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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.

CORRECTION:

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Title 3—The President

EXECUTIVE ORDER 11758

Delegating Authority of the President Under the Rehabilitation Act of 1973

By virtue of the authority vested in me by section 301 of title 3 of the United States Code and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Director of the Office of Management and Budget is hereby designated and empowered to exercise, without approval, ratification, or other action of the President, the authority of the President (1) under section 5 of the Rehabilitation Act of 1973 (Public Law 93–112) to issue regulations with respect to joint funding, and (2) under section 500(a) of that act with respect to the transfer of unexpended appropriations.

SEC. 2. The Secretary of Labor is hereby designated and empowered to exercise, without approval, ratification, or other action of the President, the authority of the President (1) under section 503(a) of the Rehabilitation Act of 1973 to prescribe regulations, after consultation with the Secretary of Defense and the Administrator of General Services, with respect to the employment of qualified handicapped individuals under Federal procurement contracts, and (2) under section 503(c) of that act with respect to prescribing, by regulation, guidelines for waiving the requirements of section 503 of the act. Changes in any regulations prescribed by the Secretary pursuant to the preceding sentence shall be made only after consultation with the Secretary of Defense and the Administrator of General Services.

SEC. 3. The head of a Federal agency may, in conformity with the provisions of section 503(c) of the Rehabilitation Act of 1973, and regulations issued by the Secretary of Labor pursuant to section 2 of this order, exempt any contract and, following consultation with the Secretary of Labor, any class of contracts, from the requirements of section 503 of the act.

SEC. 4. The Federal Procurement Regulations, the Armed Services Procurement Regulations, and, to the extent necessary, any supplemental or comparable regulation issued by any agency of the executive branch shall, following consultation with the Secretary of Labor, be amended to

require, as a condition of entering into, renewing or extending any contract subject to the provisions of section 503 of the Rehabilitation Act of 1973, inclusion of a provision requiring compliance with that section and regulations issued by the Secretary pursuant to section 2 of this order.

Richard Nixon

THE WHITE HOUSE,
January 15, 1974.

[FR Doc.74-1519 Filed 1-15-74;1:24 pm]

EXECUTIVE ORDER 11759

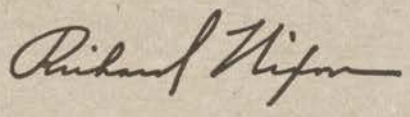
Prescribing the Compensation of Certain Officials in the Domestic and International Business Administration, Department of Commerce

By virtue of the authority vested in me by section 703(a) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2153(a)), and as President of the United States, it is ordered as follows:

SECTION 1. The compensation for the position of Deputy Assistant Secretary for Domestic and International Business, Department of Commerce, is hereby fixed at the rate now or hereafter prescribed by law for level V of the Executive Schedule (5 U.S.C. 5316).

SEC. 2. The compensation for the position of Deputy Assistant Secretary for Domestic Commerce, Department of Commerce, is hereby fixed at the highest rate now or hereafter prescribed by law for grade 18 of the General Schedule (5 U.S.C. 5332).

SEC. 3. Executive Order No. 11567 of November 16, 1970, is hereby superseded.



THE WHITE HOUSE,
January 15, 1974.

[FR Doc.74-1520 Filed 1-15-74;1:24 pm]

Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3106 is amended to show that one position of Strategic Arms Assessment Analyst, Office of the Deputy Director of Defense Research and Engineering (Strategic and Space Systems) is excepted under Schedule A.

Effective on January 17, 1974, § 213.3106(a)(6) is added as set out below.

§ 213.3106 Department of Defense.

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

(6) One Strategic Arms Assessment Analyst, Office of the Deputy Director of Defense Research and Engineering (Strategic and Space Systems).

* * * * *

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–1469 Filed 1–16–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Special Assistant to the Deputy Administrator, Law Enforcement Assistance Administration, is excepted under Schedule C.

Effective on January 17, 1974, § 213.3310(s)(8) is added as set out below.

§ 213.3310 Department of Justice.

* * * * *

(s) *Law Enforcement Assistant Administration.* * * *

(8) One Special Assistant to the Deputy Administrator.

* * * * *

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–1468 Filed 1–16–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one position of Confidential Assistant to the Director, Office of Hearings and Appeals, is excepted under Schedule C.

Effective on January 17, 1974, § 213.3312(a)(22) is added as set out below.

§ 213.3312 Department of the Interior.

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

(22) One Confidential Assistant to the Director, Office of Hearings and Appeals.

* * * * *

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–1467 Filed 1–16–74;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Power Commission

Section 213.3329 is amended to show that two additional positions of Private Secretary to the Chairman are excepted under Schedule C.

Effective on January 17, 1974, § 213.3329(a) is amended as set out below.

§ 213.3329 Federal Power Commission.

(a) Five Private Secretaries in the Office of the Chairman, one Confidential Assistant to the Chairman, one Private Secretary to each of three Commissioners, and one Confidential Assistant to each Commissioner.

* * * * *

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–1470 Filed 1–16–74;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 223a—REFUGEE TRAVEL DOCUMENT

Refugee; Lawful Presence

Reference is made to the notice of proposed rulemaking which was published in the FEDERAL REGISTER on October 29, 1973 (38 FR 29816) pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383) and in which there was set forth the proposed amendment to § 223a.3 defining the term lawful presence as used in that section.

The representations which were received concerning the proposed rule of October 29, 1973, have been considered. No change has been made in the proposed rule. The proposed rule serves to make discretionary rather than mandatory the issuance of a refugee travel document to a person whose authorized presence in the United States is so brief (e.g., transit or crewman) as not to imply residence, even of a temporary nature, amounting to "lawfully staying", within the contemplation of Article 28 of the United Nations Convention Relating to the Status of Refugees. This is in accord with an interpretation of Article 28 by the United Nations High Commissioner for Refugees.

The proposed rule as set out below is hereby adopted:

In § 223a.3, the second sentence is amended. As amended, § 223a.3 reads as follows:

§ 223a.3 Eligibility.

Any alien physically present in the United States may apply for a refugee travel document if he believes he is a refugee. A refugee travel document shall be issued to a refugee whose presence in the United States is lawful unless compelling reasons of national security or public order otherwise require; lawful presence, as used herein, does not include brief presence as a transit or crewman, or any other presence so brief as not to signify residence even of a temporary nature. A refugee travel document may be issued, in the exercise of discretion, to any other refugee unless reasons of national security or public order otherwise require; sympathetic consideration shall be given to such as application unless the Service intends to expel or exclude the alien from the United States. For reasons of national security, a refugee travel document shall not be issued to an alien who intends to travel to, in, or through Cuba or Communist portions of Korea or Viet Nam, unless the restriction with respect to any such place or places has been waived as provided in § 223a.5(b)(2).

(Sec. 103, 66 Stat. 173 (8 U.S.C. 1103))

Effective date. In accordance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), this order shall become effective on February 19, 1974.

Dated: January 11, 1974.

L. F. CHAPMAN, JR.,
Commissioner of Immigration and Naturalization.

[FR Doc.74–1396 Filed 1–16–74;8:45 am]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION) DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

Treatment of Pork and Products Containing Pork To Destroy Trichinae; Correction

In FR Doc. 73-24407 appearing on pages 31516 and 31517 of the issue for Thursday, November 15, 1973, in the paragraph beginning "This action relates to public health * * *", immediately following the word "unnecessary", the comma is changed to a period, and the phrase "and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER" is deleted. These words were inadvertently included in the notice of rulemaking.

Done at Washington, D.C., on: January 10, 1974.

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

[FR Doc.74-1410 Filed 1-16-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73-EA-98]

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

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Morgantown, W. Va., Control Zone (38 FR 403) and Transition Area (38 FR 538).

In a recent amendment to the two descriptions of the control zone and transition area, 38 FR 32784, the redesignation of the airport was inadvertently referred to as William L. Hart Field instead of Walter L. Hart Field. This amendment corrects that error. Since the foregoing is an editorial change, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective on January 17, 1974, as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations so as to amend the text of the Morgantown, W. Va. Control Zone description by deleting, "Morgantown Municipal Airport-William L. Hart Field" and substituting, "Morgantown Municipal Airport-Walter L. Hart Field" in lieu thereof.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations so as to amend the text of the Morgantown, W. Va. 700-foot floor transition area by deleting, "Morgantown Municipal Airport-William L. Hart Field" and substituting "Morgantown Municipal Airport-Walter L. Hart Field" in lieu thereof.

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

Issued in Jamaica, N.Y., on January 4, 1974.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.74-1363 Filed 1-16-74;8:45 am]

[Airspace Docket No. 73-EA-110]

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

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Hagerstown, Md., Control Zone (38 FR 383) and Transition Area (38 FR 498).

The Hagerstown Municipal Airport, Hagerstown, Md. was recently renamed, "Hagerstown Regional Airport." Additionally, the airport geographical position was amended by several seconds. To reflect the new airport name and revised geographical position will require an editorial change to the description of the Hagerstown, Md. Control Zone and 700-foot floor Transition Area.

Since the foregoing amendment is editorial, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective on January 17, 1973, as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the description of the Hagerstown, Maryland Control Zone by: (1) deleting "Hagerstown Airport" and substituting, "Hagerstown Regional Airport" therefor; and (2) deleting "39°42'30" N., 77°43'45" W." and substituting, "39°42'27" N., 77°43'50" W." therefor.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the description of the Hagerstown, Md. 700-foot floor transition area by: (1) deleting "39°-42'30" N., 77°43'45" W," and substituting, "39°42'27" N., 77°43'50" W." therefor; and (2) deleting, "Hagerstown Airport" and substituting, "Hagerstown Regional Airport" therefor.

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

Issued in Jamaica, N.Y., on January 3, 1974.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.74-1364 Filed 1-16-74;8:45 am]

[Airspace Docket No. 73-EA-117]

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

Revocation of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the Summersville, W. Va., Transition Area (38 FR 1580, 1581) due to a failure of the NDB to meet the requirements of a flight test.

Since the revocation amounts to the decontrol of air space, notice and public procedure hereon are unnecessary and the amendments may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended, and effective January 17, 1974, as follows:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the Summersville, W. Va. Transition Area.

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

Issued in Jamaica, N.Y., on January 3, 1974.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.74-1366 Filed 1-16-74;8:45 am]

Title 15—Commerce and Foreign Trade

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

PART 315—DETERMINATION OF BONA FIDE MOTOR-VEHICLE MANUFACTURER

Part 315 is hereby added to Chapter III of Title 15 of the Code of Federal Regulations to provide for carrying out the functions and responsibilities of the Deputy Assistant Secretary for Domestic Commerce, relating to the development, maintenance and publication of a list of bona fide motor-vehicle manufacturers. Instructions formerly found in Part 615 of Chapter VI of Title 15 of the Code of Federal Regulations are revised as set forth below and redesignated as Part 315 of Chapter III of Title 15.

The notice, public rule making procedure and effective date requirements contained in 5 U.S.C. sec. 553 is omitted as unnecessary because the changes are procedural and editorial in nature. Accordingly, this revision shall become effective on January 17, 1974.

Sec.
315.1 Scope and purpose.
315.2 Definitions.
315.3 Application.
315.4 Determination by the Deputy Assistant Secretary for Domestic Commerce.
315.5 Maintenance and publication of a list of bona fide motor-vehicle manufacturers.

AUTHORITY: The provisions of this Part 315 issued under headnote 2, subpart B, part 6,

schedule 6 of the Tariff Schedules of the United States (19 U.S.C. sec. 1202) relating to the development, maintenance, and publication of a list of bona fide motor-vehicle manufacturers, and authority to promulgate rules and regulations pertaining thereto under section 501(2) of Title V of the Automotive Products Trade Act of 1965 (19 U.S.C. sec. 2031).

§ 315.1 Scope and purpose.

The purpose of this part is to set forth regulations implementing headnote 2 to subpart B, part 6, schedule 6 of the Tariff Schedules of the United States as proclaimed by Proclamation No. 3682 of October 21, 1965 (3 CFR 140 (1964–65 Comp.)), issued pursuant to the Automotive Products Trade Act of 1965 (19 U.S.C. sec. 2031), by establishing a procedure under which a person may apply to be determined a bona fide motor-vehicle manufacturer. Under headnote 2 to Subpart B, part 6, schedule 6 of the Tariff Schedules of the United States, whenever the Secretary of Commerce has determined a person to be a bona fide motor-vehicle manufacturer, such person is eligible to obtain duty-free importation of certain Canadian articles and to issue certain orders, contracts, or letters of intent under or pursuant to which other persons, not themselves bona fida motor-vehicle manufacturers, may obtain duty-free treatment for such Canadian articles. The responsibilities of Secretary of Commerce relating to the development, maintenance and publication of a list of bona fide motor-vehicle manufacturers and the authority to promulgate rules and regulations pertaining thereto, have been delegated to the Deputy Assistant Secretary for Domestic Commerce, Department of Commerce, with power of redelegation.

§ 315.2 Definitions.

For the purposes of the regulations in this part and the forms issued to implement it:

(a) "Act" means the Automotive Products Trade Act of 1965 (79 Stat. 1016, 19 U.S.C. secs. 2001–2033).

(b) Deputy Assistant Secretary means the Deputy Assistant Secretary for Domestic Commerce of the Department of Commerce, or such official as may be designated by him to act in his behalf.

(c) "Motor vehicle" means a motor vehicle of a kind described in item 692.05 or 692.10 of subpart B, part 6, schedule 6, of the Tariff Schedules of the United States (excluding an electric trolley bus and a three-wheeled vehicle) or an automobile truck tractor.

(d) "Bona fide motor-vehicle manufacturer" means a person who, upon application to the Deputy Assistant Secretary under this part is determined by the Deputy Assistant Secretary to have produced no fewer than 15 complete motor vehicles in the United States during the 12-month period preceding the date certified in the application, and to have had as of such date installed capacity in the United States to produce 10 or more complete motor vehicles per 40-hour week. A person shall only be regarded as having had the capacity to produce a complete motor vehicle if his operations included the assembly of two or more major components (e.g., the attachment of a body to a chassis) to create a new motor vehicle ready for use.

(e) "Person" includes any individual, corporation, partnership, association, company, or any other kind of organization.

(f) "United States" includes only the States, the District of Columbia, and Puerto Rico.

§ 315.3 Application.

Any person in the United States desiring to be determined a bona fide motor-vehicle manufacturer shall apply to the Deputy Assistant Secretary by filing two copies of Form DIB–964 in accordance with the instructions set forth on the form and in this part. Application forms may be obtained from the Deputy Assistant Secretary, field offices of the U.S. Department of Commerce, or from U.S. Collectors of Customs, and should be mailed or delivered to the:

Transportation and Capital Equipment Division, OBRA Bureau of Domestic Commerce U.S. Department of Commerce Washington, D.C. 20230

§ 315.4 Determination by the Deputy Assistant Secretary.

(a) As soon as practicable after receipt of the application, the Deputy Assistant Secretary shall determine whether an applicant has produced no fewer than 15 complete motor vehicles in the United States during the 12-month period preceding the date certified in the application and as of such date, had installed capacity in the United States to produce 10 or more complete motor vehicles per 40-hour week. The Deputy Assistant Secretary may request such additional data from an applicant as he may deem appropriate to establish whether the applicant has satisfied the requirements of this part.

(b) A determination by the Deputy Assistant Secretary under this part shall be effective for a 12-month period to begin on the date as of which the Deputy Assistant Secretary determines that the applicant qualified under this part. Within 60 days prior to the termination of such period, a bona fide motor-vehicle manufacturer may apply for another determination under this part.

(c) The Deputy Assistant Secretary will promptly notify each applicant in writing of the final action taken on his application.

§ 315.5 Maintenance and publication of a list of bona fide motor-vehicle manufacturers.

The Deputy Assistant Secretary shall maintain, and publish from time to time in the FEDERAL REGISTER, a list of the names and addresses of bona fide motor-vehicle manufacturers, and the effective dates for each determination.

Dated: January 7, 1974.

GARY M. COOK,
Acting Deputy Assistant Secretary for Domestic Commerce.

[FR Doc.74–1420 Filed 1–16–74;8:45 am]

CHAPTER VI—BUREAU OF DOMESTIC COMMERCE, DEPARTMENT OF COMMERCE

PART 615—DETERMINATION OF BONA FIDE MOTOR-VEHICLE MANUFACTURER

Regulations formerly appearing in Part 615 of Chapter VI of Title 15 are transferred to Chapter III of Title 15 of the Code of Federal Regulations and Redesignated as Part 315.[1] In addition, minor editorial changes are made to reflect changes in the titles of the appropriate decision-making officials.

This redesignation shall become effective on January 17, 1974.

Dated: January 7, 1974.

GARY M. COOK,
Acting Deputy Assistant Secretary, for Domestic Commerce.

[FR Doc.74–1437 Filed 1–16–74;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C–2481]

PART 13—PROHIBITED TRADE PRACTICES

Biochemic Research Foundation, et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages or connections;* 13.15–125 Individual or private business being: 13.15–125(m) Educational or research institution; 13.15–125(o) Foundation; 13.15–125(u) Non-profit organization; 13.15–225 Personnel or staff; 13.15–237 Professional or scientific status: § 13.20 *Comparative data or merits:* § 13.135 *Nature of product or service:* § 13.170 *Qualities or properties of product or service;* 13.170–52 Medicinal, therapeutic, healthful, etc.: § 13.205 *Scientific or other relevant facts;* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1450 *Individual or private business as educational, religious or research institutions;* § 13.1460 *Individual or private business as professional person, associations or guild;* § 13.1495 *Non-profit character;* § 13.1520 *Personnel or staff.*—Goods: § 13.1575 *Comparative data or merits;* § 13.1685 *Nature;* § 13.1690 *Non-standard character;* § 13.1710 *Qualities or properties;* § 13.1740 *Scientific or other relevant facts.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52) [Cease and desist order, Biochemic Research Foundation, et al., Salt Lake City, Utah, Docket C–2481, December 11, 1973]

In the Matter of Biochemic Research Foundation, a corporation and Biochemical Research Foundation, a corporation, and Robert W. Reid and Allan A. Reid, individually and as officers of said corporations.

Consent order requiring a Salt Lake City, Utah, marketer of natural flake salt, among other things to cease misrepresenting that its product differs in any way

[1] See FR Doc. 74–1420, *supra.*

to commercially processed salt; misrepresenting the medicinal or therapeutic properties of its product; representing one of the individual respondents, Robert W. Reid, is a doctor of medicine or otherwise qualified as a professional or expert in any medical or scientific field; using the words "research" or "foundation" in the corporate name and representing respondents are other than a private business enterprise for profit. The order further requires the firm to post a warning notice on its packages, directed especially to people on a low-salt or salt-free diet, cautioning them that natural flake salt does not differ from commercially processed salt in its effects on persons with physical conditions requiring a low-salt diet, and to recall advertisements which do not conform to the order's provisions. In February of this year, the F.T.C. obtained a temporary injunction from the United States District Court for the Western District of Washington, prohibiting the continued dissemination of advertising for natural flake salt.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondents Biochemic Research Foundation and Biochemical Research Foundation, corporations, their successors and assigns, and their officers, and Robert W. Reid and Allan A. Reid, individually and as officers of said corporations and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of natural flake salt or any similar product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing in writing, orally, visually, or in any other manner, directly or by implication:

1. That natural flake salt differs in any way from commercially processed salt in its effects on persons with physical conditions requiring low-salt or salt-free diets.

2. That natural flake salt may be safely ingested by persons who have been placed on a low-salt or salt-free diet because of heart disease or other ailment.

3. That ingestion of natural flake salt in place of commercially processed salt will prevent, cure, or relieve arthritis, calcification, muscular inflammation, hardening of the arteries and high blood pressure.

4. That use of natural flake salt will neutralize stomach acidity, lessen pain in varicose veins, relieve headache, indigestion, athlete's foot and pyorrhea.

5. That use of any such product will prevent, cure, or relieve any health condition or will have any therapeutic effect whatever, unless, at the time such statement or representation is made, respondents have a reasonable scientific basis for such statements or representation.

6. That a normal diet does not contain enough salt and that it is necessary to add salt to normal diets.

7. That respondent Robert W. Reid is a doctor of medicine or is otherwise qualified as a professional or expert in any medical or scientific field.

8. That any statements or representations in respondents' advertisements are those of a doctor or other person qualified as a professional or expert in any research field, unless respondents can establish such fact.

B. Using the words "research" or "foundation" or any word of similar import or meaning as a part of respondents' trade or corporate name, to represent in any manner, directly or by implication:

1. That respondents conduct or sponsor research, experimentation, investigation of study of any kind or have any persons employed or associated with them in any capacity who are qualified to do such research, experimentation, investigation or study, unless respondents can establish such fact.

2. That respondent corporations are a foundation, institution or organization supported in part by disinterested, eleemosynary funds or are a foundation in the sense of the word as understood and accepted by the general public.

3. That respondents are other than a private business enterprise for profit.

II. *It is further ordered,* That respondents Biochemic Research Foundation and Biochemical Research Foundation, corporations, their successors and assigns, and their officers, and Robert W. Reid and Allan A. Reid, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of natural flake salt or any food or drug product do forthwith cease and desist from:

A. Disseminating or causing to be disseminated, by United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing, or which is likely to induce, directly or indirectly the purchase of such food or drug, any advertisement containing any of the words or representations prohibited in Paragraph I of this order.

B. Disseminating or causing to be disseminated by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such food or drug in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the words or representations prohibited by Paragraph I of this order.

III. *It is further ordered,* That respondents include clearly and conspicuously in each advertisement of natural flake salt and on each package label thereof, with nothing to the contrary or in mitigation thereof, the following disclosure:

WARNING

1. Natural flake salt in no way differs from commercially processed salt with respect to its effects on persons with physical conditions requiring low-salt or salt-free diets.

2. Natural flake salt is harmful to persons on low-salt or salt-free diets and natural flake salt is dangerous, perhaps fatal to persons who have been placed on salt-free diets for reasons of heart disease or other ailment.

IV. *It is further ordered,* That respondents recall and retrieve, from each and every retail store and place of distribution or sale of natural flake salt, each and every advertisement for natural flake salt which contains any of the words or representations prohibited by Paragraph I of this order or which fails to make the affirmative disclosure required by Paragraph III.

V. *It is further ordered,* That respondents mail to each individual, partnership, corporation or other entity to which respondents have disseminated any advertisement containing any of the words or representations prohibited by Paragraph I of this order or which fails to make the affirmative disclosure required by Paragraph III, a letter stating clearly and conspicuously that none of said representations are true, and making the affirmative disclosure required above.

VI. *It is further ordered,* That:

A. Respondents deliver, by registered mail, a copy of the Decision and Order of the Federal Trade Commission in this matter to each of respondents' present and future officers, directors, agents, employees, distributors, and to all other persons, partnerships, corporations, and other entities engaged in the promotion, sale or distribution of natural flake salt;

B. Respondents institute a program of continuing surveillance adequate to reveal whether the business practices of each of the persons or entities engaged in the promotion, sale or distribution of natural flake salt conform with the provisions and requirements of this Order;

It is further ordered, That respondents maintain at all times in the future, for a period of not less than three (3) years, complete business records relative to the manner and form of their continuing compliance with the above terms and provisions of this Order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in a corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries, a change in corporate name or address, or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and/or their affiliation with a new business or employment in which (1) they are involved in a management, policy-making or ownership

capacity, or (2) which involves a "food" or "drug" as defined in the Federal Trade Commission Act. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged, as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: December 11, 1973.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.74-1429 Filed 1-16-74;8:45 am]

[Docket C-2482]

PART 13—PROHIBITED TRADE PRACTICES

Brick Homes, Inc., and Richard G. Fulmer

Subpart—Advertising falsely or misleadingly: § 13.35 *Condition of goods;* § 13.73 *Formal regulatory and statutory requirements;* 13.73–92 Truth in Lending Act; § 13.155 *Prices;* 13.155–95 Terms and conditions; 13.155–95(a) Truth in Lending Act; § 13.175 *Quality of product or service;* § 13.205 *Scientific or other relevant facts.* Subpart—Failing to maintain records: § 13.1051 *Failing to maintain records;* 13.105–30 Formal regulatory and/or statutory requirements. Subpart—Misrepresenting oneself and goods—Goods: § 13.1595 *Condition of goods;* § 13.1623 *Formal regulatory and statutory requirements;* 13.1623–95 Truth in Lending Act; § 13.1715 *Quality;* § 13.1740 *Scientific or other relevant facts;* —Prices: § 13.1823 *Terms and conditions;* 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* 13.1852–75 Truth in Lending Act; § 13.1886 *Quality, grade or type;* § 13.1892 *Sales contract, right-to-cancel provision;* § 13.1895 *Scientific or other relevant facts;* § 13.-1905 *Terms and conditions;* 13.1905–60 Truth in Lending Act. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2063 *Scientific or other relevant facts.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Brick Homes, Inc., et al., Charlotte, N.C., Docket C-2482, Dec. 14, 1973]

In the matter of Brick Homes, Inc., a corporation, and Richard G. Fulmer, individually and as an officer of said corporation.

Consent order requiring a Charlotte, N.C., seller, builder, and distributor of residential houses, among other things to cease misrepresenting the quality of materials used in its houses and their degree of completion, and from violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act. Further, should respondent corporation merge with another corporation or transfer all or a substantial part of its business assets, respondents shall require a written agreement from its successor, to be filed with the Commission, that it will be bound by this order.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondents Brick Homes, Inc., a corporation, its successors and assigns, and its officers, and Richard C. Fulmer, individually and as an officer of said corporation, respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, distribution, or construction, directly or through others, of residential houses or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, orally, visually, in writing or in any other manner, directly or by implication, that houses or other products sold or constructed by respondents are constructed of the finest quality materials unless such is the case; or misrepresenting, in any manner, the quality of materials used in the construction of houses or other products sold or constructed by the respondents.

2. Representing, orally, visually, in writing or in any other manner, directly or by implication, that the plumbing in houses sold or constructed by respondents is complete; or misrepresenting, in any manner, the degree to which any aspect of the houses or other products sold or constructed by respondents is complete.

3. Representing, orally, visually, in writing or in any other manner, directly or by implication, that houses or other products sold or constructed by respondents are complete; or misrepresenting, in any manner the degree to which the houses or other products sold or constructed by the respondents are complete.

4. Failing to disclose, clearly, conspicuously and in such a manner as will accurately reflect the facts in connection with any advertisement, direct mail piece or other promotional material that houses sold or constructed by respondents: (1) are not connected to either public or individual water or sewer systems; (2) are not furnished or connected to fuel oil tanks or containers; and (3) do not contain closet rods and shelving or bathroom towel and tissue racks.

It is further ordered, That the respondents, incident to selling or contracting for construction of houses or other products, cease and desist from:

1. Contracting for any sale which shall become binding on the buyer prior to midnight of the third day, excluding Sundays and legal holidays, after the date of signing the contract.

2. Failing to orally disclose prior to the time of sale, and in writing conspicuously and clearly on any conditional sales contract, promissory note or other instrument executed by the buyer that the buyer may rescind or cancel the sale by written notice of cancellation to respondents' address prior to midnight of the third day, excluding Sundays and legal holidays, after the date of the sale. Upon such cancellation the burden shall be on respondents to collect any goods left in the buyer's home and to return any payments received from him. Nothing contained in this right-to-cancel provision shall relieve buyers of the responsibility for taking reasonable care of the goods prior to, and for a reasonable period following, cancellation.

3. Failing to provide a separate and clearly understandable form which the buyer may use as a notice of cancellation.

4. Negotiating any conditional sales contract, promissory note, or other instrument of indebtedness to a finance company or other third party prior to midnight of the fifth day, excluding Sundays and legal holidays, after the date of execution by the buyer:

Provided, however, That nothing contained in this paragraph of this Order shall relieve respondents of any contractual obligations required by federal law or that law of the state in which the contract is negotiated. When such obligations are inconsistent, respondents may apply to the Commission for relief from this provision with respect to contracts executed in the state in which such different obligations are required.

II. *It is further ordered,* That respondents Brick Homes, Inc., a corporation, its successors and assigns, and its officers, and Richard C. Fulmer, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (P.L. 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to furnish customers with all consumer credit cost disclosures prior to the consummation of the sale, as required by § 226.8(a) of Regulation Z.

2. Failing to disclose the annual percentage rate accurately to the nearest quarter of one percent, in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

3. Failing to describe the type of any security interest in property held, or to be retained or acquired in connection with any extension of credit, as required by § 226.8(b)(5) of Regulation Z.

4. Failing to keep records evidencing compliance with the consumer credit cost disclosure requirements of Regula-

tion Z for two years, as required by § 226.6(i) of Regulation Z.

5. Stating the amount of the downpayment or the amount of the monthly payments which could be arranged in connection with a consumer credit transaction, without also stating all of the following items, in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) thereof:

(i) The cash price;

(ii) The amount of the downpayment or that no downpayment is required, as applicable;

(iii) The number, amount and due dates or period of payments scheduled to repay the indebtedness if the credit is extended; and

(iv) The amount of the finance charge expressed as an "annual percentage rate".

6. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That in the event the corporate respondent merges with another corporation or transfers all or a substantial part of its business or assets to any other corporation or to any other person, respondents shall require said successor or transferee to file promptly with the Commission a written agreement to be bound by the terms of this order; provided that if respondents wish to present to the Commission any reasons why said order should not apply in its present form to said successor or transferee, they shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: December 14, 1973.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.74-1431 Filed 1-16-74;8:45 am]

[Docket C-2306]

PART 13—PROHIBITED TRADE PRACTICES

Great Western United Corporation, et al.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Modified order, Great Western United Corporation, et al., Denver, Colo., Docket C-2306, Dec. 14, 1973]

In the Matter of Great Western United Corporation, Great Western Cities, Inc., California City Realty Company, California City Development Company, Great Western Cities Realty, Colorado City Realty Company, Colorado City Development Company, and GWU Properties, Inc. each of which are corporations.

Order modifying previous Commission order, 81 F.T.C. 661, as modified, 82 F.T.C. 1263, against a Denver, Colo., real estate developer, by altering and modifying Paragraphs IB2 and IB3 of the order relative to the required disclosure of certain statements in printed advertisements concerning respondents' training courses which are associated with real estate projects.

The order reopening proceedings and modifying order of April 25, 1973 is as follows:

It is ordered, That paragraphs IB1 and IB3 be altered and modified to read as follows:

IB1. Failing to clearly and conspicuously disclose the following statement in all printed advertisements concerning California City;

Obtain HUD property report from developer and read it before signing anything. HUD neither approves the merits of the offering nor the value of the property as an investment, if any.

IB3. Failing to clearly and conspicuously disclose the following statement in all printed advertisements concerning real estate projects other than California City, however limited to projects in existence at the time this order becomes effective and to any future projects (1) covered by the Interstate Land Sales Full Disclosure Act, and (2) where the property interest being offered is held in any form by respondents or any of their affiliates:

Obtain HUD property report from developer and read it before signing anything. HUD neither approves the merits of the offering nor the value of the property as an investment, if any.

Issued: December 14, 1973.

By the Commission.[1]

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.74-1428 Filed 1-16-74;8:45 am]

[Docket C-2483]

PART 13—PROHIBITED TRADE PRACTICES

Gulf South Corporation, et al.

Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements;* 13.1623-95 Truth in Lending Act.—Prices: § 13.1823 *Terms and conditions;* 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* 13.1852-75 Truth in Lending Act; § 13.1905 *Terms and conditions;* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Gulf South Corporation, et al., Oklahoma City, Okl, and Springfield, Mo., Docket C-2483, Dec. 19, 1973]

In the Matter of Gulf South Corporation, a corporation, Gulfco Investment Corporation, a corporation, and Family Loan, Inc., of Springfield, Missouri, a corporation.

Consent order requiring three consumer credit companies in Oklahoma City, Okl. and Springfield, Mo., among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Gulf South Corporation, a corporation, Gulfco Investment Corporation, a corporation, and Family Loan, Inc., of Springfield, Missouri, a corporation, their successors and assigns, and their officers, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit, as "consumer credit" is defined in Regulation Z (12 CFR Part 226) of the Truth In Lending Act (P.L. 90-321, 15 U.S.C. 1601 et seq.) do forthwith cease and desist from:

1. Failing, in any consumer credit transaction in which the charges for credit life insurance and/or credit disability insurance are not included in the Finance Charge:

(a) To quote monthly payments which exclude the cost of credit life insurance

[1] Commissioner Hanford not participating.

and/or credit disability insurance. Monthly payments which do reflect credit life insurance and/or credit disability insurance may be quoted only if:

(1) Monthly payments without insurance premiums are also quoted; and

(2) Respondents explain clearly that credit life insurance and/or disability insurance are optional and that insurance coverage is not considered in respondents' approval of the consumer's credit, using the following language, or language of similar import and meaning approved by the Commission.

"Family Loan, Inc., of Springfield, Missouri [or other business extending consumer credit] does not require you to obtain credit life insurance or credit disability insurance in connection with the extension of credit you seek, and your decision regarding such insurance is not considered in the approval of your credit."

(b) To inform the consumer any time respondents describe, discuss, or comment on credit life and/or credit disability insurance, whether in response to a question from a consumer, or as part of respondents' employees' presentation, that credit life and/or credit disability insurance are not required in connection with the extension of credit and are not considered in respondents' approval of the consumer's credit, using the following language, or language of similar import and meaning approved by the Commission:

Family Loan, Inc., of Springfield, Missouri, [or other business extending consumer credit] does not require you to obtain credit life insurance and/or credit disability insurance in connection with the extension of credit you seek, and your decision regarding such insurance is not considered in the approval of your credit.

(c) To provide the following disclosure to every customer for every credit transaction:

TO BE READ BY RESPONDENTS' EMPLOYEE

I understand that Family Loan, Inc., of Springfield, Missouri [or other business extending consumer credit] does not require me to obtain credit life insurance or credit disability insurance in connection with this loan, and that my decision regarding such insurance is not considered in the approval of my credit. I have voluntarily decided to take ------ credit life insurance for $----, ---- credit disability insurance for $------.

I have read this statement (*customer's name*)

Loan Closer's Signature----------

Dated ----------

I ACKNOWLEDGE THAT THIS STATEMENT WAS READ TO ME.

Customer's Signature----------

Dated ----------

Such disclosure shall be made on a separate document which contains no other printed or written material and shall be read to the customer by respondents and executed prior to respondents making any other cost of credit disclosures. Respondents shall maintain in the original of the statement for two (2) years following its execution and provide the customer with a copy thereof.

2. In any consumer credit transaction in which the charges for credit life insurance and/or credit disability insurance are not included in the Finance Charge:

(a) Dating and/or placing an "X" or other mark on the signature line of that portion of the loan disclosure statement intended to serve as the consumer's affirmative written indication of his desire to obtain credit life insurance and/or credit disability insurance.

(b) Misrepresenting, orally or otherwise, directly or by implication, that credit life and/or credit disability insurance are required as a condition of obtaining credit from respondent, or discouraging, directly or by implication, the declination of credit life or credit disability insurance.

Failing to explain orally to every customer the purpose of each signature requested by respondents on any document directly related to the consummation of the credit transaction.

4. Failing to compute and disclose accurately the Finance Charge, as required by §§ 226.4 and 226.8 of Regulation Z.

5. Failing to compute and disclose accurately the Annual Percentage Rate to the nearest quarter of one percent, as required by §§ 226.5 and 226.8 of Regulation Z.

6. Failing to identify the property to which any security interest relates, as required by § 226.8(b)(5) of Regulation Z.

7. Failing in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents at their general offices in Oklahoma City, Oklahoma, and Springfield, Missouri, and in each of their subsidiary corporations who are engaged in the extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said copy of this order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: December 19, 1973.

By the Commission.[1]

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.74-1430 Filed 1-16-74;8:45 am]

[1] Commissioner Hanford not participating.

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5449, 34-10580, AS-151]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS (ACCOUNTING SERIES RELEASES)

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Disclosure of Inventory Profits Reflected in Income in Periods of Rising Prices

The year 1973 was a period of rapidly increasing prices in the United States when compared to historical economic norms for this country. During the year consumer prices rose by about 8 percent, wholesale prices by about 16 percent and the crude industrial materials component of the wholesale price index by about 30 percent. There were wide fluctuations in the prices of individual items.

Under such conditions the usefulness of the traditional accounting measurement model based upon historical cost is significantly reduced. The process of matching costs against revenues is less likely to produce meaningful economic information if the costs were incurred at a time when the price level associated with such goods and services differed significantly from that at the time when revenues were realized.

While a continuation or acceleration of the rate of price-level change might require a fundamental change in the basic accounting measurement model used in preparing financial statements, it would be premature for the Commission to suggest such a change at this time. Careful consideration of the many implications of such a major step would be necessary both by the Financial Accounting Standards Board and by the Commission. At the same time, it does not seem appropriate that registrants and accountants should simply ignore the impact of rapidly changing prices on financial statements.

The most significant and immediate impact of price fluctuations on financial statements is normally felt in cost of goods sold in the income statement. In periods of rising prices, historical cost methods result in the inclusion of "inventory profits" in reported earnings. "Inventory profit" results from holding inventories during a period of rising inventory costs and is measured by the difference between the historical cost of an item and its replacement cost at the time it is sold. Different methods of accounting for inventories can affect the degree to which "inventory profits" are included and identifiable in current income, but no method based upon historical cost eliminates or discloses this "profit" explicitly. Such "profits" do not reflect an increase in the economic earning power of a business and they are not normally repeatable in the absence of

continued price-level increase. Accordingly, where such "profits" are material in income statements presented, disclosure of their impact on reported earnings and the trend of reported earnings is important information for investors assessing the quality of earnings.

In recognition of the need for additional disclosure in regard to inventories and cost of goods sold, the Commission recently proposed amendments to Regulations S–X [17 CFR Part 210] (Securities Act Release No. 5427, October 4, 1973 [38 FR 28948]) which would require registrants to indicate "the effect on net income, if significant, of using current replacement cost [for valuing inventories] in the computation of cost of sales." To date the Commission has received a large number of comments on this proposed disclosure and the effectiveness of that requirement in eliciting information about "inventory profits." The comments also indicated that problems of implementation existed. The Commission has given careful consideration to these comments and has concluded that it would not be desirable to adopt final requirements in this area which would be effective for 1973 financial statements. At the same time, the Commission recognizes that the impact of "inventory profits" on currently reported earnings appears to be significant in many cases and that failure to make appropriate disclosure may result in investors being inadequately informed as to the source and replicability of earnings.

The Commission therefore believes that it would be in the best interest of both statement preparers and users to disclose the extent to which reported earnings are comprised of potentially unrepeatable and usually unsegregated "inventory profits." Accordingly, the Commission urges registrants to make disclosure of such amounts prior to the adoption of final requirements by the Commission. Such disclosure may be made in the financial statements, the notes thereto or in textural material accompanying financial statements.

The Commission recognizes that registrants usually do not compute cost of goods sold on both an historical cost and current value basis so that computation of such amounts may often require estimation by the registrant. It is also recognized that computational methods or bases of valuation other than current replacement cost for each item sold might be used in developing useful information about such "profits." For example, computing the cost of goods sold for each month using a price-level adjusted inventory amount might produce a reasonable and useful estimate of such "profits" in some cases. Until final requirements are established, registrants are encouraged to use any method or basis deemed appropriate by management in exhibiting the impact of such "profits" along with a statement of the method or basis used and the reasons for adopting it.

The determination of cost of sales on a current replacement cost basis, however, provides only partial information regarding the effects of inflation on a company's operations. A second factor is the responsiveness of a company's selling prices to changes in costs. If a company is able to raise selling prices immediately upon realizing cost increases (or in anticipation of cost increases), its net income in dollar terms benefits from inflation. On the other hand, as price increases lag behind cost increases the benefit of inventory "profits" is offset and the net inflation effect on income may be negative. Because of various regulatory restraints on prices, many companies may have experienced significant pricing lags in the current year.

The impact of price-level changes does not fall equally among companies. Some firms operate in sectors of the economy where prices of goods purchased are more volatile than selling prices. Accordingly, the Commission urges registrants to discuss the relationship of costs and prices experienced in the current year in connection with disclosing inventory profits.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

JANUARY 3, 1974.

[FR Doc.74–1402 Filed 1–16–74;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 74–34]

PART 153—ANTIDUMPING

Antidumping—Calcium Pantothenate From Japan

JANUARY 14, 1974.

The Secretary of the Treasury makes public a finding of dumping with respect to calcium pantothenate from Japan. Section 153.43, Customs Regulations, amended.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that calcium pantothenate from Japan is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of September 10, 1973 (38 FR 24669).) Imports of calcium pantothenate produced and sold by Fuji Chemical Industries, Ltd., were excluded from this determination.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the United States Tariff Commission responsibility for determination of injury or likelihood of injury. The United States Tariff Commission has determined, and on December 7, 1973, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of calcium pantothenate from Japan sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of December 13, 1973 (38 FR 34370).)

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to calcium pantothenate from Japan, except importations of calcium pantothenate produced and sold by Fuji Chemical Industries, Ltd.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Calcium pantothenate, except shipments produced and sold by Fuji Chemical Industries, Ltd.	Japan	74-34

(Secs. 201, 407, Stat. 11, as amended, 18; 19 U.S.C. 160, 173.)

[SEAL] EDWARD L. MORGAN, *Assistant Secretary of the Treasury.*

[FR Doc.74–1485 Filed 1–16–74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

Subpart C—Sponsors of Approved Applications

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

Tylosin and Sulfamethazine

The Commissioner of Food and Drugs has evaluated a new animal drug application (94–402V) filed by Hubbard Milling Co., 424 North Front St., Mankato, MN 56001, proposing the safe and effective use of a premix containing 10 grams of tylosin (as tylosin phosphate) and 10 grams of sulfamethazine per pound of premix for use in the manufacture of swine feeds. The application is approved.

To facilitate referencing, the firm is being assigned a code number and placed in the list of firms in § 135.501 (21 CFR 135.501).

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 135 and 135e are amended as follows:

1. Section 135.501 is amended in paragraph (c) by adding a new code No. 101 as follows:

§ 135.501 **Names, addresses, and code numbers of sponsors of approved applications.**

* * * * *

(c) * * *

Code No.	*Firm name and address*
* * *	* * *
101	Hubbard Milling Co., 424 North Front St., Mankato, MN 56001.

* * * * *

2. Part 135e is amended in § 135e.36 by revising paragraph (b) to read as follows:

§ 135e.36 **Tylosin and sulfamethazine.**

* * * * *

(b) *Approvals.* (1) Premix levels of 10 grams of tylosin per pound and 2.2 percent of sulfamethazine and 40 grams of tylosin per pound and 8.8 percent of sulfamethazine have been granted to Code No. 014 in § 135.501(c) of this chapter.

(2) Premix level, a combination of 10 grams of tylosin per pound (as tylosin phosphate) as furnished by Code No. 014 in § 135.501(c) of this chapter and 10 grams of sulfamethazine per pound as furnished by Code No. 031 in § 135.501(c) of this chapter has been granted to Code No. 101 in § 135.501(c) of this chapter.

* * * * *

Effective date. This order shall be effective January 17, 1974.

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

Dated: January 9, 1974.

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

[FR Doc.74-1458 Filed 1-16-74;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Amprolium

Correction

In FR Doc. 73-26948 appearing at page 34996 in the issue of Friday, December 21, 1973, in Table 1 of § 135c.3(d), in the first line of the third entry under the heading "Limitations", after the word "each", insert "100 gallons of drinking water; at the usual rate of water".

CERTIFICATION OF THE ANTIBIOTIC DRUG MITOMYCIN

Miscellaneous Amendments

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, as amended, with respect to approval of the antibiotic drug mitomycin.

The Commissioner concludes that data supplied by the manufacturer concerning the subject antibiotic drug is adequate to establish its safety and efficacy when used as directed in the labeling, and that the regulations should be amended to provide for certification of this drug.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 141 and 145 are amended, and a new Part 151j is established to provide for certification of the antibiotic drug mitomycin, as follows:

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. Part 141 amended:

a. In § 141.5(b) by alphabetically inserting a new item in the table and by adding footnote 3, as follows:

§ 141.5 **Safety test.**

* * * * *

(b) * * *

Antibiotic drug	Diluent (diluent number as listed in § 141.3)	Test dose: Concentration in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Route of administration as described in paragraph (c) of this section
* * *	*	*	*	*
Mitomycin [3]	3	0.2 mg	0.5	Intravenous.
* * *	*	*	*	*

[3] Use the observation period specified in the individual section of the antibiotic drug regulations in this chapter for the antibiotic to be tested in lieu of the 48-hour-observation period specified in paragraph (d) of this section.

* * * * * * *

b. In § 141.7(c) by alphabetically inserting a new item in the table, as follows:

§ 141.7 **Histamine test.**

* * * * * * *

(c) * * *

Antibiotic	Diluent (diluent number as listed in § 141.3(b))	Concentration of test solution (milligrams of activity per milliliter)	Volume of test solution to be injected (milliliters per kilogram of body weight)
* * *	*	*	*
Mitomycin	4	0.050	1.0
* * *	*	*	*

* * * * * * *

c. In § 141.110 (a) and (b) by alphabetically inserting a new item in the respective tables, as follows:

§ 141.110 **Microbiological agar diffusion assay.**

* * * * * * *

(a) * * *

Antibiotic	Media to be used (as listed by medium number in § 141.103(b)): Base layer	Media to be used (as listed by medium number in § 141.103(b)): Seed layer	Milliliters of media to be used in the base and seed layers: Base layer	Milliliters of media to be used in the base and seed layers: Seed layer	Test organism	Suggested volume of standardized inoculum to be added to each 100 milliliters of seed agar	Incubation temperature for the plates
						Milliliters	*Degrees C.*
* * *	*	*	*	*	*	*	*
Mitomycin	8	8	10	4	H	0.5	37
* * *	*	*	*	*	*	*	*

* * * * * * *

(b) * * *

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in § 141.501)	Initial solvent	Diluent (solution number as listed in § 141.102(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Standard response line concentrations: Diluent	Final concentrations, units or micrograms of antibiotic activity per milliliter
* *	*	*	*	*	*	*	*
Mitomycin	Not dried		1	1 mg	14 days	1	0.50, 0.71, 1.0, 1.41, 2.0μg.
* *	*	*		*	*		*

* * * * *

d. In Subpart D by adding a new section, as follows:

§ 141.556 Thin layer chromatography identity test for mitomycin.

(a) *Equipment*—(1) *Chromatography tank.* A rectangular tank, approximately 9 x 9 x 3.5 inches, lined with filter paper and with a solvent trough on the bottom.

(2) *Plates.* Use 20 by 20 centimeter thin layer chromatography plates coated with Silica Gel G or equivalent, to a thickness of 250 microns.

(b) *Reagents*—(1) *Developing solvent.* Mix *n*-butanol, glacial acetic acid, and water in volumetric proportions of 4:2:1, respectively.

(2) *Spray solution.* Prepare a one-percent solution of ninhydrin in ethanol.

(c) *Preparation of spotting solutions.* Prepare solutions of the sample and working standard, each containing 1 milligram of mitomycin per milliliter, in water.

(d) *Procedure.* Pour developing solvent into the bottom of the chromatography tank. Cover and seal the tank. Allow it to equilibrate for 30 minutes. Prepare a plate as follows: Apply spotting solutions on a line 2.5 centimeters from the base of the silica gel plate and at points 2.0 centimeters apart. Apply approximately 2 microliters of the working standard solution to points 1 and 3. When these spots are dry, apply approximately 2 microliters of sample solution to points 2 and 3. After all spots are thoroughly dry, place the silica gel plate into the trough in the chromatography tank. Cover and seal the tank tightly. Allow the solvent front to travel about 10 centimeters from the starting line. Remove the plate and allow it to air dry. After the plate is dry, spray lightly with the spray solution. Heat the plate in an oven at 110° C. for 10–15 minutes. Mitomycin appears as a pink spot.

(e) *Evaluation.* The sample and standard should have spots of corresponding R_f value (approximately 0.51), and standard and sample combined should appear as a single spot of corresponding R_f value.

PART 145—ANTIBIOTIC DRUGS; DEFINITIONS AND INTERPRETATIVE REGULATIONS

2. Part 145 is amended:

a. In § 145.2(a) by adding a new subparagraph, as follows:

§ 145.2 Definitions of antibiotic substances.

(a) * * *

(39) *Mitomycin.* Mitomycin is the antibiotic substance produced by the growth of *Streptomyces caespitosus,* and each of the same substances produced by any other means is a kind of mitomycin.

b. In § 145.3(a) and (b) by adding a new subparagraph, as follows:

§ 145.3 Definitions of master and working standards.

(a) * * *

(52) *Mitomycin.* The term "mitomycin master standard" means a specific lot of crystalline mitomycin that is designated by the Commissioner as the standard of comparison in determining the potency of the mitomycin working standard.

(b) * * *

(52) *Mitomycin.* The term "mitomycin *working standard*" means a specific lot of a homogeneous preparation of mitomycin.

c. In § 145.4(b) by adding a new subparagraph, as follows:

§ 145.4 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(55) *Mitomycin.* The term "microgram" applied to mitomycin means the mitomycin activity (potency) contained in 1.0416 micrograms of the mitomycin master standard.

PART 151j—MITOMYCIN

3. A new Part 151j is established to read as follows:

Sec.
151j.1 *Mitomycin.*
151j.2–151j.10 [*Reserved*]
151j.11 *Mitomycin for injection.*

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

§ 151j.1 Mitomycin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Mitomycin is 7-amino-9a-methoxymitosane. It is a blue-violet compound that is soluble in water, methanol, acetone, butyl acetate, and cyclohexanone. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms per milligram.

(ii) It passes the safety test.

(iii) Its moisture content is not more than 5 percent.

(iv) Its pH in a solution containing 5 milligrams per milliliter is not less than 6.0 and not more than 8.0.

(v) When calculated on the anhydrous basis, its absorptivity at 357 nanometers is not less than 95 percent and not more than 105 percent of that of the mitomycin working standard similarly treated.

(vi) It gives a positive identity test for mitomycin.

(vii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, absorptivity, identity, and crystallinity.

(ii) Samples required: Five packages, each containing approxmiately 100 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceeded as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to obtain a stock solution of concenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 1.0 microgram of mitomycin per milliliter (estimated).

(2) *Safety.* Proceed as directed in §141.5 of this chapter, except observe the mice for 7 days in lieu of 48 hours, noting mortality every 24 hours. Repeat the test as described in §141.5(d) of this chapter if one or more animals die within 7 days.

(3) *Moisture.* Proceed as directed in §141.502 of this chapter.

(4) *pH.* Proceed as directed in § 141.503 of this chapter, using a solution containing 5 milligrams per milliliter.

(5) *Absorptivity.* Determine the absorbance of the sample and standard solution in the following manner: Place an accurately weighed portion of approximately 25 milligrams of mitomycin into a 50-milliliter volumetric flask. Dissolve and dilute to volume with absolute methanol. Further dilute an aliquot with absolute methanol to 0.005 milligram of mitomycin per milliliter. Using a suitable

spectrophotometer equipped with a 1-centimeter quartz cell and absolute methanol as the blank, determine the absorbance of the sample and standard solutions at 357 nanometers. Calculate the percent relative absorptivity as follows:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample} \times \text{weight of standard in milligrams} \times \text{percent mitomycin content of standard} \times 100}{\text{Absorbance of standard} \times \text{weight of sample in milligrams} \times (100-m)}$$

where:
m = percent moisture in the sample.

(6) *Identity.* Proceed as directed in § 141.521 of this chapter, using the sample preparation method described in paragraph (b)(2) of that section.

(7) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

§ 151j.11 Mitomycin for injection.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Mitomycin for injection is a dry mixture of mitomycin and mannitol. Its potency is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of mitomycin that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. It contains no histamine nor histamine-like substances. Its moisture content is not more than 5 percent. Its pH, when reconstituted as directed in the labeling, is not less than 6.0 and not more than 8.0. It passes the identity test for mitomycin. The mitomycin used conforms to the standards prescribed by § 151j.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The mitomycin used in making the batch for potency, moisture, pH, absorptivity, identity, and crystallinity.

(*b*) The batch for potency, sterility, pyrogens, safety, histamine, moisture, pH, and identity.

(ii) Samples required:

(*a*) The mitomycin used in making the batch: Five packages, each containing approximately 100 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 25 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Using a suitable hypodermic needle and syringe, remove all of the withdrawable contents from each container if it is represented as a single dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the solution thus obtained with sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Further dilute the stock solution with solution 1 to the reference concentration of 1 microgram of mitomycin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 141.4(a) of this chapter, using a solution containing 0.5 milligram of mitomycin per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this chapter, except observe the mice for 7 days in lieu of 48 hours, noting mortality every 24 hours. Repeat the test as described in § 141.5(d) of this chapter if one or more animals die within 7 days.

(5) *Histamine.* Proceed as directed in § 141.7 of this chapter.

(6) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(7) *pH.* Proceed as directed in § 141.503 of this chapter using the drug reconstituted as directed in the labeling.

(8) *Identity.* Proceed as directed in § 141.556 of this chapter.

Since the conditions prerequisite to providing for certification of subject antibiotic drug have been complied with and since the matter is noncontroversial in nature, notice and public procedures and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective January 16, 1974.

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

Dated: January 10, 1974.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.74-1294 Filed 1-16-74;8:45 am]

PART 167—IN VITRO DIAGNOSTIC PRODUCTS FOR HUMAN USE

Labeling of Blood Grouping Serum; Stay of Effective Date

On March 15, 1973, the Commissioner of Food and Drugs published in the FEDERAL REGISTER (38 FR 7096) a final order establishing labeling requirements and procedures for the development of standards for all in vitro diagnostic products for human use. The final order was effective upon publication in the FEDERAL REGISTER, except that § 167.2(a), (b), and (d) would become effective on March 15, 1974 and § 167.2(c) would become effective on September 17, 1973.

Subsequently, on November 13, 1973, a notice of proposed rulemaking concerning additional standards for blood grouping serum was published in the FEDERAL REGISTER (38 FR 31312). In that November 13, 1973 notice, the Commissioner proposed that the effective date for compliance with the proposed labeling requirements for these products would be one year following the date of publication of the final order in the FEDERAL REGISTER.

Since blood grouping serum is an in vitro diagnostic product, serum manufacturers are required to revise product labeling prior to March 15, 1974 to comply with the provisions of § 167.2 and shortly thereafter will again be required to revise product labeling to conform to the labeling requirements under the additional standards for blood grouping serum when they become effective.

The Commissioner finds that the necessity to comply with two successive labeling changes in a relatively short period of time imposes undue hardship on serum manufacturers. He concludes that compliance with § 167.2(a) and (b) as applied to licensed blood grouping serums shall be stayed pending final action on the proposed additional standards for blood grouping serum as published in the FEDERAL REGISTER of November 13, 1973 (38 FR 31312).

This action, which will provide for orderly transition in the preparation, manufacture, and use of new labeling, involves no hazard to the public health since licensed blood grouping serum is currently subject to existing labeling regulations pursuant to 21 CFR Part 610 (formerly §§ 273.600 through 273.870, recodified in the FEDERAL REGISTER of November 20, 1973 (38 FR 32048)).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 502, 505, 508, 510, 701, 52 Stat. 1040 as amended, 1049–1053 as amended, 1055–1056 as amended, 76 Stat. 789 and 794 as amended; 21 U.S.C. 321, 351, 352, 355, 358, 360, 371), the Public Health Service Act (sec. 351, 58 Stat. 702 as amended; 42 U.S.C. 262), and under authority delegated to the Commissioner (21 CFR 2.120) the provisions of § 167.2 (a) and (b) as they apply to licensed blood grouping serum are hereby stayed.

Pursuant to the Administrative Procedure Act (5 U.S.C. 553(d)), the Commissioner concludes that notice, publication procedures and delayed effective date are unnecessary to promulgation of this order since it does not impose a duty but rather recognizes an exemption.

Effective date. This order is effective on January 17, 1974.

Dated: January 8, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-1459 Filed 1-16-74;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—ESTATE AND GIFT TAXES

[T.D. 7296]

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Estate Tax Credit for Foreign Death Taxes; Estate and Gift Tax Treatment of Transfers of Nonresidents not Citizens of the United States

Correction

In FR Doc. 73-26313, appearing at page 34190 in the issue for Wednesday, December 12, 1973, in § 20.2014-2(a), in the example, the equation appearing above the table of "Inheritance tax of surviving spouse" should be transferred below the sentence reading "The 'first limitation' on the credit for foreign death taxes is:" which immediately follows the table.

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURES AND PRACTICES

PART 71—STATEMENT OF PROCEDURAL RULES

Scope, Meaning of Terms, Rules for Disclosure of Information, and Formulation and Publication of Rules, Regulations, and Forms

This document amends 27 CFR Part 71 by revising § 71.1, § 71.11, and paragraphs (b)(3)(ii) and (iii), (c)(5), (6), (8), (9), (10), (d)(1) and (6) of § 71.22, by adding a new paragraph (d)(7) to § 71.22, and by adding a new Subpart D.

As revised by this document, § 71.1 expands the scope of procedural rules contained in Part 71; § 71.11 provides a definition for a regional office of the Bureau, § 71.22(b)(3)(ii) provides the geographical area of each region of the Bureau; § 71.22(b)(3)(iii) and § 71.22(c)(5) reduce the fee for photocopying from 25 cents to 10 cents per copy. A further change in § 71.22(c)(5) clearly exempts other Federal, State and local agencies from the fee requirements. Sections 71.22(c)(6), 71.22(c)(8), and 71.22(c)(9) are revised to provide more detailed information for the benefit of persons requesting identifiable records including the denial of an application and appeal procedures to be followed; and § 71.22(c)(10) is revised to correct the address of the Chief Counsel.

Section 71.22(d)(1) deletes requirement to make accepted offers in compromise available in offices of district directors of internal revenue, and § 71.22(d)(6) provides in regulations authority for special agents and other employees to testify in State criminal cases. As added by this document paragraph (d)(7) of § 71.22 provides a specialized procedure for requesting inspection, or copies, of comments received in response to a notice of proposed rulemaking.

As added by this document Subpart D supersedes Subpart F of 26 CFR Part 601 to the extent that it applied to alcohol, tobacco, firearms, and explosives rules, regulations and forms, formerly administered by the Internal Revenue Service and transferred to the Bureau of Alcohol, Tobacco and Firearms.

This part (27 CFR Part 71) was filed with the FEDERAL REGISTER on July 7, 1972, effective July 13, 1972.

The amendments in this document are effective February 16, 1974. Comments in response to notices of proposed rulemaking published in the FEDERAL REGISTER before February 16, 1974 are governed by the provisions of 26 CFR Part 601. However, the provisions of § 71.22(d)(7) shall apply in the case of requests for the inspection of, or copies of, comments received after February 15, 1974, regardless of when the related notice of proposed rulemaking was published.

The following amendments are made to 27 CFR Part 71:

PARAGRAPH 1. Section 71.1 is revised to read as follows:

§ 71.1 General.

This part sets forth the procedural rules of the Bureau of Alcohol, Tobacco and Firearms, The Department of the Treasury, respecting matters of official record in the Bureau, including the procedures for disclosure of information to the public and the formulation and publication of rules, regulations, and forms by the Bureau.

PAR. 2. Section 71.11 is amended by adding, in alphabetical order, a definition of "regional office" to read as follows:

§ 71.11 Meaning of terms.

* * * * *

Regional office. The principal office of each of the seven geographical regions of the Bureau of Alcohol, Tobacco and Firearms.

* * * * *

PAR. 3. In § 71.22, paragraphs (b)(3)(ii) and (iii), (c)(5), (6), (8), (9), (c)(10), and (d)(6) are revised; and paragraph (d)(7) is added. The revised and added provisions read as follows:

§ 71.22 Publication and public inspection.

* * * * *

(b) * * *

(3) * * *

(ii) *Addresses where information may be obtained.* A listing of the seven regional offices, their geographical areas, and the addresses of the Bureau Headquarters and regional offices from which information may be obtained (or with which documents shall be filed) are as follows:

BUREAU HEADQUARTERS

Mail address: Director, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue N.W., Washington, D.C. 20026.
Location: Same as mail address.

NORTH-ATLANTIC REGION

Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont, Puerto Rico, Virgin Islands.
Mail address: Regional Director, Bureau of Alcohol, Tobacco and Firearms, 90 Church Street, New York, NY 10007.
Location: Same as mail address.

MID-ATLANTIC REGION

Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia.
Mail address: Regional Director, Bureau of Alcohol, Tobacco and Firearms, 2 Penn Center Plaza, Philadelphia, PA 19102.
Location: Same as mail address.

SOUTHEAST REGION

Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee.
Mail address: Regional Director, Bureau of Alcohol, Tobacco and Firearms, 275 Peachtree Street NE, Atlanta, GA 30303.
Location: Same as mail address.

MIDWEST REGION

Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin.
Mail address: Regional Director, Bureau of Alcohol, Tobacco and Firearms, 35 East Wacker Drive, Chicago, IL 60601.
Location: Same as mail address.

CENTRAL REGION

Indiana, Kentucky, Michigan, Ohio, West Virginia.
Mail address: Regional Director, Bureau of Alcohol, Tobacco and Firearms, Federal Office Building, 550 Main Street, Cincinnati, OH 45202.
Location: Same as mail address.

SOUTHWEST REGION

Arkansas, Colorado, Louisiana, New Mexico, Oklahoma, Texas, Wyoming.
Mail address: Regional Director, Bureau of Alcohol, Tobacco and Firearms, 1114 Commerce Street, Dallas, TX 75202.
Location: Same as mail address.

WESTERN REGION

Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington.
Mail address: Regional Director, Bureau of Alcohol, Tobacco and Firearms, 870 Market Street, San Francisco, CA 94102.
Location: Same as mail address:

(iii) *Copying facilities.* The Bureau Headquarters and each regional office will provide facilities whereby a person may obtain copies of material made available as provided in this paragraph. Certification services with respect to copies will also be provided. The fees in respect of such material are as follows:

Photocopies; each page	$0.10
Certification of photocopies by appropriate official; each certification	1.00
Sale of unpriced printed material; each 25 pages or fraction thereof	.25
Minimum charge applicable when one or more of the above charges is assessed	1.00

While certain relevant publications which are available for sale through the Government Printing Office will be made available for inspection in the offices identified in subparagraph (3) of this paragraph, such publications will not be available for sale in those offices. Persons desiring to purchase such publications, for example, publications covering Bureau regulations, should contact the Superintendent of Documents, U.S. Government Printing Office, Washington,

D.C. 20402. However, copies of pages of such publications may be obtained in accordance with the schedule of fees set forth in this subdivision.

* * * * *

(c) * * *

(5) *Fees.* A schedule of fees for the services and costs required of the Bureau in locating, making available, copying, and certifying records pursuant to this paragraph is as follows:

Records search; each hour or fraction thereof	$3.50
Photocopies; each page	.10
Certification of photocopies by appropriate official; each certification	1.00
Minimum charge with respect to photocopies	1.00

Such fees are intended to make any services performed with respect to the request self-sustaining to the extent possible. See title V, Act of August 31, 1951 (65 Stat. 290, 31 U.S.C. (Supp. II) 483a). If the Bureau estimates that the total fees for costs incurred in complying with the request will amount to $50 or more, the person making the request may be required to enter into a contract for the payment of actual fees with respect to the request before the Bureau will undertake actions necessary to comply with the request. No charge shall be made for providing information to other Federal, State or local governmental agencies or officers thereof submitting requests in their official capacities.

(6) *Processing a request*—(i) *In general.* The Bureau will grant or deny the request in writing within ten working days of receipt of the request, except under conditions identified in paragraph (c)(6)(iv) of this section. If the request does not sufficiently identify a record, the person making the request will be promptly advised of such fact and notified that a more detailed description of the record is required by the Bureau in order to proceed with the request.

(ii) *Determination by Bureau headquarters.* Except in a case described in subdivision (iii) of this subparagraph, a request sufficiently identifying records will be immediately transmitted to the Assistant to the Director for Public Affairs for prompt consideration who will notify the requester in writing of his determination with respect to the request.

(iii) *Determination by a field office.* Where disclosure authorization with respect to the requested records has been delegated to an officer or employee of the Bureau other than the Assistant to the Director for Public Affairs, such other officer or employee will make the determination as to whether the request for records should be granted or denied and will notify the requester in writing of his determination with respect to the request.

(iv) *Acknowledgement of requests.* The Bureau will acknowledge a request within ten working days of receipt if:

(*a*) The requested records are stored in whole or part at other locations than the office in receipt of the request;

(*b*) The request requires the collection of a substantial number of specified records;

(*c*) The request is couched in categorical terms and requires an extensive search of the records responsive to it;

(*d*) The requested records have not been located in the course of a routine search and additional efforts are being made to locate them;

(*e*) The requested records require examination and evaluation to determine if they are exempt from disclosure; or

(*f*) The requested records or some of them involve the responsibility of another agency or another bureau or office of the Department whose assistance or views are being sought in processing the request.

When additional time is required for one or more of the above reasons, the written acknowledgement shall include a notation of the reason for the delay and as definite an indication as possible of the time required for a decisive response. If action on the request will be delayed because of reason (*f*), a copy of the request is to be forwarded immediately to the other agency or office concerned.

* * * * *

(8) *Denial of request.* If it is determined that the request for records should be denied, the person making the request will be notified of such determination by mail. The letter of notification will specify the city or other location where the requested records are situated, contain a brief statement of the grounds for denial, including a reference to the specific exemption or exemptions under 5 U.S.C. 552 authorizing the withholding of the record or part thereof and a brief explanation of how the exemption applies to the record withheld. The letter of notification will also advise the requester of his right to appeal to the Director in accordance with subparagraph (9) of this paragraph and in the event of denial upon appeal, to seek judicial review in the U.S. district court in the district in which the complainant resides, or has a principal place of business, or in which the agency records are situated.

(9) *Administrative appeal.* At any time within 30 days after the date of the letter of notification described in subparagraph (8) of this paragraph, the person making the request may file an appeal to the Director. The appeal must be in the form of a statement signed by the appellant and mailed to the Director, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, D.C., 20226. The statement must contain the following information:

(i) The appellant's name and address,

(ii) The identification of the records requested,

(iii) The date of the request and the date of the letter denying the request, and

(iv) A request that the Director consider the denial. The appeal will be considered by the Director and the request either granted or denied by him within 20 working days from the date of filing: *Provided,* That under unusual circumstances, the appellant will be advised within the 20-day period of the reason for delay and will be advised of the date by which a decision may be expected to be made. The appellant will be notified of the determination by mail, and such determination shall be final. In case of a denial the notification shall set forth the exemption relied on, how it applies to the record withheld, and the reasons for asserting it.

