow and ice conditions.

As an alternative method petitioner wishes to continue maintaining its roads by its currently existing methods. Petitioner states that by using its current methods of maintenance, its roads are as safe as possible.

Petitioner contends that the application of the mandatory standard will result in a diminution of safety to miners in the affected area. Petitioner contends that berms and guardrails would create a drainage hazard by creating improper drainage which would cause washouts and hazardous conditions in wet weather. The road is too narrow to build berms, therefore, solid rock would have to be blasted, resulting in a highwall which would be a new hazard.

Persons interested in this petition may request a hearing on the petition or furnish comments by October 29, 1973. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

[FR Doc.73-20530 Filed 9-26-73;8:45 am]

National Park Service

[Order No. 4]

PARK MANAGER, BENT'S OLD FORT NATIONAL HISTORIC SITE, COLORADO

Delegation of Authority Regarding Purchasing Authority

SECTION 1. *Park Manager.* The Park Manager may issue purchase orders not in excess of $300 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 2. *Revocation.* This order supersedes Order No. 3, Bent's Old Fort National Historic Site, dated June 5, 1972, and published Wednesday, June 28, 1972. (37 FR 12737).

(National Park Service Order No. 77 (38 FR 7478), as amended. Midwest Region Order No. 5, 37 FR 6324 and 6875, as amended.)

Dated September 14, 1973.

MERRILL D. BEAL,
Acting Director, Midwest Region.

[FR Doc.73-20637 Filed 9-26-73;8:45 am]

AMISTAD RECREATION AREA

Notice of Intention To Issue a Concession Permit

Pursuant to the provision of section 5, of the Act of October 9, 1965, (79 Stat. 969 (16 U.S.C. 20)) public notice is hereby given that on or before October 29, 1973, the Department of the Interior, through the Superintendent, Amistad Recreation Area, proposes to renew the present concessions permit in the name of Ronald Lambert, Odessa, Texas, authorizing him to provide fishing guide service for the public at Amistad Recreation Area for the period Sept. 1, 1973 through August 31, 1977.

The foregoing concessioner has performed his obligations under the existing permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference for the renewal of the permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before October 29, 1973.

Interested parties should contact the Superintendent, Amistad Recreation Area, Post Office Box 1463, Del Rio, Texas 78840, for information as to the requirements of the proposed permit.

Dated: July 31, 1973.

COLEMAN L. NEWMAN,
Superintendent,
Amistad Recreation Area.

[FR Doc.73-20640 Filed 9-26-73;8:45 am]

GLEN CANYON NATIONAL RECREATION AREA

Notice of Intention To Issue a Concession Permit

Pursuant to the provisions of Section 5, of the Act of October 9, 1965 (79 Stat. 969 (15 U.S.C. 20)), public notice is hereby given that on or before October 29, 1973, the Department of the Interior, through the Superintendent, Glen Canyon National Recreation Area, proposes to issue a concession permit to Elite Marina, Inc., authorizing them to provide concession facilities and services for the public at Glen Canyon National Recreation Area for a period of five (5) years from January 1, 1974 through December 31, 1978.

The foregoing concessioner has performed his obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before October 29, 1973.

Interested parties should contact the Superintendent, Glen Canyon National Recreation Area, PO. Box 1507, Page, Arizona 86040, for information as to the requirements of the proposed permit.

Dated July 31, 1973.

C. E. JOHNSON,
Superintendent, Glen Canyon
National Recreation Area.

[FR Doc.73-20639 Filed 9-26-73;8:45 am]

LAKE MEREDITH RECREATION AREA

Notice of Intention To Issue a Concession Permit

Pursuant to the provisions of Section 5, of the Act of October 9, 1965 (79 Stat. 969 (16 U.S.C. 20)) public notice is hereby given that on or before October 29, 1973, the Department of the Interior, through the Superintendent, Lake Meredith Recreation Area, proposes to issue a concession permit to Goodie Truck, a partnership, authorizing it to provide concession facilities and services for the public at Lake Meredith Recreation Area for a period of 5 years from January 1, 1974 through December 31, 1978. The foregoing concessioner has performed its obligations under a prior permit to the

satisfaction of the National Park Service, and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before October 29, 1973.

Interested parties should contact the Superintendent, Lake Meredith Recreation Area, PO. Box 325, Sanford, TX 79078, for information as to the requirements of the proposed permit.

Dated June 4, 1973.

JAMES M. THOMSON,
Superintendent, Lake Meredith Recreation Area.

[FR Doc.73-20638 Filed 9-26-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Marketing Agreement 146]

PEANUTS; 1973 CROP

Outgoing Quality Regulation and Indemnification Amendment

Pursuant to the provisions of sections 32, 34, and 36 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture and various handlers of peanuts (30 FR 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information, it is hereby found that the amendments hereinafter set forth to the Outgoing Quality Regulation and Terms and Conditions of Indemnification Applicable to 1973 Crop Peanuts (38 FR 19054) will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement.

Amendment of paragraph (a) of the Outgoing Quality Regulation is necessary to change the requirements on percentage of whole kernels allowed in fall through on Runner and Virginia "with splits" so that such percentage will be the same as on U.S. Number One grade peanuts for those types of peanuts. Such change would increase from 2 percent to 3 percent the percentage of whole kernels allowed in such fall through. Likewise, amendment of the definition of Runner and Virginia "with splits" in the same paragraph is necessary to reflect the increase in the percentage of whole kernels allowed in the fall through for these grades and to change the screen size on Runner "with splits" from a $^{15}/_{64}$ x $^{3}/_{4}$ slot to a $^{16}/_{64}$ x $^{3}/_{4}$ slot to conform with Committee determinations.

Amendment of paragraph 7 of the Terms and Conditions of Indemnification is necessary to bring the provisions for paying indemnification into conformity with determinations of the Committee by eliminating the 4 percent penalty on unsuccessfully remilled peanuts that were to be custom blanched. Continued application of such penalty would restrict the use of custom blanching as a means of making peanuts wholesome and in turn increase indemnification costs. Amendment of the last paragraph of the Terms and Conditions of Indemnification is also necessary to bring the provisions from paying indemnification on Runners and Virginias "with splits" into conformity with changes being made in the Outgoing Quality Regulation by changing the allowable percentage of whole kernels from 2 percent to 3 percent on both categories and to add a provision prohibiting indemnification of peanuts which after failing to meet the Outgoing Quality Regulation are sold to another handler.

Therefore, the second sentence of paragraph (a) of the Outgoing Quality Regulation (38 FR 19054) is deleted and replaced by the following:

Fall through in such peanuts shall not exceed 4 percent except that fall through consisting of either split and broken kernels or whole kernels shall not exceed 3 percent and fall through of whole kernels in Runners or Virginias "with splits" shall not exceed 3 percent or 2 percent on Spanish "with splits".

In the same paragraph of the Outgoing Quality Regulation (38 FR 19054), the last sentence (which is in parentheses) is deleted and replaced by the following:

(Runners, Spanish or Virginias "with splits" means shelled peanuts which do not contain more than (a) 15 percent splits, (b) for Spanish 2.00 percent whole kernels which will pass through a $^{15}/_{64}$ x $^{3}/_{4}$ inch slot screen; for Runners 3.00 percent whole kernels which will pass through a $^{16}/_{64}$ x $^{3}/_{4}$ inch slot screen; and for Virginias 3.00 percent whole kernels which will pass through a $^{15}/_{64}$ x 1 inch slot screen, and (c) otherwise meet the specifications of U.S. No. 1 grade.)

In the seventh paragraph of the Terms and Conditions of Indemnification (38 FR 19054), the fourth and fifth sentences are deleted and replaced by the following:

On lots on which the remilling is not successful in making the lots wholesome as to aflatoxin and such lots of peanuts are declared for custom blanching, after remilling, the indemnification payment shall be the blanching costs, plus any temporary storage, the transportation costs from origin (whether handler or buyer premises) to point of blanching and on unsold lots from point of blanching to handlers premises and the indemnification value of the weight of reject peanuts removed from the lot.

Likewise, in the last paragraph of the Terms and Conditions of Indemnification, delete the entire last category Shelled peanuts "with splits" and the last sentence and replace with the following:

Shelled peanuts "with splits"—

(1) Runners with splits which do not contain more than 15 percent splits or 3 percent whole kernels which will pass through a $^{15}/_{64}$ x $^{3}/_{4}$ inch slot screen, 24 cents per pound.

(2) Spanish with splits which do not contain more than 15 percent splits or 2 percent whole kernels which will pass through a $^{15}/_{64}$ x $^{3}/_{4}$ inch slot screen, 24 cents per pound.

(3) Virginias with splits which do not contain more than 15 percent splits or 3 percent whole kernels which will pass through a $^{15}/_{64}$ x 1 inch slot screen, 24 cents per pound.

However, peanuts in any of the above categories shall not be eligible for indemnification if such peanuts: (1) Were milled from seed peanut residuals as referred to in the last sentence of paragraph (e) of the Incoming Quality Regulation and paragraph (i) of the Outgoing Quality Regulation for 1973 Crop Peanuts; (2) failed the Outgoing Quality Regulation for 1973 Crop Peanuts due to excessive damage and minor defects and such peanuts were subsequently blanched to remove such excess damage and minor defects pursuant to paragraph (h) of such regulation; (3) when shipped for human consumption outlets contained more than a total of 1.25 percent unshelled peanuts and damaged kernels or a total of 2.00 percent unshelled peanuts, damaged kernels and minor defect; and (4) were received or acquired from another handler pursuant to paragraph (i) of the Incoming Quality Regulation and were milled to meet requirements of the Outgoing Quality Regulation pursuant to paragraph (h) of such regulation.

The Peanut Administrative Committee has recommended that these amendments be issued as soon as possible so as to implement and effectuate the provisions of the marketing agreement dealing with the Outgoing Quality Regulation and Terms and Conditions of Indemnification. Marketing of the 1973 peanut crop is underway and such regulations and terms and conditions for actual operations under the agreement should therefore be modified and made effective as soon as possible, i.e., on the effective date specified herein. Handlers of peanuts who will be affected by such amendments have signed the marketing agreement authorizing the issuance of such regulations and terms and conditions, they are represented on the Committee which recommended such amendments and time does not permit prior notice of the proposed amendments to such handler.

The foregoing amendments of the Outgoing Quality Regulation and Terms and Conditions of Indemnification are hereby approved.

Dated September 24, 1973.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc.73-20672 Filed 9-26-73;8:45 am]

Forest Service

CLOUD PEAK PRIMITIVE AREA HEARING ANNOUNCEMENT

Notice of Public Hearing

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (78 Stat. 890, 892 (16 U.S.C. 1131, 1132)) that a public hearing will be held beginning at 9 a.m. on Thursday, November 8, 1973, at the WYO Theater, 46 North Main, Sheridan,

Wyoming, on proposed management alternatives for the Cloud Peak Primitive Area relative to recommendations by the President of the United States to the Congress concerning the Cloud Peak Primitive Area.

The Cloud Peak Primitive Area is located within the Bighorn National Forest, in Bighorn, Johnson, and Sheridan Counties, State of Wyoming.

A brochure and Environmental Statement containing maps and information about the area and the management alternatives under consideration may be obtained, after October 1, 1973, from the Forest Supervisor, Bighorn National Forest, Columbus Building, P.O. Box 2046, Sheridan, Wyoming 82801, or the Regional Forester, Building 85, Denver Federal Center, Denver, Colorado 80225.

Individuals or organizations may express their views by appearing at the hearing, or they may submit written comments for inclusion in the official record to the Regional Forester at the above address by December 10, 1973.

Dated September 19, 1973.

JOHN R. MCGUIRE,
Chief, Forest Service.

[FR Doc.73-20664 Filed 9-26-73;8:45 am]

Soil Conservation Service

LEONA RIVER WATERSHED PROJECT, TEXAS

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Leona River Watershed Project, Uvalde County, Texas, USDA-SCS ES-WS-(ADM)-74-13(D).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment measures on about 39,180 acres of rangeland, cropland, and pastureland, supplemented by four floodwater retarding structures and approximately 3.47 miles of channel work.

Copies are available during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue, SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, First National Bank Building, P.O. Box 648, Temple, Texas 76501.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please use name and number of statement when ordering. The estimated cost is $3.75.

Copies of the draft environmental statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments must be received on or before December 4, 1973 to be considered in the preparation of the final statement.

Dated September 20, 1973.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.73-20602 Filed 9-26-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

AD HOC COMMITTEE FOR REVIEW OF THE SPECIAL VIRUS CANCER PROGRAM

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Ad Hoc Committee for Review of the Special Virus Cancer Program, National Cancer Institute, October 3, 1973, 9:00 a.m., The Sloan-Kettering Institute for Cancer Research, Howard Building, Room 1302, 410 East 68th Street, New York, New York. This meeting will be open to the public from 9:00 a.m. to 9:30 a.m., to discuss the scheduling of events leading to culmination of committee activities in presentation of committee report to the National Cancer Advisory Board on November 26-28, 1973. Attendance by the public will be limited to space available. The meeting will be closed to the public from 9:30 a.m. to adjournment, for discussion and review of 37 contracts in the field of Viral Oncology, in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code, and section 10(d) of Pub. L. 92-463.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Maurice L. Guss, Executive Secretary, Building 37, Room 1B12, National Institutes of Health, Bethesda, Maryland 20014 (301/496-3323) will provide substantive program information.

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.73-20571 Filed 9-26-73;8:45 am]

ADULT DEVELOPMENT AND AGING RESEARCH COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Adult Development and Aging Research Committee, National Institute of Child Health and Human Development, October 4-5, 1973, at 9:00 a.m., National Institutes of Health, Building 31-C, Conference Room 7. This meeting will be open to the public from 9:00 a.m. to 10:00 a.m., October 4, to discuss reviewing policy. The meeting will be closed to the public from 10:00 a.m. to 5:00 p.m., October 4, and 9:00 a.m. to 4:00 p.m., October 5, to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

Ms. Patricia Newman, Information Officer, NICHD, Landow Building, Room A-804B, National Institutes of Health, 496-5133, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from Dr. Walter Spieth, Executive Secretary of the Committee, Room A-710, Landow Building, National Institutes of Health, 496-1033.

(Catalog of Federal Domestic Assistance Program No. 13.317, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.73-20575 Filed 9-26-73;8:45 am]

ANIMAL RESOURCES ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Animal Resources Advisory Committee, Division of Research Resources, October 11-12, 1973, at 9:00 a.m., Room 2036, Department of Pathology, Bowman Gray School of Medicine, Winston-Salem, North Carolina. The meeting will be open to the public on October 11 from 9:00 a.m. to 12:30 p.m., for a scientific presentation of the Arteriosclerosis Center at Bowman Gray. At 2:00 p.m. the meeting will reconvene in the Board Room of the North Carolina Baptist Hospital. The meeting will be open to the public until 3:00 p.m., for a brief staff presentation on the current status of the animal resources program. The Committee will select future meeting dates. The meeting will be closed to the public from 3:30 p.m. to 5:00 p.m., October 11 and from 9:00 a.m. to 5:00 p.m., October 12 to review, discuss and evaluate and/or rank grant applications in accordance with provisions set forth in section 552(b)4 of Title 5 U.S. Code for grants and 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

The Information Officer who will furnish summaries of the meetings and roster of Committee members is Mr. James Augustine, Division of Research Resources, Building 31, Room 5B39, Bethesda, Maryland 20014, 496-5545.

The Executive Secretary from whom substantive program information may be obtained is Dr. John Holman, Building 31, Room 5B35, Bethesda, Maryland 20014, 496-5507.

(Catalog of Federal Domestic Assistance Program No. 13.306, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73-20580 Filed 9-26-73;8:45 am]

BIOMEDICAL LIBRARY REVIEW COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee, National Library of Medicine, October 17-18, 1973, 8:30 a.m. to 5:00 p.m. each day, in the Board Room of the National Library of Medicine. This meeting will be open to the public from 8:30 a.m. to 11:00 a.m. on October 17, to discuss administrative reports, and closed to the public from 11:00 a.m. to 5:00 p.m. on October 17, and all day October 18, to review grant applications, in accordance with the provisions set forth in Section 552(b) 4 of Title 5 U.S. Code and section 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

The Executive Secretary, who will furnish summaries of both the open and closed meeting portions, a roster of committee members, and substantive program information is: Dr. Roger W. Dahlen, Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20014, Telephone No.: 301-496-4191.

(Catalog of Federal Domestic Assistance Program Nos. 13.351, 13.350, 13.348—National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73-20578 Filed 9-26-73;8:45 am]

BOARD OF SCIENTIFIC COUNSELORS

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Mental Health, October 26 and 27, 1973, at 9:30 a.m., in Building 31, Conference Room 7, C Wing, 9000 Rockville Pike, Bethesda, Maryland 20014. This meeting will be open to the public from 9:30 to 10:00 a.m. on October 26, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 10:00 a.m. on October 26 through October 27, 1973, for the critique and evaluation of the National Institute of Mental Health Intramural Research Program in accordance with the provisions set forth in section 552(b) 6 of Title 5 United States Code and 10(d) of Pub. L. 92-463.

Attendance by the public during the open portion will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15-105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443-3600.

The Executive Secretary from whom substantive program information may be obtained is John C. Eberhart, Ph.D., Director of Intramural Research, National Institute of Mental Health, 9000 Rockville Pike, Bethesda, Maryland 20014, telephone 496-3501.

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73-20569 Filed 9-26-73;8:45 am]

BOARD OF SCIENTIFIC COUNSELORS

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Arthritis, Metabolism, and Digestive Diseases, October 19-20, 1973, 9 a.m., National Institutes of Health, Building 4, Room 336. This meeting will be open to the public from 9 a.m. to 10 a.m. on October 19, 1973, to discuss the general trend in research as regards arthritis, metabolism, and digestive diseases, and closed to the public from 10 a.m. to 5 p.m., on October 19, 1973, and from 9 a.m. to adjournment on October 20, 1973, for the critique and evaluation of the NIAMDD intramural program in accordance with the provisions set forth in section 552(b) 6 of Title 5 U.S. Code and 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

Name of the person from whom rosters of committee members, summary of the meeting, and other information pertaining to the meeting may be obtained: Mr. Victor Wartofsky, Information Officer, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland (301) 496-3583.

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73-20568 Filed 9-26-73;8:45 am]

EPIDEMIOLOY OF THE MULTIPLE SCLEROSIS SCIENTIFIC ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Working Group on Epidemiology of the Multiple Sclerosis ad hoc Scientific Advisory Committee, October 1 and 2, 1973, at 9:00 a.m., in Room 8A03, Building 31A, National Institutes of Health, Bethesda, Maryland. This meeting will be closed to the public to review, discuss and evaluate and/or rank research proposals on Multiple Sclerosis in accordance with the provisions set forth in section 552(b)4 of Title V, U.S. Code and section 10(d) of Pub. L. 92-463.

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Building 31, Room 8A03, phone: 496-5751.

2. The Executive Director from whom substantive program information may be obtained is: Dr. Harry M. Weaver, Room 8A11, Building 31A, NIH, phone: 496-3523.

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73-20573 Filed 9-26-73;8:45 am]

GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, October 1-2, 1973, commencing at 9:00 a.m. on October 1, 1973, National Institutes of Health, Building 31, Conference Room 9. This meeting will be open to the public from 9:00 a.m. to 9:30 a.m. on October 1 for general announcements and closed to the public from 9:30 a.m. to 5:00 p.m. on October 1 and from 9:00 a.m. to adjournment on October 2 to review, discuss, and evaluate and/or rank grant applications in accordance with provisions set forth in section 552(b) 4 of Title 5 U.S. Code for grants and 10 (d) of Pub. L. 92-463. Attendance by the public is limited to space available.

The Information Officer who will furnish summaries of the meeting and roster of the Committee members is Mr. James Augustine, Division of Research Resources, Building 31, Room 5B39, Bethesda, Maryland 20014, 496-5545.

The Executive Secretary from whom substantive information may be obtained is Dr. William DeCesare, Building 31, Room 4B13, Bethesda, Maryland 20014, 496-6595.

(Catalog of Federal Domestic Assistance Program No. 13.333, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73-20581 Filed 9-26-73;8:45 am]

IMMUNOLOGY-EPIDEMIOLOGY WORKING GROUP

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Immunology-Epidemiology Working Group, National Cancer Institute, October 9, 1973, from 9:00 a.m. to 4:00 p.m., University of California, Los Angeles, Faculty Center, Buenos Aires Room. This meeting will be open to the public from

9:00 a.m. to 10:00 a.m., October 9, 1973, to discuss future plans of the Immunology-Epidemiology Working Group and to review the current status of EBV research in human cancer, and closed to the public from 10:00 a.m. to 4:00 p.m., October 9, 1973, to review two contracts in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and section 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301/496–1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Clarice Gaylord, Executive Secretary, Landow Building, Room C309, National Institutes of Health, Bethesda, Maryland 20014 (301/496–6086) will provide substantive program information.

Dated September 19, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73–20582 Filed 9–26–73;8:45 am]

INFECTIOUS DISEASES COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Infectious Disease Committee, National Institute of Allergy and Infectious Diseases, October 18 and 19, 1973, 9:00 a.m. to 5:00 p.m., National Institutes of Health, Building 31, Conference Room 8. This meeting will be open to the public from 9:00 a.m. to 10:00 a.m., October 18, 1973 to review published data on the incidence of *Mycoplasma pneumoniae;* and closed to the public from 10:00 a.m. to 5:00 p.m. on October 18, 1973, and 9:00 a.m. to 5:00 p.m. on October 19, 1973, to review contracts in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Robert Schreiber, Information Officer, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 31, Room 7A–34, phone 496–5717, will furnish summaries of the meeting and rosters of committee members.

Mrs. Martha J. Mattheis, Executive Secretary of the Infectious Disease Committee, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 31, Room 7A–10, phone 496–5105, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13–301, National Institutes or Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73–20574 Filed 9–26–73;8:45 am]

MENTAL RETARDATION RESEARCH COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Mental Retardation Research Committee, National Institute of Child Health and Human Development, October 7–9, 1973, at 8:00 p.m., National Institutes of Health, Building 31, Conference Room 7. This meeting will be open to the public from 8:00 p.m. to 10:00 p.m., October 7, to discuss items relative to the committee's activities including announcements by the Associate Director for NICHD, the Head of the Mental Retardation Branch, and the Executive Secretary of the Committee. The meeting will be closed to the public from 8:30 a.m. to 5:00 p.m., October 8 and 8:30 a.m. to 5:00 p.m., October 9, to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Ms. Patricia Newman, Information Officer, NICHD, Landow Building, Room A–804B, National Institutes of Health, 496–5133, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from Dr. Lyle Lloyd, Executive Secretary of the Committee, Room C–704A, Landow Building, National Institutes of Health, 496–1383.

(Catalog of Federal Domestic Assistance Program No. 13.317, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73–20577 Filed 9–26–73;8:45 am]

NATIONAL CANCER ADVISORY BOARD

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, October 1–3, 1973, 9:00 a.m., National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public from 9:00 a.m., to 5:00 p.m., October 1; 9:00 a.m., to 5:00 p.m., October 2; and 10:00 a.m., to 12:30 p.m., October 3, to review scientific research concerned with cancer biology; diagnosis; treatment; and special programs in the National Cancer Program. On the morning of October 3, there will be a discussion on the reduction of cancer risk in smokers; opportunities for early diagnosis; and projections in therapy, during a presentation on the lung cancer program. The meeting will be closed to the public from 9:00 a.m., to 10:00 a.m., October 3, to discuss the fiscal year 1975 budget in accordance with the provisions set forth in section 552(b)5 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301–496–1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Richard A. Tjalma, Assistant Director for Board and Panel Affairs, NCI, Building 31, Room 11A44, National Institutes of Health, Bethesda, Maryland 20014 (301–496–5854) will provide substantive program information.

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73–20570 Filed 9–26–73;8:45 am]

PHARMACOLOGY-TOXICOLOGY PROGRAM COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pharmacology-Toxicology Program Committee, National Institute of General Medical Sciences, October 1–2, 1973, 9 a.m., National Institutes of Health, Building 31C, Conference Room 8. This meeting will be open to the public from 8:30 a.m. to 3:00 p.m., October 1, 1973, for opening remarks and general discussion on objectives of the program, and closed to the public from 3:00 p.m. to 5:00 p.m., October 1, and from 8:30 a.m. to 5:00 p.m., October 2, 1973, to review, discuss, evaluate, and rank contract proposals in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code for grants and contracts and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Paul Deming, Information Officer, NIGMS, Building 31, Room 4A46, Bethesda, Maryland 20014. Telephone: 301, 496–5676, will furnish a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. George J. Cosmides, Executive Secretary, Westwood Building, Room 9A03, Telephone: 301, 496–7707.

(Catalog of Federal Domestic Assistance Program No. 13.335, General Medical Sciences-Research Grants.)

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73–20567 Filed 9–26–73;8:45 am]

WORKING GROUP ON PATHOPHYSIOLOGY OF THE MULTIPLE SCLEROSIS AD HOC SCIENTIFIC ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Working Group on Pathophysiology of the Multiple Sclerosis ad hoc Scientific Advisory Committee, October 5, 1973, at 9:00 a.m., in Room 8A03, Building 31A, National Institutes of Health, Bethesda,

Maryland. This meeting will be closed to the public to review, discuss and evaluate and/or rank research proposals on Multiple Sclerosis in accordance with the provisions set forth in section 552(b)4 of Title V, U.S. Code and section 10(d) of Pub. L. 92–463.

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Building 31, Room 8A03, phone: 496–5751.

2. The Executive Director from who substantive program information may be obtained is: Dr. Harry M. Weaver, Room 8A11, Building 31A, NIH, phone: 496–3523.

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73–20572 Filed 9–26–73;8:45 am]

THERAPEUTIC EVALUATIONS COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Therapeutic Evaluations Committee, National Heart and Lung Institute, October 3 and 4, 1973, 9:00 a.m., National Institutes of Health, Building 31, Conference Room 8. This meeting will be open to the public from 9:00 a.m. to 11:00 a.m., October 3, 1973, to discuss the minutes of the April 23–24 meeting and subsequent Council actions on Committee recommendations, an administrative report, interim report and committee activities. The balance of the meeting will be closed to the public from 11:00 a.m., October 3, until the adjournment on October 4 to review grants, in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Hugh Jackson, Information Officer, NHLI, NIH Landow Building, Room C918, phone 496–4236, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from the Executive Secretary, Dr. Eleanor M. K. Darby, NHLI, NIH Westwood Building, Room 554, phone 496–7445.

(Catalog of Federal Domestic Assistance Program No. 13.346, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73–20579 Filed 9–26–73;8:45 am]

DIAGNOSTIC RADIOLOGY COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Diagnostic Radiology Committee, National Cancer Institute, October 10–11, 1973, at Airlie House, Warrenton, Virginia. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. and 7:00 p.m. to 9:00 p.m., October 10, 1973 and 9:00 a.m. to 12:00 p.m., October 11, 1973, to discuss radiological methods in the diagnosis of cancer. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Md. 20014 (301/496–1911) will furnish summaries of the open meeting and roster of committee members.

Dr. Kenneth B. Olson, Executive Secretary, Building 31, Room 3A06, National Institutes of Health, Bethesda, Md. 20014 (301/496–1591) will provide substantive program information.

Dated September 21, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73–20533 Filed 9–26–73;8:45 am]

POPULATION RESEARCH COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Population Research Committee of the National Institute of Child Health and Human Development, October 19, 1973, at 9:00 a.m., National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public from 9:00 a.m. to 10:30 a.m., October 19, to discuss program status and projections for Population Research Centers and Program Projects. The meeting will be closed to the public from 10:30 a.m. to 5:00 p.m., October 19 to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Ms. Patricia Newman, Information Officer, NICHD, Landow Buillding, Room A–804B, National Institutes of Health, 496–5133, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from Dr. Bengt Liljeroot, Executive Secretary of the Committee, Room C–729, Landow Building, National Institutes of Health, 496–6515.

(Catalog of Federal Domestic Assistance Program No. 13.317, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.73–20576 Filed 9–26–73;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS 162ND ACRS MEETING

Notice of Meeting

SEPTEMBER 24, 1973.

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on October 11–13, 1973, in Room 1046, 1717 H Street NW., Washington, D.C.

The following constitutes that portion of the Committee's agenda for the above meeting which will be open to the public:

(1) *Thursday, October 11, 1973:* 10:15 a.m.–12:30 p.m. and 1:30 p.m.–3:00 p.m.—*Donald C. Cook Nuclear Plant* (located in Lake Township near Benton Harbor, Michigan)—Review application for an operating license. The Committee will hear presentations by representatives and consultants of the AEC Regulatory Staff and the Indiana and Michigan Electric Company and will hold discussions with these groups.

The Committee will hold closed sessions during this period, if required, to discuss security plans for this facility and privileged information related to steam generator water chemistry control; fuel element design, fabrication, performance; and loss of coolant accident analysis.

It should be noted that, in addition to the agenda item noted above, the Committee will hold Executive Sessions not open to the public under the authority of section 10(d) of Pub. L. 92–463 (the Federal Advisory Committee Act), to consider the above applications and other matters. I have determined that it is necessary to close such portions of the meeting to protect such privileged information and protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than October 4, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such written comments shall be based on materials related to the above agenda item, which materials are contained in the application for an operating license and related documents, on file and available for public inspection in the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, and the St. Joseph Public Library, 500 Market Street, St. Joseph, Michigan 49085.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Committee. To the extent that the time available for the meeting permits, the Committee will receive

oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Committee.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Committee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on October 10, 1973, to the Office of the Executive Secretary of the Committee (telephone: 301-973-5651) between 8:30 a.m. and 5:15 p.m. e.d.t.

(e) Questions may be propounded only by members of the Committee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., on or after December 12, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.73-20681 Filed 9-26-73;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON PEAKING FACTORS

Notice of Meeting

SEPTEMBER 24, 1973.

In accordance with the purposes of section 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards Working Group on Peaking Factors will hold a meeting on October 10, 1973, in Room 112, at 1717 H Street NW., Washington, D.C. The purpose of this meeting will be to discuss calculational techniques and plant operating conditions related to peaking factors, with reference to nuclear reactors designed by Westinghouse Electric Corporation.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Wednesday, October 10, 1973, 2:30-5:30 p.m. Discussion with the AEC Regulatory Staff and Westinghouse.

In connection with the above agenda item, the Subcommittee will hold an executive session at approximately 5:30 p.m. to exchange opinions and formulate recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the executive session at the end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). It is essential to close this portion of the meeting to protect the free interchange of internal views and to avoid undue interference with Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than October 3, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon Westinghouse topical reports and various other related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 3:00 p.m. and 5:30 p.m. on the day of the meeting.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled, and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time alloted, can be obtained by a prepaid telephone call on October 9, 1973, to the Office of the Executive Secretary of the Committee (telephone: 301-973-5651) between 8:30 a.m. and 5:15 p.m., e.d.t.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, on or after December 10, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.73-20680 Filed 9-26-73;8:45 am]

[Docket No. 50-295]

COMMONWEALTH EDISON CO.

Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that, pursuant to an Order by the Atomic Safety and Licensing Board, dated September 20, 1973, the Atomic Energy Commission (the Commission) has issued Amendment No. 2 to Facility Operating License No. DPR-39 to Commonwealth Edison Company (Commonwealth Edison) for Zion Nuclear Power Station, Unit 1 (the facility). The facility is a pressurized, light water moderated and cooled reactor located at Commonwealth Edison's 250 acre site on the west shore of Lake Michigan in Zion, Lake County, Illinois. The facility is designed for operation at approximately 3,250 megawatts thermal.

The amended license authorizes Commonwealth Edison to perform operations at core power levels up to 1,700 megawatts thermal (about 52 percent of rated power), in accordance with the Technical Specifications issued on August 9, 1973.

The Director of Regulation has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Ch. I, which are set forth in the license. The application for the license complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Ch. I.

The amended license is effective as of the date of issuance and shall expire eighteen (18) months from said date unless extended for good cause shown or upon earlier issuance of a superseding licensing action. However, the authority to operate the facility as specified in Item 3.A. of the amended license is subpect to further orders of the Atomic Safety and Licensing Board designated to conduct a hearing on Commonwealth Edison Company's applications for full power licenses for Zion Units 1 and 2. In the event that the Atomic Safety and Licensing Board issues any further order

prohibiting further operation of Zion Unit 1 or limiting such operation to power levels below those authorized in the amended license Commonwealth Edison Company shall comply with such limitations as rapidly as compliance can be achieved in an orderly fashion, subject to any orders staying such decision which may be entered by the Atomic Safety and Licensing Appeal Board, the Atomic Energy Commission or a court of competent jurisdiction.

Copies of (1) the Board's Order dated September 20, 1973, (2) Amendment No. 2 to Facility Operating License No. DPR–39, and other relevant documents are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois. Copies of the amended license may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 21st day of September 1973.

For the Atomic Energy Commission.

KARL R. GOLLER,
Chief, Pressurized Water Reactors, Branch No. 3, Directorate of Licensing.

[FR Doc.73-20587 Filed 9-26-73;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON RELIABILITY AND ACCIDENT PROBABILITIES

Notice of Meeting

SEPTEMBER 26, 1973.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Reliability and Accident Probabilities will hold a meeting on October 9, 1973, in Room 1062, at 1717 H Street NW., Washington, D.C. The subject scheduled for discussion is the background and tentative views regarding the AEC's Reactor Safety Study.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Tuesday, October 9, 1973, 1:00 pm–2:01 pm

Discussion of background of Reactor Safety Study with Safety Study Representatives.

In connection with the above agenda item, the Subcommittee will hold a closed session at approximately 2:00 p.m. to discuss preliminary opinions and internal views of the AEC and its consultants, and an executive session at approximately 4:30 p.m. to exchange opinions and formulate recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that the closed sssion beginning at approximately 2:00 p.m. and the executive session at the end of the meeting will consist of an exchange of preliminary opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). It is essential to close these portions of the meeting to protect the free interchange of internal views and to avoid undue interference with agency and Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than October 4, 1973 to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Written statements shall be based on a prepared statement of the Director of the Reactor Safety Study, dated September 25, 1973 which is on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:00 p.m. and 4:30 p.m. on the day of the meeting.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled, and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on October 9, 1973, to the Office of the Executive Secretary of the Committee (telephone: 301–973–5651) between 8:30 am and 12:00 noon eastern daylight time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545 on or after December 9, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.73-20741 Filed 9-26-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 13959; Order 73-9-82]

DALLAS-FORT WORTH REGIONAL AIRPORT INVESTIGATION

Order Terminating Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of September 1973.

This investigation was instituted by the Board on August 20, 1962 (Order E–18719, amended on December 19, 1962 by Order E–19117), to determine whether the public convenience and necessity require the alteration, amendment, or modification of the certificate or certificates of (1) all air carriers, (2) the local service carriers, (3) the trunkline carriers, or (4) any individual air carrier or air carriers authorized to serve either or both Dallas and Fort Worth, Texas, in such manner as to require that Dallas and Fort Worth be served through a single airport to be designated in this proceeding.

After due notice a public hearing was held before Administrative Law Judge Ross I. Newmann, who thereafter issued his initial decision on April 7, 1964, in which he concluded that it would not be in the public interest to designate either GSIA or Love Field as a regional airport to serve the Dallas-Fort Worth area. Judge Newmann recognized, however, that both cities would benefit if a fair and equitable solution to their problems could be worked out. As a possible solution, he suggested the creation of an Airport Authority which would assume full responsibility for the planning, development, and operation of all airports in the Dallas-Fort Worth area.

On September 30, 1964, the Board issued an order (E–21341) stating it was unanimously of the opinion that service to Dallas and Fort Worth should be required through a single airport which meets, without limitation, the present and future requirements for transcontinental passenger and cargo services. The order gave the two cities a period of 180 days within which to arrive at a voluntary agreement concerning the location of the airport to be used for the consolidated service and to submit such agreement to the Board.

When the two cities failed to reach an agreement, the Board issued Order E–22028 on April 13, 1965, stating that it was firmly of the view that a voluntary agreement on the part of both cities is the best solution to their airport problem and that the Board was prepared to

assist them in reaching such an agreement. The Board therefore remanded the case to the Administrative Law Judge with full authority to assist the parties in their efforts to reach a definitive agreement.

Following our order of remand, the Administrative Law Judge held a series of meetings with respresentatives of both cities in Washington, D.C., Fort Worth, and Dallas. As a result, the Dallas/Fort Worth Regional Airport Board was established on September 27, 1965, under Texas Revised Civil Statutes, and was given permanent status by the City Councils of Dallas and Fort Worth. On April 15, 1968, the cities signed a contract creating provisions for the construction and operation of the Dallas-Fort Worth Airport. Under the contract, the airport will be owned and operated by or on behalf of and under the control of the cities. The Board was authorized to plan, acquire, establish, develop, construct, operate, regulate, and police the airport, and was charged with the responsibility of exercising on behalf of the cities the powers of each with respect thereto.

In its ultimate development the Dallas-Fort Worth Airport will have six primary instrument runways capable of three simultaneous operations, and a ground capacity of 230 passenger-aircraft gates and 200 all-cargo gates. Under Phase I, which is to be opened this fall, the Dallas-Fort Worth Airport will provide a three-runway layout capable of simultaneous aircraft operations, with a total of 66 passenger gates and 12 cargo gates. Phase I cost is estimated at approximately $700 million.

In view of the foregoing, we find that the new Dallas-Fort Worth Airport will provide an adequate facility to accommodate the air transportation needs of Dallas and Fort Worth and the surrounding counties that constitute their tributary market-base region. We further find that the primary purpose and objective of this investigation has been accomplished.

Accordingly, it is ordered, That:

The investigation in Docket 13959 be and it hereby is terminated.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-20655 Filed 9-26-73;8:45 am]

[Docket No. 23333; Order 73-9-77]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority September 20, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA) and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names six additional specific commodity rates as set forth in the attachment hereto,[1] reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated September 6, 1973.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered, That:

1. Agreement C.A.B. 23926, R-1 through R-6 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained herein for purposes of tariff publication: *Provided, further*, That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and

2. The findings and approval herein shall not be deemed to modify the findings and Order of the Board in its decision in Agreements Adopted by IATA Relating to North Atlantic Cargo Rates, Order 73-2-24 of February 6, 1973, as amended and finalized by Order 73-7-9 of July 5, 1973, and are subject to all provisions of such order.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-20652 Filed 9-26-73;8:45 am]

[Docket No. 23333; Order 73-9-76[1]]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority September 19, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA) and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names three additional specific commodity rates as set forth in the attachment hereto,[2] reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated August 24, 1973.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered, That:

1. Agreement C.A.B. 23910, R-1 through R-3 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained herein for purposes of tariff publication: *Provided further*, That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and

2. The findings and approval herein shall not be deemed to modify the findings and Order of the Board in its decision in Agreements Adopted by IATA Relating to North Atlantic Cargo Rates, Order 73-2-24 of February 6, 1973, as amended and finalized by Order 73-7-9 of July 5, 1973, and are subject to all provisions of such order.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 73-20653 Filed 9-26-73;8:45 am]

[Docket No. 23333; Order 73-9-78]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority September 20, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the

[1] Filed as part of the original document.

[1] Order 73-8-70 dated August 14, 1973 and issued September 11, 1973 was incorrectly numbered and dated. It is now being reissued bearing a current date and number.

[2] Filed as part of the original document.

Joint Traffic Conferences of the International Air Transport Association (IATA) and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names two additional specific commodity rates as set forth in the attachment hereto,[1] reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated September 6, 1973.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered, That:

1. Agreement C.A.B. 23927, R-1 and R-2 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained herein for purposes of tariff publication: *Provided further*, That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and

2. The findings and approval herein shall not be deemed to modify the findings and Order of the Board in its decision in Agreements Adopted by IATA Relating to North Atlantic Cargo Rates, Order 73-2-24 of February 6, 1973, as amended and finalized by Order 73-7-9 of July 5, 1973, and are subject to all provisions of such order.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-20654 Filed 9-26-73;8:45 am]

[Docket No. 25908, etc.; Order 73-9-83]

TRANSATLANTIC ROUTE PROCEEDING, ET AL.

Order Regarding Certificate of Public Convenience and Necessity

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of September 1973.

Transatlantic Route Proceeding, Docket 25908; application of Pan American World Airways, Inc., for renewal of temporary authority in its certificates of public convenience and necessity for routes 132 and 133, Docket 24818; application of Trans World Airlines, Inc., for renewal of its certificate of public convenience and necessity for route 147, Docket 24816; application of Seaboard World Airlines, Inc., for renewal of temporary authority in its certificate of public convenience and necessity for route 119, Docket 24825; East Coast Points-Europe Service Investigation, Docket 19255.

Pan American World Airways, Inc., Trans World Airlines, Inc., and Seaboard World Airlines, Inc., hold substantial temporary transatlantic authority including numerous points in Western and Eastern Europe, the Near and Middle East, North Africa and points in the Far East.[2] By timely filed applications, Pan American,[3] TWA,[4] and Seaboard[5] have requested permanent renewal of their temporary transatlantic certificate authority,[6] invoking 5 U.S.C. 558(c), formerly section 9(b) of the Administrative Procedure Act, pursuant to which their respective temporary authorities have been automatically extended until final Board decision on their renewal applications.

In addition, six supplemental air carriers[7] have recently received renewed certificates of public convenience and necessity authorizing them to provide transatlantic supplemental air transportation between any point in any State of the United States or the District of Columbia, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand. By their terms these certificates expire on July 5, 1975.[8]

Upon consideration of the foregoing and other pertinent matters, we have determined to institute a proceeding, as discussed in detail below, to consider the renewal of the scheduled and supplemental carriers' temporary transatlantic authorities,[9] the possible certification of additional U.S. coterminal points, and the authorization of supplemental transatlantic cargo authority. Accordingly, we are consolidating for hearing in this proceeding the applications of Pan American, TWA, and Seaboard, in Dockets 24818, 24816, and 24825, respectively, insofar as those applications conform to the scope of the proceeding herein instituted.

In view of the increased congestion at many of the existing East Coast gateways, and the continued increase in transatlantic traffic, we believe it desirable that the issues in this proceeding embrace consideration of additional U.S. points for certification as scheduled U.S. coterminals.[10] However, in order to avoid expanding the case to unmanageable proportions, and to prevent delay in considering the renewal of the existing carriers' temporary authorities, it is our desire to limit the number of U.S. cities to be considered as possible U.S. coterminal points. Consequently, we have selected 16 additional cities for consideration as U.S. coterminals for transatlantic passenger and/or cargo service. Our selection was accomplished in a manner which gives due regard to the traffic-generating capability and geographical location of all cities which might be considered as possible domestic coterminals points.[10] Thus, with one exception—Hartford, Conn.—the cities we have selected rank in the top 25 U.S. cities in terms of domestic revenue passenger miles generated for the 12 months

[1] Filed as part of the original document.

[2] With the exception of Pan American's authority at San Juan, the carrier's U.S. coterminal points are authorized on a permanent basis.

[3] Pan American's application for renewal of routes 132 and 133 was filed in Docket 24818. In addition to renewal of its temporary authority on routes 132 and 133, Pan American requests authority to allow stopover privileges at any coterminal point named in its certificate to any person traveling between any other coterminal, on the one hand, and any foreign point named in the certificate, on the other hand.

[4] TWA's application, as amended, for renewal of route 147, was filed in Docket 24816.

[5] Seaboard's application for renewal of its authority to carry property and mail only over route 119 was filed in Docket 24825.

[6] Appendix A contains a list of each carrier's temporary authority.

[7] Capitol International Airways, Inc., Overseas National Airways, Inc., Saturn Airways, Inc., Trans International Airlines, Inc., and World Airways, Inc. Universal Airlines, Inc. initially received transatlantic charter authority by Order 71-5-132, which authority was suspended by Order 72-8-129. Although this authority was renewed along with other supplementals by Order 72-5-9, the Board subsequently stayed the effectiveness of the renewed certificate (Order 72-6-144).

[8] Order 72-5-9, served May 4, 1972.

[9] We shall not include in this investigation the renewal of TWA's temporary authority to serve the People's Republic of China. In view of the unique circumstances involved, we believe that consideration of the question of service to the People's Republic of China would unnecessarily delay and complicate the rest of this investigation and should not be considered at this time. TWA's existing authority will continue in effect pursuant to 5 U.S.C. 558(c).

[10] The following is a list of the existing domestic coterminal points:

- Baltimore—Pan American, TWA, Seaboard (hyphenated with Washington)
- Boston—Pan American, TWA, Seaboard
- Chicago—Pan American, TWA, Seaboard
- Cleveland—Seaboard
- Detroit—Pan American, TWA, Seaboard
- Los Angeles—Pan American, TWA, Seaboard
- New York—Pan American, TWA, Seaboard
- Philadelphia—Pan American, TWA, Seaboard
- Portland—Pan American
- San Francisco—Pan American, TWA, Seaboard
- San Juan, P.R.—Pan American (temporary)
- Seattle—Pan American
- Washington, D.C.—Pan American, TWA, Seaboard (to be served through Dulles and hyphenated with Baltimore)

[10] The additional points to be considered for U.S. coterminal authority are as follows: Atlanta, Cleveland, Dallas/Ft. Worth, Denver, Hartford, Houston, Kansas City, Las Vegas, Miami, Minneapolis/St. Paul, New Orleans, Phoenix, Pittsburgh, St. Louis, San Diego, and Tampa.

ended December 31, 1971.[11] Similar criteria have proved workable in the past in enabling the Board to determine a manageable number of coterminal points to consider in a case of this sort.[12]

In addition, the issues in this proceeding will embrace consideration of transatlantic cargo charter authority. This is consistent with our previous expressions of intent to consider transatlantic supplemental cargo authority contemporaneously with our review of the renewal of the temporary transatlantic authority held by the scheduled carriers.[13]

We have determined that final Board action in this proceeding may constitute a major Federal action which might significantly affect the quality of the human environment within the meaning of section 102 of the National Environmental Policy Act of 1969. Accordingly, this proceeding will be conducted in accordance with the standards and procedures set forth in § 399.110 of the Board's Policy Statements.[14] In addition, we are directing the Director, Bureau of Operating Rights, to prepare and circulate a draft environmental impact statement prior to the hearing for consideration and comment by the parties, other environmentally concerned Federal agencies, and other interested persons.

Since a primary focus of this proceeding will be directed to the consideration of the renewal of the temporary scheduled and supplemental authority, we will not look with favor upon any requests to expand the scope of this proceeding to include consideration of (1) additional foreign points, or (2) requests for domestic "fill-up rights" between U.S. coterminal points. Consideration of these issues would unnecessarily complicate and delay this proceeding.[15]

We are herewith terminating the East Coast Points-Europe Service Investigation, Docket 19255, and dismissing all other pending applications for transatlantic authority, without prejudice to a full consideration of requests that new applications which conform to the scope of the instant proceeding be consolidated with the herein instituted transatlantic case.[16] The East Coast Points case was instituted in 1967[17] to consider the authorization of transatlantic service from new East Coast gateways to relieve congestion at existing gateways—principally New York. In view of the changes in economic conditions since that time, and in view of the staleness of the pleadings in the East Coast Points case, we will terminate that case and invite consolidation of appropriate applications into this proceeding.

Finally, with the scope of the proceeding established by this order, it is our intention that this investigation will proceed expeditiously. Accordingly, we contemplate that the instant proceeding will be set promptly for prehearing conference, and that the Administrative Law Judge assigned will establish the most expeditious procedural schedule possible with due regard to the rights of the parties and the development of an adequate record, to which procedural schedule the parties will strictly adhere.

Accordingly, it is ordered, That:

1. A proceeding, to be known as the Transatlantic Route Proceeding, Docket 25908, be and it hereby is instituted and shall be set down for expeditious hearing before an Administrative Law Judge of the Board at a time and place hereafter designated;

2. The proceeding instituted by paragraph 1 above shall include consideration of:

(a) Whether the public convenience and necessity require the renewal of the temporary transatlantic certificate authority held by Pan American World Airways, Inc., in routes 132 and 133, Trans World Airlines, Inc., in route 147 (except at Canton and Shanghai), and Seaboard World Airlines, Inc., in route 119;

(b) Whether the public convenience and necessity require the certification of authority to provide transatlantic passenger, cargo (combination or all-cargo) and mail service, either on a temporary or permanent basis, to the foreign points considered in paragraph 2(a) above from the following U.S. points:

Atlanta, Ga., Baltimore, Md., Boston, Mass., Chicago, Ill., Cleveland, Ohio, Dallas/Ft. Worth, Tex., Denver, Colo., Detroit, Mich., Hartford, Conn., Houston, Tex., Kansas City, Mo., Las Vegas, Nev., Los Angeles, Calif., Miami, Fla., Minneapolis/St. Paul, Minn., New Orleans, La., New York, N.Y., Philadelphia, Pa., Phoenix, Ariz., Pittsburgh, Pa., Portland, Oreg., St. Louis, Mo., San Diego, Calif., San Francisco, Calif., San Juan, P.R., Seattle, Wash., Tampa, Fla., and Washington, D.C.;

(c) Whether the public convenience and necessity require the grant of stopover privileges at the domestic coterminal points in issue;

(d) Whether the public convenience and necessity require the renewal of the certificates of public convenience and necessity held by Capitol International Airways, Inc., Overseas National Airways, Inc., Saturn Airways, Inc., Trans International Airlines, Inc., Universal Airlines, Inc., and World Airways, Inc., authorizing transatlantic supplemental air transportation;

(e) Whether the public convenience and necessity require the certification of transatlantic supplemental cargo authority on a temporary or permanent basis; and

(f) What will be the impact on the human environment of final Board action in this proceeding.

3. Insofar as they conform to the scope of this proceeding, as set forth in paragraph 2 above, the applications of Pan American World Airways, Inc., Docket 24818, Trans World Airlines, Inc., Docket 24816, and Seaboard World Airlines, Inc., Docket 24825, be and they hereby are consolidated with the proceeding instituted by paragraph 1 above; to the extent not consolidated, the foregoing applications be and they hereby are dismissed without prejudice;

4. The East Coast Points-Europe Service Investigation, in Docket 19255, be and it hereby is terminated;

5. The applications listed in Appendix B below, be and they hereby are dismissed without prejudice;

6. Petitions for reconsideration of this order and motions to consolidate appropriate applications shall be filed 20 days from the service date of this order and answers thereto shall be filed 10 days thereafter; and

7. A copy of this order shall be served on each certificated air carrier; the cities listed in Appendix B below; each city listed in paragraph 2(b) above; the Governor of each state listed in Appendix C below, the Governor of Puerto Rico, and the Mayor-Commissioner of the District of Columbia; the state environmental protection agencies listed in Appendix C below; each party to the East Coast Points-European Service Investigation; the Departments of Commerce, Health, Education, and Welfare, Interior, State, and Transportation; the Environmental Protection Agency; the Council on Environmental Quality; and the National Aeronautics and Space Administration.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

APPENDIX A

LIST OF TEMPORARY POINTS

PAA

1. Route 133

Casablanca, Morocco	Madrid

2. Route 132

Austria	Leningrad, USSR
Afghanistan	Lisbon
Azores	Lithuania
Barcelona	Madrid
Belgium	Moscow
Bulgaria	Netherlands
Czechoslovakia	Nice
Denmark	Norway
Estonia	Pakistan
Finland	Paris
Germany	Poland
Hungary	Rumania
Iceland	Rome
India	San Juan
Iran	Sweden
Iraq	Syria
Ireland—except Dublin	Turkey
Latvia	UK (Northern Ireland)
Lebanon	Yugoslavia

[11] While Hartford is not one of the top 25 cities, it ranks 29th in RPM's generated and, in addition, the city's proximity to the Atlantic makes its choice for consideration as a U.S. coterminal desirable.

[12] See Transpacific Route Investigation, Order E-23740, May 25, 1966.

[13] See Orders 71-10-126, n. 4, and 72-6-139, p. 3.

[14] "Implementation of the National Environmental Policy Act of 1969."

[15] We will, however, consider requests for "stopover privileges" because, as an evidentiary matter, they will not unduly expand this proceeding.

[16] We are dismissing these applications in order to give the applicants an opportunity to reappraise the authority they seek in light of the scope of the proceeding herein instituted.

[17] Order E-25991, November 17, 1967.

TWA

Route 147

Algeria	Italy (except Rome which is permanent)
Azores	Jordan
Bangkok	Kuwait
Burma	Libya
Calcutta	London
Canton	Mandalay
Ceylon	Manila
Egypt	Oman
France (except Marseilles, Nice or Paris)	Portugal
Frankfurt	Saudi Arabia
Greece	Shanghai
Hanoi	Southern India
Hong Kong	Spain (except Barcelona)
India	Switzerland
Iraq	Tunisia
Israel	Yemen

SEABOARD

Route 119 (Cargo only)

Newfoundland, Canada	Denmark
Ireland (except Dublin)	Norway
Belgium	Sweden
The Netherlands	Switzerland
	Italy

APPENDIX B

The following applications are dismissed without prejudice:

Airlift International	Docket 21199.
American Airlines	Dockets 19418, 21185, 24979.
Braniff Airways	Dockets 19428, 20292, 24921.
Capitol International	Docket 21199.
Dallas/Fort Worth	Dockets 21530, 24910.
Delta Air Lines	Dockets 19409, 19417, 24592.
Department of Transportation	Docket 21321.
Eastern Air Lines	Docket 19405.
The Flying Tiger Line	Docket 20521.
Louisville	Docket 21199.
Memphis	Docket 21354.
Nashville	Docket 21340.
National Airlines	Dockets 19425, 19483, 24666, 24803.
Northwest Airlines	Docket 19415.
Overseas National Airlines	Docket 19435.
Pan American	Dockets 19424, 20815, 24819, 24820.
Seaboard World Airlines	Dockets 17814, 19430, 20869.
Standard Airways	Docket 19420.
Trans International Airlines	Docket 19370.
Trans World Airlines	Dockets 14882, 19419.
United Air Lines	Docket 19410.
Western Airlines	Docket 19414.
World Airways	Docket 19403.