(10) *Judicial review.* If the request is denied upon appeal pursuant to paragraph (c)(9) of this section, or if no determination is made on the appeal within 30 days after filing, the appellant may commence an action in a U.S. district court pursuant to 5 U.S.C. 522(a)(3). The statute authorizes an action only against the agency. With respect to records of the Bureau, the agency is the Bureau, not an officer or employee thereof. Service of process in such an action shall be in accordance with the Federal Rules of Civil Procedure (28 U.S.C. App.) applicable to actions against an agency of the United States. Where provided in such rules, delivery of process upon the Bureau must be directed to the Director, Bureau of Alcohol, Tobacco and Firearms: Attention: Chief Counsel, 1200 Pennsylvania Avenue NW., Washington, D.C., 20226. The district court will determine the matter de novo, and the burden will be upon the Bureau to sustain its action in not making the requested records available.

(d) *Rules for disclosure of certain specified matters*—(1) *Accepted offers in compromise.* For each offer in compromise submitted and accepted pursuant to 26 U.S.C. 7122, in any case arising under subtitle E of Title 26 of the United States Code (relating to alcohol, tobacco, and certain other excise taxes); pursuant to section 7 of the Federal Alcohol Administration Act (27 U.S.C. 207) in any case arising under that Act; or in connection with property seized under title I of the Gun Control Act of 1968 (18 U.S.C., chapter 44), and title XI of the Organized Crime Control Act of 1970 (18 U.S.C. chapter 40), a copy of the abstract and statement relating to the offer will be available for public inspection, for a period of 1 year from the date of acceptance, in the office of the Regional Director who received the offer. Information will not be disclosed, however, concerning any trade secrets, processes, operations, style of work, or apparatus, or confidential data or any other matter within the prohibition of 18 U.S.C. 1905.

* * * * *

(6) *State cases.* Regional Directors may, in the interest of Federal and State law enforcement, upon receipt of demands or requests of State authorities, and at the expense of the State, authorize special agents and other employees under their supervision to attend trials

and administrative hearings in liquor, tobacco, firearms, and explosives cases, or in any criminal case, in which the State is a party, produce records, and testify as to facts coming to their knowledge in their official capacities: *Provided*, That in cases where a defendant in a criminal matter requests or demands testimony, authorization from the Director will be required: *Provided further*, That such production or testimony will not divulge information contrary to 26 U.S.C. 7213, nor divulge information subject to the restrictions in 26 U.S.C. 5848. See also 26 CFR 301.9000–1(f) and 18 U.S.C. 1905.

(7) *Comments received in response to a notice of proposed rulemaking.* Written comments received in response to a notice of proposed rulemaking may be inspected by any person upon compliance with the provision of this subparagraph (7) unless such comments are exempt from disclosure under law. Comments which may be inspected are located in the Office of the Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226. The request to inspect comments must be in writing and signed by the person making the request and should be addressed to the Director, Bureau of Alcohol, Tobacco and Firearms, Attention: R:R, Washington, D.C. 20226. Upon delivery of such a written request to the place where the comments are located during the regular business hours of that office, the person making the request may inspect those comments (or positions thereof) which are not exempt from disclosure. Copies of comments (or portions thereof) which are not exempt from disclosure may be obtained by a written request addressed to the Director, Bureau of Alcohol, Tobacco and Firearms, Attention: R:R, Washington, D.C. 20226. The person making the request for copies should allow a reasonable time for processing the request. The provisions of paragraph (c)(5) of this section, relating to fees, shall apply with respect to requests made in accordance with this subparagraph. The provisions of this subparagraph shall apply in the case of requests for the inspection of, or copies of, comments that are made after February 15, 1974, regardless of when the comments were submitted or regardless of when the related notice of proposed rulemaking was published in the FEDERAL REGISTER.

* * * * *

PAR. 4. A new Subpart D is added, immediately following § 71.22, to read as follows:

Subpart D—Rules, Regulations and Forms

Sec.
71.31 Rules and regulations.
71.32 Forms and instructions.

AUTHORITY: 26 U.S.C. 7805, 68A Stat. 917.

Subpart D—Rules, Regulations and Forms

§ 71.31 Rules and regulations.

(a) *Formulation.* (1) Alcohol, tobacco, explosives, and certain firearms rules take various forms. The most important rules are issued as regulations and Treasury decisions, prescribed by the Director, and approved by the Secretary or his delegate. Other rules may be issued over the signature of the Director or the signature of any other official to whom authority has been delegated. The channeling of rules varies with the circumstances. Regulations and Treasury decisions are prepared in the Office of the Regulations and Procedures Division and reviewed in the Office of Chief Counsel, Bureau of Alcohol, Tobacco and Firearms. After approval by the Director, regulations and Treasury decisions are forwarded to the Secretary or his delegate for further consideration and final approval.

(2) Where required by 5 U.S.C. 553 and in such other instances as may be desirable, the Director publishes in the FEDERAL REGISTER general notice of proposed rules (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law). This notice includes (i) a statement of the time, place, and nature of public rulemaking proceedings; (ii) reference to the authority under which the rule is proposed; and (iii) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

(3)(i) This subparagraph shall apply where the rules of this subparagraph are incorporated by reference in a notice of hearing with respect to a notice of proposed rulemaking.

(ii) A person wishing to make oral comments at a public hearing to which this subparagraph applies shall file his written comments within the time prescribed by the notice of proposed rulemaking (including any extensions thereof) and submit the outline referred to in paragraph (a)(3)(iii) of this section within the time prescribed by the notice of hearing. In lieu of the reading of a prepared statement at the hearing, such person's oral comments shall ordinarily be limited to a discussion of matters relating to such written comments and to questions and answers in connection therewith. However, the oral comments shall not be merely a restatement of matters the person has submitted in writing. Persons making oral comments should be prepared to answer questions not only on the topics listed in his outline but also in connection with the matters relating to his written comments. Except as provided in paragraph (b) of this section, in order to be assured of the availability of copies of such written comments or suggestions, or outline, on or before the beginning of such hearing, any person who desires such copies should make such a request within the time prescribed in the notice of hearing and shall agree to pay reasonable costs for copying. Persons who make such a request after the time prescribed in the notice of hearing will be furnished copies as soon as they are available, but it may not be possible to furnish the copies on or before the beginning of the hearing. Except as provided in the preceding sentences, copies of written comments regarding the rules proposed shall not be made available at the hearing.

(iii) A person who wishes to be assured of being heard shall submit, within the time prescribed in the notice of hearing, an outline of the topics he wishes to discuss, and the time he wishes to devote to each topic. An agenda will then be prepared containing the order of presentation of oral comments and the time allotted to such presentation. Ordinarily, a period of 10 minutes will be the time allotted to each person for making his oral comments.

(iv) At the conclusion of the presentation of comments of persons listed in the agenda, to the extent time permits, other comments will be received.

(v) In the case of unusual circumstances or for good cause shown, the application of rules contained in this subparagraph may be waived.

(vi) To the extent resources permit, the public hearings to which this subparagraph applies may be transcribed.

(b) *Comments on proposed rules.* Interested persons are privileged to submit any data, views, or arguments with respect to a notice of proposed rulemaking published pursuant to 5 U.S.C. 553. Any person submitting comments in response to a notice of proposed rulemaking shall specifically designate in writing that portion (if any) of his comments which, in his opinion, contains material which is exempt from disclosure under law and shall state in writing the reasons for such exemption. Any portion of a comment which is designated as exempt from disclosure, and the reasons for such exemption, shall be set forth on pages separate from the balance of the comment. Any comments or any portion thereof not specifically designated as exempt from disclosure in accordance with this paragraph (b) will be made available pursuant to paragraph (d)(7) of § 71.22. The name of any person submitting comments (whether or not exempt from disclosure in whole or in part) or requesting a public hearing, the issues which may be discussed at the hearing, and outlines relating to the hearing are not exempt from disclosure. (See paragraph (a)(3) of this § 71.31 for rules relating to hearing outlines.) The disclosure by the Bureau of

(1) Any name,

(2) Any comments, or any portion therefore not specifically designated as exempt from disclosure by the person submitting the comment,

(3) Any comments, or any portion thereof which is designated as exempt from disclosure by the person submitting the comments but which is not so exempt under law, or

(4) The issues which will be discussed at a public hearing and related outlines, will be a disclosure authorized by law within the meaning of any statute governing the disclosure of information.

(c) *Petition to change rules.* Interested persons are privileged to petition for the issuance, amendment, or repeal of a rule. A petition for the issuance of a rule should identify the section or sec-

tions of law involved; and a petition for the amendment or repeal of a rule should set forth the section or sections of the regulations involved. The petition shall also set forth the reasons for the requested action. Such petitions will be given careful consideration and the petitioner will be advised of the action taken thereon. Petitions should be addressed to the Director, Bureau of Alcohol, Tobacco and Firearms, Attention: RR, Washington, D.C. 20226.

(d) *Publication of rules and regulations.*—(1) *General.* All Bureau of Alcohol, Tobacco and Firearms Treasury decisions (including new and reissued regulations) are published in the FEDERAL REGISTER and in the Code of Federal Regulations. The Treasury decisions which amend existing regulations are also published in the monthly Alcohol, Tobacco and Firearms Bulletin. The Alcohol, Tobacco and Firearms Bulletin is the authoritative instrument of the Director for announcing official rulings and procedures of the Bureau and for publishing amendatory Treasury decisions, legislation, administrative matters, and other items of general interest. The Bulletin incorporates, into one publication, all matters of the Bureau which are of public record. It is the policy of the Bureau to publish in the Bulletin all substantive rulings necessary to promote a uniform application of all laws administered by the Bureau as well as rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin (including those published prior to July 1, 1972, in the Internal Revenue Bulletin). Procedures relating solely to matters of internal management are not published; however, industry regulations appearing in internal management documents and statements of internal practices and procedures that affect the rights and duties of the public are published. Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered. Concerned parties are cautioned against reaching the same conclusion in other cases unless the facts and circumstances are substantially the same. The Bulletin is published monthly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents of a permanent nature are consolidated each calendar year into cumulative issues, which are sold on a single-copy basis.

(2) *Objectives and standards for publication of ATF Rulings and ATF Procedures in the Alcohol, Tobacco and Firearms Bulletin.* (i) (*a*) An "ATF Ruling" is an official interpretation by the Bureau that has been published in the Bulletin for the information and guidance of taxpayers, Bureau officials, and others concerned. ATF Rulings represent the conclusions of the Bureau on the application of the law to the entire state of facts involved. In those that are based on positions taken in rulings to industry members or technical advice to Bureau field offices, identifying details and confidential information are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements concerning disclosure of information obtained from the public.

(*b*) An "ATF Procedure" is a statement of procedure that affects the rights or duties of taxpayers or other members of the public under law and regulations administered by the Bureau or information that, although not necessarily affecting the rights and duties of the public, should be a matter of public knowledge. ATF Procedures establish methods for performing operations in compliance with the requirements of law and regulations. It is Bureau practice to publish as much of the internal management document or communication as is necessary for an understanding of the procedure. ATF Procedures may also be based on internal management documents which should be a matter of public knowledge even though not necessarily affecting the rights or duties of the public. When publication of the substance of an ATF Procedure in the FEDERAL REGISTER is required pursuant to 5 U.S.C. 552, it will usually be accomplished by an amendment of the Statement of Procedural Rules (27 CFR Part 71.)

(ii) It is the policy of the Bureau to publish in the Bulletin all rulings and other communications to members of the public or to Bureau field offices involving substantive law, procedures affecting taxpayers' rights or duties, or industry regulations, except those involving—

(*a*) Issues specifically and clearly covered by statute or regulations;

(*b*) Issues specifically covered by rulings, procedures, opinions, or court decisions previously published in the Bulletin;

(*c*) Issues not likely to arise again because of unique or specific facts;

(*d*) Determinations of fact rather than interpretations of law;

(*e*) Acceptability under the law and regulations of containers, labels, and advertising involving alcoholic beverages or tobacco products;

(*f*) Tobacco operations, such as the disposition of abandoned, seized, or condemned tobacco products;

(*g*) Informers and informers' rewards; or

(*h*) Disclosure of secret formulas, processes, business practices, and other similar information.

(iii) (*a*) It will be the practice of the Bureau to publish as much of the ruling or communication as is necessary for an understanding of the position stated. However, in order to prevent unwarranted invasions of personal privacy and to comply with statutory provisions, such as 18 U.S.C. 1905 and 26 U.S.C. 7213, dealing with disclosure of information obtained from members of the public, identifying details, including the names and addresses of persons involved, and information of a confidential nature are deleted from the ruling.

(*b*) ATF Rulings published in the Bulletin do not have the force and effect of Treasury Department Regulations (including amendatory Treasury decisions) but are published to provide precedents to be used in the disposition of other cases, and may be cited and relied upon for that purpose. No unpublished ruling or decision will be relied on, used, or cited, by any officer or employee of the Bureau as a precedent in the disposition of other cases.

(*c*) Concerned persons generally may rely upon ATF Rulings published in the Bulletin in determining the Bureau treatment of their own transactions and need not request specific rulings applying the principles of a published ATF Ruling to the facts of their particular cases. However, since each ATF Ruling represents the conclusion of the Bureau as to the application of the law to the entire state of facts involved, taxpayers, Bureau personnel, and others concerned are cautioned against reaching the same conclusion in other cases unless the facts and circumstances are subtantially the same. They should consider the effect of subsequent legislation, regulations, court decisions, and ATF Rulings.

(*d*) Comments and suggestions from taxpayers or other concerned persons on ATF Rulings being prepared for publication in the Bulletin may be solicited, if justified by special circumstances. Conferences on ATF Rulings being prepared for publication will not be granted except where the Bureau determines that such action is justified by special circumstances.

(iv) (*a*) The Assistant Director (Scientific and Technical Services) is responsible for administering the program for the publication of ATF Rulings and ATF Procedures in the Bulletin, including the standards for style and format.

(*b*) In accordance with the standards set forth in subdivision (ii) of this subparagraph, each Assistant Director is responsible for the preparation and appropriate referral for publication of ATF Rulings reflecting interpretations of substantive law made by his office and communicated in writing to members of the public or field offices. In this connection, the Chief Counsel is responsible for the referral to the appropriate Assistant Director, for consideration for publication as ATF Rulings, of interpretations of substantive law made by his office.

(*c*) In accordance with the standards set forth in subdivision (ii) of this subparagraph, each Assistant Director and the Chief Counsel is responsible for determining whether procedures established by any office under his jurisdiction should be published as ATF Procedures and for the initiation, content, and appropriate referral for publication of such ATF Procedures.

§ 71.32 Forms and instructions.

(a) *Tax return forms and instructions.* Tax forms and instructions are developed by the Bureau to explain the requirements of chapters 51, 52, and 53 of Title 26 of the United States Code and of regulations issued thereunder, and are issued for the assistance to taxpayers in exercising their rights and discharging

their duties under such laws and regulations. The tax return forms are the instruments through which taxes are collected.

(b) *Other forms and instructions.* The Bureau provides other necessary or appropriate forms for assisting the public in complying with the technical requirements of the laws and regulations administered by the Bureau. The material contained in the forms and instructions, and the arrangement thereof, is carefully considered and is designed to lead the preparer step-by-step through an orderly accumulation of data to an accurate report of the information required.

(c) *Procurement of forms and instructions.* (1) Requests for ATF Forms (except for those originating within Central Region) should be directed to:

Bureau of Alcohol, Tobacco and Firearms
P.O. Box 75
Benjamin Franklin Station
Washington, D.C. 20044

(2) Requests for ATF Forms from the Central Region (the States of Ohio, Kentucky, Indiana, Michigan, and West Virginia) should be directed to:

Bureau of Alcohol, Tobacco and Firearms
Room 864
Federal Office Building
600 Federal Place
Louisville, Kentucky 40202

(3) Descriptions of many of the forms and publications of the Bureau for public use are contained in Publication No. 480, Alcohol, Tobacco and Firearms Public Use Forms. Publication No. 480 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

This document is exempt from the notice and effective date provisions of 5 U.S.C. 553(b) and (d), respectively. Therefor this document will become effective on February 16, 1974.

(26 U.S.C. 7805 (68A Stat. 917))

[SEAL] REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.74-1403 Filed 1-16-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-11R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Shellbank Basin, N.Y.

This amendment revokes the regulations for the drawbridge across Shellbank Basin at Nolins Avenue, Jamaica Bay, New York, because this bridge has been removed.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking paragraph (b) of § 117.175.

(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 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4).)

Effective date. This revocation shall become effective on January 18, 1974.

Dated: January 11, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.74-1439 Filed 1-16-74;8:45 am]

[CGD 74-10R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Lake Champlain, Vt.

This amendment revokes the regulations for the Vermont Department of Highways bridge across Alburg Passage between Alburg Tongue and North Hero Island, at South Alburg, Vermont, because this bridge has been removed.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking subparagraph (11) of paragraph (f) of § 117.190.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 38 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4)).

Effective date. This revocation shall become effective on January 18, 1974.

Dated: January 11, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.74-1440 Filed 1-16-74;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 14—LEGAL SERVICES, GENERAL COUNSEL

Request for Legal Opinions

A change to § 14.501(b) is being made in order to clarify administrative processing of submissions of opinions from Chief Attorneys for the approval or advice of the General Counsel, and will provide for direct channeling of these opinions.

Compliance with the provisions of § 1.12 of this chapter, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendment to § 14.501 (b) is editorial in nature.

In § 14.501, paragraph (b) is amended to read as follows:

§ 14.501 Request for legal opinions.

* * * * *

(b) *Submissions from the field.* Requests from administrative officials in the field for legal opinions or advice will be addressed to the appropriate Chief Attorney, who will prepare and release opinion, or refer the matter to the General Counsel for approval or advice. The views or opinions of the General Counsel will be forwarded directly to the Chief Attorney, with a copy to the interested staff office or department.

This VA Regulation is effective January 11, 1974.

Approved: January 11, 1974.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.74-1432 Filed 1-16-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-16—PROCUREMENT FORMS

Subpart 3-16.50—Forms for Negotiated Procurement

MISCELLANEOUS AMENDMENTS

Chapter 3, Title 41, Code of Federal Regulations is amended as set forth below. The purpose of this amendment is to delete a paragraph which is no longer required because of the addition of the section relative to the standardized request for proposal format and checklist for solicitation document.

It is the general policy of the Department of Health, Education, and Welfare to allow time for interested parties to take part in this rulemaking process. However, the amendment herein involves an administrative matter. Therefore, the public rulemaking process is deemed unnecessary in this instance.

Paragraph (b)(3) of § 3-16.5000, *Scope of subpart,* is hereby revoked.

(5 U.S.C. 301; 40 U.S.C. 486(c)).

Effective date. This regulation is effective on January 17, 1974.

Dated: January 9, 1974.

S. H. CLARKE,
Deputy Assistant Secretary for Administration and Management.

[FR Doc.74-1471 Filed 1-16-74;8:45 am]

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR

PART 60-3—EMPLOYEE TESTING AND OTHER SELECTION PROCEDURES

Guidelines for Reporting Criterion Related and Content Validity

On February 14, 1973, notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 4413) with regard to amending § 60-3.15 of Title 41, Code of Federal Regulations for the purpose of clarifying Federal contractors' existing obligations to report the validity of tests and other selection methods as required by 41 CFR Part 60-3. Interested persons were given thirty (30) days in which to submit written comments, suggestions, or objections regarding the proposed amendments.

Having considered all relevant materials submitted, I have determined that

to effectuate the objectives of the proposal it would be more appropriate to amend 41 CFR 60–3.6, rather than 41 CFR 60–3.15 as originally proposed, since the purpose of the amendment is to clarify the manner in which evidence of validity is to be presented, and not to impose additional recordkeeping requirements.

For purposes of clarity, it has been determined that the different requirements for criterion-related validity and content validity should be stated separately. Specific requirements for construct validity studies are under consideration and may be added to 41 CFR § 60–3.6 at a later date.

Section 60–3.6 is hereby amended to read as follows:

§ 60–3.6 Presentation of evidence of validity.

(a) *Criterion-related validity.* Reports of criterion-related validity of tests and other selection methods, where required by this chapter, are to contain the following information:

(1) *Firm or organization and location(s) and date(s) of study.* If study is longitudinal, both testing dates and criterion collection dates or the time range within which these dates occurred must be shown (ESSENTIAL). If study was conducted at several locations, names of cities and states should be shown in addition to plant identification.

(2) *Problem and setting.* Explicit definition of purposes and brief discussion of the situation in which the study was conducted should be provided. Include description of existing selection procedures and cutting scores, if any, which were used.

(3) *Job analysis.* A full description of all important duties and tasks involved in each of the jobs on which research has been conducted and for which the test will be used must be provided (ESSENTIAL). Unless a general measure of job behavior (such as turnover or tenure) is used as a criterion, it is expected that the description of the duties performed by the incumbents on the job will also detail the level of difficulty at which the duties are performed, and those duties which are critical (i.e., must be performed competently if the job is to be performed in a satisfactory manner). This job analysis also should describe on what bases duties were determined to be critical, such as the proportion of time spent on the respective duties, their levels of difficulty, their importance, their frequency of performance, and other relevant factors. If a duty which occupies a high proportion of time is not deemed critical, the reasons therefore must be set forth. Published descriptions from industry sources or Volume I of the *Dictionary of Occupational Titles* are satisfactory if they adequately and completely described the job. If necessary a brief supplement to the published descriptions may be provided. (The requirements in this section are not intended to specify a particular method of job analysis. Any professionally recognized product and/or process oriented method of job analysis is acceptable if it is comprehensive and otherwise appropriate for the specific validation strategy used.) If two or more jobs are grouped for a validation study, a justification for this grouping as well as a description of each of the jobs should be provided.

(4) *Job titles and codes.* It is desirable that the job title used in company terminology plus the corresponding job title and code from United States Employment Service *Dictionary of Occupational Titles* (Third Edition) Volumes I and II, United States Government Printing Office, 1965, be provided. Where appropriate DOT codes and titles do not exist, a notation to that effect should be made.

(5) *Criteria.* Provide a description of all criteria of job related behaviors collected (including a rationale for what were selected as final criteria) and means by which they were observed, recorded, evaluated and quantified (ESSENTIAL). (To the extent possible this description should parallel the content validity justification described under "content validity" below.) An indication of the reliability coefficients and how they were established is desirable.

(6) *Sample.* A description of the ethnic and sex composition of the sample must be provided. (Minority group categories shown on EEO–1 should be used.) Also required is a description of how the research sample was selected and how it compares with employees in the job and with current applicants. Description of educational levels, length of service, and age is also desirable.

(7) *Number of cases.* Indicate the number of people in the sample, and the number of people in each of the subsamples (ESSENTIAL).

(8) *Predictors.* Commercially available tests should be described by title, form and publisher (ESSENTIAL). Other predictors, including privately constructed tests, interviewer's ratings, education and experience levels and composites of test batteries should be explicitly described (ESSENTIAL). The inclusion of a rationale for each predictor studied is desirable.

(9) *Techniques and results.* Methods used in evaluating data must be described (ESSENTIAL). Any statistical adjustments such as for less than perfect reliability or for restriction of score range in the test or criterion, or both must be described and uncorrected coefficients must also be shown (ESSENTIAL). Statistical results must be summarized in graphical or tabular form (by ethnic and/or subgroup, if feasible) and statements regarding statistical significance of results must be made (ESSENTIAL). Where the statistical technique used categorizes continuous data (such as biserial correlation and phi coefficient) the cut-offs used and their bases must be described (ESSENTIAL). Where more than one predictor and/or more than one criterion is used, all predictor-criterion correlations must be reported regardless of magnitude or direction. Average scores (e.g. means) and measures of dispersion (e.g. standard deviations and ranges) for all test and criteria must be reported for all relevant subgroups, including minority and nonminority groups and males and females, where feasible (ESSENTIAL).

(10) *Uses and applications.* A description of the way in which the test is to be used (e.g., as a screening device with a cut-off score, combined with other tests in a battery) and application of the test (e.g., selection, transfer, upgrading) must be provided so as to permit judgments of the test's utility in making predictions of future work behavior (ESSENTIAL). Where cut-off scores are to be used, both the cut-off scores and the way in which they were determined must be described (ESSENTIAL). (It is expected that each operational cut-off score will be reasonable and consistent with normal expectations of proficiency within the work force or group on which the study was conducted.) The specific way the test or test battery is used operationally must be described and validity data must support this particular use (ESSENTIAL). If predictor weights are used, the weights and the validity of the weighted composite must be reported (ESSENTIAL).

(11) *Source data.* Each contractor must maintain, and make available upon request, records showing all pertinent information about individual sample members in studies involving the validation of tests. These data must include test scores, criterion scores, age, sex, minority group status, and experience on the specific job on which the validation study is being conducted and may also include such things as education, training and prior job experience. If the contractor chooses to submit along with a report on validation a worksheet showing the pertinent information about the individual sample members, specific identifying information such as name and social security number should NOT be shown. Submittal with the validation report is encouraged as it may prevent delays in approval in the event that errors are noted.

(12) *Contact person.* It would be desirable for the contractor to provide the name, address and telephone number of person currently working for the company or consulting firm who may be contacted for further information about the validation study.

(b) *Content validity.* Content validity is an appropriate type of validity to demonstrate for skills tests (that is, tests to determine whether an individual already possesses needed skills or knowledge), and certain other selection procedures, but it is not ordinarily an appropriate type of validity to fully support aptitude or intelligence tests (that is, tests to determine whether an individual can learn needed skills or knowledge). Also, content validity sometimes may be accepted as provisional compliance where criterion related is preferred but is not technically feasible. Frequently, the content validity of a selection procedure can be demonstrated to the satisfaction of the compliance officer by the contractor, either orally or in writing, without the need to

prepare a formal report in accordance with these guidelines.

NOTE.—It is important to distinguish between face validity which involves an apparent but superficial correspondence between test content and the job (not an acceptable type of validity) and content validity, which involves a demonstration that the test content samples important elements of job tasks. Formal reports of the content validity of tests and other selection methods, where required by this chapter (i.e., disproportionate rejection rate and request of compliance officer), are to contain the following information:

(1) *Job analysis.* The essential foundation of a content validity study is a reliable and comprehensive job analysis. The analysis must define the duties performed by incumbents on the job, the level of difficulty at which the duties are performed, and those duties which are critical (i.e., those which must be performed competently if the job is to be performed in a satisfactory manner) (ESSENTIAL). The job analysis should describe on what bases duties were determined to be critical, such as the proportion of time spent on the respective duties, their levels of difficulty, their importance, their frequency of performance, and other relevant factors. If a duty which occupies a high proportion of time is not deemed critical, the reasons therefore must be set forth. (The level, breadth, degree and/or type of skills or knowledge to be learned on the job or in the job related training must be identified because selection standards must not require this level, breadth, degree and/or type of skills or knowledge.) Citation of actual occurrences of ineffective behavior resulting from the absence of a particular knowledge, skill or personal characteristic would be desirable.

(2) *Job title and code.* It is desirable that the job title used in company terminology plus the corresponding job title and code from United States Employment Service *Dictionary of Occupational Titles* (Third Edition) Volumes I and II, United States Government Printing Office, 1965 be provided. Where appropriate DOT codes and titles do not exist, a notation to that effect should be made.

(3) *Predictors.* Privately constructed tests, specific training requirements, composites of test batteries and other predictors should be explicitly described (ESSENTIAL). Commercially available tests, if used, should be described by title, form and publisher (ESSENTIAL). (The predictor content must be restricted to measurement of the knowledge and skills identified in the job analysis.)

(4) *Techniques and results.* Describe the way in which the correspondence between the predictor content and the job content was established (ESSENTIAL). (This includes both content area and relative emphasis given to each area.) The validity demonstration must include a clear description of the depth and scope of primary characteristics required of the worker in performing these specific tasks. Specify the way in which these tasks, knowledge, skills and personal characteristics were determined and their relative importance. Describe qualifications of subject matter experts and/or job experts who reviewed predictor content and job requirements. If any steps were taken to reduce racial, cultural or sex bias in the predictor content, describe these steps. Explain how time limits were established and how these are related to speed with which tasks must be accomplished on the job. Describe studies, if any, to estimate the reliability of the predictors or, if relevant reliability studies have been described in the literature, these should be referenced.

(5) *Normative data.* As appropriate, it is desirable that average scores (e.g. means) and measures of dispersion (e.g. standard deviations and ranges) on the predictors be reported for one or more samples of applicants or other relevant samples. If feasible, these data should be reported separately for minority subgroups and separately for males and females.

(6) *Cut-off scores.* The rationale for minimum requirements, if any, must be provided (ESSENTIAL). (It is expected that each operational cut-off score or level of skill sought will be reasonable and consistent with normal expectations of proficiency within the work force.)

If the test is used to rank individuals who are above minimum levels, or if preference is given to individuals who score significantly above the minimum levels, a rationale for this procedure must be provided (ESSENTIAL).

(7) *Uses and applications.* A description of the way in which the test is to be used (e.g. as a screening device with a cut-off score, combined with other tests in a battery) and application of the test (e.g. selection, transfer, upgrading) must be provided (ESSENTIAL).

(8) *Contact person.* It would be desirable for the contractor to provide the name, mailing address and telephone number of person currently working for the company or consulting firm who may be contacted for further information about the validation study.

NOTE: Previously written company or consultant reports on criterion-related validity or content validity are acceptable if they are reasonably complete in regard to the above information. If the previously written reports are not complete, the additional information may be appended. If necessary information (all items except those identified as desirable) is not available, the report may still be submitted but approval will be limited to provisional compliance. Reports should not be submitted if any ESSENTIAL items are missing.

Effective date. This amendment shall become effective on January 17, 1974.

Signed at Washington, D.C., this 10th day of January 1974.

PETER J. BRENNAN,
Secretary of Labor.

BERNARD E. DELURY,
Assistant Secretary for Employment Standards.

PHILIP J. DAVIS,
Director, Office of Federal Contract Compliance.

[FR Doc.74-1461 Filed 1-16-74;8:45 am]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER F—TELECOMMUNICATIONS AND PUBLIC UTILITIES

[FPMR Amdt. F-17]

PART 101-35—TELECOMMUNICATIONS

Subpart 101-35.8—FTS Precedence System

RESPONSIBILITY

This amendment deletes the requirement that agencies submit to GSA a list of personnel authorized to use the FTS Precedence System.

Section 101-35.803 is revised to read as follows:

§ 101-35.803 Responsibility.

The head of each agency is responsible for designating personnel authorized to use the FTS Precedence System and shall ensure that authorized users adhere to the definitions and instructions contained herein. The Federal Telecommunications System will be in effect on a day-to-day basis, and, therefore, it is essential that calls meet the criteria outlined. Calls and messages shall not be assigned a precedence higher than that described by the criteria.

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

Effective date. This regulation is effective on January 17, 1974.

Dated: January 8, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.74-1441 Filed 1-16-74;8:45 am]

Title 7—Agriculture

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

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

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

Uniformity of Size and Shape Requirements for Frozen Carrots

A notice of a proposal to amend the United States Standards for Grades of Frozen Carrots (7 CFR 52.701-52.711) was published in the FEDERAL REGISTER of September 10, 1973 (38 FR 24654). Interested persons were given until October 31, 1973 to submit written comments concerning the proposed amendment.

This amendment is issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended, 7 U.S.C. 1624), which provides for the issuance of official U.S. Grades to designate different levels of quality for the voluntary use by producers, buyers, and consumers. Official grading services are also provided under this Act upon request and upon payment of a fee to cover the cost of such services.

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal

Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

Statement of consideration leading to the amendment of the standards.

The purpose of the amendment is to revise Table I of the Standards to allow for an increase in allowable diameter or width variation between the largest and smallest carrots in U.S. Grade A whole, halved, and quartered frozen carrots from 50 percent to 100 percent.

A comment was received from the Food and Drug Administration suggesting a modification of the terminology used to describe the measurement and shape of "strips" as set forth in Table I. This change is suggested in the interest of clarity. The Department concurs with the comment and Table I is revised slightly to include the suggested terminology.

The Department, on its own initiative, further suggests that the heading in Table I that reads "Uniformity in 90 percent, by count, of units that are most uniform" be changed to read "Uniformity of units of product, excluding 10 percent, by count, that vary to an extreme." This revision is also in the interest of clarity.

Only one comment was received in opposition to the Notice of Proposed Rulemaking. That comment expressed a concern that increased allowable variation would adversely affect the appearance of the product and that, upon cooking, small carrots might become mushy while the large carrots would be undercooked.

After careful consideration, the Department, while acknowledging this comment, concludes that the amendment should become effective for the following reasons:

(1) The Grade A whole, halved, and quartered carrots that are currently marketed are generally quite small;

(2) The maximum diameter for any U.S. Grade A frozen whole carrot may not exceed 1½ inch;

(3) The maximum width of any U.S. Grade A frozen halved or quartered carrot may not exceed 1½ or 1¼ inch respectively;

(4) That among units of such limited size, a variation in size between the largest and smallest carrot of not more than 100 percent would not adversely affect the appearance or eating quality of the product to a noticeable degree.

Therefore, the United States Standards for Grades of Frozen Carrots are hereby amended as proposed on September 10, 1973.

The amendment is as follows:

Section 52.707, Table I is revised to read:

TABLE I—UNIFORMITY OF SIZE AND SHAPE REQUIREMENTS FOR FROZEN CARROTS

Styles	(A) Classification		(B) Classification	
	Measurement and/or shape of individual units	Uniformity of units of product, excluding 10%, by count, that vary to an extreme.	Measurement and/or shape of individual units	Uniformity of units of product, excluding 10%, by count, that vary to an extreme.
Whole	1½-inch maximum diameter	Unit with largest diameter, or width, is not more than twice that of unit with smallest diameter, or width.	2¼-inch maximum diameter	Unit with largest diameter, or width, is not more than twice that of unit with smallest diameter, or width.
Halved	1½ inch maximum width		1¾-inch maximum width	
Quartered	1¼-inch maximum width		1¾-inch maximum width	
Sliced	2-inch maximum diameter; Approximate ¾-inch maximum thickness.	Unit with largest diameter is not more than twice that of unit with smallest diameter and uniformity of thickness does not vary markedly.	2½-inch maximum diameter; Approximate ¾-inch maximum thickness.	No limits as to uniformity between largest and smallest diameters but variations in diameters and thickness do not seriously affect over-all appearance.
Diced	Approximate cube-shapes, ½ inch or less in size.	10%, by weight, maximum may be other shapes and sizes.[1]	Approximate cube-shapes, ½ inch or less in size.	20%, by weight, maximum may be other shapes and sizes.[2]
Double-diced	Approximate double-cube shapes, 1 inch or less long; ½ inch or less in cross-section diameter.	12%, by weight, maximum may be other shapes and sizes.[1]	Approximate double-cube shapes of varying sizes and shapes.	25%, by weight, maximum may be other shapes and sizes.[2]
Strips	Approximate french-cut shapes, with flat-parallel or corrugated-parallel surfaces, ½ inch or more in length.	12%, by weight, maximum may be less than ½ inch long.	Approximate french-cut shapes, with flat-parallel or corrugated-parallel surfaces, ½ inch or more in length.	25%, by weight, maximum may be less than ½ inch long.
Cuts	Units may vary considerably in size and shape provided over-all appearance is not materially affected.		Units may vary considerably in size and shape provided over-all appearance is not seriously affected.	
Chips	[Limited to Grade B or lower]		Units are small (such as less than ½ cube), individually reasonably uniform in weight, may be variously shaped, approximating not more than ½ inch in longest-edge dimension.	

[1] Provided, presence of very small pieces does not materially affect appearance of product.
[2] Provided, presence of very small pieces does not seriously affect appearance of product.

Effective date. The amendment to the United States Standards for Grades of Frozen Carrots which have been in effective since February 5, 1962 shall become effective February 28, 1974.

Dated: January 14, 1974.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.74-1409 Filed 1-16-74;8:45 am]

PART 54—GRADING AND INSPECTION OF DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF; AND U.S. SPECIFICATIONS FOR CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

PART 55—VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF; AND U.S. CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

Correction

In FR Doc. 73-27012, appearing at page 35227 in the issue of December 26, 1973, make the following changes:

1. The citation in the third line of first paragraph should read "(7 U.S.C. 1621 et seq.)".

2. The last line of § 56.54 (a) (2) (i) should read "ing costs, and related servicing costs."

3. The effective date at the end of the document should read "January 6, 1974".

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Fees and Charges for the Inspection of Certain Agricultural and Vegetable Seeds for Quality

Statement of Considerations. The Agricultural Marketing Act of 1946 provides for the collection of fees equal as nearly as may be to the cost of inspection services rendered under its provisions. This amendment adjusts the hourly rate for services charged by the hour under § 68.42b from $11 to $13.20 per manhour. The changes are necessary due to general salary increases for Federal employees and increases in overhead costs since the fees were last published.

Section 68.42b is amended to read:

§ 64.42b Fees and charges for the Inspection of Agricultural and Vegetable Seeds.

Fees and charges for the inspection of agricultural and vegetable seeds shall be at the rate of $13.20 per hour.

(a) *Fees for Testing.* 1. Charges based on increments of 15 minutes or any part thereof, with

2. Minimum fee, $6.60.

3. Maximum fee for each kind shall not exceed the fees for the time per test indicated in the following table (except that no maximum fee is applicable for special or especially difficult tests such as bioassay tests, pathology index, 400-seed separations for kind and variety, mottled seed counts of sweetclover, noxious-weed seed examinations for annual bluegrass in Kentucky bluegrass, quackgrass in wheat-grasses, or tests of certain kinds or varieties of seeds as indicated in the table, e.g., big bluestem—actual manhours for any or all tests).

MAXIMUM TIME CHARGED
[In hours]

Name of seed	Germination	Purity	Purity and germination	Noxious-weed	Purity and noxious-weed	Germination, purity, and noxious-weed
AGRICULTURAL SEEDS						
Alfalfa	1	¾	1½	1	1½	2¼
Alfilaria	(1)	(1)	(1)	(1)	(1)	(1)
Alyceclover	1	1¼	2	1	2	2¾
Bahiagrass	(1)	(1)	(1)	(1)	(1)	(1)
Barley	1	1	1¼	1	1¼	2¼
Barrelclover	1	¾	1½	1	1¾	2¾
Bean:						
Adzuki	1	¾	1¼	¼	1	1¾
Field	1¼	¾	1½	½	¾	1¾
Mung	1	¾	1½	½	1	1¾
Beet:						
Field	1¼	¾	1¾	¼	1	2
Sugar	1¼	¾	1¾	½	1	2
Beggarweed	1¼	1	2	¾	1½	2½
Bentgrass:						
Colonial	1	1½	2¼	1	2¼	3
Creeping	1	1½	2¼	1	2¼	3
Velvet	1	1½	2¼	1	2¼	3
Bermudagrass:						
Common	1¼	2	3	1	2¾	3½
Giant	1¼	2	3	1	2¾	3½
Bluegrass:						
Bulbous	1¼	1¼	2¼	1	2	3
Canada	1	1½	2¼	1½	2¾	3½
Glaucantha	1	1½	2¼	1½	2¾	3½
Kentucky	1	1½	2¼	1½	2¾	3½
Nevada	1	1¼	2	1	2	3¼
Rough	1	1½	2¼	1½	3¼	4
Texas	1	1	1¾	1	1¾	2¾
Wood	1	1½	2¼	1½	2¾	3½
Bluestem:						
Big	(2)	(2)	(2)	(2)	(2)	(2)
Little	(2)	(2)	(2)	(2)	(2)	(2)
Sand	(2)	(2)	(2)	(2)	(2)	(2)
Yellow	(2)	(2)	(2)	(2)	(2)	(2)
Brome:						
Field	1	1¼	2	1	2	2¾
Mountain	1¼	1	2	¾	1½	2¾
Smooth	1	1¼	2	1	2	2¾
Broomcorn	1	¾	1¾	¾	1¼	2¼
Buckwheat	1	¾	1¾	¾	1¼	2¼
Buffalograss	(2)	(2)	(2)	(2)	(2)	(2)
Buffelgrass	(2)	(2)	(2)	(2)	(2)	(2)
Burclover:						
California	1	¾	1½	1	1½	2¼
Spotted	1	¾	1½	1	1½	2¼
Burnet, little	1	¾	1½	¾	1¼	2
Buttonclover	1	¾	1½	1	1½	2¼
Canarygrass	1	¾	1½	¾	1¼	2
Canarygrass, reed	1	1½	2¼	¾	2	2¾
Carpetgrass	1	1¼	2	1¼	2¼	3
Castorbean	1¼	½	1¼	½	¾	1¾
Chess, soft	1	1¼	2	1	2	2¾
Chickpea	1¼	½	1¼	½	¾	1¾
Clover:						
Alsike	1	1	1¾	¾	1½	2¼
Berseem	1	¾	1½	¾	1¼	2
Cluster	1	1	1¾	1	1¾	2¾
Crimson	1	¾	1½	1	1½	2¼
Hop, large	1	1	1¾	1	1¾	2¾
Hop, small	1	¾	1½	1	1½	2¼
Kenya	1	¾	1½	¾	1¼	2
Ladino	1	¾	1½	1	1½	2¼
Lappa	1	¾	1½	¾	1¼	2
Persian	1	1	1¾	¾	1½	2¾
Red	1	¾	1½	1	1½	2¼
Rose	1	¾	1½	¾	1¼	2
Strawberry	1	¾	1½	¾	1¼	2
Subterranean	1	¾	1½	¾	1¼	2
White	1	1	1¾	1	1¾	2¾
Corn:						
Field	1	¾	1½	½	1	1¾
Pop	1	¾	1½	½	1	1¾
Cotton	1	¾	1½	¾	1¼	2
Cowpea	1¼	1	1¾	½	1¼	2¾
Crested dogtail	1	1	1¾	1	1¾	2¾
Crotalaria:						
Lance	1¼	¾	1¾	¾	1¼	2¾
Showy	1¼	¾	1¾	¾	1¼	2¾
Slender leaf	1¼	¾	1¾	¾	1¼	2¾
Striped	1¼	¾	1¾	¾	1¼	2¾
Sunn	1¼	¾	1¾	¾	1¼	2¾
Crownvetch	1	¾	1¾	¾	1¼	2¾
Dallisgrass	1¼	2	3	1	2¼	3¾
Dichondra	1	1	1¾	1	1¾	2¾
Dropseed, sand	1	¾	1¾	1	1½	2
Emmer	1	¾	1½	¾	1¼	2¾
Fescue:						
Chewings	1	1¼	2	1	2	2¾
Hair	1	1¼	2	1	2	2¾
Hard	1	1¼	2	1	2	2¾
Meadow	1	1¼	2	1	2	2¾
Red	1	1¼	2	1	2	2¾
Sheep	1	1¼	2	1	2	3
Tall	1	1¼	2	1¼	2¼	

MAXIMUM TIME CHARGED—Continued

[In hours]

Name of seed	Germination	Purity	Purity and germination	Noxious-weed	Purity and noxious-weed	Germination, purity, and noxious-weed
Flax	1	1	1¾	1	1¾	2½
Grama:						
Blue	(1)	(1)	(1)	(1)	(1)	(1)
Side-oats	(1)	(1)	(1)	(1)	(1)	(1)
Guar	1	¾	1½	¾	1¼	2
Guineagrass	1	2	2¾	1¾	3	3¾
Hardinggrass	1	¾	1½	¾	1¼	2
Hemp	1	½	1¼	½	¾	1½
Indiangrass, yellow	(1)	(1)	(1)	(1)	(1)	(1)
Indigo, hairy	1	¾	1½	¾	1¼	2
Japanese lawngrass	1	2	2¾	¾	2½	3¼
Johnsongrass	1¼	1	2	1	2	2¾
Kudzu	1	¾	1½	¾	1¼	2
Lentil	1	¾	1½	¾	1¼	2
Lespedeza:						
Korean	1	1½	2¼	1½	2¾	3½
Sericea	1	1½	1¾	1¼	2	2¾
Siberian	1	1¼	2	1¼	2¼	3
Striate	1	1¼	2	1¼	2¼	3
Lovegrass:						
Sand	1	1	1¾	1	1¾	2¾
Weeping	1	1	1¾	1	1¾	2¾
Lupine:						
Blue	1¼	¾	1¾	½	1	2
White	1¼	¾	1¾	½	1	2
Yellow	1¼	¾	1¾	½	1	2
Manilagrass	1	2	2¾	¾	2½	3¼
Meadow foxtail	1	1¼	2	¾	1¾	2½
Medick, black	1	¾	1½	1	1½	2¼
Millet:						
Browntop	1¼	1	2	1	1¾	2¾
Foxtail	1	¾	1½	¾	1¼	2
Japanese	1	1	1¾	1	1¾	2½
Pearl	1	¾	1½	¾	1¼	2
Proso	1	¾	1½	¾	1¼	2
Molassesgrass	(1)	(1)	(1)	(1)	(1)	(1)
Mustard:						
India	1	¾	1½	¾	1¼	2
Black	1	¾	1½	¾	1¼	2
White	1	¾	1½	¾	1¼	2
Napiergrass	1	¾	1½	¾	1¼	2
Oat	1	1	1¾	1	1¾	2½
Oatgrass, tall	1	1½	2¼	1	2¼	3
Orchardgrass	1	1¾	2½	1¼	2¾	3½
Panicgrass:						
Blue	1	1	1¾	1	1¾	2½
Green	1	1½	2¼	1	2¼	3
Peanut	1¼	¾	1¾	½	1	2
Pea, field	1¼	½	1½	½	¾	1¾
Rape:						
Annual	1	¾	1¾	1	1¾	2½
Bird	1	¾	1¾	1	1¾	2½
Turnip	1	¾	1¾	1	1¾	2½
Winter	1	¾	1¾	1	1¾	2½
Redtop	1	1¼	2	1	2	2¾
Rescuegrass	1¼	1	2	¾	1¾	2½
Rhodesgrass	(1)	(1)	(1)	(1)	(1)	(1)
Rice	1¼	¾	1¾	¾	1¼	2¼
Ricegrass, Indian	1¼	¾	1¾	¾	1¼	2¼
Roughpea	1	¾	1¾	¾	1¼	2¼
Rye	1	1¼	2	1¼	2¼	3
Ryegrass:						
Annual	1	¾	1¾	1¼	1¾	2¾
Perennial	1	¾	1¾	1¼	1¾	2¾
Wimmera	1	¾	1¾	1¼	1¾	2¾

MAXIMUM TIME CHARGED—Continued

[In hours]

Name of seed	Germination	Purity	Purity and germination	Noxious-weed	Purity and noxious-weed	Germination, purity, and noxious-weed
Safflower	1	½	1¼	½	¾	1½
Sainfoin	1	¾	1¾	¾	1¼	2¼
Sesame	1	¾	1¾	¾	1¼	2¼
Sesbania	1	¾	1¾	¾	1¼	2¼
Smilo	1	¾	1¾	¾	1¼	2¼
Sorghum	1	¾	1¾	¾	1¼	2¼
Sorghum-sudangrass hybrid	1	¾	1¾	¾	1¼	2
Sorghum almum	1	¾	1¾	¾	1¼	2
Sorgrass	1	1	1¾	1	1¾	2½
Sourclover	1	¾	1¼	1	1¼	2½
Soybean	1½	¼	1½	1	1½	2¼
Spelt	1	½	1½	½	¾	1¾
Sudangrass	1	¾	1¾	¾	1¼	2
Sunflower	1	1	1¾	1	1¾	2½
Sweetclover:		½	1¼	½	¾	1½
White	1	1	1¾	1	1¾	2½
Yellow	1	1	1¾	1	1¾	2½
Sweet vernalgrass	1	1	1¾	¾	1½	2¼
Switchgrass	1	1	1¾	¾	1½	2¼
Timothy	1	¾	1½	1	1½	2¼
Tobacco	(1)	(1)	(1)	(1)	(1)	(1)
Trefoil:						
Big	1	1	1¾	1	1¾	2½
Birdsfoot	1	1	1¾	1	1¾	2½
Vaseygrass	1	1½	2¼	1	2¼	3
Veldtgrass	1	1½	2¼	1	2¼	3
Velvetbean	1¼	½	1½	½	¾	1
Velvetgrass	1	1½	2¼	1	2¼	3¾
Vetch:						
Common	1	1	1¾	¾	1½	2¼
Hairy	1	1	1¾	¾	1½	2¼
Hungarian	1	1	1¾	¾	1½	2¼
Monantha	1	¾	1½	¾	1¼	2
Narrowleaf	1	1	1¾	¾	1½	2¼
Purple	1	1	1¾	¾	1½	2¼
Woollypod	1	1	1¾	¾	1½	2¼
Wheat:						
Common	1	¾	1½	¾	1¼	2
Club	1	¾	1½	¾	1¼	2
Durum	1	¾	1½	¾	1¼	2
Polish	1	¾	1½	¾	1¼	2
Poulard	1	¾	1½	¾	1¼	2
Wheatgrass:						
Beardless	1	1¼	2	¾	1¾	2½
Crested, fairway	1	1¼	2	¾	1¾	2½
Crested, standard	1	1¼	2	¾	1¾	2½
Intermediate	1	1¼	2	¾	1¾	2½
Pubescent	1	1¼	2	¾	1¾	2½
Siberian	1	1¼	2	¾	1¾	2½
Slender	1	1¼	2	¾	1¾	2½
Tall	1	1¼	2	¾	1¾	2½
Western	1¼	1¼	2¼	¾	1¾	2¾
Wild-rye:						
Canada	1	1	1¾	¾	1½	2¼
Russian	1	1	1¾	¾	1½	2¼
VEGETABLE SEEDS						
Artichoke	1	¾	1½	¾	1¼	2
Asparagus	1	¾	1½	¾	1¼	2
Asparagusbean	1¼	½	1½	½	¾	1¾
Bean:						
Garden	1¼	½	1½	½	¾	1¾
Lima	1¼	½	1½	½	¾	1¾
Runner	1¼	½	1½	1–2	¾	1¾
Beet	1¼	¾	1¾	¾	1¼	2¼

MAXIMUM TIME CHARGED—Continued

[In hours]

Name of seed	Germination	Purity	Purity and germination	Noxious-weed	Purity and noxious-weed	Germination, purity, and noxious-weed
Broadbean	1¼	½	1½	½	¾	1¾
Broccoli	1	¾	1½	¾	1¼	2
Brussels sprouts	1	¾	1½	¾	1¼	2
Burdock, great	1	¾	1½	¾	1¼	2
Cabbage	1	¾	1½	¾	1¼	2
Cabbage, Chinese	1	¾	1½	¾	1¼	2
Cabbage, tronchuda	1	¾	1½	¾	1¼	2
Canteloupe (see Muskmelon).						
Cardoon	1	1	1¾	¾	1½	2¼
Carrot	1	1	1¾	1	1¾	2½
Cauliflower	1	¾	1½	¾	1¼	2
Celeriac	1	1	1½	¾	1¼	2
Chard, Swiss	1¼	¾	1¾	¾	1¼	2¼
Chicory	1	1	1¾	1	1¾	2½
Chives	1	¾	1½	1	1½	2¼
Citron	1	½	1¼	½	¾	1½
Collards	1	½	1½	¾	1¼	2
Corn, sweet	1¼	½	1½	½	¾	1¾
Cornsalad	1	1	1¾	1	1¼	2½
Cowpea	1¼	¾	1¾	½	1	2
Cress:						
Garden	1	¾	1½	1	1¼	2¼
Upland	1	¾	1½	1	1¼	2¼
Water	1	1	1¾	1	1¾	2½
Cucumber	1	½	1¼	¾	¾	1½
Dandelion	1	1	1¾	1	1¾	2½
Eggplant	1	¾	1½	¾	1¼	2¼
Endive	1	1	1¾	1	1¾	2½
Kale	1	¾	1½	¾	1¼	2
Kale, Chinese	1	¾	1½	¾	1¼	2
Kale, Siberian	1	¾	1½	¾	1¼	2
Kohlrabi	1	¾	1½	¾	1¼	2
Leek	1	¾	1½	1	1½	2¼
Lettuce	1	¾	1½	¾	1¼	2
Muskmelon	1	½	1¼	½	¾	1¾
Mustard, India	1	¾	1½	¾	1¼	2
Mustard, spinach	1	¾	1¾	¾	1¼	2
Okra	1	¾	1¾	¾	1¼	2¼
Onion	1	¾	1½	1	1½	2¼
Onion, Welsh	1	¾	1½	1	1½	2¼
Pak-choi	1	¾	1½	¾	1¼	2
Parsley	1	1	1¾	1	1¾	2¼
Parsnip	1	1	1¾	1	1¾	2¼
Pea	1¼	½	1½	½	¾	1¾
Pepper	1	¾	1¾	¾	1¼	2¼
Pumpkin	1	½	1¼	½	¾	1½
Radish	1	¾	1¾	¾	1¼	2¼
Rhubarb	1¼	½	1½	½	¾	1¾
Rutubaga	1	¾	1½	¾	1¼	2
Salsify	1	¾	1¾	¾	1¼	2¼
Sorrel	1	¾	1¾	¾	1¼	2¼
Soybean	1¼	½	1½	½	¾	1¾
Spinach	1	½	1½	½	1	1¾
Spinach, New Zealand	1¼	½	1¾	½	1	2
Squash	1	¼	1¼	½	¾	1½
Tomato	1	¾	1¾	¾	1¼	2¼
Tomato, husk	1	¾	1¾	¾	1¼	2¼
Turnip	1	¾	1½	¾	1¼	2
Watermelon	1	½	1¼	½	¾	1½

[1] Actual man-hours for any or all tests.

(b) *Charges for Service.* 1. Sampling, sealing, checkweighing, checkloading, inspection of containers and other (computed to nearest quarter hour), $13.20 per man-hour.

2. Two-hour minimum (commencing on arrival at point of service and terminating upon departure of point of service, minus mealtime, regardless of the time or location).

(c) *Fee for Certificate.* 1. Original and two carbon copies furnished with test at no extra charge.

2. Additional copies $3.30 each.

(d) Fee for Demonstrations of Service and/or Testing Procedures, Per Request [1] $175.

The need for increases in the fees for services and the amount thereof is dependent upon facts within the knowledge of the Agricultural Marketing Service. Therefore, under the administrative procedure provisions of (5 U.S.C. 553), it is found upon good cause that notice and other public rulemaking procedures on the amendment are impracticable and unnecessary.

(Secs. 203, 205, 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622, 1624); 29 FR 16210, as amended, 37 FR 6327; 36 FR 13169)

Effective date. This amendment shall become effective January 1, 1974.

Done in Washington, D.C., on: January 10, 1974.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.74-1284 Filed 1-16-74;8:45 am]

[1] (plus all travel costs associated with the performance of the demonstrations)

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 728—WHEAT

Subpart—Wheat Program for Crop Years 1974–77

1974 WHEAT ALLOTMENT

A new subpart is being issued to govern the Wheat Program for the Crop Years 1974–1977. Sections 728.4 through 728.6 are hereby issued pursuant to section 379c of the Agricultural Adjustment Act of 1938, as amended by the Agriculture and Consumer Protection Act of 1973, for the purpose of (1) proclaiming the national allotment for wheat for the 1974 crop year, (2) apportioning the national allotment for wheat among the several States, and (3) apportioning the 1974 State allotments of wheat among the respective counties. The remaining text of this subpart will be issued as an amendment.

Pursuant to section 379c(a)(1) of the Agricultural Adjustment Act of 1938, as amended by the Agriculture and Consumer Protection Act of 1973, the Secretary is required to proclaim a national wheat acreage allotment not later than April 15 of each calendar year for the crop harvested in the next succeeding calendar year. Such allotment shall be the number of acres he determines on the basis of the estimated national average yield for the crop for which the determination is being made will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks. The determination in § 728.4 of the 1974 national allotment for wheat is based on the estimated yield and uses set out therein.

Section 379c(a)(1) of the Act also provides that the national acreage allotment for any crop of wheat shall be apportioned by the Secretary among the States on the basis of the apportionment to each State of the national acreage allotment for the preceding crop (1973 national domestic allotment in the case of apportionment of the 1974 national acreage allotment), adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop-rotation practices, the estimated decrease in farm acreage allotments, and other relevant factors.

Section 379c(a)(2) of the Act provides that the State acreage allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment to new farms, shall be apportioned by the

Secretary among the counties in the State, on the basis of the apportionment to each such county of the wheat allotment for the preceding crop, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county, taking into consideration established crop-rotation practices, the estimated decrease in farm allotments, and other relevant factors.

As required by section 301(c) of the Act, the determinations contained in §§ 728.4 through 728.6 were made on the basis of the latest available statistics of the Federal Government.

Sections 728.4 through 728.6 provide as follows:

Sec.
728.4 1974 national wheat allotment.
728.5 Apportionment of the 1974 national wheat allotment among the several States.
728.6 Apportionment of the 1974 State allotments of wheat among their respective counties.

AUTHORITY: §§ 728.4 through 728.6 issued under section 379c, 87 Stat. 227, 7 U.S.C. § 1379c.

§ 728.4 1974 national wheat allotment.

Based on an estimated national yield of 32.6 bushels of wheat per acre and an estimated total utilization (less imports) for the 1974–75 marketing year of 1,790 million bushels, the 1974 national allotment is determined to be 55.0 million acres and a national allotment of that amount is hereby proclaimed. The estimated total utilization (less imports) is based on estimated domestic use of 790 million bushels and estimated exports of 1,000 million bushels.

§ 728.5 Apportionment of the 1974 national wheat allotment among the several States.

The 1974 national allotment of wheat was distributed on a pro rata basis to the States on the basis of each State's allotment for the preceding year, adjusted for (a) the administrative transfer of farms between States, (b) decreases resulting from farms no longer engaged in agricultural production, farms dropped from the eminent domain pool, farms losing allotment for failure to plant, and farms voluntarily relinquishing their allotment, and (c) established crop-rotation practices in the States of Colorado, Oregon, Utah, and Washington. State allotments are available for inspection in State and county ASCS offices.

§ 728.6 Apportionment of the 1974 State allotments of wheat among their respective counties.

The 1974 State allotments for wheat, less reserves for new farms, appeals, and corrections, were apportioned among the counties in the various States on the basis of each county's allotment for the preceding year, adjusted for (a) the administrative transfer of farms between counties, (b) acreage allocated to new farms from the State reserve, (c) acreage removed from farms no longer engaged in agricultural production, farms dropped from eminent domain pool, farms losing allotment for failure to plant, and farms voluntarily relinquishing their allotment, and (d) such other relevant factors as determined necessary by the State committee to establish a fair and equitable apportionment base for the county. County allotments are available for inspection in the county ASCS office.

Effective date. Since farmers need to be informed of their allotments as soon as possible, and in order that State and county ASC committees may complete the necessary work for issuing farm allotment notices in a timely manner, it is essential that these regulations be made effective as soon as possible. Accordingly, it is hereby found that compliance with the notice and public procedure provisions of 5 U.S.C. § 553 is impracticable and contrary to the public interest. Accordingly, §§ 728.4 through 728.6 shall be effective January 17, 1974.

Signed at Washington, D.C., on January 14, 1974.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.74-1407 Filed 1-16-74;8:45 am]

PART 728—WHEAT

Suspension of 1974–75 Marketing Quota Program

On April 18, 1973, there were published in the FEDERAL REGISTER, 38 FR 9583, regulations (1) proclaiming a national wheat marketing quota for the marketing year beginning July 1, 1974, and (2) announcing, pursuant to such quota, the national acreage allotment for the 1974 crop year.

The provisions of law under which the regulations were issued were made inapplicable to the 1974 through 1977 crops of wheat by the Agriculture and Consumer Protection Act of 1973, Pub. L. 93–86, 87 Stat. 221, 229 (app. Aug. 10, 1973). Accordingly, the regulations in this subpart are hereby revoked.

Effective date. January 17, 1974.

Signed at Washington, D.C., on January 14, 1974.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.74-1406 Filed 1-16-74;8:45 am]

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

[Navel Orange Reg. 308]

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

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period January 18–24, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.608 Navel Orange Regulation 308.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agicultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Navel 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 Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges remains sluggish. Prices f.o.b. averaged $3.71 a carton on a reported sales volume of 814 carlots last week, compared with an average f.o.b. price of $3.72 per carton and sales of 799 carlots a week earlier. Track and rolling supplies at 509 cars were up 66 cars from last week.

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

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking 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 section is based became available and the time this section must become effective in order to effectuate the declared policy

of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 15, 1974.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period January 18, 1974, through January 24, 1974, are hereby fixed as follows:

(i) District 1: 850,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: Unlimited movement."

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

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

Dated: January 16, 1974.

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

[FR Doc.74–1608 Filed 1–16–74;11:38 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—PHASE IV PRICE REGULATIONS

Prenotification and Profit Margin Excess

The purpose of this amendment is to clarify the rules and procedures of the Cost of Living Council with respect to the treatment of prenotification in 1974 where the firm concerned lawfully exceeded its base period profit margin in fiscal year 1973.

A Tier I firm which did not raise any prices above base level in fiscal year 1973 and lawfully exceeded its base period profit margin for that year may wish to raise prices above base levels in 1974 in view of high cost increases in some industries. If it does so it of course becomes subject to the profit margin limitation in fiscal year 1974. In this situation the firm must convince the Council that if price increases are permitted to be placed in effect the firm will nevertheless be able to gradually reduce its profit margin so as to be in profit margin compliance for fiscal year 1974. In other words, net allowable cost increases may have to exceed price increases in 1974 in one or more product lines in order for the firm to reduce overall profit margins sufficiently to achieve a margin for 1974 which does not exceed the base period profit margin.

This problem is somewhat mitigated by the fact that in 1974 such a firm can adjust its base period profit margin by using 1973 as a base year. Profit margins in 1973 were generally better than those in recent prior years. In order to permit a firm to prenotify early in 1974 on the basis of a higher base period profit margin which would aid the firm in demonstrating projected profit margin compliance for 1974, CLC Notice No. 7 provided that a firm could use 1973 as a base year without waiting 90 days until audited profit margin results for 1973 were available. The Council intended in CLC Notice No. 7 to permit a firm to use actual financial data (usually available within 15 days after the close of the fiscal year) for FY 1973, not projections or estimates.

In deciding whether or to what extent to permit a proposed price increase to go into effect where the firm concerned lawfully exceeded its base period profit margin last year, the Council must take profit margin compliance into account as well as cost justification. This is because in Phase IV, as in Phase II, as a price increase is not necessarily lawful even if it is fully cost-justified. The rule which permits price increases to be placed in effect in order to recover net increases in allowable costs is subject to and is qualified by the requirement that if a firm does raise a price it may not exceed its base period profit margin.

A firm which has just completed a fiscal year in which it exceeded its base period margin, whether lawfully or unlawfully, is naturally at considerable risk of profit margin violation this year unless it has good reason to believe that despite anticipated price increases it will not exceed its base period margin. Whether the profit margin can be reduced to or below base period levels this year depends on many factors, including the degree of last year's and last quarter's profit margin excess, how much the base period margin is increased by using 1973 as a base year, the extent to which price increases will be exceeded by cost increases and the extent to which other margin-reducing factors are present.

Because Tier I firms must prenotify before raising prices, it is entirely consistent with the purposes and procedures of the Stabilization Program for a firm which is already over its base period profit margin to bear the burden of explaining as part of the prenotification submission why there is no risk of profit margin violation this year should the Council permit the proposed price increases to be placed in effect. In order to make this procedural requirement clear, however, and to make it clear that the Council may modify or deny a proposed price increase as a means of enforcing the profit margin regulations as well as its other regulations, the Council has amended the prenotification regulation in § 150.154(a).

Prior to this amendment, § 150.154(a) provided for disapproval or modification of a proposed price increase if the Council found that the proposed price increase did not conform with the regulations. As amended, § 150.154(a) continues the foregoing rule and explains that nonconforming proposed price increases include those of a firm which lawfully exceeded its base period profit margin last year and is unable to demonstrate to the Council's satisfaction that its current profit margin is not at a rate which, when projected for the current fiscal year, will result in a profit margin violation. This amendment is made effective January 1, 1974.

Because the purpose of this amendment is to provide immediate guidance and information with respect to decisions of the Council, the Council finds that publication in accordance with normal rule-making procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days.

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

In consideration of the foregoing, Part 150 of Title 6 of the Code of Federal Regulations is amended as set forth below, effective January 1, 1974.

Issued in Washington, D.C., on January 15, 1974.

JAMES W. MCLANE,
Deputy Director.

Section 150.154(a) is amended to read as follows:

§ 150.154 Council action.

* * * * *

(a) The Council may issue an order disapproving or modifying a proposed price increase in whole or in part, if it finds that the proposed price increase does not conform to the rules of this part. Proposed price increases which do not conform to the rules of this part include those of a firm which lawfully exceeded its base period profit margin for the next preceding fiscal quarter or fiscal year, or both, and is unable to demonstrate, to the satisfaction of the Council, that its current profit margin is not at a rate which, when projected for the fiscal year concerned, will result in a profit margin violation.

* * * * *

[FR Doc.74–1598 Filed 1–16–74;10:43 am]

Title 49—Transportation

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

[Docket No. 71-10; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Passenger Car Tire Performance Criteria

The purpose of this notice is to announce a date by which a response will be issued to the petitions for reconsideration of the amended requirements for tire high speed performance and endurance in Motor Vehicle Safety Standard No. 109 (49 CFR 571109), published September 28, 1973 (38 FR 27050).

The NHTSA has not found it practicable to take action by December 28, 1973, the date by which action would ordinarily have been taken under the agency's policy on petitions for reconsideration (37 FR 3632; February 18, 1972). Action on petitions received in this matter is planned for issuance not later than February 26, 1974.

(Secs. 103, 119, 201, 202, Pub. L. 89-563, 80 Stat. 718, (15 U.S.C. 1392, 1407, 1421, 1422); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on January 11, 1974.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.74-1358 Filed 1-16-74;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 28—PUBLIC ACCESS, USE AND RECREATION

Dismal Swamp National Wildlife Refuge, Virginia

The following special regulation is issued and is effective through the period January 1, 1974 to December 31, 1974.

§ 28.28 Special regulations: public access, use and recreation, for the individual wildlife refuge areas.

VIRGINIA

DISMAL SWAMP NATIONAL WILDLIFE REFUGE

Access to the refuge is permitted from sunrise to sunset for the purposes of nature study, photography, hiking and sightseeing subject to the following restrictions. Travel by bicycle or on foot is permitted on designated routes. Boat access is permitted by way of navigable waters connecting Lake Drummond with the intracoastal waterway known as the Dismal Swamp Canal. Access by motor vehicle may be permitted by prior arrangement with the Refuge Manager. Pets are permitted if on a leash not over 10 feet in length.

Information about the refuge area, comprising approximately 49,097 acres, located in the cities of Suffolk and Chesapeake, Virginia is available from the Refuge Manager, Dismal Swamp National Wildlife Refuge, Box 349, Suffolk, Virginia 23434 or the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack, Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1974.

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

JANUARY 9, 1974.

[FR Doc.74-1423 Filed 1-16-74;8:45 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 AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1430]

PURCHASES AND OTHER OPERATIONS, DAIRY PRODUCTS

Proposed Price Support Program for Milk

Notice is hereby given that the Secretary of Agriculture, under authority of section 201(c) of the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1446), and sections 4 and 5 of the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b and 714c), is considering the terms and conditions of the price support program for milk, for the 1974–75 marketing year beginning April 1, 1974, including the general level of prices to producers for milk and the prices for and terms of purchase by CCC of butter, nonfat dry milk, and Cheddar cheese. Section 201(c) of the Agricultural Act of 1949, as amended, provides as follows: "The price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Notwithstanding the foregoing, effective for the period beginning with the date of enactment of the Agriculture and Consumer Protection Act of 1973 and ending on March 31, 1975, the price of milk shall be supported at not less than 80 per centum of the parity price therefor. Such price support shall be provided through purchases of milk and the products of milk.

Consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Commodity Operations Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than February 19, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (8:15–4:45 p.m.). (7 CFR 1.27(b)).

Signed at Washington, D.C. on January 8, 1974.

GLENN A. WEIR,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.74–1472 Filed 1–16–74;8:45 am]

[7 CFR Part 1434]

HONEY

Notice of Determination Regarding 1974 Crop

The Secretary of Agriculture is preparing to make determinations with respect to a loan and purchase program for the 1974 crop of honey and the regulations to carry out the program. The determinations relate to:

a. Loan and purchase rates, color differentials, discounts for quality, and type of storage.

b. Loan maturity date and purchase availability date.

c. Detailed operating provisions to carry out the program.

The above determinations are to be made pursuant to the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 USC 1421 et seq.) and the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1070, as amended; 15 USC 714 et seq.).

a. Loan and purchase program, color differentials and discounts for quality and type of storage. Title II of the Agricultural Act of 1949, as amended, authorizes and directs the Secretary to make available through loans, purchases, and other operations, support to producers of honey at a level which is not in excess of 90 percent nor less than 60 percent of the parity price thereof. Loan and purchase rates based on color, quality factors and type of storage are used to reflect marketing features and conditions under which honey is merchandised. Section 401(b) of the Act requires that, in determining a loan and purchase rate in excess of the minimum level prescribed for honey, consideration must be given to the supply of the commodity in relation to the demand thereof, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired under a loan and purchase program, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

b. Loan maturity date and purchase availability date. The loan maturity date and purchase availability date will be reviewed for 1974. For the 1973 program, the loan maturity date was June 30, 1974 and the purchase availability date was March 31, 1974.

c. Detailed operating provisions. Detailed operating provisions necessary to carry out the loan and purchase program on honey are also being reviewed for 1974. Provisions of this kind may be found in the regulations providing terms and conditions for the current loan and purchase program in Part 1434 of Title 7 of the Code of Federal Regulations.

Prior to making the foregoing determinations and issuing related regulations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Secretary, Commodity Credit Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

In order to be sure of consideration, all submissions must be received not later than February 19, 1974. All written submissions made pursuant to this notice will be made available for public inspection from 8:14 a.m. to 4:45 p.m. Monday through Friday, in Room 202–W, Administration Building, 14th and Independence Avenue, SW, Washington, D.C. D.C.

Signed at Washington, D.C. on January 10, 1974.

GLENN A. WEIR,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.74–1408 Filed 1–16–74;8:45 am]

Packers and Stockyards Administration

[9 CFR Part 201]

CUSTOM FEEDLOTS

Packers Engaging in the Activity or Practice of Custom Feeding Livestock

Notice is hereby given, in accordance with the Administrative Procedure Provisions of 5 U.S.C., section 553, that pursuant to the authority conferred by section 407(a) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 228(a)), the Administrator of the Packers and Stockyards Administration is considering the amendment of the Regulations under the Act (9 CFR Part 201) by amending § 201.2 of the Regulations to include a new subsection (m) defining the term "custom feedlot," and by adding a new § 201.70a to clarify the applicability of the Act and the Regulations with respect to packers engaging in the activity or practice of custom feeding livestock.

Statement of Considerations—Custom Feedlots. A custom feedlot is one in which the facilities are used in their entirety or in part for the feeding of livestock for the accounts of others, but does not include feeding incidental to the sale or transportation of livestock. Custom feeding of livestock means the feeding of livestock for the accounts of others, either on a fee basis or without any prescribed or identifiable charge or fee. Custom feeding may include, but is not limited to, the services of receiving, feed-

ing, watering, veterinary services, shipping, weighing, purchasing, selling, or other handling of livestock.

A custom feedlot may operate in one of several ways. One of the primary types of operation is for a feedlot operator to offer a complete line of services, including the buying and selling of livestock for the accounts of its customers. Methods of payment for buying or selling services in this type of operation vary. In some instances compensation is obtained through a specified fee for the buying and selling services. In other cases the custom feedlots do not prescribe or identify a separate fee for the services.

Another method of operation for custom feedlots is sometimes referred to in the industry as a "Hotel-Restaurant" custom feeding operation for cattle. This type of operation consists solely of furnishing services and facilities for feeding and handling livestock for other parties on a fee or other basis with no buying or selling services provided. Some feedlots may relay the purchase bids on the livestock to the owner in obtaining a buyer for "finished" livestock or perform other services which might place them in an agent relationship, depending upon the particular activities conducted.

Custom feedlots engaged in the business of buying or selling livestock in commerce as market agencies or dealers are subject to the registration and bonding requirements under the Packers and Stockyards Act. It has been the consistent policy of the Packers and Stockyards Administration to register those firms coming to its attention which are engaged in market agency or dealer activities as defined in the Act, and to require the posting of a reasonable bond. These registration and bonding requirements are established under Title III of the Act and §§ 201.10 and 201.29 of the regulations promulgated thereunder.

Some custom feedlots have established subsidiary or affiliate organizations to conduct the buying and selling activities for their customers. It has been the policy of the Packers and Stockyards Administration to register those affiliates or subsidiary organizations, but the registration must clearly show the organizational relationship and the parent organization is deemed to be the ultimate responsible entity. Registrations are not accepted which would permit conflict of interest situations to arise through corporate or other devices or which would lessen the responsibility of the parent organization.

The marketing patterns of the livestock industry have changed dramatically in recent years. More cattle are being marketed through custom feedlots and this trend is expected to continue. About 75 percent of the cattle slaughtered commercially in 1972 were fed cattle and a large percentage of these cattle were marketed directly at the feedlot. The majority of the remaining 25 percent of cattle slaughtered commercially in 1972 were cows, bulls, stags and cull cattle of which the final product would be of different quality and would not be sold for the same market as fed cattle.

There were 14.5 million head of cattle on feed with 96 percent concentrated in some 154,000 feedlots as of January 1, 1973. There are 711 feedlots in the United States with a capacity of 4,000 head or more. The 711 largest feedlots marketed approximately 52 percent of the total fed cattle and most of these cattle were sold direct to the packer.

Historically, the Packers and Stockyards Administration has interpreted and administered the Packers and Stockyards Act to prohibit packers from engaging in any activity which tends to restrict or lessen competition or promote a monopolistic structure in the livestock industry. As a result of this consistent policy, regulations have been issued pursuant to the provisions of the Act to proscribe activities deemed by the Administrator to be violative of the Act.

A regulation was published in July 1954 as § 201.67 prohibiting packers or dealers from owning, financing or participating in the management or operation of a selling agency. This regulation was amended in April 1959 to clarify that prohibition.

In July 1954 a regulation was also issued as § 201.68 prohibiting packers from operating, owning, financing or participating in the management or operation of dealers or market agencies purchasing livestock on a commission basis. This regulation was amended in January 1971 to clairfy and extend its provisions. In the document amending the regulation, the Administration stated:

> It has been the policy of the Packers and Stockyards Administration in interpreting and administering the Packers and Stockyards Act to prohibit packers from engaging in the business of buying livestock for purposes of resale. Livestock resale operations by meat packers subject to the Act constitute a potential restriction of competition and control of markets and prices. It was the intent of Congress, when enacting the Packers and Stockyards Act, to prohibit packers from engaging in monopolistic practices and from controlling livestock prices. As set forth in a policy statement in 9 CFR 203.6, the Administration considers it to be in violation of the Act for a packer to engage in or be involved in market agency or dealer operations other than purchases of livestock for purposes of slaughter, except in connection with exportation of livestock under circumstances specified in the policy statement.
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> * * * * *
>
> One basic purpose of the Packers and Stockyards Act is to assure competitive marketing conditions for livestock free of conflict-of-interest situations and other restraints which adversely affect livestock producers. Such practices could prevent producers from receiving a fair price for their livestock. It is essential to provide for a complete separation of packers, their officers, agents, and employees, and persons owning a substantial interest in a packer, from ownership and other methods of control of those engaged in the business of purchasing livestock as a dealer or on a market agency basis.

In April 1959, § 201.70 of the regulations was issued. This regulation requires each packer and dealer engaged in purchasing livestock in person or through employed buyers to conduct his buying operations in competition with and independently of other packers and dealers similarly engaged.

The meat packing industry is beginning to expand into the feeding of livestock on a custom basis. The expansion is accomplished in various ways including the purchase of feedlots, building feedlot facilities, or merging into commercial feedlots which feed livestock on a custom basis. In recent months it has come to the attention of the Administration that several large national packers as well as some area packers have acquired or are interested in acquiring such custom feedlots.

Control by packers of the major stockyards, where the facilities were furnished for the feeding, watering, holding, delivery, shipping, weighing and other handling of livestock, and where marketing facilities were provided for the purchase and sale of livestock, was one of the primary reasons for the passage of the Packers and Stockyards Act. In light of the trend towards marketing fed livestock directly through feedlots, packer ownership of custom feedlots would appear to again put packers in control of the major marketing facilities. Moreover, the mere fact of a packer owning the facilities of a custom feedlot appears to offer the packer privileges to information on competitors which have been specifically prohibited by regulation. For example, § 201.69 of the Regulations prohibits packers, dealers or market agencies from furnishing information to competitor buyers in connection with transactions subject to the provisions of the Act. The ownership and control of custom feedlots, which are the primary marketing facilities for fed livestock today, may offer an advantage to the packer owning the facility and provide an opportunity to manipulate livestock prices and restrict competition.

A cardinal mandate of the Act is that the Secretary exercise regulatory control over the marketing of livestock in commerce and that he take appropriate action to eliminate practices in their incipiency which, if continued, could lead to a monopolistic structure in the livestock industry, control prices or otherwise restrict commerce. Packer ownership, management or control of a custom feedlot operating as a market agency or dealer, as defined in the Act, is such a practice. It is the position of this Administration that the practices proscribed in §§ 201.67, 201.68 and 201.70 of the Regulations are of that nature and are also practices presenting conflict of interest situations, and that those regulations proscribe packers from having an ownership interest in, financing, or participating in the management or operation of a custom feedlot which comes within the statutory definition of a "market agency" or "dealer."

The so-called "Hotel-Restaurant" custom feedlot does not fall within the purview of the above regulations. It appears, however, that many of the dangers inherent in packer ownership or control of custom feedlots engaging in market

agency or dealer activities are also inherent in the "Hotel-Restaurant" custom feedlot. In either case the packer has control over the marketing facilities. He controls the pens where livestock are shown to prospective buyers, the scales upon which the livestock are weighed, and the conditions incident to the weighing of such livestock. Furthermore, a packer owner of a "Hotel-Restaurant" custom feedlot has access to market information such as weighing conditions, weight, price and other details not available to competitor packers.

Packer control over marketing facilities, whether or not buying or selling services are performed by the party owning or operating the facility, appears to offer a potential restriction of competition. This was recognized by the Federal Trade Commission in a report issued in 1919 concerning packer control over terminal marketing facilities. Part III, page 86, of the report states:

> Section 2.—Stockyards control as a factor. The power of stockyards companies over the market paraphernalia can be used in many ways to affect the prices of the live stock which pass through them. The control by the Big Five over the principal stockyards, where live-stock prices for the whole country are made, gives them, as the principal buyers, power to affect the prices they pay for the animals. They may do this through the use of the yards monopolies, or the yards facilities and services, or by using the confidential shipping and marketing information. Numerous instances were found where they have used to their advantage the power over the market which the stockyards, ownership and control places in their hands. *Food Investigation, Report of the Federal Trade Commission, on the Meat Packing Industry, Part III Methods of the Five Packers Controlling the Meat Packing Industry*, June 28, 1919.

Accordingly, it is proposed to amend § 201.2 of the regulations to include a definition of "custom feedlot," and to add a new regulation designated as § 201.70a.

1. Section 201.2 of the regulations would be amended to include a new paragraph (m), as follows:

§ 201.2 Terms defined.

* * * * *

(m) "Custom feedlot" means any facility which is used in its entirety or in part for the purpose of feeding livestock for the accounts of others, but does not include feeding incidental to the sale or transportation of livestock.

2. A new regulation designated as § 201.70a would be added to read as follows:

§ 201.70a Packers not to own or finance custom feedlots; custom feedlots not to own or finance packers.

(a) No packer, officer, agent, or employee of a packer, or person who owns a substantial interest in a packer, shall independently, or in combination with others, or through any corporate or other device, own, operate, finance, or control a custom feedlot or participate in the management or operation of any such custom feedlot; nor shall any custom feedlot owner or operator permit a packer, or officer, agent, or employee of a packer, or person who owns a substantial interest in a packer, independently or in combination with others, or through any corporate or other device, to have any ownership interest in, finance or participate in the management or operation of such custom feedlot.

(b) No custom feedlot owner or operator, or officer agent or employee thereof, or person who owns a substantial interest in a custom feedlot, shall independently, or in combination with others, or through any corporate or other device, own, operate, finance or control a packer or participate in the management or operation of any such packer; nor shall any packer permit a custom feedlot owner or operator, or officer, agent or employee thereof, or person who owns a substantial interest in a custom feedlot, independently or in combination with others, or through any corporate or other device, to have any ownership interest in, finance, or participate in the management or operation of such packer.

Matters relating to custom feedlots have generated widespread interest throughout the livestock marketing and meat packing industry. Therefore, notice is hereby given that a public hearing with respect to the proposed regulations contained in this notice will be held on February 26 and 27, 1974, commencing at 10:00 a.m., in the Frontier Room of the Holiday Inn Downtown, 1050 6th Avenue, Des Moines, Iowa 50314.

Interested persons will be afforded an opportunity to present any relevant data, views, or arguments they wish to offer at the hearing. Persons who wish to be heard are requested to notify the Administrator, Packers and Stockyards Administration, Washington, D.C., by February 6, 1974, stating how much time they need to present their statements. However, any person who wishes to be heard at the hearing will be afforded opportunity to be heard, whether he has given such advance notice or not.

Any person who wishes to submit written data, views or arguments concerning the proposed amendments may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before March 18, 1974.

All written submissions filed pursuant to this notice, together with the transcript of the oral hearing, will be made available for public inspection during normal business hours at the Office of the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

After the hearing, the Department will evaluate all relevant material presented at the hearing, filed with the Hearing Clerk within the time specified above, or otherwise in the possession of the Department and will determine what action should be taken with respect to the matter.

Done at Washington, D.C. January 11, 1974.

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

[FR Doc.74-1411 Filed 1-16-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 144]

[CGD 73-177P]

UNMANNED PLATFORMS

Notice of Proposed Rulemaking

Correction

In FR Doc. 74-538 appearing at page 1360 in the issue for Tuesday, January 8, 1974, in § 144.10-1(a)(2), the phrase reading "Subpart 160.009 or 160.050 of Subchapter Q of this title" should read "Subpart 160.009 or 160.050 of Subchapter Q of 46 CFR Chapter I".

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73-EA-116]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Franklin, Pa., Control Zone (38 FR 379).

Weather observation requirements in support of the control zone designation are provided by Crown Airways. Seasonal changes in airline scheduling and weather duties by Crown Airways will require alteration of the control zone so as to delete specific effective hours and substitute continuous publication of such changes in the Airman's Information Manual (AIM).

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received by February 19, 1974, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Franklin, Pennsylvania, proposes the airspace action hereinafter set forth:

Amend § 71.171 of Part 71, Federal Aviation Regulations so as to alter the description of the Franklin, Pa. control zone by deleting the last sentence and by substituting therefor, "This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airman's Information Manual.".

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on January 4, 1974.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.74-1365 Filed 1-16-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-EA-108]

FEDERAL AIRWAYS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would realign V-123 between Robbinsville, N.J., and La Guardia, N.Y., and V-467 between Millville, N.J., and La Guardia.

Interested persons may participate in the proposed rule making 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, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before February 19, 1974 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.

The airspace action proposed herein would realign (1) V-123 from Robbinsville via the INT of the Robbinsville 044° T(054°M) and the La Guardia 209°T (221°M) radials to La Guardia; and (2) V-467 from Millville via the INT of the Millville 037°T(047°M) and the La Guardia 209°T(221°M) radials to La Guardia.

Realignment of these airways as proposed herein would cause the airway alignments to coincide with radar vector routes currently assigned to aircraft from southern terminals inbound to La Guardia. This would reduce air/ground communications and simplify traffic control procedures.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on January 10, 1974.

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

[FR Doc.74-1362 Filed 1-16-74;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 250]

[Docket No. 26253, Order 74-1-80]

EMERGENCY RESERVATIONS PRACTICES INVESTIGATION

Order Extending Time for Intervention

In the matter of amendments to 14 CFR Part 250—priority rules, denied boarding compensation tariffs and reports and unaccommodated passengers.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of January 1974.

It has come to our attention that Order 73-12-93, adopted December 21, 1973 (amended by Order 74-1-47 (January 7, 1974)) was not published in the FEDERAL REGISTER until January 3, 1974 (39 FR 823).[1] The order provided for intervention by interested parties on or before January 11, 1974, and required persons intending to intervene to submit a notice of intent to intervene on or before January 4, 1974. It was not the Board's intention to restrict intervention on January 11 to persons submitting a notice of intent on January 4, but merely to facilitate the preparation of a service list. However, the order is not entirely clear in this regard, and it may well be that some interested persons failed to file for leave to intervene because of the (apparently) short time limitations.

We do not desire to preclude the opportunity to file for intervention to any potential party. Therefore, and in light of the possibility of misinterpretation of the intervention date, we will extend the time for the filing of petitions for leave to intervene up to and including January 24, 1974.[2]

Because we continue in the belief that expedition of this proceeding is essential, the other previously established procedural dates will remain unchanged. The parties herein and all persons who have heretofore filed for leave to intervene will be expected to adhere to the existing procedural schedule. Moreover, persons filing for leave to intervene pursuant to the extension of time provided for herein will be required to submit their statements of position, rule-making comments (20 copies of each), and their exhibits, if any, on or before January 24, 1974.[2]

It would be beneficial for any prospective intervenors not now on the service list to examine the materials filed in this proceeding, if they so desire. In order to facilitate this, we will direct the Bureau of Operating Rights to submit one copy of all documents filed in this docket to the Board's Public Reference Room for inspection by interested persons.

Accordingly, it is ordered, That: 1. Ordering paragraph 4 of Order 73-12-93/EDR-260, page 12, be and it hereby is amended to read as follows:

"4. The proceeding be conducted according to the format and schedule set forth in Appendix B hereto, except that petitions for leave to intervene may be submitted on or before January 24, 1974, and answers thereto on or before January 30, 1974, provided that statements of position, rulemaking comments (20 copies of each), and exhibits, if any (in five copies), are filed by persons filing petitions for leave to intervene pursuant to this order in the Docket Section of the Board on or before January 24, 1974"; and

2. This order will be served upon all persons named in ordering paragraph "8" of Order 73-12-93, all parties, and all persons having filed petitions for leave to intervene in Docket 26253.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-1484 Filed 1-16-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Revisions to Idaho Implementation Plan

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act, the Administrator approved, with specific exceptions, State Plans for implementation of national ambient air quality standards.

The Clean Air Act and the requirements for preparation, adoption, and submitted of state implementation plans, published on August 14, 1971 (36 FR 15486), and subsequently amended on December 9, 1972 (37 FR 26310), provide for submittal of revisions to approved plans.

On August 15, 1973, the Governor of Idaho submitted to EPA an updated opinion of an Assistant Attorney General for the State regarding the legal enforceability of the Idaho Implementation

[1] The 13-day delay in publication in the FEDERAL REGISTER apparently resulted from the adoption of the order on the Friday preceding the Christmas holidays and the intervention of two four-day holidays.

[2] This is the date established for the submission of rebuttal exhibits, rebuttal statements of position, and rulemaking comments (see Appendix B of Order 73-12-93).

[2] This date is the date for receipt of these materials at the offices of the Board, not the date of mailing. The exhibits should be submitted to the Docket Section of the Board in five copies, and should, along with the other materials, be served upon all parties and persons having filed petitions for leave to intervene. Answers to petitions for intervention will be due on January 30, 1974.

Plan since legislation enacted during the 1972 and 1973 legislative sessions repealed, added to or changed the legal basis for enforcing the State's plan.

The Administrator hereby issues, as proposed rulemaking, this notice setting forth the proposed revision to the State's plan with respect to the adequacy of authority to enforce that plan. The Administrator's decision to approve or disapprove the revision will be based on whether the recent changes in legal authority meet the requirements of the Clean Air Act and 40 CFR 51.11.

The plan revisions serve primarily to recodify the State's legal authority pursuant to departmental reorganization which created the Department of Environmental and Community Services. In the process of updating the State's statutory authority, the legislature also passed House Bill 152 which greatly increased the Department's legal authority to abate all sources of air pollution. Additionally, the Attorney General has provided legal opinions verifying the revisions as meeting the requirements of 40 CFR 51.11.

Copies of this August 15, 1973, submittal by the State of Idaho will be available for inspection during normal business hours at the Region X Office, EPA, 1200 Sixth Avenue, Seattle, Washington 98101, at the Idaho Department of Environmental and Community Services, Statehouse, Boise, Idaho 83720, and at the EPA Freedom of Information Center, 401 M Street, S.W., Washington, D.C. 20460. Information as to other locations in the State for review of these materials is available from the Regional EPA and Idaho State offices referenced above.

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Regional Administrator, EPA, Region X, 1200 Sixth Avenue, Seattle, Washington 98101, Attention: Chuck Findley. Relevant comments received on or before February 19, 1974, will be acknowledged and considered and comments received will be available for public inspection during normal working hours at the Region X Office of EPA.

(42 U.S.C. 1857c–5(a))

Dated: January 10, 1974.

RUSSELL E. TRAIN,
Administrator,
Environmental Protection Agency.

[FR Doc.74–1368 Filed 1–16–74;8:45 am]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Revision to the West Virginia Implementation Plan

On June 28, 1973, the West Virginia Air Pollution Control Commission passed amendments to Subsections 3.01(b)(1), 3.02(a), and added a new Subsection entitled 6.02(b) to Regulation X—"To Prevent and Control Air Pollution from the Emission of Sulfur Oxides." These amendments were passed following a public hearing held in Charleston, West Virginia on March 5, 1973. The revision permits the John E. Amos Plant of Appalachian Power Company to burn not more than 1% sulfur coal and provides further clarification to Section 6 of the regulation—Reports and Testing.

These changes constitute a proposed revision to the control strategy of the West Virginia Implementation Plan. This notice is issued to advise the public of the receipt of this proposed change and to request public comment on it. The Administrator's decision to approve or disapprove revisions to a plan is based on whether they meet the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania, 19106. Only comments received on or before February 19, 1974 will be considered. Copies of the proposed revision to the West Virginia Implementation Plan are available for public inspection during normal business hours at the Offices of EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania, 19106; the Freedom of Information Center, EPA, 401 M Street, SW, Washington, D.C., 20460; and at the West Virginia Air Pollution Control Commission, 1558 East Washington Street, Charleston, West Virginia, 25311.

(1857c–5(a).)

Dated: January 10, 1974.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.74–1369 Filed 1–16–74;8:45 am]

[40 CFR Part 85]

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Advance Notice of Proposed Rule Making: Emission Regulations for New Motorcycles

Section 202(a) of the Clean Air Act, as amended by Public Law 91–604, directs the Administrator of the Environmental Protection Agency to prescribe "standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment causes or contributes to, or is likely to cause or to contribute to, air pollution which endangers the public health or welfare". The Act defines "motor vehicle" as "any self-propelled vehicle designed for transporting persons or property on a street or highway". This definition includes motorcycles. After having reviewed recent data available to EPA, the Administrator has determined that motorcycles contribute significantly to the hydrocarbon and carbon monoxide pollution in certain Air Quality Control Regions.

As part of the proposed rule making for the Approval and Promulgation of Implementation Plans (40 CFR Part 52) for the States of Arizona, California and New Jersey, certain limitations on the registration and operation of motorcycles were proposed. These motorcycle limitations were necessary to reduce total hydrocarbon and carbon monoxide levels in those regions and to prevent a counterproductive shift from automobiles to motorcycles as a result of other elements of the control stategy. The proposed rule making stated, "In an attempt to remove the ceiling on motorcycle registration, the Agency will evaluate the feasibility of establishing emission standards for new motorcycles and will evaluate the availability of motorcycle emission control technology for meeting emission standards and for retrofit". In comments submitted to EPA in response to this proposed rule making, the motorcycle industry stated that technology was available and could be implemented with reasonable production lead time.

The need for control of motorcycle emissions extends beyond the recognition of the contribution of motorcycle emissions to urban air pollution in certain Air Quality Control Regions. Many factors, such as increased personal income, increased leisure time, product improvements and increased general public acceptance of motorcycles have caused the motorcycle population over the past few years to expand sharply. EPA estimates, based on an analysis of actual sales data and projected trends, that 2.3 million motorcycles will be offered for sale in 1976, compared with a projected 12 million automobiles. On the average, an uncontrolled motorcycle emits twenty times more hydrocarbons per vehicle mile traveled than an automobile controlled to the 1976 standards and annually travels one-third the distance of an automobile. Based on these data, the total population of new motorcycles sold each year in 1976 and later will, if left uncontrolled, add a greater hydrocarbon burden to the atmosphere than the total population of new automobiles sold in each of those years.

In view of these data and the stringent emission control requirements on other light duty vehicles which serve a similar transportation function, control of emissions from new motorcycles is judged by EPA to be both appropriate and equitable.

This Advance Notice of Proposed Rule Making has been published to communicate to motorcycle manufacturers the course of action being considered by EPA regarding the stringency and timing of motorcycle regulations, thus providing them with the maximum possible lead time, and to seek comments from interested and affected parties on specific technical areas which impact upon the development of the motorcycle regulations. This notice is also intended to provide the States as early as possible with an indication of EPA's intention to take action toward controlling emissions from motorcycles, thus providing input into the formulation and implementation of

the transportation control portions of State Implementation Plans. The implementation of motorcycle regulations will result in a significant reduction in motorcycle emissions and eliminate the potential for increases in total pollution which could result from a shift from automobiles to motorcycles in response to automotive "vehicle miles traveled" limitation strategies.

Discussed below are specific areas in which EPA is seeking additional comment prior to proposing regulations.

A. *Applicability.* Emission regulations for new motorcycles are intended to be applicable only to those motorcycles of engine displacements 50 cc or greater which are manufactured for operation on public streets and highways. Motorcycles not designed for use on public highways are excepted by the definition of "motor vehicle" specified in the Act. A major concern in determining which motorcycles are covered by this exception is the after-market kits which may be developed to readily modify motorcycles designed and manufactured for off-road use in order to satisfy state licensing requirements, thus circumventing the emission certification requirements.

1. Comments are requested on what unique characteristics of off-road motorcycles exist which will provide a clear definition allowing exception from these regulations of new motorcycles which are capable only of off-road operation.

2. Comments are solicited on the feasibility and frequency of motorcycles designed and manufactured for off-road use being modified for on-road use.

3. Comments are solicited on the extent to which motorcycles designed solely for on-road use and dual purpose (on-road and off-road use) motorcycles are actually operated in urban areas both on and off public streets and highways.

B. *Control Technology.* The availability of emission control methods which have been demonstrated to be adaptable to motorcycle engines is not well known at this time. Motorcycle manufacturers provided testimony in response to the proposed rule making for the Approval and Promulgation of Implementation Plans (40 CFR Part 52) for the States of Arizona, California and New Jersey that emission control technology was available. However, detailed system descriptions and performance data were not presented.

The 2-stroke engine motorcycle emissions result primarily from intake and exhaust port short circuiting, fuel rich mixtures, poor fuel vaporization and the basic lubricating methods. The application of control technology requiring major changes to the 2-stroke engine motorcycle fuel system as well as the addition of exhaust treatment devices is expected to be needed to achieve significant emission reductions.

The uncontrolled 4-stroke engine motorcycle currently achieves hydrocarbon (HC) and carbon monoxide (CO) mass emission levels comparable to the 1974 light duty vehicle standards, primarily because of the low exhaust volumes. It is anticipated that reductions below the levels of the 1974 standards for HC and CO emmisions can be achieved in 4-stroke engine motorcycles with improved fuel management, variable spark timing, and leaner fuel-air mixtures. Leaning of the fuel-air mixture generally implies a need for engine cooling methods other than excess fuel. Improvements in engine air cooling fins or water cooling are considered feasible.

Crankcase venting control has been adopted by certain motorcycle manufacturers on some engine models. The technology is considered to be available with manufacturing lead time being the only constraint on full implementation.

1. Comments concerning development of emission control methods for motorcycles are invited. Comments should include a detailed description of applicable emission control systems, discussions of development and production lead time for the various applicable emission control system components and/or modifications, and an estimate (including supporting analysis) of original and operating costs associated with motorcycle emission controls.

2. Performance data for the control approaches based on motorcycle dynamometer testing procedures similar to that applicable to 1975 light duty vehicles are requested.

It is recognized that there may be some trade-off of the present low NOx levels involved in the attainment of lower HC and CO emission levels.

3. Comment and data on the magnitude of this trade-off are solicited.

Little is known about the emission of "unregulated pollutants" from motorcycles and how these emissions may be affected by HC, CO and NOx control techniques.

4. Comments and data are solicited on the present levels of pollutants such as polynuclear aromatic hydrocarbon emissions, smoke, and odor and how these levels may be affected by the application of HC and CO control techniques.

Emissions of vehicles operated at high altitude have exhibited higher levels of HC and CO than those same vehicles operated at low altitude. Motorcycle emissions are expected to exhibit the same effect.

5. Comments on the availability and feasibility of maintaining effective emission control on motorcycles at high altitude are solicited.

In view of the possible need to control the noise level from motorcycles as well as their emissions consideration needs to be given to potentially significant technical problems between control of gaseous emissions and noise.

6. Comment and data relating to any possible trade-off between noise and emission control are solicited.

Although retrofit controls are not presently considered to be part of the plans for national emission regulations on motorcycles, knowledge of their feasibility is essential for future State planning purposes.

7. Comments on the types of retrofit methods, their estimated performance and cost are invited.

C. *Emission Standards.* It is anticipated that motorcycle emission standards will be uniform for all motorcycle engine designs, such as the 2-stroke cycle, 4-stroke cycle, and rotary combustion cycle engines. This would follow the precedent already set by light duty automobiles.

EPA is considering limiting exhaust emissions from 1976, 1977, and 1978 model year motorcycles to the following levels:

(1) Hydrocarbons — 5.0 grams per vehicle kilometer (8.0 grams per vehicle mile).

(2) Carbon monoxide—17 grams per vehicle kilometer (28 grams per vehicle mile).

(3) Oxides of nitrogen—1.2 grams per vehicle kilometer (2 grams per vehicle mile).

Exhaust emission standards have been considered for 1976 to provide for the earliest possible reduction in motorcycle emissions. In addition, no crankcase emissions from motorcycle engines are expected to be allowed for the 1976 model year and beyond.

The exhaust hydrocarbon standard considered for 1976 is exactly 50 percent of the 2-stroke engine motorcycle emission factor reported by Southwest Research Institute in their characterization study for EPA. One of the major 2-stroke engine motorcycle manufacturers has reported that it intends to produce motorcycles beginning in the 1976 model year which emit 50 percent of the level reported by Southwest Research Institute. Another major 2-stroke engine motorcycle manufacturer has reported that it can achieve a 50 percent average reduction in motorcycle exhaust emissions from present levels by the 1976 model year.

The carbon monoxide standard anticipated for 1976 is equivalent to the carbon monoxide standard which light duty automobiles have met for the 1972 through 1974 model years, as expressed in terms of the 1975 FTP. This standard represents a significant reduction in CO emission levels for the larger displacement motorcycles, but is readily achievable by smaller displacement motorcycles. Little data have been provided by the manufacturers on how emission control technology would be applied to achieve the CO standard, particularly for the larger displacement motorcycles.

The oxide of nitrogen standard anticipated for 1976 is identical to the 1976 interim standard for light duty automobiles. Although it is recognized that both two and four stroke engine motorcycles are presently well below this level, there is little justification for requiring motorcycles to meet levels more stringent than those required of other light duty vehicles. Furthermore, to obtain hydrocarbon reductions in the short run may require a modest increase in the oxide of nitrogen emissions.

EPA is considering limiting exhaust emissions from 1979 and later model year motorcycles to the same levels as

the statutory emission standards for light duty vehicles.

Since motorcycles serve primarily as passenger automobile substitutes in urban areas, like standards for both automobiles and motorcycles are appropriate. In support of this position, some motorcycle manufacturers have stated to the EPA that the 1979 levels herein stated are technologically attainable by 1979.

A standard limiting smoke levels is not being considered at this time. Since the utilization of a heated flame ionization detector for measuring hydrocarbons is intended, EPA expects that a 0.25 grams per vehicle kilometer (0.41 gram per vehicle mile) hydrocarbon standard will tend to assure that a motorcycle will not emit visible smoke especially since use of a heated flame ionization detector for measuring HC is intended. However, EPA intends to develop data on this subject. If such data indicates that a low hydrocarbon level does not also eliminate smoke emissions, a separate smoke standard will be considered.

1. Comments concerning the length and timing of the model year production period for motorcycles, and whether this period is essentially similar for all motorcycle manufacturers, are requested.

2. Comments concerning the technological feasibility and lead-time requirements for achieving these emission standards for the stated model years are invited.

3. Comments concerning the relationship between exhaust hydrocarbons and visible smoke are solicited. Information on smoke measurement techniques applicable to motorcycles is also solicited.

D. *Certification.* It is anticipated that certification procedures will be patterned after existing regulations, especially those covering new light duty gasoline-fueled and diesel-powered vehicles (40 CFR Part 85 Subpart A and Subpart B). Modifications will be required to adapt these procedures to the unique characteristics of motorcycles.

Examples of the specific nature of information requested of manufacturers in the form of The 1975 Application Format for Light Duty Vehicles are available upon written request from the Director, Division of Certification and Surveillance, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

As currently required for light duty vehicle certification, durability and emission data test fleets will be required for motorcycle certification. The motorcycles selected for testing in both fleets will be chosen to represent each category of engine/drive train design within the manufacture's product offerings. The determination of categories of design will be made on the basis of common engine system, fuel system, and emission control system parameters, such that emissions of a group or family of motorcycles can be expected to have common emission characteristics. Optional equipment sold on a significant number of motorcycles will be required on all test motorcycles.

1. Manufacturers are invited to present data on those engine and vehicle parameters which they believe would form a reasonable basis for selecting test vehicle categories.

In order to prevent placing an undue cost burden on small manufacturers, it is anticipated that some reduced level of testing be allowed. Following the precedents established for light duty vehicles, a level of 2,000 units annual U.S. sales is being considered as the level below which a reduction in the number of test vehicles may be authorized.

2. Comments on U.S. sales volume levels and the effect of reducing the number of test vehicles for manufacturers whose U.S. sales are below 2,000 units are solicited.

A key element in the development of test procedures for certification is the determination of the useful life of a motorcycle. Preliminary data suggest that motorcycle life is significantly different from that of passenger cars. The total life distance accumulated by motorcycles is probably dependent upon their engine size. State highway laws and manufacturers' marketing practices have established a breakpoint of 170 cc engine displacement for the classification of the two major categories of motorcycles. A preliminary definition of useful life is being considered as:

Less than 170 cc—20,000 kilometers (12,400 miles) or 5 years
equal to or
Greater than 170 cc—50,000 kilometers (31,100 miles) or 10 years

Distance accumulation by use of an accelerated test schedule based on the current light duty "Durability Driving Schedule" (ref: Federal Register, Volume 37, No. 211, Appendix IV, November 15, 1972) is being considered. Modifications to laps No. 10 and 11 of that schedule are being considered to allow motorcycles of less than 170 cc to run at rated cruising speed instead of 55 and 70 mph as stated.

It is being considered that emission data vehicles will be tested at zero and 5000 km. for motorcycles with engine displacements of 170 cc or greater, and zero and 2500 km. for motorcycles with engine displacements of less than 170 cc. Durability vehicles may be tested at the zero kilometer point and each 5000 km. point up to and including the 50,000 km. test point for motorcycles with displacements equal to or greater than 170 cc. and at the zero kilometer point and at each 2000 km. point up to and including the 20,000 km. point for motorcycles with displacements less than 170 cc. Calculations of the deterioration factor and compliance with standards are expected to be in the same manner as current light duty procedures.

3. Comments and supporting data on useful life, both in terms of distance and years of service, the distance accumulation procedure (including the possible use of a chassis dynamometer for distance accumulation), and the testing intervals are solicited.

Maintenance on test vehicles will be allowed at specified testing intervals, and under certain conditions at unscheduled times. The basis for allowing maintenance is the likelihood that the same maintenance would be performed on vehicles in customer service. Overt indications of vehicle malfunction will be the basis for allowing unscheduled maintenance.

4. Interested and affected parties are invited to submit data on specific items requiring periodic maintenance, the recommended service interval (particularly where those intervals differ from those currently allowed for light duty vehicles) and available data on actual consumer practices.

A fundamental aspect of the current LDV certification process is that production vehicles are assumed to be of substantially the same construction in all material respects as the prototype vehicles used in the certification process. It is questioned whether motorcycles are being produced with production tolerances of a sufficiently narrow range, e.g., fuel-air mixture settings, as to make prototype certification representative of all calibrations of motorcycles which will be in service.

5. Comments are solicited on the variability of motorcycle emissions on a vehicle-to-vehicle basis of a given model and on a test-to-test basis of the same vehicle.

6. Comments are solicited on the current quality control procedures for motorcycles which may affect emissions and how these procedures may be revised with the establishment of emission regulations.

E. *Test Procedures.* Procedures to be followed for emission testing are also expected to evolve from current light duty gasoline and diesel regulations (Ref: FEDERAL REGISTER, Volume 37, No. 221, November 15, 1972 and Volume 38, No. 151, August 7, 1973). A number of modifications to passenger automobile testing methods will be necessary.

Fuel specifications for emission testing and distance accumulation will be prescribed, as they are for light duty vehicles and heavy duty engines. Because the fuel for 2-stroke engine motorcycles is normally mixed with oil, 2-stroke engine fuel-oil specifications may be desirable.

1. Comments and recommendations on the exact specifications for fuel and oil for emission testing and distance accumulation are solicited.

Prior to testing, vehicles will be preconditioned in a manner designed to stabilize the vehicle systems. This may involve driving the vehicle in a specified manner and "soaking" for a time period sufficient to result in a simulated cold starting condition. Current light duty vehicle practice requires a 12-hour soak period. Consideration has been given to using a shorter soak period because of the smaller size and general character of motorcycles.

2. Comments are solicited on the necessary soak time along with supporting temperature versus time data.

It is presently the Agency's view that the driving characteristics (in terms of idling time, speed, and acceleration) of motorcycles in urban areas are basically the same as other light duty vehicles since all vehicles are constrained by aggregate traffic flow. However, it is also recognized that the smaller motorcycles may be power limited. For these reasons, it appears appropriate that, for engine displacements of less than 170 cc, the dynamometer driving schedule be modified from the existing light duty vehicle test procedure driving schedule, which is known as "LA–4". The modifications anticipated involve scaling down the peak velocity of the second profile in the "LA–4" drive trace to a level comparable to the maximum velocities in the other profiles.

3. Comments, along with supporting data, on the proposed dynamometer driving schedule and suggestions for modifications or alternative test schedules based on the urban driving characteristics of motorcycles are requested.

Evaporative standards, although not expected to be part of the proposed regulations, are expected to be imposed as soon as appropriate characterization studies are completed and test procedures have been developed. Preliminary plans are for use of a sealed housing or SHED measurement technique (Ref: Society of Automotive Engineers Measurement Procedure for Fuel Evaporative Emissions—SAE J 171).

4. Comments on the SHED and alternate evaporative testing methods as applied to motorcycles, evaporative emission levels from present motorcycles, and the application of evaporative emission control technology to motorcycles are solicited.

A prohibition on all crankcase emissions is being considered, and crankcase emission systems may be tested according to procedures defined by the Society of Automotive Engineers (Ref: SAE J900, Crankcase Emission Control Test Code). It is anticipated that crankcase emission control systems will be certified by engineering analysis of the design, as is current practice on light duty vehicles.

5. Comments on the feasibility of controlling crankcase emissions, the SAE test procedure for crankcase emission controls and the feasibility of certification by engineering analysis of design are solicited.

Sampling and analytical systems will probably be based on a variable dilution constant volume sampling system (CVS–75) as used on 1975 model year light duty vehicles. One modification being considered is the use of a heated flame ionization detector (HFID) for measurement of hydrocarbon emissions. This modification may be necessary to obtain accurate hydrocarbon measurements when testing 2-stroke engine motorcycles.

6. Comments on the proposed use of a HFID for all motorcycle testing are solicited.

Another change in the CVS–75 system may be a revised positive displacement pump capacity to account for the lower exhaust gas flow rate of motorcycles. A revised flow rate of 0.05 to 0.07 m^3/s (106 to 148 ft^3/min.) is being considered.

7. Comments on pump displacement and any other suggestions for modifications to the exhaust gas analytical system are solicited.

The connection of multiple exhausts of varying size and location to the bulk stream collector of the CVS is expected to cause some difficulty. Pressure variations at the tail pipes should be maintained as close as possible to conditions existing when no collection apparatus is attached to the motorcycle. It is anticipated that a standardized connector to the bulk stream and allowable pressure variations will be specified by EPA. The design of the manifold between the exhaust pipe and connector will probably not be specified. An alternate approach using an open funnel collection system is also being considered.

8. Comments on the design and attachment of collector manifolds, and open funnel collection methods, for CVS testing are solicited.

F. *Dynamometer Design, Calibration, and Operation.* The design, calibration, and operation of the dynamometer for motorcycle testing will require considerable modification from current practices for light duty vehicles. Because of the importance of air cooling to motorcycle designs, it is anticipated that a variable air flow cooling fan will be required such that air flow over the entire frontal area of the engine be proportional to dynamometer roll speed.

1. Comments on the use and design of a variable air-flow cooling fan for motorcycle dynamometer testing are solicited.

Dynamometer calibration will probably be determined by setting two parameters which simulate vehicle road operation. The first is equivalent inertial mass which will be based on the loaded mass of the motorcycle. Loaded mass will be the sum of the motorcycle curb mass (motorcycle+options+gasoline and oil) and the mass of an 80 kilogram (176 lb.) rider. Inertial mass should be adjustable in increments through the range of masses covered by motorcycles to be produced.

2. Comments on the use of an 80 kilogram (176 lb.) rider as a standard mass, and data on motorcycle curb mass to establish the range and increments of inertial adjustments are solicited.

The second parameter which should be determined is road load power absorption. Light duty vehicle road load power as currently specified is based on vehicles of much larger frontal area and higher rolling resistance than that of a motorcycle. A reference speed of 65 km/hr. (40 mph) may be set for determining road load power absorption. The procedures for determining road load power may be a two way run on a level surface at 65 km/hr. (40 mph) while monitoring manifold vacuum (4-stroke), throttle position (2-stroke), or fuel flow (all designs) and reproducing this loading during subsequent operation on a dynamometer. The power absorbed at the equivalent speed and load on the dynamometer will be the road load power for the motorcycle.

3. Data on the full mass range of motorcycles are solicited so that a standardized road load power absorption chart for emissions testing can be developed.

Vehicle operation in terms of manual transmission shift points over the dynamometer driving cycle may need to be modified from current light duty vehicle procedures. Widespread use of 4, 5 and 6 speed transmissions requires that procedures which approximate actual road use be adopted. Unless the manufacturer specifically recommends shift points, one method under consideration bases shift points on a percentage of the maximum recommended engine rpm. Initially considered are shift points which require downshifting at the beginning of any acceleration mode if the engine rpm is less than 30 percent of the maximum recommended engine rpm; and upshifting when the engine rpm is between 75 and 80 percent of the maximum recommended engine rpm.

4. Comments on the method of transmission operation and specific shift points are solicited.

Further clarification of the certification process, test procedures and emission standards being considered by the EPA for motorcycles may be obtained upon written request from the Director, Division of Emission Control Technology, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

The Agency will consider all available data on this subject with the intention of proposing emission standards early in calendar year 1974 which would take effect beginning with the 1976 model year and the 1979 model year.

Information responsive to this advance notice may be submitted to the Agency in writing. All such written material should be submitted with five copies to the Environmental Protection Agency, Division of Emission Control Technology, Office of Mobile Source Air Pollution Control, 2565 Plymouth Road, Ann Arbor, Michigan 48105. To be effectively considered, comments on the ANPRM should be received no later than March 18, 1974.

This Advance Notice of Proposed Rule Making is issued under the authority of section 202(a) of the Clean Air Act, as amended (42 U.S.C. 1857f–1(a)).

Date January 11, 1974.

JOHN QUARLES,
Acting Administrator.

[FR Doc.74–1478 Filed 1–16–74;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 542]

[Docket No. 74–1]

FINANCIAL RESPONSIBILITY FOR OIL POLLUTION CLEANUP

Enforcement Provisions

On September 30, 1970, the Federal Maritime Commission published in the

FEDERAL REGISTER (35 FR 15216) regulations to implement the financial responsibility provisions of section 11(p)(1) of the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970 (84 Stat. 97). These regulations, including subsequent amendments, are entitled Commission General Order 27, and apply to owners and operators of vessels over 300 gross tons, including certain barges of equivalent size, using any port or place in the United States or the navigable waters of the United States. The said regulations set forth the procedures whereby such owners and operators must evidence financial responsibility to meet the liability to the United States to which such vessels could be subjected for cleanup costs of oil discharged into or upon the waters of the United States.

On October 18, 1972, Congress enacted the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 870) to further amend the Federal Water Pollution Control Act (hereinafter referred to as the Act). These 1972 amendments, insofar as they affect and expand the financial responsibility requirements for cleanup costs under the aforesaid section 11(p)(1) of the Act, were the subject of the Commission's rulemaking proceeding in Docket No. 73-48, General Order 31, (Revised Part 542, Title 46 CFR) published in the FEDERAL REGISTER on October 17, 1973 (38 FR 28827). On its yet to be determined effective date, General Order 31, which concerns "hazardous substances" as well as oil, will replace General Order 27.

In the meantime the Commission wishes to amend General Order 27 solely for the twofold purpose of reflecting therein (a) a redesignation of section 11 and (b) the enforcement provisions of the 1972 amendments which concern only oil. The 1972 amendments to the Act redesignate section 11 of the Act as section 311, and add new paragraphs 311(p)(4), 311(p)(5) and 311(p)(6) which provide as follows:

"(4) Any owner or operator of a vessel subject to this subsection, who fails to comply with the provisions of this subsection or any regulation issued thereunder, shall be subject to a fine of not more than $10,000.

"(5) The Secretary of the Treasury may refuse the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), to any vessel subject to this subsection, which does not have evidence furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

"(6) The Secretary of the Department in which the Coast Guard is operated may (A) deny entry to any port or place in the United States or the navigable waters of the United States, to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this subsection, which upon request, does not produce evidence furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with."

The "evidence furnished by the President" referred to in the above quoted paragraphs 311(p)(5) and 311(p)(6) is a Certificate of Financial Responsibility (Oil Pollution) as provided in section 542.6 of General Order 27.

This rulemaking proceeding is not a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) Furthermore, the proposed amendments are intended merely to reflect in the Commission's regulations changes in the enabling Act, and will serve to benefit the overall environment. Accordingly, the issuance of an environmental impact statement is not required.

Now, therefore, pursuant to the provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 553), sections 311(p)(1) and 311(p)(2) of the Federal Water Pollution Control Act (86 Stat. 870), and section 3 of Executive Order 11735, notice is hereby given that the Federal Maritime Commission proposes to amend General Order 27 (Part 542 of Title 46 CFR) as follows:

1. It is proposed that all references to section 11 of the Federal Water Pollution Control Act be changed to section 311.

2. It is further proposed that the following new § 542.10 Enforcement be added to Part 542 of Title 46 CFR:

§ 542.10 Enforcement.

(a) Any owner or operator of a vessel subject to subsection 311(p) of the Act who fails to comply with the provisions of said subsection 311(p) or these regulations shall be subject to a fine of not more than $10,000.

(b) Any vessel subject to subsection 311(p) of the Act which does not have a Certificate issued pursuant to these regulations, evidencing that the financial responsibility requirements of paragraph 311(p)(1) of the Act have been complied with, may be refused by the Secretary of the Treasury the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91).

(c) Any vessel subject to subsection 311(p) of the Act, which, upon request, does not produce a Certificate issued pursuant to these regulations, evidencing that the financial responsibility requirements of paragraph 311(p)(1) of the Act have been complied with, may be (1) denied entry, by the Secretary of the Department in which the Coast Guard is operating, to any port or place in the United States or the navigable waters of the United States, and (2) detained by said Secretary at the port or place in the United States from which it is about to depart for any other port or place in the United States.

Interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 7, 1974, an original and 15 copies of their views or arguments pertaining to the proposed changes and additions. All suggestions for changes in the text of the proposals should be accompanied by drafts of the language thought necessary to accomplish the desired changes and should be supported by statements and arguments relating the proposed changes to the purposes of subsection 311(p) of the Federal Water Pollution Control Act (86 Stat. 870).

By order of the Federal Maritime Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.74-1452 Filed 1-16-74;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

Corps of Engineers, Department of the Army

WINTER NAVIGATION BOARD ON GREAT LAKES AND ST. LAWRENCE SEAWAY

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463) notice is hereby given of a meeting of the Winter Navigation Board at the Sheraton Metro Inn, Romulus, Michigan. The meeting times are 10 a.m. to 5:30 p.m. e.d.t. on January 29, 1974 and 8 a.m. to Noon on January 30, 1974.

The Winter Navigation Board is a multiagency organization which includes representatives of Federal agencies and non-Federal public and private interests. It was established to direct the Great Lakes and St. Lawrence Seaway navigation season extension investigations being conducted pursuant to Public Law 91–611.

The primary purpose of the meeting is to discuss the Interim Survey Report for extending the navigation season on the four upper Great Lakes. The agenda will include discussion of the public meetings that were held on January 7, 9 & 11, 1974 in conjunction with the Interim Survey Report and the costs and benefits of extended navigation. The agenda will also include discussion of energy advantages of winter shipping, a proposal to resolve winter navigation problems in the St. Marys River, plans for studies of safety and survival in a winter environment, and plans for next year's program.

The meeting will be open to the public subject to the following limitations:

1. As the seating capacity of the meeting room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants.
2. Written statements may be submitted prior to, or up to ten days following the meeting, but oral participation by the public is precluded because of the time schedule.

Inquiries may be addressed to Mr. Jim Beirs, U.S. Army Engineer District, Detroit, Corps of Engineers, P.O. Box 1027, Detroit, Michigan 48231, telephone 313–226–6770.

FRED R. ZIMMERMAN,
Lt. Colonel, AGC,
Chief, Plans Office, TAGO.

JANUARY 10, 1974.

[FR Doc.74–1445 Filed 1–16–74;8:45 am]

Office of the Secretary of Defense

ADVISORY GROUP ON ELECTRON DEVICES

Notice of Meetings

The Department of Defense Advisory Group on Electron Devices (Working Group on Lasers and Working Group on Passive Devices) will meet in closed sessions at 201 Varick Street, New York, New York, according to the following schedule:

a. Working Group on Lasers, 15–16 January 1974.

b. Workisg Group on Passive Devices, 22 January 1974.

The purpose of the DoD Advisory Group on Electron Devices, and various working groups thereof, is to provide the Director of Defense Research and Engineering and the Military Departments with advice and recommendations on the conduct of economical and effective research and development programs in the field of electron devices, e.g., lasers, radar tubes, transistors, infrared sensors, etc. The group is also the vehicle for interservice coordination of planned R&D efforts.

In accordance with Public Law 92–463, Section 10d, the Director of Defense Research and Engineering has determined, on 28 February 1973, that the meetings of the Advisory Group are matters which fall within policies analogous to those recognized in Section 552(b) of Title 5 of the United States Code and that the public interest requires such activities to be withheld from disclosure insofar as the requirements of subsection (a)( ) and subsection (b) of section 10, Public Law 92–463 are concerned.

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

JANUARY 14, 1974.

[FR Doc.74–1453 Filed 1–16–74;8:45 am]

DEPARTMENT OF JUSTICE

Land and Natural Resources Division

HARSHAW CHEMICAL CO.

Notice of Proposed Consent Judgment in Action To Enjoin Discharge of Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on January 8, 1974, a proposed consent decree in *United States* v. *Harshaw Chemical Company* was lodged with the United States District Court for the Northern District of Ohio. The proposed decree requires the Harshaw Chemical Company to meet certain interim effluent limitations for its waste discharges by June 30, 1975 and certain final effluent limitations for its waste discharges by December 31, 1976. The constituents discharged by Harshaw Chemical Company which are restricted by these effluent limitations include among others ammonia, cadmium, chromium, copper, lead, mercury, nickel, zinc, suspended solids, and oil and grease.

The Department of Justice will receive on or before February 19, 1974, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Harshaw Chemical Company*, D.J. Ref. 90–5–1–1–252.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of Ohio, Cleveland, Ohio; the Region V Office of the Environmental Protection Agency, 1 North Wacker Drive, Chicago, Illinois; the Clerk of the District Court, Northern District of Ohio, Cleveland, Ohio; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2623, Department of Justice Building, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section. In requesting a copy, please enclose a check in the amount of $1.80 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

WALLACE H. JOHNSON,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.74–1427 Filed 1–16–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

DRAFT ENVIRONMENTAL STATEMENT

Notice of Public Meetings

The Bonneville Power Administration hereby gives notice of the remaining public meetings to be held to discuss BPA's Fiscal Year 1975 Draft Environmental Statement. The purpose of the meetings is twofold; to present to the public BPA's

projected Fiscal Year 1975 Program, and to elicit comments from the public with respect to the environmental impact of BPA's projected program. The dates, hours, and places of these meetings are as follows:

February 19, 1974, 7 p.m., Stevenson High School, Stevenson, Washington;
February 19, 1974, 2 p.m., Mason County PUD Office, Shelton, Washington;
February 21, 1974, 7 p.m., Mari-Lynn Elementary School, Lyons, Oregon;
February 25, 1974, 1:30 p.m., Clallam County PUD Office, Port Angeles, Washington.

Previously scheduled meetings were published in the FEDERAL REGISTER Wednesday, January 2, 1974 (39 FR 17) FR Doc. 73-27316 and Wednesday, January 9, 1974 (39 FR 1472) FR Doc 74-797.

Additional or clarifying information may be obtained by writing or calling the Environmental Office, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208; Area Code 503 234-3361, ext. 5136.

Dated: January 14, 1974.

WILLIAM H. CLAGETT,
Assistant Administrator.

[FR Doc.74-1479 Filed 1-15-74;9:02 am]

Bureau of Land Management

[CA 790]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 8, 1974.

The U.S. Department of the Navy has filed application serial No. CA 790 to modify the boundaries of the Naval Petroleum Reserve No. 1 by the inclusion of the following described lands. The proposed withdrawal application has the effect of segregating the national resource lands described below from all forms of appropriation under the public land laws including the mining and mineral leasing laws subject to prior valid existing rights. The proposed withdrawal further segregates the mineral estate in those lands patented with all of the minerals reserved to the United States from entry and location under the mining laws including leasing under the mineral leasing laws, subject to prior valid existing rights. The mineral estate in the lands patented with the oil and gas reserved to the United States is segregated only from leasing under the mineral leasing laws by this proposed withdrawal, subject also to all prior valid existing rights.

The lands affected by the proposed withdrawal are within the one-mile buffer zone and contiguous to the northern perimeter of the Naval Petroleum Reserve No. 1. The Department of the Navy has requested the withdrawal of the lands for the reason that available geological and geophysical data indicates that a structural formation favorable to the accumulation of substantial quantities of hydrocarbons underlies the northwest portion of the Reserve and protection from drainage by offset commercial operations is required.

On or before February 18, 1974, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN

NATIONAL RESOURCE LANDS

T. 30 S., R. 22 E.,
Sec. 2, All.
T. 30 S., R. 23 E.,
Sec. 4, W½SE¼.
Patented Lands with all minerals reserved to the United States:
T. 30 S., R. 23 E.,
Sec. 6, All.
Patented Lands with oil and gas reserved to the United States:
T. 30 S., R. 23 E.,
Sec. 4, Lots 1 and 2 of NE¼.
The areas described aggregate 1,917.95 acres in Kern County, California.

WALTER F. HOLMES,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-1378 Filed 1-16-74;8:45 am]

FILLMORE DISTRICT ADVISORY BOARD

Notice of Meeting

JANUARY 11, 1974.

Notice is hereby given that the Fillmore District Advisory Board #3 will meet on February 15, 1974 at 9:30 a.m. at the Fillmore District Office, 10 East 5th North, Fillmore, Utah 84631.

The agenda for the meeting will consist of hearing protests on any actions determined or considered adverse during the regular advisory board meeting, grazing transfers, agreement for use of advisory board equipment, predator control, wild horse inventory, late grazing applications, and a review of district improvement work and proposed improvements.

The meeting will be open to the public as far as seating is available. Those members of the public wishing to make an oral statement should advise the board chairman, Alden K. Barton, prior to the meeting to aid in scheduling the time available. Any interested person may file a written statement for consideration by the board by sending it to the Chairman, District #3 Advisory Board, c/o Bureau of Land Management, P.O. Box 778, Fillmore, Utah 84631.

LLOYD H. FERGUSON,
District Manager.

[FR Doc.74-1449 Filed 1-16-74;8:45 am]

FILLMORE DISTRICT ADVISORY BOARD

Notice of Meeting

JANUARY 11, 1974.

Notice is hereby given that the Fillmore District Advisory Board #10 will meet on February 19, 1974 at 9:30 a.m. at the Fillmore District Office, 10 East 5th North, Fillmore, Utah 84631.

The agenda for the meeting will consist of hearing protests on any actions determined or considered adverse during the regular advisory board meeting, grazing transfers, agreement for use of advisory board equipment, predator control, wild horse inventory, late grazing applications, review of district improvement work and proposed improvements, and an open discussion period.

The meeting will be open to the public as far as seating is available. Those members of the public wishing to make an oral statement should advise the board chairman, Calvin Allred, prior to the meeting to aid in scheduling the time available. Any interested person may file a written statement for consideration by the board by sending it to the Chairman, District #10 Advisory Board, c/o Bureau of Land Management, P.O. Box 778, Fillmore, Utah 84631.

LLOYD H. FERGUSON,
District Manager.

[FR Doc.74-1450 Filed 1-16-74;8:45 am]

GEOTHERMAL LEASE SALE

Notice of Competitive Bids

The following notice corrects the description published in the FEDERAL REGISTER December 21, 1973 (Volume 38, Number 245) of certain lands to be offered for competitive lease sale in the Geysers, Mono-Long Valley and East Mesa KGRA's located in the State of California. Sealed bonus bids must be received on or before 10 a.m. on January 22, 1974, at the Bureau of Land Management State Office in Sacramento, California. Lease forms and special stipulations are available through the Geothermal Coordinator's Office, Room 5623, Interior Building, Washington, D.C. 20240, Bureau of Land Management, Office of Upland Minerals, Room 7000, In-

terior Building, Washington, D.C. 20240, or the Bureau of Land Management, State Office, Sacramento, California. The lease forms and special stipulations were published in the FEDERAL REGISTER on December 28, 1973.

U.S. DEPARTMENT OF THE INTERIOR, Bureau of Land Management, State Office California. Notice is hereby given that leasing units of land, totaling some 8755 acres, within The Geysers Known Geothermal Resources Area, principally in Sonoma and Lake Counties, California, are offered for geothermal leasing through SEALED BIDS on the terms hereinafter specified to the responsible qualified bidders of the highest cash bonus for the privilege of leasing units 1 to 12 inclusive, pursuant to the Geothermal Steam Act of December 24, 1970 (84 Stat. 1566; U.S.C. 1001–1025) and the regulations promulgated thereunder (43 CFR Group 3200). All bids must be submitted to the State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825 on or before 10:00 AM, January 22, 1974; if by mail to Room E–2841 and in person to Room E–2811. Bids will be opened and read at that time in Room W–1140. Sealed bids may not be modified or withdrawn unless the modification or withdrawal is received prior to the time fixed for opening of bids. No bids received after the hour specified herein will be considered. Separate bids must be submitted on each lease unit.

Each bidder must submit with each bid a certified or cashier's check, bank draft, or money order made payable to the Bureau of Land Management, or cash, in the amount of one-half the amount of bid, and proof of qualifications as required by the regulations 43 CFR Group 3200. The envelope in which the bid is submitted must be plainly marked that it is not to be opened before the date and hour set out therein; and must show the lease unit number and identify the Geysers Known Geothermal Resources Area. The remainder of the bonus, plus the first year's annual rental, must be paid; and an acceptable lease compliance surety bond, the sum of not less than $10,000 together with a proposed plan of operation as required by 43 CFR 3210.2–1(d) must be furnished by the successful bidder before issuance of a lease. In lieu of a lease compliance bond for each lease, a successful bidder may furnish a bond in the amount of not less than $150,000 for full nationwide coverage for all geothermal leases, or not less than $50,000 for coverage of all geothermal leases in the state of California.

The deposits of the other bidders will be returned upon acceptance of the successful bid. Bidders are warned against violation of Section 1860, Title 18 U.S. Code, prohibiting unlawful combination or intimidation of bidders. The right is reserved to reject any and all bids. Any bonus bid considered as inadequate on the basis of the estimated value of the lease unit will be rejected. Royalties payable to the United States will be at the rate of: (a) 12½ percent of the amount or value of steam or any other form of heat or energy derived from production; (b) 5 percent of the value of any by-product derived from production under the lease; except that, as to any by-product which is a mineral named in Sec. 1 of the Mineral Leasing Act of Feb. 25, 1920, as amended (30 USC 181), the royalty for such mineral shall be the same as provided in that Act; (c) 5 percent of the value of demineralized water sold or utilized by the lessee except that no payment of a royalty will be required on such water used in plant operation for cooling or in the generation of electric energy or otherwise. Annual rental for the first through the fifth lease years will be at the rate of $2 per acre, or fraction thereof; for the sixth lease year, and for each year thereafter prior to production, the rental will be the amount of the rental for the preceding year, plus an additional $1 per acre. The lands are offered in leasing units as follows:

GEYSERS KGRA

Lease Unit No. 1, 2340 acres.
T. 10 N., R. 7 W., M.D.M.,
Section 6, Lots 16, 17 and 47;
Section 7, Lots 6, 7, 8, 9, 12, 39, 45A, 45B, 46, W½NE¼, E½SE¼, SW¼SE¼, NE¼NW¼.
T. 10 N., R. 8 W., M.D.M.,
Section 1, Lots 1, 2, 3, 4, 5, 6, 8, 14, 15, 16, 17, 18, 19, 20, 21, 39 (MS 1067), 52, 54, 57 and Area A and B of N½N½ (protracted);
Section 2, N½ (protracted), N½SE¼, M.S. 1067;
Section 10, Lot 59;
Section 11, Lots 3, 4, 8, 9, 58A, 59, 60A, 61B, W½SW¼, W½NE¼SW¼, W½SE¼SW¼, SE¼SE¼SW¼, W½NE¼SE¼SW¼, SE¼NE¼SE¼SW¼, SW¼SE¼;
Section 12, Lots 6, 10, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 46.
T. 11 N., R. 8 W., M.D.M.,
Section 36, W½SW¼NW¼.
Lease Unit No. 2, 1534 acres.
T. 10 N., R. 8 W., M.D.M.,
Section 3, Lots 1, 2, 3, 4, 5, NW¼ (protracted), N½S½, SE¼SE¼, unpatented portion of SW¼SE¼, SW¼SW¼, E½SE¼SE¼SW¼;
Section 4, Lots 1, 2, 8, and 9, NE¼ (protracted), M.S. 4090, M.S. 6092;
Section 5, M.S. 4161.
T. 11 N., R. 8 W., M.D.M.,
Section 31, Lot 40, M.S. 4161;
Section 32, Unpatented portions of Lots 38 and 39, Lot 40, M.S. 4161;
Section 33, Lots 10, 11, 14, 16.
Lease Unit No. 3, 175 acres.
T. 11 N., R. 9 W., M.D.M.,
Section 14, Black Baer Lode only.
Section 23, Black Baer Lode only.
Section 24, Lots 6, 8, 9, and 10.
Lease Unit No. 4, 101 acres.
T. 11 N., R. 9 W., M.D.M.,
Section 2, Unpatented portions of Lots 7 and 10, Lot 9;
Section 3, Lots 37, 45, 46, 47, and 48;
Section 4, Lots 37, 45, 46, 47, and 48;
Section 9, Lots 37, 45, 46, 47, and 48;
Section 10, Lots 37, 45, 46, 47, and 48, unpatented portion of M.S. 6403.
Lease Unit No. 5, 169 acres.
T. 11 N., R. 8 W., M.D.M.,
Section 5, Lot 4;
Section 6, Lots 5, 6, 7, and 8.
T. 12 N., R. 8 W., M.D.M.,
Section 31, Lot 3.
Lease Unit No. 6, 2396 acres.
T. 12 N., R. 8 W., M.D.M.,
Section 19, Lots 1, 2, SE¼SW¼.
T. 12 N., R. 9 W., M.D.M.,
Section 2, Lots 1, 2, 3, 4, 8, 10, 11, 12, NE¼NW¼;
Section 3, NE¼SE¼.
Section 11, Lot 1, E½;
Section 12, S½SW¼, N½SE¼, SW¼SE¼;
Section 13, W½NE¼, N½NW¼, S½;
Section 14, N½NE¼, SW¼NW¼, SW¼SW¼, N½SE¼, SE¼SE¼;
Section 15, E½NE¼, SW¼NE¼, NE¼SE¼;
Section 23, N½NE¼, NE¼NW¼;
Section 24, N½N½, SE¼SE¼.
Lease Unit No. 7, 626 acres.
T. 11 N., R. 8 W., M.D.M.,
Section 21, Lots 7, 8, 9, and 10;
Section 27, Lots 2, 6, 7, N½SW¼, NW¼SE¼;
Section 28, Lots 1, 2, 3, and 4;
Section 29, N½NE¼.
Lease Unit No. 8, 250 acres.
T. 11 N., R. 8 W., M.D.M.,
Section 32, Lots 12, 16, 19, and 20;
Section 33, Lots 5, 15;
Section 34, Lots 5, 6, NW¼SE¼, N½NE¼SW¼;
Section 35, Lot 4.
Lease Unit No. 9, 160 acres.
T. 11 N. R. 8 W., M.D.M.,
Section 18, Lots 15, 16, SW¼SE¼;
Section 19, Lot 2.
Lease Unit No. 10, 222 acres.
T. 11 N., R. 8 W., M.D.M.,
Section 34, Lots 2, 3, 7, S½NE¼SW¼;
Section 35, Lot 1, Unpatented portions of Lots 2 and 3 and SE¼NW¼.
Lease Unit No. 11, 45 acres.
T. 11 N., R. 8 W., M.D.M.,
Section 29, NW¼SW¼;
Section 33, Lot 13.
Lease Unit No. 12, 737 acres.
T. 12 N., R. 8 W., M.D.M.,
Section 30, Lots 2, 3, 4, E½SW¼;
Section 31, Lot 1, NE¼NW¼.
T. 12 N., R. 9 W., M.D.M.,
Section 25, SE¼NE¼, S½;
Section 26, N½SE¼.