APPENDIX C

The following State agencies concerned with protecting the environment will be served with a copy of this order:

California
The Resources Agency
1416 Ninth Street
Sacramento, Calif. 95814
Colorado
Department of Natural Resources
1845 Sherman
Denver, Colo. 80203
Connecticut
Department of Environmental Protection
539 State Office Bldg.
Hartford, Conn. 06115
District of Columbia
Department of Environmental Services
1875 Connecticut Ave., NW.
Washington, D.C. 20009
Florida
Department of Natural Resources
Larson Building
Gaines St. at Monroe
Tallahassee, Fla. 32304
Georgia
Natural Areas Council
544 Agriculture Bldg.
7 Hunter St. S.W.
Atlanta, Ga. 30303
Illinois
Environmental Protection Agency
535 W. Jefferson St.
Springfield, Mo. 62704
Louisiana
State Department of Conservation
P.O. Box 44275
Capital Station
Baton Rouge, La. 70804
Maryland
Department of Natural Resources
State Office Bldg.
Annapolis, Md. 21401
Massachusetts
Department of Natural Resources
Leverett Saltonstall Bldg.
100 Cambridge St.
Boston, Mass. 02202
Michigan
Department of Natural Resources
Mason Building
Lansing, Mich. 48926
Minnesota
Pollution Control Agency
717 Delaware Street, S.E.
Minneapolis, Minn. 55440
Missouri
Department of Conservation
P.O. Box 180
Jefferson City, Mo. 65101
Nevada
Environmental Protection Commission
State Health Division
201 S. Fall St.
Carson City, Nevada 89701
New York
Bureau of Environmental Protection
State of New York
80 Center Street
New York, N.Y. 10013
Ohio
Department of Natural Resources
907 Ohio Departments Bldg.
Columbus, Ohio 43215
Oregon
Department of Environmental Quality
1234 S.W. Morrison
Portland, Oregon 97205
Pennsylvania
Department of Environmental Resources
Public Relations
Rm. 522, South Office Bldg.
Harrisburg, Penna. 17120
Puerto Rico
Department of Health
P.O. Box 9342
Santurce, P.R. 00908
Texas
Air Control Board
8520 Shoal Creek Blvd.
Austin, Texas 78758
Washington
Department of Ecology
Box 829
Olympia, Wash. 98504

[FR Doc.73-20657 Filed 9-26-73;8:45 am]

[Dockets Nos. 25583 and 25603]

RONSON CORPORATION AND RONSON HELICOPTERS, INC.

Notice of Hearing Regarding Acquisition of Control by Liquigas, S.p.A. et al.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on December 17, 1973, at 10:00 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., September 21, 1973.

[SEAL] JOSEPH L. FITZMAURICE,
Administrative Law Judge.

[FR Doc.73-20656 Filed 9-26-73;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE FEDERATIVE REPUBLIC OF BRAZIL

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 24, 1973.

On October 23, 1970, the United States Government, in furtherance of the objectives of, and under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of the Federative Republic of Brazil concerning exports of cotton textiles and cotton textile products from the Federative Republic of Brazil to the United States over a five-year period beginning on October 1, 1970, and extending through September 30, 1975. On May 9, 1972, the bilateral agreement was amended and extended through September 30, 1977. Among the provisions of the agreement, as amended, are those establishing an aggregate limit for the 64 categories, group limits, and within the group limits specific limits on Categories 1–4, 9, 18/19 and part of 26 (printcloth), 22/23, part of 26/27 (duck), part of 26/27 (other than printcloth and duck), part of 30/31, 50, 51, 55, and part of 64 for the fourth agreement year beginning October 1, 1973.

Accordingly, there is published below a letter of September 24, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in Categories 1–4, 9, 18/19 and part of 26 (printcloth), 22/23, part of 26/27 (duck), part of 26/27 (other than printcloth and duck), part of 30/31, 50, 51, 55, and part of 64, produced or manufactured in the Federative Republic of Brazil, which may be entered or

withdrawn from warehouse for consumption in the United States for the twelve-month period beginning October 1, 1973, and extending through September 30, 1974, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

SEPTEMBER 24, 1973.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of October 23, 1970, as amended, between the Governments of the United States and the Federative Republic of Brazil, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1973, and for the twelve-month period extending through September 30, 1974, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1–4, 9, 18/19 and part of 26 (printcloth), 22/23, part of 26/27 (duck), part of 26/27 (other than printcloth and duck), part of 30/31, 50, 51, 55, and part of 64, produced or manufactured in the Federative Republic of Brazil, in excess of the following levels of restraint:

Category:		*12-month levels of restraint*
1–4	pounds	7,549,728
9	square yards	13,891,200
18/19 and part of 26		
18/19 and part of 26 (printcloth).[1]	do	12,154,800
22/23	do	5,209,200
Part of 26/27 (duck)[2]	do	2,894,000
Part of 26/27 (other than print cloth and duck)[1, 3]	do	7,524,562
Part of 30/31[3]	pieces	6,652,874
50	dozen	45,531
51	do	39,027
55	do	15,889
Part of 64 (only T.S.U.S.A. Nos.: 366.6500 and 386.2500).	pounds	251,652

[1] In Category 26, the T.S.U.S.A. numbers for printcloth are:

[2] The T.S.U.S.A. Nos. for duck are:

320...01 through 04, 06, 08		
321...01 through 04, 06, 08		
322...01 through 04, 06, 08		
326...01 through 04, 06, 08		
327...01 through 04, 06, 08		
328...01 through 04, 06, 08		

[3] All of Categories 30 and 31 except T.S.U.S.A. No. 366.2740.

320...34	322...34	327...34
321...34	326...34	328...34

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories, produced or manufactured in the Federative Republic of Brazil, which have been exported to the United States from the Federative Republic of Brazil prior to October 1, 1973, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period October 1, 1972 through September 30, 1973. In the event that the above levels of restraint for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of October 23, 1970, as amended, betweeen the Governments of the United States and the Federative Republic of Brazil which provide, in part, that within the aggregate limit and group limits, the limitations on specific categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 FR 8802), as amended on February 14, 1973 (38 FR 4436).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textiles and cotton textile products from the Federative Republic of Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.73-20685 Filed 9-26-73;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality from September 17 through September 21, 1973.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Recreation Cabins, Ketchikan Area, Tongass N.F., Alaska, September 19: Proposed is the construction and operation of seven recreation cabins on salt water access in roadless areas of the Ketchikan Area, Revillagigedo Island, Tongass National Forest. The cabins will primarily serve the boating public, providing shelter for both normal and emergency boating conditions. Impact will include the clearing of one-sixteenth acre of ground for each cabin, and pollution from cabin use (15 pages). (ELR Order No. 31525) (NTIS Order No. EIS 73 1525-D.)

Timber Sales, Sierra National Forest, Fresno County, Calif., September 13: Proposed is the continued preparation of the Home Camp, Line Creek, Billy Creek, and Bear Creek Timber Sales, to be advertised and awarded to the highest bidder. The 8,115 acre Study Area is located within the 23,020 acre Kaiser inventoried roadless area of the Sierra National Forest. There will be soil erosion, water sedimentation, noise and air pollution from logging activities. There is potential for stimulation of development of private property in Line Creek Basin (90 pages). (ELR Order No. 31499) (NTIS Order No. EIS 73 1499-D.)

Final

Vegetation Control, several counties in New Mexico, September 12: Proposed is the use of mechanical equipment and fire to control spreading Pinyon-Juniper and Sagebrush on lands of Apache, Gila, and Santa Fe National Forests, in Centron, Grant, Sandoval, Rio Arriba, and San Miguel Counties. There will be temporary adverse impact to air, soil, water and aesthetic qualities, and to wildlife, (140 pages). Comments made by: EPA, DOI, state and local agencies, and concerned citizens. (ELR Order No. 31495) (NTIS Order No. EIS 73 1495-F.)

SOIL CONSERVATION SERVICE

Final

Big Running Water Ditch Watershed, Lawrence and Randolph Counties, Ark., September 14: The proposed project involves protection of the 43,952 acre watershed. Project measures include land treatment and 82 miles of channel improvement. Five hundred acres of woodland will be committed to the action, with adverse effects to local wildlife populations (77 pages). Comments made by: USA, HEW, DOI, EPA, and state agencies. (ELR Order No. 31501) (NTIS Order No. EIS 73 1501-F.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-7168.

Draft

Cave Run Lake, Licking River Basin, several counties in Kentucky, September 19: The statement refers to the proposed construction of the Cave Run Dam and related project works on the Licking River, for purposes of flood control, general recreation, water quality, and fish and wildlife recreation. Thirty-one thousand acres, 14,870 of which will be inundated, will be converted to public ownership as a result of the project. Fifty miles of free flowing stream with 21 miles of tributaries will be converted to slack water impoundment. An influx of visitors will affect the tranquility which presently prevails. (Louisville District) (33 pages). (ELR Order No. 31526) (NTIS Order No. EIS 73 1526-D.)

Flood Protection, Pottstown (2), Pa., September 18: The statement, a revised draft, refers to a flood control project which involves two miles of channel work on the Schuylkill River, and the removal of a constriction in Manatawny Creek. River bottom ecology will be disrupted by channel modification (Philadelphia District) (72 pages). (ELR Order No. 31515) (NTIS Order No. EIS 73 1515-D.)

Galveston Harbor and Channel, Tex., September 14: Proposed is the deepening of Galveston Channel from its previous authorized depth of 36 feet to its new authorized depth of 40 feet. Spoil will be deposited in leveed areas on Pelican and Galveston Islands. Dredging activities will have adverse impact to marine biota. (Galveston District) (21 pages). (ELR Order No. 31503) (NTIS Order No. EIS 73 1503–D.)

Final

Bushley Bayou Flood Control Project, Louisiana, September 20: The statement considers the advisability of providing backwater flood protection to the Bushley Bayou area by means of a loop levee, gravity floodgate, internal drainage canal and a 1,500 cubic-foot-per-second pumping station. Three thousand acres of suitable wildlife lands and water supply and control facilities will be acquired to mitigate project induced fish and wildlife losses. Adverse effects of the action are loss of 5,900 acres of bottomland hardwood forests, loss of fish and wildlife habitat and possible damage to Indian mounds of archeological value (Vicksburg District). Comments made by: USDA, EPA, DOI, DOT, HEW, and state agencies. (ELR Order No. 31528) (NTIS Order No. EIS 73 1528–F.)

South Fork Zumbro River, Olmstead County, Minn., September 19: The statement refers to the proposed modification of 10 miles of channel on the Zumbro, Bear Creek, and Cascade Creek, along with supplementary levee and pump station construction. The purpose of the action is that of flood control. There will be a disruption of greenbelt corridors and a loss of natural riparian habitat. The area provides an overwintering habitat for Canada geese and giant Canada geese which is of national importance; it would be adversely affected. Two residences and eight businesses would be displaced (St. Paul District) (87 pages). Comments made by: USDA, DOT, HEW, DOI, EPA, state agencies, and concerned citizens. (ELR Order No. 31524) (NTIS Order No. EIS 73 1524–F.)

NAVY

Contact: Mr. Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of the Navy, Washington, D.C. 20350, 202–697–0892.

Draft

Navy Family Housing Construction, Orange County, Fla., September 14: Proposed is the construction of 600 family housing units to accommodate servicemen and dependents from the Naval Training Center near Orlando. The project site is on the eastern portion of McCoy Air Force Base. Approximately 120 acres of unimproved, non-productive land will be converted into a residential community (31 pages). (ELR Order No. 31502) (NTIS Order No. EIS 73 1507–D.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460, 202–755–0940.

Draft

Village Creek Facility, Fort Worth, Tex., September 17: The statement refers to the proposed construction of additional wastewater treatment facilities at the Village Creek Wastewater Treatment Facility, Fort Worth. Work includes the 51 MGD expansion of the existing 45 MGD facility. The proposed project is expected to increase water quality of the Trinity River and aid in the orderly development of member communities. There will be construction disruption, and increased odor and noise from the new project. (ELR Order No. 31505) (NTIS Order No. EIS 73 1505–D.)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 202–386–6084.

Draft

Parr Hydroelectric Project No. 1894, Fairfield and Newberry Counties, S.C., September 14: The proposed action is the approval of an application by the South Carolina Electric and Gas Co. for a new major license for its constructed Project No. 1894. Additionally, the applicant is seeking authorization for the construction of a new pumped storage project. The upper pool would then be used for cooling the Virgil C. Summer Nuclear Station's two 900 MW units, and possibly a third 900 MW unit. Adverse impact of the new project would include the inundation of 9,350 acres, with the elimination of farm land, timber crops, and wildlife habitat, and the displacement of 25 homes. (ELR Order No. 31500) (NTIS Order No. EIS 73 1500–D).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202–426–4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Doolittle Drive (Route 61), Alameda County, Calif., September 17: The proposed project consists of widening a mile long portion of Route 61, Doolittle Drive, from two lanes to four lanes with parking. Increases in the peak noise level will occur (50 pages). (ELR Order No. 31506) (NTIS Order No. EIS 73 1506–D.)

U.S. 40, Routt County, Colo., September 17: The proposed project is the re-construction of a 10-mile segment of U.S. 40. The project will require an unspecified amount of land and will displace 2 or 3 families. A section 4(f) review will be filed to obtain one acre of land from Soda Spring. The facility will traverse a river causing an increase in siltation, and erosion. Increases in air pollution will occur (168 pages). (ELR Order No. 31507) (NTIS Order No. EIS 73 1507–D.)

US 54 and K–96, Butler County, Kans., September 19: The project involves the improvement of 13 miles of US–54 and K–96; to meet freeway standards. The facility will be a 4-lane highway with controlled access. Depending upon the alternate chosen, the project will require from 338 to 622 acres of land for right-of-way and displace 0 to 42 homes, 0 to 5 farms, 0 to 10 businesses and 1 nonprofit organization. Four to 14 land severances will occur. Adverse impacts are: loss of agricultural land, loss of wildlife, alterations or destruction of terraces, waterways and ponds resulting in erosion, and water pollution. Increases in noise pollution levels will occur (92 pages). (ELR Order 31522) (NTIS Order No. EIS 73 1522–D.)

Final

Perry Hill Road, Montgomery County, Ala., September 11: The project consists of improving a present 2-lane facility to a 4-lane facility. Length is 2.26 miles. An unspecified amount of land will be taken for right-of-way (36 pages). Comments made by: USDA, COE, DOC, DOI, EPA, HUD, HEW, and state agencies. (ELR Order No. 31484) (NTIS Order No. EIS 73 1484–F.)

Coosa River Bridge, Etowah County, Ala., September 19: The statement considers the proposed construction of a bridge across the Coosa River between Southside and Rainbow City. The project provides an additional bridge for southbound traffic and retains the existing bridge for northbound traffic. Approximately 32 acres of land are required for right-of-way will be displaced (47 pages). Comments made by: USDA, DOI, EPA, HEW, HUD, state, regional, and local agencies. (ELR Order No. 31517) (NTIS Order No. EIS 73 1517–F.)

State Route 86; Riverside County, Calif., September 11: Proposed is the construction of 22 miles of four lane freeway between the Imperial County line and near Indio to replace portions of existing 2 lane conventional State Routes 86 and 111. The project will traverse the Southern Coachella Valley. Twenty-four families will be displaced. Adverse effects to air basin and local air quality; changes in the ambient noise levels; and potential water pollution and erosion will occur (68 pages). Comments made by: COE, EPA, HEW, DOI, DOT, state, and local agencies. (ELR Order No. 31494) (NTIS Order No. EIS 73 1494–F.)

Mount Carmel Connector, Connecticut, September 18: The statement considers the proposed construction of a 1.8 mile section of new highway (relocation of Route 10) from Whitney Avenue to State Street and Dixwell Avenue. A strip of land approximately 350 feet wide will be required for right-of-way; a bridge will be constructed across the Mill River. Seven businesses will be displaced. A4(f) statement will be filed as a historic site would be affected (116 pages). Comments made by: USDA, DOC, HEW, HUD, DOI, OEO, state, and regional agencies. (ELR Order No. 31514) (NTIS Order No. EIS 73 1514–F.)

F.A.P. 406, Logan and Tazewell Counties, Ill., September 19: The proposed freeway is a four-lane, fully access controlled facility extending from north of Lincoln to Morton. Approximately 800 acres of agricultural land will be committed to the project, several residences will be displaced and some local land access patterns revised. Air, noise and water pollution will increase (155 pages). Comments made by: USDA, COE, DOI, DOT, EPA, HUD, state, and private agencies. (ELR Order No. 31519) (NTIS Order No. EIS 73 1519–F.)

US Highway 30, Hall County, Nebr., September 19: The statement refers to the proposed improvement and/or relocation of a segment of existing US 30 and the extension of First Street in Grand Island. The purpose of the project is to provide a highway facility which will extend the present one-way system and merge the traffic on the one-way system through the Central Business District of Grand Island back into the two-directional traffic on US 30. Adverse effects include acquisition of right-of-way and relocation impacts on wildlife (37 pages). Comments made by: USDA, COE, DOI, DOT, EPA, HUD, and state agencies. (ELR Order No. 31518) (NTIS Order No. EIS 73 1518–F.)

Forest Highway Route 12, Sandoval, Los Alamos, and Santa Fe Counties, Santa Fe, New Mexico, September 18: The project is the proposed reconstruction of 26 miles of Forest Highway Route 12 (State Route 126) from Fenton Lake to the abandoned community of Senorita, within the Santa Fe National Forest. (The draft statement filed by the Forest Service November 23, 1971, PB–204 377–D for a 15 mile segment of this route has been incorporated in this statement.) Adverse effects include stream pollution during construction and the crossing of a major elk migratory route (118 pages). Comments made by: USDA, DOT, HUD, FPC, HEW, DOC, AEC, DOI, state agencies, and Concerned citizens. (ELR Order No. 31510) (NTIS Order No. EIS 73 1510–F.)

SR 1215 and SR 1201, Cartaret County, N.C., September 19: The project consists of improving the existing secondary road of

Bogue Banks which connects Atlantic Beach and the New Bouge Sound Bridge. The facility is initially a two-lane road which will be expanded to a five lane facility. Project length is 17.3 miles. The project will displace 20 families and commit 53 acres of property to the facility. Soil erosion and increases in noise levels exceeding FHWA standards will occur (82 pages). Comments made by: USDA, COE, GSA, HEW, HUD, state, and regional agencies. (ELR Order No. 31520) (NTIS Order No. EIS 73 1520–F.)

I–95 Fayetteville Bypass, Cumberland County, N.C., September 19: The document, a revised draft, refers to the proposed construction of a 17 mile segment of I–95 to bypass the City of Fayetteville. Approximately 1600 acres of rural land which is suitable for wildlife habitat will be committed to the project. Thirty-five residences will be displaced. Minor stream siltation and construction disruption will occur. (The original statement, ELR Order No. 1603; NTIS Order No. PB–205 583–D, was filed January 12, 1972.) (300 pages.) Comments made by: USDA, COE, DOC, DOI, EPA, FPC, GSA, HEW, HUD, OEO, AHP, and state, and local agencies. (ELR Order No. 31527) (NTIS Order No. EIS 73 1527–F.)

LR 1032 (Traffic Route 219), Cambria County, Pa., September 18: Proposed is the relocation of approximately 15 miles of four-lane Traffic Route 219. Approximately 160 acres of farmland and 240 acres of woodland will be acquired for right-of-way. Eighteen residences, 2 businesses, one apartment building, and six barns will be displaced; 61 mobile homes will be affected (90 pages). Comments made by: USDA, EPA, DOI, and state agencies. (ELR Order No. 31509) (NTIS Order No. EIS 73 1509–F.)

Legislative Route 16034, Clarion County, Pa., September 18: Proposed is the construction of 2.7 miles of new four-lane roadway parallel to existing L.R. 16043 and L.R. 409. The project also includes reconstruction of 0.96 mile of U.S. Route 322 (L.R. Route 65) and the construction of an interchange with Route 322. The 50 acres of land required for right-of-way has already been purchased (78 pages). Comments made by: USDA, EPA, DOI, DOT, and state agencies. (ELR Order No. 31512) (NTIS Order No. EIS 73 1512–F.)

U.S. Highway 87, Hale and Lubbock Counties, Tex., September 11: The proposed project is the improvement of U.S. Highway 87 to interstate standards. The project is 25 miles in length. The facility will displace 10 families and 1 business, and require an unspecified amount of right-of-way. Utility adjustments will be required for 18 miles of power lines, 3 miles of telephone lines, 11 miles of underground telephone cable, 3 miles of natural gas line, 155 feet of high pressure oil lines and 675 feet of water lines. Increases in noise pollution will occur (35 pages). Comments made by: USDA, COE, DOI, EPA, HEW, state, and regional agencies. (ELR Order No. 31486). (NTIS Order No. EIS 73 1486–F.)

West Virginia Route 56, Jackson County, W. Va., September 19: The proposed project consists of the construction of approximately 2.7 miles of four-lane expressway connecting WVA Route 2 and I–77. The number of displacements and the amount of right-of-way required will depend upon the route selected. Temporary construction-related effects to the environment will occur (95 pages). Comments made by FPC, GSA, OEO, EPA, USDA, DOI, COE, HEW, and AHP. (ELR Order No. 31521) (NTIS Order No. EIS 73 1521–F.)

F.A.S. Route 145, Washington County, Wis., September 18: The project consists of the reconstruction of 3.1 miles of F.A.S. Route 145, C.T.H. "G". Twenty-three acres of land will be acquired for right-of-way; a 4(F) review will be filed to obtain 6 acres from the Jackson Marsh Wildlife Area. Cedar Creek will be traversed by the facility, causing erosion and siltation. Increases in air pollution levels will occur (42 pages). Comments made by: EPA, DOI, DOT, and state agencies. (ELR Order No. 31513) (NTIS Order No. EIS 73 1513–F.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Draft

Archer Avenue Line, Queens, N.Y., September 19: The New York City Transit Authority has filed an application for Federal capital grant assistance to construct a rapid rail transit extension 2.5 miles in length on the Archer Avenue Line. The whole structure will be underground except for 0.2 mile. Displacements include 12 families and 11 businesses (200 employees). Increases in noise will occur (110 pages). (ELR Order No. 31523) (NTIS Order No. EIS 73 1523–D.)

Philadelphia Airport High Speed Rail Line, Pennsylvania, September 14: The action involves the filing of an application for Federal capital grant assistance to construct a rapid rail system between Suburban Station Penn Center, Philadelphia and the passenger terminal at the Philadelphia International Airport. The line will be 9 miles long. Aerial portion of the line will have severe visual and acoustical impact on the Tinicum Wildlife Preserve. One scrap metal establishment will be displaced, and portions of a playground and P.E. Company will be acquired. Adverse impacts will occur to fish and wildlife habitat in the Tinicum Wildlife Reserve (88 pages). (ELR Order No. 31504) (NTIS Order No. EIS 73 1504–D.)

The following statement was inadvertently deleted from its appropriate Federal Register Listing. It was received by the Council on August 10, 1973.

Tijeras Canyon Projects (I–40), Bernalillo County, N. Mex., August 10: Four projects to complete the remaining link of I–40 through Tijeras Canyon are encompassed in this statement. Total project length is 11.8 miles; 460 acres are required for new right-of-way. Twenty acres of Section 4(f) land will be taken from Cibola National Forest. Eighty-eight families and 11 businesses will be displaced. The water quality in the Canyon may be degraded (123 pages). Comments made by: USDA, COE, DOI, DOT, EPA, HUD, state, and local agencies. (ELR Order No. 31321) (NTIS Order No. EIS 73 1321–F.)

TIMOTHY ATKINSON,
General Counsel.

[FR Doc.73-20650 Filed 9-26-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 19754–19755; FCC 73R–331]

BISBEE BROADCASTERS, INC. AND WRYE ASSOCIATES

Memorandum Opinion and Order Enlarging Issues

In regard to applications of Bisbee Broadcasters, Inc., Bisbee, Arizona, Docket No. 19754, File No. BPH–7873; William F. Wrye & Rose D. Wrye, d/b as Wrye Associates, Bisbee, Arizona, Docket No. 19755, File No. BPH–7944; for construction permits.

1. This proceeding involves the mutually exclusive applications of Bisbee Broadcasters, Inc. (BBI) and Wrye Associates (Wrye) for authorization to construct a new FM broadcast station to operate on 92.1 MHz in Bisbee, Arizona, and published at 38 FR 15380. Now before the Review Board is a petition to enlarge issues, filed July 12, 1973, by Wrye, requesting the addition of various issues against BBI.[1]

2. Wrye requests, first, that issues should be added against BBI for lack of candor and "to show cause why its application should not be rejected because of faulty engineering" because, petitioner alleges, its owner and general manager, Howard Waterhouse, falsely stated[2] that there were no other radio stations or transmitter antenna sites in the vicinity of its proposed tower locations. In fact, Wrye alleges, there are "approximately seven" other towers within 300 feet of BBI's proposed site, which raises the possibility of interference with other services and degradation of BBI's own signal. Wrye alleges that BBI used six-year old engineering data in its application, and that "a simple thirty minute drive" would have disclosed the existence of these other towers. Wrye also requests that a Rule 1.65 issue and a second candor issue be added since Waterhouse stated in the application that BBI is applying for an FM permit largely because it has not been allowed to raise the power of standard broadcast Station KSUN, licensed to BBI, to 1,000 watts.[3] According to Wrye, KSUN is in fact broadcasting at 1,000 watts during the day. Wrye asks acceptance of its petition despite its untimeliness, arguing that prompt filing was impossible because of business commitments and because the Commission failed, despite repeated requests, to send pertinent correspondence to Wrye's proper address.

3. In opposition, BBI argues that Wrye has not shown good cause for the untimeliness of its petition; has failed to provide a supporting affidavit and to make a showing of competence with respect to engineering matters, as required by § 1.229(c) of the Commission's rules; and has failed to serve the petition by air mail as required by § 1.47(f) of the Rules. In a supplement to its petition, Wyre submits an affidavit of William F. Wrye, its owner and general manager, verifying the petition and stating that he visited the BBI proposed site on two occasions and observed the towers mentioned in the petition.

4. In opposition, the Broadcast Bureau declares that Wrye's petition, despite its procedural deficiencies, raises a serious question as to whether BBI falsely answered questions on its application form regarding the presence of

[1] Also before the Board are the following related pleadings: (a) Opposition, filed July 18, 1973, by BBI; (b) supplement to petition, filed July 19, 1973, by Wrye; (c) opposition, filed July 23, 1973, by the Broadcast Bureau; (d) reply to BBI's opposition, filed July 24, 1973, by Wrye; (e) letter, filed August 7, 1973, by BBI; (f) comments on letter of August 7, 1973, filed August 16, 1973, by the Broadcast Bureau; and (g) reply to comments, filed August 23, 1973, by BBI.

[2] Wrye cites BBI's application, Form 301, Section V–B paragraphs 10 and 16(a), and Section V–G, paragraph 6.

[3] Wrye cites nothing specific in BBI's application. References to KSUN's operating power appear therein at: Form 301, Section II, p. 5; Exhibit 1A, p. 1; Exhibit 1C, p. 1; Exhibit E–1, pp. 1–2; amendment of September 5, 1972, pp. 10, 12.

other towers or antennae in the vicinity of its proposed tower site, which, absent a satisfactory explanation, would warrant exploration at hearing. However, the Bureau urges the Board not to add an engineering issue to determine the effects of the towers' proximity, since, in its view, Wrye's allegations lack specificity and are unsupported by a showing of engineering competence. The Bureau also opposes the addition of issues relating to KSUN's operating power; it argues that BBI did not misrepresent the facts in this regard since "any reference to 250 watts in the FM application apparently refers to the nighttime power of the AM station."

5. Replying to BBI, Wrye asserts that the competence of William Wrye in engineering matters is set forth in Exhibit E-1 of Wrye's application, and requests official notice of these qualifications, including his "experience . . . as Chief Radio Measurements Engineer for the U.S. Air Force Atlantic Missile Range." With respect to § 1.47, Wrye contends that service of its initial petition was effected by air mail, but inadvertently not noted, and amends its certificate of service to reflect this.

6. In a letter dated August 7, 1973, BBI calls the Board's attention to an amendment to its application, tendered August 6, 1973, along with a petition for leave to amend. This amendment, according to BBI, contains the "required information" and explains that its absence from the subject FM application was the inadvertent result of copying information from an application submitted by a previous owner of BBI. Commenting upon this, the Broadcast Bureau points out that BBI apparently submitted the engineering information from the old application subsequent to the time of the erection of the other towers. Although it has no objection to the correction of BBI's application in this regard, the Bureau states that "numerous problems" are raised by BBI's letter. Specifically, the Bureau notes that BBI's explanation is actually contained in the petition for leave to amend, not in the amendment, and that the explanation is not supported by affidavit. Finally, the Bureau notes that the Commission has indicated its disapproval of the use of letters rather than pleadings in disputed matters. In reply to the above, BBI apologizes for its use of the letter form and states that it did not submit an affidavit with its amendment or "explanation" because it was referring to information already on file with the Commission. That is, BBI contends, its application apprised the Commission that its engineering derived from a previous application.

7. The Review Board is of the opinion that the procedural infirmities in Wrye's petition are not dispositive. Although good cause has not been shown for the lateness of the petition, certain questions raised therein are serious enough to warrant a decision on the merits. See The Edgefield-Saluda Radio Co. (WJES), 5 FCC 2d 143, 8 RR 2d 611 (1966). Wrye's other procedural failures have either been corrected or are de minimis. BBI's letter of August 7 is subject to more serious objections. The Board has made plain its intention not to accept supplemental pleadings unless clearly justified. In re Filing of Supplemental Pleadings Before the Review Board, 40 FCC 2d 1026 (1973). Therefore, we will not consider BBI's letter in deciding the questions before us. However, since the amendment to BBI's application has been accepted by the Administrative Law Judge without objection from Wrye, it would serve no purpose to exclude the material contained therein, and in BBI's petition for leave to amend, from our deliberation. In the amendment, BBI concedes the presence of eleven other towers (including public safety, and utility operations) in the vicinity of its antenna site. We will therefore add an issue to determine the adverse effects, if any, which may result from the proximity of applicant's proposed tower and antenna system to other towers and antenna systems. We will not, however, add a lack of candor issue. While the information before us clearly indicates poor judgment and carelessness on Waterhouse's part in submitting information contained in a previous application without ascertaining its current accuracy, it does not demonstrate any intention or motive to conceal the existence of the towers from the Commission. Cf. Media, Inc., 27 FCC 2d 228, 20 RR 2d 1153 (1971). We also decline to add issues relating to KSUN's operating power. Although Waterhouse's statements in this regard are confusing, he does seem to have been particularly concerned with KSUN's nighttime power, which was and still is 250 watts. There is no indication that he intended to misrepresent either the authorized power of the AM station or his motives for wishing to acquire an FM construction permit, or that he failed to report significant information as required by § 1.65.

8. *Accordingly, it is ordered*, That the petition to enlarge issues, filed July 12, 1973, by Wrye Associates, is granted to the extent indicated below, and is denied in all other respects; and

9. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issue:

To determine, with respect to the application of Bisbee Broadcasters, Inc., whether the proximity of applicant's proposed tower and antenna system to other towers and antenna systems will result in adverse effects either affecting applicant's qualifications or warranting the imposition of a condition on any grant to Bisbee Broadcasters, Inc.

10. *It is further ordered*, That the burden of proceeding with the introduction of evidence and the burden of proof under the issue specified shall be upon Bisbee Broadcasters, Inc.

Adopted: September 17, 1973.

Released: September 19, 1973.

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

[FR Doc.73-20642 Filed 9-26-73;8:45 am]

PANEL CHAIRMEN AND STEERING COMMITTEE OF THE CABLE TELEVISION TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

SEPTEMBER 19, 1973.

The Panel Chairmen and the Steering Committee of the Cable Television Technical Advisory Committee will hold an open meeting on Wednesday, October 3, 1973, at 10 a.m. The meeting will be held at the FCC Annex, 1229 20th Street, Washington, D.C., in Room A110. The agenda of the meeting will include:

(1) Report by Executive Committee.
(2) Report of New Executive Secretary.
(3) Review of Solicitation Progress.
(4) Report by Panel Chairmen.
(5) Coordination of Reporting Procedures.
(6) Setting of Meeting Dates.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Acting Secretary.

[FR Doc.73-20643 Filed 9-26-73;8:45 am]

CANADA-U.S.A. TV AGREEMENT OF 1952

Amendment of Table A

SEPTEMBER 20, 1973.

Amendment of table A of the Canada-U.S.A. TV Agreement of 1952 (TIAS-2594). Supplement No. 3 (to the table of Canadian Television channel allocations within 250 miles of the Canada-U.S.A. border, dated March 21, 1973, as revised to January 20, 1973).

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canadian-U.S.A. Television Agreement has been amended as follows:

City and Province	Channel No.	
	Delete	Add
Brandon, Manitoba	[1] 2	[2] 2

[1] Brandon site to be located no less than 170 miles from co-channel allocation at Grand Forks, N. Dak.
[2] Brandon site to be located no less than 170 miles from co-channel assignment at Grand Forks, N. Dak., with site coordinates 49° 08' 24" N., 97° 50' 38" W., and limited to 100 kilowatts maximum ERP and 1,000 feet EHAAT, or the equivalent, in the general direction of Grand Forks, N. Dak.

Further amendments to Table A will be issued as public notices in the form of numbered supplements or recapitulated lists.

Copies of the basic Table of Allocations may be obtained from Information Planning Associates, Inc., 310 Maple Drive, Rockville, Maryland 20850 (telephone 340-0250, area code 301).

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.73-20644 Filed 9-26-73;8:45 am]

CANADIAN TELEVISION STATIONS

Lists of Changes, Additions, Deletions and Corrections

Supplementary list of changes, additions, deletions and corrections as of September 1, 1973, to the list of Canadian television stations within 250 miles of the border issued by the Commission dated April 1, 1973.

LIST NO. 1, SEPTEMBER 21, 1973

Call sign	Licensee	Location	Radiated power (kW)	Antenna: Directivity	Above ground	Above MSL	Above terrain	Offset
Channel 4 (66–72 MHz)								
CHFD-TV		Thunder Bay, Ontario, N. 48°20'30", W. 89°14'03"	320.00 V 164.00 A	Om	800	1,049	180	(–)
Channel 8 (180–186 MHz)								
CFRN-TV-6		Red Deer, Alberta, N. 52°17'57", W. 113°41'47"	24.00 V 4.80 A	D.A	630	3,880	882	(+)
CKCW-TV-1		Charlottetown, Prince Edward Island, N. 46°16'09", W. 63°20'30"	14.50 V 1.45 A	D.A	290	665	489	(+)
Channel 13 (210–216 MHz)								
CBCT	Canadian Broadcasting Corp.	Charlottetown, Prince Edward Island, N. 46°12'40", W. 63°20'25"	62.00 V 12.40 A	D.A	720	1,073	918	(+)

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.73-20645 Filed 9-26-73;8:45 am]

FEDERAL MARITIME COMMISSION

BRADBURY TECHNICAL CO. AND BRADY-HAMILTON STEVEDORE CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 17, 1973. Any person desiring a hearing o nthe proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Steven R. Schell, Esq., Black, Heterline, Beck, & Rappleyer, 12th Floor, The Bank of California Tower, Portland, Oreg. 97205.

Agreement No. T-2854, between Bradbury Terminal Company (Bradbury) and Brady-Hamilton Stevedore Co. (B.H.S.) is a 1-year arrangement (with renewal options) whereby B.H.S. will provide stevedoring and terminal services at Bradbury's Port Westward, Oregon terminal facility. As compensation B.H.S. will be reimbursed for its operating expenses plus ten percent of its operating expenses to cover overhead for services performed in accordance with Bradbury's Port Westward Tariff No. 1. Bradbury shall provide and collect for the use of all port facilities and shall collect for all services described in its tariff.

Dated September 24, 1973.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-20666 Filed 9-26-73;8:45 am]

[Docket No. 73-57]

SEA-LAND SERVICE, INC.

Order of Investigation and Hearing Regarding Possible Violations in Connection With Rates on Military Cargo

Sea-Land Service, Inc. (Sea-Land) is a common carrier by water operating inter alia between the East Coast of the United States and the United Kingdom and Europe. Sea-Land submits bids for the carriage of military cargo pursuant to the negotiated competitive procurement system administered by Military Sealift Command (MSC).

In response to the latest Request for Proposal (RFP)-800, First Cycle, issued by MSC, Sea-Land submitted a bid of $11.49 per measurement ton for the carriage of Cargo N.O.S. from U.S. East Coast ports to the United Kingdom and Europe on MSC Route Index 4 and 5, to be effective during the period July 1, 1973-December 31, 1973. For the previous RFP, Sea-Land had bid $13.00 per measurement ton for the carriage of Cargo N.O.S. on the same Routes.

Sea-Land's previous bid, along with the bids of other United States-flag carriers on those routes had been the subject of a Commission investigation in Docket No. 72-64, a docket which is being held in abeyance pending a Commission decision on Docket No. 72-65 a docket dealing with military rates on the Trans-Pacific routes (see Commission Order served September 7, 1973).

The examination of data submitted by Sea-Land as justification for its rates bid for RFP-800, 1st Cycle, revealed numerous areas which required additional analysis by the Commission's staff in order to determine whether Sea-Land was in compliance with the provisions of General Order 29 (46 CFR Part 549). Accordingly, the Commission's staff informed Sea-Land that the staff intended to conduct a field review to take place at Sea-Land's offices at Elizabeth, New Jersey. The review commenced on July 9, 1973.

The staff accountants examined data supplied by Sea-Land covering the following areas of cost information: Operating statistics, vessel expense, port and cargo expenses, administrative and general expense, vessel depreciation, inactive vessel expense, container overhead and indirect container costs, and container and chassis depreciation and lease expense. On the basis of the results of the field review, which are set out in a report by the staff accountants to the Director, Sealift Procurement Studies, the staff is of the opinion that Sea-Land's rate bid for the carriage of Cargo N.O.S. pursuant to RFP-800, 1st Cycle, on MSC Route Indexes 4 and 5 may be below the fully distributed cost of carrying that class of cargo on those routes, in violation of the provisions of General Order 29 (46 CFR Part 549) and section 18(b)(5) of the Shipping Act, 1916. Therefore, the Commission is of the opinion that an investigation should be undertaken in order to determine whether such rate bid is in fact so unreasonably low as to be detrimental to the commerce of the United States, hence warranting disapproval by the Commission. Since the subject rate is

in effect for only a six month period, and because the Commission wants the issue seasonably resolved, we are directing expedition of the proceeding as ordered below.

Now, therefore it is ordered, That, pursuant to section 22 of the Shipping Act, 1916, as amended, an investigation and hearing is hereby instituted to determine the lawfulness of Sea-Land's RFP-800 First Cycle bid rate for carriage of Cargo N.O.S. under section 18(b)(5) of the Act:

And it is further ordered, That Sea-Land be made respondent in this proceeding:

And it is further ordered, That this proceeding be referred for public hearing before an administrative law judge of the Commission's Office of Administrative Law Judges with directions that the proceeding be expedited to the fullest extent possible, and that upon completion of the hearing the record developed therein be certified to the Commission; and that the hearing be held at a date and place to be determined and announced by the Presiding Administrative Law Judge:

And it is further ordered, That the Commission's Bureau of Hearing Counsel shall serve upon respondent Sea-Land a copy of the above-mentioned report of field review, as soon as practicable after service of this order; and

It is further ordered, That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provision of Rule 12(h) which requires leave of the Commission to request admissions of fact and genuineness of documents if notice thereof is served within 10 days of commencement of the proceeding, is similarly waived; and

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondent; and upon the Commanding Officer, Military Sealift Command; and

It is further ordered, That any person, other than respondent who desires to become a party to this proceeding and to participate therein shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, promptly with copies to parties; and

Finally, it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.73-20670 Filed 9-26-73;8:45 am]

[Commission Order No. 1 (Revised)]

STATEMENTS OF ORGANIZATION AND FUNCTIONS

SEPTEMBER 15, 1973.

SEC. 1. *Purpose.*

1.01 The purpose of this Order is to describe the organization and functions of the Federal Maritime Commission.

SEC. 2. *Organization of the Federal Maritime Commission.*

2.01 *Establishment and Composition of the Commission*—The Federal Maritime Commission was established as an independent agency by Reorganization Plan No. 7 of 1961, effective August 12, 1961. The Federal Maritime Commission is composed of five members, appointed by the President, by and with the consent of the Senate. The President designates one of such members to be the Chairman.

2.02 *Quorum*—Any three members in office constitute a quorum for the transaction of the business of the Federal Maritime Commission. The affirmative vote of any three Commissioners shall be sufficient for the disposition of any matters which may come before the Commission.

2.03 *Organizational Components*—The Federal Maritime Commission has the following major organizational components:

1. Office of the Chairman of the Federal Maritime Commission.
2. Offices of the Members of the Federal Maritime Commission.
3. Managing Director.
(1) Bureau of Compliance.
a. Office of Agreements.
b. Office of Tariffs and Intermodalism.
c. Office of Domestic Commerce.
(2) Bureau of Industry Economics.
a. Office of Economic Analysis.
b. Office of Financial Analysis.
c. Office of Sealift Procurement Studies.
(3) Bureau of Certification and Licensing.
a. Office of Water Pollution Responsibility.
b. Office of Freight Forwarders.
c. Office of Passenger Vessel Certification.
(4) Bureau of Hearing Counsel.
(5) Office of Personnel.
(6) Office of Budget and Finance.
(7) Division of Office Services.
(8) District Offices.
4. Office of the Secretary.
5. Office of the General Counsel.
6. Office of Administrative Law Judges.

SEC. 3. *Lines of responsibility.*

3.01 The *Managing Director* shall be responsible to and report to, the Chairman, Federal Maritime Commission.

3.02 The Bureau of Compliance, Bureau of Industry Economics, Bureau of Certification and Licensing, Bureau of Hearing Counsel, Office of Personnel, Office of Budget and Finance, Division of Office Services, and the District Offices shall be responsible to, and report to the Managing Director.

3.03 The *Office of the Secretary* and *the Office of the General Counsel* shall report to the Chairman, subject to the managerial direction and coordination of the Managing Director. The Managing Director shall, with respect to the activities of such offices, (1) coordinate the development and execution of major programs, policies, plans, and projects to accomplish the objectives established by the Chairman and/or the Commission; (2) determine work priorities and schedule the flow of work to meet such priorities; (3) review program and activity progress and otherwise maintain surveillance to assure the accomplishment of programs and projects of major importance.

3.04 The *Office of Administrative Law Judges* shall report to the Chairman, and coordination of the Managing subject to the administrative direction Director.

SEC. 4. *General functions.*

4.01 The Federal Maritime Commission is responsible for administering the statutory functions and programs for the regulation of common carriers by water in the foreign and domestic offshore commerce of the United States and of other persons, under provisions of the Shipping Act, 1916, as amended; Merchant Marine Act, 1920, as amended; the Intercoastal Shipping Act, 1933, as amended; and other applicable statutes.

SEC. 5. *Specific functions of the organizational components of the Federal Maritime Commission.*

5.01 The *Office of the Chairman of the Federal Maritime Commission* executes and administers the activities of the Federal Maritime Commission; serves as the excutive head of the Commission; presides at meetings of the Commission; and administers the policies of the Commission to its responsible officials, and through conferences with and reports from such officials assures the efficient discharge of their responsibility.

5.02 The *Offices of the Members of the Federal Maritime Commission* are responsible, with the Chairman, for establishing the policies of the Commission; making decisions and determinations in the disposition of docketed cases and other matters within the jurisdiction of the Commission; and performing other duties as may be assigned under the provisions of Reorganization Plan No. 7 of 1961.

5.03 The Managing Director directs and administers the organizations and activities as enumerated in subsections 5.031 through 5.038 below; provides managerial administrative direction to, and effects work coordination with the Office of the General Counsel and the Office of the Secretary; provides administrative direction and coordination to the Office of Administrative Law Judges; assists, advises, and consults with the Chairman and/or the Federal Maritime Commission in the performance of major executive functions; and directs general administrative activities.

1. The *Bureau of Compliance* is responsible for program development, administration, and activities in connection with the operations of common car-

riers by water in the foreign and domestic offshore commerce of the United States, conferences of such carriers, terminal operators, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission, to the extent that such operations fall within the program activities of the several offices which comprise the Bureau of Compliance, and administers the activities of such offices.

The Bureau develops long-range programs, new or revised policies and standards, and rules and regulations, with respect to the program activities of the Bureau.

The program activities of the Bureau of Compliance are carried out by the Office of Agreements, the Office of Tariffs and Intermodalism, and the Office of Domestic Commerce, as outlined below:

a. The *Office of Agreements* (1) examines agreements and modifications thereto filed by common carriers by water in the foreign commerce of the United States, conferences of such carriers, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission for approval under statutory requirements; conducts negotiations with parties to such agreements for the purpose of obtaining information and compliance with applicable statutes, rules, and regulations; prepares for publication in the FEDERAL REGISTER notices of filings of agreements; prepares recommendations for approval, disapproval, or modification, or for formal investigation or hearing with respect thereto (these agreements include conference agreements, transshipment agreements, joint service agreements, pooling agreements, sailing agreements, container interchange agreements, and other cooperative working arrangements); (2) examines and recommends appropriate action on requests for permission to use contract rate systems; (3) reviews annual and special reports submitted by common carriers by water in the foreign commerce of the United States, conferences of such carriers, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission, including minutes of conference meetings, shippers' requests and complaints reports, reports of self-policing, and pooling statements, and makes appropriate recommendations with respect to any such reports or activities which indicate possible violations of applicable statutes or Commission regulations; (4) prepares recommendations, collaborating with the Managing Director and the Bureau of Hearing Counsel, for formal action and proceedings by the Commission; and (5) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Agreements.

b. The *Office of Tariffs ad Intermodalism* (1) reviews the rates and practices of common carriers by water in the foreign commerce of the United States, conferences of such carriers, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission in accordance with the requirements of law and the rules, orders, and regulations of the Commission; makes appropriate recommendations with respect to possible violations of applicable statutes and/or Commission regulations; and makes appropriate recommendations with respect to applications for special permission to file tariffs on less than statutory notice, or for waiver of tariff filing rules and regulations; (2) recommends appropriate action with respect to the rejection of improper or incorrectly filed tariffs; (3) prepares recommendations, collaborating with the Managing Director and the Bureau of Hearing Counsel for formal action and proceedings by the Commission; (4) supervises the public reference room which provides assistance to the public in the inspection of agreements, tariffs, and other public records, documents, and publications which are on file with or prepared by the Bureau of Compliance, and assists in obtaining copies of such documents for the public; (5) promulgates and implements policy, guidelines, and regulations to effectively regulate the activities of intermodal common carriers in the commerce of the United States; (6) insures that changes and developments due to new technologies and intermodal services are accomplished in an orderly manner; (7) oversees the regulatory aspects of a developing modern and efficient international transport system which provides movement of cargoes on a coordinated basis between the various transportation modes; (8) works closely with other regulatory agencies (Interstate Commerce Commission for surface transportation within the United States and the Civil Aeronautics Board for air transportation) in the development of multiagency regulations for the movement of cargoes; and (9) conducts studies and surveys for the development of new or revised policy and standards, rules, and regulations with respect to the program activities of the Office of Tariffs and Intermodalism.

c. The *Office of Domestic Commerce* (1) examines agreements and amendments thereto filed by terminal operators to determine whether they require approval under Section 15 of the Shipping Act, 1916; (2) makes appropriate recommendations with respect to applications for special permission to file tariffs on less than statutory notice, or for waiver of tariff filing rules and regulations; (3) obtains complete information and supporting data in order to determine the effect of agreements upon the public interest; (4) prepares recommendations to the Commission for approval, disapproval, modification, or formal hearing with respect to the agreement; (5) examines tariffs of domestic offshore carriers and terminal operators and conferences for compliance with sections 15, 16, and 17 of the Shipping Act, 1916, and provides advice relative to tariffs filed; (6) recommends appropriate action with respect to the prescription of reasonable maximum and minimum rates of common carriers by water engaged in the domestic offshore commerce of the United States and conferences of such carriers; (7) assists Bureau of Hearing Counsel with respect to domestic offshore and terminal matters involved in proceedings before the Commission; (8) reviews informal complaints or protests against the practices, methods, and operations of persons subject to the regulatory jurisdiction of the Federal Maritime Commission; (9) takes appropriate action relative thereto by (a) resolution through voluntary agreement of the parties, or (b) recommendation that the complaint or protest be rejected as not violative of the shipping statutes or rules or orders of the Commission, or (c) referral to the Managing Director for field inquiry, or (d) in collaboration with the Bureau of Compliance and the Bureau of Hearing Counsel, recommendation for formal action and proceedings by the Commission; (10) reviews minutes of domestic and terminal conference meetings to determine whether the parties may be acting outside the scope of their conference agreements; and (11) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Domestic Commerce.

2. The *Bureau of Industry Economics* is responsible for program development, administration, and activities in connection with the procurement, compilation, interpretation, and analysis of all essential data to establish with validity the economic implication and significance of the Commission's actions in administering its functions and regulatory authorities.

The Bureau develops long-range programs, new or revised policies and standards, and rules and regulations, with respect to the program activities of the Bureau.

The Program activities of the Bureau of Industry Economics are carried out by the Office of Economic Analysis, the Office of Financial Analysis, and the Office of Sealift Procurement Studies, as outlined below:

a. The *Office of Economic Analysis* (1) conducts research and economic studies necessary to the Commission in the fulfillment of its regulatory responsibilities, and compiles, interprets, and analyzes economic data essential to the study of freight rate structures and levels; (2) conducts studies leading to determinations as to the reasonableness of specific cargo rates in the ocean trades of the United States; (3) studies the economic implications of shipping practices; (4) studies the economic implications of trends of commodity movement, worldwide; (5) analyzes costs attributable to the movement of cargoes in the oceanborne foreign and domestic offshore commerce of the United States; and (6) conducts related studies and analyzes requisite to rendering by the Commission of sound economic judgments and decisions.

b. The *Office of Financial Analysis* (1) makes recommendations with respect to

annual and special financial reports to be submitted by common carriers and other persons subject to the Act to bring about accurate, uniform, and comprehensive disclosure of financial data to the Commission; (2) recommends accounting and reporting instructions; (3) conducts examinations of the accounts, records, reports, and financial statements of such carriers to obtain and ascertain compliance with commission regulations; (4) analyzes justification for increased or lowered rates of common carriers and other persons subject to the Act; (5) develops and administers a continuing program for the audit of financial accounts and records of common carriers and other persons subject to the Commission's regulatory authorities; (6) develops cost formulas and related financial reporting requirements for application to the movement of waterborne commerce in the domestic and foreign commerce of the United States; (7) prepares reports and appears in rate proceedings and/or proceedings where rates and/or costs are a paramount issue; (8) conducts studies, as appropriate, for the purpose of determining classes of depreciable property, depreciation percentages, replacement costs, reasonable overhead, etc.; (9) analyzes, summarizes, and prepares studies and analytical reports of the financial statements filed with the Commission by common carriers and other persons subject to the Act; and (10) conducts special studies, audits, and analyses of a financial nature for other branches of the Commission.

c. The *Office of Sealift Procurement Studies* (1) develops and administers a continuing program for the audit of the financial accounts and records of common carriers involved in carrying military cargoes; (2) promulgates and revises the accounting regulations of the Commission prescribing uniform systems of accounting for common carriers carrying military cargo; (3) plans and develops cost formulas for application to the movement of waterborne military cargo; (4) develops cost for use in cases or proceedings to determine whether particular rates on military cargo may be detrimental to commerce; (5) renders interpretations of accounting regulations and effects the correction or adjustment of deviations; (6) makes continuing studies to determine classes of depreciable property, depreciation percentages, and reasonable allocation procedures of non-direct costs; (7) develops annual and special financial reports to be submitted by common carriers carrying military cargo; and (8) prepares analytical reports for consideration of the Commission and the staff related to the review and analysis of the costs and rate structures of carriers participating in the carriage of military cargo.

3. The *Bureau of Certification and Licensing* is responsible for program development administration and activities in connection with the certification of vessel owners and operators as to their financial responsibility to satisfy liability which may be incurred as a result of water pollution under the provisions of the Federal Water Pollution Control Act, as amended; the licensing of ocean freight forwarders under the provisions of the Shipping Act, 1916; and the certification of owners and operators of passenger vessels as to their financial responsibility to satisfy liability incurred by nonperformance of voyages or resulting from injury or death under Public Law 89–777.

The Bureau develops long-range programs, new or revised policies and standards, and rules and regulations with respect to the program activities of the Bureau.

The program activities of the Bureau of Certification and Licensing are carried out by the Office of Water Pollution Responsibility, the Office of Freight Forwarders, and the Office of Passenger Vessel Certification, as outlined below:

a. The *Office of Water Pollution Responsibility* (1) administers the provisions of Pub. L. 92–500 with respect to evidence of financial responsibility by owners and operators of vessels which may be subjected to liability to the United States for the cost of removal of oil or hazardous substances from the navigable waters of the United States, adjoining shorelines, or waters of the contiguous zone; (2) receives and processes applications for Certificates of Financial Responsibility (Pollution) from vessel owners and operators who wish to evidence their financial responsibility by means of self-insurance, surety bonds, certificates of insurance, guaranties, insurance policies, or other methods acceptable to the Commission; (3) reviews and makes appropriate recommendations on the adequacy of such evidence; (4) receives and reviews prescribed periodic accounting reports from certificants who have qualified as self-insurers to assure that such certificants remain financially stable; (5) recommends issuance, denial, revocation, modification, or suspension of such certificates; (6) notifies certificants whose evidence of financial responsibility is being cancelled or due to expire, and make appropriate recommendations in connection therewith; (7) makes appropriate recommendations with respect to violations of enabling statutes or regulations promulgated thereunder; (8) maintains records, files, and listings of applicants, certificants, vessels, and underwriters for use internally and by other Government agencies; (9) recommends acceptance or denial of persons or firms wishing to qualify with the Commission as acceptable underwriters; and (10) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Water Pollution Responsibility.

b. The *Office of Freight Forwarders* (1) reviews applications for the licensing of freight forwarders and makes appropriate recommendations as to the granting or denying of such applications, in accordance with the requirements of law and the rules, orders, and regulations of the Commission; (2) reviews the practices of licensed freight forwarders and makes appropriate recommendations with respect to any activities which indicate possible violations of applicable statutes or Commission regulations; (3) makes appropriate recommendations, collaborating with the Managing Director and the Bureau of Hearing Counsel, for formal action and proceedings by the Commission; and (4) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Freight Forwarders.

c. The *Office of Passenger Vessel Certification* (1) administers the provisions of Pub. L. 89–777 with respect to the financial responsibility of operators of passenger vessels to meet liability for nonperformance of voyages and claims for injury or death aboard ships; (2) makes appropriate recommendations with respect to the financial responsibility of said operators of passenger vessels; and (3) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Passenger Vessel Certification.