The described lands in the above lease sale notice include public domain lands, part of which are subject to conversion rights (Grandfather rights) under 43 CFR 3230. In the case of those lands where the conversion rights have been approved, the holder of the conversion right shall have the right to meet the high bid and, if otherwise qualified, shall upon meeting that high bid, be deemed the high bidder.

Attention is directed to the following Leasing Units, which are subject to applications for conversion rights (Grandfather rights) under 43 CFR 3230.

Leasing Unit Nos. 1, 2, 4, 8, and 9	Applicant, Signal Oil & Gas Company, 1010 Wilshire Blvd., Los Angeles, CA 90017.
Leasing Unit Nos. 5 and 6	Applicant, M & T, Incorporated, 369 Pine Street, San Francisco, CA 94104.
Leasing Unit Nos. 7, 8, 9, and 10	Applicant, Occidental Petroleum Corp., 5000 Stockdale Highway, Bakersfield, CA 93309.
Leasing Unit Nos. 11 and 12	Applicant, Union Oil Company of California, et al., 461 South Boylston Street, Los Angeles, CA 90051.

Copies of lease and bond forms, special stipulations, regulations and optional bid forms may be obtained from the office of the State Director, Bureau of Land Management, Sacramento, California.

MONO-LONG VALLEY KGRA

U.S. DEPARTMENT OF THE INTERIOR, Bureau of Land Management, State Office, Sacramento, California, Notice is hereby given that leasing units of land totaling 13,714.03 acres within The Mono-Long Valley Known Geothermal Resources Area, in Mono County, California, are offered for geothermal leasing through SEALED BIDS on the terms hereinafter specified to the responsible qualified bidders, of the highest cash bonus for the privilege of leasing units, 1, 2, 3, 4, 5, 6, and 7, pursuant to the Geothermal Steam Act of December 24, 1970 (84 Stat. 1566; 30 U.S.C. 1001–1025), and the regulations promulgated thereunder (43 CFR Group 3200). All bids must be submitted to the State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825 on or before 10:00 AM January 22, 1974; if by mail to Room E 2841 and in person to Room E–2811. Bids will be opened and read at that time in Room W–1140. Sealed bids may not be modified or withdrawn unless the modification or withdrawal is received prior to the time fixed for opening of bids. No bids received after the hour specified herein will be considered. Separate bids must be submitted on each lease unit. The government reserves the right to reject any and all bids. Each bidder must submit with each bid a certified or cashier's check, bank draft, or money order made payable to the Bureau of Land Management, or cash, in the amount of one-half of the amount bid, and proof of qualifications, as required by the regulations 43 CFR Group 3200. The envelope in which the bid is submitted must be plainly marked that it is not to be opened before the date and hour set out therein; and must show the lease unit number and identify the Mono-Long Valley Known Geothermal Resources Area. The remainder of the bonus, plus the first year's annual rental, must be paid; and an acceptable lease compliance surety bond in the sum of not less than $10,000, together with a proposed plan of operation, as required by 43 CFR 3210.2–1(d), must be furnished by the successful bidder before issuance of a lease. In lieu of the lease compliance bond for each lease, a successful bidder may furnish a bond in the amount not less than $150,000, for full nationwide coverage for all geothermal leases, or not less than $50,000, for coverage of all geothermal leases in the state of California. The deposits of the other bidders will be returned upon acceptance of the successful bid. Bidders are warned against violation of Section 1860, Title 18, U.S. Code, prohibiting unlawful combination or intimidation of bidders. Any bonus bid considered as inadequate on the basis of the estimated value of the lease unit will be rejected. Royalties payable to the United States will be at the rate of: (a) 10 percent of the amount or value of steam or any other form of heat or energy derived from production; (b) 5 percent of the value of any by-product derived from production under the lease; except that as to any by-product which is a mineral named in Sec. 1 of the Mineral Leasing Act of February 25, 1920, as amended (30 USC 181), the royalty for such minerals shall be the same as provided in that Act; (c) 5 percent of the value of demineralized water sold or utilized by the lessee, except that no payment of a royalty will be required on such water used in plant operation for cooling or in the generation of electric energy or otherwise. Annual rental for the first through the fifth lease years will be at the rate of $2 per acre or fraction thereof; for the sixth lease year and for each year thereafter prior to production, the rental will be the amount of the rental for the preceding year, plus an additional $1 per acre. The lands are offered in leasing units as follows:

CROWLEY LAKE (LONG VALLEY) LEASING UNITS

Lease Unit No. 1, 1815 acres.
T. 3 S., R. 29 E., M.D.M.,
Sec. 5, SW¼;
Sec. 6, S½;
Sec. 7, N½, SW¼;
Sec. 17, SE¼SW¼, SW¼SE¼;
Sec. 18, W½, W½SE¼;
Sec. 19, NW¼NE¼, NW¼;
Sec. 20, W½NE¼, E½NW¼.
Lease Unit No. 2, 1895 acres.
T. 3 S., R. 29 E., M.D.M.,
Sec. 19, SW¼, E½SE¼, SW¼SE¼;
Sec. 20, SW¼;
Sec. 29, SW¼;
Sec. 30, All;
Sec. 31, E½;
Sec. 32, W½.
Lease Unit No. 3, 1773 acres.
T. 3 S., R. 29 E., M.D.M.,
Sec. 28, S½;
Sec. 29, SE¼;
Sec. 31, W½;
Sec. 32, E½;
Sec. 33, All.

MONO LAKE LEASE UNITS

Lease Unit No. 4, 1883, acres.
T. 2 N., R. 26 E., M.D.M.,
Sec. 10, SE¼NE¼, NE¼SE¼;
Sec. 11, All except NW¼NW¼ (Fract'l.);
Sec. 14, All (Fract'l.);
Sec. 15, All;
Sec. 20, N½NE¼;
Sec. 21, All (Fract'l.);
Sec. 22, All (Fract'l.).
Lease Unit No. 5, 2309 acres.
T. 1 N., R. 26 E., M.D.M.,
Sec. 13, Fract'l. SW¼NW¼, E½SE¼.
T. 1 N., R. 27 E., M.D.M.,
Sec. 17, All (Fract'l.);
Sec. 18, S½ (Fract'l.);
Sec. 19, All;
Sec. 20, All;
Sec. 21, All.
Lease Unit No. 6, 1763 acres.
T. 1 N., R. 27 E., M.D.M.,
Sec. 14, W½ (Fract'l.);
Sec. 15;
Sec. 22, All;
Sec. 23, NW¼.
Lease Unit No. 7, 2277 acres.
T. 1 N., R. 27 E., M.D.M.,
Sec. 11, All (Fract'l.);
Sec. 12, W½ (Fract'l.);
Sec. 13, W½;
Sec. 14, E½;
Sec. 23, NE¼;
Sec. 24, W½, S½SE¼;
Sec. 25, All;
Sec. 26, NE¼.

The described lands in the above lease sale notice include public domain lands, part of which are subject to conversion rights (Grandfather rights) under 43 CFR 3230. In the case of those lands where the conversion rights have been approved, the holder of the conversion right shall have the right to meet the high bid and, if otherwise qualified, shall upon meeting that high bid, be deemed the high bidder.

Attention is directed to the following lands of the Crowley Lake (Long Valley) Leasing Units, which are subject to conversion rights (Grandfather rights), under 43 CFR 3230.

Leasing Units 1 and 2, Geothermal Resources International, Inc. 1234 Chester Ave. Bakersfield, California 93301

Leasing Units 2, 4, and 5, George D. Rowan, 458 South Spring Street, Los Angeles, California 90013

Leasing Unit 4, Franciscan Land and Cattle Co. c/o Tweedy and Pinhey, Attorneys at Law, 16661 Ventura Boulevard, Suite 224, Encino, California 91316.

Copies of lease and bond forms, special stipulations, regulations, and optional bid forms may be obtained from the office of the State Director, Bureau of Land Management, Sacramento, California.

EAST MESA KGRA

U.S. DEPARTMENT OF THE INTERIOR, Bureau of Land Management, State Office, Sacramento, California. Notice is hereby given that leasing units of land totaling 30,168.53 acres, within The East Mesa Known Geothermal Resources Area, in Imperial County, California, are offered for geothermal leasing through SEALED BIDS on the terms hereinafter specified to the responsible qualified bidders of the highest cash bonus for the privilege of leasing units 1 to 14 inclusive, pursuant to the Geothermal Steam Act of December 24, 1970 (84 Stat. 1566; 30 U.S.C. 1001–1025) and the regulations promulgated thereunder (43 CFR Group 3200). All bids must be submitted to the State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825 on or before 10:00 AM January 22, 1974; if by mail to Room E–2841 and in person to Room E–2811. Bids will be opened and read at that time in Room W–1140.

Sealed bids may not be modified or withdrawn unless the modification or withdrawal is received prior to the time fixed for opening of bids. No bids received after the hour specified herein will be considered. Separate bids must be submitted on each lease unit.

Each bidder must submit with each bid a certified or cashier's check, bank draft, or money order made payable to the Bureau of Land Management, or cash, in the amount of one-half the amount of bid, and proof of qualifications as required by the regulations 43 CFR Group 3200. The envelope in which the bid is submitted must be plainly marked that it is not to be opened before the date and hour set out therein; and must show the lease unit number and identify the

East Mesa Known Geothermal Resources Area. The remainder of the bonus, plus the first year's annual rental, must be paid, and an acceptable lease compliance surety bond, in the sum of not less than $10,000, together with a proposed plan of operation as required by 43 CFR 3210.2–1(d), must be furnished by the successful bidder before issuance of a lease. In lieu of the lease compliance bond for each lease, a successful bidder may furnish a bond in the amount of not less than $150,000 for full nationwide coverage for all geothermal leases, or not less than $50,000 for coverage of all geothermal leases in the state of California.

The deposits of the other bidders will be returned upon acceptance of the successful bid. Bidders are warned against violation of Section 1860, Title 18, U.S. Code, prohibiting unlawful combination or intimidation of bidders. The right is reserved to reject any and all bids. Any bonus bid considered as inadequate on the basis of the estimated value of the lease unit will be rejected. Royalties payable to the United States will be at the rate of: (a) 10 percent of the amount or value of steam or any other form of heat or energy derived from production; (b) 5 percent of the value of any by-product derived from production under the lease; except that as to any by-product which is a mineral named in Sec. 1 of the Mineral Leasing Act of February 25, 1920, as amended (30 USC 181), the royalty for such minerals shall be the same as provided in that Act; (c) 5 percent of the value of demineralized water sold or utilized by the lessee, except that no payment of a royalty will be required on such water used in plant operation for cooling or in the generation of electric energy or otherwise. Annual rental for the first through the fifth lease years will be at the rate of $2 per acre or fraction thereof; for the sixth lease year and for each year thereafter prior to production, the rental will be the amount of the rental for the preceding year, plus an additional $1 per acre. The lands are offered in leasing units as follows:

EAST MESA KGRA

Lease Unit No. 1, 2240 Acres.
T. 16 S., R. 16 E., S.B.M.,
Sec. 1: Lot 1, 2, 3, 4, 5, 6, 7, 8, 11, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
T. 15, S., R. 17 E., S.B.M.,
Sec. 31, All;
Sec. 32, All.
T. 16 S., R. 17 E., S.B.M.,
Sec. 6, All.
Lease Unit No. 2, 2559 acres.
T. 15 S., R. 17 E., S.B.M.,
Sec. 33, All;
Sec. 34, W½.
T. 16 S., R. 17 E., S.B.M.,
Sec. 3, W½;
Sec. 4, All;
Sec. 5, All.
Lease Unit No. 3, 1868 acres.
T. 16 S., R. 16 E., S.B.M.,
Sec. 12, E½, E½NW¼;
Sec. 13, lots 1, 2, 11, 12, 13, 14, E½NE¼.
T. 16 S., R. 17 E., S.B.M.,
Sec. 7, all;
Sec. 18, all.
Lease Unit No. 4, 1920 acres.
T. 16 S., R. 17 E., S.B.M.,
Sec. 8, all;
Sec. 9, all;
Sec. 17, all.
Lease Unit No. 5, 2240 acres.
T. 16 S., R. 18 E., S.B.M.,
Sec. 27, W½, SE¼;
Sec. 28, all;
Sec. 33, all;
Sec. 34, N½;
Sec. 35, NW¼.
Lease Unit No. 6, 2240 acres.
T. 16 S., R. 18 E., S.B.M.,
Sec. 17, SW¼;
Sec. 18, S½;
Sec. 19, all;
Sec. 20, all;
Sec. 21, W½, SE¼.
Lease Unit No. 7, 2400 acres.
T. 16 S., R. 18 E., S.B.M.,
Secs. 29, all;
Sec 30, all;
Sec. 31, N½, SE¼;
Sec. 32, all.
Lease Unit No. 8, 1437 acres.
T. 16 S., R. 16 E., S.B.M.,
Sec. 24, NE¼.
T. 16 S., R. 17 E., S.B.M.,
Sec 19, all;
Sec. 20, all.
Lease Unit No. 9, 2549 acres.
T. 15 S., R. 16 E., S.B.M.,
Sec. 23, E½SE¼;
Sec. 24, S½;
Sec. 25, All;
Sec. 26, E½NE¼.
T. 15 S., R. 17 E., S.B.M.,
Sec. 19, S½;
Sec. 20, SW¼;
Sec. 29, W½;
Sec. 30, All.
Lease Unit No. 10, 2560 acres.
T. 15, S., R. 17 E., S.B.M.,
Sec. 20, E½;
Sec. 21, All;
Sec. 22, W½;
Sec. 27, W½;
Sec. 28, All;
Sec. 29, E½.
Lease Unit No. 11, 1596 acres.
T. 15 S., R. 17 E., S.B.M.,
Sec. 13, NE¼.
T. 15 S., R 17 E., S.B.M.,
Sec. 17, All;
Sec. 18, N½, and SE¼;
Sec. 19, NE¼;
Sec. 20, NW¼.
Lease Unit No. 12, 1760 acres.
T. 16 S., R. 17 E., S.B.M.,
Sec. 21, All;
Sec. 28, All;
Sec. 29, N½, and SE¼.
Lease Unit No. 13, 2240 acres.
T. 16 S., R. 17 E., S.B.M.,
Sec. 15, S½;
Secs. 22, All;
Sec. 26, All;
Sec. 27, All.
Lease Unit No. 14, 2560 acres.
T. 16 S., R. 17 E., S.B.M.,
Sec. 13, S½;
Sec. 14, S½;
Secs. 23, All;
Sec. 24, All;
Sec. 25, All.

Copies of lease and bond forms, special stipulations, regulations, and optional bid forms may be obtained from the office of the State Director, Bureau of Land Management, Sacramento, California.

Dated: January 9, 1974.

W. W. LYONS,
Deputy Under Secretary of the Interior.

[FR Doc.74–1359 Filed 1–16–74;8:45 am]

Geological Survey

POWDER RIVER BASIN, MONTANA

Known Leasing Area (Coal)

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), and Secretary's Order No. 2563 (15 FR 3193), and Secretary's Order No. 2948, Federal lands within the State of Montana, have been classified as subject to the competitive coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(26) MONTANA

Powder River Basin (Montana) Known Leasing Area (Coal); May 25, 1973, 2,256,576 acres.

A diagram showing the boundaries of the area classified for competitive leasing has been filed with the appropriate land office of the Bureau of Land Management and is also of record in the Geological Survey, Reston, Virginia 22092.

Dated: January 9, 1974.

V. E. MCKELVEY,
Director.

[FR Doc.74–1421 Filed 1–16–74;8:45 am]

Office of the Secretary

[Order No. 2508, Amdt. 101]

COMMISSIONER OF INDIAN AFFAIRS

Delegation of Authority Regarding Specific Legislation

Section 30 of Order 2508, as amended, is further amended by the addition under paragraph (a) of a new subparagraph to read as follows:

SEC. 30. Authority under specific acts. (a) In addition to any authority delegated elsewhere in this order, the Commissioner of Indian Affairs, except as provided in paragraph (b) of this section, is authorized to perform the functions and exercise the authority vested in the Secretary of the Interior by the following acts or portions of acts or any acts amendatory thereof:

* * * * *

(56) All authorities granted in the Act of December 22, 1973 (Public Law 93–197), which act restores the Federal relationship to the Menominee Tribe of Wisconsin, except for the approval of the tribal constitution and bylaws and the disposition of appeals from the omission or inclusion of any name upon the tribal roll.

JOHN C. WHITAKER,
Acting Secretary of the Interior.

JANUARY 14, 1974.

[FR Doc.74–1434 Filed 1–16–74;8:45 am]

[INT FES 74–2]

OFF-ROAD VEHICLES ON THE PUBLIC LANDS

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, (P.L. 91–190), the Department of the Interior has prepared a final environmental statement for the proposed implementation of Executive Order 11644 (37 F.R. 2877), which pertains to the use of off-road vehicles on the public lands. Notice of availability of the draft environmental statement inviting comments was announced in the FEDERAL REGISTER on June 2, 1972 and February 14, 1973 (DES 72–62).

The environmental statement considers the effects of implementing the order on lands administered by the Department of the Interior. The environmental statement recognizes the need for a unified Federal policy toward the use of off-road vehicles (ORV) and the environmental values and other recreational activities that must be protected through wise policies and procedures that will ensure the proper and compatible use of ORV on the public lands.

Copies are available for inspection at the following locations:

Office of Communications, Room 7218, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343–4662.

Office of Information, Room 4421, Bureau of Outdoor Recreation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343–5726.

Regional Offices, Bureau of Outdoor Recreation
Regional Offices, Bureau of Sport Fisheries and Wildlife
Regional Offices, Bureau of Reclamation
Regional Offices, National Park Service
State Land Offices, Bureau of Land Management

Copies have also been made available to the State Liaison Officers to the Bureau of Outdoor Recreation.

A limited number of single copies is available and may be obtained by writing to the Director, Bureau of Outdoor Recreation, Room 4410, Department of the Interior, Washington, D.C. 20240. Otherwise, copies may be purchased by writing the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: January 10, 1974.

WILLIAM A. VOGELY,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc.74–1377 Filed 1–16–74;8:45 am]

[INT DES 74–1]

PROPOSED MASTER PLAN; LINCOLN HOME NATIONAL HISTORIC SITE, ILLINOIS

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for a proposed Master Plan, Lincoln Home National Historic Site, Illinois.

The statement considers the effects of a conceptual Master Plan for the management and use of Lincoln Home National Historic Site.

Written comments on the environmental statement are invited and will be accepted on or before March 4, 1974. Comments should be addressed to the Northeast Regional Office (address given below).

Copies of the draft environmental statement are available from or for inspection at the following locations:

Northeast Regional Office
National Park Service
143 South Third Street
Philadelphia, Pennsylvania 19106
Lincoln Home National Historic Site
413 South Eighth Street
Springfield, Illinois 62701

Dated January 10, 1974.

WILLIAM A. VOGELY,
Acting Deputy Assistant. Secretary of the Interior.

[FR Doc.74–1424 Filed 1–16–74;8:45 am]

[INT FES 74–1]

PROPOSED BRYCE CANYON NATIONAL PARK WILDERNESS AREA, UTAH

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed wilderness area for Bryce Canyon National Park, Utah.

The environmental statement considers the effects of establishment of a 16,303 acre wilderness area in Bryce Canyon National Park in Kane and Garfield Counties, Utah.

Copies of the draft environmental statement are available from or for inspection at the following locations:

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, Nebraska 68102

State Director
Salt Lake City Field Office
National Park Service
125 South State Street
Salt Lake City, Utah 84111

Superintendent
Bryce Canyon National Park
Bryce Canyon, Utah 84717

Dated: January 10, 1974.

WILLIAM A. VOGELY,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc.74–1426 Filed 1–16–74;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

BOISE NATIONAL FOREST G–10 LIVESTOCK ADVISORY BOARD

Notice of Meeting

The Boise National Forest G–10 Livestock Advisory Board will meet at 9 a.m., February 5, 1974, at the Boise National Forest Supervisor's Office, 1075 Park Boulevard, Boise, Idaho 83706.

The purpose of this meeting is to discuss the function of the Advisory Board during 1973 and to plan the Board's operation in 1974.

The meeting will be open to the public. Persons who wish to attend should notify Mr. Tom Nicholson, President, Boise National Forest Livestock Advisory Board, 10322 Estate Drive, Boise, Idaho 83705. Telephone: Area Code 208–375–5255.

Dated: January 7, 1974.

EDWARD C. MAW,
Forest Supervisor.

[FR Doc.74–1443 Filed 1–16–74;8:45 am]

COOPERATIVE SPRUCE BUDWORM SUPPRESSION 1974 PROJECT

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for suppression of the spruce budworm in Maine in 1974. Forest Service Report Number USDA–FS–NA–DES (Adm.)–1.

The environmental statement concerns a proposed cooperative aerial spray project on approximately 430,000 acres of state and private woodlands in Aroostook, Piscataquis, Penobscot and Washington Counties to prevent or minimize tree mortality and reduce high spruce budworm populations. To accomplish these objectives, the insecticide mexacarbate (Zectran ®) will be applied by aircraft. This statement is intended as the base document for the cooperative spruce budworm program. In subsequent years an annual addendum will be prepared that presents only new knowledge,

additional alternatives or environmental impacts not considered, and details for implementing annual activities of the program.

This draft environmental statement was filed with CEQ on January 11, 1974.

Copies are available for inspection during regular working hours at the following locations:

U.S.D.A., Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave. SW.
Washington, D.C. 20250

U.S.D.A., Forest Service
Northeastern Area,
State and Private Forestry
6816 Market Street, Room 207
Upper Darby, Pennsylvania 19082

A limited number of single copies are available upon request to

Robert D. Raisch, Area Director
Northeastern Area,
State and Private Forestry
6816 Market Street
Upper Darby, Pennsylvania 19082

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, state and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Robert D. Raisch, U.S. Forest Service, Northeastern Area, State and Private Forestry, 6816 Market Street, Upper Darby, PA 19082. Telephone 215/597-3760.

Comments must be received by March 13, 1973 in order to be considered in preparation of the final environmental statement.

Dated: January 10, 1974.

ROBERT D. RAISCH,
Director, Northeastern Area, State and Private Forestry.

[FR Doc.74-1360 Filed 1-16-74;8:45 am]

Rural Electrification Administration

SQUARE BUTTE ELECTRIC COOPERATIVE

Notice of Availability of Final Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with certain Administrative approvals by the Rural Electrification Administration prior to the construction of a 400 MW Generation Unit near Center, North Dakota, and associated 456 miles of ±250 kV DC transmission line. Approval of this project will benefit Minnkota Power Cooperative of Grand Forks, North Dakota; Minnesota Power and Light Company of Duluth, Minnesota, and Square Butte Electric Cooperative of Grank Forks, North Dakota.

Additional information may be secured on request, submitted to the Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 4310 or at Square Butte Electric Cooperative, P.O. Box 1318, Grand Forks, North Dakota 58201.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 11th day of January 1974.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.74-1473 Filed 1-16-74;8:45 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards

VOLUNTARY STANDARDS

Notice of Intent To Withdraw

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the intent to withdraw Commercial Standard CS 273-65, "Expanded Vinyl Fabrics for Furniture Upholstery Use" and Simplified Practice Recommendation R 242-53, "Vinyl- and Pyroxylin-Coated Cotton Fabrics." It has been tentatively determined that these standards are no longer technically adequate and revision would serve no useful purpose.

Any comments or objections concerning the intended withdrawal of these standards should be made in writing and directed to the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234, on or before February 19, 1974. The effective date of withdrawal, if appropriate, will be not less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of the withdrawal.

Dated: January 10, 1974.

RICHARD W. ROBERTS,
Director.

[FR Doc.74-1371 Filed 1-16-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

DROPOUT PREVENTION PROGRAM

Closing Date for Receipt of Applications

Correction

In FR Doc. 73-26218 appearing on page 34135 in the issue of Tuesday, December 11, 1973, the phrase "January 10, 1974 in final form" in the second paragraph last sentence, should read "30 days after publication in final form."

IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

Notice of Allotment Ratios

Pursuant to section 602 of the Higher Education Act of 1965, Pub. L. 89-329, as amended (79 Stat. 1261 (20 U.S.C. 1122)), which provides for financial assistance for the improvement of undergraduate instruction, and on the basis of the average of the incomes per person of each of the States and of all the States for the three most recent consecutive calendar years for which satisfactory data are available from the Department of Commerce, notice is hereby given that the following allotment ratios for the States are effective with the respect to the allotment of such funds as are appropriated for the fiscal year ending June 30, 1974.

Alabama	0.6343	North Carolina	.5918
Alaska	.4200	North Dakota	.5926
Arizona	.5401	Ohio	.4922
Arkansas	.6372	Oklahoma	.5788
California	.4363	Oregon	.5251
Colorado	.5125	Pennsylvania	.5008
Connecticut	.3889	Rhode Island	.5020
Delaware	.4392	South Carolina	.6273
Florida	.5342	South Dakota	.5935
Georgia	.4324	Tennessee	.6076
Hawaii	.5716	Texas	.5498
Idaho	.5884	Utah	.5914
Illinois	.4261	Vermont	.5614
Indiana	.5113	Virginia	.5380
Iowa	.5270	Washington	.4897
Kansas	.5020	West Virginia	.6165
Kentucky	.6064	Wisconsin	.5287
Louisiana	.6113	Wyoming	.5345
Maine	.5919	District of Columbia	.3333
Maryland	.4574	American Samoa	.6667
Massachusetts	.4505	Guam	.6667
Michigan	.4643	Puerto Rico	.6667
Minnesota	.5134	Virgin Islands	.6667
Mississippi	.6667	Trust Territory	.6667
Missouri	.5282		
Montana	.5659		
Nebraska	.5161		
Nevada	.4219		
New Hampshire	.5408		
New Jersey	.4203		
New Mexico	.6057		
New York	.3980		

(Catalog of Federal Domestic Assistance No. 13.518, Higher Education Instructional Equipment)

Dated: January 14, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.74-1491 Filed 1-16-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

AEC-LICENSED FACILITIES

Memorandum of Understanding

CROSS REFERENCE: For a document relating to responsibilities for regulation of AEC-licensed floating nuclear power plants, issued jointly by the Atomic Energy Commission and the Coast Guard, see FR Doc. 74-1414, *infra*.

[CGD 74-14N]

NEW YORK HARBOR VESSEL TRAFFIC SYSTEM ADVISORY COMMITTEE

Notice of Open Meeting

This is to give notice pursuant to Public Law 92-463, Sec. 10(a), approved October 6, 1972, that the New York Harbor Vessel Traffic System Advisory Committee will conduct an open meeting on Wednesday, February 13, 1974, in the Auditorium of Building 108, Governors Island, New York beginning at 10:30 a.m.

Members of the Committee and their industry positions are:

Admiral John M. WILL, USN (Ret.)
State of New York Board of Commissioners of Pilots
Captain H. C. BREITENFELD
United New York Sandy Hook Pilots' Benevolent Association
Captain W. H. BURRILL
State of New Jersey Board of Commissioners of Pilots
Mr. Richard DEWLING
U.S. Environmental Protection Agency
Captain L. T. EARL
United New Jersey Sandy Hook Pilots' Benevolent Association
Mr. A. GIALLORENZI
American Institute of Merchant Shipping—Petroleum Industry Representative
Mr. Alfred HAMMON
Port Authority of New York and New Jersey
Captain T. A. KING
U.S. Department of Commerce Maritime Administration
Commodore F. LINDNER
Long Island Sound Commodores Association
Colonel H. W. LOMBARD, USA
Department of the Army, Corps of Engineers
Mr. Robert W. SANDERS
New York Harbor Panel, Marine Towing and Transportation Industry
Captain R. D. SANTE, USN
U.S. Navy, Military Sealift Command
Captain S. M. SELEDEE
American Institute of Marine Underwriters
Captain J. G. STILLWAGGON
Interport Pilots' Associates, Inc.
Captain K. C. TORRENS
American Institute of Merchant Shipping

The Agenda for the February 13, 1974 meeting consists of:

1. Report of the Executive Committee given by Captain K. C. TORRENS, Chairman of the Executive Committee.
2. Report from the Long Island Sound Sub-Committee given by Captain D. M. KENNEDY, Chairman of the Long Island Sound Sub-Committee.
3. Report from the Hudson River Sub-Committee given by Captain H. C. BREITENFELD, Chairman of the Hudson River Sub-Committee.
4. Report from the New York Vessel Traffic System Staff on:
   a. The progress of the Communications Questionnaire.
   b. The progress of the Hudson River Traffic Questionnaire.
   c. Radar Surveillance.
   d. Results of the Traffic Surveys.
5. Comments from the floor.

The New York Harbor Vessel Traffic System Advisory Committee was established by the Commander, Third Coast Guard District on April 1, 1973, to advise on the need for, and development, installation and operation of a Vessel Traffic System for the New York Harbor. Public members of the Committee serve voluntarily without compensation from the Federal Government, either travel or per diem.

Interested persons may seek additional information by writing Commander H. A. PLEDGER, Project Officer, Vessel Traffic System, Third Coast Guard District, Governors Island, New York 10004, or by calling 212-264-0409.

Dated: January 3, 1974.

B. F. ENGEL,
Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc.74-1433 Filed 1-16-74;8:45 am]

[CGD 73-283]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from October 5, 1973 to October 25, 1973 (List No. 22-73). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

LIFEBOAT WINCHES FOR MERCHANT VESSELS

Approval No. 160.015/75/0, Type 31H lifeboat winch for use with mechanical davits, fitted with wire rope not greater than ½-inch in diameter and with not more than 7 wraps of the falls on the drums; approved for a maximum working load of 6,200 pounds pull at the drums (3,100 pounds per fall), identified by general assembly dwg. No. 1010-2E dated January 1958, manufactured by Marine Safety Equipment Corporation, Foot of Wycoff Road, Farmingdale, New Jersey 07727, effective October 12, 1973. (It is an extension of Approval No. 160.015/75/0 dated December 4, 1968.)

Approval No. 160.015/76/0, Type 31M lifeboat winch for use with mechanical davits, fitted with wire rope not greater than ½-inch in diameter and with not more than 7 wraps of the falls on the drums; approval limited to mechanical components and for a maximum working load of 6,200 pounds pull at the drums (3,100 pounds per fall), identified by general assembly dwg. No. 1011-2E dated February 1958, manufactured by Marine Safety Equipment Corporation, Foot of Wycoff Road, Farmingdale, New Jersey 07727, effective October 12, 1973. (It is an extension of Approval No. 160.015/76/0 dated December 4, 1968.)

SEA ANCHORS, LIFEBOAT

Approval No. 160.019/17/0, Rainer Model SA-36 sea anchor, USCG drawing No. MMI-562 and specification dated November 1, 1943 and Rev. August 24, 1944 and Company dwg. dated September 14, 1973, made with cloth and strip laminated vinyl-nylon high strength, flexible, conforming to MIL-C-43006D, Type I, Class 1, white, webbing is 1'' polypropylene conforming to MIL-C-20696, manufactured by Seattle Tent and Fabric Products Company, 900 N. 137th, Seattle, Washington 98133, effective October 16, 1973.

SIGNALS, DISTRESS, COMBINATION FLARE AND SMOKE HAND, FOR MERCHANT VESSELS

Approval No. 160.023/2/1, hand combination flare and smoke distress signal, bill of materials No. 337 D with engineering change notice No. 156 dated May 23, 1972, and dwg. Nos. AP-4205-1-1 dated May 17, 1972 and NP-4206-1-1 dated May 17, 1972, change is to protective caps only, all other aspects remain the same, manufactured by Kilgore Corporation, Toone, Tennessee 38381, effective October 25, 1973. (It supersedes Approval No. 160.023/2/0 dated January 8, 1969.)

LIFEBOATS

Approval No. 160.035/92/2, 18.0' x 6.0' x 2.6' aluminum, oar-propelled lifeboat, 13-person capacity, identified by general arrangement and construction dwg. No. 18-001-02, Rev. B dated November 29, 1968, *Approved for 18-person capacity for replacement lifeboat, 46 CFR 160.035-13(c) Marking, Weights: Condition

"A"=1,430 pounds; Condition "B"=5,518 pounds, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, New York 11231, formerly Lane Lifeboat & Davit Corporation, effective October 16, 1973. (It is an extension of Approval No. 160.035/92/2 dated December 9, 1968 and change of name of manufacturer.)

Approval No. 160.035/472/1, 30.0' x 10.0' x 4.33' fibrous glass reinforced plastic (FRP), totally enclosed (covered) Class 1, motor-propelled, lifeboat, 64-person capacity, identified by general arrangement dwg. No. P-30-2M, Rev. B dated September 21, 1973, 46 CFR 160.-035-13(c) Marking, Weights: Condition "A"=8,297 pounds; Condition "B" =20,150 pounds, manufactured by Marine Safety Equipment Corporation, Foot of Wycoff Road, Farmingdale, New Jersey 07727, effective October 5, 1973. (It supersedes Approval No. 160.035/472/0 dated March 6, 1973 to show change in construction.)

Approval No. 160.035/473/0, 26.0' x 9.0' x 3.83' fibrous glass reinforced plastic (FRP), totally enclosed (covered) Class 1 motor-propelled, lifeboat, 42-person capacity identified by general arrangement dwg. No. P-26-2M, Rev. A dated August 27, 1973, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=6,932 pounds; Condition "B"=14,785 pounds manufactured by Marine Safety Equipment Corporation, Foot of Wycoff Road, Farmingdale, New Jersey 07727, effective October 9, 1973.

Signals, Distress, Hand-Held Rocket-Propelled Parachute Red Flare, For Merchant Vessels

Approval No. 160.036/2/1, Model K-500 hand-held rocket-propelled parachute red flare distress signal, general arrangement dwg. No. CK-500, Rev. 2, dated January 14, 1958, Parts List dwg. No. B/M 173 dated March 26, 1953, engineering change KC/CN 778 dated April 23, 1973, National Aerospace Standard No. NAS 1201 dated March 30, 1962, dwg. Nos. AP-4216-1-1 dated April 17, 1973 and AP-4217-1-1 dated April 18, 1973, change of materials as shown in engineering change KC/CN 778, manufactured by Kilgore Corporation, Toone, Tennessee 38381, effective October 25, 1973. (It supersedes Approval No. 160.-035/2/0 dated January 8, 1969.)

Buoyant Cushions, Kapok, or Fibrous Glass

Approval No. 160.048/229/0, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048-4(c)(1)(i), Type IV PFD, manufactured by Buddy Schoellkopf Products, Inc., 148 Fordyce, Dallas, Texas 75207, for Coast-to-Coast Stores, Central Organization Inc., 7500 Excelsior, Minneapolis, Minnesota 55440, effective October 15, 1973. (It is an extension of Approval No. 160.048/229/0 dated December 19, 1968.)

Approval No. 160.048/230/0, special approval for 14" x 17" x 2" rectangular ribbed-type kapok buoyant cushions, 21-oz. kapok, Schoellkopf dwg. No. 160.048-7(C)-1, Rev. 1 dated November 6, 1963, Type IV PFD, manufactured by Buddy Schoellkopf Products, Inc., 148 Fordyce, Dallas, Texas 75207, for Coast-to-Coast Stores, Central Organization Inc., 7500 Excelsior, Minneapolis, Minnesota 55440, effective October 15, 1973. (It is an extension of Approval No. 160.048/230/0 dated December 19, 1968.)

Buoyant Cushions, Unicellular Plastic Foam

Approval No. 160.049/73/0, special approval 15" x 21" x 2" rectangular vinyl-dipped unicellular plastic foam buoyant cushion, dwg. No. PVC-21 dated November 1, 1968 and Bill of Materials dated December 10, 1968, Type IV PFD, manufactured by Style-Crafters, Inc., P.O. Box 8277, Station A, Greenville, South Carolina 29604, effective October 15, 1973. (It is an extension of Approval No. 160.049/73/0 dated December 16, 1968.)

Safety Relief Valves, Liquefied Compressed Gas

Approval No. 162.018/36/1, Type 1905, safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, 150 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., valves constructed of A351GRCF8 stainless steel (Type 1905/L3) are acceptable down to −425° F., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifices D, E, and F are not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/36/1 dated August 13, 1970 to show alternate material.)

Approval No. 162.018/37/1, Type 1906, safety relief valve for liquefied compressed gas service, (non-corrosive), full nozzle type, metal-to-metal seat, 300 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., valves constructed of A351GRCF8 stainless steel (Type 1906/L3) are acceptable down to −425° F., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifices D, E, and F are not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/37/1 dated August 13, 1970 to show alternate material.)

Approval No. 162.018/38/1, Type 1910, safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, 300 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., valves constructed of A351GRCF8 stainless steel (Type 1910/L3) are acceptable down to −425° F., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifices D, E, and F are not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/38/1 dated August 13, 1970 to show alternate material.)

Approval No. 162.018/39/1, Type 1912, safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, 600 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., valves constructed of A351GRCF8 stainless steel (Type 1912/L3) are acceptable down to −425° F., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifices D, E, and F are not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/39/1 dated August 13, 1970 to show alternate material.)

Approval No. 162.018/42/1, Type 1905-30, safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, bellows type, 150 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifice F is not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/42/1 dated August 13, 1970 to show acceptable orifice sizes.)

Approval No. 162.018/43/1, Type 1906-30, safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, bellows type, 300 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifice F is not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/43/1 dated August 13, 1970 to show acceptable orifice sizes.)

Approval No. 162.018/44/1, Type 1910-30, safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, bellows type, 300 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifice F is not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/44/1 dated August 13, 1970 to show acceptable orifice sizes.)

Approval No. 162.018/45/1, Type 1912-30, safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, bellows type, 600 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifice F is not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box

1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/45/1 dated August 13, 1970 to show acceptable orifice sizes.)

Approval No. 162.018/48/1, Type 1905 (Special), safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, with Buna-N "O" ring seating surface seal, 150 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifices D, E and F are not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/48/1 dated August 13, 1970 to show acceptable orifice sizes.)

Approval No. 162.018/49/1, Type 1906 (Special), safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, with Buna-N "O" ring seating surface seal, 300 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifices D, E and F are not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/49/1 dated August 13, 1970 to show acceptable orifice sizes.)

Approval No. 162.018/50/1, Type 1910 (Special), safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, with Buna-N "O" ring seating surface seal, 300 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifices D, E and F are not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/50/1 dated August 13, 1970 to show acceptable orifice sizes.)

Approval No. 162.018/51/1, Type 1912 (Special), safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, with Buna-N "O" ring seating surface seal, 600 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifices D, E and F are not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/51/1 dated August 13, 1970 to show acceptable orifice sizes.)

Approval No. 162.018/52/1, Type 1905–30 (Special), safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, bellows type with Buna-N "O" ring seating surface seal, 150 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifice F is not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/52/1 dated August 13, 1970 to show acceptable orifice sizes.)

Approval No. 162.018/53/1, Type 1906–30 (Special), safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, bellows type with Buna-N "O" ring seating surface seal, 300 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifice F is not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/53/1 dated August 13, 1970 to show acceptable orifice sizes.)

Approval No. 162.018/54/1, Type 1910–30 (Special), safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, bellows type with Buna-N "O" ring seating surface seal, 300 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifice F is not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/54/1 dated August 13, 1970 to show acceptable orifice sizes.)

Approval No. 162.018/55/1, Type 1912–30 (Special), safety relief valve for liquefied compressed gas service (non-corrosive), full nozzle type, metal-to-metal seat, bellows type with Buna-N "O" ring seating surface seal, 600 p.s.i. primary service pressure rating, approved for a maximum set pressure of 300 p.s.i.g., orifice sizes G, H, J, K, L, M, N, P, Q and R are acceptable, orifice F is not acceptable, manufactured by Dresser Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 18, 1973. (It supersedes Approval No. 162.018/55/1 dated August 13, 1970 to show acceptable orifice sizes.)

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/119/0, "Fiberglas Hull Board NC3A", fibrous glass cloth faced insulation board incombustible type material identical to that described in National Bureau of Standards Test Report TG10210–2171: FR3708 dated November 12, 1968 and U.S.C.G. letter dated December 18, 1968, the density of the basic board is 2.77 pounds per cubic foot, manufactured by Owens-Corning Fiberglas Corporation, Toledo, Ohio 43659, effective October 24, 1973. (It is an extension of Approval No. 164.009/119/0 dated December 18, 1968.)

Approval No. 164.009/120/0, "Fiberglas Hull Board N3A", fibrous glass insulation board incombustible type material identical to that described in National Bureau of Standards Test Report TG10210–2171:FR3708 dated November 12, 1968 and U.S.C.G. letter dated December 18, 1968, approved in a density of 2.77 pounds per cubic foot, manufactured by Owens-Corning Fiberglas Corporation, Toledo, Ohio 43659, effective October 24, 1973. (It is an extension of Approval No. 164.009/120/0 dated December 18, 1968.)

Dated: January 11, 1974.

D. H. CLIFTON,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.74-1435 Filed 1-16-74;8:45 am]

[CGD 73-284N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from October 26, 1973 to November 15, 1973 (List No. 23–73). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46 (b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

LIFE PRESERVERS, KAPOK, ADULT AND CHILD (JACKET TYPE), MODELS 3 AND 5

Approval No. 160.002/66/1, Model 5, child kapok life preserver, U.S.C.G. Specification subpart 160.002, Type I PFD, manufactured by Crawford Manufacturing Co., Inc., 3rd & Decatur Streets, Richmond, Virginia 23212, effective November 8, 1973. (It is an extension of Approval No. 160.002/66/1 dated January 9, 1969.)

Approval No. 160.002/84/0, Model 3, adult kapok life preserver, U.S.C.G. Spec-

ification subpart 160.002, Type I PFD, manufactured by The Safegard Corp., Box 14037, P.O. Annex, Cincinnati, Ohio 45214, for Lifo Products Co., 315 E. 15th Street, Covington, Kentucky 41011, effective November 8, 1973. (It is an extension of Approval No. 160.002/84/0 dated January 9, 1969.)

Approval No. 160.002/85/0, Model 5, child kapok life preserver, U.S.C.G. Specification subpart 160.002, Type I PFD, manufactured by The Safegard Corp., Box 14037, P.O. Annex, Cincinnati, Ohio 45214, for Lifo Products Co., 315 E. 15th Street, Covington, Kentucky 41011, effective November 8, 1973. (It is an extension of Approval No. 160.002/85/0 dated January 9, 1969.)

LIFEBOAT WINCHES FOR MERCHANT VESSELS

Approval No. 160.015/102/2, Models LS-111D and LS-111E survival capsule launching winch; approval limited to mechanical components only, and for a maximum working load of 11,000 pounds on a single fall; identified by assembly drawing 56834 revision G dated June 7, 1973, and drawing list dated October 15, 1973, approved for use on nonself-propelled drilling rigs, artificial islands, and fixed structures for the Whittaker Survival Capsule, manufactured by Lake Shore, Inc., Iron Mountain, Michigan 49801, effective October 31, 1973. (It supersedes Approval No. 160.015/102/1 dated January 29, 1973 to show change of design.)

SIGNALS, DISTRESS, HAND RED FLARE, FOR MERCHANT VESSELS

Approval No. 160.021/6/2, International's hand red flare distress signal, 500 candlepower, 2-minute burning time, assembly dwg. No. FXC-740, Rev. 1, dated October 26, 1961, manufactured by Kilgore Corp., Toone, Tennessee 38381, effective November 8, 1973. (It is an extension of Approval No. 160.021/6/2 dated January 8, 1969.)

SIGNALS, DISTRESS, FLOATING ORANGE SMOKE FOR MERCHANT VESSELS

Approval No. 160.022/5/0, Kilgore Model K-5 floating orange smoke distress signal, assembly dwg. No. GXC-323, Rev. 2, dated December 18, 1953, manufactured by Kilgore Corp., Toone, Tennessee 38381, effective November 8, 1973. (It is an extension of Approval No. 160.022/5/0 dated January 8, 1969.)

Approval No. 160.022/8/0, Model K-5A floating orange smoke distress signal, assembly dwg. No. GXC-413, Rev. 4, dated October 5, 1961, manufactured by Kilgore Corp., Toone, Tennessee 38381, effective November 8, 1973. (It is an extension of Approval No. 160.022/8/0 dated January 8, 1969.)

LIFEBOATS

Approval No. 160.035/100/2, 24.0' x 7.75' x 3.33' steel, oar-propelled lifeboat, 39-person capacity, identified by general arrangement and construction dwg. No. 24-001-01, Rev. B dated November 1, 1973, this boat is built with a wooden or fibrous glass reinforced plastic (FRP) removable interior, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=3,055 pounds; Condition "B"=10,398 pounds, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, New York 11231, effective November 13, 1973. (It reinstates and supersedes Approval No. 160.035/100/1 terminated August 6, 1973.)

Approval No. 160.035/103/4, 24.0' x 8.0' x 3.5' steel, oar-propelled lifeboat, 40-person capacity, identified by general arrangement and construction dwg. No. 24-002-01, Rev. B dated November 1, 1973, this boat is built with a wooden or fibrous glass reinforced plastic (FRP) removable interior, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=3,280 pounds; Condition "B"=10,799 pounds, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, New York 11231, effective November 13, 1973. (It reinstates and supersedes Approval No. 160.035/103/3 terminated October 22, 1973.)

Approval No. 160.035/262/2, 26.0' x 8.33' x 3.54' steel, oar-propelled lifeboat, 46-person capacity, identified by construction and arrangement dwg. No. 26-6, Rev. F dated November 7, 1967, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=3,640 pounds; Condition "B"=12,240 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, New Jersey 07727, effective November 15, 1973. (It is an extension of Approval No. 160.035/262/2 dated November 19, 1968.)

Approval No. 160.035/409/0, 26.0' x 9.0' x 3.83' aluminum oar-propelled lifeboat, 53-person capacity identified by general arrangement dwg. No. 26-001-03 Rev. A dated January 2, 1969, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=2,520, Condition "B"=12,369, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, New York 11231, formerly Lane Lifeboat & Davit Corp., effective November 8, 1973. (It is an extension of Approval No. 160.035/409/0 dated January 22, 1969 and change of name of manufacturer.)

Approval No. 160.035/455/1, 26.0' x 9.0' x 3.8' aluminum motor-propelled lifeboat, Class 1, 48-person capacity, identified by general arrangement and construction dwg. No. 26-001-02, Rev. B dated November 4, 1973, this boat is built with a wooden or fibrous glass reinforced plastic (FRP) removable interior, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=3,600 pounds; Condition "B"=12,572 pounds, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, New York 11231, effective November 14, 1973. (It supersedes Approval No. 160.035/455/0 dated March 26, 1968 to show change in construction, and name.)

Approval No. 160.035/457/0, 22.0' x 7.5' x 3.17' aluminum, motor-propelled Class 1 lifeboat, 28-person capacity, identified by general arrangement dwg. No. 22-2G, Rev. A dated November 21, 1968, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=2,980 pounds; Condition "B"=8,485 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, New Jersey 07727, effective October 26, 1973. (It is an extension of Approval No. 160.035/457/0 dated December 27, 1968.)

Approval No. 160.035/458/1, 24.0' x 7.75' x 3.33' steel, hand-propelled lifeboat, 39-person capacity, identified by general arrangement and construction dwg. No. 24-001-02, Rev. B dated November 1, 1973, this boat is built with a wooden or fibrous glass reinforced plastic (FRP) removable interior, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=3,425 pounds; Condition "B"=10,646 pounds, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, New York 11231, effective November 13, 1973. (It reinstates and supersedes Approval No. 160.035/458/0 terminated August 6, 1973.)

SIGNALS, DISTRESS, HAND, ORANGE SMOKE FOR MERCHANT VESSELS

Approval No. 160.037/2/2, International's hand orange smoke distress signal, dwg. Nos. CXC-117, Rev. 4 dated June 17, 1957, and CXC-118, Rev. 5, dated October 5, 1961, manufactured by Kilgore Corp., Toone, Tennessee 38381, effective November 8, 1973. (It is an extension of Approval No. 160.037/2/2 dated January 8, 1969.)

PRESSURE VACUUM RELIEF VALVES AND SPILL VALVES FOR TANK VESSELS

Approval No. 162.017/113/4, Midland pressure vacuum relief and spill valves Nos. A-825, A-830, A-840, A-850, A-860, and A-880, Brass (ASTM B62) or stainless (CF-8, CF-8M) body, Atmospheric Pattern with Flame Screen, approval includes sizes 2½", 3", 4", 5", 6", and 8", approval modified to delete coverage of models with flanged outlets, manufactured by Midland Manufacturing Corp. 7733 Gross Point Road, Skokie, Illinois 60076, effective November 7, 1973. (It supersedes Approval No. 162.017/113/3 dated April 5, 1973.)

Approval No. 162.017/115/0, Midland pressure vacuum relief and spill valves Nos. A-826, A-831, A-841, A-851, A-861, and A-881, Brass (ASTM B62) or stainless (CF-8, CF-8M) body, atmospheric pattern with flame screen and flanged outlet, approval includes sizes 2½", 3", 4", 5", 6" and 8", identical with A-800 series (162.017/113) with exception of flanged outlet, manufactured by Midland Manufacturing Corp., 7733 Gross Point Road, Skokie, Illinois 60076, effective November 7, 1973.

SAFETY RELIEF VALVES, LIQUEFIED COMPRESSED GAS

Approval No. 162.018/79/0, Types A-3200 and A-3200L (Low Temperature Service) safey relief valve for liquefied compressed gas service, A-351 GR CF-8 or A-350 GR LF1 body, metal to metal seat with Buna-N "O" ring seal, approved for 300 p.s.i.g. maximum set pressure, 3" nominal size, for following discharge capacities:

Set Pressure, P.S.I.:	Discharge Capacity S.C.F.M. (air)
100	12,350
150	17,050
200	19,000
250	24,600
300	29,820

the impact test results for materials requiring such tests (46 CFR Table 56.50–105) shall be available to the cognizant Officer in Charge, Marine Inspection, manufactured by Midland Manufacturing Corp., 7733 Gross Point Road, Skokie, Illinois 60076, effective November 8, 1973.

INDICATORS, BOILER WATER LEVEL, SECONDARY TYPE

Approval No. 162.025/94/1, Clark-Reliance Electro Eye-Hye secondary type boiler water-level indicator consisting of electrolev water-level sensor, control unit and ten light indicator, with light test switch optional, approval of Model EL1000 and Type EA15–5VE electrode is for a maximum allowable working pressure of 1000 p.s.i. at 544° F or 4000 p.s.i. at 150° F, manufactured by The Clark-Reliance Corp., 15901 Industrial Parkway, Cleveland, Ohio 44135, effective November 2, 1973. (It reinstates and supersedes Approval No. 162.025/94/0 terminated May 6, 1969.)

Approval No. 162.025/95/1, Clark-Reliance Electro Eye-Hye secondary type boiler water-level indicator consisting of electrolev water-level sensor, control unit and ten light indicator with light test switch optional, approval of Model EL1800 and Type EA15–5Z electrode is for a maximum allowable working pressure of 1800 p.s.i. at 621° F, manufactured by The Clark-Reliance Corp., 15901 Industrial Parkway, Cleveland, Ohio 44135, effective November 2, 1973. (It reinstates and supersedes Approval No. 162.025/95/0 terminated May 6, 1969.)

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/166/0, J.M. N.B.R. 375 Cement, incombustible material composed entirely of Portland Cement, Ball Clay, mineral wool and diatomaceous earth, as described in Johns-Manville letter of September 21, 1972, manufactured by Johns-Manville Sales Corp., Denver, Colorado 80217, Plant: Waukegan, Illinois, effective November 2, 1973.

Approval No. 164.009/168/0, J.M. N.B.R. 460 Cement, incombustible material composed entirely of mineral wool, slate dust, Ball Clay, Bentonite, Carboxyl Methyl Cellulose, and diatomaceous earth, as described in Johns-Manville letter of November 22, 1972, manufactured by Johns-Manville Sales Corp., Denver, Colorado 80217, Plant: Waukegan, Illinois, effective November 2, 1973.

Approval No. 164.009/168/0, J.M. N.B.R. 505 Cement, incombustible material composed entirely of Vermiculite, Bentonite, mineral wool and manufactured by Johns-Manville Sales Corp., Denver, Colorado 80217, Plant: Waukegan, Illinois, effective November 2, 1973.

Approval No. 164.009/170/0, "Frigitemp" incombustible acoustical board fibrous glass type incombustible material identical to that described in National Bureau of Standards Test Report FR3857 dated September 24, 1973 and Frigitemp Marine letter dated May 31, 1973, approved in a nominal density of 3.4 pounds per cubic foot and a 1" thickness, manufactured by Frigitemp Marine, 585 Washington Street, New York, New York 10014, Plant Location: Gulfport, Mississippi, effective November 14, 1973.

Dated: January 11, 1974.

D. H. CLIFTON,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.74-1438 Filed 1-16-74;8:45 am]

Federal Railroad Administration

[FRA E.O. No. 2 Amdt. 2]

UTLX TANK CARS

Conditional Approval of Use

Correction

In FR Doc. 74-284 appearing on page 1089 in the issue of Friday, January 4, 1974, the figure "4" in the third column, fourth line, should read "40".

ATOMIC ENERGY COMMISSION

AEC-LICENSED FACILITIES

Memorandum of Understanding

The United States Coast Guard (USCG) and the Atomic Energy Commission (AEC) both have responsibilities for the regulation of safety and protection of the environment from effects of construction and operation of floating nuclear power plants. To avoid the duplication of effort implicit in this common responsibility, and to take best advantage of the capabilities of both agencies, USCG and AEC have executed a Memorandum of Understanding for Regulation of Floating Nuclear Power Plants. The text of the memorandum is set forth below.

Dated at Washington, D.C. this 10th day of January 1974.

For the Atomic Energy Commission.

GORDON M. GRANT,
Acting Secretary of the Commission.

Memorandum of Understanding Between the United States Coast Guard and the United States Atomic Energy Commission for Regulation of Floating Nuclear Power Plants

1. *Purpose.* For the purpose of coordinating and implementing consistent and comprehensive requirements to maximize safety with respect to the design, fabrication, construction and operation of floating nuclear power plants, to minimize the possible adverse environmental impact of such plants, and to minimize duplication and avoid possible inconsistency in safety requirements applied to such plants, the United States Coast Guard (U.S.C.G.) and the United States Atomic Energy Commission (U.S.A.E.C.) do hereby agree—subject to their respective statutory authorities described below—as indicated herein. A "floating nuclear power plant" is defined as a nuclear power plant, mounted on and thereby integrally with a barge, fabricated at a central shipyard facility, then towed to a fixed position where it is installed and moored, nuclear fuel is loaded, and where it is operated as a floating facility to supply electrical energy into an onshore electrical load network.

2. *Statutory Background.* a. *The United States Coast Guard (U.S.C.G.).* The United States Coast Guard, under 46 U.S.C. 395 et seq. and other related provisions of Title 46 of the U.S. Code (including but not limited to 46 U.S.C. 392, 406–412, 435, 222, and 672) is authorized to regulate the design and construction, the inspection, and the issuance of certificates of inspection to seagoing barges admeasuring to greater than 100 gross tons, in accordance with the provisions of 46 U.S.C. 71 et seq. and regulations issued pursuant thereto, with respect to their hulls, boilers, unfired pressure vessels, auxiliary machinery, electrical apparatus, equipment, and manning.

All barges admeasuring to greater than 150 gross tons are required to obtain a load line certificate issued by the American Bureau of Shipping for the U.S.C.G. under 46 U.S.C., 88 et. seq., prior to proceeding from a port or place in the United States to another port or place in the United States; including, but not limited to, proceeding from a fabrication site ashore to an offshore site within the territory of the United States where they will be permanently situated.

The U.S.C.G. under 46 U.S.C. 481 is authorized to regulate seagoing barges with respect to all lifesaving, firefighting, and mooring equipment and bilge systems, and under 33 U.S.C.A. 1221(2) the carrying or installation of electronic or other devices.

The U.S.C.G. under 33 U.S.C.A. 1221(7) is authorized to prescribe safety equipment requirements for structures in, on, or on the land immediately adjacent to the navigable waters of the United States and for protection systems involving structures, including, but not limited to, breakwaters in the navigable waters of the United States. In addition, all structures located in the navigable waters of the United States must be equipped with lights and other signals as required by the U.S.C.G. under 14 U.S.C. 85. Similarly, under 14 U.S.C. 83, no aids to navigation may be established except as authorized by the U.S.C.G.

The U.S.C.G. exercises broad authority respecting vessel operation and control, structure safety, and environmental protection in the navigable waters of the United States under the Ports and Waterways Safety Act, 33 U.S.C.A. 1221 et. seq.

The U.S.C.G. regulates the transfer, stowage, handling, discharge and dumping of oil, hazardous substances, explosives, and other dangerous articles or substances under 46 U.S.C. 391a, 46 U.S.C. 170, 33 U.S.C.A. 1221, 33 U.S.C.A. 1321, 33 U.S.C.A. 1417, and 50 U.S.C. 191. In addition, the U.S.C.G. regulates the installation of marine sanitation devices aboard seagoing barges under 33 U.S.C.A. 1322.

The U.S.C.G. is required by the National Environmental Policy Act (NEPA) to consider the effects on the environment of any major action which it takes.

b. *The United States Atomic Energy Commission (U.S.A.E.C.).* Under 42 U.S.C. Chapter 23 and rules and regulations issued pursuant thereto, the U.S.A.E.C. is authorized to license and regulate the manufacture, construction and operation of atomic energy production and utilization facilities from the standpoint of the common defense and security and the public health and safety. In addition, pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et. seq., the U.S.A.E.C. is required as lead

agency to prepare an environmental impact statement on, and consider in its licensing actions, the effects on the quality of the human environment caused by the manufacture, construction and operation of such plants.

No person may operate the controls or direct the operation of the controls of a nuclear power plant without first having been issued an operator's license by the U.S.A.E.C. pursuant to 42 U.S.C. 2137.

3. *Agency Responsibilities.* a. *General Arrangements.* The U.S.A.E.C. will serve as "Lead Agency" in the licensing, permitting, certification, and inspection of floating nuclear power plants during their construction, operation, relicensing, recertification, alteration, repair, decommissioning, or other activities involving the statutory responsibilities of both agencies.

Except as provided for in Field Working Agreements, and for enforcement actions below, all written communications of U.S.C.G. to and from a license applicant or licensee of such plants relating to such matters, will be transmitted through the U.S.A.E.C. Director of Regulation or his designee. In particular, any actions requiring partial or complete shutdown of the nuclear power plant or changes from the design and operating conditions approved within the terms of this memorandum of understanding will be transmitted through the U.S.A.E.C. Director of Regulation or his designee.

Pursuant to the provisions of this agreement, the U.S.A.E.C. may issue manufacturing licenses, construction permits, and operating licenses while the U.S.C.G. may issue load line certificates (through the American Bureau of Shipping), certificates of inspection, and amendments to certificates of inspection. Except with respect to any actions requiring partial or complete shutdown of the nuclear power plant or changes from the design and operating conditions approved by either agency, each agency will separately enforce the conditions of the permits, licenses, and certificates which it issues and pertinent regulations or orders issued by the agency. Enforcement, as used in this memorandum of understanding, means the discovery of a violation of law or the conditions of a certification or license, the issuance of a notice of violation, and subsequent actions for the imposition of sanctions.

To the extent practicable, each agency will consult fully with the other with respect to any enforcement action concerning matters which are the subject of this memorandum of understanding. Copies of all correspondence and other documents relating to such enforcement action will be furnished to the other agency on a timely basis.

The U.S.A.E.C. and the U.S.C.G. will exercise the functions described in this agreement so as to avoid duplication of regulation to the maximum extent consistent with their respective statutory obligations, public health and safety, and environmental protection. To this end, each agency may use personnel, facilities, advice, and information provided by the other agency for the purpose of carrying out its responsibilities.

The U.S.A.E.C. will have the primary responsibility for conducting the environmental impact reviews and preparing the environmental statements required by NEPA. The U.S.C.G. will participate in the preparation of the environmental impact statement with respect to Item 2 of Appendix "B" and other appropriate items that may be agreed upon. In addition, the U.S.C.G. will review the environmental impact statement and comment on other areas within its regulatory jurisdiction and in which the U.S.C.G. has special expertise, as required by NEPA.

b. *Technical Review of Plant Design.* The U.S.A.E.C. will exercise responsibility for the review of all matters related to radiological health and safety, including nuclear power plant safety, and to protection of the environment. The U.S.C.G. will exercise responsibility for review of matters related to the safe design and construction of the barge, to maritime safety, and to the protection of the marine environment.

The U.S.A.E.C. will review the design of all pressure vessels and piping essential to radiological safety, including all structures, supports, and systems covered by Section III of the American Society of Mechanical Engineers' (ASME) Boiler and Pressure Vessel Code, plant structures, buildings, and foundations, plus all other systems containing radioactive materials and the systems and subsystems needed to control and activate such systems.

The U.S.A.E.C. reviews will be based on design requirements and guides presented in:

(1) Title 10, Chapter 1, Code of Federal Regulations.

(2) The U.S.A.E.C. "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants."

(3) U.S.A.E.C. Regulatory Guides.

Appendix "A" contains a list of areas of primary interest to, and within the primary review and inspection responsibilities of U.S.A.E.C., which have been identified by the U.S.C.G. as those in which U.S.C.G. also has an interest. Each item is further classified as to whether U.S.C.G. will accept the U.S.A.E.C. review and inspection without further action by U.S.C.G. (Column 1), or whether the U.S.C.G. will conduct a separate review of its own for matters of barge and maritime safety (Column 2).

The U.S.C.G. reviews will be based on 46 CFR, 33 CFR, and U.S.C.G. navigation and vessel inspection circulars.

Appendix "B" contains a list of areas of primary interest to, and within the primary review and inspection responsibilities of the U.S.C.G., which have been identified by the U.S.A.E.C. as those in which U.S.A.E.C. also has an interest. Each item is further classified as to whether U.S.A.E.C. will accept the U.S.C.G. review and inspection without further action by U.S.A.E.C. (Column 1) or whether the U.S.A.E.C. will conduct a separate review of its own for matters of radiological and nuclear power plant safety (Column 2).

c. *Inspections.* (1) *New Construction.* Except as otherwise provided for under Field Working Agreements, all inspection activities of the U.S.A.E.C. and the U.S.C.G. will be coordinated by the appropriate U.S.A.E.C. Regional Office(s).

The U.S.A.E.C. and the U.S.C.G. will exercise the same responsibilities with respect to inspections as they exercise with respect to technical review of plant design. The U.S.C.G. will advise the U.S.A.E.C. of any special inspection requirements related to the items of Appendix "A". The U.S.A.E.C. will advise the U.S.C.G. of any special inspection requirements related to the items of Appendix "B".

Either agency may request inspection assistance from the other agency, subject to the conditions of Section 5, Procedures, below.

(2) *Continuing Inspection and Reinspection at Site.* Areas of responsibility shall be as described for new construction and in Appendices "A" and "B".

(3) *Field Working Agreements.* The cognizant U.S.A.E.C. Regional Director and the cognizant U.S.C.G. Officer-in-Charge, Marine Inspection, or Captain of the Port will develop local working agreements as necessary relating to matters of concern to both agencies not specifically referenced in this memorandum and to the implementation of matters so referenced involving both initial licensing and certification and periodic following actions. It is the intent of the U.S.C.G. and the U.S.A.E.C. that these working agreements will be used to provide a means by which the different field organizations and procedures of the agencies will be accommodated. Such an accommodation is essential to the orderly and effective implementation of this memorandum.

All working agreements shall be reduced to writing, and copies shall be transmitted to the U.S.A.E.C. Director of Regulation and the U.S.C.G. Commandant for ratification. In all cases, copies of correspondence with the applicant or licensee on matters covered by this agreement shall be sent to the U.S.A.E.C. Director of Regulation and the Commandant, U.S.C.G.

d. *Attendance at Hearings.* Each agency agrees to furnish representatives, as needed, to attend hearings and other proceedings related to matters covered in this Memorandum of Understanding and to present their agency position on any such matters.

e. *Public Information.* All correspondence between U.S.C.G. alone and the applicant, and other documents addressed to the U.S.C.G. alone, relating solely to matters of U.S.C.G. primary responsibility as specified in Appendix "B" shall be subject to U.S.C.G. regulations implementing the Freedom of Information Act, 5 U.S.C. 552. All other documents and information transmitted in accordance with this memorandum of understanding will be subject to U.S.A.E.C. regulations implementing that act.

4. Schedule of Licenses, Permits, and Certifications. a. *U.S.A.E.C. License to Manufacture.* The U.S.A.E.C. may issue a license to manufacture one or more floating nuclear power plants at a given manufacturing site pursuant to 42 U.S.C. 2133. The U.S.A.E.C. may issue a license to manufacture on the basis of, among other things, the design and other information submitted by the applicant in accordance with the provisions of 10 CFR. Prior to issuance of a license to manufacture, the U.S.C.G. will write a letter of acceptance to U.S.A.E.C. indicating U.S.C.G. satisfaction with the preliminary design information involving the review areas specified in Appendix "B", Column 1 and Appendix "A", Column 2.

The U.S.A.E.C. will, prior to issuance of a license to manufacture floating nuclear power plants, perform a nuclear safety evaluation of the preliminary plant design and will prepare an environmental statement pursuant to NEPA that discusses the effects of the manufacture of the floating nuclear power plants on the environment at the place of manufacture and, in general terms, the anticipated effects on the ocean environment at one or more typical sites where such a plant might eventually be located. The environmental statement will be based on, among other things, information given in an environmental report submitted by the license applicant, including the generic consideration of the environmental impact of 1) construction at the typical operating sites, 2) the movement of the plant to the sites, 3) its permanent emplacement, 4) operation for a given lifetime, and 5) the subsequent decommissioning of the plant.

b. *U.S.A.E.C. Site Construction Permit.* The U.S.A.E.C. may issue permits to utilities desiring to construct and operate a nuclear power plant at an ocean site prior to commencement of construction of a breakwater or other appurtenant facilities at the proposed site. Such a permit will not be issued before a license to manufacture floating nuclear power plants has been issued. The U.S.A.E.C. will prepare an environmental statement, before such a construction permit is issued, that discusses the environmental effects of construction and operation of the

plant at the proposed site, and will evaluate the safety of the construction and operation of a nuclear plant manufactured pursuant to the relevant manufacturing license. This site construction permit will be issued on the basis of, among other things, the design and other information presented by the applicant in accordance with Title 10, Chapter 1, Code of Federal Regulations. Before any site construction permit is issued, U.S.C.G. will write a letter of acceptance to U.S.A.E.C. indicating U.S.C.G. satisfaction with the site preliminary design information within the review responsibilities specified in Appendix "A", Column 2, and Appendix "B", Column 1.

c. *U.S.C.G. Certificate of Inspection.* Early in the manufacture of each plant, a formal application for inspection will be made by the manufacturer to the U.S.C.G. for each floating nuclear power plant. Prior to the departure of each barge from the manufacturing site, after the inspection of the barge and equipment to assure compliance with applicable regulations, including but not limited to the acquisition of a load line certificate, has been completed to the satisfaction of the U.S.C.G. Officer-in-Charge, Marine Inspection (OCMI), a certificate of inspection will be issued by the U.S.C.G. Prior to the issuance of this certificate, the U.S.A.E.C. Regulatory staff will write a letter of acceptance to U.S.C.G. indicating U.S.A.E.C. satisfaction with the systems and equipment involved in the review areas specified in Appendix "A", Column 1, and Appendix "B", Column 2.

d. *U.S.A.E.C. Operating License and U.S.C.G. Certificate of Inspection (Nuclear Vessel).* At the operating site, prior to the fueling of the reactor, the barge will be inspected by the OCMI. When compliance with applicable regulations is assured, the U.S.C.G. will amend the existing certificate of inspection or issue a new one on the floating nuclear power plant. Prior to this certification or amendment action, the U.S.A.E.C. Regulatory staff will write a letter of acceptance to the U.S.C.G. indicating its satisfaction with the systems and equipment involved in the review areas specified in Appendix "A", Column 1.

Following or concurrent with the above, and after any requisite public hearings have been held, a facility operating license may be issued by the U.S.A.E.C. pursuant to 42 U.S.C. 2133 and 2235. Prior to such issuance, the U.S.C.G. will write a letter to the U.S.A.E.C. indicating U.S.C.G. satisfaction with the systems and equipment involved in the review areas specified in Appendix "B", Column 1. Prior to these actions, manning requirements for the safe operation of the nuclear power plant shall be as determined by the U.S.A.E.C. and shall include the issuance of necessary reactor operators licenses. Additional personnel licensing and certificating, and manning requirements to assure safe machinery operation and the safety of the barge and all personnel in the marine environment shall be specified by the U.S.C.G.

5. *Procedures.* a. *Correspondence.* Except as provided for in Field Working Agreements, the following will be promptly transmitted by the U.S.A.E.C. Director of Regulation or his designee: all official U.S.A.E.C. notices to license applicants or licensees, issuances of licenses, certifications from the U.S.C.G. specified in this memorandum, all correspondence to license applicants or licensees pertaining to licensing and certification reviews, and to inspection actions. The U.S.A.E.C. will promptly forward to the U.S.C.G. copies of correspondence with the applicant and other documents.

b. *Submittals and Drawings.* Under U.S.A.E.C. regulations in 10 CFR Part 50, the applicant will be required to submit design information for the entire floating nuclear power system, for which acceptable content and format are described in U.S.A.E.C. "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants." In addition, for the subject areas described in Appendix "B" the applicant will be required to submit drawings and design justifications following the format and procedures required by the U.S.C.G. Appendix "B" submittals, by U.S.C.G. standards, will be required to include sufficient design information to describe interface details between U.S.A.E.C. and U.S.C.G. reviews.

c. *Coordination of Reviews.* In routine matters relating to review of license applications, the Nuclear Coordinator, Office of Merchant Marine Safety, will be the contact within the U.S.C.G., and the designated Licensing Project Manager, Directorate of Licensing, will be the contact point within the U.S.A.E.C. Any questions which cannot be resolved at this level will be referred to intermediate levels of management within the U.S.C.G. and the U.S.A.E.C. If any questions cannot be resolved at these levels, they will be considered in direct communications between the Director of Regulation, U.S.A.E.C., and the Commandant, U.S.C.G.

d. *Coordination of Inspections.* In matters of field inspections, the cognizant U.S.A.E.C. Regional Director(s) and the cognizant U.S.C.G. Officer-in-Charge, Marine Inspections, or Captain of the Port will be the contact points for routine matters. Any questions which cannot be resolved at this level will be refererd to the Chief, Merchant Vessel Inspection Division, Office of Merchant Marine Safety, U.S.C.G., and the Deputy Director for Field Operations, Regulatory Operations, U.S.A.E.C. Any questions that cannot be resolved at this level will be referred to the Commandant, U.S.C.G., and the Director of Regulation, U.S.A.E.C.

e. *Avoidance of Duplicative Procedures and Documentation.* With respect to reviews and inspections in the areas identified in this memorandum of understanding, and especially where both agencies are involved in review or inspection of certain components or systems, it is recognized that full exercise of procedures of both the U.S.A.E.C. and the U.S.C.G. could result in delay and duplication of function. Normally, in cases wherein a component or system within the primary review or inspection responsibility of one agency is to be inspected or reviewed by the other, only the drawings and design documentation required by the first agency will be required of the licensee or applicant. In addition, the inspection standards and procedures of the first agency will normally apply.

f. *General Coordination.* For any matters with respect to specific licensing and certificate activities for floating nuclear power plants requiring continuing liaison between the U.S.C.G. and the U.S.A.E.C., including matters other than those specifically detailed above, and for resolving coordination problems at all levels, the contact points will be the Deputy Director of Licensing for Reactor Projects, Regulation, U.S.A.E.C., and the Chief, Merchant Marine Technical Division, U.S.C.G. For all matters other than specific licensing and certification activities for floating nuclear power plants, the contact points will be the Director of Government Liaison, U.S.A.E.C., and the Chief, Merchant Marine Technical Division, U.S.C.G.

g. *Schedule of Reviews and Inspections.* In order to coordinate inspection and review of all activities and efficiently implement regulatory requirements, each agency will advise the other of its schedules for accomplishing reviews and inspections required for the various licensing, certification, and recertification actions described in this memorandum. Where applicable, these schedules will be incorporated into the U.S.A.E.C. licensing project schedule. Representatives of each agency will be invited to coordination meetings held by the other agency pertaining to review and inspection activities which are to be coordinated. Each agency will give priority to keeping the agreed schedules and will keep the other agency advised of problems which are jeopardizing schedules, where coordination is required.

h. *Amendment of Appendices.* Appendices "A" and "B" may be amended by exchange of letters between the Director of Regulation, U.S.A.E.C., and Commandant, U.S.C.G.

6. *Other Laws and Matters.* Nothing in this memorandum of understanding shall be deemed to restrict, modify, or otherwise limit the application or enforcement of any laws of the United States with respect to matters specified herein, nor the application or enforcement of such laws to matters other than those specified herein, nor shall anything in this memorandum be construed as modifying the existing authority of either agency.

7. *List of Appendices.*

Appendix "A", Areas of Primary U.S.A.E.C. Review and Inspection Responsibilities with U.S.C.G. Review Input to U.S.A.E.C.

Appendix "B", Areas of Primary U.S.C.G. Review and Inspection Responsibilities with U.S.A.E.C. Review Input to U.S.C.G.

Dated: January 4, 1974.

L. M. MUNTZING,
Director of Regulation, U.S.A.E.C.

Dated: January 4, 1974.

C. R. BENDER,
Commandant U.S.C.G.

APPENDIX A

AREAS OF PRIMARY U.S.A.E.C. REVIEW AND INSPECTION RESPONSIBILITIES WITH U.S.C.G. REVIEW INPUT TO U.S.A.E.C.

Subject	*Col. 1* U.S.C.G. accepts complete review and inspection by U.S.A.E.C.	*Col. 2* U.S.C.G. separate non-radiological safety review
A1. Evaluations (2.2.3) [1]	X	
A2. Design of Category I Structures (3.8)	X	
A3. Mechanical Systems and Components (3.9)	X	
A4. Reactor Coolant System and Connected Systems (5.0)	X	
A5. Engineered Safety Features (6.0)	X	
A6. Onsite Power Systems (8.3)	X	Requirements of IEEE-45 and 46 CFR Subchapter J. [2]
Power Supply Feeders (8.3.1.1(1))	X	Do.
Busing Arrangements and Loads Supplies from each Bus (2) [1] (3).	X	Do.
Interconnection Between Safety and Non-Safety Related Busses (5).	X	Do.
Equipment Capacities (7)	X	Do.

[1] Reference sections "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants," Revision 1, U.S. Atomic Energy Commission, Director of Regulation. USAEC has total responsibility for all subjects contained in this document. The subject areas identified in Appendix A indicate only those areas that the USCG has some interest & possible input.

[2] Applicant may apply for alternate or equivalent equipment or materials in accordance with normal regulatory procedures.

APPENDIX A—Continued

Subject	*Col. 1* U.S.C.G. accepts complete review and inspection by U.S.A.E.C.	*Col. 2* U.S.C.G. separate non-radiological safety review
A7. Instrumentation and Control Systems for the Applicable Power Systems with the Assigned Power Supply Identified (10).	×	Do.[2]
A8. Electric Circuit Protection Systems Network (e.g., selective trip), Including Setting Criteria (11).	×	Do.[2]
Items below are under 8.3.1.1 of SAR Format also, but are numbered as listed on page 8.3-2 (SAR Format):		
A9. Fuel oil storage and transfer system (emergency power) (8).	×	Do.[2]
Cooling and heating systems (9)	×	Do.[2]
A10. Instrumentation and control systems with assigned power supply (10).	×	Do.[2]
Items below are under 8.3.1.1 of SAR Format also, but are numbered as listed on page 8.3-3:		
A11. Motor size, motor starting torque, and motor insulation (1), (2) and (3).	×	Do.[2]
A12. Interrupting capacity of switch-gear, load centers, control centers and distribution panels (4).	×	Do.[2]
A13. Electrical circuit protection (5)	×	Do.[2]
A14. Grounding requirements (6)	×	Do.[2]
A15. Independence of Redundant Systems (8.3.1.4)	×	
A16. Cable derating and cable trayfill (1)	×	Do.
A17. Cable routing in congested areas and areas of hostile environment (2).	×	
A18. Fire detection and protection in areas where cables are installed (4).	×	
Cable and Cable tray marking (5)	×	
A19. Area barriers and separation between redundant trays.	×	Requirements of IEEE-45 and 46 CFR Subchapter J.[2]
A20. D-C Power Systems (8.3.2)	×	Do.
A21. Fire Protection System (9.5.1), other than B4e	×	Do.
A22. Plant Emergency Lighting Systems (9.5.3)	×	
A23. Diesel Generator Fuel Oil Storage Transfer System (9.5.4).	×	
A24. Diesel Generator Cooling Water System (9.5.5)	×	
A25. Diesel Generator Starting System (9.5.6)	×	
A26. Main Steam Supply System (10.3)	×	
A27. Radioactive Waste Management (11.0)	×	
A28. Qualification Requirements for Nuclear Plants Personnel (13.1.3).	×	
A29. Technical Specifications (Table 16-1)	×	
A30. Site Related Items:		
a. Collision Barriers/Wave Attenuator (e.g., breakwater).	×	
b. Mooring System	×	USCG will conduct review and inspection of certain subcategories of the system.

APPENDIX B

AREAS OF PRIMARY U.S.C.G. REVIEW AND INSPECTION RESPONSIBILITIES WITH U.S.A.E.C. REVIEW INPUT TO U.S.C.G.

Subject area	Col. 1 U.S.A.E.C. accepts complete review and inspection by U.S.C.G.	Col. 2 U.S.A.E.C. separate review for radiological safety effect
B1. Electrical System	×	
a. Hotel Electrical System (Galley, Lighting, etc.).		
b. Hull Related Electrical System, (Bilge, Trim Pumps, etc.).		
c. Emergency Electrical System (Lighting, Generator, Fire Detection, Hull Leakage Detection and other Vital Loads).		
d. Interior Communication.		Emergency plan requirements for radiological incidents.
e. Ship to Shore Communication.		
f. Cathodic Protection.		
g. Cable Selection.		
h. Circuit Protection.		
B2. Pollution	×	
a. Oil and Hazardous Substance Procedures and Safeguards.		
b. Waste Disposal (Non-Radioactive).		
c. Domestic Water and Sanitary System.		
B3. Boilers and Evaporators other than ASME Section III.	×	Interface with Sec. III systems location and arrangement applying to high energy line failure.
B4. Piping Systems and Pressure Vessels Plant-Related Systems (Complete Listing [1]).	×	
a. Flammable and Toxic Gas and Cryogenic Systems.		
b. Bulk Chemical Systems.		
c. Non-Essential Cooling Water System (Raw and Service).		Interface with containment penetrations.
d. Service Air Systems.		
e Fire Protection System.		
f. Heating Boiler Steam and Feedwater Systems.		
Hull-Related Systems.		
a. Weather-Deck Drainage System.		
b. Platform Drainage System.		
c. Platform Trim System.		
d. Fuel Oil Storage and Systems.		

[1] These are the only plant-related mechanical systems not identified in Appendix "A", to be reviewed and inspected by U.S.C.G.

APPENDIX B

AREAS OF PRIMARY U.S.C.G. REVIEW AND INSPECTION RESPONSIBILITIES WITH U.S.A.E.C. REVIEW INPUT TO U.S.C.G.

Subject area	Col. 1 U.S.A.E.C. accepts complete review and inspection by U.S.C.G.	Col. 2 U.S.A.E.C. separate review for radiological safety effect
B5. Structural Fire Protection	X	
B6. Hull	X	Requirements as needed for Category I structures.
a. Hull Girder.		
b. Local Strength.		
c. Machinery Foundations.		
d. Mooring Foundations.		
e. Materials.		
f. Wastage Allowance.		
g. Welding.		
h. Stability.		
i. Subdivision.		
j. Vibration Analysis.		
B7. Hull Arrangements	X	Location and arrangement applying to missile protection and high energy line failure. Emergency plan requirements for radiological incidents.
a. Personnel Accomodations.		
b. Service Area.		
c. Means of Escape, Fire Exits.		
d. Hospital Spaces.		
B8. Equipment	X	
a. Navigation and Anchorage Lights for Barge.		
b. Lifesaving Equipment.		
c. Cargo Gear (except fuel handling equipment).		
d. Deck Rails, Machinery Guards.		
e. Towing Equipment, (Anchors, Chocks, Procedures, etc.).		
B9. Non-Radiological Ventilation	X	
B10. Loadline (ABS) [1]	X	
B11. Dangerous Articles as Ship's Stores and Supplies	X	
B12. Site Related Item.		
a. Lighting and Marking of Breakwater	X	
b. Safety Equipment of Breakwater	X	

[1] American Bureau of Shipping.

[FR Doc.74-1414 Filed 1-16-74;8:45 am]

[Docket Nos. 50-295; 50-304]

COMMONWEALTH EDISON CO.

Notice of Oral Argument

Notice is hereby given that, in accordance with the Atomic Safety and Licensing Appeal Board's Order of January 10, 1974, oral argument on the various exceptions to the initial decision of October 5, 1973 in this proceeding has been calendared for 9:15 a.m. on Wednesday, February 27, 1974, in the Appeal Panel hearing room located on the fifth floor of the East West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

JANUARY 11, 1974.

[FR Doc.74-1412 Filed 1-16-74;8:45 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO. ET AL.

Order Extending Construction Completion Date

Iowa Electric Light and Power Company, Central Iowa Power Cooperative and Corn Belt Power Cooperative are the holders of Provisional Construction Permit CPPR-70 issued by the Commission on June 22, 1970, for construction of the Duane Arnold Energy Center, which is presently under construction at the applicants' site near Palo, Linn County, Iowa.

On November 5, 1973, Iowa Electric Light and Power Company, acting on behalf of itself and as representative for Central Iowa Power Cooperative and Corn Belt Power Cooperative, filed a request for an extension of the completion date of the Duane Arnold Energy Center because construction has been delayed by the following factors: (A) Increased Project Scope to cover additional design features including (1) an augmented off-gas system, and (2) a pipe whip restraint system; (B) ASME Code Changes requiring (1) increased effort in constructing the facility (2) intensified quality assurance activities, and (3) manufacture and delivery of certain valves and valve operators; and (C) Shortage of essential craft personnel including qualified pipe fitter welders.

This action involves no significant hazards consideration; good cause has been shown for the delay; and the extension is for a reasonable period, the bases for which are set forth in a staff evaluation, dated January 7, 1974.

It is hereby ordered, That the latest completion date for CPPR-70 is extended from January 1, 1974 to March 1, 1974.

For the Atomic Energy Commission.

Date of Issuance: January 10, 1974.

R. C. DEYOUNG,
Assistant Director for Light Water Reactors Projects Group 1, Directorate of Licensing.

[FR Doc.74-1413 Filed 1-16-74;8:45 am]

STATE OF NEW MEXICO

Proposed Agreement for Assumption of Certain AEC Regulatory Authority

Notice is hereby given that the U.S. Atomic Energy Commission is publishing for public comment, prior to action thereon, a proposed Agreement received from the Governor of the State of New Mexico for the assumption of certain of the Commission's regulatory authority pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

A narrative, prepared by the State of New Mexico and describing the State's proposed program for control over sources of radiation, is set forth below as an appendix to this notice. A copy of the program narrative, including all referenced appendices, appropriate State legislation and New Mexico regulations, is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. or may be obtained by writing to the Chief, Agreements and Exports Branch, Fuels and Materials, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545. All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed Agreement should send them, in triplicate, to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff by February 11, 1974.

Exemptions from the Commission's regulatory authority, which would implement this proposed Agreement, have been published in the FEDERAL REGISTER and codified as 10 CFR Part 150 of the Commission's regulations.

Dated at Germantown, Maryland, this 7th day of January, 1974.

For the Atomic Energy Commission.

GORDON M. GRANT,
Acting Secretary of the Commission.

APPENDIX

PROPOSED AGREEMENT BETWEEN THE UNITED STATES ATOMIC ENERGY COMMISSION AND THE STATE OF NEW MEXICO FOR DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY AND RESPONSIBILITY WITHIN THE STATE PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Whereas, The United States Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act) to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8 and Section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, The Governor of the State of New Mexico is authorized under Chapter 284, Section 12-9-11, Laws of 1971, to enter into this Agreement with the Commission; and

Whereas, The Governor of the State of New Mexico certified on July 2, 1973, that the State of New Mexico (hereinafter referred to as the State) has a program for the control

of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, The Commission found on _____ _____ that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemption from licensing of those materials subject to this Agreement; and

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, It is hereby agreed betweeh the Commission and the Governor of the State, acting in behalf of the State, as follows:

Article I

Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

A. Byproduct materials;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

Article III

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article IV

This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. or the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article V

The Commission will use its best efforts to cooperate with the State and other agreement states in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other agreement states in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

Article VI

The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement state. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

Article VIII

This Agreement shall become effective on March 4, 1974 and shall remain in effect unless, and until such time as it is terminated pursuant to Article VII.

Done at Santa Fe State of New Mexico in triplicate, this ____ day of _____.

For the United States Atomic Energy Commission.

For the State of New Mexico.

(Bruce King, Govenor)

FOREWORD

The State of New Mexico, while recognizing that the scientific, medical, and industrial usages of atomic energy can be beneficial to its citizens, is also cognizant of the hazards inherent to ionizing radiation. With these hazards in mind, and considering that the State is ever committed to attain the highest practicable degree of protection for the public from the harmful effects of all types of radiation exposure and simultaneously permit the many beneficial applications of radiation, the 1971 New Mexico State Legislature enacted the present Radiation Protection Act.

Section 274 of the Atomic Energy Act of 1954, as amended, authorizes the U.S. Atomic Energy Commission (AEC), to enter into an agreement with the governor of a state for purposes of transferring to that state certain functions of licensing and regulatory control of byproduct, source and less than critical quantities of special nuclear material.

Section 12-9-11 of the 1971 New Mexico Radiation Protection Act, Chapter 284, 1953 Compilation (See Appendix I, Item 1), authorizes the Governor, on behalf of the State, to enter into an agreement with the AEC which would provide a discontinuance of certain responsibilities of the AEC relating to ionizing radiation and the assumption of such responsibilities by the State.

The following narrative relates the history, current practices, proposed activities, capabilities, and resources of the State in the field of radiation protection.

HISTORY

The New Mexico Radiation Program was initiated in 1951 with a survey of hand-held fluoroscopes and shoe-fitting machines. During 1957, several uranium mines were surveyed for radon and progeny concentrations. The results of the mine survey and consultation with the United States' Public Health Service (USPHS), Salt Lake City, caused the first effective alarm to be sounded concerning high radon daughter concentrations in United States' uranium mines. In 1959, the first Radiation Protection Act was enacted and in 1961, the Regulations Governing the Health Aspects of Ionizing Radiation were promulgated.

During 1960, initial registration of all radiation equipment was begun, a five member Radiation Technical Advisory Council was appointed and a comprehensive uranium mine study was initiated. In 1961, a second man was added to the program to obtain the USPHS Uranium Mine Epidemiological Study data and to aid in the first survey of dental x-ray equipment in the state. Also in 1961, the initial registration of the x-ray machines in the State was completed. In 1963, a third man was added to augment the uranium miners study. In addition, the inspection of medical x-ray machines was begun, utilizing recommendations as set forth by the National Council on Radiation Protection and Measurements. As additional personnel were added to the staff, inspection programs were enlarged and inspection frequency was increased.

In 1971, the New Mexico Legislature enacted the present Radiation Protection Act which, in addition to the registration requirements for x-ray machines provided in the 1959 Act, expanded the term x-ray machines to radiation machines; provided a new definition of radiation to include all radiation both particulate and electromagnetic above audible sound and provided for state licensing of all radioactive material. Present Regulations for Governing the Health and Environmental Aspects of Radiation were promulgated by the Environmental Improvement Board on June 16, 1973.

ORGANIZATION, FUNCTIONS AND RESPONSIBILITIES

The New Mexico Environmental Improvement Agency was established on July 1, 1971, under the Environmental Improvement Act (Chapter 277, Laws of 1971), (see Appendix I, Item 2). The Agency is responsible for environmental management and consumer protection in the State in order to insure an environment that, in the greatest possible measure:

Confers optimum health, safety, comfort and economic and social well-being on its inhabitants;

Protects this generation as well as those yet unborn from health threats posed by the environment; and

Maximizes the economic and cultural benefits of a healthy people.

The Act established a five-member Environmental Improvement Board, appointed by the Governor with the advice and consent of the Senate. The Board is responsible for promulgating rules, regulations, and standards for radiation protection and other pertinent areas concerning the environment.

The Agency has five operating divisions: 1) General Sanitation; 2) Food Quality; 3) Water Quality; 4) Air Quality; and 5) Occupational and Radiation Protection. Experienced environmental managers have responsibility for programs within the six regions, which correspond to the six planning districts established by Executive Order of the Governor in 1969.

Funding for the Agency is both state and federal. Federal funds assist activities in the categories of air and water pollution control, solid waste management planning, construction of community sewerage facilities, occupational health and safety, and various types of research. Funding for the Radiation Protection Section is 100 percent state. The Agency has aid in the form of personnel, budget, fiscal, and data management services from the Health and Social Services Department, and operates under the administrative direction of the Executive Director of that Department.

Under the Radiation Protection Act of 1971, the Radiation Technical Advisory Council's membership was increased from five to seven members. The council members are appointed by the Governor and possess "scientific training in one or more of the following fields: diagnostic radiology, radiation therapy, nuclear medicine, radiation or health physics, or related sciences with specialization in radiation." Appendix II lists the membership of the present council. It is the duty of the council to advise the Agency and the Board on technical matters relating to radiation. The New Mexico Environmental Improvement Agency regulates the use of all sources of both ionizing and non-ionizing radiation, except those which it may exempt or are under the jurisdiction of the Federal Government. Discharge of this function is the responsibility of the Radiation Protection Section. A chart showing the organization of the Radiation Protection Section is shown as Appendix III. All members of the Section have a number of years experience in the field of health physics. Members of the Section have participated in applied and theoretical health physics research and all members have experience in operating laboratory and survey equipment. Responsibilities, background and experience of all Agency officials above the Section and all members of the Section are given in Appendix IV.

SCOPE OF ACTIVITIES

The Radiation Protection Section accomplishes the regulatory program associated with licensing of radioactive materials and registration of radiation-producing machines, environmental surveillance, special projects and response to emergency situations involving sources of radiation.

Within the State of New Mexico, there are 1262 registered x-ray machines: 578 dental units; 661 medical units, and 23 in-state industrial radiographic x-ray units. The number of AEC licenses within the State of New Mexico as of December 31, 1972, was 109. It is anticipated that the State will assume approximately 90 of these licenses. The number of facilities using radium sources is estimated at 30. Four particle accelerators are presently being installed or are planned. In addition, it is anticipated that the Clinton P. Anderson Meson Physics Facility will produce a significant quantity of accelerator-produced isotopes. Use of these isotopes throughout the State will be controlled by the Agency.

REGULATORY PROCEDURES AND POLICY

Licensing and Registration. The Radiation Protection Act requires licensing of all radioactive materials and registration of all radiation-producing machines except such sources as may be specifically exempted by regulations.

Licensing procedures, as provided in Part 3 of the New Mexico Radiation Protection Regulations, are consistent with those of the AEC.

General licenses are provided by regulation without filing an application with the Agency or the issuance of a licensing document. General licenses will be issued for specified materials under specified conditions when it is determined that the issuance of specific licenses is not necessary to protect the public and occupational health and safety. Specific licenses or amendments thereto will be issued upon review and approval of an application. A specific license will be issued only to named persons or facilities under the supervision of named persons and will incorporate appropriate conditions and expiration date. Pre-licensing inspections will be conducted when appropriate.

The Agency will request the advice of a four member Medical Isotope Advisory Committee, or appropriate members thereof, with respect to any matter pertaining to a medical license application, or to criteria for reviewing applications. The members of the Medical Isotope Advisory Committee and their backgrounds are listed in Appendix V.

All applications for non-routine medical uses of radioactive materials will be referred to the Medical Isotope Advisory Committee for advice and consultation. Appropriate research protocols will be required as part of an application. The Agency will maintain knowledge of current developments, techniques and procedures for medical uses applicable to the licensing program through continuing contact and information exchange with the AEC, other agreement states and the medical profession.

The registration program will continue the current activity except that (a) all radiation machines will be subject to the applicable provisions of Part 2 of the regulations, and (b) naturally occurring and those radionuclides which were formerly registered will now be licensed.

Inspection. The Agency is presently engaged in an inspection and compliance program for x-ray machine registrants, and is initiating a program for the inspection of accelerator product licensees, both of which are very similar to or identical with the following description of the proposed inspection and compliance program for "agreement materials".

Inspections for the purpose of evaluating radiation safety and determining compliance with appropriate regulations and provisions of licenses will be conducted as scheduled or in response to requests or complaints. Inspection frequency will be based upon the extent of the potential hazard and eperience with the particular facility. It is anticipated that state inspections of licensed facilities will be conducted in accordance with a priority schedule similar to that shown below:

Priority	Type of licensee	Initial inspection[1]	Subsequent inspection
I	(None at present)	1 month	6 months or less.
II	Broad medical Broad academic Field radiographer	6 months	1 year or less.
III	Industrial	6 months	2 years or as indicated.
IV	Academic Medical Civil defense	12 months	As indicated by initial inspection.
V	Limited medical Limited industrial	As indicated	If indicated by initial inspection.

[1] Initial inspection of a new licensee or for a license that involves new activity or as deemed appropriate.

Inspections will be made by prearrangement with the licensee, or may be unannounced as the Agency determines to be most constructive.

The New Mexico Radiation Protection Section has personnel trained in regulatory practices and procedures. Additionally, Section personnel have accompanied AEC compliance inspectors on field inspections to gain a higher degree of competence in evaluating radiation safety and determining compliance with appropriate regulations and license provisions. Inspections will include the observation of pertinent facilities, operators, and equipment; a review of use procedures, radiation safety practices and user qualifications; and a review of pertinent records and of radioactive materials—all as appropriate to the scope of the activity, conditions of the license and applicable regulations. In addition, independent measurements will be made, if appropriate.

At the start and conclusion of an inspection, personal contact will be made at management level whenever possible. Following the inspection, results will be discussed with management. Investigations will be made of all reported or alleged incidents to determine the cause, the steps taken for correction and the prevention of similar incidents in the future.

Reports will be prepared covering each inspection or investigation. The reports will be reviewed by the Radiation Protection Section Program Manager.

Compliance and Enforcement. Compliance with regulations and license conditions will be determined by inspections and evaluation of inspection reports. When there are items of non-compliance, the licensee or registrant will be informed at the time of inspection as follows: 1. When the items are minor and the licensee or registrant agrees at the time of inspection to correct them, written inspection findings will be prepared which will list the items of non-compliance, confirm any corrections made during the inspection and require acknowledgement by the person interviewed. The licensee or registrant will be informed that a review of any other corrective action items will be determined at the time of the next regular inspection or by a reinspection. 2. When the non-compliance is considered serious, the person interviewed will be informed at the time of inspection. The inspection report, mailed to management, will require a written reply to include proposed corrective action and an estimated date of completion of the corrective action. If considered appropriate, an unannounced reinspection will be made shortly after the estimated date of completion. Continued non-compliance as determined by the reinspection may result in an Agency request to the Environmental Improvement Board for a hearing as provided in the Act. Prior to action initiated by the Agency, the Agency shall notify the licensee of its intent to amend, suspend or revoke the license and provide the opportunity for a hearing. If it so decides, the Board is empowered to issue an order to cease and desist, modify or revoke a license. The Board may also initiate proceedings in

the district court in which a violation or threatened violation occurs. When shorter term action is required, the Agency may gain injunctive relief.

Upon request by a licensee, or upon the determination by the Agency, the terms and conditions of a license may be amended, consistent with the Act or regulations, to meet changing conditions in operations or to remedy technicalities of non-compliance.

The Agency uses its best efforts to attain compliance through cooperation and education. Only in instances of real or potential hazards, or cases of repeated non-compliance or willful violation, are full legal procedures employed.

Effective Date of License Transfer. Any person who possesses a license for agreement materials issued by the AEC, on the effective date of the agreement with the AEC, shall be deemed to possess a like license issued by the Agency, which shall expire either 90 days after the receipt from the Agency of a notice of expiration of such license, or on the date of expiration specified in the federal license, whichever is earlier.

Administrative Procedures and Judicial Review. The basic standards of procedure for administrative agencies in the State of New Mexico are set forth in the rules of procedure required by New Mexico law with respect to hearings, issuance of orders, judicial review of findings, and orders of the New Mexico Environmental Improvement Agency.

Compatibility and Reciprocity. In promulgating the present Radiation Protection Regulations, the Board has, insofar as practicable, maintained compatibility with AEC and agreement state regulations; has avoided requiring dual licensing and has provided for reciprocal recognition of other agreement states and federal licenses.

RADIATION LABORATORY SERVICES

The Radiation Protection Section has the capability of evaluating samples collected during routine inspections and for making independent measurements. The laboratory portion of the Radiation Protection Section has capabilities of alpha, beta and gamma spectroscopy, gross alpha-beta counting of environmental samples. The Environmental Laboratory Services (Albuquerque Branch) will provide wet chemistry for the section when needed. In the very near future all routine determinations will be made by the Environmental Laboratory.

For more sophisticated non-routine evaluations, arrangements have been made with Sandia Laboratories, Albuquerque, New Mexico and Los Alamos Scientific Laboratory, Los Alamos, New Mexico. These laboratories can provide: environmental sample counting; alpha, beta, and gamma spectroscopy, and wet chemistry when needed.

EMERGENCY RESPONSE

The New Mexico Radiation Protection Section has technically trained personnel and specialized equipment to investigate and evaluate incidents involving ionizing radiation. The Section continues to prepare for such response by providing the following:

1. Trained staff for advisement required to meet any given situation.
2. Trained and equipped staff for emergency field activities.
3. Transportation by air and/or automobile to site of incident.
4. Established liaison with appropriate AEC Operations Offices.
5. Training to key personnel of other state and local agencies.

Radiological assistance in the form of monitoring, liaison with appropriate authorities and recommendations for area security and cleanup are available from the Agency. All Radiation Protection Section personnel will be maintained at an operation-ready level of training. Part of this training will be provided through cooperation with the Albuquerque Operations office of the AEC and the Los Alamos Laboratory.

RADIATION TECHNICAL ADVISORY COUNCIL

Paul Lee, M.D., Chairman
Radiologist at Los Alamos Medical Center
Certified Radiologist 1956
Charter Member of the Radiation Technical Advisory Council
Martin W. Fleck, Ph.D., Member
Environmental Consultant in Albuquerque
Professor of Biology, University of New Mexico 1947–70
Charter member of the Radiation Technical Advisory Council
Charles M. Thompson, M.D., Member
Radiologist in Albuquerque
Certified Radiologist 1945
Fred G. Hirsh, M.D., Member
Physician, Dept. of Hospitals & Institutions, State of New Mexico
Assistant Director of Research, Lovelace Foundation, 1965–72
Associate Physician, Argonne National Laboratory, 1959–65
Private Consulting Practice, 1956–59
Director of Medicine and Biomedical Research
Sandia Laboratories 1950–56
Doyle L. Simmons, M.D., Member
Radiologist in Albuquerque and Clinical Associate Radiologist, University of New Mexico, School of Medicine, 1969 to present
Certified Radiologist 1968
Harold A. O'Brien, Jr., Ph.D., Member
Radioisotope Research and Development Program, Clinton P. Anderson Meson Physics Facility,
Los Alamos Scientific Laboratories, 1970 to present
Dean D. Meyer, B.S., Member
Group Leader, Health Physics Group, Health Division, Los Alamos Scientific Laboratories, 1946 to mid 1973
Certified Health Physicist 1960

AARON L. BOND, B.S., M.P.H.
Director, Environmental Improvement Agency

Education

Bachelor of Science, Brigham Young University (1958)—Animal Husbandry and Chemistry.

Master of Public Health, University of California (1962)—Environmental Health.

Graduate Training, Oak Ridge Associated University (1964)—Radiation Physics.

Experience

N.M. Department of Public Health, 1959–61 Sanitarian, San Juan County Health Department, General Sanitation: Animas River Study.

Senior Sanitarian, District 9, 1962–63, Supervised general sanitation activities in three-county district.

Radiological Health Consultant, 1963–65. Develop medical x-ray survey radium control program, general radiological health program for State. Accompany AEC on inspection tours.

Head of Radiological Health Section, 1965–67. Responsible for developing, organizing, and administering radiation control program in the State. Revising and promulgating radiation protection regulations. Represent department in absence of program director at various regional radiological health planning conferences.

Chief, Occupational-Radiation Health and Air Quality Control Division, 1967–May 1973. Responsible for developing, organizing, and administering occupational health, radiation control, and air pollution control programs for the State of New Mexico. Also, supervise and administer various research programs associated with these programs.

Deputy Director, Environmental Improvement Agency, May 1973 to August 1973.

Director, Environmental Improvement Agency, August 1973 to present.

Memberships and Affiliations

The Ex-Officio Secretary to the Radiation Technical Advisory Council.

Member of the American National Standards Institute Ad Hoc Committee on Health and Safety in Nuclear Fields Industry.

Member of the Rocky Mountain Section, American Industrial Hygiene Association.

Member, Board of Directors, Rocky Mountain Section, American Industrial Hygiene Association.

Ex-Officio Member, N.M. Mine Safety Advisory Board.

Member, National Conference of Radiological Health Directors.

Serves as Member of various Air Pollution Committees.

Chairman, N.M. Coal Surface-Mining Commission.

RUSSEL F. RHOADES, B.S., M.P.H.
Division Chief, Occupational/Radiation Protection Division

Education

Bachelor of Science, University of New Mexico—Biology.

Master of Public Health, University of Minnesota—Environmental Health.

Experience

Albuquerque Environmental Health Department, 1966–1968 Public Health Sanitarian. Involved in general food sanitation of commercial and institutional establishments including inspection, evaluation, facility construction and equipment plan review, code enforcement and educational presentations. Provided consultation relative to institutional sanitation problems.

United States Air Force, 1968–1969. Preventive Medicine Technician. Conducted communicable disease surveillance program, plus general sanitary survey and evaluation of military installations. Assisted in performing various occupational health surveys and conducted hearing tests plus evaluation of personnel occupationally exposed to hazardous noise.

University of Minnesota, Health Service, Environmental Health and Safety Division—1969–1971. Public Health Sanitarian. Conducted food and general sanitation inspection/evaluation of university facilities. Conducted routine monitoring program of the university's micro-wave ovens and performed temperature, humidity, ventilation and lighting surveys of university facilities.

New Mexico Environmental Improvement Agency, January 1972–May 1973. Program Manager, Occupational Health and Safety Section. Responsible for overall development, organization, administration and enforcement of the State's Occupational Health and Safety Program, under guidelines prescribed by the Federal Occupational Safety and Health Administration. Developed New Mexico's Occupational Health and Safety Implementation Plan.

New Mexico Environmental Improvement Agency, May 1973–present. Chief, Occupational and Radiation Protection Division. Responsible for the administration of the Radiation Protection and Occupational Health and Safety Programs.

Memberships and Affiliations

The National Environmental Health Association.

EDWARD L. KAUFMAN, B.S.
Program Manager

Education

Bachelor of Geology, University of Tulsa, (equivalent to M. S. Engineering Geology).

Basic Radiological Health, USPHS, Cincinnati, Ohio. Safety Aspects of Industrial Radiography, AEC, Denver, Colorado.

Health Physics, 10 weeks, Oak Ridge, Associated Universities.

Regulatory Practices and Procedures, AEC, Bethesda, Maryland.

Experience

Engineering Coordinator, Texaco, Inc., 1950–62. Coordinated the activities of engineers, geologists, seismic crews and land departments. Recommended and supervised all drilling operations and training.

Health Science Technician, New Mexico Health and Social Services Department, 1963–68. Uranium Mine environment contamination determinations and evaluation. Developed sampling system for radon daughters, now standardized in all states. Conducted respirator media research in joint effort with LASL, presented paper at APAA–ACGIH, St. Louis, 1968.

Program Manager, Environmental Improvement Agency, Radiation Protection Section, 1968 to present. Supervises the activities of five men in a broad, statewide radiation compliance program including three federal government contracts concerning uranium mines, exposure and research. Conceived and supervised the construction of the Dakota Laboratory. Authored House Bill 426, Radiation Protection Act. Drafted the Radiation Protection Regulations. Guest lecturer at all New Mexico universities on various radiation projects.

Memberships and Affiliations

Member of the National Conference of Radiation Program Directors Task Force on Radioactive Waste Management.

Health Physics Society, Rio Grande Chapter.

Publications

"DEVELOPMENT OF A URANIUM MINE RESEARCH LABORATORY," Health Physics Journal, Volume 20, No. 1. Journal of Environmental Health, March/April, 1970.

"LEAD-210 BLOOD CONCENTRATIONS AS A MEASURE OF URANIUM MINERS EXPOSURE," (to be published).

ALPHONSO A. TOPP, JR., B.S., M.S.
Environmental Scientist III

Education

Bachelor of Science in Chemical Engineering, Purdue University.

Master of Science in Applied Physics, University of California at Los Angeles.

Health Physics, 10 weeks, Oak Ridge Associated Universities.

Regulatory Practices and Procedures, AEC, Bethesda, Maryland.

Medical Isotopes, AEC, Houston, Texas.

On-the-job Training, 6 weeks, Materials Licensing Branch, AEC, Bethesda, Maryland.

Experience

Atomic Energy Specialist, U.S. Army, 1942–1970. Participated in research and development of nuclear weapons for the Department of Defense. Catalogued and standardized all nuclear weapons material. Inspected nuclear capable units of all services, all over the world for compliance with all appropriate directives. Provided assurance at the highest military level of the nuclear capability of units and the safety and security of nuclear weapons located worldwide.

Environmental Scientist III, Environmental Improvement Agency, Radiation Protection Section, 1970 to present. Executes the state radiation producing device registration program and inspection of radiation producing devices. Aided in the drafting of the State's Radiation Protection Regulations. Presently designing the State's isotope licensing program.

Guest lecturer for New Mexico universities and technical societies.

Memberships

Triangle, a fraternity of engineers, architects and scientists.

Sigma Xi, associate member, UCLA.

Health Physics Society, Rio Grande Chapter.

JOHN S. HAYNIE, B.S., M.S.
Environmental Scientist III

Education

Bachelor of Science, Engineering Technology, Western New Mexico University.

Master of Environmental Science in Radiological Health, University of Oklahoma.

Regulatory Practices and Procedures, AEC, Bethesda, Maryland.

Medical Isotopes, AEC, Houston, Texas.

Industrial Radiography, AEC, Baton Rouge, Louisiana.

Fundamentals of Non-ionizing Radiation, White Sands Missile Range, New Mexico, U.S. Army, Environmental Hygiene Agency.

Experience

Lab Assistant Electronics, Sandia Corporation, Albuquerque, New Mexico, June through September, 1968. Employed as a youth opportunity trainee in an environmental health physics electronic group. Solid state circuit fabrication, experimentation with semiconductor switching circuits, and general repair of electronic equipment.

Health Physicist, Ingals Nuclear Shipbuilding, Division of Litton Systems, Inc., Pascagoula, Mississippi, 1970 to March, 1972. Research and development work in thermoluminescent dosimetry (TLD) employing Lif (TLD-100) as a possible personnel dosimeter for the shipyard; aiding in managing all personnel dosimetry functions; environmental and area monitoring work; general health physics problems.

Environmental Scientist, Environmental Improvement Agency, Radiation Protection Section, March 1972 to present. Medical and therapeutic x-ray registration. Plans, coordinates and conducts all medical x-ray compliance inspections. Researches into various techniques employed during mammography and the absorbed doses received by the patient. Training courses are expected to result from this research and a paper is to be coauthored with a leading radiologist in the state. Presents lectures on radiation safety to x-ray technicians throughout the state.

Memberships and Affiliations

National Health Physics Society—Full member.

Health Physics Society Rio Grande Chapter.

JOHN C. RODGERS, M.S., M.A.
Environmental Scientist III

Education

Bachelor of Science, Physics, Oregon State University.

Master of Science, Physics, California State College at Los Angeles.

Master of Arts, Philosophy of Science, Indiana University.

Doctoral Candidate, Washington University (St. Louis), in Philosophy of Science.

Health Physics, 100 weeks, Oak Ridge Associated Universities.

Experience

Designed and constructed physics laboratory equipment, California State College at Los Angeles, 1961–63.

Tutor in physics, mathematics and other liberal arts in St. John's College, Santa Fe, 1968–71.

Designed and developed several special physics lab experiments and projects.

Environmental Scientist, Environmental Improvement Agency, Radiation Protection Section, 1971 to present. Developed techniques and standardization procedures for liquid scintillation counting of lead-210. Developed procedures for separating lead-210 activity from interfering materials collected during sampling. Currently working on improved procedures for counting short-lived radon daughters to enable a more precise determination of lead-210 background.

Affiliations and Awards

Pi Mu Epsilon mathematics honorary, Oregon State University.

Sigma Pi Sigma physics honorary, California State College at Los Angeles.

Scientific Papers

"AN EXTRACTION TECHNIQUE FOR SAMPLE PREPARATION FOR LIQUID SCINTILLATION COUNTING OF PB^{210}."

"INGROWTH OF LEAD-210 INTO A DYNAMIC RADON-222 ATMOSPHERE."

JOSE A. GUTIERREZ
Environmental Technician III

Education

New Mexico State University, 45 credit hours, Geology major.

University of New Mexico, 15 credit hours, Major, Medical Technology.

Basic Radiological Health, USPHS, Montgomery, Alabama.

Medical X-Ray Protection, USPHS, Las Vegas, Nevada.

Industrial Radiography, AEC, Baton Rouge, Louisiana.

Fundamentals of Non-ionizing Radiation, White Sands Missile Range, New Mexico, U.S. Army, Environmental Hygiene Agency.

Experience

Health-Science Technician, New Mexico Health and Social Services Department, 1969–71. Made personnel exposure determinations and environmental contamination concentration analyses in all active New Mexico uranium mines. Provided consultation to uranium mine management on ventilation techniques for radiation contaminant control. Assumed responsibility in renovation of abandoned uranium mine into a research facility. Maintained the facility in an approved safe condition and supervised the maintenance of the equipment. Supervised the personal safety of all researchers using the facility. Calibrated radiation detection instruments for the department and company operators. Participated in environmental sampling program. Participated in several research projects.

Environmental Technician, Environmental Improvement Agency, 1971 to present. Conducts compliance inspection in x-ray survey program. Developed a dental technique employing a tooth phantom for demonstrating the advantages of high speed dental film. Presented formal courses on dental x-ray protection throughout the State of New Mexico for dental students. Guest lecturer at universities and technical vocational schools.

Memberships and Affiliations

Health Physics Society Rio Grande Chapter.

MEDICAL ISOTOPE ADVISORY COMMITTEE

DOYLE LEE SIMMONS, M.D., Radiologist in Albuquerque and Clinical Associate Radiologist to University of New Mexico School of Medicine, attended Texas Technological College and graduated from Southwestern

Medical School. University of Texas; was resident in Radiology, Baylor University, College of Medicine Affiliated Hospitals, Houston, Texas; American Cancer Society fellowship; Armed Forces Institute of Pathology fellowship; Instructor in Radiology, Baylor; is Board Certified, American Board of Radiology; member of numerous professional societies; member of Therapy Subcommittee, Clinton P. Anderson Meson Physics Facility.

JON DURBIN SHOOP, M.D., Chief, Division of Nuclear Medicine, Associate Professor in Radiology and Associate Professor of Pharmacy, University of New Mexico, is a graduate of Tufts University School of Medicine; was Assistant Resident in Radiology, Indiana University Medical Center, Indianapolis; American Cancer Society fellow in radiotherapy; Chief Resident in Radiology, Marion County General Hospital, Indianapolis, Indiana; Senior Resident in Radiology, Indiana University Medical Center and U.S. Veterans Administration Hospital, Indianapolis, Indiana; Surgeon, U.S. Public Health Service; is Board Certified in Radiology by the American Board of Radiology and Board Certified in Nuclear Medicine by the American Board of Nuclear Medicine; member of numerous professional societies; Chairman, Human Uses Sub-committee, University of New Mexico; Chairman elect of Radiation Control Committee, University of New Mexico; performs liaison between University of New Mexico and Clinton P. Anderson Meson Physics Facility; Chairman, Sub-committee in Isotope Development, LAMPF Bio Medical Users Group; named Young Man of the Year by Albuquerque Jaycees; author of 12 professional papers.

CHESTER R. RICHMOND, Ph.D., Alternate Health Division Leader, Los Alamos Scientific Laboratory, is a graduate of New Jersey State College and the University of New Mexico; has many years of research experience in radiobiology and radiation effects both at Los Alamos Scientific Laboratory and with the AEC in Washington; member of numerous professional societies; member of NCRP Scientific Committees No. 30 and 31, and several other committees concerned with radiation; awarded AEC Special Achievement Certificate, author of 58 professional papers.

F. EUGENE HOLLY, Ph.D., Hospital Radiation Physicist, Albuquerque and Los Angeles, California, earned his B.S. in physics at New Mexico State University in 1957, specializing in Solar Energy; M.S. in Radiological Physics, Vanderbilt University 1960 as a USAEC Special Fellow, Thesis: "Composition and Characteristics of Radiation Trapped in the Lower Van Allen Regions"; Ph.D. in Medical Physics (Radiology), UCLA 1970 Dissertation: "DNA Distributions in Populations of Proliferating Lymphocytes"; extensive experience in industry, the military and national space programs; an expert in radiation dosimetry, having developed several unique instrumentation concepts in the field of microdosimetry; member of numerous professional societies; author of 24 professional papers.

RADIATION LABORATORY AND SURVEY EQUIPMENT

	Quantity
Laboratory equipment:	
Packard Model 3375, liquid scintillation counter	1
Nuclear Data Model 101 T Analyzer with typewriter printer and surface barrier alpha detector	1
Custom built gross alpha-beta environmental sample counting system	1
Nuclear Measurements Corp., proportional counter	1
Eberline internal proportional counter	1
Eberline SAC–1, 2" P.M. tube with calibrated Lucas Chambers for radon gas counting	1
Pulse generator	1
Monitoring and Survey Instruments:	
Integrating Meters, Pocket Chambers and Dosimeters:	
Pocket Chambers, Landsverk Model L–60, Rang O–200MR	6
Charter—Reader for above chambers, Model L–60	1
Pocket Dosimeters, Bendix Model CD V–138	10
Charger for the above dosimeters, Model 56	1
Condenser R. Meters:	
R-meter, Victoreen Model 570 with medium energy chambers from 0.25R to 25R	1
Victoreen Model 188 medium energy chamber 0.025	1
Alpha Detection:	
Eberline Model PAC–ISA alpha counter with AC–3 detector	1
Eberline Model SPA–1, millipore filter alpha counter	2
Eberline Model AC–3 Alpha scintillation probe	3
Eberline Model AC–2 gas flow proportional probe	2
Eberline Model PAC–3G gas proportional counter	2
Eberline Model PAC–4S alpha counter	1
Eberline Model PAC–15A portable alpha counter	1
Beta-Gamma Detection:	
Radalert Eberline Model	1
Eberline Rad Owl, Model RO–1 portable ion chamber	2
Nuclear Corp. Model CS–40A portable ion chamber	1
Eberline Model E–500B, geiger counter	1
Eberline Model HP–177B beta-gamma hand probe	3
Eberline Model PRM–4 pulse rate meter	1
Gamma Detection:	
Eberline Model PG–1 plutonium gamma probe	1
Eberline Model RT–1 personnel radiation monitor	4
Neutron Detection:	
Eberline Model FN–IA, fast neutron scintillation counter	1

[FR Doc.74–905 Filed 1–9–74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 26057, 26075; Order 74–1–34]

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

Order Provisionally Approving Agreement

Issued under delegated authority January 4, 1974.

By Order 73–11–34, November 8, 1973, the Board authorized United States and foreign-flag air carriers providing international scheduled air services to and from the United States to engage in discussions looking toward agreements on schedule adjustments, capacity limitation, and consolidation of operations in foreign air transportation.

Pursuant to that order, discussions have been held, inter alia, among the air carriers of the United States and the United Kingdom which provide scheduled services between these two countries. Such discussions were held on November 15, 1973 in Washington, D.C. and on November 20, 1973 in London.[1] As a result of such discussions, certain agreements on frequency reductions in several United States-United Kingdom city-pair markets have been reached. One such agreement was reached among Pan American, TWA, BOAC, and British Caledonian (BCAL) regarding the New York-London market, which is the subject of the action herein.

Under the agreement, the carriers propose to establish maximum scheduled frequency levels per week in the scheduled nonstop service in the New York-London market as follows: Pan American and BOAC will each provide 14 weekly round-trip nonstop flights using B–747 equipment; TWA and BCAL will each provide 7 weekly round-trip nonstop frequencies using B–707 equipment; and, TWA will furnish an additional 7 weekly round-trip nonstop schedules using B–747 equipment, during the effective period of the agreement. Further, carriers operating two daily frequencies are required, in the eastbound direction, to operate one flight in the a.m. period and one in the p.m. period.

The agreement further provides that the carriers may operate extra sections for operational reasons or unusual demand. However, such extra sections operated by each carrier are to be operated with narrow-bodied aircraft and be limited in frequency to a maximum of five in any single week and a total of ten during the entire period of the agreement.[2]

By its terms, the agreement provides that the specified service alterations would be implemented subject to prior Board approval on January 6, 1974 and terminated on April 27, 1974. In the event of a cessation or curtailment of service by any of the parties resulting from a labor dispute or other cause beyond the control of that party, the limitations of the agreement will be suspended during the period of such cessation or curtailment.

No comments in opposition to Agreement CAB 24141 have been filed.

In support of their requests, the carriers state that the agreements provide for service reductions which are compelled by the shortage of fuel, and that each of the four agreement carriers is experiencing shortages of fuel now, and anticipates continued shortages through the 1973/1974 winter period which will require service reductions at least as large as those provided for in this agreement. In addition, the applicants state this agreement is designed to provide that the inevitable reductions in service

[1] A transcript of the meeting in Washington, D.C., and summary reports of the meeting in London have been filed with the Board in Dockets 26057 and 26075 as required by Order 73–11–34.

[2] On four of the ten occasions, the parties agree, a B–747 may be rerouted through New York so long as the number of passengers boarded there is limited to the capacity of a B–707 and so long as such rerouting is in accordance with respective air transport agreements.

will be made on a coordinated basis which will better fit reduced capacity levels to the needs of the traveling public,[3] and will maintain adequate capacity in the New York-London market [4] considering the constraints imposed by the fuel shortage.[5]

The air transportation industry is being faced with a critical shortage of fuel. As a result, Pan American, TWA, BCAL, and BOAC must cut back on the fuel consumption on international services. In order to meet the cutback levels, the carriers must make fuel-savings adjustments to their schedules. The Board has heretofore noted (see Orders 73–10–110, 73–11–147, 73–12–109) its concern that those adjustments be made in a manner that provides the best service possible under the circumstances. Accordingly, agreements on schedule reductions necessitated by the fuel emergency, which can be analyzed and monitored by the Board to the end that available capacity is operated under schedules that provide the public with the most convenient service practicable under the circumstances, will best serve the public interest.

Based on the foregoing, it is concluded that the agreement (CAB 24141) among Pan American, TWA, BCAL, and BOAC with respect to scheduled service between New York and London should be approved subject to certain conditions. The service proposed in this agreement reasonably satisfies the needs of the traveling public as well as saving large amounts of fuel. The London-New York market is characterized by a multiplicity of frequencies which have experienced low load factors in the past, and, under the agreement, are estimated by the carriers to reach 56.7 percent.[6] Under these circumstances, the traveling public will continue to receive an adequate frequency of service and the carriers will be a step closer toward reaching their available fuel levels.

In view of the imminence of the implementation date, and the short period within which the carriers were compelled to adjust schedules, we will grant the request for waiver of the recent amendment to the Board's Procedural Regulations PR–138, which would otherwise require 21 days for answers to the application. However, the Board will receive any comments hereafter filed in this docket as part of its ongoing evaluation of the impact of the agreement. We also find that enforcement of section 405(b) of the Act, requiring 10 days' notice of schedule changes to the Postmaster General, would be an undue burden upon the air carrier applicants by reason of the limited extent of, and unusual circumstances affecting their operations and is not in the public interest, particularly in light of the reduced fuel supplies. Pursuant to section 416 of the Act, we will therefore grant Pan American and TWA an exemption from section 405(b), and from any regulations made pursuant thereto, to permit implementation of the subject schedule changes without 10 days' prior notice to the Postmaster General.[7]

The Board has repeatedly stated that the transfer of freed capacity to noncapacity markets will not be tolerated.[8] Moreover, in accordance with our prior orders, and in order to effectively monitor the implementation of this agreement jurisdiction will be retained, pursuant to section 412 of the Act, for the purpose of modifying, amending or revoking our approval of the agreement at any future date. Furthermore, we shall require each party to the agreement separately to report within 15 days after the end of each month any schedule changes in the New York-London market during the term of the agreement (see Appendix A).[9]

We have considered the implications of the proposed agreement on Pan American's and TWA's employees. For the reasons detailed at length in Order 73–12–32, December 7, 1973, which are equally applicable herein, we are unable to conclude that the public interest requires the imposition of any labor protective conditions.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13, it is found that the capacity reduction agreement discussed herein is not adverse to the public interest nor in violation of the Act and should be approved subject to the conditions stated herein.[10]

Accordingly, it is ordered, That:

1. Agreement CAB 24141 be and it hereby is approved pursuant to section 412 of the Act, subject to the following conditions:

(a) Jurisdiction shall be retained to modify, amend or revoke approval at any time, or take whatever other action may be deemed appropriate;

(b) Schedule deletions resulting pursuant to the agreement herein approved which occur at any of the controlled high-density airports [11] and which result in the vacating of slots allocated by the Airline Scheduling Committees of the respective airports pursuant to authority granted in Order 72–11–72, shall not be refilled by the carrier applicants, nor be reallocated to other carriers by the Airline Scheduling Committees: *Provided, however,* That slots originally vacated may be reinstated by the vacating carrier to the extent such carrier vacates another flight (at the same airport) which operates plus or minus three hours of the flight to be reinstated; [12]

(c) Any schedule changes resulting pursuant to the agreement herein approved shall be reported to the Board within 15 days after the end of each month in accordance with the format of Appendix A; [13] copies of such reports shall be provided to all carriers requesting them;

2. Within 28 days hereafter, each carrier shall file with the Board's Docket Section, and shall provide to each carrier requesting one, a report containing the following additional data for the New York-London market:

a. Seats operated in 1972/1973 (November through April).

b. Passengers carried in 1972/1973.

c. Forecast passengers in 1973/1974.

d. Projected seats in 1973/1974.

e. Equipment type to be operated in the market.

f. Calculations in developing fuel shortage for this market.

g. 1972/1973 fuel use by month for the system of each carrier.

h. 1972/1973 fuel use by month in the agreement market.

3. Pursuant to section 416 of the Act, Pan American and TWA be and they hereby are relieved from the provisions of section 405(b) of the Act, and from all regulations enacted in pursuance thereof, to the extent necessary to permit the implementation of the subject

[3] Nonstop service in each direction on every day of the week will be maintained in the New York-London market.

[4] The carriers estimate that in the New York-London market the average load factor will be 56.7 percent. The total weekly seats offered is 29,114, and the total weekly revenue passengers, based on January 6 to April 27, 1973 experience adjusted for BCAL service in 1974 (since BCAL scheduled service did not begin until April 1, 1973) are estimated at 16,500.

[5] The carriers estimate that in the New York-London market Pan American will save 192,890 gallons per week; TWA, 163,836 gallons per week; and BOAC, 211,323 gallons per week, during each week that the agreement is in effect.

[6] For the first four months of 1973, Pan American experienced a load factor of 53.7 percent.

[7] Likewise, it does not appear that our action here will significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act, since the carriers will have to reduce their schedules in any event because of the fuel shortage. Our action herein merely helps to insure that such reductions will be accomplished in a rational manner.

[8] American Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc., Order 73–10–110, supra.

[9] Such reports will enable the Board to analyze such schedule change(s) to insure that freed capacity is not being unnecessarily shifted to nonagreement markets.

[10] It is further found, pursuant to 14 CFR 385.6, that the action taken herein is governed by prior Board precedent and policy, and that immediate action is required in light of the fuel shortages. Therefore, it is determined that the filing of petitions for review of this order will not preclude this order from becoming effective immediately.

[11] Airport scheduling agreements affect John F. Kennedy International Airport, O'Hare International Airport, Washington National Airport, and La Guardia Airport.

[12] Order 73–12–32, supra.

[13] In addition, Pan American shall separately file with the Board's Docket Section a report stating, on a system-wide basis, average seat miles operated per gallon of fuel used, by type of equipment and shall maintain records, subject to inspection by the Board or by such other persons as the Board may authorize, detailing the fuel used each month, throughout its system, on a city-pair and flight-by-flight basis (including charter operations). These requirements previously were imposed upon TWA in Order 73–10–110, supra, as amended by Order 73–12–32, supra, and in Order 73–12–109, supra.

modifications without 10 days' prior notice to the Postmaster General;

4. The request of the applicants that the Board waive the recent amendment to the Board's Procedural Regulation PR-138, which would otherwise permit 21 days for answers to this application, be and it hereby is granted; and

5. Copies of the order shall be served on the Departments of Defense, Justice and Transportation; the U.S. Postal Service; The Port Authority of New York and New Jersey; the Air Line Pilots Association, International; and all certificated route and supplemental air carriers.

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 seven days after the date of service of this order.

This order shall be effective immediately and the filing of a petition for review shall not preclude such effectiveness.

This order shall be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

APPENDIX A

Type of Equipment	2-engine	3-engine narrow body	4-engine narrow body	3-engine wide body	4-engine wide body
CAPACITY MARKETS					
Miles scheduled weekly in preceding general schedule filed with CAB					
Changes contained in this general schedule					
Miles scheduled weekly in this general schedule					
NONCAPACITY MARKETS					
Miles scheduled weekly in preceding general schedule filed with CAB					
Changes contained in this general schedule					
Miles scheduled weekly in this general schedule					

[FR Doc.74-1318 Filed 1-16-74;8:45 am]

COMMISSION ON CIVIL RIGHTS

MAINE STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on January 22, 1974, Saint Paul's Center, 136 State Street, Augusta, Maine 71108.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, Federal Building, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to discuss plans for a proposed study of employment to be undertaken by the Maine SAC Subcommittee.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 10, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-1398 Filed 1-16-74;8:45 am]

MINNESOTA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Minnesota State Advisory Committee will convene at 9 a.m. on January 25 and reconvene at 9 a.m. on January 26, 1974, in Rooms A, B, and C, Minnesota Church Center, 122 West Franklin Street, Minneapolis, Minnesota 55404. These sessions shall be open to the public.

Closed or executive SAC sessions may be held at such time and place as deemed necessary to discuss matters which may tend to defame, degrade, or incriminate individuals. Such sessions will not be open to the public.

The purpose of this meeting shall be to collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin which affect persons residing in the State of Minnesota with special emphasis on health, education, employment and the administration of justice as they relate to Urban Indians; to appraise denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin as these pertain to Urban Indians in the State of Minnesota; and to disseminate information with respect to denials of the equal protection of the laws because of race, color, religion, sex, or national origin with respect to Urban Indians in the State of Minnesota; and to related areas.

These meetings will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 10, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-1394 Filed 1-16-74;8:45 am]

NEW JERSEY STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on January 17, 1974, in the Stevens Room, 15th Floor, Robert Treat Hotel, 50 Park Place, Newark, New Jersey 07101.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission, Room 510 2120 L Street NW., Washington, D.C. 20425.

The purpose of this meeting shall be to begin preliminary planning for a proposed factfinding meeting on the New Jersey Prison Project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C. January 10, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-1399 Filed 1-16-74;8:45 am]

NEW YORK STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York State Advisory Committee (SAC) to this Commission will convene at 4 on January 22, 1974, Phelps Stokes Fund, 10 East 87 Street, New York, New York 10028.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, Federal Building, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to review status of the New York SAC's Subcommittee projects.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., January 11, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-1400 Filed 1-16-74;8:45 am]

NEW YORK STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York State Advisory Committee (SAC) to this Commission will convene at 12 Noon on January 22, 1974, in Room 1639, Federal Building, 26 Federal Plaza, New York, New York 10007.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, Federal Building, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to begin preliminary planning for a proposed public employment project to be undertaken by New York SAC's Subcommittee on Employment.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 7, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-1401 Filed 1-16-74;8:45 am]

OREGON STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oregon State Advisory Committee to this Commission will convene at 5 p.m. on January 21, 1974, in Room 324, Multnomah County Courthouse, Portland, Oregon 97204.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Western Regional Office of the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012.

The purpose of this meeting shall be to meet with the Commission's Prison Consultant to discuss plans for a proposed meeting on the Oregon Prison Project.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 7, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-1397 Filed 1-16-74;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1974

Notice of Proposed Additions

Notice is hereby given pursuant to Section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following commodity and service to Procurement List 1974, November 29, 1973 (38 FR 33038).

COMMODITY

CLASS 6840

Disinfectant, Detergent, General Purpose:
6840-687-7904
6840-584-3129
6840-551-8346
6840-530-7109

SERVICE

INDUSTRIAL CLASS 7641

Furniture Rehabilitation, Long Beach, California, plus 100 miles excluding San Diego County and San Clemente.

Comments and views regarding these proposed additions may be filed with the Committee not later than February 19, 1974. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.74-1415 Filed 1-16-74;8:45 am]

PROCUREMENT LIST 1974

Notice of Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following Military Resale Commodities to Procurement List 1974, November 29, 1973 (38 FR 33038).

Description	*Item No.*
Broom Plastic Filament	402
Broom, Corn & Natural Fibres	403
Broom Patio, Plastic Filament	407
Brush Lint, Plastic	411
Brush, Dusting, Plastic	412
Brush, Sanitary, Plastic Filament	413
Brush, Scrub, Palmyra	414
Brush, Vegetable, Plastic	415
Handle Spring Lever for wet mophead	420
Mop, Sponge, Automatic	423
Mop, Block Sponge	424
Mop, Dusting, Mitt Type, Rayon Yarn	425
Mop, Stick, Viscose & Rayon	426
Refill Sponge for Mop #423	433
Refill Sponge for Mop #424	434
Refill, for Dust Mop #425 Rayon Yarn	435
Mophead, Rayon, Wet Cleaning	436
Mini Ironing Board with Cover	440
Cover & Pad Set, Ironing Board	442
Cotton Cover—Poly Pad Cover, Ironing Board, Cotton	444
Potholder, Quilted	446
Oven Mitt, Quilted	449
Scrubber, Plastic for Pots, Pans and Dishes (pkg of 2)	453
Dust Pan, Plastic-Side Handle	455
Tennis Racket	495
Pantyhose, Stretch Nylon	498
Hose, Knee High Length	499

Comments and views regarding these proposed additions may be filed with the Committee not later than February 19, 1974. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.74-1416 Filed 1-16-74;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Chief Counsel, Legal Staff, Office of Foreign Direct Investments.