4. The *Bureau of Hearing Counsel* acts as Hearing Counsel in all formal investigations, nonadjudicatory investigations, rulemaking proceedings, and any other proceedings initiated by the Federal Maritime Commission under the Shipping Act, 1916, and other applicable shipping acts; examines and cross-examines witnesses, prepares and files briefs, motions, exceptions, and other legal documents, and participates in oral arguments before the Administrative Law Judges and the Federal Maritime Commission; acts as Hearing Counsel, where intervention is permitted, in formal complaint proceedings initiated under section 22 of the Shipping Act; reviews and concurs in all recommendations of other bureaus recommending the institution of formal proceedings; prepares all orders, notices, and other documents which institute formal or informal Commission proceedings; furnishes consultative and advisory services, and otherwise assists other bureaus in formulating procedures to be followed in connection with investigations and/or formal Commission proceedings; serves, with the concurrence of the Managing Director, as requested by the General Counsel and under his direction in matters of court litigation by or against the Commission rising out of violations previously adjudicated by the Commission.

5. The *Office of Personnel* plans and administers personnel management activities of the Commission in compliance with Federal laws and regulations; serves as staff advisor on personnel matters to executive management, supervisors, and individual employees; and initiates and implements programs designed to insure a progressive personnel program within the Commission.

6. The *Office of Budget and Finance* formulates recommendations and interprets budgetary policies and programs; develops and presents budget requests

and justifications; develops and administers fiscal plans and systems of internal control which provide accountability for public funds; and is responsible for financial management policies, procedures, and planning.

7. The *Division of Office Services* provides office services for the Commission and its District Offices, including communication services, printing, binding, reproduction, mail services, procurement of supplies and equipment, space management, building services, safety programs, and records storage and retrieval; and formulates guides, regulations, methods, and procedures governing the use of office services and facilities.

8. The *District Offices* represent the Federal Maritime Commission within their respective geographic areas; provide liaison between the industry and the shipping public and FMC headquarters, conveying pertinent information, highlighting regulatory problem areas, and recommending courses of action and solutions; furnish information, advice, counsel, and access to Commission public documents to the various segments of the regulated shipping industry and other evincing interest and concern in the Commission's work; receive informal complaints involving shippers and the regulated industry and take appropriate action thereon; provide advisory, consultative, and investigative services in support of substantive programs within the cognizance of the various bureaus of the Commission; plan and conduct investigations of alleged violations of the Shipping Acts, investigations of freight forwarders, compliance checks, background surveys, field audits, and other studies; and recommend policies to strengthen enforcement of the shipping laws.

5.04 The *Office of the Secretary* is responsible for preparing agenda and dockets of matters subject to action by the Federal Maritime Commission and the preparation of minutes with respect to such actions; receiving and processing formal complaints and staff recommendations for investigation and hearing involving violations of the Shipping Act, 1916, as amended, and other applicable laws, including the (a) reviewing of complaints for sufficiency and compliance with the Commission's Rules of Practice and Procedure; (b) assigning official docket numbers to such complaints and orders of investigation and hearings; (c) serving copies of such complaints and orders upon the respondent(s); and (d) subsequent to Administrative Law Judges' decisions or other disposition of cases by Administrative Law Judges, ruling upon requests for enlargement of time for the filing of exceptions to decisions and replies thereto, including ruling upon late filings of exceptions or replies, and processing all other motions and petitions to the Commission for action; issuing orders and notices of actions of the Commission; receiving formal communications, petitions, notices, documents, and other instruments directed to the Chairman and/or the Commission and maintaining official files and records with respect thereto; authenticating instruments or documents or documents of the Commission; administering oaths; issuing subpoenas at the direction of the Commission; disseminating complete, accurate, and necessary information on the activities, functions, and responsibilities of the Federal Maritime Commission to the maritime industry, news media, the general public, and other agencies of the Government; and providing copies of initial decisions of the Administrative Law Judges, reports of the Commission, publications, and miscellaneous documents submitted in proceedings before the Commission.

5.05 The *Office of the General Counsel* serves as the law office of the Commission and provides legal counsel to the Commission and its staff; reviews and approves as to legality and/or prepares proposed Commission rules, regulations, and orders; prepares drafts of proposed legislation and reports to Congressional committees; and represents the Commission in all matters before the courts.

5.06 The *Office of Administrative Law Judges* holds hearings and renders decisions therein in formal rulemaking and adjudicatory proceedings as provided in the Shipping Act, 1916, as amended, and other applicable laws and other matters assigned by the Commission, all in accordance with the Administrative Procedure Act and the Commission's Rules of Practice and Procedure. Administrative Law Judges are exempt from all direction, supervision, or control except for administrative purposes.

SEC. 6. *Delegation of authorities.*

6.01 Pursuant to Section 105 of Reorganization Plan No. 7 of 1961, effective August 12, 1961, the Federal Maritime Commission hereby delegates the authorities set forth in sections 7, 8, and 9 of this order to the officials designated therein, subject to the limitations prescribed in sections 6.02, 6.03, 6.04, and 6.05 of this Order.

6.02 The delegatees shall exercise the authorities delegated herein in a manner consistent with the established policy of the Federal Maritime Commission.

6.03 The authorities delegated herein, except those delegated to the Chief Administrative Law Judge, may not be exercised unless resolution of all legal questions and approval of the form of all legal documents have been obtained either concurrently or previously, from the General Counsel, or his designee.

6.04 The delegatees may in their discretion redelegate their authorities, unless otherwise restricted herein, to subordinate personnel under their direction, provided that such redelegation does not grant the recipient the authority to subsequent redelegation. The delegatees retain full responsibility for actions taken by their subordinates under any authority redelegated by them.

6.05 Notwithstanding the delegations contained herein, the Commission retains its discretionary right of review as provided in Section 105(b) of Reorganization Plan No. 7 of 1961.

SEC. 7. *Specific authorities delegated to the Managing Director.*

7.01 Authority to accept or reject tariff filings of domestic offshore carriers or common carriers in the foreign commerce of the United States, or conferences of such carriers for failure to meet the requirements of statute or the Commission's requirements, or for lack of completeness and clarity of the rules and regulations governing the tariff, or noncompliance with Special Permission or other Order of the Commission.

7.02 Authority to approve Special Permission applications submitted by domestic offshore carriers or carriers in the foreign commerce of the United States, or conferences of such carriers for relief from statutory and/or Commission tariff requirements.

7.03 Authority to review and determine the validity of alleged or suspected violations, exclusive of formal complaints, of the shipping statutes and rules and regulations of the Commission by common carriers by water in the domestic offshore or the foreign commerce of the United States, terminal operators, freight forwarders, and other persons subject to the provisions of the shipping statutes; authority to determine corrective action necessary with respect to violations and conduct negotiations and obtain compliance by the violating parties, except where violations involve major questions of policy or major interpretations of statutes, or orders, rules, and regulations of the Commission, or acts having material effect upon the commerce of the United States; authority to determine, with respect to the foregoing, whether alleged or suspected violations should or should not be referred to the Department of Justice for prosecution.

7.04 Authority to (a) approve, within the framework of prescribed Commission policy and criteria, applications for licenses and to issue or reissue or transfer licenses to persons, partnerships, corporations, or associations desiring to engage in the business of ocean freight forwarding; (b) issue a letter stating that the Commission intends to deny an application unless within 20 days applicant requests a hearing to show that denial of the application is unwarranted or unless within 30 days required security has been filed; (c) deny any application for freight forwarder license where applicant has received a letter of intent to deny and, within notice period, has not requested a hearing or has not furnished the required security; (d) rescind letters of intent to deny or grant extensions of the time specified in such letters; (e) revoke the grandfather rights of applicants who have requested withdrawal of the application, moved from their last known address and reasonable efforts to locate their present whereabouts have failed, or been denied a license in accordance with subsection (c) of this section; (f) revoke the license of a freight forwarder upon the request of the licensee; (g) upon receipt of no-

tice of cancellation of any bond, to notify the licensee in writing that his license will automatically be suspended or revoked, effective on the bond cancellation date, unless a new or reinstated bond is submitted to and approved by the Commission prior to such date, and subsequently to order such suspension or revocation for failure to maintain a bond; (h) approve extension or extensions of time to licensed freight forwarders, in which to furnish the Commission the name(s) and ocean freight forwarding experience of the managing partner(s) or officer(s) who will replace the qualified partner or officer upon whose qualifications the original licensing was approved.

7.05 Authority to develop, prescribe, and administer programs to assure compliance with the provisions of the shipping statutes of all persons subject thereto, including without limitation those programs for: (a) The submission of regular and special reports, information, and data; (b) the conduct of a plan for the field audit of activities and practices of common carriers by water in the domestic offshore trade and the foreign commerce of the United States, conferences of such carriers, terminal operators, freight forwarders, and other persons subject to the shipping statutes; and (c) the conduct of rate studies.

7.06 Authority to approve, pursuant to Section 15, Shipping Act, 1916, as amended, unprotested, cooperative working arrangements between independent ocean freight forwarders eligible to carry on the business of forwarding pursuant to Section 44, Shipping Act, 1916, as amended.

7.07 Authority to approve, pursuant to Section 15, Shipping Act, 1916, as amended, unprotested modifications to terminal conference agreements and unprotested terminal leases, licenses, assignments, or other agreements of a similar character for the use of terminal property or facilities between persons subject to the Shipping Act, 1916, as amended.

7.08 Authority to determine whether terminal leases, licenses, assignments, or other agreements of a similar character for the use of terminal property or facilities between persons subject to the Shipping Act, 1916, as amended, are within the purview of Section 15.

7.09 Authority to approve unprotested transshipment agreements covering transportation of cargo in the foreign commerce of the United States which are not unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest, or violative of the Shipping Act, 1916, as amended; such agreements should include the:

1. Complete name of the parties entering into the arangement and specifically setting forth the portion of the trade that each party will cover, including; ports or areas of origin and destination; cargo to be carried; and ports or ranges of ports at which cargo will be transshipped;

2. Responsibility of parties for establishing and filing the applicable through rates, rules, regulations, and other tariff matters;

3. Provisions for the apportionment of the through revenue and transshipment expenses stated in percentages, or specific dollar amounts;

4. When applicable, provisions for application and apportionment of other expenses such as wharfage, special handling, lighterage, tonnage dues, surcharges, and other such charges assessed by a governmental authority;

5. When desired by the parties, provisions for indemnification between the parties for liabilities incurred from loss, damage, delay, or misdelivery of goods;

6. Provision for the termination of the agreement within a stated notice period; and

7. Provisions for the submission to the Federal Maritime Commission for approval of any modification or addition to the agreement.

7.10 The authority to approve or disapprove applications as specified in General Order 11, "Reports of Rate Base and Income Account by Vessel Operating Common Carriers in the Domestic Offshore Trades," Sections: 512.3(c)(1)—extensions for time of filing; 512.3(c)(2)—alternate data; and 512.3(c)(3)—waiver of filing.

7.11 Authority to (1) approve modifications to Section 15 agreements when such modifications are filed in accordance with the requirement of Commission rule or general order and are clearly in compliance with the criteria and/or intent of such rule or general order, and (2) require modification of the filed amendment to the extent necessary to conform to the requirements of such rule or general order.

7.12 Authority to approve the termination of Section 15 (Shipping Act, 1916, as amended) agreements between common carriers by water and conferences of such carriers engaged in the foreign and domestic commerce of the United States, and between other persons subject to the Act, after publication of notice of intent to terminate in the Federal Register, when such terminations are (1) requested by the parties to the agreements or, (2) deemed to have occurred when it is determined that the parties are no longer engaged in concerted activities requiring Section 15 approval and official inquiries and correspondence cannot be delivered to the parties.

7.13 Authority to approve unprotested modifications to approved Section 15 agreements which are filed to (1) reflect changes in the name of a country or port, or (2) increase or decrease the trade areas within the general geographic scope of the approved existing agreements, provided that such increases or decreases do not involve foreign-to-foreign trade, or (3) reflect non-substantive changes in language, procedures, or administration.

7.14 Authority to approve, pursuant to Section 15, Shipping Act, 1916, as amended, unprotested passenger agency agreements and container interchange agreements between ocean common carriers.

7.15 Authority to issue notices of intent to cancel inactive tariffs of carriers in the domestic offshore trades, after a diligent effort has been made to locate the carrier without success, or if the carrier has advised the Commission that it no longer offers a domestic common carrier service but refuses to cancel its tariff upon written request; and to cancel such tariff if within 30 days after publication, the carrier does not furnish reasons why such tariff should not be cancelled.

7.16 Authority to accept financial and operating data alternative to that required by Sections 511.2 and 511.3 of General Order 5, upon application and a showing of good cause that it is unnecessary to require full compliance to enable the Commission to carry out its regulatory function.

7.17 Authority to waive the requirements of Section 511.2 and 511.3 of General Order 5, for carriers with less than $25,000 gross revenue, upon application and showing that the gross revenue earned did not exceed such amount as provided by the Order.

7.18 Authority to grant or deny, in accordance with the provisions of General Order 5, Amendment 5, extensions of time limits prescribed for the filing of financial reports by common carriers who are subject to the provisions of General Order 5, 46 CFR, Part 511.

7.19 Authority to (a) approve applications for Certificates of Financial Responsibility (Pollution) and to issue or reissue or transfer such Certificates; (b) issue a letter stating that the Commission intends to deny an application, indicating the reasons therefor, unless within 20 days applicant requests a hearing to show that denial of the application is unwarranted; (c) deny any application for a Certificate where applicant has received a letter of intent to deny and, within the notice period, has not requested a hearing; (d) rescind letters of intent to deny or grant extensions of the time specified in such letters; (e) revoke a Certificate upon request of the certificant; (f) upon receipt of notice of termination of evidence of financial responsibility to notify the certificant in writing that his Certificate will automatically be suspended or revoked, effective on the termination date, unless new or reinstated evidence of financial responsibility is submitted to and approved by the Commission prior to such date, and subsequently to order such suspension or revocation for failure to maintain adequate evidence of financial responsibility; and (g) exercise the various grants, waivers, and requests relating to the filing of financial data by self-insurers and guarantors pursuant to the provisions of section 542.5(a) of General Order 27.

SEC. 8. *Specific authorities delegated to the Secretary.*

8.01 Authority to approve applications for permission to practice before

the Federal Maritime Commission and to issue admission certificates to approved applicants.

8.02 Authority to prescribe a time limit less than 20 days from date published in the FEDERAL REGISTER for the submission of written comments with reference to agreements filed pursuant to Section 15 of the Shipping Act, 1916, as amended.

8.03 Authority to assign informal small claims dockets under Subpart S of the Commission's Rules of Practice and Procedure to those Commission employees designated as "settlement officers."

SEC. 9. *General authority delegated to the Managing Director, Secretary, General Counsel, and Chief Administrative Law Judge.*

9.01 Authority to exercise all functions and take all actions necessary to direct and carry out the duties and responsibilities assigned to the Managing Director, Office of the Secretary, Office of the General Counsel, and Office of Administrative Law Judges, in accordance with their functional assignments as heretofore prescribed in this Order.

SEC. 10. *Public requests for information and decisions.*

10.01 *General.* 1. 5 U.S.C. 552(a)(1)(A) requires that every agency shall separately state and currently publish in the FEDERAL REGISTER for the guidance of the public, descriptions of its central and field organizations and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions.

2. Section 5 of this Order complies with that portion of the above requirement with respect to stating and publication of the descriptions of the Federal Maritime Commission's central and field organizations.

3. Accordingly, there is hereby stated and published for the guidance of the public the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions. For this purpose, the officials hereinafter designated may be contacted by telephone, in writing, or in person, at the Federal Maritime Commission, 1405 I Street, NW., Washington, D.C. 20573.

10.02 The *Director, Bureau of Compliance,* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Bureau of Compliance. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Bureau of Compliance as set forth in Section 5.031 of this Order shall be filed with or submitted to the Director, Bureau of Compliance.

10.03 The *Director, Bureau of Industry Economics,* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Bureau of Industry Economics. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Bureau of Industry Economics as set forth in Section 5.032 of this Order shall be filed with or submitted to the Director, Bureau of Industry Economics.

10.04 The *Director, Bureau of Certification and Licensing,* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Bureau of Certification and Licensing. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Bureau of Certification and Licensing as set forth in Section 5.033 of this Order shall be filed with or submitted to the Director, Bureau of Certification and Licensing.

10.05 The *Director, Bureau of Hearing Counsel,* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Bureau of Hearing Counsel, provided, however, that the dissemination of such information or decisions is not prohibited by the Administrative Procedure Act or the Commission's Rules of Practice and Procedure. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Bureau of Hearing Counsel as set forth in Section 5.034 of this Order shall be filed with or submitted to the Director, Bureau of Hearing Counsel.

10.06 The *Director, Office of Personnel,* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of Personnel as set forth in Section 5.035 of this Order.

10.07 The *Director, Office of Budget and Finance,* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of Budget and Finance as set forth in Section 5.036 of this Order.

10.08 The *Directors of the Atlantic, Gulf, and Pacific Districts,* and the *Puerto Rico Area Representative* will provide information and decisions to the public within their geographic areas, or will expedite the obtaining of information and decisions from headquarters, relating to the program activities of the District Offices as set forth in Section 5.038 of this Order. The addresses of these offices are as follows:

Director, Atlantic District
Federal Maritime Commission
26 Federal Plaza, Room 4012
New York, New York 10007

Director, Gulf District
Federal Maritime Commission
P.O. Box 30550
610 South Street, Room 1035
New Orleans, Louisiana 70190

Director, Pacific District
Federal Maritime Commission
681 Market Street, Room 618
San Francisco, California 94105

Area Representative, Puerto Rico
Federal Maritime Commission
Old San Juan Post Office Bldg., Room 108A
Commercio and Tanca Streets
San Juan, Puerto Rico

Mailing Address:
P.O. Box 3168
Old San Juan Station
San Juan, Puerto Rico 00904

10.09 The *Secretary* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of the Secretary. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Office of the Secretary as set forth in Section 5.04 of this Order shall be filed with or submitted to the Secretary.

10.10 The *General Counsel* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of the General Counsel. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Office of the General Counsel as set forth in Section 5.05 of this Order shall be filed with or submitted to the General Counsel.

10.11 The *Chief Administrative Law Judge* will provide information and decisions and will accept and respond to requests, relating to the program activities of the Office of Administrative Law Judges. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Office of Administrative Law Judges as set forth in Section 5.06 of this Order shall be filed with or submitted to the Chief Administrative Law Judge.

10.12 The public may inspect or obtain copies of agreements, tariffs, and other public records or documents which are on file with or prepared by the Bureau of Compliance from the Public Reference Room, Bureau of Compliance, 1405 I Street NW., Washington, D.C. 20573.

SEC. 11. *Effect on Other Orders.*

11.01 This Order supersedes Commission Order Number 1 (Revised) dated May 1, 1972, and all amendments and supplements published subsequent thereto.

HELEN DELICH BENTLEY,
Chairman.

[FR Doc.73-20667 Filed 9-26-73;8:45 am]

[Independent Ocean Freight Forwarder Licensee No. 36]

THADDEUS W. WYATT, AND T. W. WYATT CO.

Order of Revocation

By letter dated August 1, 1973, T. W. Wyatt Co., 405 Montgomery Street, San

Francisco, California 94104 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 36 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before August 30, 1973.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Thaddeus W. Wyatt, d/b/a T. W. Wyatt Co. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated May 1, 1972);

It is ordered, That Independent Ocean Freight Forwarder License No. 36 of Thaddeus W. Wyatt, d/b/a T. W. Wyatt Co. be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 36 be and is hereby revoked effective August 30, 1973.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Thaddeus W. Wyatt, d/b/a T. W. Wyatt Co.

WM. JARREL SMITH, Jr.,
Deputy Managing Director.

[FR Doc.73-20671 Filed 9-26-73;8:45 am]

[Docket No. 73-58]

UNITED STATES LINES, INC.

Order To Show Cause

United States Lines, Inc. (USL) is a common carrier by water operating inter alia, between the East Coast of the United States and the United Kingdom and Europe. USL submits bids for the carriage of military cargo pursuant to the negotiated competitive procurement system administered by the Military Sealift Command (MSC).

In response to the latest Request for Proposal (RFP)-800, First Cycle, issued by MSC, USL submitted bids of $11.72 per measurement ton for carriage of Cargo N.O.S. $21.32 per measurement ton for carriage of refrigerated cargo and $24.20 per measurement ton for carriage of vehicles from U.S. East Coast ports to the United Kingdom and Europe on MSC Route Index 4 and 5, to be effective during the period July 1, 1973-December 31, 1973.

Pursuant to § 549.4(a) of General Order 29 (46 CFR 549.4(a)) USL submitted a certification that its rate bid for RFP-800 First Cycle complied with the requirements of General Order 29. In justifying these rates, USL reduced its costs by deducting a credit for "Military Inland Profit", which USL defines as that pool of revenue in excess of cost associated with moving a container of military cargo from point of origin to ocean port or from ocean port to final inland destination. (This does not include cost or time spent while the containers are on the vessel while in the port or at sea.)

By using the credit for "Military Inland Profit",[1] USL reduced its ocean carriage costs to a level where its rates bid cover its fully distributed costs as required by General Order 29. If the ocean carriage cost is not reduced for the credit for "Military Inland Profit", the rates bid for carriage of Cargo N.O.S. and refrigerated cargo would not cover fully distributed cost and would thus be in violation of section 18(b)(5) of the Shipping Act, 1916.

The Commission is seriously concerned that carriers may be tempted to avoid the standards of General Order 29 by seeking to offset costs attributable to the ocean carriage of military cargo by claiming profits on inland carriage of that cargo, as USL has sought to do here. Such a tactic is not sanctioned by General Order 29, since General Order 29 requires that the legality vel non of the rate for ocean carriage of military cargo must be determined with regard to the costs and revenues associated with such ocean carriage.

The Commission is of the opinion that unless USL can justify its use of profits on inland carriage of military cargo to offset costs attributable to the ocean carriage of that cargo, USL's rates bid for the carriage of Cargo N.O.S. and refrigerated cargo for RFP-800 First Cycle on MSC Routes 4 and 5 must be found to be in violation of General Order 29 and section 18(b)(5) of the Shipping Act, 1916, and be stricken from USL's tariff on file with the Commission.

Now, therefore, it is ordered, That pursuant to Section 22 of the Shipping Act, 1916 United States Lines be named respondent in this proceeding and that it be ordered to show cause why its rates bid for the carriage of Cargo N.O.S. and refrigerated cargo for RFP-800 First Cycle on MSC Route Index 4 and 5 should not be stricken from its tariff for failure to comply with 46 CFR Part 549, and section 18(b)(5) of the Shipping Act, 1916.

It is further ordered, That this proceeding shall be limited to the submission of affidavits and memoranda of law, replies, and oral argument. Should any party feel that an evidentiary hearing be required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before October 15, 1973. Affidavits of fact and memorandum of law shall be filed by respondent and served upon all parties no later than the close of business October 15, 1973. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors if any, no later than close of business October 25, 1973.

Time and date of oral argument if requested and/or deemed necessary by the Commission will be announced at a later date.

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondent, and upon the Commanding Officer, Military Sealift Command, and

It is further ordered, That persons other than those already party to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) no later than the close of business October 5, 1973.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-20668 Filed 9-26-73;8:45 am]

[1] Although for purposes of this Order we are assuming that the actual amount claimed as "Military Inland Profit" by USL is accurate, we are issuing a section 21 Order to USL in order to determine the accuracy of the figure claimed.

FEDERAL POWER COMMISSION

[Docket Nos. CI73-863, CI73-864, & CI73-865]

BRACKEN OIL PROPERTIES, INC.

Notice Cancelling Hearing

SEPTEMBER 21, 1973.

On August 31, 1973, an order was issued fixing a hearing in the above-designated matters. On September 10, 1973, Hoover & Bracken Oil Properties, Inc. filed an application to withdraw the applications filed in the above matters.

Upon consideration, notice is hereby given that the hearing scheduled for September 27, 1973, in the above matters is cancelled.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20614 Filed 9-26-73;8:45 am]

[Docket No. CI73-903]

DOUGLAS B. MARSHALL, ET AL.

Notice Changing Date of Hearing

SEPTEMBER 19, 1973.

On August 31, 1973, an order was issued setting the above matters for hearing, prescribing procedures and fixing the date of hearing.

Upon consideration, notice is hereby given that the date of the hearing is changed to October 4, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20626 Filed 9-26-73;8:45 am]

NATIONAL POWER SURVEY; TECHNICAL ADVISORY COMMITTEE ON FUELS

Cancellation of Meeting

The meeting of the Technical Advisory Committee On Fuels previously announced for October 3, 1973, has been cancelled.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20621 Filed 9-26-73;8:45 am]

NATIONAL POWER SURVEY; TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Agenda for Meeting

Agenda for meeting of the Technical Advisory Committee on Conservation of Energy, to be held at the Federal Power Commission Offices, 825 North Capitol Street NE., Washington, D.C., at 9:30 a.m., October 15 and 16, 1973, Room 5200.

1. Meeting called to order by FPC Staff Representative.
2. Objectives and purposes of meeting.
A. Review of recommendations of Task Force on Technical Aspects.
B. Review of recommendations of Task Force on Practices and Standards.
C. Review of recommendations of Task Force on Environmental Aspects.
D. Other business.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20622 Filed 9-26-73;8:45 am]

NATIONAL POWER SURVEY; TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Agenda for Meeting

Agenda for a meeting of Technical Advisory Committee on Conservation of Energy, to be held at the Federal Power Commission Offices, 825 North Capitol Street NE., Washington, D.C., at 9:30 a.m., October 2, 1973, Room 5200.

1. Meeting called to order by FPC Staff Representative.
2. Objectives and purposes of meeting.
A. Review of Revised Draft of Report of Task Force on Technical Aspects.
B. Review of reports of Task Force on Environmental Aspects.
C. Other business.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 73-20623 Filed 9-26-73;8:45 am]

[Project No. 2340]

INTERSTATE POWER CO.

Filing of a Notice of Destruction, Unfitness for Use, and Retirement of Essential Project Property of the Dehli Generating Station

SEPTEMBER 20, 1973.

Public notice is hereby given that the Interstate Power Company of Dubuque, Iowa, Licensee for the Dehli Hydro-Electric Project No. 2340, filed on August 29, 1973, a "Notice of Destruction, Unfitness For Use, And Retirement Of Essential Project Property of Dehli Hydro-Electric Generating Station As Minor Project Having Installed Capacity of 2,000 Horsepower Or Less." The project is located on the Moquoketa River in Delaware County, Iowa.

Licensee indicated that because of the failure of the Dehli Generator Unit No. 1 on September 1, 1968, the project was reduced to one generating unit. On June 16, 1973, the remaining Unit No. 2 was struck by lightning causing its failure and resulting in the discontinuance of operation, and that complete rewinding of this generator and replacement of the station service supply cables would be necessary to again commence service.

Licensee contends that there is no economic justification for these repairs. It had previously stated in its Application for Surrender of this project that continued operation did not effectively contribute significant support to its system operation, reliability, or economy.

Licensee proposes to dispose of all of its right, title, and interest in certain of the real estate and remaining facilities thereon formerly constituting the project works and used in connection with the generating station which have ceased to be electric facilities, by selling and conveying the same to L. J. Schlitz after the expiration of 90 days from the date of its Notice.

Any person desiring to be heard or to make protest with reference to the Notice filed by Interstate Power Company in Project No. 2340, should on or before October 29, 1973, file with the Federal Power Commission, Washington, D.C. 20426, protests or petitions to intervene 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 proceedings. Persons wishing to become parties to the proceeding or to participate as a party in this proceeding must file petitions to intervene in accordance with the Commission's rules. The Company's Notice is on file with this Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20627 Filed 9-26-73;8:45 am]

[Docket No. CI73-521]

McCULLOCH OIL CORP.

Extension of Time

SEPTEMBER 19, 1973.

On September 17, 1973, McCulloch Oil Corporation filed a request for an extension of the procedural dates fixed by order issued September 7, 1973, in the above-designated matter. The letter states that Northern Natural Gas Company supports the request.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Direct Testimony by Applicant and Interveners, supporting Applicant, September 24, 1973.
Direct Testimony and Evidence by Staff and all Interveners opposing Application, October 1, 1973.
Rebuttal testimony, October 9, 1973.
Hearing (unchanged), October 16, 1973 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20630 Filed 9-26-73;8:45 am]

[Docket No. E-8380]

METROPOLITAN EDISON CO.

Proposed Changes in Rates and Charges

SEPTEMBER 19, 1973.

Take notice that Metropolitan Edison Company (Met-Ed) on August 29, 1973, tendered for filing a POWER CONTRACT dated July 11, 1973, applicable to wholesale electric service to the Borough of Kutztown, Pennsylvania, effective as of the date upon which Kutztown's new 69 kv step-down substation commences service. The proposed contract contains Met-Ed's Resale Power Service Rate RP-Revision 2 which became effective July 1, 1971. The charges billed under Resale Power Service Rate RP-Revision 2 will result in an annual reduction in billing of $69,725, as compared to the present rate for the twelve month period beginning July 1, 1973.

A copy of the rate filing has been mailed to Borough of Kutztown.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 28, 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20617 Filed 9-26-73;8:45 am]

[Docket No. RP72-118]

MICHIGAN WISCONSIN PIPE LINE CO.

Proposed Changes in Rates

SEPTEMBER 21, 1973.

Take notice that on August 31, 1973, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) endered for filing Third Substitute Fourth Revised Sheet No. 27F to its F.P.C. Gas Tariff, Second Revised Volume No. 1. This filing was subsequently revised and refiled on September 10, 1973. So as to permit this substitute filing to be made and to become effective as of October 1, 1973, Michigan Wisconsin requests waiver of the Commission's regulations.

Michigan Wisconsin states that the above revised tariff sheet reflects the effect of a net increase in advance payments to producers and is filed pursuant to its Settlement Agreement in Docket No. RP72-118.

Michigan Wisconsin further states that copies of the filing have been mailed to its customers and all interested parties in Docket No. RP72-118.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 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 September 28, 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20615 Filed 9-26-73;8:45 am]

[Docket No. RP72-118]

MICHIGAN WISCONSIN PIPE LINE CO.

Proposed Changes in Rates and Charges

SEPTEMBER 21, 1973.

Take notice that on August 31, 1973, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered Third Substitute Fourth Revised Sheet No. 27 to its FPC Gas Tariff, Second Revised Volume No. 1, proposing to increase the commodity component of its two part rates and the total of its single part rates by 1.50¢ per Mcf, effective as of October 1, 1973. The company states that the change relates to advance payments for gas as of October 1, 1973 and is made pursuant to Articles IV and V of the Stipulation and Agreement approved by Commission order issued July 24, 1973, in this proceeding.

Copies of the filing have been mailed to Michigan Wisconsin's customers and interested state commissions.

Any persons desiring to be heard or to protest said application should file a petition to intervene 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 and 1.10). All such petitions or protests should be filed on or before September 27, 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 to the proceeding must file a petition to intervene. However, parties previously permitted to intervene in this proceeding need not file a further petition to intervene. Copies of this application are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20616 Filed 9-26-73;8:45 am]

[Docket No. RP73-102]

MICHIGAN WISCONSIN PIPELINE CO.

Extension of Time and Postponement of Prehearing Conference and Hearing

SEPTEMBER 19, 1973.

On August 20, 1973, Michigan Wisconsin Pipeline Company filed a motion for a postponement of the prehearing conference. On August 30, 1973, Staff Counsel filed a motion for an extension of the procedural dates fixed by the order issued May 30, 1973, in the above-designated matter. The motion states that there were no objections to the proposed dates.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff testimony, October 16, 1973.
Prehearing Conference, November 6, 1973 (10 a.m., e.d.t.).
Service of Intervener's Testimony, November 15, 1973.
Service of Company rebuttal, November 26, 1973.
Hearing, December 11, 1973 (10 a.m., e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20628 Filed 9-26-73;8:45 am]

[Docket No. CP74-64]

MOUNTAIN FUEL SUPPLY CO.

Application or in the Alternative Request for Disclaimer of Jurisdiction

SEPTEMBER 21, 1973.

Take notice that on September 6, 1973, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84111, filed in Docket No. CP74-64, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to, and the exchange of natural gas with Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG), and for a disclaimer of jurisdiction as to the construction and operation of certain facilities for use therewith, or, in the alternative, authorization therefor, 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 has encountered mechanical problems downhole at its Spearhead Ranch Well No. 1, formerly known as Anadarko Well No. 1, in Converse County, Wyoming, as a result of which the well could not be shut and natural gas was being flared. Applicant further states it, therefore, has proceeded on an emergency basis to construct certain facilities necessary to collect this gas and prevent further waste. Applicant seeks authorization to exchange and sell this natural gas with CIG. Under the proposal, gas produced by Spearhead Ranch Well No. 1 will be delivered to McCullogh Gas Transmission Company (McCullough) for CIG's account for transportation through existing facilities to the northern terminus of CIG's existing Powder River Lateral in Converse County. Contemporaneously therewith, CIG will deliver gas equivalent to 75 percent of the Spearhead Ranch No. 1's volume to Applicant at an existing point of interconnection near Green River, Wyoming, and CIG will retain and purchase an amount equivalent to 25 percent of the volume. As stated in the application CIG is required to reimburse Applicant for the costs of treating the gas for removal of impurities and transporting the gas purchased by CIG from the source of supply to the point of delivery to McCullough for CIG's account at four cents per Mcf, while Applicant is to reimburse CIG for the portion of McCullough's transportation charges attributable to the volumes of gas retained by Applicant. Total volumes involved are estimated to average initially 8,000 Mcf per day. Under the provisions of the agreement between Applicant and CIG dated July 5, 1973, providing for the subject exchange, filed concurrently by CIG, certificate Applicant in Docket No. CP74-62, the price for the first year shall be as follows:

Depth of well:	*Price (cents per Mcf)*
0 to 15,000 feet	40
15,000 to 19,000 feet	45
Below 19,000 feet	50

For each successive twelve-month period the price shall increase one cent per Mcf above the applicable price listed above for the life of the agreement. The term of the contract is stated as five years from the month following initial delivery and from year-to-year thereafter unless terminated by either party upon six months written notice.

Applicant states that due to the geographically removed nature of Spearhead Ranch Well No. 1 from Applicant's transmission and distribution facilities it has had to construct certain facilities in order to effect the proposed exchange and sale. The application details these facilities as 13 miles of 10-inch pipeline and appurtenant facilities from the Spearhead Ranch Well No. 1 to the point of interconnection with McCullough's 16-inch transmission line. Applicant maintains these facilities, which are all within Converse County and used to deliver gas

to a point of interconnection with McCullough within the same county, perform solely a gathering function incident to the production of natural gas, and as such, are facilities which Section 1(b) of the Natural Gas Act exempts from the Commission's certificate jurisdiction. Applicant requests the Commission to disclaim jurisdiction over such facilities, or in the alternative, issue a certificate authorization for the same.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 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 or practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20629 Filed 9-26-73;8:45 am]

[Docket No. RP74-12]

NORTHERN NATURAL GAS CO.

Proposed Change in Rates

SEPTEMBER 19, 1973.

Take notice that on August 31, 1973, Northern Natural Gas Company (Northern) filed for an increase in its wholesale rates as a part of its Gas Tariff, Original Volume No. 4, described as:

First Revised Sheet No. 3a

The proposed effective date for the submitted tariff sheet is October 16, 1973.

Northern states that the revised tariff sheet provides for a rate increase of 5.43¢ per Mcf in the GS-1, IS-1 and I-1 rates, which are the three wholesale schedules contained in Volume No. 4. Northern further states that the basis for the filing of the increased rates is to recover increased gas costs for purchases from the Colorado Interstate Gas Company, the source of gas for the sales under these tariffs. Finally, Northern states that such increased costs relate to charges incurred prior to the implementation of the purchased gas adjustment clause now a part of Tariff Volume No. 4.

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 Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 5, 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.73-20631 Filed 9-26-73;8:45 am]

[Docket No. RP72-127]

NORTHERN NATURAL GAS CO.

Notice Deferring Procedural Dates

SEPTEMBER 19, 1973.

On September 13, 1973, Staff Counsel filed a motion for an extension of the procedural dates fixed by notice issued July 6, 1973, pending disposition of the proposed Stipulation and Agreement filed in this proceeding and Docket No. RP71-107 (Phase II) on January 11, 1973.

Upon consideration, notice is hereby given that the procedural dates in the above-designated matter are deferred pending further order of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20632 Filed 9-26-73;8:45 am]

[Docket No. ID-1707]

R. DEWITT MALLARY

Notice of Application

SEPTEMBER 19, 1973.

Take notice that on August 2, 1973, R. DeWitt Mallary (Applicant), filed an initial application pursuant to Section 305(b) of the Federal Power Act, seeking authority to hold the positions of Director of Central Vermont Public Service Corporation and Vermont Electric Power Company, Inc.

The principal business of *Central Vermont Public Service Corporation* is the generation and purchase of electric energy and its transmission, distribution and sale for light, power, heat and other purposes to about 83,400 customers in Middlebury, Randolph, Rutland, Springfield, Windsor, Bradford, Bennington, Brattleboro, St. Johnsbury, St. Albans, Woodstock and 163 other towns and villages in Vermont. *Vermont Electric Power Company, Inc.* engages in the operation of a transmission system which interconnects the electric utilities in the State of Vermont. It is also engaged in the business of purchasing bulk power for resale to Central Vermont Public Service Corporation and the other electric utilities in the State.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20625 Filed 9-26-73;8:45 am]

[Docket No. RP73-94]

VALLEY GAS TRANSMISSION, INC.

Submission of Settlement Agreement

SEPTEMBER 19, 1973.

On September 10, 1973, Valley Gas Transmission, Inc. (Valley) submitted to the Presiding Administrative Law Judge for certification, at a prehearing conference convened in this matter pursuant to a notice issued by the Secretary on August 31, 1973, a "Motion to Terminate Proceeding" and an accompanying "Stipulation and Agreement."

In the Motion, Valley states that the parties have reached agreement, as reflected in the "Stipulation and Agreement," and that Valley's rates as filed are supported by Valley's cost of service and are therefore just and reasonable. Valley requests that the proceeding in this docket be terminated and that Valley's rates as filed be approved.

Any person desiring to comment upon said application should file comments 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 comments should be filed on or before September 28, 1973. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the settlement agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-20618 Filed 9-26-73;8:45 am]

[Docket No. CP74-62]

COLORADO INTERSTATE GAS CO.

Notice of Application

SEPTEMBER 20, 1973.

Take notice that on September 4, 1973, Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (Applicant), P. O. Box 1087, Colorado Spring, Colorado 80944, filed in Docket No. CP74-62, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with the Mountain Fuel Supply Company (Mountain Fuel) and the construction and operation of a purchase and exchange meter station in the Anadarko Fox Area in Converse County, Wyoming, for use therewith, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that on or about August 27, 1973, pursuant to § 157.22 of the regulations under the Natural Gas Act (18 CFR 157.22), Applicant entered into emergency operations in conjunction with Mountain Fuel and McCulloch Interstate Gas Corporation (McCulloch) to prevent the continued waste of natural gas as a result of difficulties Mountain Fuel was encountering with its Anadarko Fox Well No. 1 located in the Powder River Basin in Converse County. Applicant states that Mountain Fuel is presently producing about 1,200 barrels of oil per day and flaring about 4,000 Mcf of gas per day from this well and that the proposed exchange is necessary to prevent further flaring and wastage of gas.

Under the proposal gas produced by the Anadarko Fox Well No. 1 will be delivered to McCulloch for Applicant's account for transportation through existing facilities to the northern terminus of Applicant's existing Powder River Lateral in Converse County. Contemporaneously therewith, Applicant will deliver gas equivalent to 75 percent of the Anadarko Fox volume to Mountain Fuel at an existing point of interconnection near Green River, Wyoming, and will retain and purchase an amount equivalent to 25 percent of the volume delivered by McCulloch. McCulloch will charge Applicant for the transportation of the total volume with reimbursement to Applicant by Mountain Fuel for that portion of the transportation charge attributable to the exchange volumes. Total volumes involved are expected to average initially 8,000 Mcf per day. The agreement between Applicant and Mountain Fuel dated July 5, 1973, providing for the subject exchange as stated in the application, provides that the price for the first year is as follows:

Depth of well:	Price (cents per Mcf)
0 to 15,000 feet	40
15,000 to 19,000 feet	45
Below 19,000 feet	50

The term of this agreement is stated as five years from the month following initial delivery and from year-to-year thereafter unless terminated by either party upon six months written notice.

Applicant further requests authorization for the operation of a temporary meter station constructed at the interconnection of Mountain Fuel and McCulloch's pipelines to measure exchange and purchase volumes. The estimated cost of the facility is $33,048, which will be financed by Applicant from current working funds on hand.

Applicant states that the instant proposal is necessary to enable it to meet the need for additional gas supplies to serve existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and 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.73-20624 Filed 9-26-73;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST COMMERCIAL BANKS, INC.

Order Approving Acquisition of Bank

First Commercial Banks, Inc., Albany, N.Y., 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 (less directors' qualifying shares) of the successor by merger to The Homer National Bank, Homer, New York ("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 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 none were received. The application has been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three banks, with aggregate deposits of $1.4 billion, representing 1.3 percent of total deposits in commercial banks in New York, and is the fourteenth largest banking organization in the State.[1] Acquisition of Bank (deposits of $16.7 million) would increase Applicant's share of Statewide deposits by only 0.02 of one percentage point and would not alter Applicant's ranking among the State's banking organizations and bank holding companies. The proposed acquisition represents Applicant's initial move into the Seventh Banking District.

Bank is the second largest of three banks competing in the market consisting of Cortland County and holds about 22.3 percent of the total commercial bank deposits therein. Bank has one branch office in Cortland.

The nearest office of a subsidiary of Applicant, the De Ruyter branch of First Trust and Deposit Co., is 19.2 miles from an office of Bank and is in a different Banking District. There is no meaningful competition between these offices or between Bank and any other of Applicant's subsidiary offices. Moreover, it is unlikely that any substantial amount of competition would develop in the future. Applicant's subsidiaries are precluded from branching into the Seventh Banking District until January 1, 1976, by State restrictions on branching. In addition, it appears unlikely that Applicant would establish a new bank in Cortland County, since the area is not characterized by rapid growth and the ratio of population to banking offices in the county is significantly lower than that in the State. Although approval of this application might tend to raise some slight barriers to entry, since only one independent bank would remain in the market, it would remove home office protection from the town of Homer and other banks in the Seventh Banking District could then branch into Homer.[2] Furthermore, consummation of the proposed acquisition could have a procompetitive effect, since Bank would be better able to compete with the two other commercial banks in

[1] Deposit and market data are as of December 31, 1972, and June 30, 1972, respectively.

[2] Under State law, a bank is prohibited from opening a branch in a city or village with a population of seventy-five thousand or less in which is located the principal office of another bank other than a bank holding company or a banking subsidiary thereof.

the market, one a holding company subsidiary and the other a substantially larger independent bank. Accordingly, it is concluded that consummation of the proposed acquisition would not have any significant adverse effect on existing or potential competition in any relevant area.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served lend weight toward approval. Affiliation with Applicant will permit Bank to offer additional services including credit card, investment advisory, and trust services. It is the judgment of the Federal Reserve Bank of New York that the proposed acquisition 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 New York pursuant to delegated authority.

By order of the Federal Reserve Bank of New York, acting for the Board of Governors of the Federal Reserve System pursuant to delegated authority, effective September 17, 1973.

[SEAL] THOMAS M. TIMLEN, Jr.,
Senior Vice President,
Federal Reserve Bank of New York.

[FR Doc.73-20537 Filed 9-26-73;8:45 am]

FIRST TENNESSEE NATIONAL CORP.

Order Approving Acquisition of Bank

First Tennessee National Corp., Memphis, Tenn., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of the successor by merger to the Jackson State Bank, Jackson, Tenn. ("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 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 controls eight banks with aggregate deposits of approximately $1.2 billion, representing 11.5 percent of the total commercial bank deposits in the State, and is the largest banking organization in Tennessee. (Banking data are as of December 31, 1972, adjusted to reflect holding company formations and acquisitions approved by the Board through May 31, 1973.) The acquisition of Bank ($15 million in deposits) would increase Applicant's share of the total State deposits by only 0.1 percent and would not result in any significant increase in the concentration of banking resources in Tenessee.

Bank, the smallest of four banks in the relevant market (approximated by Madison County), holds 8.6 per cent of total market deposits. The three largest banks each control approximately 36, 29 and 26 per cent, respectively. The Board concludes that acquisition of Bank would not have significantly adverse effects on any competing bank.

Applicant's banking subsidiary nearest to Bank is approximately 50 miles away. The distances between Bank and Applicant's subsidiaries preclude significant present competition between them. Furthermore, due to the distances involved and Tennessee's restrictive branching laws, there is little probability of substantial future competition developing between any of Applicant's subsidiaries and Bank. The Board concludes that competitive factors are consistent with approval.

Considerations relating to the financial and managerial resources and future prospectus of Applicant, its subsidiary banks, and Bank are satisfactory and consistent with approval of the application. There is no evidence that basic banking needs of the area are currently not being satisfied by existing banks. Applicant proposes to make available to Bank the services of its specialized personnel in the fields of mortgage lending, international banking, and accounts receivable financing. 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 acquisition would be in the public interest and that the application should be approved.[1]

[1] Objections to the application were received from a competing bank and an individual shareholder of Bank ("Protestants"). Protestants' primary contention appears to be that Applicant's acquisition will result in the local market being glutted with facilities and services not presently required by the community and that the independent local banks will find it increasingly unprofitable to meet such competition. The Board finds this argument highly conjectural and believes it does not support a finding that consummation of the proposal would have a significant adverse effect on competing banks; indeed, Protestants concede that the competing banks are well-established, aggressive, and growing. The objection appears essentially to reflect a preference for nonaffiliation of independent banks with bank holding companies. One of the Protestants also contends that the acquisition would result in a centralization of economic strength into Memphis, where Applicant's lead bank is located, and that local funds would be drained away from this community. The Board regards the ability of a bank holding company system to marshal resources and supply them where needed as a benefit of the holding company structure. Protestants' argument that Applicant would channel the funds in a manner detrimental to the Jackson community is speculative and seems unpersuasive, particularly in the view of the fact that Applicant will retain local management responsive to the needs of the community. Furthermore, the Board has no evidence that in the past Applicant has caused its subsidiaries to channel to its lead bank funds needed in the local community.

Applicant controls two nonbanking subsidiaries, Norlen Life Insurance Co., Phoenix, Arizona, and Investors Mortgage Service, Inc., Memphis, Tennessee, which were acquired on October 21, 1969, and on January 17, 1969, respectively. Norlen Life Insurance Company reinsures underwriters of credit life insurance, and Investors Mortgage Service, Inc., is a mortgage broker which manages real estate for others and develops real estate. Investors Mortgage Service, Inc., owns two subsidiaries, Griffen Mortgage Co., a mortgage broker acquired on December 4, 1969, and Investors Service, Inc., a real estate developer acquired on January 8, 1970.

In approving this application, the Board finds that the combination of an additional subsidiary bank with Applicant's existing nonbanking subsidiaries is unlikely to have an adverse effect upon the public interest at the present time. However, Applicant's banking and nonbanking activities remain subject to Board review and the Board retains the authority to require Applicant to modify or terminate its nonbanking activities or holdings if the Board at any time determines that the combination of Applicant's banking and nonbanking activities is likely to have adverse effects on the public interest.

On the basis of the record, the application is approved for the reasons summarized above. 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 St. Louis pursuant to delegated authority.

By order of the Board of Governors,[2] effective September 18, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-20538 Filed 9-26-73;8:45 am]

HANCOCK GROUP, INC.

Formation of Bank Holding Co.

The Hancock Group, Inc., Quincy, Mass., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Sheehan, Bucher, and Holland. Absent and not voting: Governor Brimmer.

(1)) to become a bank holding company through acquisition of 100 percent of the voting shares of Hancock Bank and Trust Co., Quincy, Mass. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than October 8, 1973.

Board of Governors of the Federal Reserve System, September 19, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-20539 Filed 9-26-73;8:45 am]

MULTIBANK FINANCIAL CORP.

Order Approving Acquisition of Bank

Multibank Financial Corp., Boston, Massachusetts, 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 percent or more of the voting shares of the Northampton National Bank, Northampton, Massachusetts ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and none has been received. The Federal Reserve Bank of Boston has considered the application in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant has five subsidiary banks[1] and is the sixth largest banking organization and bank holding company in Massachusetts, with aggregate deposits of $464.8 million representing 3.64 percent of total deposits of commercial banks in the state.[2] Acquisition of Bank (deposits of approximately $16.9 million) will have a nominal effect on state-wide concentration, and would increase Applicant's share of commercial bank deposits in Massachusetts by .13 percent. Applicant's ranking would be unchanged as there is a considerable disparity in size between Applicant and the five larger, Boston-based bank holding companies, each of which controls deposits in excess of $1 billion. The proposed acquisition is part of an aggressive statewide expansion program by Applicant, which has acquired four banks in less than two years.[3]

Bank is the second largest of six commercial banks located in Hampshire County, in western Massachusetts. Bank currently operates two offices in the City of Northampton, with a population of approximately 30,000. Northampton is located on the northern periphery of the Springfield-Chicopee-Holyoke SMSA, in which Bank ranks seventh of thirteen commercial banks and controls 2.5% of total market deposits (data as of December 31, 1972).

Applicant's banking office closest to Bank is located 36 miles away in Berkshire County. All of Applicant's subsidiary banks operate in markets separate and distinct from the Springfield SMSA. Further, it is unlikely that competition would develop between Applicant and Bank in the future. Because Massachusetts law restricts branch banking to the home office county, Applicant's existing subsidiaries cannot establish de novo branches in Hampshire County. Moreover, the Northampton area is not particularly attractive for entry via establishment of a de novo bank because of its static economy and population. Approval of the proposed transaction will have no adverse competitive effects.

The financial and managerial resources and prospects of Applicant and its existing subsidiary banks are satisfactory, particularly in view of Applicant's commitment to inject equity capital into several subsidiary banks and to strengthen management at the holding company level. The financial and managerial resources of Bank are considered to be satisfactory. Although Bank's future prospects are considered good, recent bank holding company affiliations in the area have served to intensify competition. Affiliation with Applicant will provide Bank with additional management depth and greater financial resources which should improve Bank's prospects. It is the Reserve Bank's judgment that banking factors are consistent with, and lend some weight in support of, approval of the application.

There is no evidence in the record to indicate that the convenience and needs of the community are not being adequately served by existing institutions. However, Applicant has stated its intention to provide or improve Bank's services in areas of equipment leasing, accounts receivable financing and real estate financing. The convenience and needs factors are consistent with, and lend some weight toward, 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 date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board or by this Federal Reserve Bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Boston, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective September 18, 1973.

[SEAL] FRANK E. MORRIS,
President.

[FR Doc.73-20541 Filed 9-26-73;8:45 am]

[1] On August 31, 1973, Applicant received approval by the Board to acquire B. M. C. Durfee Trust Company, Fall River, Massachusetts (deposits of $63 million).

[2] All banking data are as of June 30, 1973.

[3] Applicant has also announced plans to acquire Security National Bank of Springfield (deposits of $26.4 million).

SOUTHERN BANCORPORATION, INC.

Order Approving Formation of Bank Holding Co. and Acquisition of World Acceptance Corp., Piedmont Premium Service, Inc., and SBT Real Estate, Inc.

Southern Bancorporation, Inc., Greenville, S.C., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)), for the formation of a bank holding company through acquisition of 100 percent of the voting shares of Crescent Bank and Trust Company, Greenville, S.C., the successor by merger to Southern Bank and Trust Company, Greenville, South Carolina (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.

At the same time, Applicant has applied in separate applications 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, to acquire all of the voting shares of: (1) Taylor Acceptance Corporation, the successor by merger to World Acceptance Corp. (World Acceptance); (2) Paramount Premium Service, Inc., the successor by merger to Piedmont Premium Service, Inc. (Piedmont Premium); and (2) Sobanco Properties, Inc., the successor by merger to SBT Real Estate, Inc. (SBT); all located in Greenville, S.C. World Acceptance engages in the activities of making consumer finance loans and, in the States of Georgia and South Carolina, also acting as agent for the sale of credit related life, accident and disability insurance, and credit related property and casualty insurance issued in connection with extensions of credit by World Acceptance's consumer finance offices. Piedmont Premium provides loan financing for the payment of casualty insurance premiums under premium service agreements. SBT, through its ownership of all the outstanding stock of Sunland Life Insurance Company, Phoenix, Arizona (Sunland Life), acts as reinsurer for credit life, accident and health insurance directly related to extensions of credit. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1), (9), and (10)).

Notice of receipt of the applications has been given in accordance with sections 3 and 4 of the Act, and the time for filing comments and views has expired. The Board has considered the applications and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant is a nonoperating corporation formed for the purpose of becoming a bank holding company. Bank is the sixth largest banking organization in South Carolina, with deposits of approximately $118 million, and upon Board

approval would become the fourth largest bank holding company in the State, controlling 3.7 percent of total commercial bank deposits in South Carolina.[1] Consummation of the proposal herein would neither alter existing banking competition nor significantly affect potential competition and would not result in an increase in the concentration of banking resources in any relevant area.

Considerations relating to the financial and managerial resources and future prospects of Applicant and Bank appear to be satisfactory and consistent with approval. Considerations relating to the convenience and needs of the communities involved, with respect to the acquisition of Bank, are consistent with approval. It is the Board's judgment that consummation of the transaction would be in the public interest and that the acquisition of Bank should be approved.

World Acceptance has total assets of $6 million, and net loan receivables of $5.6 million, as of December 31, 1972. It operates 49 consumer finance offices, 19 of which are in South Carolina, 17 in Georgia,[2] and 13 in Texas. Applicant's banking subsidiary has eight offices located in the relevant market area, which is the Greenville-Pickens SMSA. In that market, World Acceptance operates five consumer finance offices. However, World Acceptance is not a large factor in the small personal loan market as its market share is less than 1 percent, represented by outstandings of $800,000, as of December 31, 1972. Competing in the same market are 58 consumer finance companies with 76 offices and 11 other commercial banks with 63 offices. Neither Bank nor World Acceptance is dominant in the relevant market. Considering the large number of lending alternatives, the Board is of the opinion that Applicant's acquisition of World Acceptance would not have a significant effect on existing or potential competition in the small consumer installment loan market. World Acceptance also acts as an agent for the sale of credit insurance related to loans it originates. Due to the limited nature of this activity, Applicant's acquisition of World Acceptance would not appear to have a significantly adverse effect on competition in this product line. Similarly, with respect to the acquisition of Piedmont Premium, it appears that in view of the limited nature of its activity, the acquisition of Piedmont by Applicant would not have any significant adverse competitive consequences.

SBT was organized in 1966 for the principal purpose of purchasing banking facilities utilized by Bank and leasing such facilities to Bank. In 1967, SBT acquired all the shares of Sunland Life, an Arizona chartered company which engages solely in acting as reinsurer for certain credit life, accident and health insurance directly related to extensions of credit by Bank. The ownership of shares of a company engaged in holding or operating properties used wholly or substantially by any banking subsidiary of a bank holding company is permissible under section 4(c)(1)(A) of the Act without the need for prior Board approval. Accordingly, this Order considers only the proposed insurance underwriting activities of SBT. As of December 31, 1972, SBT had total assets of $845,000, of which $145,000 represented investment in the underlying equity of its insurance subsidiary and for the year ending that same date, SBT received gross premiums of $530,000. Approval of Applicant's proposed acquisition does not appear to eliminate any competition in the underwriting of credit life and disability insurance.

In adding credit life underwriting to the list of permissible activities for bank holding companies, the Board stated that, "To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an Applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service." Applicant has committed itself, within 30 days following consummation of the proposed acquisition, to reduce the rates charged by Sunland Life to its policy holders by 15 percent on all credit life insurance policies, and by 5 percent on all credit accident and health insurance policies written by it in all States in which it would offer such policies (Georgia and South Carolina). It is the Board's judgment that these benefits to the public outweigh any possible adverse effects.

In its consideration of this application, the Board has examined covenants not to compete contained in employment agreements with the principal executives of World Acceptance and Piedmont. The Board finds that the provisions of these covenants (limited to three years and to localities where Southern Bancorporation would be engaged in the licensed consumer finance business and the licensed insurance premium service business) are reasonable in scope, duration, and geographic area and are consistent with the public interest. As the United States District Court for the Southern District of New York has stated in Syntex Laboratories, Inc. v. Norwich Pharmacal Co.:[3]

> While agreements not to compete have at times been used for the unlawful purpose of monopolizing a part of trade or commerce * * * it is hornbook law that a covenant not to compete ancillary to the sale of a business (or a part of a business), when reasonably limited as to time and territory, does not fall within the prohibitions of the Sherman Act. The question in every case is whether the restraint is reasonably calculated to protect the legitimate interest of the purchaser in what he has purchased, or whether it goes so far beyond what is necessary as to provide a basis for the inference that its real purpose is the fostering of monopoly.

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 interest, or unsound banking practices.

Approval of the applications would give World Acceptance access to Applicant's financial resources and enhance World Acceptance's competitive effectiveness. Based upon the foregoing and other considerations reflected in the record, the Board has determined that the considerations affecting the competitive factors under section 3(c) of the Act and the balance of the public interest factors the Board must consider under section 4(c)(8) are favorable and that consummation of these proposals would be in the public interest.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank 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; and the acquisitions of World Acceptance, Piedmont Premium, and SBT shall be consummated not later than three months after the effective date of this Order, unless such three month periods are extended for good cause by the Board or by the Federal Reserve Bank of Richmond pursuant to delegated authority. The determinations as to the activities of World Acceptance, Piedmont Premium, and SBT is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors, effective September 19, 1973.[4]

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-20542 Filed 9-26-73;8:45 am]

[1] All banking data are as of December 31, 1972, and reflect bank holding company formations and acquisitions approved by the Board through July 31, 1973.

[2] World Finance Corporation of Dawson, Dawson, Georgia, is a shell corporation. All of its assets were sold on August 1, 1972, to Kentucky Finance Corporation, Inc.

[3] 315 F. Supp. 45, at 56 (1970).

[4] Approval of acquisition of Southern Bank and Trust Company and SBT Real Estate. Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Daane.

Approval of acquisition of World Acceptance Corporation and Piedmont Premium Service. Voting for this action: Governors Sheehan, Bucher, and Holland. Voting against this action: Vice Chairman Mitchell and Governor Brimmer. Absent and not voting: Chairman Burns and Governor Daane.

Dissenting Statement of Governor Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Richmond.

MERCANTILE BANKSHARES CORP.

Acquisition of Bank

Mercantile Bankshares Corp., Baltimore, Md., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Co. Act (12 U.S.C. 1842(a)(3)) to acquire not less than 80 percent or more of the voting shares of The Commerce Bank and Trust Company of Maryland, Bethesda, Maryland, a proposed new bank. The factors that are considered in acting on the application are set forth in § 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 Richmond. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than October 10, 1973.

Board of Governors of the Federal Reserve System, September 19, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-20540 Filed 9-26-73;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regulations, Temporary Reg. D-27; Supplement 2]

ATTORNEY GENERAL

Delegation of Authority

1. *Purpose.* This supplement continues in effect the provisions of FPMR Temporary Regulation D-27, January 29, 1971, which delegated authority to the Attorney General of the United States to perform all functions in connection with the leasing of various improved properties in the Maryland and northern Virginia suburbs of Washington, DC.

2. *Effective date.* This regulation is effective July 1, 1973.

3. *Expiration date.* This regulation expires on June 30, 1974.

SEPTEMBER 21, 1973.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.73-20647 Filed 9-26-73;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

SUBCOMMITTEE ON PROGRAM DEVELOPMENT

Meeting

Notice of public meeting of the National Advisory Council on the Education of Disadvantaged Children.

Notice is hereby given, Pub. L. 92-463, that the next meeting of the subcommittee on Program Development of the National Advisory Council on the Education of Disadvantaged Children will be held at 2:30 p.m.-4:30 p.m., October 24, 1973 and from 9:00 a.m.-2:00 p.m., October 25, 1973, located at the Copley Plaza Hotel in Boston, Mass.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of Disadvantaged Children.

The meeting is called to develop a cohesive relationship to exchange ideas in helping to meet the educational services to disadvantaged children.

Because of limited space for the public meeting of October 24 and 25 all persons wishing to attend should call for reservations at Area Code 202/382-6945 by October 10, 1973.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located in Room 1012, 425 13th Street, NW., Washington, D.C. 20004.

Signed at Washington, D.C., on September 19, 1973.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.73-20544 Filed 9-26-73;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

FEDERAL CREDIT UNION BYLAWS

Increase of Maximum Permissible Dividend Rate; Correction

On page 26408 of the FEDERAL REGISTER of September 20, 1973, there was published a notice of an authorized amendment to Article XIV, section 2, of the Federal Credit Union Bylaws. The purpose of this notice is to make a technical correction as set forth below:

Notice is hereby given that as of September 13, 1973, the Administrator of the National Credit Union Administration, with the concurrence of the National Credit Union Board, pursuant to the authority conferred by section 108, 73 Stat. 631, 12 U.S.C. 1758, and section 120, 73 Stat. 635, 12 U.S.C. 1766, has authorized an amendment to Article XIV, section 2, of the Federal Credit Union Bylaws, to increase the maximum permissible dividend rate from 6 percent per annum to 7 percent per annum.

This correction is effective immediately.

HERMAN NICKERSON, Jr.,
Administrator.

[FR Doc.73-20532 Filed 9-26-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File 500-1]

ABERLE INDUSTRIES, INC.

Order Suspending Trading

SEPTEMBER 19, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of Aberle Industries, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 2:30 p.m. (e.d.t.) September 19, 1973 through September 28, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-20548 Filed 9-26-73;8:45 am]

[File No. 500-1]

APPLIED FLUIDICS, INC.

Order Suspending Trading

SEPTEMBER 19, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.04 par value, and all other securities of Applied Fluidics, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 2:30 p.m. (e.d.t.) September 19, 1973 through September 28, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-20549 Filed 9-26-73;8:45 am]

[File No. 500-1]

AZTEC PRODUCTS, INC.

Order Suspending Trading

SEPTEMBER 20, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.05 par value, and all other securities of Aztec Products, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securties Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 21, 1973 through September 30, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-20550 Filed 9-26-73;8:45 am]

[File 500-1]

BBI, INC.

Order Suspending Trading

SEPTEMBER 20, 1973.

The common stock, $0.10 par value, of BBI, Inc. being traded on the American Stock Exchange and the PBW Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 21, 1973 through September 30, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20551 Filed 9-26-73;8:45 am]

[File No. 500-1]

BENEFICIAL LABORATORIES, INC.

Order Suspending Trading

SEPTEMBER 20, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants, units and all other securities of Beneficial Laboratories, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 21, 1973 through September 30, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20552 Filed 9-26-73;8:45 am]

[File 500-1]

CO-BUILD CO., INC.

Order Suspending Trading

SEPTEMBER 18, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value, and all other securities of Co-Build Companys, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 1:45 p.m. (e.d.t.) September 18, 1973 through September 27, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20553 Filed 9-26-73;8:45 am]

[File 500-1]

DIVERSIFIED EARTH SCIENCES, INC.

Order Suspending Trading

SEPTEMBER 21, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.80 par value, and all other securities of Diversified Earth Sciences, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 22, 1973 through October 1, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20554 Filed 9-26-73;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORP. OF AMERICA

Order Suspending Trading

SEPTEMBER 21, 1973.

The common stock, $.30 par value, of Equity Funding Corporation of America being traded on the New York Stock Exchange, the Midwest Stock Exchange, the Pacific-Coast Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, the Boston Stock Exchange; warrants to purchase the $.30 par value common stock being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange; 9½ percent debentures due 1990 being traded on the New York Stock Exchange; and 5½ percent convertible subordinated debentures due 1991 being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 24, 1973 through October 3, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20555 Filed 9-26-73;8:45 am]

[File No. 500-1]

FIRST LEISURE CORP.

Order Suspending Trading

SEPTEMBER 21, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value and all other securities of First Leisure Corporation, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 23, 1973 through October 2, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20556 Filed 9-26-73;8:45 am]

[File 500-1]

FLUID POWER PUMP CO.

Order Suspending Trading

SEPTEMBER 19, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $1 par value, and all other securities of Fluid Power Pump Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 2:30 p.m. (e.d.t.) September 19, 1973 through September 28, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20557 Filed 9-26-73;8:45 am]

[File No. 500-1]

GIANT STORES CORP.

Order Suspending Trading

SEPTEMBER 21, 1973.

The common stock, $.10 par value, of Giant Stores Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Giant Stores Corp. being traded otherwise than on a national securities; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 24, 1973 through October 3, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20558 Filed 9-26-73;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.

Order Suspending Trading

SEPTEMBER 21, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 24, 1973 through October 3, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20559 Filed 9-26-73;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INC.

Order Suspending Trading

SEPTEMBER 19, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $5. par value and all other securities of Royal Properties Incorporated, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 20, 1973 through September 29, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20560 Filed 9-26-73;8:45 am]

[File No. 500-1]

TRIONICS ENGINEERING CORP.

Order Suspending Trading

SEPTEMBER 21, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Trionics Engineering Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 24, 1973 through October 3, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20561 Filed 9-26-73;8:45 am]

[File No. 500-1]

TRIEX INTERNATIONAL CORP.

Order Suspending Trading

SEPTEMBER 20, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, of Triex International Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 21, 1973 through September 30, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20562 Filed 9-26-73;8:45 am]

[811-1851]

R. S. HERSHEY FUND, INC.

Notice of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

SEPTEMBER 20, 1973.

Notice is hereby given that R. S. Hershey Fund, Inc. ("Applicant"), 875 North Michigan Avenue, Chicago, Illinois 60611, a diversified, open-end management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

On February 14, 1973, Applicant's board of directors voted to submit a proposal for Applicant's dissolution to its shareholders, and, at a meeting held for that purpose on April 5, 1973, such shareholders duly authorized the dissolution of Applicant and the distribution of its assets. Subsequently, Applicant's portfolio was liquidated, and its total net assets of $81,964.15 were distributed on a pro rata basis to Applicant's shareholders as of June 1, 1973.

Applicant states that it has no assets and no liabilities and that its corporate existence was terminated by virtue of the forfeiture of its corporate charter. For these reasons, Applicant requests that the Commission issue an order declaring that Applicant has ceased to be an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is hereby given that any interested person may, not later than October 15, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of attorney at law, by certificate) shall be filed contemporaneously with the re-

quest. At any time after said date, as provided by Rule 0–5 of the Rules nad Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in such application, unless an order for a hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-20563 Filed 9-26-73;8:45 am]

[File No. 500-1]

U. S. FINANCIAL INC.

Order Suspending Trading

SEPTEMBER 20, 1973.

The common stock, $2.50 par value, of U.S. Financial Incorporated being traded on the New York Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Incorporated being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 21, 1973 through September 30, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-20564 Filed 9-26-73;8:45 am]

[812-3509]

IDS LIFE VARIABLE ANNUITY FUND B AND IDS LIFE INSURANCE CO.

Notice of Application for Exemption

SEPTEMBER 20, 1973.

Notice is hereby given that IDS Life Variable Annuity Fund B ("Fund B"), and IDS Life Insurance Company ("IDS Life") (herein collectively referred to as "Applicants"), IDS Tower, Minneapolis, Minnesota, have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting Applicants from the provisions of section 22(d) of the Act to the extent described below. Fund B is an open-end diversified management investment company registered under the Act. IDS Life established Fund B on June 10, 1968, under Minnesota Law as a separate account through which it will set aside and invest payments accruing from the sale of tax deferred variable annuity contracts offered by IDS Life. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that they propose to offer a Group Variable Annuity Contract, containing combination features which would allow payments under the contract to be allocated to a variable account, or fixed account, or both, and which would provide transfer provisions between the two accounts and group experience rating credit provisions.

In connection with the sale of the Group Variable Annuity Contract, charges are deducted from payments to pay sales and administrative expenses. Applicants state that the deduction for sales and administrative charges is 5¾ percent of the first $10,000 of payments received, 4 percent of the next $40,000 of payments, and 2 percent of all payments in excess of $50,000. Applicants request exemption from section 22(d) of the Act to the extent necessary to permit the following.

1. Applicants request the elimination of charges for sales and administrative expenses when the values under a participant's fixed account are transferred to a participant's variable account, both during the accumulation period and upon the commencement of the annuity pay-out period. Applicants state that the sales and administrative charges on payments allocated to the fixed account are identical to the sales and administrative charges which would have been paid had the participant initially allocated that amount toward the variable account. Applicants assert that since the deduction from payments with respect to the fixed and variable accounts are identical, to require an investor to incur duplicate loading charges would be unjust and inconsistent with the protection of investors. Applicants state that the transfer of accumulated amounts from the fixed to the variable account will be limited to one transfer each year per participant.

2. Applicants request exemption to permit the usual decreasing sales and administrative charges to apply regardless of whether prior payments under the contract were allocated to the variable account or the fixed account. Applicants state that in order to treat participants in a uniform and equitable manner, it is necessary to consider the sales and administrative charges deducted from payments allocated to the fixed account, which are identical to those made upon the payments to the variable account, as if they had been paid upon the purchase of variable annuities, since the contract provides for decreasing sales and administrative charges. The applicants represent, by way of example, that an investor under the group contract for whom annual payments of $2,000 are being made, and who allocates $1,000 to the variable account of the contract and $1,000 to the fixed account for each of the first five years, and who again allocates sixth-year payments equally between the variable and fixed accounts, should be required to pay only a 4 percent charge on such sixth-year payments, even though the amount theretofore allocated to the variable account is only $5,000.

3. Applicants request exemption to permit the beneficiary of a participant to elect to have the proceeds payable upon the death of the participant, including those not derived from the separate account, applied to a variable annuity in lieu of a lump sum payment without deduction of a sales or administrative charge. Applicants represent that since in all cases a sales and administrative charge would have been paid by the participant, this exemption, if granted, would avoid any cumulating of sales charge.

4. Applicants request an exemption to permit experience rating on a non-discriminatory basis under the group contract. IDS Life will annually determine the actual cost applicable to each group contract and compare this amount with the amount deducted for sales and administrative expenses. IDS Life in its sole discretion may allocate all, a portion, or none of any excess of deductions over costs as an experience rating credit. Application of the credit would be effected by (a) a reduction in the amount deducted from subsequent payments, or (b) by the crediting of a number of additional accumulation units or annuity units, as applicable, equal in value to the amount of credit due. Such additional units would be credited without the deductions imposed on contributions.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus. Because the above described securities may be sold at a load which varies from that described in the prospectus, the exemptions are requested.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any persons from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than October 15, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be

notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air-mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address set forth above. Proof of such service (by affidavit or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the Rules and Regulations under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon the application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-20505 Filed 9-26-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License Application 08/08-5033]

FIRST VENTURE CAPITAL CORP.

Notice of Application for License as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 461 et seq.), has been filed by First Venture Capital Corporation (applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1973).

The officers and directors of the applicant are as follows:

Wallace L. Iverson, President, General Manager, Director, 1492 South 2400 East, Salt Lake City, Utah 84108.

Stephen R. Gilliland, Vice President, Director, 46 South 700 East, Salt Lake City, Utah 84102.

Harald E. Singer, Secretary-Treasurer, Director, 820 Hillcrest Avenue, Logan, Utah 84321.

The applicant, a Utah corporation with its principal place of business located at 46 South 700 East, Salt Lake City, Utah 84102, will begin operations with $302,000 of paid-in capital and paid-in surplus, derived from the sale of 302,000 shares of common stock to Mr. Dallas J. Elder, 800 East Center, Logan, Utah 84321.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA rules and regulations.

Any person may, not later than October 12, 1973, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Salt Lake City, Utah.

Dated September 21, 1973.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.73-20529 Filed 9-26-73;8:45 am]

[Notice of Disaster Loan Area 1005]

PENNSYLVANIA

Notice of Disaster Relief Loan Availability; Amendment 2

As a result of the President's declaration of the State of Pennsylvania as a major disaster area following severe storms and flooding beginning on or about June 27, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the adjacent affected areas to those counties previously declared major disaster areas. (See 38 FR 20510 and 38 FR 21541).

Applications may be filed at the:

Small Business Administration
Regional Office
1 Decker Square—East Lobby Suite 400
Bala Cynwyd, Pa. 19004

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Pub. L. 93–24.

Applications for disaster loans under this announcement must be filed not later than September 17, 1973.

Dated August 2, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-20528 Filed 9-28-73;8:45 am]

[Declaration of Disaster Loan Area 1013]

MONTANA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of July 1973, because of the effects of a certain disaster, damage resulted to business property located in the State of Montana;

Whereas, the Small Business Administration has investigated and received reports of other investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended;

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Butte, Silver Bow County, Montana, suffered damage or destruction resulting from a fire of undetermined origin on July 28, 1973. Applications will be processed under the provisions of Pub. L. 93–24.

Office:
Small Business Administration
District Office
Corner Main and Sixth Avenue
Helena, Montana 59601

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to November 19, 1973.

Dated September 18, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-20527 Filed 9-26-73;8:45 am]

VETERANS ADMINISTRATION

VOLUNTARY SERVICE NATIONAL ADVISORY COMMITTEE

Notice of Meeting

The Veterans Administration gives notice that the annual meeting of the Veterans Administration Voluntary Service National Advisory Committee, composed of representatives of 46 national voluntary organizations, will be held at the Sheraton-Park Hotel, Washington, D.C., October 25–26, 1973.

The meeting will convene at 9 a.m., October 25th, in the Sheraton Ball Room. The purpose of the meeting is to constructively plan with the committee, which serves in an advisory role to the Chief Medical Director, for the further promotion and development of volunteer participation in the care and treatment of veteran patients in the agency's nationwide medical program.

Dated September 21, 1973.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.73-20606 Filed 9-26-73;8:45 am]

OIL AND GAS OFFICE

COMMITTEE ON ENERGY CONSERVATION; NATIONAL PETROLEUM COUNCIL

Notice of Meeting

Pursuant to Executive Order 11686, notice is hereby given of the following meeting:

The Committee on Energy Conservation of the National Petroleum Council will meet at 1:30 p.m. on October 1, 1973, in the Michigan Room of the Statler Hilton Hotel in Washington, D.C. The agenda will include discussion of an outline, the organizational structure and a work schedule to carry out the energy conservation study requested by the Secretary of the Interior on July 23, 1973.

The purpose of the National Petroleum Council is solely to advise, inform and make recommendations to the Secretary of the Interior on any matter relating to petroleum or the petroleum industry.

The meeting is open to the public to the extent that facilities permit.

Dated: September 26, 1973.

J. ROY GOODEARLE,
Associate Director.

[FR Doc.73-20752 Filed 9-26-73;10:35 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 350]

ASSIGNMENT OF HEARINGS

SEPTEMBER 24, 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 124783 sub 15, Kato Express, Inc., now being assigned hearing November 27, 1973 (3 days), at Nashville, Tenn., in a hearing room to be later designated.

MC-121142 sub 11, J. & G. Express, Inc., now being assigned hearing December 3, 1973 (1 week), at Jackson, Miss., in a hearing room to be later designated.

MC-F-11869, Crouse Cartage Co.—Purchase—(B) Heartland Express, Inc., and (BB) Lawson Truck Line, Inc., now being assigned hearing November 26, 1973 (2 weeks), at Omaha, Nebr., in a hearing room to be later designated.

MC 120981 sub 15, Bestway Express, Inc., now being assigned hearing December 3, 1973 (2 weeks), at Frankfort, Ky., in a hearing room to be later designated.

MC 129068 sub 14, Griffin Transportation, Inc., Extension Oklahoma, now being assigned hearing December 5, 1973 (2 days), at Oklahoma City, Okla., in a hearing room to be later designated.

MC-C-8116, L. C. Waller, d.b.a. L. C. W. Trucking Co., Glenn Elliott, Harvey W. Jones, Summersgill Enterprises, Inc., and Nola Forwarding Co., Inc.—Investigation of Operations—now being assigned hearing December 4, 1973 (2 days), at Baton Rouge, La., in a hearing room to be later designated.

MC 136384 sub 2, Palmer Motor Express, Inc., now being assigned hearing December 10, 1973 (2 weeks), at Atlanta, Ga., in a hearing room to be later designated.

MC 135754 sub 1, Robert E. Williamson, Jr., Common Carrier application, now being assigned December 6, 1973, at Columbia, S.C. (2 days), in a hearing room to be later designated.

MCC-8087, Larsen Motor Lines, Inc.—Investigation and Revocation of Certificate—now being assigned hearing December 11, 1973 (1 day), at New Orleans, La., in a hearing room to be later designated.

MC-97904 sub 13, Knoxville-Maryville Motor Express, Inc., now being assigned hearing December 11, 1973 (3 days), at Nashville, Tenn., in a hearing room to be later designated.

MC 112422 sub 5, Sam Vam Galder, Inc., now being assigned hearing December 4, 1973 (1 day), at Madison, Wis., in a hearing room to be later designated.

MC 115841 sub 441, Colonial Refrigeration Transportation, Inc., now being assigned continued hearing November 26, 1973 (2 weeks), at Atlanta, Ga., in a hearing room to be later designated.

MC-100666 sub 246, Melton Truck Lines, Inc., now being assigned hearing December 3, 1973 (2 days), at Louisville, Ky., in a hearing room to be later designated.

MC-133095 sub 44, Texas-Continental Express, Inc., now being assigned hearing December 5, 1973 (3 days), at Louisville, Ky., in a hearing room to be later designated.

MC-138279, Conalco Contract Carrier, Inc., now being assigned hearing December 10, 1973 (1 week), at Louisville, Ky., in a hearing room to be later designated.

MC 138168, Load & Go Truck Line, now being assigned hearing November 26, 1973 (3 days), at Phoenix, Ariz., and November 29, 1973 (2 days), at Grand Junction, Colo., in hearing rooms to be later designated.

MC 134358 sub 3, Central Dispatch, Inc., Extension-Lawson, Mo., now being assigned hearing December 4, 1973 (2 days), at Jefferson City, Mo., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-20675 Filed 9-26-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 24, 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 on or before October 12, 1973.

FSA No. 42750—*Joint water-rail container rates—Showa Shipping Co., Ltd.* Filed by Showa Shipping Co., Ltd., (No. 6), for itself and interested rail carriers. Rates on general commodities, between ports in Japan, Korea, Hong Kong, and Taiwan, on the one hand, and rail stations on the U.S. Atlantic and Gulf Seaboard, on the other.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-20674 Filed 9-26-73;8:45 am]

[Ex Parte No. 299 and 299 (Sub-No. 1)][1]

INCREASES IN FREIGHT RATES AND CHARGES OF THE LONG ISLAND RAIL ROAD COMPANY TO OFFSET RETIREMENT TAX INCREASES—1973

SEPTEMBER 13, 1973.

ICC report and order permitting establishment of interim freight rate increases for most of the Nation's railroads, and rejecting proposed terminal surcharges of Long Island Rail Road Company, to offset retirement tax increases to become effective on October 1, 1973, and January 1, 1974.

1. Petition of railroads, except The Long Island Rail Road Company, for permission to file a tariff establishing certain interim increases in freight rates and charges to offset increases in retirement taxes, granted in part.

2. Petition of The Long Island Rail Road Company for permission to file a surcharge for the same purpose, denied without prejudice.

Andrew C. Armstrong, Harry N. Babcock, Curtis H. Berg, R. W. Bridges, John J. Burchell, J. T. Clark, John A. Daily, Harry L. De Lung, Jr., Louis T. Duerinck, R. S. M. Emrich III, J. D. Feeney, Stuart F. Gassner, Rene J. Gunning, Louis Harris, James L. Howe III, Charlie H. Johns, Edward A. Kaier, Richard W. Kienle, George H. Kleinberger, Richard D. Lalanne, Harry B. Latourette, Charles N. Marshall, John P. McCall, Don McDevitt, Thormund A. Miller, Robert F. Munsell, Richard J. Murphy, J. J. Nagle, William J. O'Brien, Jr., Joseph M. O'Malley, C. Harold Peterson, Chas. C. Rettberg, Jr., Albert B. Russ, Jr., Scott W. Scully, John M. Simms, John F. Smith, James L. Tapley, Wm. A. Thie, Thomas E. Tisza, D. M. Tolmie, Walter G. Treanor, Donal L. Turkal, John S. Walker, Sidney Weinberg, and Robert E. Zimmerman for the railroads in Ex Parte No. 299.

George M. Onken, Richard H. Stokes, and Walter J. Myskowski for the Long Island Rail Road Company in Ex Parte No. 299 (Sub-No. 1).

It is ordered, That the petition in Ex Parte No. 299 be, and it is hereby, granted to the extent indicated in the report[1] and it is denied in all other respects; that the petitioners therein be, and they are hereby, permitted to establish an interim increase in their rates and charges of 1.9 percent to become effective on October 1, 1973, and an interim increase of 2.6 percent to become effective, in lieu of the 1.9-percent increase, on January 1, 1974, upon not less than 15 days' notice to the general public and to this Commission,

subject to the refund rule in the proposed tariff.

It is further ordered, That in the hearing to be hereafter held herein in Ex Parte No. 299, in accordance with section 15a(4)(c) of the Interstate Commerce Act, the carrier petitioners shall submit for the record any productivity gains experienced in the third quarter of 1973, and the effect on the 1974 projections, including evidence to substantiate those projections, as required by the statute and Ex Parte No. 298.

It is further ordered, That at the subsequent hearing in Ex Parte No. 299, the railroads shall submit for the record an explanation of why the excepted rates and charges shall not be increased without awaiting renewal of individual arrangements, and of the amount of the additional revenue which would be obtained therefrom.

It is further ordered, That in the hearing to be hereafter held herein in Ex Parte No. 299, the carriers shall submit for the record a plan to correct the variations among individual railroads in the amount of increased retirement taxes offset by the additional revenues, as exemplified in the report.

It is further ordered, That any person interested in this proceeding, in Ex Parte No. 299, shall notify this Commission, by filing with the Interstate Commerce Commission, Office of Proceedings, Room 5354, Washington, D.C. 20423, on or before October 10, 1973, the original and one copy of a statement of his interest. Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of the type only upon those who intend to take an active part in the proceeding, the statement of intention to participate shall include a specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate in the formal proceeding, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interests with those of other interested parties by filing joint statements in order to limit the number of copies of pleadings that need be served, such consolidation of interest being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be used in this proceeding; and that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding, and shall designate the nature of further proceeding.

[1] Corrected Report and Order of the Commission filed as part of the original Document.

[2] The opinions of Commissioner Hardin, concurring in part, and Commissioner O'Neal, dissenting, are filed as part of the original document. Chairman Brewer did not participate.

It is further ordered, That the petition in Ex Parte No. 299 (Sub-No. 1) be, and it is hereby, denied, without prejudice to refiling in conformity with the statute and with the requirements of Ex Parte No. 298.

It is further ordered, That notice of the entry of this report and order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission, and by filing a copy with the Director, Office of the Federal Register, for publication therein.

By the Commission.[2]

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

[FR Doc.73-20673 Filed 9-26-73;8:45 am]

[Notice 358]

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 October 17, 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-74386. By order of September 21, 1973, the Motor Carrier Board approved the transfer to Otis C. Johnson, doing business as McCook Feed & Supply, 212 East "A" Street, McCook, Nebr. 69001, of the operating rights in Permit No. MC-2825 (sub-No. 1), issued October 6, 1970, to Darryl W. Peterson and Bonnie L. Peterson, a partnership, doing business as Peterson Trucking, P.O. Box 1141, 2140 Buena Vista Drive, Greeley, Colo. 80631, authorizing the transportation of animal and poultry feeds, from St. Joseph, Mo., to points in Colorado, Nebraska, Kansas, and Wyoming. The operations authorized above are limited to a transportation service to be performed under a continuing contract with Schreiber Mills, Inc., and no shipments of molasses for use as feeds, in bulk, in tank vehicles, may be transported under the above authority.

No. MC-FC-74514. By order of September 20, 1973, the Motor Carrier Board, on reconsideration, approved the transfer to Joel C. Hanson, doing business as Joel C. Hanson Trucking Service, Hammond, St. Croix County, Wis., of Certificate No. MC-90924 issued August 17, 1959, to Albert Hines, Hammond, St. Croix County, Wis., authorizing the transportation of livestock, feed, seed, and related commodities; supplies for farms, and manufactured fertilizers, from, to, and between specified points in Minnesota and Wisconsin.

No. MC-FC-74651. By order of September 21, 1973, the Motor Carrier Board approved the transfer to Conrad Berg, doing business as C. Berg Co., Saginaw, Minn., of Corrected Permit No. 135688 issued March 23, 1973, to Halco Supply Co., division of Hallett Dock Co., West Duluth, Minn., authorizing the transportation of bentonite clay from Burnett and Duluth, Minn., to points in Wisconsin, Michigan, Illinois, Iowa, and North Dakota. Dual operations were approved. Mr. Val M. Higgins, attorney at law, 1000 First National Bank Building, Minneapolis, Minn. 55402.

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

[FR Doc.73-20676 Filed 9-26-73;8:45 am]

[Notice 76]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

SEPTEMBER 21, 1973.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by § 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and on or before November 26, 1973, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

No. MC 1824 (Sub-No. 62), filed July 9, 1973. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, Maryland 21655. Applicant's representative: Frank V. Klein (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving Sidman, Pa., as an off-route point in connection with applicant's regular route operations between Baltimore, Md., and Pittsburgh, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 2253 (Sub-No. 63), filed August 20, 1973. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, N.C. Highway 150 East, Cherryville, N.C. 28021. Applicant's representative: J. S. McCallie, P.O. Box 697, Cherryville, N.C. 28021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic plastic granules*, in bulk, from Celriver (York County), S.C., to Amcelle (Allegany County), Md.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Charlotte, N.C., Greenville, S.C., or Washington, D.C.

No. MC 2392 (Sub-No. 87), filed July 26, 1973. Applicant: WHEELER TRANSPORT SERVICE INC., P.O. Box 14248, West Omaha Station, Omaha, Nebr. 68114. Applicant's representative: Keith D. Wheeler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed*, in bulk, in tank vehicles, from the warehouse site of Gooch Milling and Elevator Company, located in Lincoln, Nebr., to points in Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 2421 (Sub-No. 12), filed July 16, 1973. Applicant: NEWTON TRANSPORTATION COMPANY, INC., Louis Ave. and Greer St., P.O. Box 673, Lenoir, N.C. 28645. Applicant's representative: Charles Ephraim, 1250 Conn. Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from the plantsite and storage facilities of Bernhardt Furniture Company located at or near Statesville and Troutman, N.C., to points in Kentucky, Ohio, and West Virginia; and (2) *damaged shipments of new furniture*, from the above-specified destination points to the above-specified origins.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 3094 (Sub-No. 21), filed August 16, 1973. Applicant: SERVICE MOTOR FREIGHT, INC., 133 East Atlantic Avenue, Lawnside, N.J. 08045. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from Whippany, N.J., to points in Connecticut, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, and Rhode Island; (2) *materials and supplies* used in the manufacture of paper and paper products, from points in Connecticut, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, and Rhode Island, to Whippany, N.J.; restricted to service performed under continuing contract or contracts with International Paper Company.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 4405 (Sub-No. 506), filed August 16, 1973. Applicant: DEALERS TRANSIT, INC., 2200 East 170th Street, P.O. Box 361, Lansing, Ill. 60438. Applicant's representative: Robert E. Joyner, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt mix storage tanks, bins, conveyors, baghouses, evaporative coolers, together with parts, attachments, and accessories* moving therewith, (1) from Glasgow, Mo., and Leavenworth, Kans. (except commodities named above when trailer mounted) and (2) from Kansas City, Mo. (including commodities named above when trailer mounted and moving in towaway service), to points in the United States (except Alaska and Hawaii), restricted to traffic originating at the above named origin points.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo.

No. MC 19945 (Sub-No. 38), filed August 13, 1973. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flue dust*, in bulk, in dump vehicles, from the plant site of Laclede Steel Co., at Alton, Ill., to Frit Industries, Incorporated, at or near Walnut Ridge, Ark.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 29452 (Sub-No. 4), filed June 21, 1973. Applicant: B.O.W. EXPRESS, INC., 1251 Taney Road, North Kansas City, Mo. 64116. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) (1) Between Burlington, Kans., and Caney, Kans., serving the intermediate and off-route points of Fall River Reservoir, Eureka, and Moline, and Toronto Reservoir; from Burlington, Kans., over U.S. Highway 75 to junction Kansas Highway 57 (3 miles west of LeRoy), thence over Kansas Highway 57 to junction Kansas Highway 99 (at Madison, Kans.), thence south over Kansas Highway 99 to junction U.S. Highway 166 (at Sedan, Kans.), thence east over U.S. Highway 166 to junction U.S. Highway 75 (3 miles north of Caney, Kans.), thence over U.S. Highway 75 to Caney, Kans., and return over the same route; (2) Between Yates Center, Kans., and Elk City, Kans., serving the intermediate and off-route points of New Albany, Buxton, Altoona, Neodesha, Longton, Elk City Reservoir, Sycamore, and Westphalia; from Yates Center, Kans., over U.S.

Highway 75 to junction Kansas Highway 39 (near Buffalo, Kans.) thence over Kansas Highway 39 to Elk City, Kans., and return over the same route; (3) Between Osage City, Kans., and Burlingame, Kans.; from Osage City, Kans., over U.S. Highway 56 to Burlingame, and return over the same route; (4) Between Ottawa, Kans., and Osage City, Kans., serving the intermediate and off-route points of Pomona Reservoir and Quenemo; from Ottawa, Kans., over Kansas Highway 268 to Osage City, Kans., and return over the same route; (5) Between Caney, Kans., and Elk City, Kans., as an alternate route for operating convenience in connection with applicant's regular-route operations; from Caney, Kans., over U.S. Highway 75 to junction U.S. Highway 160, thence over U.S. Highway 160 to Elk City, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 29886 (Sub-No. 297), filed July 27, 1973. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing equipment, parts, and attachments*, from the plant site and warehouse facilities of Goss Division of MGD Graphic Systems, Rockwell International, located at Cedar Rapids, Iowa, Chicago, Cicero, and Rockford, Ill., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, West Virginia, Virginia, and Maryland.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 29886 (Sub-No. 298), filed August 20, 1973. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors*, (2) *self-propelled construction, excavation, and industrial equipment*, (3) *portable concrete pumps*, (4) *attachments* for the commodities described above in (1), (2), and (3) above, (5) *cabs* for the commodities described in (1) and (2) above, (6) *internal combustion engines*, and (7) *parts and accessories* for the commodities described above in (1) through (6) when moving in mixed loads therewith, from the plant and warehouse sites of J. I. Case Co., located at or near Terre Haute, Ind., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Virginia, and the District of Columbia.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 33641 (Sub-No. 104), filed August 6, 1973. Applicant: IML FREIGHT, INC., 2175 South 3270 West, Salt Lake City, Utah 80217. Applicant's representative: Carl L. Steiner, 39 South La Salle St., Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, other than grain and livestock feed, and commodities requiring special equipment), (1) Between Kansas City, Mo., and Omaha, Nebr.: From Kansas City, Mo., over Interstate Highway 29 (U.S. Highway 71) to junction U.S. Highway 59, thence over U.S. Highway 59 to junction U.S. Highway 136, thence over U.S. Highway 136 to junction Interstate Highway 29 (U.S. Highway 71), thence over Interstate 29 (U.S. Highway 71) to Council Bluffs, Iowa, and return over the same routes; and (2) Between Omaha, Nebr., and Kansas City, Mo.: From Omaha, Nebr., over U.S. Highway 75 to junction U.S. Highway 36, thence over U.S. Highway 36 to St. Joseph, Mo., thence over Interstate Highway 29 (U.S. Highway 71) to Kansas City, Mo., and return over the same routes; as alternate routes for operating convenience only, serving Kansas City, Mo., Omaha, Nebr., and Council Bluffs, Iowa, for purposes of joinder only.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Omaha, Nebr.

No. MC 33919 (Sub-No. 9), filed August 16, 1973. Applicant: FAIRCHILD GENERAL FREIGHT, INC., P.O. Box 1649, Yakima, Wash. 98907. Applicant's representative: George H. Hart, 1100 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite of the Georgia Pacific Corporation at Bellingham, Wash., to points in Oregon.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority in MC 127361 and Subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 33919 (Sub-No. 10), filed August 16, 1973. Applicant: FAIRCHILD GENERAL FREIGHT, INC., P.O. Box 1649, Yakima, Wash. 98907. Applicant's representative: George H. Hart, 1100 IBM Bldg., Seattle, Wash. 98901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Yakima, Wash., to ports of entry on the International Boundary line between the United States and Canada at or near Oroville, Wash.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority in MC 127361 and Subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 42487 (Sub-No. 811), filed July 16, 1973. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: V. R. Oldenburg, P.O. Box 5138, Chicago, Ill. 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Atlanta, Ga., and Chambersburg, Pa.: From Atlanta, Ga., over Interstate Highway 85 to Lexington, N.C., thence over U.S. Highway 52 to junction Interstate Highway 40 at Winston-Salem, N.C., thence over Interstate Highway 40 to junction U.S. Highway 158 at or near Winston-Salem, thence over U.S. Highway 158 to junction U.S. Highway 220, thence over U.S. Highway 220 to Roanoke, Va., thence over U.S. Highway 220 (Interstate Highway 581) to junction Interstate Highway 81, thence over Interstate Highway 81 to Chambersburg, and return over the same route, as an alternate route for operating convenience only in connection with applicant's regular-route operations; (2) Between Winston-Salem, N.C., and Chambersburg, Pa.: From Winston-Salem, N.C., over Interstate Highway 40 to junction U.S. Highway 158 at or near Winston-Salem, thence over U.S. Highway 158 to junction U.S. Highway 220, thence over U.S. Highway 220 to Roanoke, Va., thence over U.S. Highway 220 (Interstate Highway 581) to junction Interstate Highway 81, thence over Interstate Highway 81 to Chambersburg, Pa., and return over the same route, as an alternate route for operating convenience only in connection with applicant's regular-route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 52460 (Sub-No. 126), filed August 20, 1973. Applicant: HUGH BREEDING, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar products*, from Stroud, Okla., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary,

applicant requests it be held at either Oklahoma City or Tulsa, Okla., Kansas City, Mo., or Dallas, Tex.

No. MC 52460 (Sub-No. 127), filed August 21, 1973. Applicant: HUGH BREEDING, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* in containers, from Kansas City, Kans., and its Commercial Zone, to points in Alabama, Arkansas, Arizona, Colorado, Florida, Georgia, Louisiana, Mississippi, Montana, North Carolina, South Carolina, Tennessee, Utah, and Wyoming.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Oklahoma City, Okla.

No. MC 55896 (Sub-No. 42), filed August 9, 1973. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, Mich. 48180. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood products and display racks*, from Alpena, Mich., to points in Illinois, Indiana, Ohio, and Wisconsin; Ashland, Lexington, Louisville, Owensboro, and Paducah, Ky.; Cape Girardeau, Hannibal, and St. Louis, Mo.; and Charleston, Huntington, Parkersburg, and Wheeling, W. Va.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 56167 (Sub-No. 9), filed August 16, 1973. Applicant: DAVID K. HERSHEY, R.D. #5, Hanover, Pa. 17331. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone and limestone products*, from the plantsite of The J. E. Baker Company located at Manchester Township (York County), Pa., and the sales origins of the J. E. Baker Company in Earl, Paradise, and Salisbury Townships (Lancaster County), Pa., to points in Delaware, Maryland, New Jersey, New York, Virginia, West Virginia, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 76032 (Sub-No. 273) (AMENDMENT), filed January 6, 1971, published in the FEDERAL REGISTER issue of January 28, 1971, and republished as amended, this issue. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: John T. Coon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire handling machine, parts and supplies, machinery and machine parts, generators or motors, or generators and motors combined or parts*, between Ventura, Calif., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Restricted to traffic originating at or destined to the plantsite facilities of the Whitacre Corporation located at or near Ventura, Calif.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to amend the application to reflect service from the new facility of the supporting shipper which has been relocated at Ventura, Calif., and to restrict the movement of traffic between the points named above. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Los Angeles, Calif.

No. MC 77972 (Sub-No. 21), filed July 24, 1973. Applicant: MERCHANTS TRUCK LINE, INC., P.O. Box 908, New Albany, Miss. 38652. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty National Bank Bldg., P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, livestock, Classes A and B explosives, and commodities which because of size and weight require the use of special equipment), serving the plant site and/or warehouse facilities of Futorian Corporation, Decorian Division, located at or near Guntown, Miss., as off-route points in connection with applicant's regular-route operations to and from Tupelo, Miss. and Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Jackson, Miss.

No. MC 78228 (Sub-No. 43), filed July 20, 1973. Applicant: J MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foundry sand additives*, from Wadsworth, Ohio, to points in Maryland, Virginia, Delaware, Rhode Island, New Hampshire, Vermont, and Maine; (2) *foundry sand additives*, in bulk, from Wadsworth, Ohio, to points in Connecticut, Massachusetts, and New Jersey; and (3) *foundry sand additives* (except in bulk), from Wadsworth, Ohio, to points in Michigan, those in Indiana on and north of U.S. Highway 30, those in New York on and west of New York Highway 12, and points in West Virginia (except those in Brooke and Hancock Counties south of U.S. Highway 60).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 82492 (Sub-No. 86), filed August 9, 1973. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., P.O. Box 2853, 2109 Olmstead Road, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods and commodities in bulk), from Decatur, Ind., to points in Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 87720 (Sub-No. 149), filed August 16, 1973. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, N.J. 08822. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Ctr., New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cleaning compounds, pot scourers, and steel wool* (except in bulk), from the plant sites and facilities of Purex Corporation, Ltd., located at London, Ohio, to points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Virginia, Kentucky, Tennessee, Mississippi, Ohio, Indiana, Illinois, Missouri, Arkansas, Texas, Georgia, Florida, West Virginia, Louisiana, and Alabama, and (2) *materials, supplies, and equipment* (except in bulk), from the above named destination states to London, Ohio, under contract with Purex Corporation, Ltd.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 88161 (Sub-No. 87), filed July 23, 1973. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Avenue South, Seattle, Wash. 98108. Applicant's representative: Stephen A. Cole (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid resins*, in bulk, and *resin catalysts*, in drums or bags, on the same vehicle in combination for the same shipper, (1) from Kent and Tacoma, Wash., to points in Idaho, Montana, Oregon, and Utah, and (2) from Eugene, Springfield, and Portland, Oreg., to points in Idaho, Montana, Utah, and Washington.

NOTE.—Applicant also holds contract carrier authority in MC 128203 (Sub-No. 1), therefore, dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 97699 (sub-No. 40), filed August 8, 1973. Applicant: BARBER TRANSPORTATION CO., a corporation, Deadwood Avenue, Rapid City, S. Dak.

57701. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities which because of size or weight require special equipment), Between Sioux Falls, S. Dak., and Omaha, Nebr.: From Sioux Falls, S. Dak., over Interstate Highway 29 to Omaha, Nebr., and return over the same route; as an alternate route for operating convenience only in connection with carrier's present regular route operations, serving no intermediate points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Sioux Falls, S. Dak.

No. MC 103051 (sub-No. 284), filed August 6, 1973. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from Lebanon, Tenn., to points in Alabama, Arkansas, Georgia, Kentucky, Mississippi, Missouri, North Carolina, Tennessee, and Virginia.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority can be tacked at: (1) Atlanta, Ga., to serve points in Florida and South Carolina, (2) Birmingham, Ala., to serve points in Louisiana, and (3) points in Kentucky to provide a through service from Winter Haven, Fla., to points in Tennessee. If a hearing is deemed necessary, applicate requests it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 103498 (sub-No. 36), filed August 16, 1973. Applicant: W. D. SMITH TRUCK LINE, INC., P.O. Drawer C, DeQueen, Ark. 71832. Applicant's representative: Donald T. Jack, Jr., 1550 Tower Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plantsite of Georgia-Pacific Corp., at or near El Dorado, Ark., to points in Alabama.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 104683 (Sub-No. 33), filed July 13, 1973. Applicant: TRANSPORT, INC., 1008-B Street, P.O. Box 1696, Meridian, Miss. 39301. Applicant's representative: W. Guy McKenzie, Jr., P.O. Box 1200, Tallahassee, Fla. 32302. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulp mill liquid and crude call oil*, in bulk, in tank vehicles, from the plantsite of St. Regis Paper Co. located at Ferguson, Miss., to points in Alabama, Florida, and Louisiana.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New Orleans, La.

No. MC 105159 (Sub-No. 29) (amendment), filed July 5, 1973, published in the FEDERAL REGISTER issue of September 7, 1973, and republished, as amended, this issue. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main Street, Red Wing, Minn. 55066. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese and cheese products*, from points in Wisconsin (except Marshfield and Brown County), and Bongard and Dalbo, Minn., to Philadelphia, Pa., Richmond and Norfolk, Va., North Carolina, Columbia, S.C., Baltimore, Md., and Boston, Mass., restricted to traffic originating at the storage and production facilities serving Wildstein, a division of Brooke Bond Foods, Inc., and destined to the above-named points; (2) *cheese and cheese products*, from the plantsite and warehouse facility of Wildstein, a division of Brooke Bond Foods, Inc., at Philadelphia, Pa., to Richmond and Norfolk, Va., North Carolina, Columbia, S.C., and Baltimore, Md.; (3) *empty steel drum containers*, used for transporting cheese and cheese products, from the plantsite and warehouse facilities of Wildstein, a division of Brooke Bond Foods, Inc., at Philadelphia, Pa., to points in Wisconsin and Bongard and Dalbo, Minn.; and (4) *inedible cheese and inedible cheese products*, from the plantsite and warehouse facilities of Wildstein, a division of Brooke Bond Foods, Inc., located at or near Hainesport, N.J., to points in Everson, Pa. and Peoria, Ill.

NOTE.—The purpose of this republication is to indicate in part (4) applicant substitutes Hainesport, N.J., in lieu of Philadelphia, Pa., as an origin point and adds Everson, Pa., as a destination point. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 105566 (Sub-No. 93), filed August 6, 1973. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard*, not corrugated, from Indianapolis, Ind., to points in Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Nevada, California, Oregon, and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Indianapolis, Ind.

No. MC 105566 (Sub-No. 94), filed August 6, 1973. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automobile parts*, from Fairfield, Ill., and Marked Tree, Ark., to points in Arizona, Nevada, California, and Dallas, Tex., and (2) *automobile parts and materials and supplies* used in the manufacture of automobile parts, from points in California, to Fairfield, Ill. and Marked Tree, Ark.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or St. Louis, Mo.

No. MC 105566 (Sub-No. 95), filed August 6, 1973. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drapery hardware*, from the plantsite and facilities of Scotcraft, Inc., at or near Scottsville, Ky., to points in Colorado, Nevada, Utah, Arizona, California, Idaho, Oregon and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 105566 (Sub-No. 97), filed August 6, 1973. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 119, Cape Girardeau, Mo. 65701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and canned goods in mixed shipments* with commodities exempt under the provisions of section 203(b) of the act, from points in Yakima County, Wash., to points in Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, North Carolina, Tennessee, Kentucky, Virginia, West Virginia, Illinois, Indiana, Ohio, Michigan, Wisconsin, New York, and Pennsylvania.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 105813 (Sub-No. 191), filed August 6, 1973. Applicant: BELFORD TRUCKING CO., INC., 3500 Northwest 79th Avenue, Miami, Fla. 33148. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, from Naugatuck, Conn., to points in Florida.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority.

If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 106127 (Sub-No. 10), filed August 2, 1973. Applicant: PETROLEUM TANK LINES, INC., Sheffield Road, Sheffield, Mass. 01257. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood products and forest products*, between points in Berkshire County, Mass., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, and Maryland.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Albany, N.Y., Hartford, Conn., or Boston, Mass.

No. MC 106398 (Sub-No. 683), filed August 6, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movements, from points in Iron County, Wis., to points in the United States (except Alaska and Hawaii).

NOTE.—Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Duluth, Minn.

No. MC 106603 (Sub-No. 130), filed August 8, 1973. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products and materials and supplies* (except in bulk), used in the agricultural, water, treatment, food processing, wholesale grocery, and institutional supply industries, in mixed loads with salt and salt products, from St. Clair, Mich., to points in Ohio.

NOTE.—Applicant also holds contract carrier authority in MC 46240 and subs thereunder, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 106647 (Sub-No. 41), filed August 1, 1973. Applicant: CLARK TRANSPORT COMPANY, INC., P.O. Box 395, Chicago Heights, Ill. 60411. Applicant's representative: Charles W. Singer, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (in secondary movements, in truckaway service), between points in Minnesota, Montana, North Dakota, and South Dakota.

NOTE.—Applicant states that the requested authority can be tacked at: (a) points in the lower half of Minnesota to serve the additional points of Iowa; Detroit, Mich.; Omaha, Nebr.; and Toledo, Ohio; (b) points in Minnesota, to provide a through service from Milwaukee, Wis., to points in Montana; (c) points in Iowa (tacked to (a) above) to serve points in Illinois, Indiana, Maryland, Ohio, Pennsylvania, and the District of Columbia; and (d) Minneapolis and St. Paul, Minn., to serve points in Douglas, Bayfield, Ashland, Burnett, Washburn, Sawyer, Polk, Barron, Rusk, Price, Taylor, St. Croix, Dunn, Chippewa, Clark, Pierce, Pepin, Eau Claire, Buffalo, Jackson, Trempealeau, and La Crosse Counties, Wis. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 106839 (Sub-No. 5), filed July 5, 1973. Applicant: LARSEN MOTOR LINES, INC., 440 Erato Street, New Orleans, La. 70120. Applicant's representative: Henry O'Connor, Jr., 1440 Oil and Gas Building, New Orleans, La. 70112. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Refrigerants and such merchandise as is dealt in by retail hardware and appliance stores*, between New Orleans, La., and its commercial zone and Pascagoula, Miss.: From New Orleans, La., over U.S. Highway 90 and/or Interstate Highway 10 to Pascagoula, Miss., serving all intermediate points and serving off-route points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 107012 (Sub-No. 182) (correction), filed June 7, 1973, published in the FEDERAL REGISTER issue of August 2, 1973, and republished, as corrected this issue. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway East & Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new household furnishings, fixtures, appliances, and equipment, and new commercial and institutional furnishings, fixtures, and equipment*, all uncrated, from points in Washington and Oregon, to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wyoming, restricted against the transportation of commodities which because of size or weight require the use of special equipment.

NOTE.—The purpose of this republication is to indicate that applicant seeks to transport uncrated commodities in lieu of crated commodities which was inadvertently previously published in error. Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or San Francisco, Calif.