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

[FR Doc.74-1464 Filed 1-16-74;8:45 am]

DEPARTMENT OF COMMERCE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of Congressional Relations, Office of the Secretary.

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

[FR Doc.74-1462 Filed 1-16-74;8:45 am]

FEDERAL HOME LOAN BANK BOARD

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Home Loan Bank Board to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Federal Savings and Loan Insurance Corporation, Office of the Director, Office of Federal Savings and Loan Insurance Corporation.

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

[FR Doc.74-1465 Filed 1-16-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Serv-

ice Commission revokes the authority of the General Services Administration to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Administrator, Office of the Administrator.

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

[FR Doc.74-1463 Filed 1-16-74;8:45 am]

VETERANS ADMINISTRATION

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Veterans Administration to fill by noncareer executive assignment in the excepted service the position of Assistant Administrator for Planning and Evaluation.

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

[FR Doc.74-1466 Filed 1-16-74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE SOCIALIST REPUBLIC OF ROMANIA

Entry or Withdrawal From Warehouse for Consumption

Correction

In FR Doc. 74-166 appearing at page 1101 of the issue of Friday, January 4, 1974, in the table appearing in the letter following the main text of the document, the third line, now reading " ---------- 21,546,775" should read "26---------- 2,546,775".

CONSUMER PRODUCT SAFETY COMMISSION

PRODUCT SAFETY ADVISORY COUNCIL

Notice of Meeting and Agenda

Notice is given that a meeting of the Product Safety Advisory Council will be held on Wednesday and Thursday, January 22 and 23, 1974, in the hearing room, Consumer Product Safety Commission, sixth floor, 1750 K Street NW., Washington, D.C., 9 a.m. to 12:30 p.m. and 2 p.m. to 4 p.m. both days. This is the initial meeting of the Council.

The Council has been established pursuant to section 28 of the Consumer Product Safety Act (Public Law 92-573, 86 Stat. 1230; 15 U.S.C. 2077) and its members are listed below. The act provides that the Commission may consult the Council before prescribing a consumer product safety rule or taking other action under the act.

The proposed agenda for the 2-day meeting is as follows:

January 22	9 a.m.—Commission objectives, policies, and operation. 2 p.m. — Commission legislation; Commission support offices.
January 23	9 a.m.—Standards development process; role of Council to the Commission. 2 p.m.—Open discussion; selection of cochairman.

The meeting is open to the public, however, space is limited. Further information concerning this meeting may be obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, phone (202) 634-7700.

The Council's membership, representing industry, government, and consumers, is as follows:

INDUSTRY

Ralph Gitkin, President, Margit Import Co., Fort Lee, N.J.
Jack L. Jacqmain, Senior Advisor, Legislative Regulatory Standards, Amway Corp., Ada, Mich.
Edward P. Knopf, Assistant General Merchandise Manager, Mammoth Mart, Inc., West Bridgewater, Mass.
Marie Scotti, Certified Safety Professional, Maxwell House Div., General Foods Corp., Hoboken, N.J.
Robert L. Zink, General Counsel, Hilti Fastening Systems, Stanford, Conn.

GOVERNMENT

E. E. Carlton, Principal Safety Engineer, State Department of Industrial Relations, San Francisco, Calif.
Polly Craighill, Executive Director, Consumer Protection Commission, Prince George's County, Upper Marlboro, Md.
Barbara Dunn, Connecticut State Commissioner of Consumer Protection, Boxing, and Weights and Measures, Hartford, Conn.
Peter M. Pryor, Chairman and Executive Director, New York State Consumer Protection Board, Albany, N.Y.
Mervyn Silverman, M.D., Director of Community Health, Wichita-Sedgwick County Department of Community Health, Wichita, Kansas.

CONSUMERS

Brad Baker, National Committee on Student Consumer Action, Bloomington, Ind.
Roberta Madden, Director, Consumer Protection Center, Baton Rouge, La.
Margaret Robson, National Consumer Assistance Specialist, American Association of Retired Persons, Washington, D.C.
Beulah Sanders, Chairperson, National Welfare Rights Organization, New York, N.Y.
David A. Swankin, Attorney at Law, Swankin, Turner, and Koch, Washington, DC.

Dated: January 14, 1974.

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

[FR Doc.74-1448 Filed 1-16-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

LOW-EMISSION VEHICLE CERTIFICATION BOARD

Notice of Determination Regarding Suitability of Purchase by Federal Government

On April 12, 1973, a notice was published in the FEDERAL REGISTER (38 FR 9263) stating that the Administrator of EPA had determined, under the provisions of section 212 of the Clean Air Act, that four types of battery-powered vehicles described in an application by Boyertown Auto Body Works are low emission vehicles. No comments have been received in response to this notice. On September 19, 1973, the Low-Emission Vehicle Certification Board met to determine whether these vehicles are suitable substitutes for vehicles presently being purchased by the Federal Government in accordance with the criteria specified in section 212(d)(1) of the Clean Air Act. The Board unanimously determined that the applicant vehicles are not suitable substitutes for government purchased vehicles. Certification is therefore denied. The major limitation was in the performance characteristics of the applicant vehicles, such as a maximum speed of 25 MPH, slow acceleration, and a maximum sustained velocity on a 5.0 percent grade of 17 MPH. These characteristics fall far short of the requirements set by the General Services Administration and the U.S. Postal Service for comparably-sized vehicles. Also, the manufacturer was unable to provide information sufficient to determine whether the vehicles would meet reliability and maintenance cost requirements.

The record of the Board's proceedings is available for public inspection at the Public Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

This notice is issued pursuant to section 212(d)(3)(g) of the Clean Air Act (42 U.S.C. 1857f-6e(d)(3)(G)).

Date: January 10, 1974.

RUSSELL E. TRAIN,
Chairman.

[FR Doc.74-1367 Filed 1-16-74;8:45 am]

PESTICIDE REGISTRATION

Notice of Receipt of Applications for Pesticide Registration Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the Federal Register a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before March 18, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to pre-

serve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the Federal Register of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after this 60-day period.

APPLICATIONS RECEIVED

EPA Reg. No. 1471-35. Elanco Products Company, A Division of Eli Lilly and Company, P.O. Box 1750, Indianapolis, Indiana 46206. *Treflan E. C.* Active Ingredients: trifuralin (*a,a,a,*-trifluoro-2,6-diniteo-N, N-dipropyl-p-toluidine) 44.5%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA Reg. No. 201-274. Shell Chemical Company, Suite 300, 1700 K Street, N.W., Washington, D.C. 20006. *Bidrin 80 Water Miscible Insecticide.* Active Ingredients: Dimethyl phosphate of 3-hydroxy N, N-dimethyl-cis-crotonamide—82%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA Reg. No. 201-303. Shell Chemical Company, Suite 300, 1700 K Street, N.W., Washington, D.C. 20006. *Shell Poultry Larvicide Emulsifiable.* Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 23.0%, 2,2-dichlorovinyl dimethyl phosphate 5.3%, related compounds 0.4%, Xylene 48.3%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol No. 201-GUL. Shell Chemical Company, Suite 300, 1700 K Street, N.W., Washington, D.C. 20006. *Rabon Tick and Flea Collar for Dogs.* Active Ingredients: 2-Chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 9.5%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol No. 201-GUA. Shell Chemical Company, Suite 300, 1700 K Street, N.W., Washington, D.C. 20006. *Rabon Tick and Flea Collar for Cats.* Active Ingredients: 2-Chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 9.5%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol No. 201-GUI. Shell Chemical Company, Suite 300, 1700 K Street, N.W., Washington, D.C. 20006. *Nudrin 2.4 Insecticide Water Miscible.* Active Ingredients: Methomyl S-methyl-N-[(methylcarbamoyl) oxy] thioacetimidate 30.6%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol No. 201-GUO. Shell Chemical Company, Suite 300, 1700 K Street, N.W., Washington, D.C. 20006. *Nudrin 1.8 Insecticide Water Miscible.* Active Ingredients: Methomyl S-methyl-N-[(methylcarbamoyl) oxy] thioacetimidate 23.9%. Method of Support: Application proceeds under 2(a) of interim policy.

Dated: January 9, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-1361 Filed 1-16-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19919; FCC 74-35]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Memorandum Opinion and Order Instituting Investigation

In the matter of American Telephone and Telegraph Company, Docket No. 19919; charges, regulations, classifications and practices for voice-grade private line service (high density-low density rate structure) filed with Transmittal Letter No. 11891.

1. Historically, the Bell System and the interconnecting non-Bell System telephone companies have generally priced their interstate services on the basis of nationwide averaging of their costs and the rates published in the interstate tariffs are designed to be uniform throughout the contiguous 48 states for a class of service as a whole. Such rates are not necessarily related to the cost of the particular type of facilities and routes used in particular areas, or to the cost to provide service to individual customers. Thus, as a general rule, the interstate charges published by AT&T have been the same for the same services and distances everywhere in the contiguous 48 states although costs may vary considerably from route to route and customer to customer.

2. On November 15, 1973, AT&T filed tariff revisions (Transmittal No. 11891) which depart significantly from such nationwide cost and rate averaging insofar as one category of its services is concerned, namely the voice-grade (Series 2000 and 3000) private line services. Other services, such as message toll, Wide Area Telephone, private line telegraph, and broad-band private line services, would not be similarly changed by these filings. This filing restructures the rates for the voice grade private line services so as to decrease generally the rates for such services over so-called high-density routes and to increase generally the rates for such services over so-called low-density routes. The proposed high-density rates are allegedly based upon the averaging of costs over all high-density routes in the nation and the low-density rates are allegedly based upon the averaging of costs over all low-density routes in the country.

3. AT&T submitted with its tariff filing 13 volumes of supporting materials, including market, revenues, and cost data. According to AT&T, the principal tariff changes would provide for:

(a) A revision in the rate structure for the voice grade private line category of service (Series 2000 and 3000) whereby Types 2001 through 2006 and Series 3000 voice grade channels would be restructured as High Density (HiD) and Low Density (LoD) channels, suitable for all services currently offered under Series 2000 and 3000; except that short haul schedule with rates the same irrespective of location would apply in lieu of either the HiD or LoD rate schedules where the total interexchange channel mileage is 25 miles or less;

(b) Retention of Series 5000 rates for TELPAK at present structure and level, except that provisions would be added to the Series 5000 Telpak regulation to cover the pricing of end link voice grade channels used to extend a voice grade channel in TELPAK from a service point on a base capacity section to a customer location in a different exchange. These end link voice grade channels would no longer be provided under Series 2000 and 3000, but under Series 5000. The new end link rates under Series 5000 would be the same as currently charged for Series 2000 and Series 3000; and

(c) Establishment of three basic types of rate elements—"interexchange channels", "channel terminals", and "station terminals"—in lieu of the present two element structure for the Series 2000 and 3000 facilities comprised of "interexchange channels" and "service terminals".

4. AT&T states that, in general, high density routes constitute those portions of the network over which private line service is furnished with high capacity facilities. The service will be charged for at HiD rates when furnished on links between HiD locations, and at LoD rates on links between HiD and LoD locations, or between two LoD locations, except for short haul services as to which a special schedule of short haul rates will apply. In addition to the interexchange channel, one channel terminal is required at each end of each Hid, LoD, or short haul interexchange channel link, and a station terminal is required for each station connected to the interexchange channel.

5. According to AT&T, it selected as the high density locations those rate centers that meet all of the following criteria:

(1) The location (rate center) in question is served by at least one high capacity facility with capacity of at least two master-groups (1200 voice channels) per radio channel or coaxial pair or waveguide respectively; and

(2) It has multiplexing equipment by which voice grade circuits are derived from the high capacity facilities defined in (1) above; and

(3) It has access to all other high-density rate centers in the interstate network over high capacity facilities; and

(4) It has local distribution facilities suitable for extending service to customers' premises.

Other rate centers, not meeting these criteria, are designated LoD locations.

6. The *present* monthly rates for the Series 2000 and 3000 private line voice-grade services are as follows:

1. *Interexchange Channel* (Per Mile)	
1st 25	$3.00
Next 75	2.10
Next 150	1.50
Next 250	1.05
Each additional mile	.75
2. *Service Terminal* (Per Terminal)	
Short Haul FX	$10.00
All Other	15.00

The *proposed* monthly rates under the revised "Hi-Lo" tariffs are as follows:

1. *Interexchange Channel* (Per Mile)	
HiD	$0.85
LoD	2.50
Short Haul	3.00
2. *Channel Terminal* (Per Terminal)	
HiD	$35.00
LoD	15.00
Short Haul	3.00
3. *Station Terminal*	
HiD	$25.00
LoD	25.00
Short Haul	
FX	10.00
Non-FX	15.00

7. The proposed revisions would affect about 19,000 existing private line customers of the telephone companies. About 3000 would receive decreases ranging up to 40 percent and about 16,000 would receive increases ranging up to 40 percent. However, AT&T claims that the overall effect will be no significant change in the level of revenues from the Series 2000 and 3000 services as a whole. The basic justification for the revisions submitted by AT&T is that the revised rates will be more closely related to the carriers' costs in providing the services and that such a re-structuring is essential if the telephone companies are to be able to compete fully and fairly with the present or proposed competitive offerings of the newly authorized specialized common carriers over such HiD routes.

8. We have before us formal pleadings challenging the validity of these tariffs submitted by Commodity News Services, Inc. (CNS); American Newspaper Publishers Association (ANPA); United Press International, Inc. (UPI); Dow Jones and Company, Inc. (DJ); Associated Press (AP); Southern Pacific Communications Company (SP); The Western Union Telegraph Company (WU); Data Transmission Company (Datran); MCI Telecommunications Corporation, Microwave Communications, Inc., MCI New York West, Inc., Interdata Communications, Inc. and MCI St. Louis-Texas (collectively MCI); American Auto Parts, Inc.; National Auto and Truck Wreckers Association; and Bunker-Ramo Corporation. Each of these parties urges us to suspend the effectiveness of the tariffs and to designate them for hearing. In addition, MCI requests by a separate pleading that we reject the revised tariff outright in lieu of suspending or setting them for hearing.[1]

9. We have given careful consideration to the pleadings before us and are of the opinion that there are substantial questions of lawfulness raised by the revised tariffs which we are unable to resolve without further investigation and hearing. Included among the unresolved issues and sub-issues are whether there is adequate cost or other justification for either the substantial increases in charges over the low-density routes or the substantial reductions in charges over the high-density routes; whether or to what extent there will be any cross-subsidy by the monopoly services of the telephone companies; whether or to what extent any of the proposed rates may be non-compensatory or may constitute predatory pricing; whether the justification for abandoning nationwide averaging in the voice-grade private line services is based solely upon cost or also upon competitive necessity, and if based solely upon cost whether and to what extent nationwide averaging should be retained for other classes or sub-classes of services; whether and to what extent the cost and marketing studies made to support "Hi-Lo" are, or may be, inconsistent with those placed in evidence by the telephone companies in Docket 18128; whether and to what extent the carriers are now allocating costs or using other methodologies in determining the costs for "Hi-Lo" that are different from the allocations and methodologies used by them in Docket 18128 for the same services and, if there are differences the justification therefor; whether criteria different from those used by AT&T in determining high density routes should be utilized; whether, in the light of the evidence on costs and other rate-making factors, some other rate structure would be more appropriate than the proposed two-tiered "Hi-Lo" structure and, if so, the nature thereof; whether there is any cost or other justification for not applying the new "Hi-Lo" rates to end link voice grade channels used to extend a voice grade channel in TELPAK service; whether the Bell System has specific plans for the immediately foreseeable future to extend the "Hi-Lo" pricing concept to other classes or sub-classes of service and, if so, the nature of such plans; whether and to what extent there is cost or other justification for increasing the number of chargeable rate elements from two to three for the private line voice grade services in issue; and whether or to what extent the tariff revisions before us would affect the implementation of the Commission's regulatory policy and objective of full and fair competition among and between existing and new carriers in the provision of specialized communications services. The aforementioned press entities (CNS, ANPA, UPI, AP, and DJ) also contend that they would be subjected to inordinate and discriminatory increases over the LoD facilities now used by them that would not be offset by reductions over HiD routes and that the public interest would thereby be adversely affected by a significant impairment of the dissemination of news and information to the public.

10. In addition to the questions referred to above, we think it is clear that the abandonment by the telephone companies of the nationwide cost and rate averaging for the interstate voice-grade private line services would have significant impact upon the structure of the market for such services. Also, it is clear that the revised tariffs, if and when effective, would impose substantial increases on the press and other users of predominately LoD facilities. Accordingly, in view of all of the foregoing, we shall exericse our discretion and suspend the effectiveness of the tariff revisions for the three-month period provided for in Section 204 of the Act and shall impose an accounting order thereunder providing for possible refunds if we should find that the carriers have not justified the increases in charges.

11. In its Petition to Suspend, MCI urges us to adopt certain prescribed shortened procedures designed to assure a final decision on the unresolved questions herein before the end of the three-month period. We are in agreement with the general proposition that the proceedings herein should be expedited for we recognize that if these tariff revisions should ultimately be found unlawful but should become effective after the suspension period and before final decision, such effectiveness could have a lasting and adverse impact upon the competitive structure of the market and could possibly abort the Commission's policy of full and fair competition. Accordingly, we expect to give to this proceeding the highest priority. However, we are not now ruling on the procedural requests of MCI and we will shortly issue a further order with respect to the procedures to be followed herein. For the present, we shall suspend the tariffs and designate them for hearing with an accounting order.

12. *Accordingly, it is ordered*, That, pursuant to the provisions of section 4(i), 201–205 and 403 of the Communica-

[1] MCI properly addresses its rejection petition to the Chief, Common Carrier Bureau for initial action by the staff under delegated authority. However, our action in this proceeding whereby we place in issue the principal contentions made by MCI as grounds for rejection is tantamount to designating the petition for hearing. Accordingly, MCI's petition, insofar as it requests outright rejection, is denied. We have also considered the opposing pleadings filed by the Bell System on January 4, 1974 in arriving at our decision herein.

tions Act, as amended, an investigation and hearing is hereby instituted into the lawfulness of the aforementioned schedule of charges, regulations, practices and classifications filed by AT&T under Transmittal No. 11891.

13. *It is further ordered,* That, without any way limiting the scope of the proceeding, it shall include consideration of the following:

1. Whether any of the charges, classifications, regulations, and practices contained in the tariff revisions are or will be unjust or unreasonable within the meaning of section 201(b) of the Communications Act;

2. Whether such revisions will make an unjust or unreasonable discrimination or will subject any person or class of persons to undue or unreasonable prejudice or disadvantage, or will give any undue or unreasonable preference or advantage to any person or class of persons, within the meaning of section 202(a) of the Communications Act;

3. Whether such revisions have been filed in full compliance with Section 203 of the Act governing the filing of tariff schedules and Part 61 of the Rules adopted thereunder;

4. Whether such charges, regulations, practices and classifications are in conformity with the regulatory policies and objectives adopted by the Commission in its *Specialized Common Carrier* decisions in Docket 18920;

5. Whether such charges, regulations, practices and classifications are in conformity with such rate-making principles and guidelines as may be adopted by the Commission in the pending *Private Line Rate* case, in Docket 18128;

6. Whether such charges, regulations, practices and classifications would, if applied to the press, result in any substantial impairment in the dissemination of news and information to the public;

7. Whether the Commission should prescribe just and reasonable charges, classifications, regulations, and practices to be hereafter followed with respect to the service governed by such tariff revisions and, if so, the charges, classifications, regulations, and practices that should be prescribed.

14. *It is further ordered,* That pursuant to Section 204 of the Communications Act such tariff revisions are hereby suspended until April 14, 1974 and the respondent carriers shall, in the case of all increased charges and until further order of the Commission, keep accurate account of all amounts received by reason of such increases specifying by whom and in whose behalf such amounts are paid; and shall make no changes in said tariff revisions during the period of suspension without prior approval by the Commission.

Adopted: January 9, 1974.

Released: January 11, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.74-1454 Filed 1-16-74;8:45 am]

[2] Commissioner Reid concurring in the result.

[Docket No. 19922; FCC 74-38]

GOLDEN BROADCASTING SYSTEM, INC.

Order Designating Application for Hearing on Stated Issues

In re application of Golden Broadcasting System, Inc., Radio Station KOAD, Lemoore, California, Docket No. 19922, File No. BR-4376; for renewal of license.

1. The Commission has before it for consideration: (a) The captioned application; and (b) its field inquiry into the operations of Station KOAD.

2. Information before the Commission raises a number of serious questions as to whether the captioned applicant possesses the qualifications to remain a licensee of the Commission. In view of these questions, the Commission is unable to find that grant of the captioned application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned application is designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine whether the applicant, at all times, has exercised control or supervision of the operation of Station KOAD in a manner consistent with the responsibilities of a licensee.

(b) To determine whether the applicant has made misrepresentations to, or has been lacking in candor with, the Commission.

(c) To determine, in light of the evidence adduced under the preceding issues, whether the applicant possesses the requisite qualifications to be or to remain a licensee of the Commission, and whether a grant of the application would serve the public interest convenience and necessity.

4. *It is further ordered,* That the Chief, Broadcast Bureau, is directed to serve upon the applicant within thirty (30) days of the release of this Order a Bill of Particulars with respect to issues (a) and (b).

5. *It is further ordered,* That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to issues (a) and (b), and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be a licensee of the Commission and that a grant of its application would serve the public interest, convenience and necessity.

6. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

7. *It is further ordered,* That the applicant herein, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and §1.549 of the Commission's Rules, shall give notice of the hearing within the time and in the manner prescribed in such Rule and shall advise the Commission thereof as required by § 1.594(g) of the Rules.

8. *It is further ordered,* That the Secretary of the Commission send a copy of this Order by Certified Mail—Return Receipt Requested to Golden Broadcasting System, Inc., licensee of Radio Station KOAD.

Adopted: January 9, 1974.

Released: January 11, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[Docket Nos. 18845-18849; FCC 74R-11]

[Docket Nos. 18845-18849; FCC74R-11]

LAMAR LIFE BROADCASTING CO. ET AL.

Memorandum Opinion and Order Remanding the Proceeding for Hearing

In re applications of Lamar Life Broadcasting Company, Jackson, Mississippi, Docket No. 18845, File No. BPCT-4320, BRCT-326; Civic Communications Corporation, Jackson, Mississippi, Docket No. 18846, File No. BPCT-4305; Dixie National Broadcasting Corporation, Jackson, Mississippi, Docket No. 18847, File No. BPCT-4317; Jackson Television, Inc., Jackson, Mississippi, Docket No. 18848, File No. BPCT-4318; Channel 3, Inc., Jackson, Mississippi, Docket No. 18849, File No. BPCT-4319, for a construction permit.

1. This proceeding involves the above-captioned applications for authority to operate a television broadcast station on Channel 3 at Jackson, Mississippi. The applications were designated for consolidated hearing on various issues by Commission Order, FCC 70-462, 25 FCC 2d 101 (35 FR 7205) released May 4, 1970, reconsideration denied 24 FCC 2d 618, 19 RR 2d 851, released August 3, 1970. In an Initial Decision, FCC 73D-16, released April 20, 1973, Administrative Law Judge Lenore G. Ehrig recommended a grant of the application of Dixie National Broadcasting Corporation (Dixie) and denial of the other applications. Subsequently, in response to a joint motion for extension of time filed by all the applicants except Civic Communications Corporation (Civic), the Review Board, by Order, FCC 73R-226, released June 15, 1973, extended the time for filing exceptions, briefs and statements in support of the Initial Decision to and including August 31, 1973, and the time within which to file reply briefs to and including October 15, 1973. Now before the Review Board are:

[1] Commissioner Hooks concurring in the result.

(a) A petition to remand proceeding, filed July 20, 1973, by Civic,[1] which requests that this proceeding be remanded to the Administrative Law Judge for preparation of a supplemental Initial Decision concerning "newly-discovered evidence of decisional significance which bears on the qualifications" of Dixie, as well as additional evidence concerning the qualifications of Civic and its president, Weyman H. D. Walker; [2] and

(b) A petition to reopen hearings to receive additional evidence of decisional significance, filed August 15, 1973, by the Office of Communication of the United Church of Christ (UCC).[3]

UCC's Petition

2. UCC's petition is procedurally deficient and will be dismissed. UCC was not made a party to this proceeding in the designation Order, *supra*, and has not attempted to intervene either before the Presiding Judge or in its pleadings presently before the Board. See § 1.223 of the Commission's rules. Moreover, UCC had actual as well as constructive notice of the proceeding as evidenced by the facts that UCC participated in predecessors to this proceeding [4] and furnished a witness for the instant proceeding. It is well established that where someone is not made a party to a proceeding, and does not file a request for intervention within the time limit prescribed in the Rules, he must show why it was not possible for him to participate in the earlier stages of the proceeding.[5] UCC clearly has not made such a showing; therefore, its petition will be dismissed.[6]

Civic's Petition

3. *Dixie's Qualifications.* A brief background statement will facilitate an understanding of the Board's disposition of Civic's petition insofar as it concerns Dixie's basic qualifications. By Memorandum Opinion and Order, 26 FCC 2d 940, 20 RR 2d 1014, released December 31, 1970, the Review Board added an issue to this proceeding to determine whether Dixie failed to fully disclose the business interests of Rubel Phillips, one of its principals, as required by FCC Form 301 (Table II of Section II), and, if so, the effect on Dixie's basic and/or comparative qualifications to be a Commission licensee. This was based on the failure of Dixie's application to indicate that Phillips, a director and 6 percent stockholder in Dixie, also had business interests in Dixie National Insurance Company (which owned 40 percent of Dixie's corporate stock) and Dixie National Corporation (which owned approximately 43 percent of Dixie National Life Insurance Company),[7] as well as "numerous other companies" which he represented as counsel and/or "served as an officer or director in the formative stages." In her Initial Decision, the Presiding Judge assessed "a slight comparative demerit" against Dixie under this issue for the failure to indicate such interests, but ultimately concluded that Phillips' assertion, that he was, at most, guilty of inadvertent omissions, was "entirely credible"; that the "record does now reflect all of Mr. Phillips' business interests * * *"; and that these interests "in no way redound adversely to either Mr. Phillips or to the applicant." (Initial Decision, page 216.)

4. In its petition for remand, Civic now alleges that neither Dixie nor Phillips has, in fact, made full disclosure of all of Phillips' business interests and that Phillips and Dixie have "deliberately misrepresented" the extent and nature of Phillips' interests in order to hide material information from the Commission. Specifically, Civic alleges that Dixie failed to fully disclose Phillips' relationship with Stirling Homex Corporation (Stirling).[8] In support, Civic first refers to an amendment, filed February 22, 1971, by Dixie stating that on February 1, 1971, Phillips had become a vice-president of the Southern Division of Stirling and then to Phillips' statement at the May 6, 1971 hearing in this proceeding (Tr. 3236) that, while he did represent Stirling as an attorney, he had not accepted the vice-presidency. In reality, alleges Civic, Phillips was a "key employee" of Stirling, as evidenced by the previously undisclosed fact that Phillips was voted two very substantial stock options by the Stirling Stock Option Committee,[9] that Phillips was "actively engaged in the management and activities of Stirling," as shown by the opening of an office for Stirling in Jackson, Mississippi, by Phillips, which he personally staffed and furnished, and, finally, that on November 5, 1971, after previously testifying that he had not accepted the vice-presidency, Southern Division, he was elected to that very office.[10]

5. The reasons for nondisclosure, argues Civic, are apparent in that, less than one year after Stirling netted approximately $19,000,000 from a stock offering to the public, it filed a bankruptcy petition in federal court. Moreover, asserts Civic, this "startling dissipation" of funds has involved the Trustee in Bankruptcy in a "lengthy proceeding involving "numerous depositions," as well as an investigation by the Securities and Exchange Commission directed towards the general counsel and executive vice president of Stirling. Finally, Civic states that several newspaper stories, copies of which are submitted with its petition, indicate that Stirling and Phillips have attempted to illegally influence high government officials and that a personal friend of Phillips, LaRue, was directly involved in one such attempt. Thus, Civic argues, Dixie's failure to report the full relationship be-

[1] Also before the Board are the following related pleadings: (a) addendum to petition to remand, filed August 2, 1973, by Civic; (b) opposition, filed August 20, 1973, by Dixie; (c) statement in partial support and partial opposition, filed August 20, 1973, by Lamar Life Broadcasting Company (Lamar); (d) comments, filed August 20, 1973, by Jackson Television, Inc. (Jackson); (e) comments, filed August 20, 1973, by Channel 3, Inc. (Channel 3); (f) comments, filed August 20, 1973, by the Broadcast Bureau; (g) reply, filed August 30, 1973, by Civic; (h) petition for leave to file reply comments and reply comments, filed August 30, 1973, by Jackson; (i) opposition to (h), filed September 12, 1973, by Dixie; and (j) petition for leave to amend and amendment, filed October 24, 1973, by Dixie. The Board will deny Jackson's petition for leave to file reply comments, as it is an unauthorized pleading and no showing of good cause has been made. See Sections 1.45 and 1.294 of the Commission's Rules.

[2] Civic also requests postponement of the filing of exceptions. However, the Board has, by Order, FCC 73R-304, released August 24, 1973, previously granted a temporary stay until 30 days after the Board's resolution of Civic's present request for remand; therefore, this portion of Civic's request is moot and will be dismissed.

[3] Also before the Board are the following related pleadings: (a) opposition, filed September 25, 1973, by Dixie; (b) opposition, filed September 25, 1973, by the Broadcast Bureau; (c) comments, filed September 25, 1973, by Lamar; (d) letter, dated September 25, 1973, by Dixie; (e) comments on (a), filed September 28, 1973, by Lamar; (f) reply, filed October 5, 1973, by UCC; (g) letter, dated October 11, 1973, by Dixie; (h) letter, dated October 16, 1973, by UCC; (i) letter, dated October 25, 1973, by Dixie; and (j) letter, dated November 7, 1973, by Lamar. Lamar's comments on Dixie's opposition (e), supra, are unauthorized and will be dismissed. See Rules 1.45 and 1.294.

[4] For a history of UCC's participation with respect to Channel 3, see pages 1-3 of the Initial Decision. See also Office of Communication of the United Church of Christ v. FCC, 123 U.S. App. D.C. 328, 359 F. 2d 994, 7 RR 2d 2001 (1966); and Office of Communication of the United Church of Christ v. FCC, 138 U.S. App. D.C. 112, 425 F. 2d 543, 16 RR 2d 2095 (1969).

[5] See Section 1.223 of the Rules. See also Spanish International Broadcasting Company v. FCC, 128 U.S. App. D.C. 93, 385 F. 2d 615, 9 RR 2d 2053 (1967); Alabama Educational Television Commission, 33 FCC 2d 495, 23 RR 2d 800 (1972); and Lauderdale Broadcast, Inc., 20 FCC 2d 498, 17 RR 2d 1004 (1969), and cases cited therein.

[6] In view of the fact that the proceeding is being remanded for further hearing (see paragraphs 10 and 11, infra), UCC may wish to petition the Administrative Law Judge for leave to intervene pursuant to Rule 1.223. See also § 1.225 of the Commission's rules.

[7] In opposition to addition of the issue, Phillips averred that, of the 460,000 shares of Dixie National Insurance Company outstanding at the time of the filing of Dixie's application, he owned 1,920 shares (less than 0.5 percent) and that, of the 445,285 shares of Dixie National then outstanding, he owned 4,833 (slightly more than 1 percent).

[8] Stirling is (or was) a company active in the field of factory-built housing and mass produced large numbers of such units.

[9] According to the minutes of the Committee's meetings, copies of which are attached to Civic's petition, on December 24, 1970, Phillips was voted an option to purchase 25,000 shares at $16.125 per share for a total value of $403,125, and on April 2, 1971, the Committee voted Phillips an additional option to purchase 15,000 shares at $22.00 per share for a total value of $330,000.

[10] Civic also submits copies of an Associated Press News Special Wire story quoting Phillips as saying that for a period of several months he paid $200 per month for an apartment in Washington, D.C. leased to a Frederick C. LaRue, a personal friend of Phillips, and that much of this expense was charged directly to Stirling.

tween Stirling and Phillips and the motives behind this failure require remand.

6. In opposition, Dixie takes the position that there is no basis in Civic's petition for a remand. First, Dixie devotes several pages of its pleading to a general discussion of the Initial Decision, and claims that Phillips' claim of an inadvertent omission was fully accepted by the Judge and that the Judge made demeanor findings favorable to Phillips. According to Dixie, Civic has "unconscionably" used the lengthy extensions of time already granted since the issuance of the Initial Decision to both shore up its own deficiencies and benefit from a series of newspaper articles critical of the Commission's fact finding processes. cials and that a personal friend of Phillips, Dixie asserts that Civic is attempting to create a theory of guilt by association, but that nothing alleged by Civic or contained in its attachments indicates a nexus between Phillips and any wrongdoing. Moreover, charges Dixie, Civic has not filed a petition to enlarge issues and has not supplied affidavits of those having personal knowledge, as required by Rule 1.229.

7. Next, Dixie attempts to more fully describe Phillips' relationship with Stirling as follows. According to Dixie, Phillips was initially contacted by Stirling to act as "local counsel" in and around Mississippi. As the work increased, Stirling attempted to hire Phillips as a full-time employee, but Phillips was reluctant to accept because of other commitments, including the one to Dixie. However, in late December, 1970, Phillips and Stirling executed what Dixie characterizes as a "standard form" employment contract which contemplated, among other things, that Phillips would become a Vice President of the Southern Division, that he would have a salary of $65,000 per year with a stock option of 25,000 common shares at $16.125 per share, and that "[d]uring the term of this agreement [a 5-year term], Employee shall devote his best efforts and all his time to advance the interests of the Company." On February 22, 1971, Dixie reported that Phillips had been elected a Vice President of Stirling Homex but in fact, contract modifications resulted in a postponement of Phillips' election, although Stirling would have "priority" on his time. Moreover, Dixie claims Phillips did set up an office for Stirling and received "reduced compensation" from his law firm. During hearing testimony on May 6, 1971, Phillips indicated that his election to a Vice-Presidency did not "materialize," and in the present pleadings he avers that he attended only one stockholder's meeting, no director's meetings, and, until Civic's petition, was unaware of the corporate minutes of November 5, 1971 purporting to elect him and that his employment contract with Stirling was terminated in February of 1972, although he did continue to do substantial legal work for that company. Dixie also submits several listings of company officers and none contain Phillips' name. As to the charges concerning Phillips' accommodations in Washington, Stirling asserts that it was simply a matter of preference for Phillips to stay at LaRue's apartment and rental was charged to Stirling because much of the time Phillips was on business for Stirling. As to allegations of illegal influence, Dixie states that nothing improper occurred and even if it did Phillips was not involved. Dixie concludes with a plea for administrative finality.

8. The other parties—Lamar, Jackson, Channel 3,[11] and the Broadcast Bureau—support remand and reopening of the record in order to explore the involvement of Phillips with Stirling and the implications of a possible pattern of misrepresentations in Dixie's dealings with the Commission. They assert that the allegations made by Civic indicate that Phillips and Dixie have deliberately attempted to conceal a significant relationship which required full, frank and timely disclosure.

9. In reply,[12] Civic first addresses the questions of timeliness, contending that it could not have discovered its evidence at an earlier date because Phillips' testimony provided no basis for further inquiry into the matters raised at that time, and that it later became aware of "rumors", which resulted in the discoveries revealed in the present pleadings. Civic then reiterates that the reason Phillips denied holding the vice presidency was because such disclosure would also require disclosure of the stock options and "with that disclosure, questions of conflict of interest and self-dealing could have been raised." Civic next points to the employment agreement between Stirling and Phillips, arguing that by its terms, *i.e.*, requiring a full-time devotion of Phillips' efforts to Stirling matters, Phillips' sworn testimony at the hearing that Stirling was simply one of several clients is contradicted. In sum, argues Civic, the extrinsic evidence discovered by Civic and documents now brought forward by Dixie sufficiently challenge the veracity of Phillips' prior testimony to require additional exploration and cross-examination.

10. The Review Board is of the opinion that Civic's petition raises very serious questions concerning Dixie's qualifications to be a Commission licensee. Dixie's opposition pleading does not adequately answer the charges made by Civic; therefore, the only way to resolve the questions is to remand the proceeding for further hearing. While remand is rarely desirable, especially where a case is as old as this one, it is the only way in certain cases to satisfy the public interest standard we are mandated to follow by the Communications Act of 1934, as amended. *Cf. Athens Broadcasting Co.*, 37 FCC 2d 374, 25 RR 2d 483 (1972).[13] FCC Application Form 301, Section II, Table II, specifically required Dixie to disclose all of the principal occupations and businesses of Phillips, its Chairman of the Board and a Director, as well as any other business or financial enterprise in which he has, within the past 5 years, had either a 25 percent or greater interest or "any official relationship," as well as the "extent and nature" of the relationship or "employment." Section 1.65 of the Commission's Rules requires that this information be kept current. Because Dixie and Phillips appeared to have failed to comply with these requirements in the past with respect to Phillips' relationship with Dixie National Life Insurance Company and Dixie National Corporation, approximately 40 percent owners, in turn, of the applicant, the Board was required to add an issue to explore the failure to reveal this significant relationship. See paragraph 3, *supra*. The Administrative Law Judge concluded that Phillips' explanation of inadvertent omissions was "entirely credible" and that the "record does now reflect all of Mr. Phillips business interests * * *". However, the Board believes the pleadings now before us raise serious questions as to whether or not Dixie has, in fact, candidly revealed "all of" Phillips' reportable business interests as the Judge was led to believe.

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[11] In its "comments", Channel 3 also requests that it be allowed at the remand hearing to explore the availability of its proposed full-time manager. (In the Initial Decision, the Judge held that the unavailability to Channel 3 of a full-time general manager-owner was a "severe decisional shortcoming." Initial Decision, p. 230) This request will be denied for several reasons. First, portions of the evidence could have been earlier discovered, or introduced, with due diligence. Second, none of the evidence, if true, would affect the ultimate conclusions contained in the Initial Decision. See The News-Sun Broadcasting Co., 27 FCC 2d 61, 20 RR 2d 1084 (1971); Kern Radio Dispatch, 29 FCC 1079, 20 RR 967 (1960). Third, such requests should not be contained in responsive pleadings or "comments." Fourth, Channel 3's contentions would more properly be contained in exceptions to the Initial Decision. Finally, Channel 3's request is, in effect, an unauthorized appeal from the Presiding Judge's Memorandum Opinion and Order (FCC 72M-965, released July 27, 1972) disallowing an amendment which reflected facts now sought to be introduced at the hearing.

[12] Portions of this reply raise new matters for the first time and make repeated reference to material contained in UCC's unauthorized petition (see paragraph 2, supra). However, because material contained in a reply pleading must be confined to a surrebuttal of an opposition (see Section 1.294 of the Commission's Rules), the Board will not consider or discuss such material. Moreover, because UCC's petition has been dismissed, it clearly would be inappropriate to incorporate material from its pleadings into Civic's reply pleading. Cf. WIOO, Inc. 39 FCC 2d 351 n. 10, 26 RR 2d 704 n. 10 (1973).

[13] In this regard the Board believes that Civic has shown that remand is warranted due to newly discovered facts which could not, with due diligence, have been discovered earlier *and* that the evidence uncovered, if proven true, is substantially likely to affect the outcome of the proceeding, which are the standard criteria for remand. See, *e.g.*, *Athens Broadcasting Co., supra; West Central Ohio Broadcasters, Inc.*, 4 FCC 2d 934, 8 RR 2d 623 (1966); and *Kern Radio Dispatch*, 29 FCC 1079, 20 RR 967 (1960). We note, however, that we are not relying on the newspaper articles referred to by the parties in their pleadings or any material which does not comply with Section 1.229 of the Rules.

11. In particular, the pleadings reveal what may be a significant relationship between Phillips and Stirling, in part evidenced by an employment contract, disclosed to the Commission for the first time in the pleadings now before the Board, which requires Phillips, among other things, to devote "his best *efforts and all his time* to advance the interests of Stirling." [Emphasis supplied] (See paragraphs 5 and 6, supra.) Where an applicant has apparently failed to report potentially significant business interests of its principals as required by Commission Rules, the Board has added issues to explore that failure to report. See, *e.g.*, Southern Broadcasting Co., 38 FCC 2d 943, 26 RR 2d 458 (1973), 38 FCC 2d 461, 25 RR 2d 1138 (1972); Charles W. Holt, 38 FCC 2d 538, 25 RR 2d 1180 (1972). Moreover, in the Board's view, the pleadings reveal a serious controversy as to whether Phillips was, in fact, elected to a vice-presidency, Southern Division, of Stirling. This controversy is not resolvable on the basis of the pleadings and without the benefit of further hearing. Finally, based upon a comparison of Phillips' testimony at the hearing on the one hand, with the employment contract described above and Civic's partially unrebutted allegations, it also appears that Phillips may not have accurately disclosed to the Commission the degree of Phillips' obligations to Stirling. In sum, it now appears that, contrary to the finding of the Presiding Judge, the record may not reflect all of Phillips' business interests and that resolution of the significance of the possibly inadequate disclosures can be assessed only by a reopening of the record and further hearing. In this regard, it is important to note that the potential significance of this matter is increased when it is remembered that Dixie's application was preferred on comparative criteria, even though it did receive a "slight comparative demerit" for its previous failure to fully disclose Mr. Phillips' business interests.[14]

12. *Civic's Qualifications.* Civic also argues that remand is necessary in order to permit it to introduce new and additional evidence regarding its financial qualifications and the qualifications of its president, Weyman H. D. Walker. First, Civic points to that portion of the Initial Decision (pp. 223–224) which concluded that Walker "is not qualified to serve as a responsible principal." Civic then notes that this conclusion was based, in part, on the Judge's finding of Walker's "record of questionable performance" at WHTV in Meridian, Mississippi[15] and that this latter finding was, in turn, primarily based upon a 1970 deposition of Mr. Carrington Weems, a major stockholder in WHTV.[16] Civic now seeks to submit copies of a recent deposition taken from Weems in another case after the record in this proceeding was closed. Therein, Weems states that, as a consequence of his increased involvement in the broadcast industry, he had reassessed Walker's performance and now believes that Walker "did the best job that he possibly could * * *", and had adequately devoted himself to WHTV's operation.[17] Moreover, Civic contends that, since Weems' views are based on his "reassessment" of Walker's efforts, they represent new evidence that could not have been discovered at an earlier date, and that any of the Presiding Judge's conclusions based upon Weems' prior assessment are not based upon a complete and accurate record,[18] citing Quality Broadcasting Corp., 6 FCC 2d 603, 9 RR 2d 559 (1967).

13. Civic also requests permission to introduce evidence to rebut the Presiding Judge's conclusion that Civic misrepresented to the Commission the availability of a $300,000 mortgage loan (Initial Decision 212). In so concluding, the Judge did not accept "the efforts of Civic's counsel to take the blame" and Civic now proposes to introduce an affidavit of counsel confirming that he prepared Civic's amendment relating to the loan in question and gave the advice which resulted in its filing. This, in turn, argues Civic, will require a "reassessment" of its qualifications. Finally, Civic argues that the Presiding Judge erred in finding that Civic had first year obligations of $50,000 to counsel and $50,000 in repayment of advances to the corporation by Walter G. Hall, one of its principals. Rather, argues Civic, these payments are not due during the first year of operation and, in support, Civic requests permission to introduce affidavits from counsel and Hall to that effect.[19] Consequently, argues Civic, the Presiding Judge's conclusion that Civic is not financially qualified is based on an erroneous premise and the affidavits should be admitted for consideration.

14. Lamar, Dixie, Jackson and Channel 3, are uniformly opposed to reopening the record to inquire into Civic's qualifications in any respect. The Broadcast Bureau supports Civic's request for the limited purpose of exploring Weems' reevaluation of Walker's stewardship of WHTV, believing that such information "constitutes pertinent, newly discovered evidence * * *". The Bureau does not support remand as to the other matters concerning Civic's qualifications. The other parties oppose reopening as to Weems' reevaluation primarily because Weems' unfavorable opinion of Walker's handling of WHTV was only a small part of the basis for the Presiding Judge's negative conclusions concerning Walker's qualifications and misrepresentations and therefore not of ultimate decisional significance. Jackson also notes that Weems' allegedly "new" experience based on his operation of WHTV after Walker's removal occurred before this proceeding even began because WHTV went off the air in October, 1970, due to financial difficulties. In reference to the $300,000 loan and Civic's first year obligations to counsel and one of Civic's principals, all parties contend that nothing Civic proposes to introduce in the event of remand constitutes newly discovered or decisionally significant information. Rather, argue these parties, all such information was readily available and would come from persons who have either testified extensively at the already concluded hearing or were readily available. Moreover, they argue, much of it is simply an attempt to cure oversights in the light of hindsight, a practice clearly prohibited by Commission procedures. Finally, they argue that Civic's contentions should be contained in exceptions rather than in a request for remand. In reply, Civic reiterates its contentions that Weems' deposition provides significant newly discovered evidence to require remand and that, while the other evidence "admittedly, [is] not newly discovered * * *", because the proceeding must be remanded as to Dixie's qualifications, justice demands that additional exploration of these matters concerning Civic's qualifications be permitted.

15. The Review Board is of the opinion that none of Civic's allegations are sufficiently newly discovered and/or so substantially likely to affect the outcome of this proceeding as to warrant remand.

[14] On October 24, 1973, Dixie filed a petition for leave to amend its application to show that in April of 1971, Phillips became a director in Builders, Inc., a Mississippi corporation which was a wholly-owned subsidiary of Stirling and was chartered for the purpose of becoming a building contractor in Mississippi. Dixie states that Phillips' affiliation with Builders, Inc. was not reported through inadvertence and that Phillips neither owned stock in the corporation, nor was he an officer. The Board will accept the amendment. However, in view of our determination to remand the proceeding for further hearing, because of Dixie's failure to fully report the extent of Phillips' business interests, the Board believes that the failure to timely report Phillips' interest in Builders, Inc. should also be considered at the further hearing. This is particularly true in view of Builders, Inc. relationship as a wholly-owned subsidiary of Stirling. The comments on Dixie's petition, filed October 29, 1973, by UCC, will be dismissed. See paragraph 2, supra.

[15] Walker was president and general manager of WHTV for a period of approximately six months and was asked to resign in January, 1969. That station is now dark.

[16] In the 1970 deposition, Weems indicated that he had asked for Walker's resignation because he did not believe that Walker was devoting sufficient time to WHTV. Weems also indicated that he was displeased with the cost of operating WHTV. See Initial Decision, pp. 55 and 244.

[17] Civic also contends that portions of the findings and conclusions in the Initial Decision concerning this matter are not supported by the record, but correctly notes that such matters should be contained in exceptions, rather than in a petition to remand.

[18] Civic also argues that the evidence should be admitted to prevent any detrimental effect on Walker's future career in broadcasting.

[19] Civic asserts that, under the circumstances, "considerations in favor of insuring that the Commission's decisions mirror reality" clearly outweigh considerations in favor of administrative orderliness.

See, e.g., WEBR, Inc. v. FCC, 136 U.S. App. D.C. 316, 420 F. 2d 158, 16 RR 2d 2191 (1969); Armond J. Rolle, 31 FCC 2d 533, 22 RR 2d 821 (1971); and Prattville Broadcasting Co., 5 FCC 2d 601, 8 RR 2d 1096 (1966). As the other parties point out, Weems' evaluation of Walker's past performance at WHTV constitutes only a small part of the basis for the Judge's conclusion that Walker "is not qualified to serve as a responsible principal." For example, Walker was found to have misrepresented to the Commission the availability of a mortgage loan to Civic, to have answered interrogatories under oath on behalf of James Charles Evers (a 9% shareholder in Civic), without checking the accuracy of such answers and which Evers later denied, and to have been guilty of misrepresentations to the Commission and "sharp practices" with respect to a UHF application in Galveston, Texas. Initial Decision, pp. 223–224, 232. Compare Quality Broadcasting Corp., *supra*, where the Commission did remand a proceeding for further hearing in order to allow interpretation of later presented testimony. However, in that case the testimony involved facts, and, therefore, an implication of false testimony was raised; whereas, in this case, the testimony relates solely to matters of judgment and observation. More significant, however, is the fact that even if Weems' new testimony were to be believed, it is highly unlikely that it would affect the ultimate conclusion concerning Civic's qualifications.

16. As to the availability of the mortgage loan and Civic's first year obligations, Civic itself frankly concedes that information which forms the basis for remand is not newly discovered. The Board agrees. Hall was available at the hearing and, in fact, testified extensively about the matters now raised by Civic. Hall's affidavit appears to be simply a restatement of his original position at the hearing. Indeed, there was thorough exploration in the hearing of Civic's financial qualifications and obligations. The same appears to be true of the affidavits of counsel. Such information clearly was available at the time of hearing and could have been introduced then. Moreover, regardless of the genesis, the applicant *itself* must accept ultimate responsibility for the information supplied and resultant inaccuracies and/or misrepresentations. See e.g. Martin Lake Broadcasting Co., 23 FCC 2d 721, 19 RR 2d 277 (1970). Finally, the Board believes that most of the information now offered by Civic is, in reality, a challenge to the conclusions of the Administrative Law Judge which were premised on the same information and, therefore, would more properly be contained in exceptions to the Initial Decision.

17. *Accordingly, it is ordered,* That the petition for leave to amend the application of Dixie National Broadcasting Corporation, filed October 24, 1973, by Dixie National Broadcasting Corporation, is granted, and the amendment is accepted; and

18. *It is further ordered,* That the petition for leave to file reply comments, filed August 30, 1973, by Jackson Television, Inc., is denied; and

19. *It is further ordered,* That the petition to reopen hearings to receive additional evidence of decisional significance, filed August 15, 1973, and comments, filed October 29, 1973, by the Office of Communication of the United Church of Christ, are dismissed; and

20. *It is further ordered,* That the petition to remand proceeding, filed July 20, 1973, by Civic Communications Corporation is granted in part, is dismissed insofar as it requests postponement of the filing of exceptions, and is denied in all other respects; and

21. *It is further ordered,* That the record herein is reopend and the proceeding is remanded for the purpose of hearing evidence on the following issues:

(a) To determine whether Dixie National Broadcasting Corporation violated § 1.65 of the Commission's rules by failing to fully report the relationship of Rubel Phillips with Stirling Homex Corporation, and, if so, the facts and circumstances surrounding such failure to comply.

(b) To determine whether there have been any false statements, misrepresentations, lack of candor, or nondisclosure of material facts in the proceeding by Dixie National Broadcasting Corporation and/or its officers, directors, or stockholders with respect to the business interests of Rubel Phillips, and if so, the facts and circumstances thereof.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, the effect on Dixie National Broadcasting Corporation's basic and/or comparative qualifications to be a Commission licensee.

22. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issues added herein shall be on Civic Communications Corporation, and the burden of proof under the issues shall be on Dixie National Broadcasting Corporation; and

23. *It is further ordered,* That the Administrative Law Judge shall issue a "Supplemental Initial Decision" pertaining to all aspects raised under these additional issues.

Adopted: January 10, 1974.

Released: January 11, 1974.

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

[FR Doc.74–1456 Filed 1–16–74;8:45 am]

FEDERAL MARITIME COMMISSION

COMPAGNIE MARITIME BELGE, S.A., ET AL.

Notice of Agreements Filed

Notice is hereby given that the following agreements have 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 agreements at the Washington office of the Federal Maritime Commission, 1405 I Street, N.W., Room 1015; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 6, 1974. Any person desiring a hearing on the proposed agreements 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.

COMPAGNIE MARITIME BELGE, S.A. COMPAGNIE MARITIME DU ZAIRE, S.A.R.L. COMPAGNIE MARITIME DES CHARGEURS REUNIS S.A. ELDER DEMPSTER LINES, LIMITED DELTA STEAMSHIP LINES, INC. AND THE NORTHERN PAN-AMERICAN LINE A/S

Notice of agreement filed by:

Thos. E. Staken, Esquire
Macleay, Lynch, Bernhard & Gregg
1625 K Street, N.W.
Washington, D.C. 20006

Agreement No. 9966–1 modifies an approved sailing agreement by adding as parties thereto Compagnie Maritime Belge, S.A.; Compagnie Maritime du Zaire, S.A.R.L.; Compagnie Maritime des Chargeurs Reunis S.A.; and Elder Dempster Lines, Limited.

Dated: January 11, 1974.

TRANSCONEX, INC. AND ECONOCARIBE CONSOLIDATORS, INC.

Notice of agreement filed by:

Dean R. Putnam
President
International Tariff Services, Inc.
815 15th Street, N.W.
Suite 538 Bowen Building
Washington, D.C. 20005

Agreement No. DC–68, between Transconex, Inc. and Econocaribe Consolidators, both non-vessel operating common carriers in the United States-Puerto Rico/Virgin Islands trade, provides for discussion and agreement on tariff rates, charges, classifications, practices and related tariff provisions in their respective

tariffs in the United States-Puerto Rico/Virgin Islands trades.

Dated: January 11, 1974.

PACIFIC COAST—AUSTRALASIAN TARIFF BUREAU

Notice of agreement filed by:

A. H. Eber, Secretary
Pacific Coast—Australasian
Tariff Bureau
635 Sacramento Street
San Francisco, California 94111

Agreement No. 50–26, entered into by the member lines of the Pacific Coast—Australasian Tariff Bureau, modifies Article XIV(d) of the organic agreement of that conference to provide that (1) the Secretary will not disclose the votes taken by telephone if any one of the members has so requested at the time of voting; and (2) should any one member line object to the taking of a telephone vote, the matter must be brought before the members at a regular or special meeting.

Dated: January 14, 1974.

HAWAIIAN STEVEDORE/EMPLOYERS AGREEMENT

Notice of agreement filed by:

Thomas E. Kimbal, Esq.
Lillick, McHose, Wheat, Adams & Charles
Attorneys at Law
311 California Street
San Francisco, California 94104

Agreement No. T–2879, among Castle & Cooke Terminals, Ltd., C. Brewer Corporation, Hilo Transportation & Terminal Co., Honolulu Terminals Co., Ltd., Matson Terminals, Inc., McCabe, Hamilton & Renny Co., Ltd., Seatrain Terminals of California, and Theo. H. Davies & Co., Ltd. (Employers), provides for a formula and procedures for the continued allocation among the Employers of the costs of certain fringe benefits payable to their employees. Agreement No. T–2879 contains terms substantially identical to Agreement No. T–2548, which expired by its own terms on September 30, 1971, and it is designed to allow the parties to adjust among themselves the distortions that have occurred in the true costs of providing certain fringe benefit programs called for in collective bargaining agreements with the ILWU. The purpose of Agreement No. T–2879 is to permit the Employers to resolve the distortions that have occurred since September 30, 1971, and to continue to adjust such distortions as they occur from time to time until June 30, 1975.

Dated: January 14, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–1451 Filed 1–16–74;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RI74–113, *et al*]

EXXON CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

JANUARY 9, 1974.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto (18 CFR, Chapter I), and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
RI74-113	Exxon Corp	212	[1] 19	El Paso Natural Gas Co. (Aneth Area, San Juan County, Utah) (Rocky Mountain Area).		11-23-73	12-24-73	[13] Accepted			
	do		20	do	$22,643	[4] 12-11-73	1-11-74	[13] Accepted	[2 23] 22.774	[2 23] 26.629	
	do		21	do	5,903	[4] 12-11-73		6-11-74	[3 23] 26.629	[23] 27.634	
RI74-114	Skelly Oil Co	[5] 46	28	El Paso Natural Gas Co. (Blanco Field, San Juan County, N. Mex.) (Rocky Mountain Area).	3,937	12-12-73		2-12-74	[6 8] 24.0	[6 8] 24.5	
	do	[5] 47		El Paso Natural Gas Co. (Fulcher-Kutz, Ballard, Gaulan, and South Blanco Fields, San Juan and Rio Arriba Counties, N. Mex.) (Rocky Mountain Area.)	5,971	12-12-73		2-12-74	[7 8] 28.0 [6 11] 26.14 [7 8] 28.0	[7 8] 28.5 [6 11] 26.64 [7 8] 28.5	
	do	90	24	El Paso Natural Gas Co. (South Blanco Field, Rio Arriba County, N. Mex.) (Rocky Mountain Area).	3,379	12-12-73		6-12-74	[6 11] 26.14	[6 11] 26.64	
	do	107	23	El Paso Natural Gas Co. (Ignacio-Blanco and South Blanco Fields, Rio Arriba County, N. Mex. and La Plata County, Colo.) (Rocky Mountain Area).	[10] 963	12-12-73		6-12-74	[6 10 11] 26.14 [6 8 9] 24.50 [7 8] 28.0	[6 10 11] 26.64 [6 8 9] 25.0 [7 8] 28.5	
RI74-115	Mesa Petroleum Co	[5 14] 1	38	El Paso Natural Gas Co. (Blanco Mesa Verde Field, San Juan County, N. Mex.) (Rocky Mountain Area).	29,094	12-10-73		2-10-74	[6 8] 24.0	[6 8] 24.5	
	do		39	do	1,209	12-10-73		2-10-74	[7 8] 28.0	[7 8] 28.5	RI72-243.
	do	[5 14] 2	9	do	200	12-10-73		2-10-74	[6 17] 24.48	[6 17] 24.98	
	do	[5 14] 3	10	do	695	12-10-73		2-10-74	[6 8] 24.0	[6 8] 24.5	
	do	[5 14] 4	40	El Paso Natural Gas Co. (Various Fields, San Juan and Rio Arriba Counties, N. Mex.) (Rocky Mountain Area).	4,546	12-10-73		2-10-74	[6 8] 24.0	[6 8] 24.5	
	do		41	do	140	12-10-73		2-10-74	[7 8] 28.0	[7 8] 28.5	RI73-216.
	do	[14] 6	9	El Paso Natural Gas Co. (Ignacio Blanco Mesa Verde Field, La Plata County, Colo.) (Rocky Mountain Area).	5,061	12-10-73		6-10-74	[6 17] 24.48	[6 17] 24.98	
	do	[5 14] 7	[15] 17	El Paso Natural Gas Co. (South Blanco Pictured Cliffs Fields and Blanco Mesa Verde Field, Rio Arriba County, N. Mex.) (Rocky Mountain Area).	2,700	12-10-73		2-10-74	[6 8] 24.0	[6 8] 24.5	
	do		[16] 18	do	130	12-10-73		2-10-74	[6 8] 24.0	[6 8] 24.5	
	do	[14] 13	29	El Paso Natural Gas Co. (Basin Dakota Field, San Juan and Rio Arriba Counties, N. Mex.) (Rocky Mountain Area).	9,633	12-10-73		[19] 2-10-74	[6 8 19] 24.0	[6 8 19] 24.5	
	do			do		12-10-73		6-10-74	[6 17] 24.48	[6 17] 24.98	
	do		30	do	10,707	12-10-73		[24]	[7 8] 28.0	[7 8] 28.5	RI72-243.
	do	[14] 16	11	El Paso Natural Gas Co. (Aztec Pictured Cliffs Field, San Juan County, N. Mex.) (Rocky Mountain Area).	20	12-10-73		6-10-74	[6 17] 24.48	[6 17] 24.98	
	do	46	3	El Paso Natural Gas Co. (Pictured Cliffs and Blanco Mesa Verde Fields, San Juan and Rio Arriba Counties, N. Mex.) (Rocky Mountain Area).	1,894	12-10-73		6-10-74	[6 17] 24.48	[6 17] 24.98	
RI74-116	Belco Petroleum Corp	5	10	El Paso Natural Gas Co. (Big Piney Field, Sublette and Lincoln Counties, Wyo.) (Rocky Mountain Area).	20	12-10-73		6-10-74	[8] 27.2025	[8 18] 28.21	RI73-171.
	do	6	20	do	68,510	12-10-73		6-10-74	[8] 27.2025	[8 18] 28.21	RI73-171.
RI74-117	Mobil Oil Corp	38	22	El Paso Natural Gas Co. (San Juan Basin Area of New Mexico).	18,469	12-10-73		6-10-74	[20] 26.1422	[21] 26.6422	
	do	199	[6] 10	do	33	12-10-73		6-10-74	[20] 26.1353	[21] 26.6353	
	do	200	[6] 14	do	53	12-10-73		6-10-74	[20] 26.1353	[21] 26.6353	
	do	314	[6] 19	do	1,542	12-10-73		6-10-74	[20] 26.1571	[21] 26.6571	
	do	370	[6 22] 9	do	915	12-10-73		6-10-74	[20] 26.150	[21] 26.650	
	do	422	[6] 8	do	215	12-10-73		6-10-74	[20] 26.150	[21] 26.650	
	do	427	[6] 20	do	529	12-10-73		6-10-74	[20] 26.2095	[21] 26.7095	
	do	446	[6] 9	do	72	12-10-73		6-10-74	[20] 26.2196	[21] 26.7196	
RI74-118	Northern Natural Gas Producing Co.	25	[6] 24	do	33	12-10-73		6-10-74	[20] 26.1796	[21] 26.6796	
	do	26	[6] 23	do	497	12-10-73		6-10-74	[20] 26.1796	[21] 26.6796	
	do	27	[6] 24	do	611	12-10-73		6-10-74	[20] 26.1796	[21] 26.6796	
	do	30	[6] 11	do	272	12-10-73		6-10-74	[20] 26.150	[21] 26.650	

* Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Contract amendment dated Nov. 6, 1973.
[2] Previously reported at 23.23 cents at 15.025 p.s.i.a.
[3] Base rate of 24 cents per Mcf plus applicable tax and B.t.u. adjustment.
[4] Substituted for erroneous filing of Nov. 23, 1973.
[5] Considered "New gas" pursuant to Opinion No. 639.
[6] Applicable to gas production from wells completed prior to June 1, 1970.
[7] Applicable to gas production from wells completed on or after June 1, 1970.
[8] Exclusive of B.t.u. adjustment.
[9] Colorado production.
[10] New Mexico production.
[11] Inclusive of tax and exclusive of B.t.u. adjustment.
[12] Accepted to be effective as of the date shown in the "Effective Date Unless Suspended" column.
[13] Not used.
[14] Current Pubco Petroleum Corp. rate schedule number (will subsequently be designated as a Mesa rate schedule.
[15] Blanco Mesa Verde Field.
[16] South Blanco Pictured Cliffs Field.
[17] Exclusive of tax and B.t.u. adjustment.
[18] 27 cents base rate plus 1 cent for gas capable of producing into an 860 pound gathering system plus tax.
[19] Applies to acreage added by Supplement No. 22 (dated Oct. 1, 1968).
[20] Subject to B.t.u. adjustment up from 1,050 and down from 1,000 B.t.u. per cubic foot.
[21] Subject to B.t.u. adjustment up and down from 1,000 B.t.u. per cubic foot.
[22] Excludes acreage added by Supplement No. 3.
[23] The pressure base is 14.73 p.s.i.a.
[24] The proposed rate is suspended until Feb. 10, 1974, insofar as it relates to acreage added by Supplement No. 22 and until June 10, 1974, insofar as it relates to other acreage covered by the filing.

APPENDIX "A"

The proposed increases which exceed the applicable area just and reasonable rate established by Opinion No. 658 are suspended for five months and the proposed increases which exceed the applicable area ceiling rate in Order No. 435 are suspended for one day.

[FR Doc.74-1345 Filed 1-16-74;8:45 am]

[Docket No. RP74–50–1]

FLORIDA GAS TRANSMISSION CO.

Notice of Petition for Temporary and Permanent Extraordinary Relief

JANUARY 10, 1974.

Take notice that on December 21, 1973, Basic Magnesia, Inc. (Petitioner) filed a petition for permanent and temporary extraordinary relief in the form of a petition with supporting affidavits, motion for immediate grant of temporary relief and a memorandum supporting the petition and the motion.

In support of its petition for emergency relief, Petitioner asserts that it receives its gas supply from Florida Gas under a direct sale, preferred interruptible service contract. Petitioner is a producer of magnesia for refractory materials and other chemical uses. Florida Gas has notified Petitioner that Petitioner will be curtailed from its natural gas supply for a period of 177 days in 1974 pursuant to a curtailment plan to go into effect commencing in January. Petitioner prays for emergency relief from the impending curtailment by requesting the Commission to grant a temporary suspension of Florida Gas' curtailment plan as applied to Petitioner. The temporary emergency relief prayed for would continue until a decision was rendered on Petitioner's request for permanent relief. Petitioner asserts that it would suffer immediate, irreparable harm from curtailment because it would be unable to produce the magnesia critical to a large percentage of the industries dependent upon refractory products. Similar relief to that sought by Petitioner has been granted by the Commission to several refractories producers from the curtailment plan of Panhandle Eastern Pipeline Co. in an Order issued December 13, 1973 (Docket Nos. 71–119 et al.).

In support of its petition for permanent relief, Petitioner asserts that curtailment pursuant to Florida Gas' curtailment plan would have a substantial adverse effect on industry dependent upon refractory products and on the national economy. In addition, Petitioner asserts that, if curtailed, it could no longer produce the chemical magnesia products which are vital to efficient energy usage throughout the nation, as well as being employed in important anti-pollution methods. Petitioner challenges the Florida Gas curtailment plan, asserting that it does not conform to Commission Regulations and is therefore unreasonably discriminatory to Petitioner because Petitioner would enjoy a higher priority under Commission Regulations than it does under Florida Gas' curtailment plan. Petitioner requests, as permanent relief from the curtailment plan, an order requiring Florida Gas to supply a total of 25,500 therms of natural gas per day at the rate of 1060 therms per hour.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said application, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before January 17, 1974. 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 in accordance with the Commission's rules. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–1546 Filed 1–16–74;8:45 am]

[Docket No. E–8008]

FLORIDA POWER AND LIGHT CO.

Notice of Request To Implement Amendment to Tariff

JANUARY 10, 1974.

Take notice that on December 27, 1973, Florida Power and Light Co. (FP&L) tendered for filing a request for permission to bill its customers in accordance with a filing tendered on September 21, 1973.

FP&L states that on January 29, 1973, it tendered its FPC Electric Tariff, Original Volume No. 1 applicable to its wholesale municipal and co-operative customers. The Commission accepted the tariff for filing on March 29, 1973 and suspended its effectiveness until September 1, 1973, subject to refund.

FP&L states that the September 21, 1973 filing reflected a change in the original filing that lowered the 80 percent ratchet on demand to 60 percent. The company states further that it has billed its customers, since September 1, 1973 in accordance with the terms of the tariff as originally filed. FP&L now requests that it be allowed to bill its customers in accordance with the change filed on September 21, 1973. FP&L requests that the billing change be allowed as of January 1, 1974.