No. MC 107295 (Sub-No. 661), filed August 3, 1973. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floating boat docks, ramps, materials, supplies, and fixtures and accessories* incidental to completion, erection, and installation thereof, from Galesburg, Ill., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 107295 (Sub-No. 663), filed August 10, 1973. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane products*, (1) from Linden, N.J., to points in North Carolina, South Carolina, Virginia, and Georgia, and (2) from Belvidere, Ill., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 107295 (Sub-No. 664), filed August 16, 1973. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, composition board, insulating materials, roofing and roofing materials, urethane and urethane products, building and construction materials, and related materials, supplies, and accessories incidental thereto* (except commodities in bulk), between the plantsite and warehousing facilities of the Celotex Corp., located at points in Marion County, S.C., and points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin; restricted to the transportation of shipments originating at or destined to points in the above-named states.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Chicago, or St. Louis, Ill., or Washington, D.C.

No. MC 107295 (Sub-No. 665), filed August 9, 1973. Applicant: PRE-FAB

TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum pipe and tubing, aluminum billets, aluminum dross, aluminum fittings and unfinished aluminum shapes*, from Ellenville, N.Y., to points in the United States (except Alaska, Hawaii, Minnesota, Iowa, Nebraska, Kansas, Missouri, Oklahoma, and Texas).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107515 (Sub-No. 870), filed August 22, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods and commodities in bulk), from Decatur, Ind., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 108375 (Sub-No. 33), filed August 6, 1973. Applicant: LEROY L. WADE & SON, INC., 10550 I Street, P.O. Box 27053, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Building (7100 West Center Road), Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used automobiles*, from Omaha, Nebr., to points in Minnesota, Kansas, and South Dakota (except Lawrence, Custer, Meade, Pennington, Butte, and Fall River Counties, S. Dak.); restricted against traffic having had an immediate prior movement from the plantsites of the Chrysler Motor Corp.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 110420 (Sub-No. 687), filed July 30, 1973. Applicant: QUALITY CARRIERS, INC., Bristol, Wis. (P.O. Box 186), Pleasant Prairie, Wis. 53158. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignin sulfonate, liquid and dry*, in bulk, in tank vehicles, from points in Wisconsin, to points in Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 110525 (Sub-No. 1068), filed August 20, 1973. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cement dust*, in bulk, in tank vehicles, from points in Berks, Northampton, and Lehigh Counties, Pa., to points in Delaware, Maryland, New York, and New Jersey; and (2) *aqueous sulfuric acid*, in bulk, in tank vehicles, from Rockville, Conn., to Adams, Mass.

NOTE.—Applicant states that the requested authority can be tacked in part (1) only at Fort Lee, N.J., to serve points in Massachusetts, Rhode Island, and Connecticut. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 111045 (sub-No. 107), filed August 10, 1973. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: J. V. McCoy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint removing compounds*, in bulk, in tank vehicles, from Montgomery, Ala., to Wichita, Kans.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Philadelphia, Pa.

No. MC 112304 (sub-No. 70), filed July 5, 1973. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Cincinnati, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories and refractory products* (except commodities in bulk) from points in Greenup County, Ky., to points in Delaware, Illinois, Indiana, Iowa, Maryland, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Applicant states that the requested authority can be tacked at points in Greenup County, Ky., to serve points east or south of Greenup, Ky., within the territorial scope of the authority sought herein, but applicant has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 112822 Sub-No. 284), filed July 26, 1973. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Jim R. Gardner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Camping equipment* (except vehicular) *and equipment and supplies* used in the manufacture and packaging of camping equipment, from (1) St. George, Utah, to points in Washington and California, and (2) points in Missouri, to points in California, Idaho, Nevada, Oregon, Utah, and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Kansas City, Mo.

No. MC 112822 (Sub-No. 286), filed August 20, 1973. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wine, in mixed shipments with canned goods*, from the plant and storage facilities of Seneca Foods Corp. at Prosser, Wash., to points in Arizona, Arkansas, Colorado, Iowa, Kansas, Missouri, Nebraska, New Mexico, Oklahoma, Texas, Wyoming, South Dakota, North Dakota, Minnesota, Wisconsin, Illinois, Idaho, Utah, and Indiana; and (2) *canned goods*, from the plant and storage facilities of Seneca Foods Corp. at Prosser, Wash., to points in South Dakota, Minnesota, Wisconsin, and Illinois.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 112822 (sub-No. 287), filed August 21, 1973. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared foodstuffs*, in vehicles equipped with mechanical refrigeration, from Seelyville, Ind., to points in Arkansas, Missouri, Iowa, Minnesota, Wisconsin, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Colorado, New Mexico, Idaho, Washington, Oregon, California, Nevada, Utah, and Arizona.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn. or Chicago, Ill.

No. MC 113545 (sub-No. 12), filed August 21, 1973. Applicant: CORMETT FORWARDING CO., INC., P.O. Box 3057, Weehawken Branch, Union City, N.J. 07087. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceu-*

ticals and medical isotopes, from Carlstadt, N.J., to New York, N.Y.; points in Nassau, Suffolk, Westchester, Putnam, Dutchess, Rockland, Orange, Ulster, and Sullivan Counties, N.Y.; and Fairfield, New Haven, and Hartford Counties, Conn., under contract with Mallinckrodt Nuclear.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 113678 (sub-No. 508), filed August 3, 1973. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Denver, Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet or rugs, and carpet or rug padding and material and supplies* used in the installation thereof, from the plantsite and warehouse facilities of General Felt Industries located at City of Commerce and Pico Rivera, Calif., to points in Idaho, Oregon, Washington, Arizona, New Mexico, Utah, Colorado, and Nevada.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Omaha, Nebr.

No. MC 114457 (sub-No. 162), filed August 16, 1973. Applicant: DART TRANSIT CO., a corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane products*, from Newton, Kans., to points in Arkansas, Missouri, Oklahoma, and Texas.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Omaha, Nebr.

No. MC 114890 (sub-No. 67), filed July 20, 1973. Applicant: C. E. REYNOLDS TRANSPORT, INC., P.O. Box A, Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, from Doniphan, Nebr., and Kansas City, Mo., to points in Kansas.

NOTE.—Applicant states that the requested authority can be tacked under its lead certificate at Military, Kans., to serve points in Missouri, Oklahoma, Arkansas, and Texas; under sub-No. 33, at a plantsite at or near Dodge City, Kans., to provide for service to points in Colorado, Wyoming, Texas, Oklahoma, Missouri, Nebraska, and Iowa; and with sub-No. 44, at Atchison, Kans., to serve points in Iowa, Missouri, and Nebraska. If a hearing is deemed necessary, applicant requests it be held at either Tulsa, Oklahoma City, Okla., or Kansas City, Mo.

No. MC 115162 (Sub-No. 278), filed August 6, 1973. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, couplings*, thereof, from the plantsites of the Clow Corp., located at or near Bensenville, Ill., and Coshocton, Ohio, to points in Iowa, Kansas, Missouri, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Birmingham, Ala.

No. MC 115162 (Sub-No. 279), filed August 16, 1973. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from points in Elmore and Montgomery Counties, Ala., to points in Escambia County, Fla.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Mobile or Montgomery, Ala.

No. MC 115331 (Sub-No. 348), filed August 16, 1973. Applicant: TRUCK TRANSPORT, INC., 1931 North Geyer Road, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, trailer chassis* (except those designed to be drawn by passenger automobiles), *trailer converter dollies, tractors, bodies and containers*, in secondary truckaway and driveaway service, and (2) *materials, supplies and parts* used in the manufacture, assembly or servicing of the commodities described in (1) above, when moving in mixed loads with such commodities, between points in North Dakota, South Dakota, Nebraska, Colorado, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Illinois, Wisconsin, Michigan, Indiana, Kentucky, Alabama, Ohio, West Virginia, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 115496 (Sub-No. 18) filed August 23, 1973. Applicant: LUMBER TRANSPORT, INC., 306 First Street, Cochran, Ga. 31014. Applicant's representative: James L. Flemister, 1220 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plant and warehouse sites of Conwall, Inc., located in Richmond and Wilkes Counties, Ga., to points in Virginia, South Carolina, and North Carolina.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 115826 (Sub-No. 253), filed August 6, 1973. Applicant: W. J. DIGBY, INC., 1960–31st Street, Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, 2310 Colorado National Bank Building, 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat poducts, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dakota City, Nebr., and Emporia, Kans., to points in Colorado and Wyoming.

NOTE.—Applicant states that the requested authority can be tacked with its sub-28 at Denver, Colo., to provide a through service to points in California, but further indicates that it has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Cheyenne, Wyo.

No. MC 116045 (Sub-No. 39), filed July 26, 1973. Applicant: NEUMAN TRANSIT CO., INC., P.O. Box 38, Rawlins, Wyo. 82301. Applicant's representative: Leslie R. Kehl, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sulphur*, in bulk, in tank vehicles, from the plantsite of Farmers Union Central Exchange, located in Laurel, Mont., to the plantsite of Western Nuclear, Inc., located at or near Riverton, Wyo.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 116474 (Sub-No. 28), filed August 17, 1973. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, Oreg. 97477. Applicant's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Treated poles and pilings*, from Eugene, Oreg., to points in Washington and California (except Butte, Del Norte, El Dorado, Humboldt, Lassen, Modoc, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, and Yuba Counties), under a continuing contract with L. D. McFarland Co., located at Eugene, Oreg.; and (2) *treated poles and pilings*, (a) from Arlington, Wash., to points in Oregon and Nevada, and (b) from Eugene, Oreg., to points in Washington, Clark, Esmeralda, Lincoln, Mineral and Nye Counties, Nev., and points in California (except Del Norte, Siskiyou, Modoc, Trinity, Tehama, Plumas, Sierra, Sutter, Nevada, Yuba, Butte, Lassen, Shasta, Placer and Humboldt Counties), under a continuing contract with

J. H. Baxter & Co., located at San Mateo, Calif.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 117610 (Sub-No. 11), filed August 16, 1973. Applicant: DERRICO TRUCKING CORP., 907 East 141st Street, Bronx, N.Y. 10454. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paperboard, box board, kraft board, corrugated and paper containers, cartons, boxes, waste paper, rags and materials and supplies* used in the manufacture and distribution thereof (except in bulk), between Whippany and Clifton, N.J., and Riegelsville, Pa., on the one hand, and, on the other, points in Nassau, Suffolk, Westchester, Orange, Rockland Counties, N.Y., and New York, N.Y., under contract with Whippany Paper Board Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 117848 (Sub-No. 7), filed August 22, 1973. Applicant: FRED CARPENTIER, 1415 Luzerne Street, Scranton, Pa. 18504. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Baltimore, Md., to Scranton, Pa.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 118039 (Sub-No. 20), filed August 3, 1973. Applicant: MUSTANG TRANSPORTATION, INC., 833 Warner Street, SW., Atlanta, Ga. 30310. Applicant's representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Screen woven cloth, wrought iron and steel pipe and plastic film or sheeting*, from the plantsite of X. S. Smith, Inc., located at Eatontown, N.J., to points in the United States (except Alaska, Hawaii, and New Jersey).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 118142 (Sub-No. 52), filed August 21, 1973. Applicant: M. BRUENGER & CO., INC., 6330 North Broadway, Wichita, Kans. 67219. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Emporia, Kans., to points in Arizona, California, Nevada, Oregon, Utah, and Washington, restricted to traffic originating at the plantsite of Iowa Beef Processors, Inc., located at Emporia, Kans., and destined to the above-named States.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 118202 (Sub-No. 14), filed July 19, 1973. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Eugene A. Schultz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural fermentation compounds and ingredients*, (2) *fertilizers and ingredients*, (3) *animal minerals and vitamins*, (4) *supplies, signs and materials* used in the sale of (1), (2), and (3) above, and (5) *commodities*, the transportation of which is partially exempt under section 203(B)(6) of the Interstate Commerce Act when moving with the above commodities (except commodities in bulk, in tank vehicles), from Carson City, Nev., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn. or Washington, D.C.

No. MC 118341 (Sub-No. 2), filed July 24, 1973. Applicant: VALLEY TRUCKING CO., INC., P.O. Box 2298, (F.M. 802 and Central Avenue), Brownsville, Tex. 78520. Applicant's representative: Joe T. Lanham, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and commodities* which are partially exempt under section 203(b)(6) of the act, when moving in the same vehicles and at the same time, from Alamo, Laredo, McAllen, Monte Alto, Edinburg, Brownsville, Corpus Christi, San Antonio, and Harlingen, Tex., to Providence, R.I., Albuquerque, N. Mex., and points in Iowa, Louisiana, Maine, Massachusetts, Kansas, Michigan, Kentucky, Maryland, Minnesota, Mississippi, Alabama, California, Delaware, Illinois, New Hampshire, Missouri, Arizona, Colorado, Florida, Indiana, New Jersey, Nebraska, Arkansas, Connecticut, Georgia, New York, Oklahoma, Tennessee, West Virginia, North Carolina, South Carolina, Pennsylvania, Wisconsin, Ohio, Vermont, and Virginia.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Brownsville, San Antonio, or Houston, Tex.

No. MC 119118 (sub-No. 36), filed July 16, 1973. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, Latrobe, Pa. 15650. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *related advertising material* moving therewith, from Frankenmuth, Mich., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, Rhode Island, Vermont, Virginia, and the District of Columbia, and *empty malt beverage containers* on return.

NOTE.—Applicant holds a permit in MC 116564 and sub 22, therefore dual operations may be involved. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Boston, Mass.

No. MC 119522 (sub-No. 25), filed July 27, 1973. Applicant: McLAIN TRUCKING, INC., 2425 Walton Street, Anderson, Ind. 46011. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Antifreeze, engine coolant, heat transfer and de-icing preparations*, from Alsip, Ill., on the one hand, and, on the other, points in Indiana and Missouri (except St. Louis and Kansas City, Mo.).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also holds contract carrier authority in MC 3465 sub-No. 39, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either New York, N.Y., Washington, D.C., or Indianapolis, Ind.

No. MC 119789 (Sub-No. 174) (amendment), filed July 26, 1973, published in the FEDERAL REGISTER issue, August 30, 1973 and republished, as amended, this issue. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, 1612 East Irving Boulevard, Dallas, Tex. 75222. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods, commodities in bulk, meats, meat products, meat byproducts, and articles distributed by meat packinghouses), as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from Pittsburgh, Leetsdale, and Chambersburg, Pa., Salem, N.J., Fremont, Toledo and Bowling Green, Ohio, to points in Texas, Oklahoma, Arkansas, Louisiana, Mississippi, and Missouri.

NOTE.—The purpose of this republication is to add Toledo, Ohio as a point of origin. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119789 (Sub-No. 178), filed July 27, 1973. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, 1612 East Irving Boulevard, Dallas, Tex. 75222. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Synthetic fabric and synthetic yarn*, from Waynesboro, Va., to points in Arizona, California, Oklahoma, and Libertyville, Ill., and Milwaukee, Wis.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 120841 (sub-No. 5), filed August 15, 1973. Applicant: WALTER J. DUNLAP AND W. A. BIRCKBICHLER, a partnership, doing business as BLACK & WHITE EXPRESS, 217 American Avenue, Butler, Pa. 16001. Applicant's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in refrigerated vehicles, from points in Westmoreland County, Pa., to points in Pennsylvania on and west of U.S. Highway 15.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123765 (sub-No. 3), filed August 22, 1973. Applicant: BARRY TRANSFER AND STORAGE CO., INC., 120 East National Avenue, Milwaukee, Wis. 53204. Applicant's representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail department stores*, between the retail outlets, storage facilities, and distribution centers of H. C. Prange Co., located at Green Bay, Wis., on the one hand, and, on the other, the retail outlets and storage facilities of H. C. Prange Co., at or near Rockford, Ill., restricted to traffic originating at or destined to the said retail outlets, storage facilities and distribution centers of H. C. Prange Co.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also holds contract carrier authority in MC 6031 sub 34, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 124073 (Sub-No. 7), filed August 2, 1973. Applicant: ROY S. SARGEANT, INC., P.O. Box 95, Vienna, N.J. 07880. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen meats, frozen meat products, frozen poultry, and frozen poultry products*, from Moosic, Pa., to Manassas, Winchester, and Norfolk, Va., and Charleston and Mt. Clare, W. Va., restricted to a transportation service to be performed under continuing contract or contracts with Polarized Products Division of Ten-Da Brand Frozen Foods, Inc., located at Scranton, Pa.; and (2) *frozen seafood*, when moving in the same vehicle with the commodities described in part (1) above, from Exeter, Pa., to Baltimore, Md., Alexandria, Manassas, Winchester, Norfolk, Roanoke, and Richmond, Va., and the District of Columbia, restricted to a transportation service to be performed under continuing contract or contracts with Phillips Seafood Kitchens, Inc., located at Exeter, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or Scranton, Pa.

No. MC 124078 (Sub-No. 558), filed June 29, 1973. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium sulfate*, in bulk, from Danville, Ill., to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, and Wisconsin.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked at La Salle, Ill., on chemicals, in bulk (except petroleum products and fertilizers), to serve points in Alabama, Arkansas, Colorado, Georgia, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Nebraska, North Dakota, Oklahoma, Pennsylvania, South Dakota, and part of Tennessee. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124111 (Sub-No. 44), filed August 13, 1973. Applicant: OHIO EASTERN EXPRESS, INC., P.O. Box 2297, 300 West Perkins Avenue, Sandusky, Ohio 44870. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods and commodities in bulk), from Decatur, Ind., to points in Connecticut, Delaware, Maryland, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, North Carolina, and South Carolina.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 124505 (Sub-No. 15) (amendment), filed May 7, 1973, published in the FEDERAL REGISTER issue June 28, 1973, and republished as amended, this issue. Applicant: EUGENE TRIPP, 4624 South Avenue West, Missoula, Mont. 59801. Applicant's representative: Jeremy G. Thane, Savings Center Building, Missoula, Mont. 59801. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and advertising matter* when moving in the same vehicle, from Seattle and Tacoma, Wash., to points in California, and *empty containers* for recycling, from points in California to Seattle, Wash., under contract with Carling Brewing Co., and Rainier Brewing Co., Inc., Seattle, Wash.

NOTE.—The purpose of this republication is to include Tacoma, Wash. as a point of origin. If a hearing is deemed necessary, applicant requests it be held at Seattle or Tacoma, Wash. By order of the Commission, dated August 22, 1973, said matter was directed for handling under modified procedure, and is now vacated and set aside. By the Commission, Commissioner Murphy, September 14, 1973.

No. MC 124656 (Sub-No. 6) annotation), filed August 6, 1973, published in the FEDERAL REGISTER issue of September 13, 1973, and republished as corrected, in part, this issue. Applicant: JOHN LONG TRUCKING, INC., 1030 Denton Street, Sapulpa, Okla. 74066. Applicant's representative: Wilburn L. Williamson, 280 National Life Building, 3535 Northwest 58th Street, Oklahoma City, Okla. 73112.

NOTE.—The purpose of this partial republication is to indicate the correct Docket No. as MC 124656 (sub-No. 6) in lieu of MC 124565 (sub-No. 6) as previously published. The rest of the notice remains as originally published.

No. MC 124711 (Sub-No. 21), filed August 17, 1973. Applicant: BECKER AND SONS, INC., P.O. Box 1050, El Dorado, Kans. 67042. Applicant's representative: T. M. BROWN, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, in tank vehicles, from the nitrogen plant of Farmland Industries, located at Enid, Okla., to points in Kansas, Colorado, Texas, Missouri, Arkansas, and Louisiana, restricted to shipments originating at the above named plantsite.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Topeka, Kans.

No. MC 124774 (Sub-No. 86) (annotation), filed May 7, 1973, published in the FEDERAL REGISTER issue July 8, 1973, and republished as annotated, this issue. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Street, P.O. Box 7344, Omaha, Nebr. 68106. Applicant's representative: Marshall D. Becker, 530 Univac Building, Omaha, Nebr. 68106.

NOTE.—The purpose of this partial republication is to indicate the correct docket number as MC 124774 (sub-No. 86) in lieu of MC 134744 (sub-No. 86), previously published in

error. The rest of the notice remains as originally published.

No. MC 125358 (Sub-No. 14), filed August 13, 1973. Applicant: MID-WEST TRUCK LINES, LTD., 1216 Fife Street, Winnipeg, Manitoba, Canada. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts, equipment, materials and supplies* used in the manufacture of tractors, combines, swathers and other farm equipment, from Chicago and Havana, Ill.; Hutchison and McPherson, Kans.; Henderson, Ky.; Joplin, Mo.; Lebanon and Cookville, Tenn.; Dallas, Tex.; and Milwaukee and Racine, Wis., to the ports of entry on the international boundary line between the United States and Canada, at or near Pembina, N. Dak., Noyes and International Falls, Minn., and Detroit, Mich., under contract with Versatile Manufacturing, Ltd.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn. or Chicago, Ill.

No. MC 125708 (Sub-No. 133), filed August 17, 1973. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., Highway 32 East, Crawfordsville, Ind. 47933. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic conduit, plastic or iron fittings and connections, valves, hydrants and gaskets* (except oil field commodities as defined in *Mercer-Ext. Oil Field Commodities*, 74 M.C.C. 459), from Columbia, Mo., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, restricted to traffic originating at the plantsite and storage facilities of the Clow Corp., located at Columbia, Mo.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126346 (Sub-No. 13), filed July 30, 1973. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 842, Wausau, Wis. 54401. Applicant's representative: Charles W. Singer, 2440 E. Commercial Boulevard, Fort Lauderdale, Fla. 33308. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Transmissions and power pumps*, (b) *parts and accessories* for transmissions and power pumps, and (c) *materials, equipment and supplies* used in the manufacture and distribution of transmissions and power pumps (except commodities in bulk), between Ames, Iowa, Denver, Colo., and La Salle and Rockford, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) (a) *machines and machine tools*, (b) *parts and accessories* for machines and machine tools, and (c) *materials, equipment and supplies* used in the manufacture and distribution of machines and machine tools (except commodities in bulk), between Belvidere, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts with Sundstrand Corp., located at Rockford, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127705 (Sub-No. 40), filed August 3, 1973. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, Ind. 46933. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers and closures* therefor, (a) from Freehold, N.J., to points in Ohio and Michigan and (b) from Lapel, Ind., to points in Pennsylvania, West Virginia, New Jersey, Delaware, New York, and (2) *returned glass containers and glass cullet*, (a) from points in Ohio and Michigan to Freehold, N.J., and (b) from points in Delaware, West Virginia, Pennsylvania, New Jersey, and New York, to Lapel, Ind.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128375 (Sub-No. 101), filed August 21, 1973. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie, P.O. Box 81228, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rejected, returned, replacement, recalled and obsolete motor vehicle parts, accessories and related items*, from points in the United States (except Alaska and Hawaii), to the facilities of the Maremont Corp., located at or near Loudon, Pulaski, and Nashville, Tenn., under contract with Maremont Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Chicago, Ill.

No. MC 128616 (sub-No. 13), filed August 20, 1973. Applicant: BANKERS DISPATCH CORP., 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Warren W. Wallin, 330 South Jefferson Street, Chicago, Ill. 60606. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except coins, currency, and negotiable securities), as are used in the conduct and operation of banks and banking institutions, between Chicago, Ill., on the one hand, and, on the other, points in Door, Langlade, and Menominee Counties, Wis., under contract with the Federal Reserve Bank of Chicago.

NOTE.—Applicant also holds common carrier authority in MC 114533 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 129410 (sub-No. 4), filed August 20, 1973. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Road, Crystal Lake, Ill. 60014. Applicant's representative: Irving Stillerman, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (except in bulk), in shipper-owned trailers, from the plant and warehouse facilities of Dean Foods Co., at or near Chemung, Ill., to the plant and warehouse facilities of Dean Foods Co., at or near Racine, Wis., under contract with Dean Foods Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129516 (Sub-No. 24), filed August 1, 1973. Applicant: PATTON'S INC., 2300 Canyon Road, Ellensburg, Wash. 98926. Applicant's representative: James T. Johnson, 1601 IBN Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juices and fruit drinks*, from points in Orange County, Calif., to ports of entry on the international boundary line between the United States and Canada, located at Idaho, Montana, and North Dakota.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 129828 (Sub-No. 2), filed July 26, 1973. Applicant: GLENN DAVIS AND DON R. DAVIS, a partnership, doing business as DAVIS BROS., P.O. Box 962, Missoula, Mont. 59801. Applicant's representative: Joe Gerbase, 100 Transwestern Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products, lumber, lumber products, particle board, and chip board*, from points in Washington and Oregon, to points in North Dakota, South Dakota, Minnesota, Wisconsin, and Iowa.

NOTE.—Applicant holds contract carrier authority in MC 127349 (sub-No. 2 and 4) therefore, dual operations may be involved. Common control may also be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Spokane, Wash.

No. MC 133203 (Sub-No. 3), filed July 16, 1963. Applicant: COURIER EXPRESS CORP., 440 Domino Court, Charlotte, N.C. 28201. Applicant's representative: William F. King, 301 Tavern Square, 421 King Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit and accounting media and other business records and documents used in processing such media, and commercial papers, documents, and written instruments* (except cash let-

ters), between Richmond, Va., on the one hand, and, on the other, the District of Columbia; Baltimore, Md.; and points in Montgomery and Prince Georges Counties, Md.

NOTE.—Applicant holds contract carrier authority in MC 133207, therefore dual operations may be involved. Common control may also be involved. Further, applicant states that the requested authority can be tacked with its existing authority in its lead certificate MC 133203 at Richmond, Va., to provide through service between points in North Carolina, on the one hand, and, on the other, the District of Columbia, and points in Maryland and Virginia. If a hearing is deemed necessary, applicant requests it be held at either Richmond, Va.; Charlotte, N.C.; or Washington, D.C.

No. MC 134291 (Sub-No. 3), filed August 9, 1973. Applicant: JOSEPH R. ST. HILAIRE, doing business as ST. HILAIRES DELIVERY SERVICE, 285 Emmett Street, Bristol, Conn. 06010. Applicant's representative: J. Aiden Connors, 145 East 49th Street, New York, N.Y. 10017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manuscripts, proofs, page proofs, art work, film magazines, printed matter*, (except in bulk or tank vehicles), between the plantsite of American Can. Co., Bristol Printing Division, at Bristol, Conn., and points in Nassau and Suffolk Counties, N.Y., New York, N.Y. commercial zone, Philadelphia, Pa. commercial zone, Newark, N.J., Wilmington, Del., Baltimore, Md., and Trenton, N.J., under contract with American Can Co., Bristol Printing Division.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or New York, N.Y.

No. MC 134734 (Sub-No. 13), filed July 31, 1973. Applicant: NATIONAL TRANSPORTATION, INC., Box 31, Norfolk, Nebr. 68701. Applicant's representative: Lanny N. Fause, P.O. Box 37096, Omaha, Nebr. 68137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cranberries and cranberry products*, from Kenosha, Wis., to points in Arkansas and points in Missouri west of U.S. Highway 65, including Springfield, under contract with National Foods, Inc., and Ocean Spray Cranberries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 134783 (Sub-No. 6), filed June 21, 1973. Applicant: DIRECT SERVICE, INC., P.O. Box 786, Plainview, Tex. 79072. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from plantsite and storage facilities of Peyton Packing Co. (division of John Morrell & Co.), at or near points in El Paso County, Tex., to points in Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee (except Memphis), Virginia, and West Virginia.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or El Paso, Tex.

No. MC 134922 (Sub-No. 48), filed July 23, 1973. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: L. C. Cypert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sporting goods and recreational equipment*, between Old Forge, Pa., and Bossier City, La.

NOTE.—Applicant states that the requested authority could be tacked at Bossier City, La., to provide through service on westbound traffic only under its pending docket in MC 134922 (sub-No. 24), but it has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Scranton, Pa., or Little Rock, Ark.

No. MC 134922 (Sub-No. 49), filed July 30, 1973. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: L. C. Cypert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Common ground clay and ground soapstone*, from Gonzales, Houston, Palestine, and Zavalla, Tex., and Morgan City, La., to Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, and Tennessee.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Houston, Tex.

No. MC 135185 (Sub-No. 15), filed August 15, 1973. Applicant: COLUMBINE CARRIERS, INC., 2149 South Clermont Street, Englewood, Colo. 80110. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cameras, camera outfits, camera cases, projectors, photographic material, and self developing film packs*, from Cambridge, Needham Heights, Norwood, and Waltham, Mass., to Dallas, Tex., under contract with Polaroid Corp., located at Needham Heights, Mass.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 135280 (Sub-No. 9), filed July 5, 1973. Applicant: PEP LINES TRUCKING CO., a corporation, 15120 Third Avenue, Highland Park, Mich. 48203. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail general mercantile establishments and in connection therein, *materials and supplies* used in the conduct of such business (except commodities in bulk), between Chicago, Ill., on the one hand, and, on the other, points in LaPorte, Newton, and Jasper Counties, Ind., under continuing contract or contracts with Montgomery Ward & Co., Inc.

NOTE.—Dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135660 (Sub-No. 8), filed July 31, 1973. Applicant: BROWNSBERGER ENTERPRISES, INC., RFD No. 1, P.O. Box 243, Butler, Mo. 64730. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic tubing, plastic conduit, plastic molding, valves, fittings, compounds, joint sealers, bonding cement, thinner, vinyl and accessories* used in the installation of such products, from Linn Creek, Mo., to points in North Dakota, South Dakota, Montana, Wyoming, Idaho, Utah, Nevada, Arizona, California, Oregon, and Washington, under contract with Central Missouri Pipe Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held as Kansas City, Mo.

No. MC 135813 (Sub-No.) filed August 1, 1973. Applicant: PARR TRUCKING SERVICE, INC., 829 Alsop Lane, P.O. Box 1308, Owensboro, Ky. 42301. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products*, between points in Hancock County, Ky., on the one hand, and, on the other, Davenport, Iowa.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Owensboro, Ky.

No. MC 136384 (Sub-No. 5), filed August 8, 1973. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, Ga. 31405. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nails, screws, and fasteners*, from Savannah, Ga., to points in Georgia, Florida, North Carolina, South Carolina, Virginia, Tennessee, Alabama, Kentucky, and West Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 136640 (Sub-No. 4) (correction), filed June 19, 1973, published in the FEDERAL REGISTER issue of August 9, 1973, republished in part as amended, in the FEDERAL REGISTER issue of August 23, 1973 and corrected in third publication this issue. Applicant: ROBERT L. ALLEN, doing business as R. ALLEN TRANSPORT, P.O. Box 321, Pocomoke City, Md. 21851. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen onion rings*, made from diced, fresh onions, when moving in mixed shipments with agricultural commodities otherwise exempt from economic regulations under section 203(b)(6) of the act, from Boston, Mass., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Indiana, Kentucky, Louisiana, Maryland, Michigan, North Carolina, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Illinois, Mississippi, Missouri, and New Jersey, and (2) *canned foods*, from Hallwood, Va., to points in California, Montana, Oregon, and Washington, under contract with Boston Bonnie, Inc., and John W. Taylor Packing Co., Inc.

NOTE.—The purpose of this republication is to include the destination States of Illinois, Mississippi, Missouri, and New Jersey in part (1) above omitted in the previous notice. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 138157 (Sub-No. 9), filed July 29, 1973. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as, SOUTHWEST MOTOR FREIGHT, P.O. Box 3561, 15006 Nelson Avenue, City of Industry, Calif. 91744. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, 605 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood products, plastic products, toothpick dispensers, sporting goods, and sporting goods accessories*, from the plantsite of Forster Manufacturing Co., Inc., at or near Wilton, Maine, to Denver, Colo.; Jacksonville and Miami, Fla.; San Francisco and Los Angeles, Calif.; and Seattle, Wash.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138481, filed June 29, 1973. Applicant: TENNESSEE TRANSPORT, INC., 1822 Parkway Towers, Nashville, Tenn. 37219. Applicant's representative: Walter Harwood (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats and parts, components and accessories* when moving with boats, and *related accessories and items* used incidental to the service and operation of such boats, from points in Davidson, Rutherford, Wilson, and Hamilton Counties, Tenn., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 138635 (Sub-No. 7), filed August 8, 1973. Applicant: CALIFORNIA WESTERN EXPRESS, INC., 650 Eastwood Drive, Gastonia, N.C. 28052. Applicant's representative: John R. Sims, Jr., Suite 600 1707 H Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cotton knit underwear*, from Clio (Marlboro County), S.C., and points in Mullins and Marion Counties, S.C., to Los Angeles, National City, and Oakland, Calif.

NOTE.—Dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 138821 (Sub-No. 2), filed August 8, 1973. Applicant: WHEELBERG CO., a corporation, 8707 East Quarry Street, Manassas, Va. 22110. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Reinforced concrete products and materials* used in the installation thereof, from the plantsite of Earley Studio, Inc., at or near Manassas, Va., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia, under contract with Earley Studio, Inc.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 138949 (Sub-No. 1), filed July 30, 1973. Applicant: RITE-WAY DISTRIBUTORS, INC., 2606 Cartwright Street, Dallas, Tex. 75212. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products and Dairy byproducts*, in cartons, bottles, and jugs, from Tulsa, Okla., to Dallas, Tex.; (2) *ice cream and novelties, in cartons, and empty plastic containers, in straight or mixed shipments*, from Houston, Tex., to Tulsa, Okla.; and (3) *cardboard dairy products containers*, from Fort Worth and Waco, Tex., to Tulsa, Okla., under continuing contract or contracts with Carnation Co., located at Tulsa, Okla., restricted from, to or between the facilities of Carnation Co., and to the above-named commodities transported in shipper owned or controlled trailers.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Tulsa, Okla.

No. MC 138952, filed July 9, 1973. Applicant: CENTRAL CITY EXPRESS, INC., 1822 Parkway Towers, Nashville, Tenn. 37219. Applicant's representative: Walter Harwood (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between Nashville, Tenn., and Central City, Ky.: (1) From Nashville over U.S. Highway 431, to Central City, and return over same route; and (2) From Nashville over U.S. Highway 41 to Springfield, Tenn., to junction U.S. Highway 431, thence over U.S. Highway 431 to Central City, and return over the same route, serving all intermediate points between Russellville and Central City (except Russellville) in (1) and (2) above, and serving Paradise, (Muhlenberg County), Ky., as an off-route point in (2) above.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Central City or Bowling Green, Ky., or Nashville, Tenn.

No. MC 138953, filed July 16, 1973. Applicant: GROWN MOVING AND STORAGE CO., a corporation, 180 Quint Street, San Francisco, Calif. 94124. Applicant's representative: Daniel W. Baker, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Marin, San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, and Solano Counties, Calif., restricted to transportation of traffic having a prior or subsequent movement in containers beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 138973, filed July 26, 1973. Applicant: EL DORADO MOVING AND SHIPPING CORP., 437 Concord Avenue, New York, New York 10455. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, in foreign commerce, between points in that part of New York, N.Y., commercial zone, as defined in the fifth supplemental report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), restricted to (1) traffic moving on ocean bills of lading issued by a water carrier not subject to part III of the act and (2) traffic having a prior or subsequent movement, by water, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery services in connection with packing, crating and contain-

erization or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 138998 (Sub-No. 1), filed August 20, 1973. Applicant: BEE CEE BOAT MOVERS, LTD., 771 Forsman Avenue, North Vancouver, British Columbia, Canada. Applicant's representative: George R. LaBissoniere, Suite 101, 130 Andover Park East, Seattle, Wash. 98188. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats*, on especially constructed trailers, between points in Washington west of the Cascade Mountain Range, and the international boundary line between the United States and Canada at or near Blaine, Lynden, and Sumas, Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 139006, filed July 16, 1973. Applicant: RAPIER SMITH, 103 East Forrest Avenue, Bardstown, Ky. 40004. Applicant's representative: Robert H. Kinker, 711 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Chaplin and Bardstown, Ky., serving all intermediate points: From Chaplin over U.S. Highway 62 to Bardstown, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 139037 filed July 19, 1973. Applicant: RALPH STOOPS, Boggstown, Ind. 46110. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel pipe*, from Youngstown, Ohio, to the plantsite of Culligan Fyrprotexion, Inc., located at Indianapolis, Ind., under continuing contract with Culligan Fyrprotexion, Inc., and (2) *highway guard rail*, from Girard, Ohio, to Boggstown, Ind., under continuing contract with Beaty Construction Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 139041, filed July 27, 1973. Applicant: FRED MASSAT, 3955 West 135th Street, Crestwood, Ill. 60445. Applicant's representative: Paul J. Maton, 10 South LaSalle Street, Suite 1620, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* used in construction of building, and *brick, stone, sand, cinders and steel*, between points in St. Joseph, Elkhart, Allen, Grant, Marshall, Delaware, Madison, Marion, Howard, Kosciusko, Tippecanoe, Vigo, Montgomery, White, Boone, Hamilton, Monroe, Shelby, Bartholomew, Wayne, and Fayette Counties, Ind., and Chicago, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 139055, filed August 16, 1973. Applicant: HUNT'S TRUCKING, INC., 112 Sunset Drive, Gallatin, Tenn. 37066. Applicant's representative: Robert L. Baker, 300 James Robertson Parkway, Nashville, Tenn. 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic fabric*, woven from synthetic fibers and synthetic yarn, from Waynesboro, Va., to points in North Carolina, South Carolina, and Georgia, under contract with Thiokol Fibers Division of Thiokol Chemical Corp., located at Waynesboro, Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Nashville, Tenn.

MOTOR CARRIER OF PASSENGER

No. MC 138700 (Sub-No. 2), filed August 2, 1973. Applicant: REDCLIFF BUS LINES LTD., Box 304, Redcliff, Alberta, Canada. Applicant's representative: Ken Van Wert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, beginning and ending at ports of entry in Montana on the international boundary line betwen the United States and Canada, and extending to Great Falls, and Kalispell, Mont.; restricted to passengers moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Billings, Mont., field office.

APPLICATIONS FOR FILING BROKERAGE LICENSES (PROPERTY)

No. MC 130207, filed August 6, 1973. Applicant: JAMES W. PIERCE, 4015 Camelot Dr., A-2, Raleigh, N.C. 27609. Applicant's representative: James W. Pierce (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Raliegh, N.C., to sell or offer to sell to common and contract, motor, rail, water, and air carriers, the transportation of *general commodities*, beginning and ending at points in North Carolina and extending to points in the United States (excluding Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Raleigh or Charlotte, N.C.

APPLICATIONS FOR FILING BROKERAGE LICENSES (PASSENGER)

No. MC 130208, filed August 23, 1973. Applicant: EMMA WALDECK, HOWARD SRYGLER, AND ROBERT SRYGLER, a partnership, doing business as WORLD WIDE CHRISTIAN TOURS, 114 West Dixie, U.O. Box 506, Elizabeth, Ky. 42701. Applicant's representative: Emma Waldeck (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Elizabeth, Ky. to sell or offer to sell the transportation of *passengers and their baggage* in sightseeing and/or vacationing tours, between Elizabethtown, Ky., and points in Florida, Michigan, Virginia, North Carolina, South Carolina, Pennsylvania, Ohio, Maryland, the District of Columbia, Delaware, New Jersey, New York, Rhode Island, Connecticut, Massachusetts, New Hampshire, Vermont, and Maine.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Louisville, Bowling Green, Frankfurt, or Lexington, Ky.

FREIGHT FORWARDER APPLICATIONS

No. FF 439 (amendment), filed May 24, 1973, published in the FEDERAL REGISTER issue of June 21, 1973, and republished, as amended, this issue. Applicant: EDCO EXHIBIT DRAYAGE CO., a corporation, 444 Treat Avenue, San Francisco, Calif. 94110. Applicant's representative: Daniel W. Baker, 405 Montgomery Street, Suite 1400, San Francisco, Calif. 94104. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by railroad, express, water, air, and motor vehicle, in the transportation of *exhibits, displays, and exhibit and display materials, supplies, equipment and booths*, (1) from points in San Francisco, Los Angeles, Alameda, and Orange Counties, Calif., to points in the United States (except Alaska and Hawaii), and (2) between points in San Francisco County, Calif., and points in Oahu County, Hawaii.

NOTE.—The purpose of this republication is: (a) To indicate applicant's correct name; and (b) to add the origin point of Orange County, Calif., to the request for authority in (1) above. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. FF-444, filed September 13, 1973. Applicant: CONTAINER MOVING INTERNATIONAL, INC., 4600 Eisenhower Avenue, Alexandria, Va. 22304. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by railroad, motor vehicle, water, and express, in the transportation of *used household goods, unaccompanied baggage and used automobiles*, between points in the United States (including Hawaii but excluding Alaska), restricted to the transportation of import-export traffic only.

NOTE.—Common control may be involved. Applicant requests processing under modified procedure, however, if a hearing is deemed necessary applicant requests it be held at Washington, D. C.

APPLICATIONS(S) IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 139038, filed August 7, 1973. Applicant: LEON R. GOLDSMITH, doing business as TERMINAL MOTOR EXPRESS, 1711 East 15th Street, Los Angeles, Calif. 90021. Applicant's representative: Jerry Solomon Berger, 9454 Wilshire Boulevard — Penthouse, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Specialty commodities*, manufactured, dealt in, and marketed by manufacturing chemists for the graphic arts industry, in containers, and, *materials and supplies* used in the manufacture of said commodities (except commodities in bulk); and (2) *commodities* otherwise exempt under section 203(b)(6) of the act when transported in mixed shipments with those commodities named in (1) above, between points in Alabama, Arizona, Arkansas, California, Colorado, Georgia, Indiana, Kansas, Illinois, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Utah, Vermont, and Washington, under contract with Anchor Chemical Co., Inc.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

By the Commission.

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

[FR Doc.73-20504 Filed 9-26-73;8:45 am]

CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR

Page

CFR checklist 23771

3 CFR

PROCLAMATIONS:

4239 24191
4240 24193
4241 24881
4242 26099
4243 26101
4244 26179
4245 26351
4246 26441

EXECUTIVE ORDERS:

11359 (superseded by 11737) .. 24883
11602 (superseded by E.O. 11732) 25161
11635 (superseded by 11737) .. 24883
11659 (amended by 11737) 24883
11737 24883
11738 25161

Presidential Documents other than Proclamations and Executive Orders:

Memorandum of August 17, 1973 25903

4 CFR

400 24195
405 24195

PROPOSED RULES:

331 23971
351 ..... 23971, 26072
400 23971
401 23971
402 23971
403 23971
404 23971

5 CFR

213 ..... 2344, 24885, 25165, 25907, 26181, 26353, 26443, 26675, 26797
335 26601
430 26601
451 26601
630 26601
715 26601

6 CFR

102 25427
150 24213
140 24214
150 ..... 23794, 23931, 24214, 24885, 25427, 25686, 26181, 26611, 26917
152 ..... 23794, 24214
155 24885

PROPOSED RULES:

Ch. I 24917
152 ..... 23806, 24219, 24667

7 CFR

Page

2 24633
51 23931
52 ..... 24344, 25165, 26903
56 26797
201 ..... 25661, 26800
250 24633
301 25664
354 23934
401 25907
725 23935
777 25665
864 25427
891 26706
905 25665
908 ..... 24215, 25431, 25907, 26353, 26601, 26903
910 ..... 24345, 24890, 25908, 26443
928 24345
930 24890
932 24215
944 26108
948 25667
981 ..... 25668, 26181
991 23771
1001 24216
1002 24216
1004 24216
1006 24216
1007 24216
1011 24216
1012 24216
1013 24213
1015 24216
1030 24216
1033 24216
1036 24216
1040 24216
1044 24216
1046 24216
1049 24216
1050 ..... 24216, 26182
1060 24216
1061 24216
1062 24216
1063 24216
1064 24216
1065 24216
1068 24216
1069 24216
1070 24216
1071 24216
1073 ..... 24216, 26707
1075 24216
1076 24216
1078 24216
1079 24216
1090 24216
1094 24216
1096 24216
1097 24216
1098 24216
1099 24216
1101 24216
1102 24216
1106 24216
1108 24216
1120 24216
1121 24216
1124 24216
1125 24216
1126 24216
1127 24216
1128 24216
1129 ..... 24216, 26709
1130 24216
1131 24216
1132 24216
1133 24216
1134 24216
1136 24216
1137 24216
1138 24216
1139 24216
1207 26354
1421 ..... 23935, 24634, 25668, 26006, 26182, 26904
1430 23939
1866 24346

PROPOSED RULES:

20 25690
26 ..... 23955, 25186
46 26207
52 ..... 24654, 24904, 24907, 24910
301 26808
722 24911
905 26454
906 ..... 26384, 26614, 26615
927 26615
932 24910
944 26807
945 26384
981 24911
989 26729
1007 25024
1030 ..... 23796, 25448, 25756
1032 25756
1046 25756
1049 25756
1050 ..... 25186, 25756
1060 25222
1061 25222
1062 25756
1063 25222
1064 25222
1065 25222
1068 252222
1069 25222
1070 25222
1071 25024
1073 ..... 24654, 25024
1076 25222
1078 25222
1079 25222
1090 25024
1094 25024
1096 ..... 25024, 29190
1097 25024
1098 25024
1099 25756
1102 25024
1104 25282
1106 25282
1108 25024
1120 25283
1126 25282
1127 25282
1128 25282
1129 25282
1130 25282
1131 25282
1132 25282
1136 25282
1140 26729
1701 ..... 24660, 26919

8 CFR

214 ..... 24891, 26354
238 24891

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	*Date*
23765–23922	Sept. 4
23923–24184	5
24185–24326	6
24327–24625	7
24627–24874	10
24875–25154	11
25155–25420	12
25421–25654	13
25655–25895	14
25897–26091	17
26093–26171	18
26173–26344	19
26345–23433	20
26435–26593	21
26595–26668	24
26669–26790	25
26791–26883	26
26885–27038	27

federal register

THURSDAY, SEPTEMBER 27, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 187

PART II

CONSUMER PRODUCT SAFETY COMMISSION

■

FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

Revision and Transfer

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

PART 1505—REQUIREMENTS FOR ELECTRICALLY OPERATED TOYS OR OTHER ELECTRICALLY OPERATED ARTICLES INTENDED FOR USE BY CHILDREN

Revision and Transfer

Effective May 14, 1973, sec. 30(a) of the Consumer Product Safety Act (Pub. L. 92–573, 86 Stat. 1231 (15 U.S.C. 2079 (a))), among other things, transferred from the Secretary of Health, Education, and Welfare to the Consumer Product Safety Commission functions under the Federal Hazardous Substances Act.

Before May 14, 1973, the Commissioner of Food and Drugs under delegated authority, promulgated regulations under the Federal Hazardous Substances Act which appear in the Code of Federal Regulations as 21 CFR Parts 191 and 191b. The purpose of this document is to revise and transfer those regulations.

Accordingly, pursuant to sec 30(a) of the Consumer Product Safety Act, the Consumer Product Safety Commission hereby (1) deletes Parts 191 and 191b from Title 21, Chapter I, and (2) revises and reissues the regulations under the Federal Hazardous Substances Act as Parts 1500 and 1505, respectively, of Title 16, Chapter II, Subchapter C, as set forth below.

Any provisions of 21 CFR Parts 191 and 191b having delayed effective dates shall have the same delayed effective date in 16 CFR Parts 1500 and 1505, and these are noted.

The material is revised to update names, titles, cross-references, etc., and to add and clarify certain definitions. The statutory definitions appearing in sec. 2 of the Federal Hazardous Substances Act (15 U.S.C. 1261) have been added to the regulations for convenience and are set forth in 16 CFR 1500.3(b). The definitions that previously appeared in 21 CFR 191.1 have been clarified as to their relationship to the statutory definitions and those that involve the latter are set forth in 16 CFR 1500.3(c).

Since no new requirements are added by this revision, notice and public procedure are not prerequisites to this issuance.

Parts 1500 and 1505 of Title 16, Chapter II, Subchapter C, read as follows:

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

AUTHORITY.—Secs. 2–5, 10, 14, 74 Stat. 372–76, 378–79, as amended, 80 Stat. 1303–05, 83 Stat. 187–89, 84 Stat. 1673 (15 U.S.C. 1261 and note, 1262–64, 1269, 1273) unless otherwise noted.

§ 1500.1 Scope of subchapter.

Set forth in this Subchapter C are the regulations of the Consumer Product Safety Commission issued pursuant to and for the implementation of the Federal Hazardous Substances Act as amended (see § 1500.3(a)(1)).

§ 1500.2 Authority.

Authority under the Federal Hazardous Substances Act is vested in the Consumer Product Safety Commission by section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)).

§ 1500.3 Definitions.

(a) *Certain terms used in this part.* As used in this part:

(1) "Act" means the Federal Hazardous Substances Act (Pub. L. 86–613, 74 Stat. 372–81 (15 U.S.C. 1261–74)) as amended by:

(i) The Child Protection Act of 1966 (Pub. L. 89–756, 80 Stat. 1303–05).

(ii) The Child Protection and Toy Safety Act of 1969 (Pub. L. 91–113, 83 Stat. 187–90).

(iii) The Poison Prevention Packaging Act of 1970 (Pub. L. 91–601, 84 Stat. 1670–74).

(2) "Commission" means the Consumer Product Safety Commission established May 14, 1973, pursuant to provisions of the Consumer Product Safety Act (Pub. L. 92–573, 86 Stat. 1207–33 (15 U.S.C. 2051–81)).

(b) *Statutory definitions.* Except for the definitions given in section 2 (c) and (d) of the act, which are obsolete, the definitions set forth in section 2 of the act are applicable to this part and are repeated for convenience as follows (some of these statutory definitions are interpreted, supplemented, or provided with alternatives in paragraph (c) of this section):

(1) "Territory" means any territory or possession of the United States, including the District of Columbia and the Commonwealth of Puerto Rico but excluding the Canal Zone.

(2) "Interstate commerce" means (i) commerce between any State or territory and any place outside thereof and (ii) commerce within the District of Columbia or within any territory not organized with a legislative body.

(3) "Person" includes an individual, partnership, corporation, and association.

(4) (i) "Hazardous substance" means:

(A) Any substance or mixture of substances which is toxic, corrosive, an irritant, a strong sensitizer, flammable or combustible, or generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any

customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(B) Any substance which the Commission by regulation finds, pursuant to the provisions of section 3(a) of the act, meet the requirements of section 2(f)(1)(A) of the act (restated in (A) above).

(C) Any radioactive substance if, with respect to such substance as used in a particular class of article or as packaged, the Commission determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with the act in order to protect the public health.

(D) Any toy or other article intended for use by children which the Commission by regulation determines, in accordance with section 3(e) of the act, presents an electrical, mechanical, or thermal hazard.

(ii) "Hazardous substance" shall not apply to pesticides subject to the Federal Insecticide, Fungicide, and Rodenticide Act, to foods, drugs, and cosmetics subject to the Federal Food, Drug, and Cosmetic Act, nor to substances intended for use as fuels when stored in containers and used in the heating, cooking, or refrigeration system of a house. "Hazardous substance" shall apply, however, to any article which is not itself a pesticide within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act but which is a hazardous substance within the meaning of section 2(f)(1) of the Federal Hazardous Substances Act (restated in paragraph (b)(4)(i) of this section) by reason of bearing or containing such a pesticide.

(iii) "Hazardous substance" shall not include any source material, special nuclear material, or byproduct material as defined in the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Atomic Energy Commission.

(5) "Toxic" shall apply to any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface.

(6)(i) "Highly toxic" means any substance which falls within any of the following categories:

(A) Produces death within 14 days in half or more than half of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered; or

(B) Produces death within 14 days in half or more than half of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, when inhaled continuously for a period of 1 hour or less at an atmospheric concentration of 200 parts per million by volume or less of gas or vapor or 2 milligrams per liter by volume or less of mist or dust, provided such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; or

(C) Produces death within 14 days in half or more than half of a group of 10 or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for 24 hours or less.

(ii) If the Commission finds that available data on human experience with any substance indicate results different from those obtained on animals in the dosages and concentrations specified in paragraph (b)(6)(i) of this section, the human data shall take precedence.

(7) "Corrosive" means any substance which in contact with living tissue will cause destruction of tissue by chemical action, but shall not refer to action on inanimate surfaces.

(8) "Irritant" means any substance not corrosive within the meaning of section 2(i) of the act (restated in paragraph (b)(7) of this section) which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(9) "Strong sensitizer" means a substance which will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the Commission. Before designating any substance as a strong sensitizer, the Commission, upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity.

(10) "Extremely flammable" shall apply to any substance which has a flashpoint at or below 20° F. as determined by the Tagliabue Open Cup Tester; "flammable" shall apply to any substance which has a flashpoint of above 20° F., to and including 80° F., as determined by the Tagliabue Open Cup Tester; and "combustible" shall apply to any substance which has a flashpoint above 80° F. to and including 150° F., as determined by the Tagliabue Open Cup Tester; except that the flammability or combustibility of solids and of the contents of self-pressurized containers shall be determined by methods found by the Commission to be generally applicable to such materials or containers, respectively, and established by regulations issued by the Commission, which regulations shall also define the terms "flammable," "combustible," and "extremely flammable" in accord with such methods.

(11) "Radioactive substance" means a substance which emits ionizing radiation.

(12) "Label" means a display of written, printed, or graphic matter upon the immediate container of any substance or, in the cases of an article which is unpackaged or is not packaged in an immediate container intended or suitable for delivery to the ultimate consumer, a display of such matter directly upon the article involved or upon a tag or other suitable material affixed thereto. A requirement made by or under authority of the act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears (i) on the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper and (ii) on all accompanying literature where there are directions for use, written or otherwise.

(13) "Immediate container" does not include package liners.

(14) "Misbranded hazardous substance" means a hazardous substance (including a toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such manner as to be susceptible of access by a child to whom such toy or other article is entrusted) intended, or packaged in a form suitable, for use in the household or by children, if the packaging or labeling of such substance is in violation of an applicable regulation issued pursuant to section 3 or 4 of the Poison Prevention Packaging Act of 1970 or if such substance, except as otherwise provided by or pursuant to section 3 of the act (Federal Hazardous Substances Act), fails to bear a label:

(i) Which states conspicuously:

(A) The name and place of business of the manufacturer, packer, distributor, or seller;

(B) The common or usual name or the chemical name (if there be no common or usual name) of the hazardous substance or of each component which contributes substantially to its hazard, unless the Commission by regulation permits or requires the use of a recognized generic name;

(C) The signal word "DANGER" on substances which are extremely flammable, corrosive, or highly toxic;

(D) The signal word "WARNING" or "CAUTION" on all other hazardous substances;

(E) An affirmative statement of the principal hazard or hazards, such as "Flammable," "Combustible," "Vapor Harmful," "Causes Burns," "Absorbed Through Skin," or similar wording descriptive of the hazard;

(F) Precautionary measures describing the action to be followed or avoided, except when modified by regulation of the Commission pursuant to section 3 of the act;

(G) Instruction, when necessary or appropriate, for first-aid treatment;

(H) The word "Poison" for any hazardous substance which is defined as "highly toxic" by section 2(h) of the act (restated in paragraph (b)(6) of this section);

(I) Instructions for handling and storage of packages which require special care in handling or storage; and

(J) The statement (*1*) "Keep out of the reach of children" or its practical equivalent, or, (*2*) if the article is intended for use by children and is not a banned hazardous substance, adequate directions for the protection of children from the hazard; and

(ii) On which any statements required under section 2(p)(1) of the act (restated in paragraph (b)(15)(i) of this section) are located prominently and are in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label.

"Misbranded hazardous substance" also means a household substance as defined in section 2(2)(D) of the Poison Prevention Packaging Act of 1970 if it is a substance described in section 2(f)(1) of the Federal Hazardous Substances Act (restated in paragraph (b)(4)(i)(A) of this section) and its packaging or labeling is in violation of an applicable regulation issued pursuant to section 3 or 4 of the Poison Prevention Packaging Act of 1970.

(15)(i) "Banned hazardous substance" means:

(A) Any toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such manner as to be susceptible of access by a child to whom such toy or other article is entrusted; or

(B) Any hazardous substance intended, or packaged in a form suitable, for use in the household, which the Commission by regulation classifies as a "banned hazardous substance" on the basis of a finding that, notwithstanding such cautionary labeling as is or may be required under the act for that substance, the degree or nature of the hazard involved in the presence or use of such substance in households is such that the objective of the protection of the public health and safety can be adequately served only by keeping such substance, when so intended or packaged, out of the channels of interstate commerce: *Provided*, That the Commission by regulation (*1*) shall exempt from section 2(q)(1)(A) of the act (restated in paragraph (b)(15)(i)(A) of this section) articles, such as chemistry sets, which by reason of their functional purpose require the inclusion of the hazardous substance involved, or necessarily present an electrical, mechanical, or thermal hazard, and which bear labeling giving adequate directions and warnings for safe use and are intended for use by children who have attained sufficient maturity, and may reasonably be expected, to read and heed such directions and warnings, and (2) shall exempt from section 2(q)(1)(A) of the act (restated in paragraph (b)(15)(i)(A) of this section), and provide for the labeling of, common fireworks (including toy paper caps, cone fountains, cylinder fountains, whistles without report, and sparklers) to the extent that the Commission determines that such articles can be adequately labeled to protect the purchasers and users thereof.

(ii) Proceedings for the issuance, amendment, or repeal of regulations pursuant to section 2(q)(1)(B) of the act (restated in paragraph (b)(15)(i)(B) of this section) shall be governed by the provisions of section 701 (e), (f), and (g) of the Federal Food, Drug, and Cosmetic Act: *Provided*, That if the Commission finds that the distribution for household use of the hazardous substance involved presents an imminent hazard to the public health, the Commission may by order published in the FEDERAL REGISTER give notice of such finding, and thereupon such substance when intended or offered for household use, or when so packaged as to be suitable for such use, shall be deemed to be a "banned hazardous substance" pending the completion of proceedings relating to the issuance of such regulations.

(16) "Electrical hazard"—an article may be determined to present an electrical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture may cause personal injury or illness by electric shock.

(17) "Mechanical hazard"—an article may be determined to present a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness:

(i) From fracture, fragmentation, or disassembly of the article;

(ii) From propulsion of the article (or any part or accessory thereof);

(iii) From points or other protrusions, surfaces, edges, openings, or closures;

(iv) From moving parts;

(v) From lack or insufficiency of controls to reduce or stop motion;

(vi) As a result of self-adhering characteristics of the article;

(vii) Because the article (or any part or accessory thereof) may be aspirated or ingested;

(viii) Because of instability; or

(ix) Because of any other aspect of the article's design or manufacture.

(18) "Thermal hazard"—an article may be determined to present a thermal hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness because of heat as from heated parts, substances, or surfaces.

(c) *Certain statutory definitions interpreted, supplemented, or provided with alternatives.* The following items interpret, supplement, or provide alternatives to definitions set forth in section 2 of the act (and restated in paragraph (b) of this section):

(1) To provide flexibility as to the number of animals tested, the following is an alternative to the definition of "highly toxic" in section 2(h) of the act (and paragraph (b)(6) of this section): "Highly toxic" means:

(i) A substance determined by the Commission to be highly toxic on the basis of human experience; and/or

(ii) A substance that produces death within 14 days in half or more than half of a group of:

(A) White rats (each weighing between 200 and 300 grams) when a single dose of 50 milligrams or less per kilogram of body weight is administered orally;

(B) White rats (each weighing between 200 and 300 grams) when a concentration of 200 parts per million by volume or less of gas or vapor, or 2 milligrams per liter by volume or less of mist or dust, is inhaled continuously for 1 hour or less, if such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; and/or

(C) Rabbits (each weighing between 2.3 and 3.0 kilograms) when a dosage of 200 milligrams or less per kilogram of body weight is administered by continuous contact with the bare skin for 24 hours or less by the method described in § 1500.40.

The number of animals tested shall be sufficient to give a statistically significant result and shall be in conformity with good pharmacological practices.

(2) To give specificity to the definition of "toxic" in section 2(g) of the act (and restated in paragraph (b)(5) of this section), the following supplements that definition: "Toxic" means any substance that produces death within 14 days in half or more than half of a group of:

(i) White rats (each weighing between 200 and 300 grams) when a single dose of from 50 milligrams to 5 grams per kilogram of body weight is administered orally. Substances falling in the toxicity range between 500 milligrams and 5 grams per kilogram of body weight will be considered for exemption from some or all of the labeling requirements of the act, under §1500.82, upon a showing that such labeling is not needed because of the physical form of the substances (solid, a thick plastic, emulsion, etc.), the size or closure of the container, human experience with the article, or any other relevant factors;

(ii) White rats (each weighing between 200 and 300 grams) when an atmospheric concentration of more than 200 parts per million but not more than 20,000 parts per million by volume of gas or vapor, or more than 2 but not more than 200 milligrams per liter by volume of mist or dust, is inhaled continuously for 1 hour or less, if such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; and/or

(iii) Rabbits (each weighing between 2.3 and 3.0 kilograms) when a dosage of more than 200 milligrams but not more than 2 grams per kilogram of body weight is administered by continuous contact with the bare skin for 24 hours by the method described in § 1500.40.

The number of animals tested shall be sufficient to give a statistically significant result and shall be in conformity with good pharmacological practices. "Toxic" also applies to any substance that is "toxic" (but not "highly toxic") on the basis of human experience.

(3) The definition of "corrosive" in section 2(i) of the act (restated in paragraph (b)(7) of this section) is interpreted to also mean the following: "Corrosive" means a substance that causes visible destruction or irreversible alterations in the tissue at the site of contact. A test for a corrosive substance is whether, by human experience, such tissue destruction occurs at the site of application. A substance would be consid-

ered corrosive to the skin if, when tested on the intact skin of the albino rabbit by the technique described in § 1500.41, the structure of the tissue at the site or contact is destroyed or changed irreversibly in 24 hours or less. Other appropriate tests should be applied when contact of the substance with other than skin tissue is being considered.

(4) The definition of "irritant" in section 2(j) of the act (restated in paragraph (b)(8) of this section) is supplemented by the following: "Irritant" includes "primary irritant to the skin" as well as substances irritant to the eye or to mucous membrances. "Primary irritant" means a substance that is not corrosive and that human experience data indicate is a primary irritant and/or means a substance that results in an empirical score of five or more when tested by the method described in § 1500.41. "Eye irritant" means a substance that human experience data indicate is an irritant to the eye and/or means a substance for which a positive test is obtained when tested by the method described in § 1500.42.

(5) The definition of "strong sensitizer" in section 2(k) of the act (restated in paragraph (b)(9) of this section) is supplemented by the following: A "strong allergic sensitizer" is a substance that produces an allergenic sensitization in a substantial number of persons who come into contact with it. An allergic sensitization develops by means of an "antibody mechanism" in contradistinction to a primary irritant reaction which does not arise because of the participation of an "antibody mechanism." An allergic reaction ordinarily does not develop on first contact because of necessity of prior exposure to the substance in question. The sensitized tissue exhibits a greatly increased capacity to react to subsequent exposures of the offending agent. Subsequent exposures may therefore produce severe reactions with little correlation to the amounts of excitant involved. A "photodynamic sensitizer" is a substance that causes an alteration in the skin or mucous membranes in general or to the skin or mucous membrane at the site of contact so that when these areas are subsequently exposed to ordinary sunlight (or equivalent radiant energy) an inflammatory reaction will develop.

(6) The following definitions are supplementary to the definitions of "extremely flammable" and "flammable" in section 2(l) of the act or are in response to certain provisions of section 2(l) regarding the flammability of solids and of the contents of self-pressurized containers (section 2(l) is restated in paragraph (b)(10) of this section):

(i) "Extremely flammable" means any substance that has a flashpoint at or below 20° F. as determined by the method described in § 1500.43.

(ii) "Flammable" means any substance that has a flashpoint of above 20° F., to and including 80° F., as determined by the method described in § 1500.43.

(iii) "Extremely flammable solid" means a solid substance that ignites and burns at an ambient temperature of 80° F. or less when subjected to friction, percussion, or electrical spark.

(iv) "Flammable solid" means a solid substance that, when tested by the method described in § 1500.44, ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

(v) "Extremely flammable contents of self-pressurized container" means contents of a self-pressurized container that, when tested by the method described in § 1500.45, a flashback (a flame extending back to the dispenser) is obtained at any degree of valve opening and the flashpoint, when tested by the method described in § 1500.46, is less than 20° F.

(vi) "Flammable contents of self-pressurized container" means contents of a self-pressurized container that, when tested by the method described in § 1500.45, a flame projection exceeding 18 inches is obtained at full valve opening or a flashback (a flame extending back to the dispenser) is obtained at any degree of valve opening.

(7) The definition of "hazardous substance" in section 2(f)(1)(A) of the act (restated in paragraph (b)(4)(i)A) of this section is supplemented by the following definitions or interpretations of terms used therein:

(i) A substance or mixture of substances that "generates pressure through decomposition, heat, or other means" is a hazardous substance:

(A) If it explodes when subjected to an electrical spark, percussion, or the flame of a burning paraffin candle for 5 seconds or less.

(B) If it expels the closure of its container, or bursts its container, when held at or below 130° F. for 2 days or less.

(C) If it erupts from its opened container at a temperature of 130° F. or less after having been held in the closed container at 130° F. for 2 days.

(D) If it comprises the contents of a self-pressurized container.

(ii) "Substantial personal injury or illness" means any injury or illness of a significant nature. It need not be severe or serious. What is excluded by the word "substantial" is a wholly insignificant or negligible injury or illness.

(iii) "Proximate result" means a result that follows in the course of events without an unforeseeable, intervening, independent cause.

(iv) "Reasonably foreseeable handling or use" includes the reasonably foreseeable accidental handling or use, not only by the purchaser or intended user of the product, but by all others in a household, especially children.

(8) The definition of "radioactive substance" in section 2(m) of the act (restated in paragraph (b)(11) of this section) is supplemented by the following: "Radioactive substance" means a substance which, because of nuclear instability, emits electromagnetic and/or particulate radiation capable of producing ions in its passage through matter. Source materials, special nuclear material, and byproduct materials described in section 2(f)(3) of the act are exempt.

(9) In the definition of "label" in section 2(n) of the act (restated in paragraph (b)(12) of this section), a provision stipulates that words, statements, or other information required to be on the label must also appear on all accompanying literature where there are directions for use, written or otherwise. To make this provision more specific, "accompanying literature" is interpreted to mean any placard, pamphlet, booklet, book, sign, or other written, printed, or graphic matter or visual device that provides directions for use, written or otherwise, and that is used in connection with the display, sale, demonstration, or merchandising of a hazardous substance intended for or packaged in a form suitable for use in the household or by children.

(10) The definition of "misbranded hazardous substance" in section 2(p) of the act (restated in paragraph (b)(14) of this section) is supplemented by the following definitions or interpretations of terms used therein:

(i) "Hazardous substances intended, or packaged in a form suitable, for use in the household" means any hazardous substance, whether or not packaged, that under any customary or reasonably foreseeable condition of purchase, storage, or use may be brought into or around a house, apartment, or other place where people dwell, or in or around any related building or shed including, but not limited to, a garage, carport, barn, or storage shed. The term includes articles, such as polishes or cleaners, designed primarily for professional use but which are available in retail stores, such as hobby shops, for nonprofessional use. Also included are items, such as antifreeze and radiator cleaners, that although principally for car use may be stored in or around dwelling places. The term does not include industrial supplies that might be taken into a home by a serviceman. An article labeled as, and marketed solely for, industrial use does not become subject to this act because of the possibility that an industrial worker may take a supply for his own use. Size of unit or container is not the only index of whether the article is suitable for use in or around the household; the test shall be whether under any reasonably foreseeable condition of purchase, storage, or use the article may be found in or around a dwelling.

(ii) "Conspicuously" in section 2(p)(1) of the act and "prominently" and "conspicuous" in section 2(p)(2) of the act mean that, under customary conditions of purchase, storage, and use, the required information shall be visible, noticeable, and in clear and legible English. Some factors affecting a warning's prominence and conspicuousness are: Location, size of type, and contrast of printing against background. Also bearing on the effectiveness of a warning might be the effect of the package contents if spilled on the label.

§ 1500.4 Human experience with hazardous substances.

(a) Reliable data on human experience with any substance should be taken into

account in determining whether an article is a "hazardous substance" within the meaning of the act. When such data give reliable results different from results with animal data, the human experience takes precedence.

(b) Experience may show that an article is more or less toxic, irritant, or corrosive to man than to test animals. It may show other factors that are important in determining the degree of hazard to humans represented by the substance. For example, experience shows that radiator antifreeze is likely to be stored in the household or garage and likely to be ingested in significant quantites by some persons. It also shows that a particular substance in liquid form is more likely to be ingested than the same substance in a paste or a solid and that an aerosol is more likely to get into the eyes and the nasal passages than a liquid.

§ 1500.5 Hazardous mixtures.

For a mixture of substances, the determination of whether the mixture is a "hazardous substance" as defined by section 2(f) of the act (repeated in § 1500.3(b)(4)) should be based on the physical, chemical, and pharmacological characteristics of the mixture. A mixture of substances may therefore be less hazardous or more hazardous than its components because of synergistic or antagonistic reactions. It may not be possible to reach a fully satisfactory decision concerning the toxic, irritant, corrosive, flammable, sensitizing, or pressure-generating properties of a substance from what is known about its components or ingredients. The mixture itself should be tested.

§ 1500.7 Federal preemption of State and local labeling requirements.

(a) Section 18(b) of the act provides that any law, regulation, or ordinance of the States and political subdivisions thereof purporting to establish a precautionary labeling requirement for any substance or article intended or suitable for household use which differs from the requirements or exemptions of the act or the regulations or interpretations promulgated pursuant thereto shall be null and void. The legislative history reveals that Congress intended by this provision to prevent a proliferation of differing labeling requirements for household products.

(b) Federal preemption applies (1) to household substances and articles required to be labeled in accordance with the act and (2) to household substances and articles not required to be labeled in accordance with the act because they (i) are not "hazardous substances" as defined by section 2(f) of the act (repeated in § 1500.3(b)(4)) or (ii) are exempt from labeling under a regulation promulgated by the Commission. Federal preemption applies to any nonuniform labeling requirement, regardless of whether it conflicts with or is incompatible with the Federal requirement.

(c) Federal preemption applies to any labeling requirement intended to serve as or be a part of, or that is in the nature of, precautionary labeling. Precautionary labeling includes such information as warnings, registration or identification numbers, disclosure of hazards, antidote information, ingredient statements, and other similar labeling requirements.

(d) Federal preemption does not apply to a State or local ban on a household product.

(e) Whenever a State or local jurisdiction has reason to believe that additional or different precautionary labeling should be required for household substances and articles, it should petition the Commission to promulgate an appropriate nationwide regulation. Such petitions should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. The Commission will expedite consideration of any such petition.

§ 1500.12 Products declared to be hazardous substances under section 3(a) of the act.

(a) The Commission finds that the following articles are hazardous substances within the meaning of the act because they are capable of causing substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use:

(1) Charcoal briquettes and other forms of charcoal in containers for retail sale and intended for cooking or heating.

§ 1500.13 Listing of "strong sensitizer" substances.

On the basis of frequency of occurrence and severity of reaction information, the Commission finds that the following substances have a significant potential for causing hypersensitivity and therefore meet the definition for "strong sensitizer" in section 2(k) of the act (repeated in § 1500.3(b)(9)):

(a) Paraphenylenediamine and products containing it.

(b) Powdered orris root and products containing it.

(c) Epoxy resins systems containing in any concentration ethylenediamine, diethylenetriamine, and diglycidyl ethers of molecular weight of less than 200.

(d) Formaldehyde and products containing 1 percent or more of formaldehyde.

(e) Oil of bergamot and products containing 2 percent or more of oil of bergamot.

§ 1500.14 Products requiring special labeling under section 3(b) of the act.

(a) Human experience, as reported in the scientific literature and to the Poison Control Centers and the National Clearing House for Poison Control Centers, and opinions of informed medical experts establish that the following substances are hazardous:

(1) Diethylene glycol and mixtures containing 10 percent or more by weight of diethylene glycol.

(2) Ethylene glycol and mixtures containing 10 percent or more by weight of ethylene glycol.

(3) Products containing 5 percent or more by weight of benzene (also known as benzol) and products containing 10 percent or more by weight of toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates such as kerosene, mineral seal oil, naphtha, gasoline, mineral spirits, stoddard solvent, and related petroleum distillates.

(4) Methyl alcohol (methanol) and mixtures containing 4 percent or more by weight of methyl alcohol (methanol).

(5) Turpentine (including gum turpentine, gum spirits of turpentine, steam-distilled wood turpentine, sulfate wood turpentine, and destructively distilled wood turpentine) and mixtures containing 10 percent or more by weight of such turpentine.

(b) The Commission finds that the following substances present special hazards and that, for these substances, the labeling required by section 2(p)(1) of the act is not adequate for the protection of the public health. Under section 3(b) of the act, the following specific label statements are deemed necessary to supplement the labeling required by section 2(p)(1) of the act:

(1) *Diethylene glycol.* Because diethylene glycol and mixtures containing 10 percent or more by weight of diethylene glycol are commonly marketed, stored, and used in a manner increasing the possibility of accidental ingestion, such products shall be labeled with the signal word "warning" and the statement "Harmful if swallowed."

(2) *Ethylene glycol.* Because ethylene glycol and mixtures containing 10 percent or more by weight of ethylene glycol are commonly marketed, stored, and used in a manner increasing the possibility of accidental ingestion, such products shall be labeled with the signal word "warning" and the statement "Harmful or fatal if swallowed."

(3) *Benzene, toluene, xylene, petroleum distillates.* (i) Because inhalation of the vapors of products containing 5 percent or more by weight of benzene may cause blood dyscrasias, such products shall be labeled with the signal word "danger," the statement of hazard "Vapor harmful," the word "poison," and the skull and crossbones symbol. If the product contains 10 percent or more by weight of benzene, it shall bear the additional statement of hazard "Harmful or fatal if swallowed" and the additional statements "If swallowed, do not induce vomiting. Call physician immediately."

(ii) Because products containing 10 percent or more by weight of toluene, xylene, or any of the other substances listed in paragraph (a)(3) of this section may be aspirated into the lungs, with resulting chemical pneumonitis, pneumonia, and pulmonary edema, such products shall be labeled with the signal word "danger," the statement of hazard "Harmful or fatal if swallowed," and the statements "If swallowed, do not induce vomiting. Call physician immediately."

(iii) Because inhalation of the vapor of products containing 10 percent or more by weight of toluene or xylene may cause systemic injury, such products shall bear the statement of hazard "Vapor harmful" in addition to the statements pre-

scribed in paragraph (b)(3)(ii) of this section.

(4) *Methyl alcohol (methanol).* Because death and blindness can result from the ingestion of methyl alcohol, the label for this substance and for mixtures containing 4 percent or more by weight of this substance shall include the signal word "danger," the additional word "poison," and the skull and crossbones symbol. The statement of hazard shall include "Vapor harmful" and "May be fatal or cause blindness if swallowed." The label shall also bear the statement "Cannot be made nonpoisonous."

(5) *Turpentine.* Because turpentine (including gum turpentine, gum spirits of turpentine, steam-distilled wood turpentine, sulfate wood turpentine, and destructively distilled wood turpentine) and products containing 10 percent or more by weight of such turpentine, in addition to oral toxicity resulting in systemic poisoning, may be aspirated into the lungs with resulting chemical pneumonitis, pneumonia, and pulmonary edema, such products shall be labeled with the signal word "danger" and the statement of hazard "Harmful or fatal if swallowed."

(6) *Charcoal.* Charcoal briquettes and other forms of charcoal in containers for retail sale and intended for cooking or heating.

(i) Because inhalation of the carbon monoxide produced by burning charcoal indoors or in confined areas may cause serious injury or death, containers of such products shall bear the following borderlined statement:

> WARNING: Do Not Use for Indoor Heating or Cooking Unless Ventilation Is Provided for Exhausting Fumes to Outside. Toxic Fumes May Accumulate and Cause Death.

(ii) For bags of charcoal the statement specified in subdivision (i) of this subparagraph shall appear within a heavy borderline in a color sharply contrasting to that of the background, on both front and back panels in the upper 25 percent of the panels of the bag at least 2 inches below the seam, and at least 1 inch above any reading material or design elements in type size as follows: The signal word "WARNING" shall appear in capital letters at least three-eighths inch in height; the remaining text of the warning statement shall be printed in letters at least three-sixteenths inch in height.

§ 1500.15 Labeling of fire extinguishers.

When a substance or mixture of substances labeled for use in or as a fire extinguisher produces substances that are toxic within the meaning of § 1500.3(c)(1) and (2) when used according to label directions to extinguish a fire, the containers for such substances shall bear the following labeling:

(a) When substances are produced that meet the definition of highly toxic in §1500.3(c)(1), the signal word "Danger" and the statement of hazard "Poisonous gases formed when used to extinguish flame or on contact with heat" are required labeling.

(b) When substances are produced that meet the definition of toxic in § 1500.3(c)(2), the signal word "Caution" or "Warning" and the statement of hazard "Dangerous gas formed when used to extinguish flame or on contact with heat" are required labeling.

(c) Regardless of whether paragraph (a) or (b) of this section applies, any substance or mixture of substances labeled for use as a fire extinguisher that, if applied to an electrical fire, would subject the user to the likelihood of electrical shock shall be conspicuously labeled "Caution: Do not use on electrical wires."

(d) The statements specified in paragraphs (a), (b), and (c) of this section shall be in addition to any other that may be required under the act. All such substances or mixtures of substances shall also bear the additional statements "Use in an enclosed place may be fatal" and "Do not enter area until well ventilated and all odor of chemical has disappeared."

§ 1500.17 Banned hazardous substances.

(a) Under the authority of section 2(q)(1)(B) of the act, the Commission declares as banned hazardous substances the following articles because they possess such a degree or nature of hazard that adequate cautionary labeling cannot be written and the public health and safety can be served only by keeping such articles out of interstate commerce:

(1) Mixtures that are intended primarily for application to interior masonry walls, floors, etc., as a water repellant treatment and that are "extremely flammable" within the meaning of section 2(1) of the act (repeated in § 1500.3(b)(10)).

(2) Carbon tetrachloride and mixtures containing it (including carbon tetrachloride and mixtures containing it used in fire extinguishers), excluding unavoidable manufacturing residues of carbon tetrachloride in other chemicals that under reasonably foreseeable conditions of use do not result in an atmospheric concentration of carbon tetrachloride greater than 10 parts per million.

(3) Fireworks devices intended to produce audible effects (including but not limited to cherry bombs, M–80 salutes, silver salutes, and other large firecrackers, aerial bombs, and other fireworks designed to produce audible effects, and including kits and components intended to produce such fireworks) if the audible effect is produced by a charge of more than 2 grains of pyrotechnic composition; except that this provision shall not apply to such fireworks devices if all of the following conditions are met:

(i) Such fireworks devices are distributed to farmers, ranchers, or growers through a wildlife management program administered by the U.S. Department of the Interior (or by equivalent State or local government agencies); and

(ii) Such distribution is in response to a written application describing the wildlife management problem that requires use of such devices, is of a quantity no greater than required to control the problem described, and is where other means of control are unavailable or inadequate.

(4) Liquid drain cleaners containing 10 percent or more by weight of sodium and/or potassium hydroxide; except that this subparagraph shall not apply to such liquid drain cleaners if packaged in accordance with a standard for special packaging of such articles promulgated under the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601, 84 Stat. 1670–74 (15 U.S.C. 1471–76)).

(5) Products containing soluble cyanide salts, excluding unavoidable manufacturing residues of cyanide salts in other chemicals that under reasonable and foreseeable conditions of use will not result in a concentration of cyanide greater than 25 parts per million.

(6)(i) Any paint or other similar surface-coating material intended, or packaged in a form suitable, for use in or around the household that:

(A) Is shipped in interstate commerce after December 31, 1973, and contains lead compounds of which the lead content (calculated as the metal) is in excess of 0.06 percent of the total weight of the contained solids or dried paint film; or

(B) Is shipped in interstate commerce between December 31, 1972, and December 31, 1973, and contains lead compounds of which the lead content (calculated as the metal) is in excess of 0.5 percent of the total weight of the contained solids or dried paint film.

(ii) Any toy or other article intended for use by children that:

(A) Is shipped in interstate commerce after December 31, 1973, and bears any paint or other similar surface-coating material containing lead compounds of which the lead content (calculated as the metal) is in excess of 0.06 percent of the total weight of the contained solids or dried paint film; or

(B) Is shipped in interstate commerce between December 31, 1972, and December 31, 1973, and bears any paint or other similar surface-coating material containing lead compounds of which the lead content (calculated as the metal) is in excess of 0.5 percent of the total weight of the contained solids or dried paint film.

NOTE.—The effective date of paragraphs (a)(6)(i)(A) and (a)(6)(ii)(A) were stayed by an order published in the FEDERAL REGISTER of August 10, 1972 (37 FR 16078).

(7) General-use garments containing asbestos (other than garments having a bona fide application for personal protection against thermal injury and so constructed that the asbestos fibers will not become airborne under reasonably foreseeable conditions of use).

(Sec. 701 (e), (f), (g), 52 Stat. 1055, as amended (21 U.S.C. 371 (e), (f), (g)).)

§ 1500.18 Banned toys and other banned articles intended for use by children.

(a) *Toys and other children's articles presenting mechanical hazards.* Under the authority of section 2(f)(1)(D) of the act and pursuant to provisions of section 3(e) of the act, the Commission has

determined that the following types of toys or other articles intended for use by children present a mechanical hazard within the meaning of section 2(s) of the act because in normal use, or when subjected to reasonably foreseeable damage or abuse, the design or manufacture presents an unreasonable risk of personal injury or illness:

(1) Any toy rattle containing, either internally or externally, rigid wires, sharp protrusions, or loose small objects that have the potential for causing lacerations, puncture wound injury, aspiration, ingestion, or other injury.

(2) Any toy having noisemaking components or attachments capable of being dislodged by the operating features of the toy or capable of being deliberately removed by a child, which toy has the potential for causing laceration, puncture wound injury, aspiration, ingestion, or other injury.

(3) Any doll, stuffed animal, or other similar toy having internal or external components that have the potential for causing laceration, puncture wound injury, or similar injury.

(4) Lawn darts and other similar sharp-pointed toys usually intended for outdoor use and having the potential for causing puncture wound injury.

(5) Caps (paper or plastic) intended for use with toy guns and toy guns not intended for use with caps if such caps when so used or such toy guns produce impulse-type sound at a peak pressure leved at or above 138 decibels, referred to 0.0002 dyne per square centimeter, when measured in an anechoic chamber at a distance of 25 centimeters (or the distance at which the sound source ordinarily would be from the ear of the child using it if such distance is less than 25 centimeters) in any direction from the source of the sound. This subparagraph is an interim regulation pending further investigation to determine whether prevention of damage to the hearing of children requires revision hereof.

(6) Any article known as a "baby-bouncer," "walker-jumper," or "baby-walker" and any other similar article (referred to in this subparagraph as "article(s)") which is intended to support very young children while sitting, walking, bouncing, jumping, and/or reclining, and which because of its design has any exposed parts capable of causing amputation, crushing, lacerations, fractures, hematomas, bruises, or other injuries to fingers, toes, or other parts of the anatomy of young children. Included among, but not limited to, the design features of such articles which classify the articles as banned hazardous substances are:

(i) The areas about the point on each side of the article where the frame components are joined together to form an "X" shape capable of producing a scissoring, shearing, or pinching effect.

(ii) Other areas where two or more parts are joined in such a manner as to permit a rotational movement capable of exerting a scissoring, shearing, or pinching effect.

(iii) Exposed coil springs which may expand sufficiently to allow an infant's finger, toe, or any other part of the anatomy to be inserted, in whole or in part, and injured by being caught between the coils of the spring or between the spring and another part of the article.

(iv) Holes in plates or tubes which provide the possibility of insertion, in whole or in part, of a finger, toe, or any part of the anatomy that could then be injured by the movement of another part of the article.

(v) Design and construction that permits accidental collapse while in use.

(7) Toys usually known as clacker balls and consisting of two balls of plastic or another material connected by a length of line or cord or similar connector (referred to as "cord" in § 1500.86(a)(5)), intended to be operated in a rhythmic manner by an upward and downward motion of the hand so that the two balls will meet forcefully at the top and bottom of two semicircles thus causing a "clacking" sound, which toys present a mechanical hazard because their design or manufacture presents an unreasonable risk of personal injury from fracture, fragmentations, or disassembly of the toy and from propulsion of the toy or its part(s).

(b) *Electrically operated toys and other electrical operated children's articles presenting electrical, thermal, and/or certain mechanical hazards.* Under the authority of section 2(f)(1)(D) of the act and pursuant to provisions of section 3(e) of the act, the Commission has determined that the following types of electrically operated toys or other electrically operated articles intended for use by children present electrical, thermal, and/or certain mechanical hazards within the meaning of section 2 (r), (s), and/or (t) of the act because in normal use or when subjected to reasonably foreseeable damage or abuse, the design or manufacture may cause personal injury or illness by electric shock and/or presents an unreasonable risk of personal injury or illness because of heat as from heated parts, substances, or surfaces, or because of certain mechanical hazards:

(1) Any electrically operated toy or other electrically operated article intended for use by children (as defined in § 1505.1(a)(1)) that is introduced into interstate commerce and which does not comply with the requirements of Part 1505 of this chapter.

NOTE.—Paragraph (b)(1) was originally promulgated as 21 CFR 191.9a(b)(1) with an effective date of September 3, 1973 (38 FR 6138).

§ 1500.40 Method of testing toxic substances.

The method of testing the toxic substances referred to in § 1500.3(c)(1)(ii)(C) and (2)(iii) is as follows:

(a) *Acute dermal toxicity (single exposure).* In the acute exposures, the agent is held in contact with the skin by means of a sleeve for periods varying up to 24 hours. The sleeve, made of rubber dam or other impervious material, is so constructed that the ends are reinforced with additional strips and should fit snugly around the trunk of the animal. The ends of the sleeve are tucked, permitting the central portion to "balloon" and furnish a reservoir for the dose. The reservoir must have sufficient capacity to contain the dose without pressure. In the following table are given the dimensions of sleeves and the approximate body surface exposed to the test substance. The sleeves may vary in size to accommodate smaller or larger subjects. In the testing of unctuous materials that adhere readily to the skin, mesh wire screen may be employed instead of the sleeve. The screen is padded and raised approximately 2 centimeters from the exposed skin. In the case of dry powder preparations, the skin and substance are moistened with physiological saline prior to exposure. The sleeve or screen is then slipped over the gauze that holds the dose applied to the skin. In the case of finely divided powders, the measured dose is evenly distributed on cotton gauze which is then secured to the area of exposure.

DIMENSIONS OF SLEEVES FOR ACUTE DERMAL TOXICITY TEST

[Test animal—Rabbits]

Measurements in centimeters		Range of weight of animals (grams)	Average area of exposure (square centimeters)	Average percentage of total body surface
Diameter at ends	Overall length			
7.0	12.5	2,500-3,500	240	10.7

(b) *Preparation of test animal.* The animals are prepared by clipping the skin of the trunk free of hair. Approximately one-half of the animals are further prepared by making epidermal abrasions every 2 or 3 centimeters longitudinally over the area of exposure. The abrasions are sufficiently deep to penetrate the stratum corneum (horny layer of the epidermis) but not to disturb the derma; that is, not to obtain bleeding.

(c) *Procedures for testing.* The sleeve is slipped onto the animal which is then placed in a comfortable but immobilized position in a multiple animal holder. Selected doses of liquids and solutions are introduced under the sleeve. If there is slight leakage from the sleeve, which may occur during the first few hours of exposure, it is collected and reapplied. Dosage levels are adjusted in subsequent exposures (if necessary) to enable a calculation of a dose that would be fatal to 50 percent of the animals. This can be determined from mortality ratios obtained at various doses employed. At the end of 24 hours the sleeves or screens are removed, the volume of unabsorbed material (if any) is measured, and the skin reactions are noted. The subjects are cleaned by thorough wiping, observed for gross symptoms of poisoning, and then observed for 2 weeks.

§ 1500.41 Method of testing primary irritant substances.

Primary irritation to the skin is measured by a patch-test technique on the abraded and intact skin of the albino rabbit, clipped free of hair. A minimum of six subjects are used in abraded and intact skin tests. Introduce under a square patch, such as surgical gauze measuring 1 inch by 1 inch and two single layers thick, 0.5 milliliter (in the case of liquids) or 0.5 gram (in the case of solids and semisolids) of the test substance. Dissolve solids in an appropriate solvent and apply the solution as for liquids. The animals are immobilized with patches secured in place by adhesive tape. The entire trunk of the animal is then wrapped with an impervious material, such as rubberized cloth, for the 24-hour period of exposure. This material aids in maintaining the test patches in position and retards the evaporation of volatile substances. After 24 hours of exposure, the patches are removed and the resulting reactions are evaluated on the basis of the designated values in the following table:

Skin reaction	Value [1]
Erythema and eschar formation:	
No erythema	0
Very slight erythema (barely perceptible)	1
Well-defined erythema	2
Moderate to severe erythema	3
Severe erythema (beet redness) to slight eschar formations (injuries in depth)	4
Edema formation:	
No edema	0
Very slight edema (barely perceptible	1
Slight edema (edges of area well defined by definite raising)	2
Moderate edema (raised approximately 1 millimeter)	3
Severe edema (raised more than 1 millimeter and extending beyond the area of exposure)	4

[1] The "value" recorded for each reading is the average value of the six or more animals subject to the test.

Readings are again made at the end of a total of 72 hours (48 hours after the first reading). An equal number of exposures are made on areas of skin that have been previously abraded. The abrasions are minor incisions through the stratum corneum, but not sufficiently deep to disturb the derma or to produce bleeding. Evaluate the reactions of the abraded skin at 24 hours and 72 hours, as described in this paragraph. Add the values for erythema and eschar formation at 24 hours and at 72 hours for intact skin to the values on abraded skin at 24 hours and at 72 hours (four values). Similarly, add the values for edema formation at 24 hours and at 72 hours for intact and abraded skin (four values). The total of the eight values is divided by four to give the primary irritation score; for example:

Skin reaction	Exposure time (hours)	Evaluation value
Erythema and eschar formation:		
Intact skin	24	2
Do	72	1
Abraded skin	24	3
Do	72	2
Subtotal		8
Edema formation:		
Intact skin	24	0
Do	72	1
Abraded skin	24	1
Do	72	2
Subtotal		4
Total		12

Thus, the primary irritation score is 12÷4=3.

§ 1500.42 Test for eye irritants.

(a) (1) Six albino rabbits are used for each test substance. Animal facilities for such procedures shall be so designed and maintained as to exclude sawdust, wood chips, or other extraneous materials that might produce eye irritation. Both eyes of each animal in the test group shall be examined before testing, and only those animals without eye defects or irritation shall be used. The animal is held firmly but gently until quiet. The test material is placed in one eye of each animal by gently pulling the lower lid away from the eyeball to form a cup into which the test substance is dropped. The lids are then gently held together for one second and the animal is released. The other eye, remaining untreated, serves as a control. For testing liquids, 0.1 milliliter is used. For solids or pastes, 100 milligrams of the test substance is used, except that for substances in flake, granule, powder, or other particulate form the amount that has a volume of 0.1 milliliter (after compacting as much as possible without crushing or altering the individual particles, such as by tapping the measuring container) shall be used whenever this volume weighs less than 100 milligrams. In such a case, the weight of the 0.1 milliliter test dose should be recorded. The eyes are not washed following instillation of test material except as noted below.

(2) The eyes are examined and the grade of ocular reaction is recorded at 24, 48, and 72 hours. Reading of reactions is facilitated by use of a binocular loupe, hand silt-lamp, or other expert means. After the recording of observations at 24 hours, any or all eyes may be further examined after applying fluorescein. For this optional test, one drop of fluorescein sodium ophthalmic solution U.S.P. or equivalent is dropped directly on the cornea. After flushing out the excess flourescein with sodium chloride solution U.S.P. or equivalent, injured areas of the cornea appear yellow; this is best visualized in a darkened room under ultraviolet illumination. Any or all eyes may be washed with sodium chloride solution U.S.P. or equivalent after the 24-hour reading.

(b) (1) An animal shall be considered as exhibiting a positive reaction if the test substance produces at any of the readings ulceration of the cornea (other than a fine stippling), or opacity of the cornea (other than a slight dulling of the normal luster), or inflamation of the iris (other than a slight deepening of the folds (or rugae) or a slight circumcorneal injection of the blood vessels), or if such substance produces in the conjunctivae (excluding the cornea and iris) an obvious swelling with partial eversion of the lids or a diffuse crimson-red with individual vessels not easily discernible.

(2) The test shall be considered positive if four or more of the animals in the test group exhibit a positive reaction. If only one animal exhibits a positive reaction, the test shall be regarded as negative. If two or three animals exhibit a positive reaction, the test is repeated using a different group of six animals. The second test shall be considered positive if three or more of the animals exhibit a positive reaction. If only one or two animals in the second test exhibit a positive reaction, the test shall be repeated with a different group of six animals. Should a third test be needed, the substance will be regarded as an irritant if any animal exhibits a positive response.

(c) To assist testing laboratories and other interested persons in interpreting the results obtained when a substance is tested in accordance with the method described in paragraph (a) of this section, an "Illustrated Guide for Grading Eye Irritation by Hazardous Substances" will be sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The guide will contain color plates depicting responses of varying intensity to specific test solutions. The grade of response and the substance used to produce the response will be indicated.

§ 1500.43 Method of test for flashpoint of volatile flammable materials by Tagliabue open-cup apparatus.

SCOPE

1. (a) This method describes a test procedure for the determination of open-cup flashpoints of volatile flammable materials having flashpoints below 175° F.

(b) This method, when applied to paints and resin solutions which tend to skin over or which are very viscous, gives less reproducible results than when applied to solvents.

OUTLINE OF METHOD

2. The sample is placed in the cup of a Tag Open Tester, and heated at a slow but constant rate. A small test flame is passed at a uniform rate across the cup at specified intervals. The flashpoint is taken as the lowest temperature at which application of the test flame causes the vapor at the surface of the liquid to flash, that is, ignite but not continue to burn.

APPARATUS

3. The Tag open-cup tester is illustrated in Fig. 1. It consists of the following parts, which must conform to the dimensions shown, and have the additional characteristics as noted:

(a) *Copper bath*, preferably equipped with a constant level overflow so placed as to maintain the bath liquid level ⅛ inch below the rim of the glass cup.

(b) *Thermometer holder*. Support firmly with ringstand and clamp.

(c) *Thermometer*. For flashpoints above 40° F., use the ASTM Tag Closed Tester Thermometer, range of +20 to +230° F., in 1° F. divisions, and conforming to thermometer 9F. of ASTM Standard E 1. For flashpoints from 20° F. to 40° F., use ASTM Tag Closed Tester, Low Range, Thermometer 57F. For flashpoints below 20° F., use ASTM Thermometer 33F. The original Tag Open-Cup (Paper Scale) Thermometer will be a permissible alternate until January 1, 1962. It is calibrated to —20° F.

(d) *Glass test cup*. Glass test cup (Fig. 2), of molded clear glass, annealed, heat-resistant, and free from surface defects.

(e) *Leveling device*. Leveling device or guide, for proper adjustment of the liquid level in the cup (Fig. 3). This shall be made of No. 18-gage polished aluminum, with a projection for adjusting the liquid level when the sample is added to exactly ⅛-inch below the level of the edge or rim of the cup.

(f) "Micro," or small gas burner of suitable dimensions for heating the bath. A screw clamp may be used to help regulate the gas. A small electric heater may be used.

(g) Ignition taper, which is a small straight, blow-pipe type gas burner. The test flame torch prescribed in the method of test for flash and fire points by Cleveland Open Cup (ASTM designation: D 92) is satisfactory.

(h) Alternative methods for maintaining the ignition taper in a fixed horizontal plane above the liquid may be used, as follows:

(1) Guide wire, 3/32-inch in diameter and 3½ inches in length, with a right-angle bend ½-inch from each end. This wire is placed snugly in holes drilled in the rim of the bath, so that the guide wire is 5/8-inch from the center of the cup and resting on the rim of the cup.

(2) Swivel-type taper holder, such as is used in ASTM METHOD D 92. The height and position of the taper are fixed by adjusting the holder on a suitable ringstand support adjacent to the flash cup.

(i) Draft shield, consisting of two rectangular sheets of noncombustible material, 24 inches x 28 inches, are fastened together along the 28-inch side, preferably by hinges. A triangular sheet, 24 inches x 24 inches x 34 inches is fastened by hinges to one of the lateral sheets (to form a top when shield is open). The interior of the draft shield shall be painted a flat black.

PROCEDURE

4. (a) Place the tester on a solid table free of vibration, in a location free of perceptible draft, and in a dim light.

(b) Run water, brine, or water-glycol solution into the bath to a predetermined level, which will fill the bath to ⅛-inch below the top when the cup is in place. An overflow is permissible for water-level control.

(c) Firmly support the thermometer vertically halfway between the center and edge of the cup on a diameter at right angles to the guide wire, or on a diameter passing through the center of the cup and the pivot of the taper. Place so that the bottom of the bulb is ¼-inch from the inner bottom surface of the cup. If the old Tagliabue thermometer is used, immerse to well cover the mercury bulb, but not the wide body of the thermometer.

(d) Fill the glass cup with the sample liquid to a depth just ⅛-inch below the edge, as determined by the leveling device.

(e) Place the guide wire or swivel device in position, and set the draft shield around the tester so that the sides form right angles with each other and the tester is well toward the back of the shield.

(f) If a guide wire is used, the taper, when passed, should rest lightly on the wire, with the end of the jet burner just clear of the edge of the guide wire. If the swivel-type holder is used, the horizontal and vertical positions of the jet are so adjusted that the jet passes on the circumference of a circle, having a radius of at least 6 inches, across the center of the cup at right angles to the diameter passing through the thermometer, and in a plane ¼-inch above the upper edge of the cup. The taper should be kept in the "off" position, at one end or the other of the swing, except when the flame is applied.

(g) Light the ignition flame and adjust it to form a flame of spherical form matching in size the 5/32-inch sphere on the apparatus.

(h) Adjust heater source under bath so that the temperature of the sample increases at a rate of 2 ±0.5° F. per minute. With viscous materials this rate of heating cannot always be obtained.

INITIAL TEST

5. Determine an approximate flashpoint by passing the taper flame across the sample at intervals of 2° F. Each pass must be in one direction only. The time required to pass the ignition flame across the surface of the sample should be 1 second. Remove bubbles from the surface of the sample liquid before starting a determination. Meticulous attention to all details relating to the taper, size of taper flame, and rate of passing the taper is necessary for good results. When determining the flashpoint of viscous liquids and those liquids that tend to form a film of polymer, etc., on the surface, the surface film should be disturbed mechanically each time before the taper flame is passed.

RECORDED TESTS

6. Repeat the procedure by cooling a fresh portion of the sample, the glass cup, the bath solution, and the thermometer at least 20° F. below the approximate flashpoint. Resume heating, and pass the taper flame across the sample at two intervals of 5° F. and then at intervals of 2° F. until the flashpoint occurs.

REPORTING DATA

7. The average of not less than three recorded tests, other than the initial test, shall be used in determining the flashpoint and flammability of the substance.

STANDARDIZATION

8. (a) Make determinations in triplicate on the flashpoint of standard paraxylene and

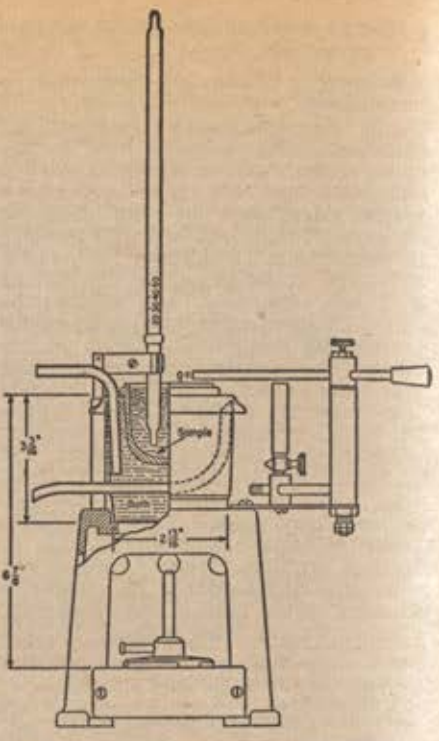


FIGURE 1—*Tag open-cup flash tester.*

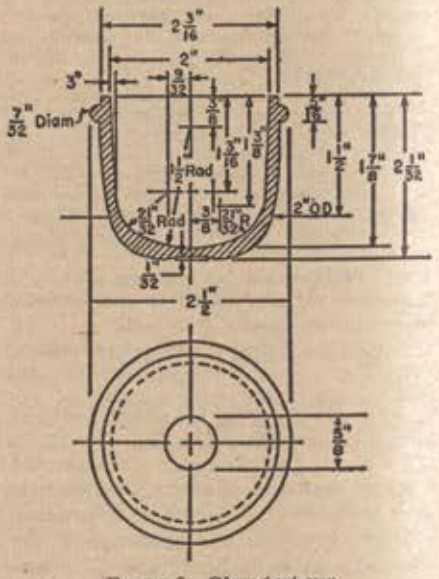


FIGURE 2—*Glass test cup.*

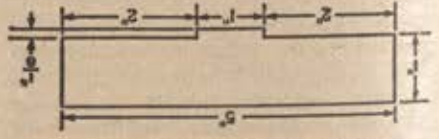


FIGURE 3—*Leveling device for adjusting liquid level in test cup.*

of standard isopropy alcohol which meet the following specifications:

(i) *Specifications for p-xylene, flashpoint check grade.* p-Xylene shall conform to the following requirements:

Specific gravity: 15.56° C./15.56° C., 0.860 minimum, 0.866 maximum.

Boiling range: 2° C. maximum from start to dry point when tested in accordance with the method of test for distillation of industrial aromatic hydrocarbons (ASTM designation: D 850), or the method of test for distillation range of lacquer solvents and diluents (ASTM designation: D 1078). The range shall include the boiling point of pure *p*-xylene, which is 138.35° C. (281.03° F.).

Purity: 95 percent minimum, calculated in accordance with the method of test for determination of purity from freezing points of high-purity compounds (ASTM designation: D 1016), from the experimentally determined freezing point, measured by the method of test for measurement of freezing points of high-purity compounds for evaluation of purity (ASTM designation: D 1015).

(ii) *Specifications for isopropanol, flashpoint check grade.* Isopropanol shall conform to the following requirements:

Specific gravity: 0.8175 to 0.8185 at 20° C./20° C. as determined by means of a calibrated pycnometer.

Distillation range: Shall entirely distill within a 1.0° C. range which shall include the temperature 80.4° C. as determined by ASTM method D 1078.

Average these values for each compound. If the difference between the values for these two compounds is less than 15° F. (8.5° C.) or more than 27° F. (16° C.), repeat the determinations or obtain fresh standards

(b) Calculate a correction factor as follows:

$$X = 92 - A$$
$$Y = 71 - B$$
$$\text{Correction} = \frac{X+Y}{2},$$

Where:

A = Observed flash of *p*-xylene, and
B = Observed flash of isopropyl alcohol.

Apply this correction of all determinations. Half units in correction shall be discarded.

PRECISION

9. (a) For hydrocarbon solvents having flashpoints between 60° F. and 110° F., repeatability is ±2° F. and the reproducibility is ±5° F.

(b) If results from two tests differ by more than 10° F., they shall be considered uncertain and should be checked. The calibration procedure provided in this method will cancel out the effect of barometric pressure if calibration and tests are run at the same pressure. Data supporting the precision are given in Appendix III of the 1956 Report of Committee D-1 on Paint, Varnish, Lacquers and Related Products, Proceedings, Am. Soc. Testing Mats., Vol. 56 (1956).

§ 1500.44 Method for determining extremely flammable and flammable solids.

(a) *Preparation of samples*—(1) *Granules, powders, and pastes.* Pack the sample into a flat, rectangular metal boat with inner dimensions 6 inches long x 1 inch wide x one-fourth inch deep.

(2) *Rigid and pliable solids.* Measure the dimensions of the sample and support it by means of metal ringstands, clamps, rings, or other suitable devices as needed, so that the major axis is oriented horizontally and the maximum surface is freely exposed to the atmosphere.

(b) *Procedure.* Place the prepared sample in a draft-free area that can be ventilated and cleared after each test. The temperature of the sample at the time of testing shall be between 68° F. and 86° F. Hold a burning paraffin candle whose diameter is at least 1 inch, so that the flame is in contact with the surface of the sample at the end of the major axis for 5 seconds or until the sample ignites, whichever is less. Remove the candle. By means of a stopwatch, determine the time of combustion with self-sustained flame. Do not exceed 60 seconds. Extinguish flame with a CO_2 or similar nondestructive type extinguisher. Measure the dimensions of the burnt area and calculate the rate of burning along the major axis of the sample.

§ 1500.45 Method for determining extremely flammable and flammable contents of self-pressurized containers.

(a) *Equipment required.* The test equipment consists of a base 8 inches wide, 2 feet long, marked in 6-inch intervals. A rule 2 feet long and marked in inches is supported horizontally on the side of the base and about 6 inches above it. A paraffin candle 1 inch or more in diameter, and of such height that the top third of the flame is at the height of the horizontal rule, is placed at the zero point in the base.

(b) *Procedure.* The test is conducted in a draft-free area that can be ventilated and cleared after each test. Place the self-pressurized container at a distance of 6 inches from the flame source. Spray for periods of 15 seconds to 20 seconds (one observer noting the extension of the flame and the other operating the container) through the top third of the flame and at a right angle to the flame. The height of the flame should be approximately 2 inches. Take three readings for each test, and average. As a precaution do not spray large quantities in a small, confined space. Free space of previously discharged material.

§ 1500.46 Method for determining flashpoint of extremely flammable contents of self-pressurized containers.

The apparatus used in the Tagliabue Open-Cup Flashpoint Apparatus as described in § 1500.43. Some means such as dry ice in an open container is used to chill the pressurized container. The container, the flash cup, and the bath solution of the apparatus (brine of glycol may be used) are chilled to a temperature of about 25° F. below zero. The chilled container is punctured to exhaust the propellant. The chilled formulation is transferred to the test apparatus and tested in accordance with the method described in § 1500.43.

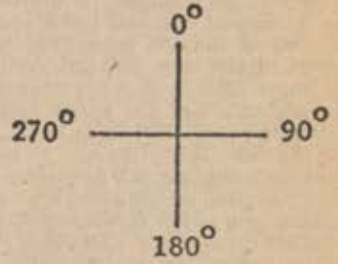
§ 1500.47 Method for determining the sound pressure level produced by toy caps.

(a) *Equipment required.* The equipment for the test includes a microphone, a preamplifier (if required), and an oscilloscope.

(1) The microphone-preamplifier system shall have a free-field response uniform to within ±2 decibels from 50 hertz to 70 kilohertz or beyond and a dynamic range covering the interval 70 to 160 decibels relative to 20 micronewtons per square meter. Depending on the model, the microphone shall be used at normal or at grazing incidence, whichever gives the most uniform free-field response. The microphone shall be calibrated both before and after the test of a model of cap. The calibration shall be accurate to within ±1 decibel. If the calibration is of the pressure type or of the pistonphone plus electrostatic actuator type, it shall be corrected to free-field conditions in accordance with the manufacturer's instructions.

(2) The oscilloscope shall be the storage type or one equipped with a camera. It shall have a response uniform to within ±1 decibel from 50 hertz to 250 kilohertz or higher. It shall be calibrated to within ±1 decibel against an external voltage source periodically during the tests.

(b) *Procedure.* (1) Use the type pistol that would ordinarily be used with the caps being tested. Place the pistol and testing equipment so that neither the pistol nor the microphone is closer than 1 meter from any wall, floor, ceiling, or other large obstruction. Locate the pistol and the microphone in the same horizontal plane with a distance of 25 centimeters between the diaphragm of the microphone and the position of the explosive. Measure the peak sound pressure level at each of the six designated orientations of the pistol with respect to the measuring microphone. The 0° orientation corresponds to the muzzle of the pistol pointing at the microphone. The 90°, 180°, and 270° orientations are measured in a clockwise direction when looking down on the pistol with its barrel horizontal, as illustrated by the following figure:



(2) The hammer and trigger orientations are obtained by rotating the pistol about the axis of the barrel, when the pistol is in the 90° or 270° orientation, so that the hammer and the trigger are each respectively closest to and in the same horizontal plane with the microphone.