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 January 18, 1974. 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.74–1545 Filed 1–16–74;8:45 am]

[Docket No. E–8251]

NEW ENGLAND POWER CO.

Notice of Request for Extraordinary Relief and Proposed Amendment to Rate Schedule

JANUARY 10, 1974.

Take notice that on January 3, 1974, New England Power Co. (NEPCO) requested permission to amend its application for rate increase (Rate Schedule R–7) to be effective subject to refund as of January 1, 1974. NEPCO proposes to amend Rate Schedule R–7 by adding thereto a cost adjustment clause for energy reduction and a cost adjustment clause for demand reduction. According to NEPCO, this amendment would adjust the R–7 energy and demand charges in accordance with changes in total primary sale for resale kilowatt hours and kilowatts of demand.

NEPCO states that its amendment is necessary in order to prevent a severe revenue loss occasioned by fuel conservation associated with the current fuel crisis. NEPCO states that without its proposed cost adjustment clauses, it may be unable to meet its fixed operating and investment costs.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 18, 1974. 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.74–1543 Filed 1–16–74;8:45 am]

[Docket No. E–8556]

PUBLIC SERVICE COMPANY OF INDIANA

Notice of Compliance Filing

JANUARY 10, 1974.

Take notice that the Public Service Co. of Indiana, Inc., on December 14, 1973, tendered for filing a supplement to their Interconnection Agreement with the United States, Indiana Statewide Rural Electric Cooperative, Inc., and Southern Indiana Gas and Electric Co. This agreement has been designated Rate Schedule FPC No. 222. According to the Company, the supplement will amend the Fuel Clause contained in Service Schedule A–Firm Power, Exhibit I of the Interconnection Agreement in accordance with § 35.14 of the Commission's rules and regulations.

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 January 21, 1974. 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.74-1544 Filed 1-16-74;8:45 am]

[Docket No. E-8562]

PUBLIC SERVICE COMPANY OF INDIANA

Notice of Compliance Filing

JANUARY 10, 1974.

Take notice that the Public Service Co. of Indiana, Inc., on December 21, 1973, tendered for filing a supplement to their Interconnection Agreement with the City of Peru, Indiana, designated Rate Schedule FPC No. 212. According to the Company, the supplement will amend the Fuel Clause Adjustment included in Service Schedule A—Firm Power, Exhibit I of the Interconnection Agreement in accordance with Section 35.14 of the Commission's rules and regulations.

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 January 21, 1974. 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 for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1548 Filed 1-16-74;8:45 am]

[Docket No. RI74-73]

SOUTHWESTERN OIL & REFINING CO.

Notice of Petition for Special Relief

JANUARY 10, 1974.

Take notice that on November 23, 1973, Southwestern Oil & Refining Co. (Petitioner), P.O. Box 9217, Corpus Christi, Texas 78408, filed a petition for special relief in Docket No. RI74-73, pursuant to § 2.76 of the Commission's general policy and interpretations. Petitioner seeks a price increase to 45.0c per Mcf for sales to Texas Eastern Transmission Corporation from the Hidalgo-Willacy Co. Well No. 1, Hidalgo County, Texas. Petitioner states that production is no longer economic at its current 20.0c rate and that the well will have to be abandoned if relief is not granted.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 21, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1547 Filed 1-16-74;8:45 am]

FEDERAL RESERVE SYSTEM

JACOBUS CO. AND INLAND FINANCIAL CORP.

Order Approving Acquisition of Bank

The Jacobus Company ("Jacobus") and its 43.1 percent owned subsidiary, Inland Financial Corporation ("Inland") both of Milwaukee, Wisconsin, which are bank holding companies within the meaning of the Bank Holding Company Act, have applied for the Board's approval under section 3(a)(3) to acquire all (except for directors' qualifying shares) of the voting shares of Heritage Bank of West Bend, West Bend, Wisconsin ("Bank"). The acquisition will be made by Inland and as a result Jacobus will indirectly acquire voting 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)).

Applicants control three banks with deposits of approximately $97 million, representing less than 1 percent of the total deposits of commercial banks in the State of Wisconsin. (All data are as of December 31, 1972.) Bank commenced operations on April 30, 1973, and its deposit totals are as yet insignificant on a State-wide analysis. Bank was organized by Inland's President in March, 1973. Funds for the acquisition were provided by an independent third bank which loaned 100 percent of the purchase price ($600,000) at the prime interest rate to Inland's President.

Bank's market area is approximated by upper ⅔ of Washington County. Applicants have banking offices within the SMSA, but the nearest office is 27 miles from Bank. Applicants' nonbanking subsidiaries do not operate in Bank's relevant market. Even if the affiliation between Bank and Applicants did not exist, consummation of the proposed transaction would not appear to have a significant adverse effect on existing or future competition between Applicants or their subsidiaries and Bank. Furthermore, it appears that Bank's entry into the West Bend banking market, where the top two of the eight banking organizations in the area already control about ⅔ of the deposits held by the area's commercial banks, will have salutary effects on the market by adding an additional competitor. Consummation of the proposed transaction would appear to have no significant adverse effects on existing or potential competition in any relevant area.

Considerations relating to the financial condition, managerial resources and prospects of Applicants, their subsidiary banks, and Bank are generally satisfactory and consistent with approval of the applications. In this connection the Board considered Inland's representations that it will inject $500,000 of equity capital into its Milwaukee bank subsidiary by December, 1974. Considerations relating to the convenience and needs of the community to be served also are consistent with approval of the application.

As stated, Inland's President organized Bank in March, 1973, and now Inland is seeking permission to buy Bank from its President. In a contract of sale dated March 29, 1973, Inland agreed, in part, that should the Board not approve this transaction, Inland would reimburse its President for any loss sustained by him upon sale of Bank within five years. The Board believes that an indemnification clause in situations such as this offers a potential for shifting the risk of economic loss to the holding company, and that such a provision is an indicium of "control" (as that term is used in § 2(a)(2) of the Bank Holding Company Act). In a given case, an examination of the circumstances attending such an agreement could result in a finding by the Board that an indemnification agreement and/or other action of an applicant constitutes control of a bank or other company, which is occurring without prior approval of the Board, constitutes a violation of the Act. Upon study of the facts in the instant case, the Board finds that no violation of the Act is apparent. Any applicant before the Board is well advised, however, to avoid use of any indemnification, option, or other reimbursement provisions in such manner as to give rise to a question of whether the assumption of risk or other liability assumption may be found to constitute control over the bank or other organization involved.

As noted in the Board's Order dated February 25, 1972 (1972 *Federal Reserve Bulletin* 306), approving Applicants' acquisition of the voting shares of Heritage Bank-Mayfair, Wauwatosa, Wisconsin, Jacobus has filed a declaration, pursuant to § 4(c)(12) of the Bank Holding Company Act, that it will cease to be a bank holding company by January 1, 1981. In addition, as the Board stated in the ear-

lier Order, Jacobus has committed itself to divest itself of its interest in Inland within 90 days of the passage of enabling legislation permitting distribution of Inland's shares of Jacobus shareholders on a tax free basis. Also, Inland has agreed to divest itself of its interest in Goetze-Haessler-James, Inc., an insurance company subsidiary, no later than May 31, 1974 if Federal income tax legislation has been enacted by that date.

On the basis of the record and in view of the aforesaid commitments, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governers,* effective January 9, 1974.

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

[FR Doc.74-1376 Filed 1-16-74;8:45 am]

LLOYDS BANK LTD.

Order Approving Retention of Investment

Lloyds Bank Limited, London, England ("Lloyds Bank"), has applied for the Board's permission to retain indirectly all of the voting shares of Balfour, Williamson, Inc. New York City ("BW"),[1] and to retain indirectly approximately 46.6 percent of the voting shares of Export Credit and Marketing Corporation, New York City ("ECMC"), and of ECMC's wholly-owned subsidiaries Export Credit Corporation, New York City ("ECC"), Drake America Corporation, New York City ("Drake"), and Drake America Corporation (P.R.), New York City ("Drake P.R."), if Lloyds Bank becomes a bank holding company.[2]

Lloyds Bank has received the Board's permission to become a bank holding company through the acquisition of up to 100 per cent of the voting shares of First Western Bank & Trust Company, Los Angeles, California. Upon consummation of that transaction, Lloyds Bank will be a foreign bank holding company within the meaning of § 225.4(g) (1) (iii) of Regulation Y.

BW is principally engaged in financing imports and exports to and from the United States. BW represents foreign buyers of goods manufactured or produced in the United States and temporarily finances their purchases through a line of credit or on open account. In some cases, BW performs a similar function between buyers and sellers within a foreign country or between two foreign countries. Pursuant to its financing the purchases of foreign buyers, BW will also often arrange directly the shipment of goods from the United States. BW also finances imports by United States firms and corporations from foreign manufacturers and suppliers. Import financing is normally done pursuant to a credit agreement between BW and the domestic purchaser. Such financing sometimes includes loans or credit for working capital purposes.[3]

ECMC owns all of the issued and outstanding capital stock of ECC, Drake and Drake P. R.[4] ECMC is a holding company and does not actively engage in a trade or business for its own account.

ECC finances exports of goods manufactured in the United States to creditworthy foreign buyers with credit terms of up to five years. Most of ECC's export transactions are insured by the Foreign Credit Insurance Association or through Eximbank guarantees.

Drake is an export management company which arranges the foreign sales of products manufactured in the United States by forming a foreign distribution network for such products. Drake takes nominal title to the goods and invoices its foreign agents or distributors at the manufacturer's cost plus a commission and interest on any credit extended. Drake's services principally consist of setting up and evaluating distribution networks, processing firm orders it obtains from foreign buyers with the manufacturer, and of expediting shipments for the manufacturer, thus, functioning, in effect, as a domestic manufacturer's export department. Although Drake occasionally arranges financing as an accommodation to foreign buyers, this activity is considered as incidental to its primary export management services.

Drake P.R. manages the export and distribution in Puerto Rico and other United States possessions of goods manufactured in the United States. The nature of its activities are identical to those of Drake described above.

Section 4(c)(9) of the Act provides that the prohibitions of section 4 shall not apply to the investments or activities of foreign bank holding companies that conduct the greater part of their business outside the United States, if the Board by regulation or order determines that, under the circumstances and subject to the conditions set forth in the regulation or order, the exemption would not be substantially at variance with the purposes of the Act and would be in the public interest.

In § 225.4(g) (2) (iii) of Regulation Y, the Board has determined that a foreign bank holding company may own or control voting shares of any company that is not engaged, directly or indirectly, in any activities in the United States except as shall be incidental to the international or foreign business of such company. This "incidental test" is also used by the Board to determine the permissible scope of investments and activities in the United States for Edge Act corporations under section 25(a) of the Federal Reserve Act and the Board's Regulation K and for domestic bank holding company investments or activities in the United States under § 4(c) (13) of the Bank Holding Company Act and § 225.4(f) of Regulation Y. In the Board's judgment, the activities of BW, except as noted below, and of ECC are consistent with the scope of activities permitted to Edge Act corporations under § 211.7(d) (1) (ii) of Regulation K[5] and domestic bank holding companies under section 4(c) (13) of the Bank Holding Company Act and § 225.4 (f) (1) of Regulation Y. Accordingly, in the Board's judgment the indirect investments by Lloyds Bank in BW and ECC are exempt under § 225.4(g) (2) (iii) of Regulation Y and are thus consistent with the purposes of the Act and in the public interest.

The Board's approval of the retention of Lloyds Bank of its investment in BW is, however, subject to the conditions that, within two years from the date as of which Lloyds Bank becomes a bank holding company, BW cease engaging in the activity of arranging directly the shipment of goods from the United States and BW cease operating three small retail stores in the Boston area, which BW is currently operating pursuant to a loan default by an importer client. Performance of these activities would give Lloyds Bank a competitive advantage over domestic bank holding

*Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Sheehan, and Holland. Absent and not voting: Governors Daane and Bucher.

[1] Balfour, Williamson, Inc., New York City, is a wholly-owned subsidiary of Balfour, Williamson & Co., Ltd., London, England, which in turn is a wholly-owned subsidiary of Lloyds & Bolsa International Bank, Ltd., London, England, which is wholly-owned by Lloyds Bank.

[2] Export Credit and Marketing Corporation, New York City, is a wholly-owned subsidiary of London America Finance Corp., Ltd., London, England ("LAFC"). Forty per cent of the outstanding voting shares of LAFC are owned by Lloyds & Bolsa International Bank, Limited, London, England, which is wholly-owned by Lloyds Bank. An additional 40 per cent of the outstanding voting shares of LAFC are owned by Industrial & Commercial Finance Corp., London, England, 15.6 per cent of whose voting shares are owned by Lloyds Bank. Consequently, Lloyds Bank indirectly owns approximately 46.6 per cent of Export Credit and Marketing Corporation, and its wholly-owned subsidiaries.

[3] As a result of a loan default by two importer clients, BW is temporarily operating three small retail stores in the Boston area.

[4] ECMC also owns all of the issued and outstanding capital stock of Kimstone International Corporation, Ltd., a Canadian corporation ("Kimstone"), which engages in no activities in the United States. Lloyds may retain its indirect investment in Kimstone under § 2(h) of the Act.

[5] Section 211.7(d) (1) (ii) of Regulation K provides as follows: § 211.7(d): "It will ordinarily be considered incidental to the international or foreign business of a [Edge] Corporation for it to engage in the following transactions in the United States: (1) Finance the following types of transactions, including payments or costs (but not expenses in the United States of an office or representative therein) incident thereto: . . . (ii) the importation into or exportation from the United States of goods."

companies. While an Edge Act corporation does not have the statutory power to engage in making working capital loans to importers, other banking and nonbanking subsidaries of a domestic bank holding company could engage in making such loans and thus BW's performance of this activity under section 4(c)(9) of the Act would not be substantially at variance with the the purposes of the Act and would be in the public interest.

In the Board's judgment, ECMC's investment activities as described by Lloyds Bank are consistent with the purposes of the Act and in the public interest, except as noted below, and so long as ECMC does not invest in more than 5 per cent of the voting shares, or acquire control over the management or policies, of any company except with prior Board approval.

The indirect investment by Lloyds Bank in the shares of ECMC's wholly-owned subsidiaries Drake and Drake P.R. are investments that would not be permissible for a domestic bank holding company under section 4(c)(8) of the Act since Drake and Drake P.R. engage in commercial nonfinancial activities, which are not closely related to banking or managing or controlling banks as to be a proper incident thereto. Lloyds Bank has sought an exemption for ECMC's investments in Drake and Drake P.R. under section 4(c)(9) of the Act and under § 225.4(g)(2)(iv) of Regulation Y on the basis that Drake and Drake P.R. principally engage in the United States in activities "facilitating" transactions in international or foreign commerce.[6] In the Board's judgment, however, the activities of Drake and Drake P.R. do not meet the conditions for exemption set forth in § 225.4(g)(2)(iv) of Regulation Y. The term "facilitating" is intended by the Board to cover international or foreign *banking* activities, such as those carried on by New York "investment companies,"[7] and is not intended to include nonbanking activities such as the export management activities of Drake or Drake P.R. In the Board's judgment, Drake and Drake P.R. are essentially engaged within the United States in a domestic commercial business even though that business concerns international transactions.

The Board does not believe that an exception is otherwise appropriate since it does not appear the public benefits which are alleged for the retention of Drake and Drake P.R., namely the promotion of United States exports, would outweigh the policies of the Bank Holding Company Act regarding the separation of banking and commerce. Accordingly, on the basis of the foregoing and other considerations reflected in the record, the Board hereby denies Lloyds Bank's request for exemption pursuant to section 4(c)(9) to retain its indirect investments in Drake and Drake P.R.

Based upon the foregoing and other considerations reflected in the record, and based upon the assumption that Lloyds Bank will become a bank holding company through the acquisition of voting shares of First Western Bank and Trust Company of Los Angeles, California, in accordance with its application approved by the Board, the Board has made the following determinations:

1. Pursuant to section 4(c)(9) of the Act, the Board has determined that the continued indirect ownership by Lloyds Bank of all of BW's voting shares is exempt from the prohibitions of section 4 of the Act under § 225.4(g)(2)(iii) of Regulation Y, subject to the following conditions:

(a) That BW cease to engage in the activity of arranging directly the shipment of goods from the United States within two years from the date as of which Lloyds Bank becomes a bank holding company; and

(b) That BW cease operating three retail stores in the Boston area within two years from the date as of which Lloyds Bank becomes a bank holding company.

2. Pursuant to section 4(c)(9) of the Act and § 225.4(g)(3) of Regulation Y, the Board approves the continued indirect ownership by Lloyds Bank of approximately 46.6 per cent of the voting shares of ECMC, so long as ECMC does not invest in more than 5 per cent of the voting shares, or acquire control over the management or policies, of any company except with prior Board approval, and subject to the following condition: that Lloyds Bank dispose of its indirect 46.6 per cent interest in the voting shares of Drake and Drake P.R. within two years from the date as of which it becomes a bank holding company.

3. Pursuant to section 4(c)(9) of the Act, the Board has determined that the continued indirect ownership by Lloyds Bank of approximately 46.6 percent of the voting shares of ECC is exempt from the prohibitions of section 4 of the Act under section 225.4(g)(2)(iii) of Regulation Y.

The foregoing determinations are subject to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries; 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 regulation and orders issued thereunder, or to prevent evasion thereof; and to revocation by the Board if the facts upon which it is based change in any material respect.

By order of the Board of Governors,[8] effective January 9, 1974.

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

[FR Doc.74-1372 Filed 1-16-74;8:45 am]

[6] Section 225.4(g)(2)(iv) of Regulation Y provides, with prior Board consent, that a foreign bank holding company may own or control voting shares of any company principally engaged in the United States in "financing or facilitating transactions in international or foreign commerce." Since Lloyds Bank has indicated that Drake and Drake P.R. engage only incidentally in "financing transactions," exemption can only be sought under "facilitating transactions in international or foreign commerce."

[7] See the Board's Order of February 7, 1972, approving Banque Nationale de Paris' retention of its investment in all of the voting shares of French American Banking Corporation, a New York "investment company" chartered under Section XII of the New York State Banking Law (58 Federal Reserve Bulletin 312).

[8] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan and Holland. Absent and not voting: Chairman Burns and Governors Daane and Bucher.

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR G-89]

TRANSPORTATION AND MOTOR VEHICLES

Disposal of Motor Equipment Waste Oil

DECEMBER 28, 1973.

1. *Purpose.* This bulletin recommends the establishment by each agency of a program for the proper disposal of motor equipment waste oil.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until revised or canceled.

3. *Background.* To promote the conservation of our petroleum resources and to preserve the quality of our natural environment, Federal agencies should set an example through the proper disposal of their waste oil.

4. *Suggested action.* Each Federal agency is urged to establish a program for the proper disposal of waste oil. It is recommended that such a program set forth the following guidelines:

a. Prohibit the disposal of waste oil by dumping into landfills, sewer systems, streams, rivers, or lakes.

b. Ban the use of waste oil for insect and dust control.

c. Ban the disposal of waste oil by open burning.

d. Encourage the disposal of waste oil through companies engaged in re-refining, recycling, and reprocessing of used oil. Companies which reprocess the waste oil for further use as fuels and lubricants, without generating harmful byproducts in the reprocessing operation, should be used

5. *Assistance.* Agencies may request the assistance of the Regional Director, Motor Equipment Division, Federal Supply Service, of the supporting region, in locating companies referenced in 4d, above.

M. J. TIMBERS,
Commissioner.
Federal Supply Service.

[FR Doc.74-1442 Filed 1-16-74;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

ELECTRIC FACE EQUIPMENT STANDARD

Applications for Initial Permits; Opportunity for Public Hearing

Applications for initial permits for noncompliance with the electric face

equipment standard have been received for items of equipment in the underground coal mines listed below.

(1) ICP Docket No. 4102–000, Coal-Machinery, Inc. Mine No. 26, Mine ID No. 15 04369 0, Lookout, Kentucky.
(2) ICP Docket No. 4106–000, Nunley & Thompson Coal Company, Mine No. 2, Mine ID No. 40 00581 0, Whitwell, Tennessee.
(3) ICP Docket No. 4108–000, Standard Sign & Signal Company, Mine No. 1, Mine ID No. 15 01463 0, Pikeville, Kentucky.
(4) ICP Docket No. 4109–000, Standard Sign & Signal Company, Raccoon #1 Mine, Mine ID No. 15 01750 0, Pikeville, Kentucky.
(5) ICP Docket No. 4110–000, Stoker Mining Company, Mine No. C–74, Mine ID No. 15 02227 0, McDowell, Kentucky.
(6) ICP Docket No. 4113–000, Columbia Coal Company, Mine No. G–28, Mine ID No. 15 02213 0, Martin, Kentucky.
(7) ICP Docket No. 4114–000, Carry Back Coal Company, Mine No. M–14, Mine ID No. 15 02194 0, Manton, Kentucky.
(8) ICP Docket No. 4115–000, H. & L. Coal Company, Inc., Mine No. 26, Mine ID No. 40 00690 0, Palmer, Tennessee.
(9) ICP Docket No. 4116–000, Harold Webb Coal Company, Mine No. 5, Mine ID No. 44 01564 0, Raven, Virginia.
(10) ICP Docket No. 4117–000, Keith Coal Company, Alonzo Collins Mine No. 12, Mine ID No. 15 04122 0, Isom, Kentucky.

In accordance with the provisions of section 305(a)(2) (30 U.S.C. 865(a)(2)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91–173), notice is hereby given that requests for public hearing as to an application for an initial permit may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JANUARY 11, 1974.

[FR Doc.74–1395 Filed 1–16–74;8:45 am]

NATIONAL ADVISORY COUNCIL ON SUPPLEMENTARY CENTERS AND SERVICES

NOTICE OF PUBLIC MEETING

Notice is hereby given, pursuant to Public Law 92–463, that the next meeting of the National Advisory Council on Supplementary Centers and Services will be held on January 24 and 25, 1974, from 9 a.m. to 5 p.m. in the conference room of the Council's office at 425 13th Street, NW., Suite 529, Washington, D.C.

The National Advisory Council on Supplementary Centers and Services is established under section 309 of Public Law 91–230. The Council is directed to advise the President and the Congress concerning the operation of Title III of the Elementary and Secondary Education Act.

Agenda items for the Meeting will include planning the annual ESEA Title III Meeting scheduled for April 3, 4, and 5, 1974, a review and discussion of the Council's annual report, and a discussion of pending legislation.

The meeting of the Committee shall be open to the public. Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 529, 425 13th Street, NW., Washington, D.C.

Signed at Washington, D.C. on January 11, 1974.

GERALD J. KLUEMPKE,
Executive Director.

[FR Doc.74–1422 Filed 1–16–74;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

VISUAL ARTS ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that a closed meeting of the Visual Arts Advisory Panel to the National Council on the Arts will be held at 9:30 a.m. on January 29, 1974 and at 9:30 a.m. on January 30, 1974 in the 11th floor conference room of the Shoreham Building, 806 15th Street, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, this meeting which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5), and (6), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 382–5871.

PAUL BERMAN,
Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.74–1419 Filed 1–16–74;8:45 am]

POSTAL RATE COMMISSION

[Docket No. MC73–1]

MAIL CLASSIFICATION SCHEDULE, 1973

Notice of Change in Date

JANUARY 4, 1974.

Notice is hereby given that the Chief Administrative Law Judge has changed the date for reconvening the above entitled Mail Classification proceeding, Docket No. MC73–1, from January 29, 1974 to January 25, 1974, at 10 a.m., at 2000 L Street, NW., Suite 500, Washington, D.C. 20268. As previously noted, the proceeding in Postal Rates and Fees, 1973, Docket No. R74–1, will reconvene at 2 p.m., on January 25, 1974 at the same place.

JOSEPH A. FISHER,
Secretary.

[FR Doc.74–1444 Filed 1–16–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

BBI, INC.

Suspension of Trading

JANUARY 8, 1974.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington 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;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from January 9, 1974 through January 18, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–1386 Filed 1–16–74;8:45 am]

[811–1212]

FIRST SECURITY GROWTH FUND, INC.

Proposal To Terminate Registration

JANUARY 9, 1974.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order upon its own motion that First Security Growth Fund, Inc., ("Fund"), 100 Continental Building, Omaha, Nebraska 68102, registered under the Act as an open-end, diversified management investment company, has ceased to be an investment company as defined in the Act.

Fund was organized as a Delaware corporation on December 17, 1962, and filed a Notification of Registration on Form N–8A and a Registration Statement under the Act on Form N–8B–1 on April 8, 1963.

On December 8, 1972, pursuant to an Agreement and Plan of Reorganization, dated as of October 25, 1972, Fund trans-

ferred all of its assets to Mutual of Omaha Growth Fund, Inc. ("Mutual") in exchange for shares of Mutual which have since been distributed to Fund's shareholders. Fund presently has no assets and no stockholders and has been dissolved in accordance with the laws of the State of Delaware.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given, that any interested person may, not later than February 4, 1974, 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 applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the rules and regulations, promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing 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.74–1383 Filed 1–16–74;8:45 am]

[File No. 500–1]

BOTAR CORP.

Suspension of Trading

JANUARY 8, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Botar Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 1:15 p.m., e.d.t., January 8, 1973 through January 17, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–1388 Filed 1–16–74;8:45 am]

[File Nos. 2–12287—22–1814, 2–32499—22–5481]

FRUEHAUF CORP.

Notice of Application and Opportunity for Hearing

JANUARY 10, 1974.

Notice is hereby given that Fruehauf Corporation ("Fruehauf") has filed an application pursuant to section 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeships of National Bank of Detroit (the "Bank") under an Indenture dated as of April 15, 1969 (the "1969 Indenture") and an Indenture dated as of March 1, 1956 (the "1956 Indenture") under which Fruehauf proposes to appoint the Bank as successor trustee, both of which said Indentures were qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under wither of said Indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such Section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such section provides that with certain exceptions a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under both indentures.

Fruehauf alleges that:

1. As of October 31, 1973 it had outstanding $60,000,000 principal amount of its 5½ percent Convertible Subordinated Debentures due April 15, 1994 under the 1969 Indenture. The Bank is presently acting as trustee under this Indenture.

2. As of October 31, 1973 it had outstanding $1,372,000 principal amount of 4 percent Convertible Subordinated Debentures due March 1, 1976 under the 1956 Indenture. Manufacturers National Bank of Detroit is presently acting as successor trustee under this Indenture but has resigned as such because it has a conflicting interest under section 310(b)(4) of the Act in that said Bank and Fruehauf now have more than two common directors on their boards of directors.

3. Manufacturers National Bank of Detroit has notified Fruehauf of its resignation as trustee under the 1956 Indenture and has notified the indenture security holders that it had not resigned within 90 days after ascertaining the conflicting interest. To the knowledge of Fruehauf no security holder under the 1956 Indenture has petitioned any court for the removal of Manufacturers National Bank of Detroit as successor trustee or the appointment of a successor trustee to said bank.

4. Fruehauf now proposes to appoint National Bank of Detroit as successor trustee under the 1956 Indenture.

5. That for the following reasons the trusteeships of National Bank of Detroit under the 1969 Indenture and the 1956 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify said bank from acting as trustee under either Indenture:

a. Both the 1969 Indenture and the 1956 Indenture are wholly unsecured and Fruehauf is not indefault under either of such Indentures.

b. The 5½ percent Debentures and the 4 percent Debentures rank equally in right of payment.

c. Except for variations in amounts, dates, interest rates, conversion and redemption prices, the two Indentures contain substantially the same provisions. Any difference in their provisions is unlikely to cause a conflict of interest in the trusteeship of National Bank of Detroit under said Indentures.

6. Fruehauf hereby waives notice of hearing and wives hearing in connection with this application and also waives any and all rights to specify procedures under the Rules of Practice of the Commission with respect to this application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said Application, which is a public document on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than January 24, 1974 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–1389 Filed 1–16–74;8:45 am]

[811-1254]

MARKET GROWTH FUND, INC.

Proposal To Terminate Registration

JANUARY 9, 1974.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order upon its own motion that Market Growth Fund, Inc., ("Fund") registered under the Act as an open-end, non-diversified management investment company, has ceased to be an investment company as defined in the Act.

Fund, formerly named Capital Growth Fund, Inc., was organized as a Maryland corporation on April 8, 1964, and filed a Notification of Registration on Form N-8A on April 9, 1964, and a Registration Statement under the Act on Form N-8B-1 on July 7, 1964.

On July 5, 1973, pursuant to an Agreement and Plan of Reorganization dated as of February 1, 1973, Fund transferred substantially all of its assets to Pennsylvania Mutual Fund, Inc. ("PMF"), a Delaware corporation and a registered investment company, in exchange for 118,626.923 shares of PMF Capital Stock. Subsequently, the Fund's remaining 112,572.615 shares of PMF Capital Stock were distributed to the Fund's stockholders of record as of October 26, 1973. The Fund presently has no assets, no liabilities and no stockholders.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given, that any interested person may, not later than February 4, 1974, 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 applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing 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.74-1385 Filed 1-16-74;8:45 am]

[70-5441]

OHIO EDISON CO.

Proposed Issue and Sale of Preferred Stock and Issue of Bonds for Sinking Fund Purposes

JANUARY 10, 1974.

Notice is hereby given that Ohio Edison Company ("Ohio Edison"), 47 North Main Street, Akron, Ohio 44308, a registered holding company and a public-utility company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Ohio Edison proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 450,000 shares of its __ percent Preferred Stock, $100 par value. The dividend rate of the preferred stock (which will be a multiple of 0.04 percent) and the price, exclusive of accrued dividends, to be paid to Ohio Edison (which will not be less than $100 nor more than $102.75 per share) will be determined by the competitive bidding. The terms will include a prohibition until February 1, 1979, against refunding the issue, directly or indirectly, with the proceeds of funds derived from the issuance of debt securities at a lower effective interest cost or of other preferred stock at a lower effective dividend cost.

The proceeds from the sale of the preferred stock will be used for the acquisition of property, the construction, completion, extension, renewal, or improvement of Ohio Edison's facilities, or for the improvement of its service, or for the repayment of unsecured short-term debt, estimated to be outstanding at the time of issue in the amount of $5,000,000, incurred for, or for the reimbursement of its treasury for expenditures made for, such purposes.

Ohio Edison also proposes, on or about May 1 and November 1, 1974, to issue $9,106,000 principal amount of its First Mortgage bonds 3¼ percent Series of 1955 due 1985, under the provisions of its Indenture dated as of August 1, 1930, to Bankers Trust Company, Trustee, as amended and supplemented. The sinking fund bonds are to be of the series provided for by the Twelfth Supplemental Indenture dated as of May 1, 1955, and will be surrendered to the Trustee in accordance with the sinking fund provisions. The bonds are to be identical with those authorized by the Commission on September 7, 1973 (Holding Company Act Release No. 18086), and are to be issued on the basis of unfunded property additions. Ohio Edison estimates that, after giving effect to the issuance of sinking fund bonds, unfunded net property additions will amount to approximately $192,000,000 as of October 31, 1973.

It is stated that the issue and use of the sinking fund bonds and the issue and sale of the preferred stock are subject to the jurisdiction of The Public Utilities Commission of Ohio and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be paid in connection with the sinking fund bonds are estimated at $1,600, including counsel fees of $500. The fees and expenses to be paid in connection with the issuance and sale of the preferred stock will be filed by amendment.

Notice is further given that any interested person may, not later than January 31, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should 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 the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-1390 Filed 1-16-74;8:45 am]

[File No. 500-1]

PATTERSON CORP.

Suspension of Trading

JANUARY 9, 1974.

It appearing to the Securities and Exchange Commission that the summary

suspension of trading in the common stock of Patterson Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from January 10, 1974 through January 19, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-1393 Filed 1-16-74;8:45 am]

[811-1858]

PEOPLES EQUITY CORP.

Proposal To Terminate Registration

JANUARY 9, 1974.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order upon its own motion that Peoples Equity Corp. ("Peoples"), c/o Richard J. Wegener, 3535 Harney Street, Omaha, Nebraska 68131, registered under the Act as a closed-end investment company and an applicant for a license under the Small Business Investment Act of 1958, has ceased to be an investment company as defined in the Act.

Peoples was organized under the Nebraska Business Corporation Act on April 8, 1969. It filed its notification of registration on Form N-8A under the Act on April 28, 1969, and it filed the combined registration Form N-5 under the Act and the Securities Act of 1933 on April 16, 1969.

Information in the Commission's files shows, among other things, that Peoples never made a public offering of its securities because it was unable to comply with the initial net worth requirements of section 14(a) of the Act; that it never had any assets; and that it was dissolved as of August 3, 1970.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested persons may, not later than February 4, 1974, 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 Peoples at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing 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.74-1384 Filed 1-16-74;8:45 am]

[File No. 500-1]

PHILIPSBORN, INC.

Suspension of Trading

JANUARY 9, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Philipsborn, Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 12:30 p.m., e.d.t., January 9, 1974 through midnight (e.d.t.) January 18, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-1391 Filed 1-16-74;8:45 am]

[File No. 500-1]

U.S. FINANCIAL INC.

Suspension of Trading

JANUARY 8, 1974.

The common stock 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;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from January 9, 1974 through January 18, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc. 74-1387 Filed 1-16-74;8:45 am]

[File No. 500-1]

WESTGATE CALIFORNIA CORP.

Suspension of Trading

JANUARY 9, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock (class A and B), the cumulative preferred stock (5 percent and 6 percent), the 6 percent subordinated debentures due 1979 and the 6½% convertible subordinated debentures due 1987 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from January 10, 1974 through January 19, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc. 74-1392 Filed 1-16-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5289]

COALITION SMALL BUSINESS INVESTMENT COMPANY CORP.

Notice of Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Coalition Small Business Investment Company Corp. (CSBICC), 800 Second Avenue, New York, New York 10017, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to § 107.1004 (38 FR 30845, November 7, 1973) for approval of a conflict of interest transaction.

CSBICC was licensed by the Small Business Administration (SBA) on November 15, 1971. Coalition Venture Corporation owns 100 percent of the licensee's voting stock.

On July 12, 1973, the licensee's board of directors approved an equity investment of $50,000 in F. W. Eversley & Co., Inc. Mr. Frederick W. Eversley is the principal owner of F. W. Eversley & Co., Inc. Mr. Eversley is also a director of CSBICC and Coalition Venture Corporation.

The transaction fell within the purview of § 107.1004 by reason of the fact that Mr. Eversley is an associate of the licensee through his directorship.

Notice is hereby given that any interested person may submit to SBA written comments, no later than 15 days from the date of publication of this notice, on this financing. Any such communication should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

Absent any adverse comments and upon full consideration of all pertinent facts, SBA intends to approve the financing *nunc pro tunc*.

A copy of this notice shall be published by the licensee in a newspaper of general circulation in New York, New York.

Dated: January 7, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc. 74-1381 Filed 1-16-74;8:45 am]

[Notice of Disaster Loan Area 1026; Amdt. 1]

OKLAHOMA

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Oklahoma as a major disaster area following severe storms and flooding, beginning about November 19, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following additional counties: Adair, Cherokee, Garvin, Haskell, Latimer, Le Flore, Love, Murray, Pittsburg, and Seminole.
(See 38 FR 34843)

Applications may be filed at the:

Small Business Administration
District Office
30 North Hudson
Oklahoma City, Oklahoma 73102

and at such temporary offices as are established. Such addressees will be announced locally. Applications will be processed under the provisions of Public Law 93-24.

Applications for disaster loans under this announcement must be filed not later than February 26, 1974.

Dated December 21, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc. 74-1380 Filed 1-16-74;8:45 am]

TARIFF COMMISSION

[AA1921-133]

METAL PUNCHING MACHINES, SINGLE-END TYPE, MANUALLY OPERATED, FROM JAPAN

Determination of No Injury or Likelihood Thereof

JANUARY 10, 1974.

On October 10, 1973, the Tariff Commission received advice from the Treasury Department that metal punching machines, single-end type, manually operated, from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended.[1] In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation No. AA1921-133 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the investigation and hearing was published in the FEDERAL REGISTER of October 25, 1973 (38 FR 29541). The public hearing was scheduled for November 19, 1973, but no interested parties appeared.

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission[2] has unanimously determined that an industry in the United States is not being or is not likely to be injured, or is not prevented from being established, by reason of the importation of metal punching machines, single-end type, manually operated, from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS

The Antidumping Act, 1921, as amended, requires that the Tariff Commission find two conditions satisfied before an affirmative determination can be made. If either condition is not satisfied, an affirmative determination cannot be made.

First, an industry in the United States must be injured, or likely to be injured, or prevented from being established.[3] Second, such injury or likelihood of injury must be by reason of the importation into the United States of the class or kind of foreign merchandise which the Secretary of the Treasury has determined is being, or is likely to be, sold at less than fair value (LTFV).

In the Commission's judgment, there is little evidence to suggest that the first condition is satisfied and no evidence that the second condition is satisfied in the instant case. Accordingly, for the reasons set forth below, we have determined that an industry in the United States is not being nor is it likely to be injured by reason of the importation of single-end type, manually operated, metal punching machines from Japan sold, or likely to be sold, at LTFV within the meaning of the Antidumping Act, 1921, as amended.

The product. Manually operated metal punching machines are used to punch round or shaped holes in metal workpieces, accurately duplicating the size and shape of the hole from one workpiece to another. Manually operated machines (nonnumerically controlled machines) are either single-end or turret type units. The single-end type has only one tool station, which means it can produce only one size hole in a workpiece without the punch and die being manually changed. The turret type has multiple tool stations located on a turret that can be revolved to punches of various sizes. This type of machine can be used to punch any size hole for which appropriate tooling is contained in the turret.

All of the manually operated, metal punching machines found to have been sold at LTFV were single-end type machines. The Commission finds, however, that both single-end and turret type machines share the same marketplace. Both are used by the same class of customers—predominantly firms which do not have large production runs of the same part. Furthermore, the capacities anl many of the design and operating characteristics of the two types of machines are similar.

The industry. Manually operated metal punching machines imported from Japan and found by the Treasury Department to have been sold or likely to be sold at LTFV do not differ materially from those produced domestically. Therefore, if any domestic industry is injured or likely to be injured by reason of the LTFV imports, it consists of those facilities in the United States devoted to the production of manually operated metal punching machines (single-end or turret type). Nine firms produced such machines in the United States in 1972, the year in which Treasury found imports of these machines from Japan were sold at LTFV.

Lack of price depression or suppression. A review of Commission determinations under the Antidumping Act reveal that the Commission has often closely examined the marketplace in which the LTFV merchandise was sold to determine what effect, if any, such sales have had, or could be expected to have, on domestic price levels. Two injurious price effects have frequently been cited: Price depression, one form of injury, typically results when the underselling of the imported product—where such underselling is at least partially sustained by the dumping margin—forces domestic producers to lower their prices in order to protect their market share. Price suppression, usually cited together with price depression, refers generally to the situation in which the unfair price of the LTFV article prevents domestic producers from increasing their prices

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[1] Notice of the Treasury Department's determination of sales at less than fair value, and the reasons therefor, was published in the FEDERAL REGISTER of October 12, 1973 (38 FR 28307).

[2] Vice Chairman Parker and Commissioner Young did not participate in the decision.

[3] Prevention of the establishment of an industry is not an issue in the instant case and will not be discussed further.

in accordance with rising costs, or in accordance with other factors which would probably justify higher prices. Neither of these injurious price effects, however, is visible here. In this case, the price of the domestically produced metal punching machine, which was most comparable with that of the machine found to be sold at LTFV, increased, as had that of the imported product. In 1973, for example, the f.o.b. price of the domestic machine was 26 percent higher than it was in 1971, while that of the imported machine increased by 47 percent in the same period. Moreover, except for one month in early 1973 when a new domestic model was introduced, the domestically produced machine has consistently underpriced the LTFV import. Currently, the domestic machine is priced some $2,000 below the imported LTFV model. There is clearly no evidence of price depression or even price suppression as these terms have been applied by the Commission.

Market penetration or lost sales. Market penetration, the supplying of part of domestic consumption by imports, may be considered injurious when sales which could have been made by the domestic producers are instead made by the importers of the LTFV merchandise. Since no metal punching machines of the manually operated single-end type were imported before 1970, any importation would result in some market penetration. The small penetration that has occurred since 1970 and the lost sales which might be associated with it could be regarded as injurious; however, the domestic sales were lost not "by reason of" (i.e., the second requirement of the statute) the LTFV nature of the imports, but rather because of the superior delivery schedules offered by the importer.

Purchasers of metal punching machines questioned by the Commission generally indicated that the delivery time for the Japanese machine was shorter than that for the most comparable domestic machine. This unusual situation (generally, in international trade, delivery time is to the advantage of the domestic producers) weighed heavily in the purchasers' decision to acquire the Japanese machine.

After April 1972, the most comparable domestically produced machine in almost every instance could be delivered for less than the price of the imported machine, even after assuming all known discounts and freight advantages which were accorded the purchaser of the imported machine. Lost sales under these circumstances resulted from nonprice factors such as immediacy of delivery and machine familiarity, and hence could not have been influenced by the LTFV price differential.

Lack of market disruption. Market disruption, as cited by the Commission in conjunction with its determinations under the Antidumping Act, is a wide-embracing term applied to circumstances of extreme market behavior. Such behavior could consist of abnormal price declines, market uncertainty including the departure of firms from the marketplace, and unusually rapid market penetration. The facts that no price declines occurred and that whatever market penetration did occur was not achieved "by reason of" the LTFV sales have already been noted. It is further observed that no frenzied buying of LTFV punching machines had taken place nor is there any evidence of a foreboding sense of market uncertainty. Indeed, the reverse is true; the market for metal punching machines has remained orderly and stable despite the LTFV imports.

Employment and profitability. From data supplied by domestic producers who responded to the Commission's questionnaire, the Commission found that since 1971, when the imports of metal punching machines of the types later found to be sold at LTFV first began, both the number of employees and the number of man-hours worked in the U.S. industry have increased significantly. Net operating profits derived from the domestic production of manually operated metal punching machines were nearly five times higher in 1972, the year when metal punching machines from Japan achieved their peak market penetration, than they were in 1970, when such imports from Japan were nil.

No likelihood of injury. In determining no likelihood of injury to a domestic industry by reason of LTFV sales of Japanese manually operated metal punching machines, the Commission took into consideration the strong demand for these machines in Japan which will limit the availability of such machines for export to the United States, the present price differential between the imported machine and its domestic counterpart, and the high level of employment and profits which was experienced by the domestic industry during the first 9 months of 1973.

Conclusion. In view of the absence of LTFV-nurtured price depression, price suppression, or lost sales, and in light of the increasing employment opportunities and profitability reported by the domestic producers, we conclude that an industry in the United States is not being injured nor is likely to be injured by reason of the importation of metal punching machines, single-end type, manually operated, from Japan and sold in the United States at less than fair value.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.74-1447 Filed 1-16-74;8:45 am]

[AA1921-134, -135]

PRIMARY LEAD METAL FROM AUSTRALIA AND CANADA

Determinations of Injury

JANUARY 10, 1974.

The Treasury Department advised the Tariff Commission on October 10, 1973, that primary lead metal from Canada and on October 11, 1973 that primary lead metal from Australia, is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160 (a)), the Tariff Commission instituted investigations Nos. AA1921-134 and -135 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigations was published in the FEDERAL REGISTER of October 25, 1973 (38 FR 29541). With its announcement of the investigations, the Tariff Commission scheduled public hearings in connection therewith to be held November 27, 1973. The hearings were later rescheduled to begin December 4, 1973. Notice of the rescheduling of the hearings was published in the FEDERAL REGISTER of November 2, 1973 (38 FR 30308).

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigations, the Commission [1] has determined, by a vote of 2 to 2,[2] that an industry in the United States is being, or is likely to be, injured by reason of the importation of primary lead metal from Australia and Canada that is being sold at less than fair value (LTFV) within the meaning of the Antidumping Act of 1921, as amended.

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION OF CHAIRMAN BEDELL

I have made an affirmative determination that an industry in the United States is likely to be injured by reason of the LTFV imports of primary lead from Australia and Canada. I consider the relevant U.S. industry to consist of the facilities in the United States devoted to the production of primary lead, i.e., the mines and mills that produce lead bearing ores or concentrates, and the smelters and refineries that produce primary refined lead metal.

The Antidumping Act requires the Tariff Commission to make an affirma-

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[1] Vice Chairman Parker and Commissioner Young did not participate in the decision.

[2] Chairman Bedell and Commissioner Moore determined in the affirmative (Chairman Bedell determined that an industry is likely to be injured and Commissioner Moore determined that an industry is being or is likely to be injured); Commissioners Leonard and Ablondi determined in the negative. Commissioners Leonard and Ablondi made separate determinations in each investigation and each determination is in the negative. Pursuant to section 201(a) of the Antidumping Act of 1921, as amended, the Commission is deemed to have made an affirmative determination when the Commissioners voting are equally divided as to whether its determination should be in the affirmative or in the negative.

tive determination when it finds that "an industry in the United States is being or is likely to be injured, or is prevented from being established," by reason of the LTFV imports. The prevention of establishment of a domestic industry is not in issue.

It is my judgment that the evidence in this case does not support a determination that a domestic industry is presently being injured. Indeed, the U.S. industry is generally healthy, and the effect of LTFV sales of Australian and Canadian primary lead metal, whether considered separately for each country, or together, is probably no more than de minimis at this time. However, the economic factors involved clearly point to likelihood of injury in the immediate future. In this connection, it is my view that the LTFV imports from Australia and Canada should be viewed in terms of their cumulative impact owing to the similarity of the conditions with respect to these imports in the United States market. In addition, the margins of dumping are substantial and contribute significantly to the effectuation of sales.

Several developments have restricted, or will restrict, the level of domestic requirements for primary lead metal. Because of environmental regulations, the amount of lead in antiknock additives per unit of gasoline has been reduced and a further reduction of 70 percent will be carried out in the period 1975–79. Toxic effects attributed to lead have either reduced or eliminated the use of lead in several applications. Battery redesign and rising consumer preference for cars of smaller size have reduced the average quantity of lead consumed per battery. The energy squeeze doubtless will continue to have a depressing effect because of the reduced production of motor fuels using lead.

At the same time, other factors indicate a potential for increased entries of primary lead from both Australia and Canada. There are presently large proven and potential reserves of low-cost lead ores in both Australia and Canada, sufficient to support increased levels of production. Anticipated increased production of zinc in those two countries will also bring forth added quantities of lead, as a co-product, thus increasing the pressure to find markets. Both countries will continue to have limited home markets for lead—recently exports took more than 70 percent of their primary lead metal production—and they must therefore continue their heavy reliance on export markets.

Moreover, I expect more and more of the primary lead metal production of Australia and Canada to be diverted to the U.S. market from the United Kingdom market, as United Kingdom entries of such lead become subject to the European Economic Community external duty.

From the foregoing, I anticipate increased penetration of the U.S. market by LTFV imports from Australia and Canada. Stemming from such increased penetration, the U.S. industry will continue to be subjected to suppression or depression of prices, loss of sales, increased levels of inventories, and a reduction in capacity utilization. Taking an even longer view, I see further damages in the form of a retardation of the exploration and development of ore reserves, which are vital to a continued healthy development of the U.S. primary lead industry.

I therefore conclude that an industry in the United States is likely to be injured by reason of the importation of primary lead from Australia and Canada which Treasury has determined is being sold at less than fair value.

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION OF COMMISSIONER MOORE

In my opinion, an industry in the United States is being or is likely to be injured by reason of the importation of primary lead from Australia and Canada that is being, or is likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended. In making this determination, I have considered the industry to consist of the domestic facilities of U.S. producers devoted to the mining and milling of lead-bearing ores and concentrates and to the smelting and refining of primary lead. Currently, lead ore is mined in the United States by many independent mining concerns and three integrated producers of primary lead, and primary lead is smelted and refined by four firms, including the three integrated producers.

Combined impact of LTFV imports. As a result of its investigation, the Treasury Department determined that imports of primary lead from both Australia and Canada are being, or are likely to be, sold at LTFV. Since LTFV imports from two countries are involved, an issue has arisen whether the Commission in weighing the extent of injury caused by the LTFV imports should consider the impact of LTFV imports from each country separately or consider the impact of the combined LTFV imports from both countries.

This issue is not before the Commission for the first time. On several past occasions, the Treasury Department has forwarded to the Commission either simultaneous or successive determinations of LTFV sales of the same articles from several countries. In those cases where the issue has arisen, I have held that it was the combined effect of all LTFV imports on the U.S. industry which must be considered. In the first such case in which I participated as a Tariff Commissioner, I concurred in the following view [1]—

> • • • an industry can be as much injured by small amounts of LTFV imports from many different sources as it can be by the same total amount from one source. Accordingly, for purposes of making the injury determination [under the Antidumping Act, 1921], the source of the imports is not important. It is their combined effect on the domestic industry which controls.

Consistent with my views in similar cases, the facts involved here support the view that the combined effect of contemporaneous LTFV imports from multiple foreign sources should be examined. Primary lead is a fungible product; its customers draw no distinction as to the origin of the product they use. Primary lead from Australia and primary lead from Canada are not different with respect to their effect in the domestic marketplace. Thus, the combined effect of all LTFV sales of primary lead should be considered.

LTFV sales. The LTFV sales of primary lead in the U.S. market by suppliers from both Australia and Canada have been pervasive, and the degree of price discrimination involved in the sales has been marked. During the period of the Treasury Department's investigation, which covered parts of 1972–73 for both Australia and Canada, all of the sales of primary lead in the United States by both Australia and Canada were made at less than fair value. The average dumping margin was substantial for each of the suppliers in both countries.

Injury by LTFV sales. In order to determine whether there is injury to an industry in the United States by reason of LTFV sales, the Commission must evaluate the extent to which such imports have penetrated the U.S. market, have taken sales from domestic producers, and have adversely affected domestic prices. An assessment of these factors in this case shows that the LTFV sales of Australian and Canadian primary lead are injuring a domestic industry within the meaning of the Antidumping Act.

As indicated above, the Treasury investigated sales of Australian and Canadian primary lead to the United States during part of 1972 and the early months of 1973, and concluded that all such sales at that time were at less than fair value.

In 1972 LTFV imports of primary lead from the two countries represented nearly 12 percent of U.S. consumption of that product—a market penetration more than large enough to have a detrimental impact on price and market conditions in the United States. Imports of primary lead from both countries remained substantial in 1973, even though two of the three supplying companies (including the sole supplier of Australian lead) suspended shipments late in the year, while the third supplying company (the principal Canadian supplier) substantially increased its price to U.S. consumers.

The bulk of the sales of primary lead in the United States are made on the basis of long-term contracts. Under these contracts, however, the price of individual shipments fluctuates.

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[1] *Potassium Chloride (Muriate of Potash)* from Canada, France, and West Germany, • • • Investigations Nos. AA1921–58, –59, and –60 • • •, TC Publication 303, November, 1969, pp. 24–26. See also Pig Iron from Canada, Finland, and West Germany, • • • Investigations Nos. AA1921–72, –73, and –74 • • •, TC Publication 398, June 1971, p. 3; and Clear Sheet Glass from Taiwan, • • • Investigation No. AA1921–76 • • •, TC Publication 407, July 1971, p. 4.

The prices of primary lead on the U.S. market have not been marked by wide differences among suppliers, domestic or foreign. Rather, the range of delivered prices at which major buyers have purchased primary lead at any given time has usually been narrow, reflecting the limited number of buyers and sellers, the fungible nature of the product, and the importance of long-term contracts to both buyers and sellers. Nevertheless, imports of Australian and Canadian primary lead sold at LTFV have clearly suppressed prices in the U.S. market. The delivered prices of Australian and Canadian lead to major customers in many instances have been lower than the prices of domestically produced lead. Sales of Australian and Canadian lead at such prices would not have been possible without LTFV margins. Such LTFV margins were consistently much greater than the differences between the selling prices of the LTFV imports and the domestic product. Moreover, the material market penetration achieved by the LTFV goods has exerted downward pressure generally on market prices. This high degree of penetration of LTFV imports, especially under conditions of oversupply, has resulted in price deterioration. These circumstances are evident in the U.S. market for primary lead in 1972, when sales of primary lead at LTFV were large, inventories of lead held by domestic producers rose evidencing lost sales by U.S. producers, and market prices inevitably weakened.

Conclusion. On the basis of the foregoing, I have made an affirmative determination, namely, that an industry in the United States is being or is likely to be injured by reason of the importation of primary lead at LTFV from Australia and Canada.

STATEMENT OF REASONS FOR NEGATIVE DETERMINATIONS OF COMMISSIONER LEONARD

On October 10 and 11, the Commission received from the Department of the Treasury advice of Treasury's determinations that primary lead metal from Australia and from Canada, respectively, is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. The Commission, on October 18, instituted two investigations to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. This is my statement of reasons in support of my separate determinations in the investigation with respect to primary lead metal from Australia and in the investigation with respect to primary lead metal from Canada that an industry in the United States is not being nor is likely to be injured, nor is prevented from being established, by reason of the importation of such merchandise into the United States.

Before the Commission can make an affirmative determination under the Antidumping Act, 1921, as amended, it must find each of two conditions satisfied. First, there must be injury, or likelihood of injury, to an industry in the United States, or an industry in the United States must be prevented from being established. Second, such injury (or likelihood of injury or prevention of establishment of an industry) must be "by reason of" the importation into the United States of the class or kind of foreign merchandise the Secretary of the Treasury determined is being, or is likely to be, sold at less than fair value (LTFV).[4]

Cumulative impact of imports. Before proceeding further, let me say that on the issue of "cumulating the impact of imports" from Australia and Canada, I agree generally with the views expressed in this report by Commissioner Ablondi. While it is difficult[5] to envision a case in which I would cumulate the impact of imports from more than one country if Treasury were to make separate country determinations of sales at less than fair value, nevertheless the facts in the instant investigations, as Commissioner Ablondi notes, dictate against cumulation here. Therefore, I am constrained to consider the impact of the LTFV imports from Australia on a domestic industry separate and distinct from the impact of the LTFV imports from Canada on a domestic industry.

My determinations in the instant investigations are each in the negative because whether or not the first condition set out above, that of injury, is present, the second condition, that of causation, is not present—any injury there is or there is likely to be is not by reason of the importation of LTFV merchandise.[6]

Domestic industries considered. There are two domestic industries most directly affected by the LTFV imports. They are: One, those facilities for the mining and milling of lead-bearing ores and concentrates; and, two, those facilities for the smelting and refining of primary lead metal.

The domestic mining and milling industry includes a very large number of independent mining companies, of which the vast majority have relatively small-scale operations, and a comparatively small number of large-scale operations that are parts of integrated companies.

The domestic smelting and refining industry currently consists of four companies: The complainant, The Bunker Hill Company, an integrated producer that also engages in custom-refining (i.e., refining purchased ores) and in toll refining (i.e., refining a customer's material for a fee); two other integrated producers, one of which is substantially engaged in toll refining; and one producer that operates as a custom smelter-refinery (with minor exceptions).

With respect to whether there is injury in the instant cases, it will be well to describe the positive and the negative developments in the domestic industries. If any injury can be established, then what caused the injury must be determined.

Positive developments in the domestic industries—Expansion of mine output. The annual output of U.S. mines increased steadily over the period 1968–72 from 360,000 short tons of recoverable lead content in 1968 to 619,000 short tons in 1972, an increase of 250,000 short tons, or 72 percent. Annual output of mines in the State of Missouri increased steadily at an even faster rate than that of the nation as a whole, expanding from 213,000 short tons recoverable lead content in 1968 to 489,000 short tons in 1972, an increase of 276,000 short tons or 130 percent. Missouri's gain in the share of total mine output, realized at the expense of each of the other producing States, is directly related to the development of large reserves of low-cost, high-grade ore in the "New Lead Belt."

Increase of primary refined lead production by smelter-refineries. Annual production of primary lead by the smelting and refining industry increased almost without interruption in the period 1968–72 from a level of 491,000 short tons in 1968 to 714,000 short tons in 1972, or at an annual average rate of 10 percent. The level of output was 6 percent greater in 1972 than in 1971 and, for the first 9 months of 1973, was 4 percent higher on an annual basis than in the corresponding period of 1972.

Rise in utilization of smelting and refining capacity. The increase in production during 1968–72 outlined above compared with a 3-percent increase in installed refining capacity during that period and reflects an increasing rate of utilization of capacity, from 64 percent in 1968 to 83 percent in 1971 and to 91 percent in 1972. During the first 9 months of 1973, the rate of capacity utilization stood at an even higher level than that for the like period in 1972.

Negative developments in the domestic industries—Depression of prices. American Smelting and Refining Co., primarily a custom smelter and refiner, initiated one-half cent reductions in its quoted price for lead in August 1972 and October 1972 which effectively lowered the *Metals Week* monthly average price from 15.50 cents per pound in July 1972 to 15.00 cents per pound in September 1972 and 14.50 cents per pound in November and December 1972. Subsequently, the monthly average price advanced steadily

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[4] Prevention of the establishment of an industry is not an issue in this investigation and is not treated further.

[5] It is difficult because consideration should be given to the terms of reference set forth in the Treasury determination which will usually include a country designation in the the description of "a class or kind of foreign merchandise" and to providing fair and equal treatment to importers whether the determinations of their sales at less than fair value come to the Commission contemporaneously or widely separated in point of time.

[6] Treasury's investigation of LTFV sales was based on the period of Mar. 30, 1972, to Feb. 19, 1973, with respect to the Australian merchandise and the period of Oct. 1, 1972, to Mar. 31, 1973, with respect to the Canadian merchandise.

to the ceiling price set by the Cost of Living Council of 16.50 cents per pound in May 1973, where it remained until price controls were eliminated in early December 1973 and quoted prices rose above the previous ceiling level.

Increase in inventories of refined lead. Inventories of primary lead metal held by the primary smelting and refining industry declined during the first half of 1972, then rose during the second half, reaching a level some 15,000 short tons higher at yearend 1972 compared with yearend 1971. During the first 9 months of 1973, inventories again declined.

Closure of producing facilities. The closure of several lead-producing establishments occurred during 1970–72. During 1971–72, four of the six lead mines in Utah allegedly were closed. In 1971, the custom lead concentrator at Midvale, Utah, and the custom lead smelter at Tooele, Utah, were closed. A custom lead refinery at Selby, Calif., was closed in 1970, and another lead refinery at East Chicago, Ind., was closed at the end of 1971. It was later converted to a secondary metal refinery.

LTFV sales not an identifiable cause[7] *of negative developments.* The price reductions that were effected in 1972 have been attributed by the complainant to the LTFV imports from Australia, which occurred during the last 10 months of 1972, and to the LTFV imports from Canada, which occurred during the last 3 months of 1972. LTFV imports continued for the first 2 months of 1973 from Australia and, for the first 3 months, from Canada. Primary lead metal is a homogenous product and is sold mainly on the basis of price. For LTFV imports to depress or suppress U.S. prices, such imports should sell at prices below prices of other suppliers. Since Australia was never the lowest-price supplier during the period of the Treasury investigation and Canada only infrequently was, sales from either of these countries at LTFV are not an identifiable cause of price depression or suppression. Unlike the LTFV imports, certain other factors can be related to the price reductions of the domestic industry. These factors, which also affected the rise in inventories, are discussed below.

The rise in inventories in the latter half of 1972 has also been adduced by the complainant as evidence of injury from sales lost to imports sold at LTFV from Australia or from Canada. However, the General Services Administration released 50,000 short tons of lead to U.S. producers and consumers, mostly in the latter half of 1972; this quantity was 40,000 short tons greater than releases in 1971. Similarly, secondary refined soft lead production increased 20,000 short tons in 1972 compared with 1971, and such production competed directly with primary lead output in nearly all its uses. Imports of primary lead metal from countries other than Australia and Canada, none of which has been determined to have been sold at LTFV, increased 27,000 short tons in 1972.[8]

With so many other significant factors at play in the U.S. market during the period under investigation, identification can no more be made of the LTFV imports from Australia or from Canada as a cause of the inventory increase of the domestic industry than of the price reductions.

The closures of lead mining, milling, smelting, and refining establishments that occurred during 1970–72, too, have been attributed by the complainant to the sales at LTFV prices of the imports from Australia and from Canada. Each one of the closures, however, occurred before the first LTFV importations from Australia (with some possible exceptions regarding mine closures in 1972) and before the LTFV importations from Canada. It appears that all the closures were caused by a lack of ore reserves in the case of mines and, in the case of the other facilities, by a lack of nearby sources of ore supply, obsolescence of producing equipment, and inability to meet established environmental protection regulations.

In summary, with respect to neither the depression of prices, nor the rise in inventories, nor the closures of lead-producing facilities can LTFV imports be identified as a cause.

Likelihood of injury. Treasury determined that future importations of primary lead metal from Australia and from Canada are likely to be sold at LTFV prices. Any identifiable link of such sales to any possible injury that might in the future befall the U.S. industries considered here is not in evidence. This position derives from consideration of several important factors that will be at play in the U.S. market in the coming years, as presented below.

On the demand side, some of the more important uses of primary lead are being subjected to unusual stresses as a result of environmental considerations and the energy shortage, among other factors. All of these factors will continue to be operative in the near future, and perhaps for a long time to come. Any restrictions on, or losses of, uses of primary lead from these factors will adversely affect the U.S. primary lead industry.

On the supply side, any further expansion of the domestic lead industry is expected to be based on the large reserves of low-cost ores in other parts of the country. If and when it occurs, such expansion itself might become a significant factor in the U.S. market for primary lead, far beyond any significance attributable to future LTFV imports from Australia or from Canada.

Releases of stockpile lead by the General Services Administration have been a major factor in the U.S. market heretofore and are certain to continue in that role. It will be difficult for the domestic primary lead industry to meet domestic requirements, particularly if requirements expand—no plans to expand refining capacity have been announced—so that stockpile releases will have to take up some of the slack between domestic requirements and production.

With respect to prices, the recent elimination of the price ceiling on sales of domestic lead in the United States was immediately followed by a material rise in the domestic producers' price quotations for that commodity and by a narrowing of such producers' discounts and allowances, reflecting substantial pressure on the available supply. Also, continued pressure on the world supply of lead has resulted in a reversal of the traditional relationship between U.S. prices and world prices. It will be some time before the impact on the U.S. industry of these price changes can be assessed with any degree of confidence.

To summarize, a number of the demand and supply factors are expected to influence the U.S. market for lead during the next several years, so much so as to obscure any part that LTFV imports from Australia or from Canada may play. In addition, changing U.S. and world prices will make difficult any attempt to pinpoint causal relationships between such LTFV importations and developments in the U.S. market for some time to come.

Possible injury to Bunker Hill alone. Even if injury to an industry under the Antidumping Act is to be premised upon injury to individual members of that industry, negative determinations are called for in the instant investigations because any such injury is not by reason of the imports of LTFV merchandise. Here, Bunker Hill is the major complainant of injury by reason of LTFV imports from Australia and Canada.

The pertinent difference between Bunker Hill and the rest of the domestic lead industry appears to be Bunker Hill's higher level of production costs due in large measure to a lower grade of ore and use of obsolescent equipment. Bunker Hill has been operating at full capacity and has been selling all of its production, but its lead operation revenues and profits can be adversely affected by a price that does not cover its higher costs plus

[7] The test of "identifiable cause" was introduced and met in *Elemental Sulfur from Mexico * * * Investigation No. AA1921–92 * * *,* T.C. Publication 484, 1972, p. 9. The test was not met in a later determination, *Stainless Steel Wire Rods from France * * * Investigation No. AA1921–119 * * *,* T.C. Publication 596, 1973, p. 7, but was again satisfied in *Expanded Metal of Base Metal from Japan * * * Investigation No. AA1921–130 * * *,* T.C. Publication 629, 1973, p. 4.

[8] In contrast, imports from Australia increased not at all in 1972, while the penetration ratio of such imports in the refined lead market, primary and secondary, declined from 3.7 percent in 1971 to 3.5 percent in 1972. Imports from Canada increased by only 21,000 short tons for the entire year 1972, while the corresponding market penetration ratio increased moderately from 5.2 percent in 1971 to 6.9 percent in 1972. Market penetration may be used as an indicator of injury in these two cases only where there also has been a displacement of domestic sales "by reason of" sales of the imported product at LTFV prices. But here there is no evidence of displacement of domestic sales by imports at LTFV.

return a profit. As no causal link has been found to exist or is likely to be found to exist between LTFV imports from Australia and Canada and domestic price levels, injury or likelihood of injury to Bunker Hill through supressed or depressed prices cannot be attributed to such imports.

Conclusion. The failure to identify the LTFV imports from Australia and from Canada as a cause of any injury that the nations in each of the instant investigadustries may have incurred or may in the future incur requires negative determinations in each of the instant investigations.

STATEMENT OF COMMISSIONER ABLONDI

The primary issue in this proceeding is whether the impact of any injury caused by LTFV imports from Australia and from Canada should be considered on a cumulative basis. While the affirmative determinations of injury and likelihood of injury in the two investigations were based upon cumulating the impact of the imports from the two countries, I have determined, on the basis of the facts in this proceeding, that the impact of any injury caused by LTFV imports from Australia should be considered independently from the impact of any injury caused by LTFV imports from Canada.

The question of whether the Tariff Commission should weigh the impact on a domestic industry of LTFV imports of the same product from each of several countries individually or collectively under the Antidumping Act has been considered frequently.[9]

Discretion is given the Commission by the statute to examine the particular facts of each case in order to make a determination of whether cumulative injury should be considered. As former Chairman Metzger observed:

> Neither the statute, nor any court, nor the Commission has furnished a clear or general answer to the question whether LTFV imports from different countries, entering in the same period of time, must be cumulated or treated separately for the purpose of determining whether injury to an industry in the United States is "by reason of" such imports. Circumstances can be envisioned where on the one hand it would be appropriate to cumulate, and on the other hand, where it would be appropriate to treat separately, such imports.[10]

In *City Lumber Co.* v. *United States*,[11] the only court case to consider the issue of cumulative injury, the Court of Customs and Patent Appeals held that the Commission's cumulation of injury was not ultra vires, and did not result in the Commission's exceeding its statutory authority. However, this decision cannot be read so broadly as to require the Commission to cumulate the impact of LTFV imports in all cases. As the Court stated:

> * * * under the Antidumping Act, Congress delegated to the Commission a broad discretionary power to determine whether an industry is being, or is likely to be, injured by the sale of imports at less than fair value. The courts have a very limited power of review over the Commission's determinations. It is not the judicial function to review or to weigh the evidence before the Commission or to question the correctness of findings drawn therefrom.[12].