(3) Fire 10 shots at each of the six orientations, obtaining readings on the oscilloscope of the maximum peak voltage for each shot. Average the results of the 10 firings for each of the six orientations.

(4) Using the orientation that yields the highest average value, convert the value to sound pressure levels in decibels relative to 20 micronewtons per square meter using the response to the calibrated measuring microphone.

§ 1500.81 Exemptions for food, drugs, cosmetics, and fuels.

(a) *Food, drugs, and cosmetics.* Substances subject to the Federal Food, Drug, and Cosmetic Act are exempted by section 2(f)(2) of the act; but where a food, drug, or cosmetic offers a substantial risk of injury or illness from any handling or use that is customary or usual it may be regarded as misbranded under the Federal Food, Drug, and Cosmetic Act because its label fails to reveal material facts with respect to consequences that may result from use of the article (21 U.S.C. 321(n)) when its label fails to bear information to alert the householder to this hazard.

(b) *Fuels.* A substance intended to be used as a fuel is exempt from the requirements of the act when in containers that are intended to be or are installed as part of the heating, cooling, or refrigeration system of a house. A portable container used for delivery or temporary or additional storage, and containing a substances that is a hazardous substance as defined in section 2(f) of the act, is not exempt from the labeling prescribed in section 2(p) of the act, even though it contains a fuel to be used in the heating, cooking, or refrigeration system of a house.

§ 1500.82 Exemption from full labeling and other requirements.

(a) Any person who believes a particular hazardous substance intended or packaged in a form suitable for use in the household or by children should be exempted from full label compliance otherwise applicable under the act, because of the size of the package or because of the minor hazard presented by the substance, or for other good and sufficient reason, may submit to the Commission a request for exemption under section 3(c) of the act, presenting facts in support of the view that full compliance is impracticable or is not necessary for the protection of the public health. The Commission shall determine on the basis of the facts submitted and all other available information whether the requested exemption is consistent with adequate protection of the public health and safety. If the Commission so finds, it shall detail the exemption granted and the reasons therefor by an appropriate order published in the FEDERAL REGISTER.

(b) The Commission may on its own initiative determine on the basis of facts available to it that a particular hazardous substance intended or packaged in a form suitable for use in the household or by children should be exempted from full labeling compliance otherwise applicable under the act because of the size of the package or because of the minor hazard presented by the substance or for other good and sufficient reason. If the Commission so finds, it shall detail the exemption granted and the reasons therefor by an appropriate order in the FEDERAL REGISTER.

(c) Any person who believes a particular article should be exempted from being classified as a "banned hazardous substance" as defined by section 2(q)(1)(A) of the act (repeated in § 1500.3(b)(15)(i)(A)), because its functional purpose requires inclusion of a hazardous substance, it bears labeling giving adequate directions and warnings for safe use, and it is intended for use by children who have attained sufficient maturity, and may reasonably be expected, to read and heed such directions and warnings, may submit to the Commission a request for exemption under section 2(q)(1)(B)(i) of the act (repeated in proviso (*1*) under § 1500.3(b)(15)(i)), presenting facts in support of his contention. The Commission shall determine on the basis of the facts submitted, and all other available information, whether the requested exemption is consistent with the purposes of the act. If the Commission so finds, it shall detail the exemption granted and the reasons therefor by an appropriate order in the FEDERAL REGISTER.

(d) On its own initiative, the Commission may determine on the basis of available facts that a particular banned hazardous substance should be exempted from section 2(q)(1)(A) of the act (repeated in § 1500.3(b)(15)(i)(A)), because its functional purpose requires inclusion of a hazardous substance, it bears labeling giving adequate directions and warnings for safe use, and it is intended for use by children who have obtained sufficient maturity, and may reasonably be expected, to read and heed such directions and warnings. It the Commission so finds, it shall detail the exemption granted and teh reasons therefor by an appropriate order in the FEDERAL REGISTER.

§ 1500.83 Exemptions for small packages, minor hazards, and special circumstances.

(a) The following exemptions are granted for the labeling of hazardous substances under the provisions of § 1500.82:

(1) When the sole hazard from a substance in a self-pressurized container is that it generates pressure or when the sole hazard from a substance is that it is flammable or extremely flammable, the name of the component which contributes the hazardous need not be stated.

(2) Common matches, including book matches, wooden matches, and so-called "safety" matches are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as they apply to the product being considered hazardous because of being "flammable" or "extremely flammable" as defined in § 1500.3(c)(6)(iii) and (iv).

(3) Paper items such as newspapers, wrapping papers, toilet and cleansing tissues, and paper writing supplies are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as they apply to the products being considered hazardous because of being "flammable" or "extremely flammable" as defined in § 1500.3(c)(6)(iii) and (iv).

(4) Thread, string, twine, rope, cord, and similar materials are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as they apply to the products being considered hazardous because of being "flammable" or "extremely flammable" as defined in § 1500.3(c)(6)(iii) and (iv).

(5) Laboratory chemicals intended only for research or investigational and other laboratory uses (except those in home chemistry sets) are exempt from the requirements of placement provided in § 1500.121 if all information required by that section and the act appears with the required prominence on the label panel adjacent to the main panel.

(6) Small-arms ammunition packaged in retail containers is exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) if such containers' labels bear the following:

(i) The common or usual name of the ammunition in the container;

(ii) The statement "Warning—Keep out of the reach of children," or its practical equivalent; and

(iii) The name and place of business of the manufacturer, packer, seller, or distributor.

The term "ammunition" as used in this subparagraph includes small-arms ammunition and loads for powder-actuated tools in a form ready for use in a pistol, revolver, rifle, shotgun, or powder-actuated tool, including blank cartridges and shells.

(7) Rigid or semirigid ballpoint ink cartridges are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), insofar as such requirements would be necessary because the ink contained therein is a "toxic" substance as defined in § 1500.3(c)(2)(i), if:

(i) The ballpoint ink cartridge is of such construction that the ink will, under any reasonably foreseeable conditions of manipulation or use, emerge only from the ballpoint end;

(ii) When tested by the method described in § 1500.3(c)(2)(i), the ink does not have an LD-50 single oral dose of less than 500 milligrams per kilogram of body weight of the test animal; and

(iii) The cartridge does not have a capacity of more than 2 grams of ink.

(8) Containers of paste shoe waxes, paste auto waxes, and paste furniture and floor waxes containing toluene (also known as toluol), xylene (also known as xylol), petroleum distillates, and/or turpentine in the concentrations described in § 1500.14(a)(3) and (5) are exempt from the labeling requirements of § 1500.14(b)(3)(ii) and (5) if the vis-

cosity of such products is sufficiently high so that they will not flow from their opened containers when inverted for 5 minutes at a temperature of 80° F., and are exempt from bearing a flammability warning statement if the flammability of such waxes is due solely to the presence of solvents that have flashpoints above 80° F. when tested by the method described in § 1500.43.

(9) Porous-tip ink-marking devices are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and from the labeling requirements of § 1500.14(b)(1), (2), and (3)(ii) and (iii) insofar as such requirements would be necessary because the ink contained therein is a toxic substance as defined in § 1500.3(c)(2)(i), and/or because the ink contains 10 percent or more by weight of toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates as defined in § 1500.14(a)(3), and/or because the ink contains 10 percent or more by weight of ethylene glycol; provided that:

(i) The porous-tip ink-marking devices are of such construction that:

(A) The ink is held within the device by an absorbent material so that no free liquid is within the device; and

(B) Under any reasonably foreseeable conditions of manipulation and use, including reasonably foreseeable abuse by children, the ink will emerge only through the porous writing nib of the device; and

(ii)(A) The device has a capacity of not more than 10 grams of ink and the ink, when tested by methods described in § 1500.3(c)(2)(i), has an LD–50 single oral dose of not less than 2.5 grams per kilogram of body weight of the test animal; or

(B) The device has a capacity of not more than 12 grams of ink and the ink, when tested by methods described in § 1500.3(c)(2)(i), has an LD–50 single oral dose of not less than 3.0 grams per kilogram of body weight of the test animal.

(10) Viscous nitrocellulose-base adhesives containing more than 4 percent methyl alcohol by weight are exempt from the label statement "Cannot be be made nonpoisonous" required by § 1500.14(b)(4) if:

(i) The total amount of methyl alcohol by weight in the product does not exceed 15 percent; and

(ii) The contents of any container does not exceed 2 fluid ounces.

(11) Packages containing polishing or cleaning products which consist of a carrier of solid particulate or fibrous composition and which contain toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates in the concentrations described in § 1500.14(a)(1) and (2) are exempt from the labeling requirements of § 1500.14(b)(3)(ii) if such toluene, xylene, or petroleum distillate is fully absorbed by the solid, semisolid, or fibrous carrier and cannot be expressed therefrom with any reasonably foreseeable conditions of manipulation.

(12) Containers of dry ink intended to be used as a liquid ink after the addition of water are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and from the labeling requirements of § 1500.14(b)(1) and (2) insofar as such requirements would be necessary because the dried ink contained therein is a toxic substance as defined in § 1500.3(c)(2)(i) and/or because the ink contains 10 percent or more of ethylene glycol as defined in § 1500.14(a)(2); provided that:

(i) When tested by the method described in § 15C0.3(c)(2)(i), the dry ink concentrate does not have an LD–50 (lethal dose, median; lethal for 50 percent or more of test group) single oral dose of less than 1 gram per kilogram of body weight of the test animal.

(ii) The dry ink concentrate enclosed in a single container does not weigh more than 75 milligrams.

(iii) The dry ink concentrate does not contain over 15 percent by weight of ethylene glycol.

(13) Containers of liquid and semisolid substances such as viscous-type paints, varnishes, lacquers, roof coatings, rubber vulcanizing preparations, floor covering adhesives, glazing compounds, and other viscous products containing toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates in concentrations described in § 1500.14(a)(3) are exempt from the labeling requirements of § 1500.14(b)(3)(ii) insofar as that subdivision applies to such toluene, xylene, or petroleum distillates, provided that the viscosity of the substance or of any liquid that may separate or be present in the container is not less than 100 Saybolt universal seconds at 100° F.

(14) Customer-owned portable containers that are filled by retail vendors with gasoline, kerosene (kerosine), or other petroleum distillates are exempt from the provision of section 2(p)(1)(A) of the act (which requires that the name and place of business of the manufacturer, distributor, packer, or seller appear on the label of such containers) provided that all the other label statements required by section 2(p)(1) of the act and §1500.14(b)(3) appear on the labels of containers of the substances named in this subparagraph.

(15) Cellulose sponges are exempt from the labeling requirements of section 2(p)(1) of the act and § 1500.14(b)(1) insofar as such requirements would be necessary because they contain 10 percent or more of diethylene glycol as defined in § 1500.14(a)(1), provided that:

(i) The cellulose sponge does not contain over 15 percent by weight of diethylene glycol; and

(ii) The diethylene glycol content is completely held by the absorbent cellulose material so that no free liquid is within the sponge as marketed.

(16) Containers of substances which include salt (sodium chloride) as a component are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as such requirements would be necessary because the salt contained therein is present in a quantity sufficient to render the article "toxic" as defined in § 1500.3(3)(2)(i), provided that the labels of such containers bear a conspicuous statement that the product contains salt.

(17) The labeling of substances containing 10 percent or more of ferrous oxalate is exempt from the requirement of § 1500.129(f) that it bear the word "poison" which would be required for such concentration of a salt of oxalic acid.

(18) Packages containing articles intended as single-use spot removers, and which consist of a cotton pad or other absorbent material saturated with a mixture of drycleaning solvents, are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as they apply to the "flammable" hazard as defined in § 1500.3(c)(6)(iv), provided that:

(i) The article is packaged in a sealed foil envelope;

(ii) The total amount of solvent in each package does not exceed 4.5 milliliters; and

(iii) The article will ignite only when in contact with an open flame, and when so ignited, the article burns with a sooty flame.

(19) Packages containing articles intended as single-use spot removers, and which consist of a cotton pad or other absorbent material containing methyl alcohol, are exempt from the labeling requirements of § 1500.14(b)(4), if:

(i) The total amount of cleaning solvent in each package does not exceed 4.5 milliliters of which not more than 25 percent is methyl alcohol; and

(ii) The liquid is completely held by the absorbent materials so that no free liquid is within the packages marketed.

(20) Cigarette lighters containing petroleum distillate fuel are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and § 1500.14(b)(3) insofar as such requirements would be necessary because the petroleum distillate contained therein is flammable and because the substance is named in § 1500.14(a)(3) as requiring special labeling, provided that:

(i) Such lighters contain not more than 10 cubic centimeters of fuel at the time of sale; and

(ii) Such fuel is contained in a sealed compartment that cannot be opened without the deliberate removal of the flush-set, screw-type refill plug of the lighter.

(21) Containers of dry granular fertilizers and dry granular plant foods are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as such requirements would be necessary because the fertilizer or plant food contained therein is a toxic substance as defined in § 1500.3(c)(2)(i), provided that:

(i) When tested by the method described in § 1500.3(c)(2)(i), the product has a single dose LD–50 of not less than

3.0 grams per kilogram of body weight of the test animal;

(ii) The label of any such exempt dry granular fertilizers discloses the identity of each of the hazardous ingredients;

(iii) The label bears the name and address of the manufacturer, packer, distributor, or seller; and

(iv) The label bears the statement "Keep out of the reach of children" or its practical equivalent.

(22) Small plastic capsules containing a paste composed of powdered metal solder mixed with a liquid flux are exempt from the requirements of section 2(p)(1) of the act (repeated in § 1500.3–(b)(14)(i)), if:

(i) The capsule holds not more than one-half milliliter of the solder mixture;

(ii) The capsule is sold only as a component of a kit; and

(iii) Adequate caution statements appear on the carton of the kit and on any accompanying labeling which bears directions for use.

(23) Chemistry sets and other science education sets intended primarily for use by juveniles, and replacement containers of chemicals for such sets, are exempt from the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), if:

(i) The immediate container of each chemical that is hazardous as defined in the act and regulations thereunder bears on its main panel the name of such chemical, the appropriate signal word for that chemical, and the additional statement "Read back panel before using" (or "Read side panel before using," if appropriate) and bears on the back (or side) panel of the immediate container the remainder of the appropriate cautionary statement for the specific chemical in the container;

(ii) The experiment manual or other instruction book or booklet accompanying such set bears on the front page thereof, as a preface to any written matter in it (or on the cover, if any there be), the following caution statement within the borders of a rectangle and in the type size specified in § 1500.121:

> WARNING—This set contains chemicals that may be harmful if misused. Read cautions on individual containers carefully. Not to be used by children except under adult supervision.

; and

(iii) The outer carton of such set bears on the main display panel within the borders of a rectangle, and in the type size specified in § 1500.121, the caution statement specified in paragraph (a)(23)(ii) of this section.

(24) Fire extinguishers containing fire extinguishing agents which are stored under pressure or which develop pressure under normal conditions of use are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as such requirements apply to the pressure hazard as defined in § 1500.3(c)(7)(i), provided that:

(i) If the container is under pressure both during storage and under conditions of use, it shall be designed to withstand a pressure of at least 6 times the charging pressure at 70° F., except that carbon dioxide extinguishers shall be constructed and tested in accordance with applicable Interstate Commerce Commission specifications; or

(ii) If the container is under pressure only during conditions of use, it shall be designed to withstand a pressure of not less than 5 times the maximum pressure developed under closed nozzle conditions at 70° F. or 1½ times the maximum pressure developed under closed nozzle conditions at 120° F., whichever is greater.

(25) Cleaning and spot removing kits intended for use in cleaning carpets, furniture, and other household objects; kits intended for use in coating, painting, antiquing, and similarly processing furniture, furnishings, equipment, sidings, and various other surfaces; and kits intended for use in photographic color processing are exempt from the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and from the requirements of § 1500.14, provided that:

(i) The immediate container of each hazardous substance in the kit is fully labeled and in conformance with the requirements of the act and regulations thereunder; and

(ii) The carton of the kit bears on the main display panel (or panels) within a borderline, and in the type size specified in § 1500.121, the caution statement "(Insert proper signal word as specified in paragraph (a)(25)(iii) of this section). This kit contains the following chemicals that may be harmful if misused: (List hazardous chemical components by name.) Read cautions on individual containers carefully. Keep out of the reach of children."

(iii) If either the word "POISON" or "DANGER" is required on the container of any component of the kit, the same word shall be required to appear as part of the caution statement on the kit carton. If both "POISON" and "DANGER" are required in the labeling of any component or components in the kit, the word "POISON" shall be used. In all other cases the word "WARNING" or "CAUTION" shall be used.

(26) Packages containing articles intended as single-use spot removers and containing methyl alcohol are exempt from the labeling specified in § 1500.14(b)(4), if:

(i) The total amount of cleaning solvent in each unit does not exceed 1 milliliter, of which not more than 40 percent is methyl alcohol;

(ii) The liquid is contained in a sealed glass ampoule enclosed in a plastic container with a firmly attached absorbent wick at one end through which the liquid from the crushed ampoule must pass, under the contemplated conditions of use; and

(iii) The labeling of each package of the cleaner bears the statement "WARNING—Keep out of the reach of children," or its practical equivalent, and the name and place of business of the manufacturer, packer, distributor, or seller.

(27) Packaged fireworks assortments intended for retail distribution are exempt from section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), if:

(i) The package contains only fireworks devices suitable for use by the public and designed primarily to produce visible effects by combustion, except that small devices designed to produce audible effects may also be included if the audible effect is produced by a charge of not more than 2 grains of pyrotechnic composition;

(ii) Each individual article in the assortment is fully labeled and in conformance with the requirements of the act and regulations thereunder; and

(iii) The outer package bears on the main display panel (or panels), within the borders of a rectangle and in the type size specified in § 1500.121, the caution statement "WARNING—This assortment contains items that may be hazardous if misused and should be used only under adult supervision. IMPORTANT—Read cautions on individual items carefully."

(28) Packages containing felt pads impregnated with ethylene glycol are exempt from the labeling requirements of § 1500.14(b)(1), if:

(i) The total amount of ethylene glycol in each pad does not exceed 1 gram; and

(ii) The liquid is held by the felt pad so that no free ethylene glycol is within the package.

(29) Cigarette lighters containing butane and/or isobutane fuel are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as such requirements would otherwise be necessary because the fuel therein is extremely flammable and under pressure, provided that:

(i) The lighters contain not more than 12 grams of fuel at the time of sale; and

(ii) The fuel reservoir is designed to withstand a pressure of at least 1½ times the maximum pressure which will be developed in the container at 120° F.

(30) The outer retail containers of solder kits each consisting of a small tube of flux partially surrounded by a winding of wire-type cadmium-free silver solder are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), if:

(i) The metal solder contains no cadmium and is not otherwise hazardous under the provisions of the act;

(ii) The tube of flux in the kit is fully labeled and in conformance with the act and regulations thereunder, and any accompanying literature that bears directions for use also bears all the information required by section 2(p) of the act; and

(iii) The main panel of the outer container bears in type size specified in § 1500.121 the following: (A) the signal word; (B) a statement of principal hazard or hazards; (C) the statement "Keep out of the reach of children," or its practical equivalent; and (D) instructions

to read other cautionary instructions on the tube of flux within.

(31) Visual novelty devices consisting of sealed units, each of which unit is a steel and glass cell containing perchloroethylene (among other things), are exempt from the requirements of § 1500.121(a) that would otherwise require a portion of the warning statement to appear on the glass face of the device, provided that:

(i) The device contains not more than 105 milliliters of perchloroethylene and contains no other component that contributes substantially to the hazard; and

(ii) The following cautionary statement appears on the device (other than on the bottom) in the type size specified in § 1500.121 (c) and (d):

CAUTION—IF BROKEN, RESULTANT VAPORS MAY BE HARMFUL

Contains perchloroethylene. Do not expose to extreme heat. If broken indoors, open windows and doors until all odor of chemical is gone.

Keep out of the reach of children.

A practical equivalent may be substituted for the statement "Keep out of the reach of children."

(32) Hollow plastic toys containing mineral oil are exempt from the labeling specified in § 1500.14(b)(3)(ii), if:

(i) The article contains no other ingredient that would cause it to possess the aspiration hazard specified in § 1500.14(b)(3)(ii);

(ii) The article contains not more than 6 fluid ounces of mineral oil;

(iii) The mineral oil has a viscosity of at least 70 Saybolt universal seconds at 100° F.;

(iv) The mineral oil meets the specifications in the N.F. for light liquid petrolatum; and

(v) The container bears the statement "CAUTION—Contains light liquid petrolatum N.F. Discard if broken or leak develops."

(33) Containers of mineral oil having a capacity of not more than 1 fluid ounce and intended for use in producing a smoke effect for toy trains are exempt from the labeling specified in § 1500.14–(b)(3)(ii), if:

(i) The mineral oil meets the specifications in the N.F. for light liquid petrolatum;

(ii) The mineral oil has a viscosity of at least 130 Saybolt universal seconds at 100° F.;

(iii) The article contains no other ingredient that contributes to the hazard; and

(iv) The label declares the presence light liquid petrolatum and the name and place of business of the manufacturer, packer, distributor, or seller.

(34) Viscous products containing more than 4 percent by weight of methyl alcohol, such as adhesives, asphalt-base roof and tank coatings, and similar products, are exempt from bearing the special labeling required by § 1500.14(b)(3)(ii), if:

(i) The product contains not more than 15 percent by weight of methyl alcohol;

(ii) The methyl alcohol does not separate from the other ingredients upon standing or through any foreseeable use or manipulation;

(iii) The viscosity of the product is not less than 7,000 centipoises at 77° F., unless the product is packaged in a pressurized container and is dispensed as a liquid unsuitable for drinking; and

(iv) The labeling bears the statement "Contains methyl alcohol. Use only in well-ventilated area. Keep out of the reach of children."

(35) Individual blasting caps are exempt from bearing the statement "Keep out of the reach of children," or its practical equivalent, if:

(i) Each cap bears conspicuously in the largest type size practicable the statement "DANGEROUS—BLASTING CAPS—EXPLOSIVE"; and

(ii) The outer carton and any accompanying printed matter bear appropriate, complete cautionary labeling.

(36) Individual toy rocket propellant devices and separate delay train and/or recovery system activation devices intended for use with premanufactured model rocket engines are exempt from bearing the full labeling required by section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as such requirements would be necessary because the articles are flammable or generate pressure, provided that:

(i) The devices are designed and constructed in accordance with the specifications in § 1500.85(a) (8) or (9);

(ii) Each individual device or retail package of devices bears the following:

(A) The statement "WARNING—FLAMMABLE: Read instructions before use";

(B) The common or usual name of the article;

(C) A statement of the type of engine and use classification;

(D) Instructions for safe disposal; and

(E) Name and place of business of manufacturer or distributor; and

(iii) Each individual rocket engine or retail package of rocket engines distributed to users is accompanied by an instruction sheet bearing complete cautionary labeling and instructions for safe use and handling of the individual rocket engines.

§ 1500.84 Exemption for unlabeled containers.

(a) Except as provided by paragraphs (b) and (c) of this section, a shipment or other delivery of a hazardous substance that, in accordance with the practice of the trade, is to be labeled in substantial quantity at an establishment other than that where originally manufactured or packed shall be exempt during the time of introduction into and movement in interstate commerce and during the time of holding in that establishment from compliance with the labeling requirements of section 2(p) of the act (repeated in § 1500.3(b)(14)) if:

(1) The person who introduced the shipment or delivery into interstate commerce is the operator of the establishment or delivery into interstate is to be received and labeled; or

(2) The person who introduced the shipment or delivery is not the operator, and the shipment or delivery is made to the establishment under a written agreement, signed by and containing the post office address of the person and the operator, and containing whatever specifications for the labeling of the hazardous substance that are necessary to insure, if such specifications are followed, that the hazardous substance will not be misbranded within the meaning of the act upon completion of the labeling. The person and the operator shall each keep a copy of the agreement until 2 years after the final shipment or delivery under the agreement has been completed and shall make copies of the agreement available for inspection upon request of any properly authorized officer or employee of the Commission.

(b) An exemption of a shipment or delivery of a hazardous substance under paragraph (a)(1) of this section shall, at the beginning of the act of removing the shipment or delivery or any part thereof from the establishment, become void ab initio if the hazardous substance comprising the shipment, delivery, or part is misbranded within the meaning of the act when so removed.

(c) An exemption of a shipment or delivery of a hazardous substance under paragraph (a)(2) of this section shall become void ab initio with respect to the person who introduced the shipment or delivery into interstate commerce upon refusal by that person to make available for inspection a copy of the agreement as required by paragraph (a)(2) of this section.

(d) An exemption of a shipment or other delivery of a hazardous substance under paragraph (a)(2) of this section shall expire:

(1) At the beginning of the act of removing the shipment or delivery, or any part thereof, from the establishment if the hazardous substance comprising the shipment, delivery, or part is misbranded within the meaning of the act when so removed; or

(2) Upon refusal by the operator of the establishment where the hazardous substance is to be labeled, to make available for inspection a copy of the agreement required by paragraph (a)(2) of this section.

§ 1500.85 Exemptions from classification as banned hazardous substances.

(a) The term "banned hazardous substances" as used in section 2(q)(1)(A) of the act shall not apply to the following articles provided that these articles bear labeling giving adequate directions and warnings for safe use:

(1) Chemistry sets and other science education sets intended primarily for juveniles, and replacement components for such sets, when labeled in accordance with § 1500.83(a)(23).

(2) Common fireworks devices suitable for use by the public (such as toy paper caps, cone fountains, cylinder fountains, whistles without report, and sparklers, but not including fireworks devices that may be confused with candy or other food, such as "dragon eggs" and

"crackerballs," also known as "ball-type caps"), if such devices are:

(i) Designed to produce only visible effects by combustion; or are

(ii) Designed to produce audible effects, if the audible effect is produced by a charge of not more than 2 grains of pyrotechnic composition.

(3) [Reserved]

(4) Educational materials such as art materials, preserved biological specimens, laboratory chemicals, and other articles intended and used for educational purposes.

(5) Liquid fuels containing more than 4 percent by weight of methyl alcohol that are intended and used for operation of miniature engines for model airplanes, boats, cars, etc.

(6) Novelties consisting of a mixture of polyvinyl acetate, U.S. Certified Colors, and not more than 25 percent by weight of acetone, and intended for blowing plastic balloons.

(7) Games containing, as the sole hazardous component, a self-pressurized container of soap solution or similar foam-generating mixture provided that the foam-generating component has no hazards other than being in a self-pressurized container.

(8) Model rocket propellant devices designed for use in light-weight, recoverable, and reflyable model rockets, provided such devices:

(i) Are designed to be ignited by eletrical means.

(ii) Contain no more than 62.5 grams (2.2 ounces) of propellant material and produce less than 80 newton-seconds (17.92 pound seconds) of total impulse with thrust duration not less than 0.050 second.

(iii) Are constructed such that all the chemical ingredients are preloaded into a cylindrical paper or similarly constructed nonmetallic tube that will not fragment into sharp, hard pieces.

(iv) Are designed so that they will not burst under normal conditions of use, are incapable of spontaneous ignition, and do not contain any type of explosive or pyrotechnic warhead other than a small parachute or recovery-system activation charge.

(9) Separate delay train and/or recovery system activation devices intended for use with premanufactured model rocket engines wherein all of the chemical ingredients are preloaded so the user does not handle any chemical ingredient and are so designed that the main casing or container does not rupture during operation.

(10) Solid fuel pellets intended for use in miniature jet engines for propelling model jet airplanes, speed boats, racing cars, and similar models, provided such solid fuel pellets:

(i) Weigh not more than 11.5 grams each.

(ii) Are coated with a protective resinous film.

(iii) Contain not more than 35 percent potassium dichromate.

(iv) Produce a maximum thrust of not more than 7½ ounces when used as directed.

(v) Burn not longer than 12 seconds each when used as directed.

(11) Fuses intended for igniting fuel pellets exempt under subparagraph (10) of this paragraph.

(12) Kits intended for construction of model rockets and jet propelled model airplanes requiring the use of difluorodichloromethane as a propellant, provided the outer carton bears on the main panel in conspicuous type size the statement "WARNING—Carefully read instructions and cautions before use."

(13) Flammable wire materials intended for electro-mechanical actuation and release devices for model kits described in subparagraph (12) of this paragraph, provided each wire does not exceed 15 milligrams in weight.

§ 1500.86 Exemptions from classification as a banned toy or other banned article for use by children.

(a) The term "banned hazardous substance" as used in section 2(q)(1)(A) of the act (repeated in § 1500.3(b)(15)(i)(A)) of the act shall not apply to the following articles:

(1) Toy rattles described in § 1500.18(a)(1) in which the rigid wires, sharp protrusions, or loose small objects are internal and provided that such rattles are constructed so that they will not break or deform to expose or release the contents either in normal use or when subjected to reasonably foreseeable damage or abuse.

(2) Dolls and stuffed animals and other similar toys described in § 1500.18(a)(3) in which the components that have the potential for causing laceration, puncture wound injury, or other similar injury are internal, provided such dolls, stuffed animals, and other similar toys are constructed so that they will not break or deform to expose such components either in normal use or when subjected to reasonably foreseeable damage or abuse.

(3) Lawn darts and similar sharp-pointed articles not intended for toy use and marketed solely as a game of skill for adults, provided such articles:

(i) Bear the following statement on the front of the panel of the carton and on any accompanying literature:

> WARNING: Not a toy for use by children. May cause serious or fatal injury. Read instructions carefully. Keep out of reach of children.

Such statement shall be printed in sharply contrasting color within a borderline and in letters at least one-quarter inch high on the main panel of the container and at least one-eighth inch high on all accompanying literature.

(ii) Include in the instructions and rules clear and adequate directions and warnings for safe use including a warning against use when any person or animal is in the vicinity of the intended plan or target area.

(iii) Are not sold by toy stores or store departments dealing predominantly in toys and other children's articles.

(4) Any article known as a "baby-bouncer," "walker-jumper," or "baby-walker" and any other similar article (referred to in this subparagraph as "article(s)") described in § 1500.18(a)(6) provided:

(i) The frames are designed and constructed in a manner to prevent injury from any scissoring, shearing, or pinching when the members of the frame or other components rotate about a common axis or fastening point or otherwise move relative to one another; and

(ii) Any coil springs which expand when the article is subjected to a force that will extend the spring to its maximum distance so that a space between successive coils is greater than one-eighth inch (0.125 inch) are covered or otherwise designed to prevent injuries; and

(iii) All holes larger than one-eighth inch (0.125 inch) in diameter and slots, cracks, or hinged components in any portion of the article through which a child could insert, in whole or in part, a finger, toe, or any other part of the anatomy are guarded or otherwise designed to prevent injuries; and

(iv) the articles are designed and constructed to prevent accidental collapse while in use; and

(v) The articles are designed and constructed in a manner that eliminates from any portion of the article the possibility of presenting a mechanical hazard through pinching, bruising, lacerating, crushing, breaking, amputating, or otherwise injuring portions of the human body when in normal use or when subjected to reasonably foreseeable damage or abuse; and

(vi) Any article which is introduced into interstate commerce after the effective date of this subparagraph is labeled:

(A) With a conspicuous statement of the name and address of the manufacturer, packer, distributor, or seller; and

(B) With a code mark on the article itself and on the package containing the article or on the shipping container, in addition to the invoice(s) or shipping document(s), which code mark will permit future identification by the manufacturer of any given model (the manufacturer shall change the model number whenever the article undergoes a significant structural or design modification); and

(vii) The manufacturer or importer of the article shall make, keep, and maintain for 3 years records of sale, distribution, and results of inspections and tests conducted in accordance with this subparagraph and shall make such records available at all reasonable hours upon request by ny officer or employee of the Consumer Product Safety Commission and shall permit such officer or employee to inspect and copy such records, to make such stock inventories as he deems necessary, and to otherwise check the correctness of such records.

(5) Clacker balls described in § 1500.18(a)(7) that have been designed, manufactured, assembled, labeled, and tested in accordance with the following requirements, and when tested at the point of

production or while in interstate commerce or while held for sale after shipment in interstate commerce do not exceed the failure rate requirements of the table in paragraph (a)(5)(vi) of this section:

(i) The toy shall be so designed and fabricated that:

(A) Each ball: Weighs less than 50 grams; will not shatter, crack, or chip; is free of cracks, flash (ridges due to imperfect molding), and crazing (tiny surface cracks); and is free of rough or sharp edges around any hole where the cord enters or over any surface with which the cord may make contact. Each ball is free of internal voids (holes, cavities, or air bubbles) if the balls are made of materials other than those materials (such as ABS (acrylonitrile butadiene styrene), nylon, and high-impact polystyrene) that are injection-molded and possess high-impact characteristics.

(B) The cord: Is of high tensile strength, synthetic fibers that are braided or woven, having a breaking strength in excess of 100 pounds; is free of fraying or any other defect that might tend to reduce its strength in use; is not molded in balls made of casting resins which tend to wick up or run up on the outside of the cord; and is affixed to a ball at the center of the horizontal plane of the ball when it is suspended by the cord.

(C) When the cord is attached to the ball by means of a knot, the end beneath the knot is chemically fused or otherwise treated to prevent the knot from slipping out or untying in use.

(ii) The toy shall be tested at the time of production:

(A) By using the sampling procedure described in the table in subdivision (vi) of this subparagraph to determine the number of units to be tested.

(B) By subjecting each ball tested to 10 drops of a 5-pound steel impact rod or weight (2¼-inch diameter with a flat head) dropped 48 inches in a vented steel or aluminum tube (2⅜-inch inside diameter) when the ball is placed on a steel or cast iron mount. Any ball showing any chipping, cracking, or shattering shall be counted as a failure within the meaning of the third column of the table in paragraph (a)(5)(vi) of this section.

(C) By inspecting each ball tested for smoothness of finish on any surface of the ball which may come in contact with the cord during use. A cotton swab shall be rubbed vigorously over each such surface or area of the ball; if any cotton fibers are removed, the ball shall be counted as a failure within the meaning of the fourth column of the table in subdivision (vi) of this subparagraph. The toy shall also be checked to ascertain that there is no visibly perceptible "wicking up" or "running up" of the casting resins on the outside of the cord in the vicinity where the ball is attached.

(D) By fully assembling the toy and testing the cord in such a manner as to test both the strength of the cord and the adequacy with which the cord is attached to the ball and any holding device such as a tab or ring included in the assembly. The fully assembled article shall be vertically suspended by one ball and a 100-pound test applied to the bottom ball. Any breaking, fraying, or unraveling of the cord or any sign of slipping, loosening, or unfastening shall be counted as a failure within the meaning of the fourth column of the table in paragraph (a)(5)(vi) of this section.

(E) By additionally subjecting any ring or other holding device to a 50-pound test load applied to both cords; the holding device is to be securely fixed horizontally in a suitable clamp in such a manner as to support 50 percent of the area of such holding device and the balls are suspended freely. Any breaking, cracking, or crazing of the ring or other holding device shall be counted as a failure within the meaning of the fourth column of the table in paragraph (a)(5)(vi) of this section.

(F) By cutting each ball tested in half and then cutting each half perpendicularly to the first cut into three or more pieces of approximately equal thickness. Each portion is to be inspected before and after cutting, and any ball showing any flash, crack, crazing, or internal voids on such inspection is to be counted as a failure within the meaning of the fourth column of the table in paragraph (a)(5)(vi) of this section. Balls that are injection-molded and possess high-impact characteristics (such as injection-molded balls made of ABS, nylon, or high-impact polystyrene) though exempt from the requirements that there be no internal voids, must be tested to determine the presence of any flash, crack or grazing. A transparent ball shall be subjected to the same requirements except that it may be visually inspected without cutting.

(iii) The toy shall be fully assembled for use at time of sale, including the proper attachments of balls, cords, knots, loops, or other holding devices.

(iv) The toy shall be labeled:

(A) With a conspicuous statement of the name and address of the manufacturer, packer, distributor, or seller.

(B) To bear on the toy itself and/or the package containing the toy and/or the shipping container, in addition to the invoice(s) and shipping document(s), a code or mark in a form and manner that will permit future identification of any given batch, lot, or shipment by the manufacturer.

(C) To bear a conspicuous warning statement on the main panel of the retail container and display carton and on any accompanying literature: That if cracks develop in a ball or if the cord becomes frayed or loose or unfastened, use of the toy should be discontinued; and if a ring or loop or other holding device is present, the statement "In use, the ring or loop must be placed around the middle finger and the two cords positioned over the forefinger and held securely between the thumb and forefinger," or words to that effect which will provide adequate instructions and warnings to prevent the holding device from accidentally slipping out of the hand. Such statements shall be printed in sharply contrasting color within a borderline and in letters at least one-quarter inch high on the main panel of the container and at least one-eighth inch high on all accompanying literature.

(v) The manufacturer of the toy shall make, keep, and maintain for 3 years records of sale, distribution, and results of inspections and tests conducted in accordance with this subparagraph and shall make such records available upon request at all reasonable hours by any officer or employee of the Consumer Product Safety Commission, and shall permit such officer or employee to inspect and copy such records and to make such inventories of stock as he deems necessary and otherwise to check the correctness of such records.

(vi) The lot size, sample size, and failure rate for testing clacker balls are as follows:

Number of units in batch, shipment, delivery, lot, or rental stock	Number of units in random sample	Failure rate constituting rejection when testing per § 1500.86(a)(5)(ii)(B)	Failure rate constituting rejection when testing per §1500.86(a)(5)(ii)(C), (D), (E), and (F)
50 or less	8	1	1
51 to 90	13	1	1
91 to 150	20	1	1
151 to 280	32	1	2
281 to 500	50	1	2
501 to 1,200	80	2	4
1,201 to 3,200	125	2	6
3,201 to 10,000	200	3	10
10,001 to 35,000	315	4	16
35,001 to 150,000	500	6	25
150,001 to 500,000	800	8	40
500,001 and over	1,250	11	62

(vii) Applicability of the exemption provided by this subparagraph shall be determined through use of the table in paragraph (a)(5)(vi) of this section. A random sample of the number of articles as specified in the second column of the table shall be selected according to the number of articles in a particular batch, shipment, delivery, lot, or retail stock per the first column. A failure rate as shown in either the third or fourth column shall indicate that the entire batch, shipment, delivery, lot, or retail stock has failed and thus is not exempted under this subparagraph from classification as a banned hazardous substance.

(6) Caps (paper or plastic) described in § 1500.18(a)(5), provided:

(i) Such articles do not produce peak sound pressure levels greater than 158 decibels when tested in accordance with § 1500.47, and provided any such articles producing peak sound pressure levels greater than 138 decibels but not greater than 158 decibels when tested in accord-

ance with § 1500.47 shall bear the following statement on the carton and in the accompanying literature in accordance with § 1500.121: "WARNING—Do not fire closer than 1 foot to the ear. Do not use indoors."

(ii) Any person who elects to distribute toy caps in accordance with paragraph (a)(6)(i) of this section shall promptly notify the Consumer Product Safety Commission, Bureau of Compliance, Washington, D.C. 20207, of their intention and shall conduct or participate in a program to develop caps that produce a sound pressure level of not more than 138 decibels when tested in accordance with § 1500.47.

(iii) Any person who elects to distribute caps in accordance with paragraph (a)(6)(i) of this section shall, after notification of his intentions to the Commission in accordance with paragraph (a)(6)(ii) of this section, submit to the Consumer Product Safety Commission, Bureau of Compliance, Washington, D.C. 20207, a progress report not less frequently than once every 3 months concerning the status of his program to develop caps that produce a sound level of not more than 138 decibels when tested in accordance with § 1500.47.

§ 1500.121 Labeling requirements: placement, conspicuousness, and contrast.

(a) The signal word, the statement of the principal hazard or hazards, and instructions to read carefully any cautionary information that may be placed elsewhere on the label shall appear together on the main panel of the label. Such information shall be placed together and distinctively apart from other wording or designs. The necessary prominence shall be achieved by placement within the borders of a square or rectangle with or without a borderline, and by use of suitable contrasts with the background achieved by distinctive typography or color, and by both color and typography when needed.

(b) If the product is "highly toxic" as defined in § 1500.3(c)(1), the labeling shall also include in conjunction with the word "poison" the skull and crossbones symbol. The word "poison" is not considered a signal word as that term is used in paragraph (a) of this section or when required by § 1500.14.

(c) The signal word and statement of hazard shall be in capital letters. The signal word (and the word "poison" if required) shall be of a size bearing a reasonable relationship to the other type on the main panel, but shall not be less than 18 point type, and the size of the statement of hazard shall not be less than 12 point type, unless the label space on the container is too small to accommodate such type size. When the size of the label space requires a reduction in type size, the reduction shall be made to a size no smaller than necessary and in no event to a size smaller than 6 point type.

(d) All the items of label information required by section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), or by regulations prescribing additional information under section 3(b) of the act, may appear on the main panel; but if they do not, all such items not required by paragraph (a) of this section to appear on the main panel shall be placed together in a distinctive place elsewhere on the label with adequate contrast achieved by typography, color, or layout, except that the name and place of business of the manufacturer, packer, distributor, or seller may appear separately on the same or on a different panel. The type size used shall bear a reasonable relationship to the printing on the panel involved and shall be no smaller than 10 point unless the available label space requires reductions, in which event it shall be reduced no smaller than 6 point type unless because of small label space an exemption has been granted under section 3(c) of the act and § 1500.83.

(e) Collapsible metal tubes containing hazardous substances shall be labeled so that all items of label information required by section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), or by regulations prescribing additional information, shall appear as close to the dispensing end of the container as possible. The size, placement, and conspicuousness of these statements shall conform with paragraphs (a), (c), and (d) of this section.

(f) Unpackaged hazardous substances intended or in a form suitable for use in or around a household or by children shall be labeled so that all items of information required by the act or by regulations in this part shall appear upon the article itself. In instances where such labeling is impracticable because of the size or nature of the article, the required cautionary labeling must be displayed by means of a tag or other suitable material that is securely affixed to the article so that the labeling will remain attached throughout conditions of merchandising and distribution to the ultimate consumer. The size, placement, and conspicuousness of these statements shall conform with paragraphs (a), (c), and (d) of this section.

§ 1500.122 Deceptive use of disclaimers.

A hazardous substance shall not be deemed to have met the requirements of section 2(p)(1) and (2) of the act (repeated in § 1500.3(b)(14)(i) and (ii)) if there appears in or on the label (or in any accompanying literature; words, statements, designs, or other graphic material that in any manner negates or disclaims any of the label statements required by the act; for example, the statement "Harmless" or "Safe around pets" on a toxic or irritant substance.

§ 1500.123 Condensation of label information.

Whenever the statement of the principal hazard or hazards itself provides the precautionary measures to be followed or avoided, a clear statement of the principal hazard will satisfy the requirements of section 2(p)(1)(E) and (F) of the act (repeated in § 1500.3(b)(14)(i)(E) and (F)). When the statement of precautionary measures in effect provides instruction for first-aid treatment, the statement of the precautionary measures will satisfy the requirements of section 2(p)(1)(F) and (G) of the act (repeated in § 1500.3(b)(14)(i)(F) and (G)).

§ 1500.125 Labeling requirements for accompanying literature.

When any accompanying literature includes or bears any directions for use (by printed word, picture, design, or combination thereof), such placard, pamphlet, booklet, book, sign, or other graphic or visual device shall bear all the information required by section 2(p) of the act (repeated in § 1500.3(b)(14)).

§ 1500.126 Substances determined to be "special hazards."

Whenever the Commission determines that for a particular hazardous substance intended or packaged in a form suitable for use in the household or by children, the requirements of section 2(p) of the act (repeated in § 1500.3(b)(14)) are not adequate for the protection of the public health and safety because of some special hazard, the Commission, by an appropriate order in the FEDERAL REGISTER, shall specify such reasonable variations or additional label requirements that it finds are necessary for the protection of the public health and safety. Such order shall specify a date that is not less than 90 days after the order is published (unless emergency conditions stated in the order specify an earlier date) after which any such hazardous substance intended, or packaged in a form suitable, for use in the household or by children that fails to bear a label in accordance with such order shall be deemed to be a misbranded hazardous substance.

§ 1500.127 Substances with multiple hazards.

(a) Any article that presents more than one type of hazard (for example, if the article is both toxic and flammable) must be labeled with: An affirmative statement of each such hazard; the precautionary measures describing the action to be followed or avoided for each such hazard; instructions, when necessary or appropriate, for first-aid treatment of persons suffering from the ill effects that may result from each such hazard; instructions for handling and storage of articles that require special care in handling and storage because of more than one type of hazard presented by the article; and the common or usual name (or the chemical name if there is no common or usual name for each hazardous component present in the article.

(b) Label information referring to the possibility of one hazard may be combined with parallel information concerning any additional hazards presented by the article if the resulting condensed statement contains all of the information needed for dealing with each type of hazard presented by the article.

§ 1500.128 Label comment.

The Commission will offer informal comment on any proposed label and accompanying literature involving a hazardous substance if furnished with:

(a) Complete labeling or proposed labeling, which may be in draft form.

(b) Complete quantitative formula.

(c) Adequate clinical pharmacological, toxicological, physical, and chemical data applicable to the possible hazard of the substance.

(d) Any other information available that would facilitate preparation of a suitable label, such as complaints of injuries resulting from the product's use or other evidence that would furnish human-experience data.

§ 1500.129 Substances named in the Federal Caustic Poison Act.

The Commission finds that for those substances covered by the Federal Caustic Poison Act (44 Stat. 1406), the requirements of section 2(p)(1) of the Federal Hazardous Substances Act (repeated in § 1500.3(b)(14)(i)) are not adequate for the protection of the public health. Labeling for those substances, in the concentrations listed in the Federal Caustic Poison Act, were required to bear the signal word "poison." The Commission concludes that the lack of the designation "poison" would indicate to the consumer a lesser hazard and that such would not be in the interest of the public health. Under the authority granted in section 3(b) of the act, the Commission therefore finds that for the following substances, and at the following concentrations, the word "poison" is necessary instead of any signal word:

(a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 percent or more.

(b) Sulfuric acid and any preparation containing free or chemically unneutralized sulfuric acid (H_2SO_4) in a concentration of 10 percent or more.

(c) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of 5 percent or more.

(d) Carbolic acid (C_6H_5OH), also known as phenol, and any preparation containing carbolic acid in a concentration of 5 percent or more.

(e) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_2O_4$) in a concentration of 10 percent or more.

(f) Any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 percent or more.

(g) Acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_3O_2$) in a concentration of 20 percent or more.

(h) Hypochlorous acid, either free or combined, and any preparation containing the same in a concentration that will yield 10 percent or more by weight of available chlorine.

(i) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and vienna paste (vienna caustic), in a concentration of 10 percent or more.

(j) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye in a concentration of 10 percent or more.

(k) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of 5 percent or more.

(l) Ammonia water and any preparation containing free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and "hartshorn," in a concentration of 5 percent or more.

§ 1500.130 Self-pressurized containers; labeling.

(a) Self-pressurized containers that fail to bear a warning statement adequate for the protection of the public health and safety may be misbranded under the act, except as otherwise provided pursuant to section 3 of the act.

(b) The following warning statement will be considered as meeting the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) if the only hazard associated with an article is that the contents are under pressure:

WARNING—CONTENTS UNDER PRESSURE

Do not puncture or incinerate container. Do not expose to heat or store at temperatures above 120° F. Keep out of the reach of children.

The word "CAUTION" may be substituted for the word "WARNING". A practical equivalent may be substituted for the statement "Keep out of the reach of children."

(c) That portion of the warning statement set forth in paragraph (b) of this section in capital letters should be printed on the main (front) panel of the container in capital letters of the type size specified in § 1500.121(c). The balance of the cautionary statements may appear together on another panel if the front panel also bears a statement such as "Read carefully other cautions on ---------- panel."

(d) If an article has additional hazards, such as skin or eye irritancy, toxicity, or flammability, appropriate additional front and rear panel precautionary labeling is required.

§ 1500.131 Methyl alcohol-base radiator antifreeze; labeling.

(a) Methyl alcohol-base (methanol-base) radiator antifreeze distributed in containers intended or suitable for household use may be misbranded under the act if the containers fail to bear a warning statement adequate for the protection of the public health and safety, except as otherwise provided pursuant to section 3 of the act.

(b) The following warning statement will be considered as meeting the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and § 1500.14(b)(4) with respect to methyl alcohol-base radiator antifreeze when the only hazard foreseeable is that caused by the methyl alcohol content and when the article has a flashpoint in the "flammable" range as that term is defined in section 2(l) of the act (repeated in § 1500.3(b)(10)):

DANGER—POISON

(SKULL AND CROSSBONES SYMBOL)

MAY BE FATAL OR CAUSE BLINDNESS IF SWALLOWED

FLAMMABLE—VAPOR HARMFUL

Contains methyl alcohol (methanol). Cannot be made nonpoisonous. Avoid contact with eyes. Use only in a well-ventilated area. Keep away from heat and open flame. Do not store in open or unlabeled containers.

First aid: In case of contact with eyes flush thoroughly with water. If swallowed, induce vomiting (give a tablespoonful of salt in a glass of warm water). Repeat until vomit fluid is clear. Call a physician immediately.

Keep out of the reach of children.

(c) The words that are in capital letters in the warning statement set forth in paragraph (b) of this section should be printed on the main (front) panel or panels of the container in capital letters of the type size specified in § 1500.121(c), except that the word "Poison" and the skull and crossbones symbol may appear on another panel with the balance of the cautionary information. The balance of the cautionary statements may appear together on another panel provided the front panel bears a statement such as "Read carefully other cautions on ---------- panel."

§ 1500.132 Ethylene glycol-base radiator antifreeze; labeling.

(a) Ethylene glycol-base radiator antifreeze distributed in containers intended or suitable for household use may be misbranded under the act if the containers fail to bear a warning statement adequate for the protection of the public health and safety, except as otherwise provided pursuant to section 3 of the act.

(b) The following warning statements will be considered as meeting the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and § 1500.14(b)(1) with respect to ethylene glycol-base radiator antifreeze, with and without added sodium arsenite of over 0.01 percent by weight, when the only hazard foreseeable is that caused by the ethylene glycol and (if present) the added sodium arsenite:

(1) Ethylene glycol antifreeze containing less than 0.01 percent by weight of sodium arsenite.

WARNING—HARMFUL OR FATAL IF SWALLOWED

Do not drink antifreeze or solution. If swallowed, induce vomiting immediately. Call a physician. Ethylene glycol base. Do not store in open or unlabeled containers. Keep out of the reach of children.

(2) Ethylene glycol antifreeze containing 0.01 percent but no more than 1 percent by weight of sodium arsenite.

WARNING—HARMFUL OR FATAL IF SWALLOWED

Do not drink antifreeze or solution. If swallowed, induce vomiting immediately. Call a physician. Ethylene glycol base containing sodium arsenite (less than 1%).

Antidote for sodium arsenite: Dimercaprol (BAL) to be administered only by a physician.

Do not store in open or unlabeled containers. Keep out of the reach of children.

(c) The words that are in capital letters in the warning statements set forth

in paragraph (b) of this section should be printed on the main (front) panel or panels of the container or capital letters of the type size specified in § 1500.121(c). The balance of the cautionary statements may appear together on another panel provided the front panel bears a statement such as "Read carefully other cautions on _____ panel."

§ 1500.133 Extremely flammable contact adhesives; labeling.

(a) Extremely flammable contact adhesives, also known as contact bonding cements, when distributed in containers intended or suitable for household use may be misbranded under the act if the containers fail to bear a warning statement adequate for the protection of the public health and safety.

(b) The following warning statement is considered as the minimum cautionary labeling adequate to meet the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) with respect to containers of more than one-half pint of contact adhesive and similar liquid or semiliquid articles having a flashpoint at or below 20° F. as determined by the method in § 1500.43, when the only hazard foreseeable is that caused by the extreme flammability of the mixture:

DANGER

EXTREMELY FLAMMABLE

VAPORS MAY CAUSE FLASH FIRE

Vapors may ignite explosively.
Prevent buildup of vapors—open all windows and doors—use only with cross-ventilation.
Keep away from heat, sparks, and open flame.
Do not smoke, extinguish all flames and pilot lights, and turn off stoves, heaters, electric motors, and other sources of ignition during use and until all vapors are gone.
Close container after use.
Keep out of the reach of children.

(c) The words that are in capital letters in the warning statement set forth in paragraph (b) of this section should be printed on the main (front) panel or panels of the container in capital letters of the type size specified in § 1500.121(c). The balance of the cautionary information may appear together on another panel provided the front panel bears a statement such as "Read carefully other cautions on _____ panel," the blank being filled in with the identification of the specific label panel bearing the balance of the cautionary labeling. It is recommended that a borderline be used in conjunction with the cautionary labeling.

(d) If an article has additional hazards, or contains ingredients listed in § 1500.14 as requiring special labeling, appropriate additional front and rear panel precautionary labeling is required.

§ 1500.201 Procedure for the issuance, amendment, or repeal of regulations declaring particular substances to be hazardous substances or banned hazardous substances.

(a) The Commission may, upon its own initiative or upon the petition of any interested person, showing reasonable grounds therefor, propose the issuance, amendment, or repeal of any regulation provided for in section 3(a) or 2(q) of the act, declaring particular substances to be hazardous substances or banned hazardous substances. The proposal shall be published in the FEDERAL REGISTER, with an invitation for written comments. As soon as practicable after the comments have been received, the Commission shall by order act upon such proposal to declare the substance to be a hazardous substance or banned hazardous substance for purposes of the act, or to amend or repeal any regulation previously issued.

(b) Within 30 days after publication of such order, any person who will be adversely affected thereby, if placed in effect, may file objections and a request for a public hearing. The objections shall not be accepted for filing if they fail to establish that the objector will be adversely affected by the regulation, if the objections do not specify with particularity the provisions of the regulation to which objection is taken, or if the objections do not state reasonable grounds. Reasonable grounds are grounds from which it is reasonable to conclude that facts can be established by reliable evidence at the hearing which will call for changing the provisions specified in the objections. Whenever legally valid objections have been filed, a public hearing on the objections will be held.

(c) As soon as practicable after the time for filing objections has expired, the Commission shall publish a notice in the FEDERAL REGISTER specifying the parts of the order that have been stayed by proper objections, or, if no objections have been filed, stating that fact.

(d) [Reserved]

(e) If the Commission finds that the distribution of a hazardous substance presents an imminent hazard to the public health, the Commission, by order in the FEDERAL REGISTER, will give notice of such finding and, pursuant to section 2(q)(2) of the act, declare such substance, when intended or offered for household use or when so packaged as to be suitable for such use, to be a "banned hazardous substance" pending completion of statutory proceedings relating to the issuance of such regulations.

(f) The General Counsel of the Commission is the designated officer upon whom a copy of any petition for judicial review shall be served. Said officer is responsible for filing in court the record on which the order of the Commission is based in accordance with 28 U.S.C. 2112.

§ 1500.210 Responsibility.

The provisions of these regulations (16 CFR, Subchapter C of Chapter II) with respect to the doing of any act shall be applicable also to the causing of such act to be done.

§ 1500.211 Guaranty.

In the case of the giving of a guaranty or undertaking referred to in section 5(b)(2) of the act, each person signing such guaranty or undertaking, or causing it to be signed, shall be considered to have given it. Each person causing a guaranty or undertaking to be false is chargeable with violations of section 4(d) of the act.

§ 1500.212 Definition of guaranty; suggested forms.

(a) A guaranty or undertaking referred to in section 5(b)(2) of the act may be:

(1) Limited to a specific shipment or other delivery of an article, in which case it may be a part of or attached to the invoice or bill of sale covering such shipment or delivery; or

(2) General and continuing, in which case, in its application to any shipment or other delivery of an article, it shall be considered to have been given at the date such article was shipped or delivered, or caused to be shipped or delivered, by the person who gives the guaranty or undertaking.

(b) The following are suggested forms of guaranty or undertaking referred to in section 5(b)(2) of the act.

(1) *Limited form for use on invoice or bill of sale.*

_____
(Name of person giving the guaranty or undertaking)

hereby guarantees that no article listed herein is misbranded within the meaning of the Federal Hazardous Substances Act.

_____
(Signature and post-office address of person giving the guaranty or undertaking)

(2) *General and continuing forms.*

The article comprising each shipment or other delivery hereafter made by _____

_____
(Name of person giving the guaranty or undertaking)

to, or on the order of _____

_____
(Name and post-office address of person to whom the guaranty or undertaking is given) is hereby guaranteed, as of the date of such shipment or delivery, to be, on such date, not misbranded within the meaning of the Federal Hazardous Substances Act.

_____
(Signature and post-office address of person giving the guaranty or undertaking)

(c) The application of a guaranty or undertaking referred to in section 5(b)(2) of the act to any shipment or other delivery of an article shall expire when such article, after shipment or delivery by the person who gave such guaranty or undertaking, becomes misbranded within the meaning of the act.

§ 1500.213 Presentation of views under section 7 of the act.

(a) Presentation of views under section 7 of the act shall be private and informal. The views presented shall be confined to matters relevant to the contemplated proceeding. Such views may be presented by letter or in person by the person to whom the notice was given, or by his representative. In case

such person holds a guaranty or undertaking referred to in section 5(b)(2) of the act applicable to the article on which such notice was based, such guaranty or undertaking, or a verified copy thereof, shall be made a part of such presentation of views.

(b) Upon request, reasonably made, by the person to whom a notice appointing a time and place for the presentation of views under section 7 of the act has been given, or by his representative, such time or place, or both such time and place, may be changed if the request states reasonable grounds therefor. Such request shall be addressed to the office of the Consumer Product Safety Commission that issued the notice.

§ 1500.214 Examinations and investigations; samples.

When any officer or employee of the Commission collects a sample of a hazardous substance for analysis under the act, the sample shall be designated as an official sample if records or other evidence is obtained by him or any other officer or employee of the Commission indicating that the shipment or other lot of the article from which such sample was collected was introduced or delivered for introduction into interstate commerce, or was in or was received in interstate commerce, or was manufactured within a Territory not organized with a legislative body. Only samples so designated by an officer or employee of the Commission shall be considered to be official samples

(a) For the purpose of determining whether or not a sample is collected for analysis, the term "analysis" includes examinations and tests.

(b) The owner of a hazardous substance of which an official sample is collected is the person who owns the shipment or other lot of the article from which the sample is collected.

IMPORTS

§ 1500.265 Imports; definitions.

For the purposes of the regulations prescribed under section 14 of the act:

(a) The term "owner or consignee" means the person who has the rights of a consignee under the provisions of the Tariff Act of 1930 (secs. 483, 484, 485, 46 Stat. 721 as amended; 19 U.S.C. 1483, 1484, 1485).

(b) The term "area office director" means the director of the area office of the Consumer Product Safety Commission having jurisdiction over the port of entry through which a hazardous substance is imported or offered for import, or such officer of the area office as he may designate to act in his behalf in administering and enforcing the provisions of section 14 of the act.

§ 1500.266 Notice of sampling.

When a sample of a hazardous substance offered for import has been requested by the director of the area office, the collector of customs having jurisdiction over the hazardous substance shall give to the owner or consignee prompt notice of delivery of, or intention to deliver, such sample. Upon receipt of the notice, the owner or consignee shall hold such hazardous substance and not distribute it until further notice from the area office director or the collector of customs of the results of examination of the sample.

§ 1500.267 Payment for samples.

The Consumer Product Saftey Commission will pay for all import samples that are found to be in compliance with the requirements of the act. Billing for reimbursement should be made by the owner or consignee to the Commission area office headquarters in the territory of which the shipment was offered for import. Payment for samples will not be made if the hazardous substance is found to be in violation of the act, even though subsequently brought into compliance under the terms of an authorization to bring the article into compliance.

§ 1500.268 Hearing.

(a) If it appears that the hazardous substance may be subject to refusal of admission, the area office director shall give the owner or consignee a written notice to that effect, stating the reasons therefor. The notice shall specify a place and a period of time during which the owner or consignee shall have an opportunity to introduce testimony. Upon timely request, giving reasonable grounds therefor, such time and place may be changed. Such testimony shall be confined to matters relevant to the admissibility of the hazardous substance, and may be introduced orally or in writing.

(b) If such owner or consignee submits or indicates his intention to submit an application for authorization to relabel or perform other action to bring the hazardous substance into compliance with the act, such testimony shall include evidence in support of such application. If such application is not submitted at or prior to the hearing, the area office director shall specify a time limit, reasonable in the light of the circumstances, for filing such application.

§ 1500.269 Application for authorization.

Application for atuhorization to relabel or perform other action to bring the hazardous substance into compliance with the act may be filed only by the owner or consignee and shall:

(a) Contain detailed proposals for bringing the article into compliance with the act.

(b) Specify the time and place where such operations will be carried out and the approximate time for their completion.

§ 1500.270 Granting of authorization.

(a) When authorization contemplated by § 1500.269 is granted, the area office director shall notify the applicant in writing, specifying:

(1) The procedure to be followed:

(2) That the operations are to be carried out under the supervision of an officer of the Consumer Product Safety Commission or the Bureau of Customs, as the case may be;

(3) A time limit, reasonable in the light of the circumstances, for completion of the operations; and

(4) Such other conditions as are necessary to maintain adequate supervision and control over the article.

(b) Upon receipt of a written request for extension of time to complete such operations, containing reasonable grounds therefor, the area office director may grant such additional time as he deems necessary.

(c) An authorization may be amended upon a showing of reasonable grounds therefor and the filing of an amended application for authorization with the area office director.

(d) If ownership of a hazardous substance covered by an authorization changes before the operations specified in the authorization have been completed, the original owner will be held responsible, unless the new owner has executed a bond and obtained a new authorization. Any authorization granted under this section shall supersede and nullify any previously granted authorization with respect to the article.

§ 1500.271 Bonds.

(a) The bonds required under section 14(b) of the act may be executed by the owner or consignee on the appropriate form of a customs single-entry or term bond, containing a condition for the redelivery of the merchandise or any part thereof upon demand of the collector of customs and containing a provision for the performance of conditions as may legally be imposed for the relabeling or other action necessary to bring the hazardous substance into compliance with the act in such manner as is prescribed for such bond in the customs regulations in force on the date of request for authorization. The bond shall be filed with the collector of customs.

(b) The collector of customs may cancel the liability for liquidated damages incurred under the above-mentioned provisions of such a bond, if he receives an application for relief therefrom, upon the payment of a lesser amount or upon such other terms and conditions as shall be deemed appropriate under the law and in view of the circumstances, but the collector shall not act under this regulation in any case unless the area office director is in full agreement with the action.

§ 1500.272 Costs chargeable in connection with relabeling and reconditioning inadmissible imports.

The cost of supervising the relabeling or other action necessary in connection with an import of a hazardous substance that fails to comply with the act shall be paid by the owner or consignee who files an application requesting such action and executes a bond, pursuant to section 14(b) of the act. The cost of such supervision shall include, but not be restricted to, the following:

(a) Travel expenses of the supervising officer.

(b) Per diem in lieu of subsistence of the supervising officer when away from his home station as provided by law.

(c) Services of the supervising officer, to be calculated at a flat rate of $8 per hour (which shall include administrative expense), except that such services performed by a customs officer and subject to the provisions of the Act of February 13, 1911, as amended (sec. 5, 36 Stat. 901 as amended; 19 U.S.C. 267), shall be calculated as provided in that act.

(d) Services of analyst, to be calculated at a flat rate of $10 per hour (which shall include the use of the chemical laboratories and equipment of the Consumer Product Safety Commission.

(e) The minimum charge for services of supervising officers and of analysts shall be not less than the charge for 1 hour, and time after the first hour shall be computed in multiples of 1 hour, disregarding fractional parts less than one-half hour.

PART 1505—REQUIREMENTS FOR ELECTRICALLY OPERATED TOYS OR OTHER ELECTRICALLY OPERATED ARTICLES INTENDED FOR USE BY CHILDREN

Sec.

AUTHORITY.—Secs. 2(f)(1)(D), (r), (s), (t), 3(e)(1), 74 Stat. 372, 374, 375, as amended 83 Stat. 187-89 (15 U.S.C. 1261, 1262).

NOTE.—This Part 1505 was originally promulgated as 21 CFR Part 191b in the FEDERAL REGISTER of March 7, 1973 (38 FR 6138), with an effective date of September 3, 1973.

§ 1505.1 Definitions.

(a) The following definitions apply to this Part 1505:

(1) The term "electrically operated toy or other electrically operated article intended for use by children" means any toy, game, or other article designed, labeled, advertised, or otherwise intended for use by children which is intended to be powered by electrical current from nominal 120 volt (110–125 v.) branch circuits. Such articles are referred to in this part in various contexts as "toy" or "electrically operated toy." If the package (including packing materials) of the toy or other article is intended to be used with the product, it is considered to be part of the toy or other article. This definition does not include components which are powered by circuits of 30 volts r.m.s. (42.4 volts peak) or less, or articles designed primarily for use by adults which may be used incidentally by children.

§ 1505.2 Scope of part.

This part sets forth the requirements whereby electrically operated toys and other electrically operated articles intended for use by children (as defined in § 1505.1(a)(1)) are not banned toys or banned articles under § 1500.18(b)(1) of this chapter.

§ 1505.3 Labeling.

(a) *General.* Electrically operated toys, and the instruction sheets and outer packaging thereof, shall be labeled in accordance with the requirements of this section and any other applicable requirements of the Federal Hazardous Substances Act and regulations promulgated thereunder. All labeling shall be prominently and conspicuously displayed under customary conditions of purchase, storage, and use. All required information shall be readily visible, noticeable, clear, and, except where coding is permitted, shall be in legible English (other languages may also be included as appropriate). Such factors governing labeling as location, type size, and contrast against background may be based on necessary condensations to provide a reasonable display.

(b) *Specific items.* (1) The toy shall be marked in accordance with the provisions of paragraph (d) of this section to indicate:

(i) The electrical ratings required by paragraph (c) of this section.

(ii) Any precautionary statements required by paragraph (e) of this section.

(2) The shelf pack or package of the toy shall be labeled in accordance with the provisions of paragraph (d) of this section to indicate:

(i) The date (month and year) of manufacture (or appropriate codes).

(ii) The electrical ratings required by paragraph (c) of this section.

(iii) Any precautionary statements required by paragraph (e) of this section.

(3) Each toy shall be provided with adequate instructions that are easily understood by children of those ages for which the toy is intended. The instructions shall describe the applicable installation, assembly, use, cleaning, maintenance (including lubrication), and other functions as appropriate. Applicable precautions shall be included as well as the information required by paragraphs (b)(1) and (2) of this section. The instructions shall also contain a statement addressed to parents recommending that the toy be periodically examined for potential hazards and that any potentially hazardous parts be repaired or replaced.

(4) If a toy is produced or assembled at more than one establishment, the toy and its shelf pack or package shall have a distinctive mark (which may be in code) identifying the toy as the product of a particular establishment.

(c) *Rating.* (1) A toy shall be marked to indicate its rating in volts and also in amperes and/or watts.

(2) If a toy utilizes a single motor as its only electric energy consuming component, the electrical rating may be marked on a motor nameplate and need not be marked elsewhere on the toy if the nameplate is readily visible after the motor has been installed in the toy.

(3) A toy shall be rated for alternating current only, direct current only, or both alternating and direct current.

(4) The alternating current rating shall include the frequency or frequency range requirement, if necessary because of a special component.

(d) *Markings.* (1) The markings required on the toy by paragraph (b) of this section shall be of a permanent nature, such as paint-stenciled, die-stamped, molded, or indelibly stamped. The markings shall not be permanently obliterable by spillage of any material intended for use with the toy and shall not be readily removable by cleaning with ordinary household cleaning substances. All markings on the toy and labeling of the shelf pack or package required by paragraph (b) of this section shall contrast sharply with the background (whether by color, projection, or indentation) and shall be readily visible and legible. Such markings and labeling shall appear in lettering of a height not less than that specified in paragraph (d)(2) of this section, except that those words shown in capital letters in paragraph (e) of this section shall appear in capital lettering of a height not less than twice that specified in paragraph (d)(2) of this section.

(2) Minimum lettering heights shall be as follows:

SURFACE AREA DISPLAYING MARKING, MINIMUM HEIGHT OF LETTERING

Square inches	*Inches*
Under 5	1/16
5 or more and under 25	1/8
25 or more and under 100	3/16
100 or more and under 400	1/4
400 or more	1/2

(e) *Precautionary statements*—(1) *General.* Electrically operated toys shall bear the statement: "CAUTION—ELECTRIC TOY." The shelf pack or package and the instructions of such toys shall bear the statement in the upper right-hand quarter of the principal display panel: "CAUTION—ELECTRIC TOY: Not recommended for children under ____ years of age. As with all electric products, precautions should be observed during handling and use to prevent electric shock." The blank in the preceding statement shall be filled in by the manufacturer, but in no instance shall the manufacturer indicate that the article is recommended for children under 8 years of age if it contains a heating element. In the case of other electrically operated products which may not be considered to be "toys" but are intended for use by children, the term "ELECTRICALLY OPERATED PRODUCT" may be substituted for the term "ELECTRIC TOY."

(2) *Thermal hazards.* (i) Toys having Type C or Type D surfaces (described in § 1505.6(g)(2)) which reach temperatures greater than those shown in paragraph (e)(2)(ii) of this section shall be defined as hot and shall be marked where readily noticeable when the hot surface is in view with the statement: "HOT—Do Not Touch." When the marking is on other than the hot surface, the word "HOT" shall be followed by appropriate descriptive words such as "Molten Material," "Sole Plate," or "Heating Element," and the statement "Do Not Touch." An alternative statement for a surface intended to be handheld as a functional part of the toy shall be "HOT _____—Handle Carefully," the blank being filled in by the manufacturer with a descrip-

tion of the potential hazard such as "Curler" or "Cooking Surface."

(ii) Surfaces requiring precautionary statements of thermal hazards are those exceeding the following temperatures when measured by the test described in § 1505.6(g)(4):

Surface type (see § 1505.6 (g)(2))	Thermal inertia type [1]	Temperature	
		Degrees C.	Degrees F.
C	1	65	149
C	2	75	167
C	3	85	185
C	4	95	203
D	1	55	131
D	2	70	158
D	3	80	176
D	4	90	194

[1] Thermal inertia types are defined in terms of lambda as follows:

Type 1: Greater than 0.0045 (e.g., most metals).
Type 2: More than 0.0005 but not more than 0.0045 (e.g., glass).
Type 3: More than 0.0001 but not more than 0.0005 (e.g., most plastics).
Type 4: 0.0001 or less (e.g., future polymeric materials).
The thermal inertia of a material can be obtained by multiplying the thermal conductivity (cal./cm./sec./degrees C.) by the density (gm./cm.^{3}) by the specific heat (cal./gm./degrees C.)

(3) *Lamp hazards*—(i) *Replaceable incandescent lamps.* A toy with one or more replaceable incandescent lamps, having a potential difference of more than 30 volts r.m.s. (42.4 volts peak) between any of its electrodes or lampholder contacts and any other part or ground, shall be marked inside the lamp compartment where readily noticeable during lamp replacement with the statement: "WARNING—Do not use light bulbs larger than —— watts", the blank being filled in by the manufacturer with a number specifying the wattage rating of the lamp. Such toys shall bear the statement: "WARNING—Shock Hazard. Pull plug before changing light bulb" on the outside of the lamp compartment where it will be readily noticed before gaining access to the lamp compartment.

(ii) *Nonreplacement incandescent lamps.* A toy which utilizes one or more nonreplaceable incandescent lamps (other than pilot or indicator lamps) shall be marked where clearly visible with the statement: "SEALED UNIT—Do not attempt to change light bulb" or equivalent.

(4) *Water.* If not suitable for immersion in water, a toy cooking appliance (such as a corn popper, skillet, or candymaker) or other article which may conceivably be immersed in water shall be marked with the statement: "DANGER—To prevent electric shock, do not immerse in water; wipe clean with damp cloth" or equivalent.

§ 1505.4 **Manufacturing requirements.**

(a) *General.* (1) Only materials safe and suitable for the particular use for which the electrically operated toy is intended shall be employed.

(2) Toys shall be produced in accordance with detailed material specifications, production specifications, and quality assurance programs. Quality assurance programs shall be established and maintained by each manufacturer to assure compliance with all requirements of this part.

(3) The manufacturer or importer shall keep and maintain for 3 years after production or importation of each lot of toys (i) the material and production specifications and the description of the quality assurance program required by paragraph (a)(2) of this section, (ii) the results of all inspections and tests conducted, and (iii) records of sale and distribution. These records shall be made available upon request at reasonable times to any officer or employee of the Consumer Product Safety Commission. The manufacturer or importer shall permit such officer or employee to inspect and copy such records, to make such inventories of stock as he deems necessary, and to otherwise verify the accuracy of such records.

(4) Toys shall be constructed and finished with a high degree of uniformity and as fine a grade of workmanship as is practicable in a well-equipped manufacturing establishment. Each component of a toy shall comply with the requirements set forth in this part.

(b) [Reserved]

(c) *Protective coatings.* Iron and steel parts shall be suitably protected against corrosion if the lack of a protective coating would likely produce a hazardous condition in normal use or when the toy is subjected to reasonably foreseeable damage or abuse.

(d) *Mechanical assembly*—(1) *General.* A toy shall be designed and constructed to have the strength and rigidity necessary to withstand reasonably foreseeable damage and abuse without producing or increasing a shock, fire, or other accident hazard. An increase in hazards may be due to total or partial structural collapse of the toy resulting in a reduction of critical spacings, loosening or displacement of one or more components, or other serious defects.

(2) *Mounting.* Each switch, lampholder, motor, automatic control, transformer, and similar component shall be securely mounted and shall be prevented from turning, unless the turning of such component is part of the design of the toy and produces no additional hazard such as reduced spacings below acceptable levels or stress on the connection. Friction between tight-fitting surfaces shall not be considered sufficient for preventing the turning of components. The proper use of a suitable lockwasher or a keyed and notched insert plus a suitable lockwasher for singe-hole mountings shall be acceptable. Each toy shall be designed and constructed so that vibrations occurring during normal operation and after reasonably foreseeable damage or abuse will not affect it adversely. Brush caps shall be tightly threaded or otherwise designed to prevent loosening.

(3) *Structural integrity.* Heating elements shall be supported in a substantial and reliable manner and shall be structurally prevented from making contacts inside or outside of the toy which may produce shock hazards. The current-carrying component(s) of the heating element shall be enclosed, and the enclosure shall be designed or insulated to prevent the development of a shock or fire hazard that may result from element failure. A toy operating with a gas or liquid under pressure, such as an electrically operated steam engine, shall be tested with respect to its explosion hazard and shall be provided with a pressure relief device that will discharge in the safest possible direction; that is, avoiding direct human contact and avoiding the wetting of electrical contacts.

(e) *Insulating material.* (1) Material to be used for mounting uninsulated live electrical elements shall be generally accepted as suitable for the specific application, particularly with regard to electrical insulation (voltage breakdown) and good aging characteristics (no significant change in insulating characteristics over the expected lifetime of the toy).

(2) Material used to insulate a heating element from neighboring parts shall be suitable for the purpose. If plain asbestos in a glass braid is used to so insulate the heating element, it shall be tightly packed and totally enclosed by the braid, and the overall thickness, including the braid, shall not be less than one-sixteenth inch. Hard fiber may be used for electrically insulating bushings, washers, separators, and barriers, but is not sufficient as the sole support of uninsulated live metal parts.

(f) *Enclosures*—(1) *General.* Each toy shall have an enclosure constructed of protective material suitable for the particular application, for the express purpose of housing all electrical parts that may present a fire, shock, or other accident hazard under any conditions of normal use or reasonably foreseeable damage or abuse. Enclosures shall meet the performance requirements prescribed by § 1505.6(b).

(2) *Accessibility.* An enclosure containing a wire, splice, brush cap, connection, electrical component, or uninsulated live part or parts at a potential of more than 30 volts r.m.s. (42.4 volts peak) to any other part or to ground:

(i) Shall be sealed by welding, riveting, adhesive bonding, and/or by special screws or other fasteners not removable with a common household tool (screwdriver, pliers, or other similar household tool) used as intended; and

(ii) Shall have no opening permitting entry of a 0.010-inch-diameter music wire that could contact a live part. Cross-notch-head screws, spring clips, bent tabs, and similar fasteners shall not be considered suitable sealing devices for enclosures since they are easy to remove with common household tools. Bent tabs shall be acceptable if, due to metal thickness or other factors, they successfully resist forceful attempts to dislodge them with ordinary tools.

(3) *Nonapplication.* The requirements of this paragraph are not applicable to an insulating husk enclosure or equivalent that covers the electrodes of a replaceable incandescent lamp and its lampholder contacts. The primary function of an enclosure containing a lamp shall be to protect it from breakage during normal use or reasonably foreseeable damage or abuse.

(g) *Spacings.* The distance, through air or across the surface of an insulator, between uninsulated live metal parts and a metallic enclosure and between uninsulated live metal parts and all other metal parts shall be suitable for the specific application as determined by the dielectric strength requirements prescribed by § 1505.6(e)(2). Electrical insulating linings on barriers shall be held securely in place.

(h) *Special safety features*—(1) *Moving parts.* If the normal use of a toy involves accident hazards, suitable protection shall be provided for the reduction of such hazards to an acceptable minimum. For example, rotors, pulleys, belting, gearing, and other moving parts shall be enclosed or guarded to prevent accidental contact during normal use or when subjected to reasonably foreseeable damage or abuse. Such enclosure or guard shall not contain openings that permit entrance of a ¼-inch-diameter rod and present a hazardous condition.

(2) *Switch marking.* Any toy having one or more moving parts which perform an inherent function of the toy and which may cause personal injury shall have a switch that can deenergize the toy by a simple movement to a plainly marked "OFF" position. Momentary contact switches which are normally in the "OFF" position need not be so marked.

(3) *Electrically operated sewing machines.* Electrically operated toy sewing machines shall be designed and constructed to eliminate the possibility of a child's finger(s) being pierced by a needle. For the purpose of this subparagraph, a clearance of not more than five thirty-seconds of an inch below the point of the needle when in its uppermost position or below the presser foot, if provided, shall be considered satisfactory.

(4) *Pressure relief valves.* A pressurized enclosure shall have an automatic pressure relief device and shall be capable of withstanding hydrostatic pressure equal to at least five times the relief pressure.

(5) *Containers for heated materials.* Containers intended for holding molten compounds and hot liquids shall be designed and constructed to minimize accidental spillage. A pot or pan having a lip and one or more properly located pouring spouts and an adequately thermally insulated handle may provide satisfactory protection. Containers intended solely for baking need not be designed and constructed to minimize accidental spillage. Containers shall be of such material and construction that they will not deform or melt when subjected to the maximum operating temperature occurring during normal use or after reasonably foreseeable damage or abuse.

(6) *Water.* Electrically operated toys (such as toy irons) shall not be designed or manufactured to be used with water except for toy steam engines or other devices in which the electrical components are separate from the water reservoir and are completely contained in a sealed chamber. Toys requiring occasional or repeated cleaning with a wet cloth shall be constructed to prevent seepage of water into any electrically active area that may produce a hazardous condition.

§ 1505.5 Electrical design and construction.

(a) *Switches.* (1) Switches and other control devices of electrically operated toys shall be suitable for the application and shall have a rating not less than that of the load they control (see § 1505.6(e)(5)(ii) regarding electrical switch overload). A switch that controls a replaceable incandescent lamp, electrode, or lampholder contact which is at a potential of more than 30 volts r.m.s. (42.4 volts peak) to any other part or to ground shall open both sides of the circuit and shall have a marked "OFF" position. A switch that may reasonably be expected to be subjected to temperatures higher than 50° C. (122° F.) shall be constructed of materials which are suitable for use at such temperatures.

(2) Switches shall be located and protected so that they are not subject to mechanical damage that would produce a hazard in normal use or from reasonably foreseeable damage or abuse (see § 1505.6(b)).

(b) *Lamps.* (1) A replaceable incandescent lamp having a voltage of more than 30 volts r.m.s. (42.4 volts peak) between any of its electrodes or lampholder contacts and any other part or ground shall be in an enclosure that has at least one door or cover permitting access to the lamp. Such door(s) or cover(s) of the enclosure shall be so designed and constructed that they cannot be opened manually or with a flat bladed screwdriver or pliers.

(2) With all access doors and covers closed, the lamp enclosure shall have no opening that will permit entry of a straight rod 6 inches long and one-fourth inch in diameter if such entry would present an electrical hazard. The lamp shall be located no less than one-half inch from any ¼-inch-diameter opening in the enclosure.

(3) A toy having one or more lampholders shall be designed and constructed so that no live parts other than the contacts of the lampholders are exposed to contact by persons removing or replacing lamps. The shells of all lampholders for incandescent lamps shall be at the same potential.

(4) If the potential between the contacts of a lampholder for a replaceable incandescent lamp and any other part or ground is greater than 30 volts r.m.s. (42.4 volts peak), the contacts shall be located in an insulating husk or equivalent.

(c) *Transformers.* Transformers that are integral parts of toys shall be of the 2-coil insulated type.

(d) *Automatic controls.* Automatic controls for temperature regulation shall have the necessary capacity and reliability for their particular application.

(e) *Power supply connections (cords and plugs).* (1) A toy shall be provided with a suitable means for attachment to the power supply circuit.

(2) A toy requiring a power cord shall have a flexible cord that is permanently attached to the toy.

(3) The perimeter of the face of the attachment-plug cap shall be not less than five-sixteenths of an inch from any point on either blade of the plug.

(4) The body of the attachment-plug cap shall decrease in cross section from the face but shall have an expansion of the body, after a suitable distance from the face, sufficient to provide an effective finger grip.

(5) A flexible electrical power cord provided on a toy shall be type SP-2 (as defined in the "National Electrical Code," Chapter 4, article 400, pages 184–194 (1971),[2] published by the National Fire Protection Association), or its equivalent, or a heavier general-use type, and shall be not less than 5 feet nor more than 10 feet in length when measured as the overall length of the attached cord outside the enclosure of the toy, including fittings, up to the face of the attachment-plug cap.

(6) A flexible cord and plug shall have a current-carrying capacity of not less than the ampere rating of the toy.

(7) Cords on toys which are intended to come in direct contact with water or other liquids during use shall be of a jacketed type. Cords on toys with which water or other liquids are to be indirectly used (such as for cooling a mold) shall be plastic covered.

(8) Transformers in which the primary coil connects directly to the branch circuit outlet shall not be subject to the requirements of paragraphs (e)(2), (4), and (5) of this section.

(f) *Bushings.* (1) At the point where a power supply cord passes through an opening in a wall, barrier, or the overall enclosure of a toy, a suitable and substantial bushing, insulating bushing, or equivalent shall be reliably secured in place and shall have smooth surfaces and well-rounded edges against which the cord may bear.

(2) If a cord hole is in wood, porcelain, phenolic composition, or other suitable insulating material, the surface of the hole is acceptable without a bushing if the edges of the hole are smooth and well-rounded. Where a separate insulating bushing is required, a bushing made of ceramic material or a suitable molded composition is acceptable if its edges are smooth and well-rounded.

(3) In no instance shall a separate bushing of wood, rubber, or any of the hot-molded shellac-and-tar compositions be considered acceptable.

(g) *Wiring.* (1) The internal wiring of a toy shall consist of suitable insulated conductors having adequate mechanical strength, dielectric properties, and electrical capacity for the particular application.

(2) Wireways shall be smooth and entirely free of sharp edges, burrs, fins, and moving parts that may abrade conductor insulation. Each splice and connection

[2] Copies may be obtained from: National Fire Protection Association, 60 Batterymarch Street, Boston, MA 02110.

shall be mechanically secure, shall provide adequate and reliable electrical contact, and shall be provided with insulation at least equivalent to that of the wire involved unless adequate spacing between the splice and all other metal parts is permanently assured.

(3) A wire connector for making a splice in a toy shall be a type that is applied by a tool and for which the application force of the tool is independent of the force applied by the operator.

(4) Soldered connections shall be made mechanically secure before soldering.

(5) Current-carrying parts shall be made of silver, copper, a copper alloy, or other electrically conductive material suitable for the particular application.

(h) *Strain relief.* (1) A means of strain relief shall be provided to prevent mechanical stress on a flexible cord from being transmitted to terminals, splices, or interior wiring.

(2) If suitable auxiliary insulation is provided under a clamp for mechanical protection, clamps of any material are acceptable for use on Type SP–2 (as defined in the "National Electrical Code," chapter 4, article 400, pages 184–194 (1971),[3] published by the National Fire Protection Association), or equivalent rubber-insulated cord. For heavier types of thermoplastic-insulated cord, clamps may be without auxiliary insulation unless the clamp may damage the cord insulation.

(3) A flexible cord shall be prevented from being pushed into the toy through the cord-entry hole if such displacement would result in a hazardous condition.

(4) A knot in the cord shall not be considered an acceptable means of strain relief, but a knot associated with a loop around a smooth, fixed structural component shall be considered acceptable.

(i) *Additional requirements.* Except for the electrodes of a replaceable incandescent lamp and its lampholder contacts, a potential of more than 30 volts r.m.s. (42.4 volts peak) shall not exist between any exposed live part in a toy and any other part or ground.

§ 1505.6 Performance.

(a) *General.* Electrically operated toys and components thereof shall be tested by the appropriate methods described in this section and shall pass the tests in such a manner as to provide the necessary assurance that normal use and reasonably foreseeable damage or abuse will not produce a hazard or a potentially hazardous condition. The toy shall be capable of passing all applicable tests with any door, cover, handle, operable part, or accessory placed in any normal position. A toy shall not present a fire, casualty, or shock hazard when operated continuously for 6 hours under conditions of normal use and reasonably foreseeable damage or abuse, including the most hazardous position in which the toy can be left.

(b) *Enclosures.* For purposes of this section, the term "enclosure" means any surface or surrounding structure which prevents access to a real or potential hazard. An enclosure shall withstand impact, compression, and pressure tests (see paragraphs (b) (1), (2), and (3) of this section) without developing any openings above those specified, reduction of electrical spacings below those specified, or other fire, casualty, or shock hazards, including the loosening or displacement of components but excluding breakage of a lamp. After completion of each test, the toy shall comply with the requirements of the dielectric strength test described in paragraph (e)(2) of this section and, upon visual examination, shall not evidence the development of any hazards. Rupture of a fuse shall be considered a test failure.

(1) *Impact test.* A toy weighing 10 pounds or less shall be dropped four times from a height of 3 feet onto a 2½ inch thick concrete slab covered with 0.125 inch nominal thickness vinyl tile. The impact area shall be at least 3 square feet. The test shall be conducted while the toy is energized and operating and with all dead metal of the toy that may be energized connected together electrically and grounded through a 3-ampere plug fuse. The toy shall be dropped in random orientation. After each drop the test sample shall be allowed to come to rest and examined and evaluated before continuing.

(2) *Compression test.* Any area on the surface of the enclosure that is accessible to a child and inaccessible to flat-surface contact during the impact test shall be subjected to a direct force of 20 pounds for 1 minute. The force shall be applied over a period of 5 seconds through the axis of a ½-inch-diameter metal rod having a flat end with the edge rounded to a radius of one thirty-second of an inch to eliminate sharp edges. The axis of the rod shall be perpendicular to the surface being tested. During the test the toy shall rest on a flat, hard surface in any test-convenient position.

(3) *Pressure test.* If any portion of the top of a toy has a flat surface measuring 24 square inches or more and a minor dimension of at least 3 inches, that surface shall be subjected to a direct vertical pressure increasing to 50 pounds over a period of 5 seconds and maintained for 1 minute. The force shall be applied through a steel ball 2 inches in diameter. During the test the toy shall be in an upright position on a flat, horizontal solid surface.

(c) *Handles and knobs*—(1) *General.* For the purposes of tests in this paragraph, the parts of a lifting handle on a toy that are within seven-sixteenths of an inch of the surface to which the handle is attached, or the parts of a lifting knob that are within one-fourth inch of the surface to which the knob is attached, are considered to be for support purposes, and the remainder of the handle or knob is considered to be generally functional in nature. A handle or knob shall withstand crushing and lifting tests (see paragraphs (c) (2) and (3) of this section) without fracture of the handle or knob, development of an opening that may pinch the hand, or breakage of the means used to fasten the handle or knob in place.

(2) *Crushing test.* The functional portion of a handle or knob shall be subjected to a crushing force increasing to 20 pounds over a period of 5 seconds and maintained for 1 minute. The force shall be applied through two flat and parallel hardwood blocks, each at least 2½ inches thick and each having dimensions slightly exceeding those of the handle or knob being tested. The crushing force between the blocks shall be exerted in any direction perpendicular to the major axis of the handle or knob.

(3) *Lifting test.* The support portion of a handle or knob shall be subjected to a force equal to four times the weight of the object it is intended to support. The direction of the lifting force shall be as intended by the design of the toy and shall be applied through a ½-inch-wide strap through or around a handle or by fingers or the equivalent on a knob. The force shall be applied over a period of 5 seconds through the center of gravity of the toy and maintained for 1 minute.

(d) *Stability.* A toy shall not overturn while resting in an upright position on a flat surface inclined 15° from horizontal. No spillage of molten material or hot liquids from containers shall occur while the toy is operating in this position under normal conditions of use. During this test, casters, if any, shall be in the position most likely to result in tipping, but shall not be artificially held in one position to prevent a natural rotation to another position.

(e) *Electrical*—(1) *Power input.* The actual current flow in a toy without a heating element shall not exceed 110 percent of the rated value, and shall not exceed 5.5 amperes, at rated voltage. The power input to a toy with a heating element shall not exceed 105 percent of the rated value at rated voltage. The power input rating of a toy employing one or more incandescent lamps as the only power-consuming components shall be considered to be the total rated wattage of such lamps. The rated voltage shall be considered to be the mean value of a marked voltage range.

(2) *Dielectric strength.* (i) A toy shall be capable of withstanding without breakdown for 1 minute a 60-cycle-per-second (60 Hertz) essentially sinusoidal potential of 1,000 volts applied between live parts and any dead metal parts.

(ii) If a toy employs a low-voltage secondary winding (either in the form of a conventional transformer or as an insulated coil of a motor), the toy shall also be capable of withstanding without breakdown for 1 minute a sinusoidal test potential applied between the high-voltage and low-voltage windings. The test potential shall be applied at the rated frequency of the toy and shall have a value of 1,000 volts plus twice the rated voltage of the high-voltage winding. The test potential shall be supplied from a suitable capacity-testing transformer, the output voltage of which can be regulated. The waveform of the test voltage shall approximate a sine wave as closely as possible.

[3] Copies may be obtained from: National Fire Protection Association, 60 Batterymarch Street, Boston, MA 02110.

(iii) The applied test potential shall be increased rapidly and uniformly from zero until the required test value is reached and shall be held at that value for 1 minute. Unless otherwise specified, the toy shall be at the maximum operating temperature reached in normal use prior to conducting the tests.

(iv) The dielectric strength requirements of this subparagraph may also be determined by subjecting the toy to a 60-cycle-per-second (60 Hertz) essentially sinusoidal potential of 1,200 volts for 1 second. If the dielectric strength is determined by this method, the toy need not be in a heated condition.

(3) *Leakage current and repeated dielectric withstand tests.* (i) Both before and after being conditioned, a toy intended to operate from a source exceeding 42.4 volts peak shall:

(*a*) Not have a leakage current exceeding 0.5 milliampere, except that during the interval beginning 5 seconds and terminating 10 minutes after the toy is first energized, the leakage current of toys with heating elements other than lamps shall not exceed 2.5 milliamperes; and

(*b*) Comply with the requirements of a repeated dielectric withstand test both with and without preheating.

(ii) All accessible parts of a toy shall be tested for leakage current. If an insulating material is used for the enclosure or part of the enclosure, the leakage current shall be measured using a metal foil with an area not exceeding 10 by 20 centimeters in contact with accessible surfaces of such insulating material. Where the accessible surface of insulating material is less than 10 by 20 centimeters, the metal foil shall be the same size as the surface. The metal foil shall be so applied that it will not affect the temperature of the toy. The accessible parts shall be tested individually, collectively, and from one part to another.

(iii) Following the initial leakage current test, the toy shall be cooled down or heated up to 32° C. (90° F.). The toy shall then be conditioned for 48 hours in air at a temperature of 32°±2° C. (89.6°±3.6° F.) and with a relative humidity of 90–95 percent. The specified relative humidity shall be maintained inside a closed compartment in which a saturated solution of potassium sulphate is kept in a suitable container. Leakage current measurements shall be made, as specified in paragraph (e) (3) (ii) of this section and before the toy is energized, while the toy is in the humidity compartment.

(iv) With the connections intended for the source of supply connected thereto and then connected to the ungrounded side of a power supply circuit having a voltage equal to 110 percent of the rated voltage of the toy, the leakage current through a noninductive 1,500-ohm resistor connected between the grounded side of the supply circuit and each dead metal part (accessible and inaccessible) shall, when stable, be measured in accordance with the test provisions established in ANSI Standard C 101.1–1971, "American National Standard for Leakage Current for Appliances," approved November 17, 1970,[4] published by American National Standards Institute.

The toy shall then be removed from the humidity chamber, energized, and tested again after attaining its normal operating temperature. From these measurements, a leakage current with no resistance shall be calculated and used to determine compliance.

(v) For a toy whose outer enclosure consists wholly or partly of insulating material, the term "dead metal part" means metal foil tightly wrapped around the exterior of the enclosure in a manner that covers, but does not enter into, any enclosure openings.

(4) *Motor operation.* (i) A motor provided as part of a toy shall be capable of driving its maximum normal load in the toy without introducing any potentially hazardous condition. The performance of the toy shall be considered unacceptable if, during the test, temperatures in excess of those specified in § 1505.7 for Type D surfaces are attained on any accessible surface. The performance of the toy shall also be considered unacceptable if the rise in temperature during the test causes melting, scorching, embrittlement, or other evidence of thermal damage to the insulating material used to prevent exposure of live metal parts.

(ii) A motor-operated toy shall be tested with the motor stalled if the construction of the toy is such that any person can touch moving parts associated with the motor from outside the toy. The performance of the toy shall be considered unacceptable if, during the test, temperatures higher than those specified in § 1505.8 are attained or if temperatures higher than those specified for Type C surfaces in § 1505.7 are attained on any accessible surface of the motor.

(5) *Overload*—(i) *Motor.* A motor-control switch that is a part of a toy shall be horsepower-rated to cover the load or shall be capable of performing acceptably when subjected to an overload test consisting of 50 cycles of operation by making and breaking the stalled-rotor current of the toy at maximum rated voltage. There shall be no electrical or mechanical failure nor any visible burning or pitting of the switch contacts as a result of this test.

(ii) *Switch.* To determine if a motor-control switch is capable of performing acceptably when subjected to overload conditions, the toy shall be connected to a grounded supply circuit of rated frequency and maximum rated voltage with the rotor of the motor locked into position. During the test, exposed dead metal parts of the toy shall be connected to ground through a 3-ampere plug fuse such that any single pole, current-rupturing device will be located in the ungrounded conductor of the supply circuit. If the toy is intended for use on direct current, or on direct current as well as alternating current, the exposed dead metal parts of the toy shall be so connected as to be positive with respect to a single pole, current-rupturing device. The switch shall be operated at a rate of not more than 10 cycles per minute. The performance of the toy shall be considered unacceptable if the fuse in the grounding connection is blown during the test.

(f) *Hydrokinetic*—(1) *General.* Electrically operated toy steam engines shall be capable of performing acceptably when subjected to the tests described in this paragraph.

(2) *Preliminary test.* The ultimate strength of the boiler assembly shall first be determined by applying a hydrostatic pressure to the boiler with all openings blocked (the pressure-relief valve, steam exhausts, and any whistle or other accessory shall be removed and the resulting openings sealed); however, a water or other type of gage shall be left in place. The hydrostatic pressure shall be applied slowly and the ultimate value which is attained shall be recorded.

(3) *Pressure-relief test.* A pressure gage shall be connected to the boiler assembly which shall then be operated normally. The pressure at which the pressure-relief valve functions shall be noted while the engine is shut off (if a shutoff valve is provided) and with the whistle, if any, turned off. The test shall be discontinued and shall be considered a failure if the observed pressure exceeds one-fifth the value attained in the preliminary test described in paragraph (f) (2) of this section.

(4) *Operating pressure test.* If the boiler is still intact and no failure has occurred, the pressure-relief valve shall then be rendered inoperable and all other valves (such as a whistle and exhaust from the assembly) shall be tightly closed. Operations shall be continued until the pressure becomes constant. This test shall be discontinued and shall be considered a failure if the observed pressure exceeds one-third the value attained in the preliminary test described in paragraph (f) (2) of this section. During this test, all valves, gaskets, joints, and similar components shall be sufficiently tightened to prevent leakage. Rupture of the boiler or of any other fittings supplied with the engine shall be considered a failure.

(5) *Hydrostatic test.* If there has been no failure, two previous untested toys shall withstand for 1 minute a hydrostatic pressure of 5 times the pressure at which the safety valve operated or 3 times the constant pressure observed with the presure-relief valve inoperable, whichever is greater. During this test, all openings shall be blocked (the pressure-relief valve, steam exhaust from the assembly, and any whistle or other outlet); however, a water or other type of gage shall remain in place. Rupture of the boiler or of a gage shall be considered a failure.

(g) *Thermal*—(1), *General.* The normal operation of a toy includes performance in normal use and after being subjected to reasonably foreseeable damage or abuse likely to produce the

[4] Copies may be obtained from: American National Standards Institute, 1430 Broadway, New York, NY 10018.

highest temperatures or, in the case of motor-operated toys, the load that most closely approximates the severest conditions of normal use or reasonably foreseeable damage or abuse.

(2) *Classification.* Parts or surfaces of a toy are classified according to their use or function as follows (for the purposes of paragraph (g)(2) (v), (vi), and (vii) of this section, accessibility shall be defined as the ability to reach a heated surface with a ¼-inch-diameter rod 3 inches long):

(i) *Type A.* A part or surface of a toy (such as a handle) likely to be grasped by the hand or fingers for the purpose of carrying the toy or lifting a separable lid.

(ii) *Type B.* A part or surface of a toy that is (*a*) part of a handle, knob, or similar component, as in Type A (described in paragraph (g)(2)(i) of this section), but which is not normally grasped or contacted by the hand or fingers for carrying (including parts of a handle within seven-sixteenths of an inch of the surface to which the handle is attached and parts of a finger knob within ¼ inch of the surface to which the knob is attached, if the remainder of the knob is large enough to be grasped), or (*b*) a handle, knob, or part that may be touched but which need not be grasped for carrying the toy or lifting a lid, door, or cover (e.g., support part of a handle or knob).

(iii) *Type C.* A part or surface of a toy that can be touched by casual contact or that can be touched without employing the aid of a common household tool (screwdriver, pliers, or other similar household tool) and that is either (*a*) a surface that performs an intended heating function (e.g., the soleplate of a flatiron, a cooking surface, or a heating element surface), or (*b*) a material heated by the element and intended to be used as the product of the toy, excluding pans, dishes, or other containers used to hold the material to be cooked or baked if a common utensil or other device is supplied with the toy and specific instructions are established for using such a device to remove the container from the heated area.

(iv) *Type C marked.* A Type C surface which has been marked with a precautionary statement of thermal hazards in accordance with § 1505.3(e)(2).

(v) *Type D.* An accessible part or surface of a toy other than Types A, B, C, or E (see paragraphs (g)(i), (ii), (iii) and (vii) of this paragraph).

(vi) *Type D marked.* A Type D surface which has been marked with a precautionary statement of thermal hazards in accordance with § 1505.3(e)(2).

(vii) *Type E.* A heated surface in an oven or other article that is inaccessible or protected by an electrical-thermal safety interlock. Such interlocks shall prohibit the operation of a heating device whenever such surfaces are accessible and shall not allow accessibility to such surfaces until the temperatures of those surfaces have been reduced to levels below those established for Type D surfaces (paragraph (g)(2)(v) of this section).

(3) *Requirements.* When tested under the conditions described in paragraph (g)(4) of this section, a toy shall not attain a temperature at any point sufficiently high to constitute a fire hazard or to adversely affect any materials employed and shall not show a maximum temperature higher than those established by §§ 1505.7 and 1505.8. These maximum surface temperature requirements are not applicable to educational- or hobby-type products such as lead-casting sets and wood-burning tools which are appropriately labeled on the shelf pack or package as being intended only for children over 12 years of age provided that the maximum surface temperature of any such toy does not exceed that reasonably required to accomplish the intended technical effect. Such toys shall be provided with specific instructions and the warning statements required by and in accordance with § 1505.3 (d) and (e), and shall be appropriately identified as educational or hobby-type products.

(4) *Test conditions*—(i) *General.* Tests shall be conducted while the toy is connected to a circuit of 60-cycle-per-second (60 Hertz) current using the materials supplied with the toy or using materials otherwise intended to be used with the toy. Following such tests, the toy shall be energized for a 6-hour period to determine that no hazardous conditions would result from unattended use of the toy.

(ii) *Temperature.* Normally, tests shall be performed at an ambient (room) temperature of 25° C. (77° F.); however, a test may be conducted at any ambient temperature within the range of 21° to 30° C. (69.8° to 86° F.).

(iii) *Voltage.* The toy shall be tested at the voltage indicated in the manufacturer's rating or at 120 volts, whichever is greater.

(5) *Temperature measurements*—(i) *General.* Temperatures shall be measured by means of instruments utilizing thermocouples of No. 30 AWG (American Wire Gage) wire (either copper and constantan or iron and constantan) and potentiometer-type instruments that are accurate and are calibrated in accordance with current good laboratory practices. The thermocouple wire shall conform with the requirements for "special" thermocouples as listed in the table of limits of error of thermocouples (Table VIII) in "American Standard for Temperature Measurement Thermocouples, C96.1–1964,"[5] approved June 9, 1964, by American National Standards Institute, Inc. The Standard was sponsored and published by the Instrument Society of America.

(ii) *Test procedures.* The thermocouple junction and adjacent thermocouple lead wire shall be securely held in good thermal contact with the surface of the material whose temperature is being measured. In most cases, good thermal contact will result from securely taping or cementing the thermocouple in place. If a metal surface is involved, brazing or soldering the thermocouple to the metal may be necessary. The surface temperatures of a toy shall be measured with the toy operating in any unattended condition (e.g., with and without opening and closing doors or covers) for a sufficient period of time to allow temperatures to become constant, or, in the case of a toy with a thermostatically controlled heating element, for a sufficient period of time to determine the maximum surface temperature attained. A temperature shall be considered to be constant when three successive readings taken at 15-minute intervals indicate no change.

(iii) *Heating devices.* Toy ovens, casting toys, popcorn and candymakers, and other toys requiring the insertion of any materials or substances shall be additionally tested by feeding crumpled strips of newspaper and tissue paper into or onto the toy in place of the intended materials or substances. The test strips shall be conditioned for at least 48 hours in air at a temperature of 25°±4° C. (77°±7° F.) and a relative humidity of 50 percent ±5 percent. The test strips shall be 2 inches wide by 8 inches long before crumpling. The crumpled paper shall occupy not more than 25 percent of the accessible volume. The performance of the toy shall be considered unacceptable if flaming occurs within a 60-minute period following the attainment of normal operating temperatures. If a light bulb is used for heating purposes, the test shall be conducted using the largest wattage bulb that can be easily inserted into the socket.

(h) *Strain-relief test.* (1) The strain-relief means provided on the flexible power cord of a toy shall be capable of withstanding a direct pull of 35 pounds applied to the cord for 2 minutes without displacement of the strain-relief unit or a deformation of the anchoring surface that would produce a stress which would result in a potentially hazardous condition. A 35-pound weight shall be attached to the cord and supported by the toy in such a manner that the strain-relief means is stressed from any angle that the construction of the toy permits. The test shall be conducted with the electrical connection within the toy disconnected.

(2) The initial 2-minute test shall be conducted with the force vector parallel to the longitudinal axis of the cord and perpendicular to the anchoring surface of the strain-relief unit. Each test at other angles of stress shall be conducted for periods of 1 minute. The strain-relief means is not acceptable if, at the point of disconnection of the cord, there is any movement of the cord to indicate that stress would have resulted on the connections.

(3) Except for toys weighing more than 10 pounds, the strain-relief unit and its support base shall be designed and constructed in such a manner that

[5] Copies may be obtained from: Instrument Society of America, 530 William Penn Place, Pittsburgh, PA 15219.

no indication of stress would result which would produce a hazard when the cord is held firmly in place 3 feet from the strain-relief unit and the toy is dropped the 3 feet at any angle.

§ 1505.7 Maximum acceptable surface temperatures.

The maximum acceptable surface temperatures for electrically operated toys shall be as follows:

Surface type (as described in § 1505.6 (g)(2))	Thermal inertia type [1]	Temperatures °C.	Temperatures °F.
A	1	50	122
A	2	55	131
A	3	60	140
B	1	55	131
B	2	65	149
B	3	75	167
C (unmarked)	1	65	149
C (unmarked)	2	75	167
C (unmarked)	3	85	185
C (unmarked)	4	95	203
C marked	1	70	158
C marked	2	90	194
C marked	3	110	230
C marked	4	130	266
D (unmarked)	1	55	131
D (unmarked)	2	70	158
D (unmarked)	3	80	176
D (unmarked)	4	90	194
D marked	1	60	140
D marked	2	75	167
D marked	3	100	212
D marked	4	125	257
E	[2]	[2]	[2]

[1] Thermal inertia types are defined in terms of lambda as follows:

Type 1: Greater than 0.0045 (e.g., most metals).
Type 2: More than 0.0005 but not more than 0.0045 (e.g., glass).
Type 3: More than 0.0001 but not more than 0.0005 (e.g., most plastics).
Type 4: 0.0001 or less (e.g., future polymeric materials).
The thermal inertia of a material can be obtained by multiplying the thermal conductivity (cal./cm./sec./degrees C.) by the density (gm./cm.^{3}) by the specific heat (cal./gm./degrees C.).

[2] All types.
[3] No limit.

§ 1505.8 Maximum acceptable material temperatures.

The maximum acceptable material temperatures for electrically operated toys shall be as follows (Classes 105, 130, A, and B are from "Motors and Generators," Standard MG–1–1967 [6] published by the National Electrical Manufacturers Association):

Material	Degrees C.		Degrees F.	
Capacitors	[1]		[1]	
Class 105 insulation on windings or relays, solenoids, etc.:				
Thermocouple method[2]	90		194	
Resistance method	110		230	
Class 130 insulation system	110		230	
Insulation:				
Varnished-cloth insulation	85		185	
Fiber used as eletrical insulation	90		194	
	Class A	Class B	Class A	Class B
Insulation on coil windings of a.c. motors (not including universal motors) and on vibrator coils:				
In open motors and on vibrator coils—thermocouple or resistance method[2]	100	120	212	248
In totally enclosed motors—thermocouple or resistance method[2]	105	125	221	257
Insulation on coil windings of d.c. motors and of universal motors:				
In open motors:				
Thermocouple method[2]	90	110	194	230
Resistance method	100	120	212	248
In totally enclosed motors:				
Thermocouple method[2]	95	115	203	239
Resistance method	105	125	221	257
Phenolic composition[3]		150	302	
Rubber- or thermoplastic-insulated wires and cords[3]		60	140	
Sealing compound		[4]	[5]	
Supporting surface while the toy is operating normally		90	194	
Wood and other similar combustible material		90	194	

[1] If the capacitor has no marked temperature limit, the maximum acceptable temperature will be assumed to be 65° C. (149° F.) for an electrolytic type and 90° C. (194° F.) for other than an electrolytic type.
[2] The temperature indicated refers to the hottest spot on the outside surface of the coil measured by the thermocouple method.
[3] The limitations on rubber- and thermoplastic-insulated wires and cords and on phenolic composition do not apply if the insulation or the phenolic has been investigated and found to have special heat-resistant properties, or if the insulation meets the thermal requirements.
[4] 40 less than melting point.
[5] 104 less than melting point.

Dated September 20, 1973.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.73–20429 Filed 9–26–73;8:45 am]

[6] Copies may be obtained from: National Electrical Manufacturers Association, 155 East 44th Street, New York, NY 10017.