In the instant investigations, the weight of evidence presented and discovered precludes any finding of any action between the importers from Australia and those from Canada and/or between the exporters from the two countries to warrant cumulating the Australian and Canadian imports. Quite to the contrary, the imports competed with each other and with third country imports without predatory intent for sales in the United States. While the Canadian imports could be delivered in the U.S. market on a "spot" sale basis, because of the much greater distance involved, Australian primary lead sales require approximately a 4-month waiting period for delivery. Market penetration ratios for the two countries varied substantially—the ratio of imports from Australia has been approximately half of that for imports from Canada. Moreover, the penetration ratio of imports from Canada has increased while that from Australia has declined. The potential for growth of the primary lead industry in Canada is materially larger than that of the same industry in Australia. A shotgun approach to finding injury herein is not warranted.

Accordingly, I have determined, on the basis of all the facts, that an industry in the United States is not being and is not likely to be injured by reason of the importation of primary lead metal from Canada or Australia that is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.74-1446 Filed 1-16-74;8:45 am]

[TEA-W-221]

MILFORD SHOE, INC.

Investigation Regarding Workers Petition for Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the East Corinth, Maine, plant of Milford Shoe, Inc., Milford, Mass., a wholly-owned subsidiary of Morse Shoe, Inc., Canton, Mass., the United States Tariff Commission, on January 9, 1974, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for men and women (of the types provided for in items 700.35, 700.43, 700.45, and 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed on or before January 28, 1974.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: January 14, 1974.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-1418 Filed 1-16-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 425]

ASSIGNMENT OF HEARINGS

JANUARY 14, 1974.

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 January.

MC-FC-35454, Middle and Western Farms Cooperative Association, Lessee, and B. J. McAdams, Inc., Lessor, now assigned January 14, 1974, at Little Rock, Ark., is cancelled.

MC 107515 Sub-854, Refrigerated Transport Co., Inc., now assigned February 25, 1974, at Memphis, Tenn., is cancelled and reassigned February 25, 1974, at the Holiday Inn-Downtown, 1015 Elm Street, Dallas, Texas.

[9] See, for example, Portland Gray Cement from Portugal * * *. Investigation No. AA1921-22, TC Publication 37, 1961; Pig Iron From East Germany, Czechoslovakia, Romania, and the U.S.S.R. * * * Investigation Nos. AA1921-52, 53, 54, and 55 * * *, TC Publication 265, 1968; and Printed Vinyl Film from Brazil and Argentina * * * Investigations Nos. AA1921-117 and -118 * * * TC Publication 595, 1973.

[10] Pig Iron From East Germany, Czechoslovakia, Romania, and the U.S.S.R. * * * Investigation Nos. AA1921-52, 53, 54, and 55 * * *, TC Publication 265, 1968, p. 27, footnote 2.

[11] City Lumber Co. v. United States, 457 F.2d 991 (1972).

[12] Id. at 994.

MC 119619 Sub-65, Distributors Service Co., now assigned February 4, 1974, at Chicago, Ill., is cancelled and application dismissed.
MC 119619 Sub 47, Distributors Service Co., now assigned February 13, 1974, at Chicago, Ill., is cancelled and the application is dismissed.
MC 30513 Sub 14, North State Motor Lines, Inc., now assigned January 21, 1974, at Washington, D.C., is cancelled and the application is dismissed.
MC 20872 Sub 15, Lime City Trucking Company, Inc., now assigned February 4, 1974, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.
MC 107012 Sub 179, North American Van Lines, Inc., now assigned February 6, 1974, and MC 138144 Sub 2, Fred Olson Co., Inc., now assigned February 11, 1974, at Chicago, Ill., will be held in Room 1614, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.
MC 138871 Sub 1, Padelford Trucking Corp., now being assigned hearing March 4, 1974 (2 days), at Buffalo, N.Y., in a hearing room to be later designated.
MC 133318 Sub 6, Van De Hogen Cartage Limited, now being assigned hearing March 6, 1974 (3 days), at Buffalo, N.Y., in a hearing room to be later designated.
MC-F-11919, Morrison Motor Freight, Inc.—Purchase—All Industrial Cartage Company, and MC 59728 Sub 25, Morrison Motor Freight, Inc., now being assigned hearing March 11, 1974 (1 week), at Columbus, Ohio, in a hearing room to be later designated.
MC-82492 (Sub-No. 86), Michigan & Nebraska Transit Co., Inc., MC-106920 Sub 51, Riggs Food Express, Inc., MC-107515 Sub 870, Refrigerated Transport Co., Inc., MC-108449 Sub 359, Indianahead Truck Line, Inc., MC-113651 Sub 160, Indiana Refrigerator Lines, Inc., MC-113678 Sub 516, Curtis, Inc., MC-116763 Sub 256, Carl Subler Trucking, Inc., MC-117815 Sub 215, Pulley Freight Lines, Inc., MC-117883 Sub 179, Subler Transfer, Inc., MC-119767 Sub-303, Beaver Transport Co., MC-124111 Sub 44, Ohio Eastern Express, Inc., MC-129600 Sub 15, Polar Transport, Inc., MC-119632 Sub 59, Reed Lines, Inc., now assigned February 7, 1974, will be held in Room 705, 610 South Canal Street, Chicago, Ill.
MC-107129 Sub 9, E. K. Motor Service, Inc., now assigned February 5, 1974, will be held in Room 705, 610 South Canal Street, Chicago, Ill.
MC-35876, Louis Dreyfus Corp. and Jackson County Port Authority V. The Atchison, Topeka & Santa Fe Railway Co., Etc., now assigned February 13, 1974, will be held in Room 609 Federal Office Bldg., 911 Walnut Street, Kansas City, Mo.
MC-118535 Sub 58, Jim Tiona, Jr., now assigned February 11, 1974, will be held in Room 609, Federal Office Bldg., 911 Walnut St., Kansas City, Mo.
MC 138512 Sub-1, Roland's Transportation Service, Inc., DBA Wisconsin Provisions Express, now assigned February 19, 1974, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.
MC 61592 Sub 309, Jenkins Truck Line, Inc., and MC 138479, C & C Cartage, Inc., now assigned February 25, 1974, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.
MC 138987, Meier Trucking Company, now assigned February 25, 1974, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.
MC-F-11662, Denver-Midwest Motor Freight, Inc.—Purchase—Streator Transfer & Storage Co., and MC 127602 Sub-12, Denver-Midwest Motor Freight, Inc., now assigned February 27, 1974, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-1477 Filed 1-16-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 14, 1974.

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 40 of the general rules of practice (49 CFR 1100.40) and filed on or before February 1, 1974.

FSA No. 42793—*Joint Water-Rail Container Rates—Seatrain International, S.A.* Filed by Seatrain International, S.A. (No. WEE-5), for itself and interested rail carriers. Rates on general commodities, between rail carrier's terminal in Galveston, Texas, and ports in Europe.

Grounds for relief—Water competition.

Tariffs—Seatrain International, S.A., tariffs R.W. 1, WR-2, R.W.-3, WR-4, R.W.-5, and W.R.-6, I.C.C. Nos. 9, 10, 11, 12, 13, and 14, respectively. Rates are published to become effective on February 11, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-1474 Filed 1-16-74;8:45 am]

[Notice No. 5]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before February 6, 1974. 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-74592. By order entered January 9, 1974, the Motor Carrier Board approved the transfer to Stevens Truckline, Inc., Hutchinson, Kans., of that portion of the operating rights set forth in Certificate No. MC-123268 (Sub-No. 1), issued November 2, 1962, to Stevens Express, Inc., Hutchinson, Kans., authorizing the transportation of telephone poles, and electrical equipment and supplies used in telephone construction work, between Kansas City, Mo., and points in Kansas; and between points in Kansas, restricted to the transportation of shipments originating at or destined to the plants and warehouse facilities of Western Electric Corporation. Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137, attorney for applicants.

No. MC-FC-74793. By order of January 9, 1974, the Motor Carrier Board approved the transfer to William G. Brown, Elizabethtown, Ky., of that portion of the operating rights in Certificates Nos. MC-116014 (Sub-No. 1), MC-116014 (Sub-No. 21), and MC-116014 (Sub-No. 28) issued September 13, 1967, September 21, 1966, and April 5, 1967, respectively, to Oliver Trucking Company, Inc., Winchester, Ky., authorizing the transportation of used whiskey barrels, from points in Kentucky to points in Alabama, Arkansas, Georgia, Delaware, Florida, Illinois, Indiana, Iowa, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York (portion), North Carolina, Ohio (portion), Pennsylvania (except Erie), South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin; whiskey barrels, from Louisville, Ky., to points in Illinois, Indiana, Michigan (except Benton Harbor and Fennville), Ohio, and Pennsylvania; and wooden barrels, from Louisville, Ky., to points in Arkansas, Delaware, Iowa, Maryland, Missouri, New Jersey, New York, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. Louis J. Amato, P.O. Box 53, Winchester, Ky. 40391, and Robert H. Kinker, P.O. Box 464, Frankfort, Ky. Attorneys for applicants.

No. MC-FC-74824. By order of January 11, 1974, the Motor Carrier Board approved the transfer to Bulk Transit Corporation, Orient, Ohio, of Certificate No. MC-114697 (Sub-No. 3) issued January 14, 1972, to Lewisburg Construction and Trucking, Inc., Dayton, Ohio, authorizing the transportation of burnt lime from points in Pendleton County, Ky., to points in Indiana, Ohio, Pennsylvania, West Virginia, Tennessee, Michigan, and Illinois. Mr. Robert W. Minor, Attorney at Law, 52 East Gay Street, Columbus, Ohio 43215.

No. MC-FC-74869. By order of January 10, 1974, the Motor Carrier Board approved the transfer to Barrett's Vacuum Tank Service, Inc., Daisetta, Tex., of Certificate of Registration No. MC-99319 (Sub-No. 1) issued September 7, 1965, to E. E. Barrett, doing business as Barrett's Vacuum Tank Service, Daisetta, Tex., evidencing the authority to perform a transportation service in

interstate or foreign commerce corresponding in scope to the intrastate authority granted in Certificate No. 7716 by the Railroad Commission of Texas. Mr. Joseph Martin Green, Attorney at Law, P.O. Box 3708, Beaumont, Tex. 77704.

No. MC–FC–74875. By order of January 9, 1974, the Motor Carrier Board approved the transfer to Drieman Storage & Transfer, Inc., Virginia, Minn., of the operating rights in Certificate No. MC–110701 issued September 1, 1949, to George H. Drieman, doing business as Drieman's Storage & Transfer, Virginia, Minn., authorizing the transportation of household goods as defined by the Commission, between Virginia, Minn., and points within 10 miles thereof, on the one hand, and, on the other, points in Iowa, Michigan, Minnesota, North Dakota, South Dakota, and Wisconsin, those in Illinois on and north of U.S. Highway 30 between the Iowa-Illinois State line and Joilet, Ill., and on and north of U.S. Highway 6 between Joliet and the Illinois-Indiana State line, and those in Indiana on and north of U.S. Highway 12. Vernon D. Saxhaug, State Bank Building, Virginia, Minn. 55792, Attorney for applicants.

No. MC–FC–74898. By order entered January 9, 1974, the Motor Carrier Board approved the transfer to Ron Andrews, doing business as Ron Andrews Trucking, Lewiston, Idaho, of the operating rights set forth in Certificate No. MC–134721 (Sub-No. 1), issued March 7, 1972, to George M. Dziak, doing business as Dziak Produce Co., Spokane, Wash., authorizing the transportation of bananas, and agricultural commodities exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas, from points in Los Angeles County, Calif., to the ports of entry on the United States-Canada Boundary line near Northport, Wash., restricted to the transportation of shipments destined to the facilities of F. & W. Wholesale, Ltd., located at Trail, British Columbia, Canada. Donald A. Ericson, 708 Old National Bank Building, Spokane, Washington 99201, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–1475 Filed 1–16–74;8:45 am]

[Notice No. 4]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 11, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2900 (Sub-No. 252 TA), filed December 27, 1973. Applicant: RYDER TRUCK LINES, INC., Off: 2050 Kings Road, Mlg: P.O. Box 2408, Jacksonville, Fla. 32209. Applicant's representative: John Carter (same address as above). 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 the junction of U.S. Highway 51 and Interstate Highway 40 and U.S. Highway 59 and U.S. Highway 90, as an alternate route for operating convenience only serving no intermediate points and serving the termini for joinder purposes only, from the junction of U.S. Highway 51 and Interstate Highway 40 over Interstate Highway 40 to junction Interstate Highway 30, thence over Interstate Highway 30 to the junction of U.S. Highway 59, thence over U.S. Highway 59 to the junction of U.S. Highway 90 and return over the same route, for 180 days. RESTRICTION: Operations authorized in the alternate route described above are restricted against the transportation of shipments moving between Memphis, Tenn., and St. Louis, Mo., and points in their respective commercial zones as defined by the Commission, on the one hand, and, on the other, Houston, Tex., and points in its commercial zone as defined by the Commission.

NOTE.—Applicant does intend to tack with MC 2900.

SUPPORTING SHIPPER: Armstrong Custom Fabricators, Inc., P.O. Box 185, Williamstown, W. Va. 26187. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 W. Bay Street, Jacksonville, Fla. 32202.

No. MC 7640 (Sub-No. 43 TA), filed December 27, 1973. Applicant: BARNES TRUCK LINE, INC., 506 Mayo Street, P.O. Box 999, Wilson, N.C. 27893. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logs of compressed wood, bark, or sawdust*, from Plymouth, N.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Maine, Massachusetts, Michigan, 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, and returned shipments to Plymouth, N.C., for 180 days. SUPPORTING SHIPPER: Weyerhaeuser Company, P.O. Box 787, Plymouth, N.C. 27962. SEND PROTESTS TO: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 20783 (Sub-No. 95 TA), filed December 27, 1973. Applicant: TOMPKINS MOTOR LINES, INC., P.O. Box 1830, Highway 77, Gadsden, Ala. 35902. Applicant's representative: John P. Carlton, 601–09 Frank Nelson Bldg., Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Appendix I to the report in the *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Columbus Junction, Iowa, and Waterloo, Iowa, to points in Alabama, North Carolina, Georgia, Kentucky, South Carolina, and Tennessee (except Memphis), for 180 days. RESTRICTION: Restricted to traffic originating at the named origins and destined to points in the named destination states. SUPPORTING SHIPPER: The Rath Packing Company, Waterloo, Iowa 50704. SEND PROTESTS TO: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 27500 (Sub-No. 10 TA), filed December 28, 1973. Applicant: MISHAK TRUCK LINE, INC., 320 7th Avenue North, Clear Lake, Iowa 50428. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate at a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from Shakopee, Minn., to points in Iowa, Wisconsin, and Illinois, restricted to traffic originating at the facilities of Certain-Teed Products Corp., for 180 days. SUPPORTING SHIPPER: Certain-Teed Products Corporation, P.O. Box 860, Valley Forge, Pa. 19482. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 65802 (Sub-No. 53 TA), filed December 27, 1973. Applicant: LYNDEN TRANSPORT, INC., P.O. Box 433, Lynden, Wash. 98264. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, excluding household goods as defined by the Commission and commodities of unusual value, between points in Washington and Oregon, on the one hand, and, on the other, ports of entry on the U.S.-Canada International Boundary line located at or near Blaine, Lynden, Sumas, and Oroville, Wash., restricted to shipments originating at or destined to points in the Yukon Territory of Canada, for 180 days. SUPPORTING SHIPPER: N C Machinery Company, 143 Industrial Road, P.O. Box 4038, Whitehorse, Yukon Territory. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 72495 (Sub-No. 13 TA), filed December 26, 1973. Applicant: DON SWART TRUCKING, INC., Box 49, Route 2, Wellsburg, W. Va. 26070. Applicant's representative: D. L. Bennett, 129 Edgington Lane, Wheeling, W. Va. 26003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone*, ground, in bulk or in bags, from Benwood, W. Va., to points in West Virginia (except Hancock, Brooke, Ohio, Wetzel, Pleasants, Tyler, and Marshall Counties, W. Va.), over interstate routes, for 180 days. SUPPORTING SHIPPER: Benwood Limestone Company, 2nd & Water Sts., Benwood, W. Va. 26031. SEND PROTESTS TO: Joseph A. Niggemyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Building, Wheeling, W. Va. 26003.

No. MC 72997 (Sub-No. 22 TA), filed December 26, 1973. Applicant: LIBERTY TRUCKING COMPANY, 1401 West Fulton Street, Chicago, Ill. 60607. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Containers*, and *food processing equipment, continuous processing lines, quick chill tunnels, thermal oxidizers, and materials, equipment, and supplies* used or useful in the manufacture, distribution or installation of the named commodities, having a prior or subsequent movement by water or rail, in containers, between Lodi and Madison, Wis., in connection with the carrier's authorized interstate operations, over the following routes: (1) from Madison over U.S. Highway 12 to its junction with Dane County Truck "P" at or near Springfield Corners, thence north along Dane County Truck "P" to its junction with Wisconsin State Highway 113 at or near Dane, Wis., thence north along Wisconsin State Highway 113 to Lodi, and return over the same route; (2) from Madison over Interstate Highway 90–94 to its junction with Wisconsin State Highway 60 at or near Arlington, thence west along Wisconsin State Highway 60 to Lodi, and return over the same route; (3) from Madison over Interstate Highway 90–94 to its junction with Wisconsin State Highway 19, thence west along Wisconsin State Highway 19 to its junction with Wisconsin State Highway 113 at or near Waunakee, thence north along Wisconsin State Highway 113 to Lodi, and return over the same route; and (4) from Madison over Wisconsin State Highway 113 to Lodi, and return over the same route, for 180 days.

NOTE.—Applicant specifically requests authority to tack the above authority with its presently authorized operations at Madison, Wis.

SUPPORTING SHIPPER: Charles Haley, Mgr. of Operations, Alkar, Division of DEC International, 105 Spring Street, Lodi, Wis. 53555. SEND PROTESTS TO: Richard O. Chandler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 82492 (Sub-No. 96 TA), filed December 28, 1973. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, 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: *Paper and paper products*, from the facilities utilized by Watervliet Paper Company at or near Sodus, Mich., to points in St. Louis County, Mo., and those in the St. Louis, Mo. commercial zone, for 180 days. SUPPORTING SHIPPER: Watervliet Paper Company, Watervliet, Mich. 49098. SEND PROTESTS TO: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 103051 (Sub-No. 290 TA), filed December 27, 1973. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: William G. North (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, vegetable oils and blends thereof*, in bulk, in tank vehicles, from Chattanooga, Tenn., to points in Missouri, for 180 days. SUPPORTING SHIPPER: Swift Edible Oil Company, Division of Swift & Company, 115 West Jackson Blvd., Chicago, Ill. 60604. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803—1808 West End Building, Nashville, Tenn. 37203.

No. MC 103051 (Sub-No. 291 TA), filed December 27, 1973. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: William G. North (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, vegetable oils and blends thereof*, in bulk, in tank vehicles, from Chattanooga, Tenn., to points in Massachusetts, for 180 days. SUPPORTING SHIPPER: Swift Edible Oil Company, Division of Swift & Company, 115 West Jackson Blvd., Chicago, Ill. 60604. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803—1808 West End Building, Nashville, Tenn. 37203.

No. MC 103051 (Sub-No. 292 TA), filed December 27, 1973. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: William G. North (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diesel fuel, heating oil, and gasoline*, in bulk, in tank vehicles, from points in Mecklenburg County, N.C., to points in Tennessee, for 180 days. SUPPORTING SHIPPER: Tennessee Farmers Cooperative, P.O. Box 157, LaVergne, Tenn. 37086. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803—1808 West End Building, Nashville, Tenn. 37203.

No. MC 103051 (Sub-No. 293 TA), filed December 27, 1973. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: William G. North (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *No. 2 heating oil*, in bulk, in tank vehicles, from Nashville, Tenn., to Roxboro, N.C., for 180 days. SUPPORTING SHIPPER: Collins & Aikman Corporation, P.O. Box 1599, Charlotte, N.C. 28232. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803—1808 West End Building, Nashville, Tenn. 37203.

No. MC 106398 (Sub-No. 696 TA), filed December 19, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Box 51096 Dawson Station, 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: *Amusement rides* on undercarriages, from San Antonio, Tex., to points in the United States (except Alaska and Hawaii), for 180 days. SUPPORTING SHIPPER: San Antonio Roller Works, Thomas G. Riordan, Jr., Dir., 229 Nolan, San Antonio, Tex. 78202. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240,

Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 109689 (Sub-No. 260 TA), filed December 2, 1973. Applicant: W. S. HATCH CO., Off: 643 South 800 West, Woods Cross, Utah 84087, and Mail: P.O. Box 1825, Salt Lake City, Utah 84110. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum distillate fuel oil*, from American Gilsonite Co. at or near Fruita, Colo., to Henderson, Nev., and Las Vegas, Nev., for 180 days. SUPPORTING SHIPPERS: Blackline Asphalt Sales, Inc., P.O. Box 46, Woods Cross, Utah 84087 (Richard P. Hagman, Sales Engineer), and Stauffer Chemical Company, 636 California Street, San Francisco, Calif. 94119 (E. A. Guldaman, Western Transportation Manager). SEND PROTESTS TO: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 109689 (Sub-261 TA), filed December 21, 1973. Applicant: W. S. HATCH CO., P.O. Box 1825, Salt Lake City, Utah 84110. Off.: 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Residual fuel oil #6*, from Salt Lake City, Utah, to Westvaco, Wyo., for 180 days. SUPPORTING SHIPPER: Amoco Oil Company, 425 West 8th North Street, Salt Lake City, Utah (W. W. Loveridge, Manager—Area Distribution). SEND PROTESTS TO: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 110525 (Sub-No. 1079 TA) (CORRECTION), filed December 6, 1973, published in the FEDERAL REGISTER issue of December 21, 1973, and republished as corrected this issue. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, 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: *Crushed blast furnace slag*, in bulk, in tank vehicles, from Falls Township, Bucks County, Pa., to points of entry on the International Boundary line between the United States and Canada situated in the states of Maine for furtherance to Moncton, New Brunswick, Canada, for 180 days. SUPPORTING SHIPPER: The Calumite Company, P.O. Box 157, Trenton, N.J. 08628. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Room 3238, 600 Arch Street, Philadelphia, Pa. 19106.

NOTE.—The purpose of this republication is to change the origin to Falls Township, Bucks County, Pa., in lieu of Morrisville, Pa., which was published in the FEDERAL REGISTER in error.

No. MC 113908 Sub 298 TA, filed December 28, 1973. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors and neutral citrus residue brandy*, in bulk, from Auburndale and Lake Alfred, Fla., to Burlingame, Calif., for 180 days. SUPPORTING SHIPPER: Hiram Walker & Sons, Inc., P.O. Box 479, Peoria, Ill. 61601. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 114890 Sub 68 TA, filed December 27, 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, (1) from Doniphan, Nebr., and Kansas City, Mo., to points in Kansas, and (2) from Kansas City, Mo., and Kansas City, Kans., to points in Nebraska for 180 days. SUPPORTING SHIPPER: Agrico Chemical Company, P.O. Box 3166, Tulsa, Okla. 74101. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 600, Federal Building, 911 Walnut St., Kansas City, Mo. 64106.

No. MC 116045 Sub 40 TA, filed December 28, 1973. Applicant: NEUMAN TRANSIT CO., INC., P.O. Box 38, East of Rawlins, Rawlins, Wyo. 82301. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from points in McKinley and Valencia Counties, N. Mex., to points in Fremont, Natrona, Carbon, and Converse Counties, Wyo. for 180 days. SUPPORTING SHIPPER: Western Nuclear, Inc., Suite 387, One Park Central, Denver, Colo. 80202. SEND PROTESTS TO: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Bureau of Operations, Room 1006, Federal Building and Post Office, 100 East "B" Street, Casper, Wyo. 82601.

No. MC 118202 Sub 30 TA, filed December 27, 1973. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* (except commodities in bulk and hides) and *dairy products*, from Sioux Falls, S. Dak., to Boston, Brockton, Fall River, and New Bedford, Mass., and Cranston, Providence, Pawtucket, Woonsocket, and Central Falls, R.I., for 150 days. SUPPORTING SHIPPER: John Morrell & Co., 208 South LaSalle, Chicago, Ill. 60604. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 119493 Sub 106 TA, filed December 28, 1973. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, West 20th Street Road, Joplin, Mo. 64801. Applicant's representative: Ray F. Kempt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and ingredients*, from plantsite of Ragland Mills, Inc., at or near Neosho, Mo., to points in Kentucky on and west of U.S. Highway 65, for 180 days. SUPPORTING SHIPPER: Ragland Mills, Inc., Route 2, Box 55A, Neosho, Mo. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119774 (Sub-No. 75 TA), filed December 27, 1973. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, 301 East Main St., Kilgore, Tex. 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, and materials, equipment, and supplies* used in the manufacture, distribution, installation, and application of such commodities (except commodities in bulk), from the plantsite and storage facilities of the National Gypsum Company at or near Mobile, Ala., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas, restricted to traffic originating at said origin and destined to said destinations, for 180 days. SUPPORTING SHIPPER: National Gypsum Company, Gold Bond Building Products Division, 325 Delaware Avenue, Buffalo, N.Y. 14202. SEND PROTESTS TO: Transportation Specialist Gerald T. Holland, Bureau of Operations, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 120257 (Sub-No. 17 TA), filed December 28, 1973. Applicant: K. L. BREEDEN & SON, INC., P.O. Box 207, Ore City, Tex. 75683. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Building materials, and materials, equipment, and supplies* used in the manufacture, distribution, installation, and application of such commodities (except commodities in bulk), from the plantsite and storage facilities of the National Gypsum Company at or near Mobile, Ala., to points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas, restricted to traffic originating at said origin and destined to said destinations, for 180 days. SUPPORTING SHIPPER: National Gypsum Company, Gold Bond Building Products Division, 325 Delaware Avenue, Buffalo, N.Y. 14202. SEND PROTESTS TO: Transportation Specialist Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 121107 Sub 11 TA, filed December 28, 1973. Applicant: PITT COUNTY TRANSPORTATION COMPANY, INC., Box 207, S. Main Street, Farmville, N.C. 27828. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logs of compressed wood, bark, or sawdust*, from Plymouth, N.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Maine, Massachusetts, Michigan, 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 and *returned shipments* to Plymouth, N.C. for 180 days. SUPPORTING SHIPPER: Weyerhaeuser Company, P.O. Box 787, Plymouth, N.C. 27962. SEND PROTESTS TO: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 121607 (Sub-No. 2 TA), filed December 28, 1973. Applicant: COLUMBIA-PACIFIC TRANSPORT CO., 208 North Gum Street, Kennewick, Wash. 99336. Applicant's representative: Diehl R. Rettig, P.O. Box 6125, Kennewick, Wash. 99336. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors equipment and supplies, heavy machinery and building materials*, between points in Washington, Oregon, Idaho, California, Winnemuca and Ely, Nev., and Libby, Kalispell, and Billings, Mont., for 180 days. SUPPORTED BY: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 124144 Sub 10 TA, filed December 27, 1973. Applicant: ROBERT N. TOOMEY, doing business as ROBERT N. TOOMEY TRUCKING CO., 1516 South George Street, York, Pa. 17403. Applicant's representative: Charles E. Creager, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Columbus, Ohio, to York, Pa., for 180 days. SUPPORTING SHIPPER: Brewery Products Co., 151 Hamilton Avenue, York, Pa. 17404. SEND PROTESTS TO: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 124711 Sub 24 TA, filed December 27, 1973. Applicant: BECKER AND SONS, INC., P.O. Box 1050, 2643 West Central, El Dorado, Kans. 67042. Applicant's representative: T. M. Brown, 600 Leininger Bldg., 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, (1) from Doniphan, Nebr., to points in Kansas, and (2) from Kansas City, Mo., and Kansas City, Kans., to points in Nebraska for 180 days. SUPPORTING SHIPPER: Agrico Chemical Company, P.O. Box 3166, Tulsa, Okla. 74101. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 125254 Sub 24 TA, filed December 28, 1973. Applicant: DONALD L. MORGAN, doing business as MORGAN TRUCKING CO., 1201 East 5th Street, P.O. Box 714, Muscatine, Iowa 52761. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Iowa City, Iowa, to points in Wisconsin and Illinois (except Chicago and Rock Island, Ill., and their commercial zones), restricted to shipments originating at the facilities of Heinz U.S.A., Division of H. J. Heinz and destined to the named destinations for 180 days. SUPPORTING SHIPPER: H. J. Heinz U.S.A., Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, Pa. 15230. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 127651 (Sub-No. 17 TA), filed December 27, 1973. Applicant: EVERETT G. ROEHL, INC., 201 W. Upham Street, Marshfield, Wis. 54449. Applicant's representative: Nancy J. Johnson, 4506 Regent Street, Madison, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets and pallet parts*, from Deerbrook and Rhinelander, Wis., to Lafayette and Michigan City, Ind., for 180 days. SUPPORTING SHIPPERS: Steber Lumber Sales, Inc., Box 65, Antigo, Wis. (from Deerbrook) and Marplex Products Co., Inc., Rhinelander, Wis. 54501. SEND PROTESTS TO: Barney L. Hardin, District Supervisor, Intertsate Commerce Commission, Bureau of Operations, 139 W. Wilson, Room 202, Madison, Wis. 53703.

No. MC 133119 (Sub-No. 38 TA), filed December 27, 1973. Applicant: HEYL TRUCK LINES, INC., 235 Mill Street, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14 Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses, and dairy products* 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, from the plantsite and storage facilities of John Morrell & Co., Sioux Falls, S. Dak., to points in Florida, for 180 days. SUPPORTING SHIPPER: John Morrell & Co., Robert L. Lee, Manager/Rates & Services, 208 So. La Salle St., Chicago, Ill. 60604. SEND PROTESTS TO: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, Suite 620 Union Pacific Plaza, 110 No. 14 St., Omaha, Nebr. 68102.

No. MC 134182 (Sub-No. 15 TA), filed December 27, 1973. Applicant: MILK PRODUCERS MARKETING COMPANY, doing business as ALL-STAR TRANSPORTATION, Second and West Turnpike Road, P.O. Box 505, Lawrence, Kans. 66044. Applicant's representative: Lucy Kennard Bell, Suite 910 Fairfax Building, 101 West Eleventh Street, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the storage faeilities of Banquet Foods Corporation, located at or near Wellston, Ohio, to points in New Jersey (except Edison and Woodbridge, N.J.), New York (except Jamaica, Middlehope, and New York City, N.Y.), Pennsylvania (except Erie, Pittston, Scranton, and Wilkes-Barre, Pa.), and Virginia (except Mechanicsville and Salem, Va.), for 180 days. SUPPORTING SHIPPER: Banquet Foods Corporation, 515 Olive Street, St. Louis, Mo. 63101. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 134820 (Sub-No. 4 TA), filed December 28, 1973. Applicant: ROBERT ALBRIGHT, Room 101, 2207 First Avenue, Seattle, Wash. 98164. Applicant's representative: Robert Albright, 11271 Glendale Way South, Seattle, Wash. 98168. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foundry supplies and equipment*, (1) from Milwaukee, Wis., to Salt Lake City, Utah; Phoenix, Ariz.; Los Angeles, Fontana,

Lynnwood, Oakland, and Oxnard, Calif.; and (2) from Los Angeles and San Francisco and their commercial zones, to Portland, Oreg.; Seattle, Wash.; and the International Boundary line between the United States and Canada at or near Blaine, Wash., for 180 days. SUPPORTING SHIPPER: Delta Oil Products Corp., 208 SE. Hawthorne Boulevard, Portland, Oreg. 97214. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle Wash. 98104.

No. MC 134888 (Sub-No. 2 TA), filed December 27, 1973. Applicant: MOROSA BROS. TRANSPORTATION CO., 3831 Pierce Road, Bakersfield, Calif. 93308. Applicant's representative: Carl H. Fritze, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone*, crushed, ground or pulverized, in bulk, from the plant site of La Habra Products, Inc., at or near Lucerne, Calif., to the plant site of Southern California Edison Company, Mohave Generating Station, in Clark County, Nev., near Davis Dam, Nev., for 180 days. SUPPORTING SHIPPER: South California Edison Company, 501 South Marengo Avenue, Alhambra, Calif. 91801. SEND PROTESTS TO: District Supervisor Walter W. Strakosch, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 135874 (Sub-No. 29 TA), filed December 28, 1973. Applicant: LTL PERISHABLES, INC., 132nd & Q Streets, Mlg: P.O. Box 37468 (Box Zip 68152), Omaha, Nebr. 68137. 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: *Foodstuffs, frozen meats, non-edible foods* when moving in vehicles requiring mechanical units, restricted to traffic originating at the facilities of Terminal Ice & Cold Storage Co. at or near Bettendorf, Iowa, to points in Illinois, Missouri, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Lamb-Weston, Inc., P.O. Box 23507, Portland, Oreg. 97223. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 136211 (Sub-No. 19 TA), filed December 27, 1973. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., 210 St. Mary's Drive, Suite G, P.O. Box 5067, Oxnard, Calif. 93030. Applicant's representative: Joseph E. Rebman, 1230 Boatmen's Bank Bldg., 314 N. Broadway, St. Louis, Mo. 63102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New and used sewing machines, sewing machine heads, sewing machine cabinets, sewing machine components and parts, and vacuum cleaners*, crated and uncrated, from the warehouse and shipping facilities of the Singer Company in St. Louis County, Mo., to those points in Illinois located on and within a line beginning at the Missouri-Illinois State line and extending east over Illinois Highway 96 to junction with Illinois Highway 100, thence south over Illinois Highway 100 to junction with Illinois Highway 16, thence east over Illinois Highway 16 to junction with Illinois Highway 127, thence south over Illinois Highway 127 to junction with Illinois Highway 149, thence west over Illinois Highway 149 to junction with Illinois Highway 3, thence west and north over Illinois Highway 3 to Illinois-Missouri State line at Chester, Ill., and returned or rejected shipments of the above described commodities from the above destination points, to the above specified origin, for 180 days. SUPPORTING SHIPPER: The Singer Company, 313 Underhill Blvd. Syosset, N.Y. 11791. SEND PROTESTS TO: District Supervisor Walter W. Strakosch, Bureau of Operations, Interstate Commerce Commission, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 138042 (Sub-No. 3 TA), filed December 28, 1973. Applicant: MARK INTERSTATE CARRIERS CO., INC., 58–19 Maspeth Avenue, Maspeth, N.Y. 11378. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shoes*, boxed in cartons, between Brentwood, N.Y., on the one hand, and, on the other, Paramus, Freehold, and Bricktown, N.J.; Annapolis, Md.; and Williamsport, Pa., for 180 days. SUPPORTING SHIPPERS: F & M Shoe Corp., 335 Crooked Hill Road, Brentwood, N.Y. SEND PROTESTS TO: Marvin Kampel, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 138933 (Sub-No. 3 TA), filed December 27, 1973. Applicant: DEUTZ & CROW CONCRETE CORP., Marshall, Minn. 56258. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, (1) from Watertown and Aberdeen, S. Dak., to Estherville and Swea City, Iowa; (2) from Chamberlain, S. Dak., to Madison, Canby, Marshall, Luverne, Worthington, and Jackson, Minn., and Estherville and Swea City, Iowa; and (3) from the facilities of Lehigh Cement Co. at Burnsville, Minn., to Estherville and Swea City, Iowa, for 180 days. SUPPORTING SHIPPER: Deutz & Crow Co., Inc., 800 West College Drive, Marshall, Minn. 56258. SEND PROTEST TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 139344 (Sub-No. 1 TA), filed December 28, 1973. Applicant: NORMAN MICHELS, Highway 150 North, Independence, Iowa 50644. Applicant's representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed*, in bags, from Independence, Iowa, to Columbus, Evansville, Fond du Lac, Mineral Point, and Monticello, Wis., for 90 days. SUPPORTING SHIPPER: Walnut Grove Products Division, W. R. Grace & Co., 201 Linn, Atlantic, Iowa 50022. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 139348 (Sub-No. 1 TA), filed December 27, 1973. Applicant: CLIFTON TRANSFER AND CARTAGE, INC., 4645 Jaycox Road, Avon, Ohio 44011. Applicant's representative: Lewis S. Witherspoon, 88 East Broad Street, Suite 1330, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manganese aluminum briquets, aluminum scrap, and manganese*, in bulk, in dump vehicles, (1) from Cleveland, Ohio, to points in Indiana for the transportation of manganese aluminum briquets, in bulk, in dump vehicles; (2) from points in Pennsylvania to Cleveland, Ohio, for the transportation of aluminum scrap, in bulk, in dump vehicles; (3) from points along the Ohio River in Ohio to Cleveland, Ohio, for the transportation of manganese, in bulk, in dump vehicles; (4) from points in West Virginia to Cleveland, Ohio, for the transportation of manganese, in bulk, in dump vehicles; (5) from points in Pennsylvania to Cleveland, Ohio, for the transportation of manganese, in bulk, in dump vehicles; and (6) from Cleveland, Ohio, to points in Pennsylvania for the transportation of manganese aluminum briquets, in bulk, in dump vehicles, for 180 days. SUPPORTING SHIPPER: Metallurgical Inc., 12000 Edgewater Drive, Suite 507, Lakewood, Ohio 44107. SEND PROTESTS TO: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 139351 (Sub-No. 1 TA), filed December 26, 1973. Applicant: WILLIAM F. BRIDGEWATER, 760 Stratton Drive, Cortez, Colo. 81321. Applicant's representative: John P. Thompson, 450 Capitol Life Center, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned food products*, from points in California, to points in Mesa County, Colo., under a continuing contract or contracts with City Market, Inc., for 180 days. SUPPORTING SHIPPER: City Market, Inc., P.O. Box 729, Grand Junction, Colo. 81501. SEND PROTESTS TO: District Supervisor

Herbert C. Ruoff, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo. 80202.

No. MC 139368 TA, filed December 20, 1973. Applicant: VERLYN G. CLARK AND WILLIAM GENE CLARK, doing business as V. CLARK & SON TRUCKING, 318 9th Avenue West, Ashland, Wis. 54806. Applicant's representative: Michael J. Wyngaard, 329 W. Wilson Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold, used, or dealt in by wholesale hardware distributor houses, from Ashland, Wis., to points in the Upper Peninsula of Michigan, and to points in Beltrami, Koochiching, St. Louis, Cass, Crow Wing, Kanabec, Mille Lacs, Itasca, Carlton, Lake, Cook, Aitkin, and Pine Counties, Minn., for 180 days. SUPPORTING SHIPPER: Emil Garnich & Sons Hardware Company, Inc., 400–412 Seventh Avenue West, Ashland, Wis. 54806. SEND PROTESTS TO: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 W. Wilson Street, Room 202, Madison, Wis. 53703.

No. MC 139369 TA, filed December 20, 1973. Applicant: PRODUCT TRANSPORT CO., INC., 2011 East Roosevelt Road, Little Rock, Ark. 72206. Applicant's representative: George D. Ellis, 825 Pyramid Life Bldg., Little Rock, Ark. 72201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Processed meat and meat products*, from points in California, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Louisiana, Mississippi, Nebraska, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Washington, and Wisconsin, to points in South Carolina, Massachusetts, Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Louisiana, Mississippi, Nebraska, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Washington, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Glenns Incorporated, 2011 East Roosevelt Road, Little Rock, Ark. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 139370 TA, filed December 21, 1973. Applicant: J. C. MOODY, doing business as MARDEL TRUCKING, P.O. Box 6267, Seattle, Wash. 98188. Applicant's representative: George Kargianis, 2120 Pacific Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mufflers, shock absorbers, tail pipes, batteries, brake linings, and miscellaneous auto parts*, from points in California on the one hand, to points in Oregon and Washington on the other, for 180 days. SUPPORTING SHIPPERS: Spokane Mufflers Inc., 1818 Westlake N., Seattle, Wash. 98109 and Lomin Inc., 4325 S.W. Cedar Hills Blvd., Beaverton, Oreg. 97005. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 139371 TA, filed December 26, 1973. Applicant: RONALD FAHEY, doing business as ASSOCIATED WAREHOUSES, 8251 S. 114th, Seattle, Wash. 98178. Applicant's representative: George Kargianis, 2120 Pacific Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shakes, shingles, and cedar roofing materials*, between points in Washington, Oregon, California, and Nevada, for 180 days. SUPPORTING SHIPPER: Robinson Plywood and Timber Company, P.O. Box 840, Everett, Wash. 98206. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 139372 TA, filed December 26, 1973. Applicant: PAGES SUPPLY INC., Route 5, Box 27, Blackfoot, Idaho 83221. Applicant's representative: Lon Rodney Kump, 720 Newhouse Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pre-fabricated metal structures together with related accessories and parts;* and (2) *non-related accessories and parts for pre-fabricated metal structures* when shipped with item (1) above, from Tulsa and Oklahoma City, Okla., and Columbus, Nebr., to points in Idaho, under contract with Q-Span Sales Company, Inc. of 506 West Bridge St., Blackfoot, Idaho, and Intermountain Builders, Idaho Falls, Idaho, for 180 days. SUPPORTING SHIPPERS: Q-Span Sales Company, Inc., 506 West Bridge Street, Blackfoot, Idaho 83221, and Intermountain Builders, 2990 South Yellowstone Highway, Idaho Falls, Idaho. SEND PROTESTS TO: C. W. Campbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 139373 TA, filed December 26, 1973. Applicant: D & W MOBILE HOME MOVERS, INC., P.O. Box 446, Clearwater, S.C. 29822. Applicant's representative: W. Randall Tye, 1500 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *House trailers, cabin trailers, bungalow trailers, and trailers containing special equipment, wheels, tires, axles, springs, undercarriages* and all other support which is normally used in connection with the transportation of the above named trailers, between points in Georgia, on the one hand, and, on the other, points in South Carolina, for 180 days. SUPPORTING SHIPPERS: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, S.C. 29201.

No. MC 139374 TA, filed December 26, 1973. Applicant: SHARON TRUCKING CORP., 134 Garfield Avenue, Jersey City, N.J. 07305. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 07305. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lighting fixtures, lamps, equipment, materials, and supplies* used or useful in the manufacture and sale of lighting fixtures and lamps, between Jersey City and Kearny, N.J.; Fall River, Mass.; and Elgin, Ill., on the one hand, and, on the other, points in the United States on and east of the Mississippi River, under a continuing contract with Lightolier, Inc., of Jersey City, N.J., for 180 days. SUPPORTING SHIPPER: Lightolier Incorporated, 346 Claremont Avenue, Jersey City, N.J. 07305. SEND PROTESTS TO: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, N.J. 07102.

No. MC 139375 TA, filed December 20, 1973. Applicant: CONTINENTAL VAN LINES, INC., P.O. Box 3963, Seattle, Wash. 98124. Applicant's representative: William H. Grady, 603 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between Fairbanks, Alaska, on the one hand, and Fort Wainwright, Alaska; Fort Greely, Alaska; and Eilson Air Force Base, Birch Lake, and Clear Air Force Station, Alaska, on the other hand, for 180 days. SUPPORTING SHIPPER: U.S. Department of Defense, Office of the Judge Advocate General, Department of the Army, Washington, D.C. 20310. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Bldg., Seattle, Wash. 98104.

No. MC 139376 TA, filed December 26, 1973. Applicant: SUMMIT TRANSPORTATION CORPORATION, P.O. Box 631, Princeton, W. Va. 24740. Applicant's representative: Virgil A. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned beverages*, from the plant site of Pepsi-Cola Bottling Company of Princeton, Inc., at Princeton, W. Va., to points in North Carolina and South Carolina and (2) *Cans and lids*, from Greensboro, N.C., to the plant site of Pepsi-Cola Bottling Company of Princeton, Inc., at Princeton, W. Va., for 180 days. SUPPORTING SHIPPER: Pepsi-Cola Bottling Company of Princeton, Inc., P.O. Box 309, Princeton, W. Va. 24740 (H. P.

Hunnicutt, Pres.). SEND PROTESTS TO: H. R. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3108 Federal Office Building, 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 139377 TA, filed December 28, 1973. Applicant: JEREAL L. HILL, doing business as TRANS-NORTHERN EXPRESS, 11315 E. Trent, Spokane, Wash. 99206. Applicant's representative: Jereal L. Hill (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel products*, including *fencing materials such as posts, wires, nails, structural steel beams, merchant bar, sheet plate, pipe, and rebar*, from Seattle, Wash.; Portland, Oreg.; Salt Lake City, Utah; Pueblo, Colo.; Chicago, Ill.; and Duluth, Minn., to Bozeman, Butte, Cutbank, Glasgow, Havre, Helena, Kalispell, Miles City, Missoula, Sydney, and Plentywood, Mont.; Worland, Wyo.; and Lewiston, Salmon, and Nampa, Idaho, for 180 days. SUPPORTING SHIPPER: Pacific Hide & Fur, Inc., 211 Second Avenue South, Great Falls, Mont. 59401. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, Seattle, Wash. 98104.

MOTOR CARRIERS OF PASSENGERS

No. MC 61599 (Sub-No. 140 TA), filed December 27, 1973. Applicant: CONTINENTAL SOUTHEASTERN LINES, INC., 1500 Jackson Street, Room 800, Dallas, Tex. 75201. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express and newspapers* in the same vehicle with passengers, between (1) Charlotte, N.C., and Danville, Va., serving the intermediate points of Salisbury, High Point, and Greensboro, N.C., as follows: from Charlotte over Interstate Highway 85 to junction U.S. Highway 29 at Greensboro, thence over U.S. Highway 29 to Danville, and return over the same route; (2) Winston Salem and Greensboro, N.C., as follows: from Winston Salem over Interstate Highway 40 to Greensboro, and return over the same route; and (3) Fayetteville, N.C., and Richmond, Va., serving the intermediate point of Rocky Mount, N.C., as follows: from Fayetteville over Interstate Highway 95 to junction U.S. Highway 301 near Smithfield, N.C., thence over U.S. Highway 301 to junction Interstate Highway 95 near Rocky Mount, N.C., thence over Interstate Highway 95 to Richmond, and return over the same route, for 180 days. RESTRICTION: The authority herein granted shall terminate upon the expiration of a period of time herein specified, or upon resumption of normal service by Carolina Coach Company, plus five days, whichever occurs first. SUPPORTING SHIPPER: Virginia Stage Lines, Inc., 1200 Eye St. NW., Washington, D.C. SEND PROTESTS TO: District Supervisor Terrell Price, Interstate Commerce Commission, Bureau of Operations, 800 Briar Creek Road, Room CC516, Charlotte, N.C. 28205.

NOTE.—Applicant intends to tack any authority granted in this proceeding with its existing routes at Charlotte, Winston-Salem, and Fayetteville, N.C. Applicant also intends to join any authority granted in the proceeding with the following carriers at the following points: Richmond and Danville, Va.—Virginia Stage Lines, Inc. (MC 59238), and Rocky Mount, N.C.—Seashore Transportation Company (MC 28985).

By the Commission.

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

[FR Doc.74-1476 Filed 1-16-74;8:45 am]

[Notice No. 4]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

JANUARY 11, 1974.

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 Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 1977 (Sub-No. 19), filed November 20, 1973. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe, Denver, Colo. 80216. Applicant's representative: Ira E. Neal (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 those requiring special equipment), (1) Between Denver, Colo., and Salt Lake City, Utah: From Denver over U.S. Highway 40 to Salt Lake City, and return over the same route; (2) Between Denver, Colo., and Salt Lake City, Utah: From Denver over U.S. Highway 287, to junction Interstate Highway 80, thence over Interstate Highway 80 to Salt Lake City, and return over the same route; (3) Between Denver, Colo., and Salt Lake City, Utah: From Denver over U.S. Highway 85 to junction Colorado Highway 14, thence over Colorado Highway 14 to junction U.S. Highway 287, thence over U.S. Highway 287 to junction Interstate Highway 80, thence over Interstate Highway 80 to Salt Lake City, and return over the same route; and (4) Between Pueblo, Colo., and Salt Lake City, Utah: From Pueblo over U.S. Highway 50 to junction Interstate Highway 70, thence over Interstate Highway 70 to Green River, Utah, thence over combined U.S. Highways 6 and 50 to junction U.S. Highway 89, thence over U.S. Highway 89 to Provo, Utah, thence over Interstate Highway 15 to Salt Lake City, and return over the same route, 1, 2, 3, and 4 as alternate routes for operat-

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

ing convenience only, serving no intermediate points, in connection with carrier's authorized regular route operations.

NOTE.—Common control was approved in MC-F-9760 and MC-F-9396. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 2860 (Sub-No. 139), filed November 28, 1973. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: Jacob P. Billig, 1126–16th Street NW., Suite 300, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic and plastic products*, between Gales Ferry, Conn., and Pevely, Mo., on the one hand, and, on the other, points in the United States on and east of U.S. Highway 85; (2) *plastic foam products*, between Cateret, N.J.; Midland, Mich.; Magnolia, Ark; and Royersford, Pa., on the one hand, and, on the other, points in the United States on and east of U.S. Highway 85; and (3) *plastic and plastic products* and *ceramic foam products*, between Hamilton Township and points in Lawrence County, Ohio, on the one hand, and, on the other, points in the United States on and east of U.S. Highway 85.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority (a) at Gales Ferry, Conn., Royersford, Pa., and Hamilton and Lawrence County, Ohio, to provide a through service from points in New Jersey; (b) at Gales Ferry and Cateret, N.J., to provide a through service from Clarion, Pa.; and (c) at Magnolia, Ark., to provide a through service from Service, Tex., (a), (b), and (c) to points in the United States on and east of U.S. Highway 85. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 4405 (Sub-No. 509), filed November 29, 1973. Applicant: DEALERS TRANSIT, INC., 2200 E. 170th Street, P.O. Box 361, Lansing, Ill. 60438. Applicant's representative: Robert E. Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, other than those designed to be drawn by passenger automobiles, in initial truckaway and driveaway service, from points in the Niles, Mich., Commercial Zone and Winn, Mich., to points in the United States (except Alaska and Hawaii) and (2) *tractors* in secondary driveaway service only when drawing trailers moving in initial driveaway service, from points in the Niles, Mich., Commercial Zone and Winn, Mich., to points in Arizona, Nevada, Oregon, and Vermont.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Chicago, Ill.

No. MC 7640 (Sub-No. 39), filed November 30, 1973. Applicant: BARNES TRUCK LINE, INC., 506 Mayo Street, Wilson, N.C. 27893. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logs of compressed wood, bark, or sawdust*, from Plymouth, N.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Maine, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, and *returned shipments* of the above-described commodity from the designated destination states to Plymouth, N.C.

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 7640 (Sub-No. 40), filed November 30, 1973. Applicant: BARNES TRUCK LINE, INC., 506 Mayo Street, Wilson, N.C. 27893. Applicant's representative: Harry J. Jordan, 1000 16th Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodpulp*, from Askin, N.C., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, 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 Washington, D.C.

No. MC 7640 (Sub-No. 41), filed November 30, 1973. Applicant: BARNES TRUCK LINE, INC., 506 Mayo Street, Wilson, N.C. 27893. Applicant's representative: Harry J. Jordan, 1000 16th Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* from Plymouth and Askin, N.C., to points in Georgia, North Carolina, and South Carolina.

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 7640 (Sub-No. 42), filed November 30, 1973. Applicant: BARNES TRUCK LINE, INC., 506 Mayo Street, Wilson, N.C. 27893. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Furniture rounds*, wooden turned, finished or unfinished; (2) *paper, paper products, and pulpboard*; (3) *wallboard, including building board and building insulation board*; and (4) *composition board*, from Plymouth, N.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Maine, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, and *returned shipments* of the above-described commodities and *packaging material* from the designated destination states to Plymouth, N.C.

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 8973 (Sub-No. 33), filed November 27, 1973. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural clay products*, from Pike and Jackson Townships, Ohio, to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, 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 Pittsburgh, Pa., or Washington, D.C.

No. MC 8989 (Sub-No. 219), filed October 29, 1973. Applicant: HOWARD SOBER, INC., 500 West Armory Drive, South Holland, Ill. 60473. Applicant's representative: Joseph Gracia (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks, truck-tractors, and truck-chassis*, in initial movements, in driveaway and truckaway service, from Chillicothe, Ohio, to points in the United States (except Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 8989 (Sub-No. 220) filed November 30, 1973. Applicant: HOWARD SOBER, INC., 500 West Armory, P.O. Box 347, South Holland, Ill. 60473. Applicant's representative: Joseph Gracia (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles and motor vehicle chassis*, in initial movements in driveaway and truckaway service and *bodies, cabs, parts* thereof, and *accessories* for such, from the plant site of the White Truck Division of the White Motor Corporation located near Ogden

(Weber County), Utah, to points in the United States, including Alaska but excluding Hawaii.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Cleveland, Ohio, or Washington, D.C.

No. MC 10457 (Sub-No. 4), filed November 4, 1973. Applicant: BURGGRABE TRUCK LINES, INC., Old Highway 40, Warrenton, Mo. 63383. Applicant's representative: Robert Clark (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). Between Warrenton, Mo., and Readsville, Mo., serving the intermediate and off-route points of Big Spring, McKittrick, Rhineland, Bluffton, Portland, and Reform, and points within ten miles of each; From Warrenton, Mo., over Interstate Highway 70 to the junction of Missouri Highway 19, thence over Missouri Highway 19 to McKittrick, Mo., at or near the junction of Missouri Highways 19 and 94, thence over Missouri Highway 94 to the junction of unnumbered highway at or near Portland, Mo., thence over unnumbered highway to Readsville, Mo., and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis or Jefferson City, Mo.

No. MC 11207 (Sub-No. 339), filed December 7, 1973. Applicant: DEATON, INC., 317 Aveune W., P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel drums*, knocked-down, from the facilities of Sirco Systems, Inc., located at or near Birmingham, Ala., to Memphis, Tenn.; and (2) *empty steel drums*, set-up, from the facilities of Sirco Systems, Inc., Memphis, Tenn., to Atlanta, Ga., and Panama City, 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 Birmingham, Ala., or Atlanta, Ga.

No. MC 13250 (Sub-No. 124), filed November 23, 1973. Applicant: J. H. ROSE TRUCK LINE, INC., 5003 Jensen Drive, P.O. Box 16190, Houston, Tex. 77022. Applicant's representative: James M. Doherty, First National Life Building, Suite 401, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors*, with and without attachments (except tractors used for pulling highway trailers), *excavators, motor graders, scrapers, engines, generators, generators and engines combined, road rollers, pipelayers, and dump trucks* designed for off-highway use; and (2) *parts, attachments, and accessories* for the above named commodities, from Aurora, Decatur, Joliet, Mossville, Morton, and Peoria, Ill., and Caterpillar facilities within 15 miles of peoria in Peoria, Tazewell, and Woodford Counties, Ill., to points in Colorado, Idaho, Montana, Oregon, Utah, Washington, and Wyoming, restricted to traffic originating at the plant sites, storage areas, and warehouses of Caterpillar Tractor Company, and further restricted against joinder with any other authority held by carrier.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 13900 (Sub-No. 18), filed November 23, 1973. Applicant: MIDWEST HAULERS, INC., 228 Superior Street, Toledo, Ohio 43604. Applicant's representative: Harold G. Hernly, 118 North St. Asaph Street, Alexandria, Va. 22306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, when moving on bills of lading of freight forwarders as defined in Section 402(a)(5) of The Act, between Minneapolis and St. Paul, Minn., Milwaukee, Wis., Chicago, Ill., and St. Louis, Mo., on the one hand, and, on the other, Memphis, Tenn., New Orleans, La., Dallas, Ft. Worth, and San Antonio, Tex., Kansas City, Mo., Phoenix and Tucson, Ariz., Salt Lake City, Utah, Reno and Las Vegas, Nev., Fresno, Oakland, Los Angeles, San Francisco, Sacramento, San Diego, San Jose, and Santa Fe Springs, Calif., Portland, Oreg., and Seattle, Spokane, and Tacoma, Wash.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked at Minneapolis and St. Paul, Minn., Milwaukee, Wis., Chicago, Ill., and St. Louis, Mo., to serve points in Illinois, Indiana, Minnesota, Missouri, Ohio, Michigan, Kentucky, Pennsylvania, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Maryland Wisconsin and the District of Columbia. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 17264 (Sub-No. 1), filed December 3, 1973. Applicant: J. SWANSON'S MOTOR SERVICE, INC., P.O. Box 134, W. Railroad Street, Cambridge, Ill. 61238. Applicant's representative: C. L. Hazen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements and parts, machinery and parts, advertising matter, and implement dealer supplies*, between Walcott, Iowa, Rock Falls, East Moline, Rock Island, Canton, Ill., and Davenport and Bettendorf, Iowa, restricted to shipments originating at or destined to the facilities of French & Hecht Div. of Kelsey Hayes Co. located at or near Walcott, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Davenport, Iowa.

No. MC 29120 (Sub-No. 171), filed December 3, 1973. Applicant: ALL-AMERICAN, INC., 900 West Delaware, P.O. Box 769, Sioux Falls, S. Dak. 57101. Applicant's representative: Michael J. Ogborn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bristle brushes*, from Brookings, S. Dak., to Karthaus, Pa.

NOTE.—Common control was approved in MC-F-11285. 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 Sioux Falls, S. Dak., or St. Paul, Minn.

No. MC 30237 (Sub-No. 25) (CORRECTION), filed October 1, 1973, published in the FR issue of December 13, 1973, and republished as corrected this issue. Applicant: YEATTS TRANSFER COMPANY, a Corporation, Box 666, Altavista, Va. 24517. Applicant's representative: W. Barney Arthur, Box 551, 513 Main St., Altavista, Va. 24517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, as defined in Appendix II to the report in *Description in Motor Carrier Certificate* 61 M.C.C. 209, from points in Appomattox County, Va., to points in Virginia, and the District of Columbia, and *returned shipments* of new furniture on return.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority; in the base certificate at Rocky Mount, Va., and Altavista, Va., to provide a through service from points in Appomattox County, Va., to points in Delaware, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia; in Sub-No. 10 at Altavista and Rocky Mount, Va., to provide a through service from points in Appomattox County, Va., to points in Maine, Connecticut, Massachusetts, New Hampshire, Rhode Island, and Vermont; and in Sub-No. 18 at Altavista and Rocky Mount, Va., to provide a through service from points in Appomattox County, Va., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, South Carolina, Tennessee, and Wisconsin. The purpose of this republication is to indicate Altavista, Va., as a tacking point within the scope of the base certificate. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 38400 (Sub-No. 5), filed December 7, 1973. Applicant: HITCHCOCK BROS., INCORPORATED, High Street, Canaan, Conn. 06018. Applicant's representative: John E. Fay, 630 Oakwood Avenue, West Hartford, Conn. 06110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oils* in bulk, in tank vehicles, (1) from New Haven and Bridgeport, Conn., to the bulk facilities of the Community Fuel, Inc., located in Millerton, N.Y., and (2) between bulk facilities of Community Fuel, Inc., located in Millerton, N.Y., and Canaan, Conn.

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 Hartford, Conn., or Boston, Mass.

No. MC 43716 (Sub-No. 31), filed November 29, 1973. Applicant: BIGGE DRAYAGE CO., a Corporation, 10700 Bigge Avenue, San Leandro, Calif. 94577. Applicant's representative: Edward J. Hegarty, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in logging, mining, road building, and construction work, and *such commodities* when moving as a replacement, addition, repair, or standby shipment; (2) *commodities*, the transportation of which, because of size or weight, require special handling or the use of special equipment, and *commodities* which do not require special handling or the use of special equipment when moving in the same shipment; (3) *iron and steel articles*, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209; and (4) *construction materials* between points in Ventura, Kern, Inyo, San Bernardino, Orange, Los Angeles, Riverside, San Diego, and Imperial Counties, Calif.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at points in Ventura, Kern, and Inyo Counties; in the base certificate to provide service between points in California and points in Nevada, Idaho, and Oregon; in Sub-No. 22 to provide service between points in California; in Sub-No. 26 to provide service between points in California and points in Nevada, Idaho, and Oregon; and in Sub-No. 28 to provide service between points in Idaho, Oregon, Nevada, and California. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 50307 (Sub-No. 69), filed December 7, 1973. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, N.Y. 10001. Applicant's representative: Herbert Bernstein, One World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials, supplies, and equipment* used in the manufacture thereof, between points in Broward and Dade Counties, Fla., restricted to the transportation of traffic having a prior or subsequent movement by air.

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 51824 (Sub-No. 6), filed December 7, 1973. Applicant: VANDERHULE MOVING AND STORAGE, INC., 10th & Broadway, P.O. Box 797, Yankton, S. Dak. 57078. Applicant's representative: Vernon C. VanDerhule, 508 West City Limits Road, P.O. Box 797, Yankton, S. Dak. 57078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and other articles distributed by meat packinghouses*, from Cimpl Packing Company, or it's successor, at Yankton County, S. Dak., to points in North Dakota, Nebraska, Kansas, Wyoming, Colorado, Minnesota, Iowa, Missouri, Wisconsin, and Illinois (except to the commercial zones of Minneapolis, Hopkins, and St. Paul, Minn., and Des Moines, Iowa.)

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, the applicant requests it be held at Yankton, S. Dak., Sioux Falls, S. Dak., Sioux City, Iowa, or Omaha, Nebr.

No. MC 52657 (Sub-No. 712), filed November 5, 1973. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, Ill. 60620. Applicant's representative: S. J. Zangri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), *trailer converter dollies*, in initial movements, in truckaway service; *containers, materials, and supplies* (except commodities in bulk), and *parts* used in the manufacture, assembly, or servicing of containers, trailers, and trailer chassis, and trailer converter dollies, when moving with such commodities, between Eagle and Lebanon, Pa., and Martinsville, Va.; and (2) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), *trailer converter dollies*, in initial movements, in truckaway service, *containers, materials, and supplies* (except commodities in bulk), and *parts* used in the manufacture, assembly, or servicing of containers, trailers, and trailer chassis, and trailer converter dollies, when moving with such commodities, between Eagle and Lebanon, Pa., and Martinsville, Va., on the one hand, and, on the other, points in the United States including Alaska but excluding Hawaii.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 56344 (Sub-No. 3), filed December 3, 1973. Applicant: ALERT MOTOR FREIGHT, INC., Bridgeboro Road, Delran, N.J. 08075. Applicant's representative: Raymond A. Thistle, Jr., Suite 1012, Four Penn Center Plaza, Philadelphia, Pa. 19103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Concrete pipe, manhole chambers, fittings, supplies and equipment* used in the manufacture and installation thereof, from the plantsite of Atlantic Concrete Products Co. at Tullytown (Bucks County), Pa., to points in Delaware, Maryland, New Jersey, and the District of Columbia; and (2) *concrete pipe, fittings, supplies, and equipment* used in the manufacture and installation thereof, from the plantsite of United States Concrete Pipe Company at Croyden (Bucks County), Pa., to points in Delaware, Maryland, New Jersey, 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 Philadelphia, Pa.

No. MC 60987 (Sub-No. 20), filed November 28, 1973. Applicant: ARKIN TRUCK LINE, INCORPORATED, 1600 S. Indiana Avenue, Chicago, Ill. 60616. Applicant's representative: G. S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter and materials, supplies, and equipment* used in the maintenance and operation of printing plants (except commodities in bulk, in tank vehicles), between the plantsite of R. R. Donnelley & Sons Company at Gallatin, Tenn., on the one hand, and, on the other, the Chicago, Ill., Commercial Zone, as defined by the Commission, and the plantsites of R. R. Donnelley & Sons Company at Dwight and Mattoon, Ill., Crawfordsville and Warsaw, Ind., Glasgow, Ky., and Willard, Ohio, under continuing contract with R. R. Donnelley & Sons Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 61396 (Sub-No. 261), filed December 3, 1973. Applicant: HERMAN BROS., INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: J. R. Chesney (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum rock*, in bulk, in tank trucks, from Bestwall, Kans., to Superior, Nebr.

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., or Omaha, Nebr.

No. MC 61401 (Sub-No. 14), filed December 7, 1973. Applicant: MARX TRUCK LINE, INC., 220 Lewis Blvd., Sioux City, Iowa 51101. Applicant's representative: George L. Hirschbach, 309 Badgerow Bldg., Sioux City, Iowa 51101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat by-products, and articles distributed by meat packinghouses*, (except hides and commodities in bulk, in tank vehicles), as described in section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities of John Morrell and Co. at Sioux Falls, S. Dak., to points in Illinois and Wisconsin, under continuing contract with John Morrell and Co., restricted to traffic originating at Sioux Falls, S. Dak., and destined to points in the named destination states.

NOTE.—Applicant holds common carrier authority in MC-118537, therefore dual operations may be involved. If a hearing is

deemed necessary, applicant requests it be held at Chicago, Ill.; Omaha, Nebr.; or Sioux Falls, S. Dak.

No. MC 63072 (Sub-No. 5), filed November 29, 1973. Applicant: V & A TRUCKING CORP., 32 India Street, Brooklyn, N.Y. 11222. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass bottles*, from Ardmore, Pa., Elmira, N.Y., Brockport, N.J., and Providence, R.I., to Cambridge, Mass.; and (2) *wines and liquors*, from Cambridge, Mass., to points in New Jersey and New York.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 69116 (Sub-No. 163), filed November 28, 1973. Applicant: SPECTOR FREIGHT SYSTEM, INC., 205 West Wacker Drive, Chicago, Ill. 60606. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, from the plant site of Continental Steel Corporation at Kokomo, Ind., to points in Delaware, Illinois, Louisiana, Maryland, the Lower Peninsula of Michigan, Mississippi, New Jersey, New York, Ohio, Pennsylvania, and those in that part of Tennessee west of U.S. Highway 231, Wisconsin, and the District of Columbia, restricted to the transportation of traffic originating at the named origin and destined to the 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 Chicago, Ill.

No. MC 71459 (Sub-No. 39), filed December 6, 1973. Applicant: O.N.C. FREIGHT SYSTEMS, a Corporation, 2800 West Bayshore Road, Palo Alto, Calif. 94303. Applicant's representative: Roland Rice, 1111 "E" Street NW., Perpetual Building, Suite 618, Washington, D.C. 20004. 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 Portland, Oreg., and Kennewick, Wash.: From Portland over Interstate Highway 80 to junction U.S. Highway 730, thence over U.S. Highway 730 to Umatilla, thence over Umatilla/Plymouth Bridge (toll bridge) to junction Washington Highway 14, thence over Washington Highway 14 to Kennewick, and return over the same route, serving no intermediate points and serving the junction Interstate Highway 80 and U.S. Highway 97 for purposes of joinder only; (2) Between Maryhill, Wash., and junction Interstate Highway 80 and U.S. Highway 97: From Maryhill, over U.S. Highway 97 to junction Interstate Highway 80, and return over the same route, serving no intermediate points, and serving the junction of Interstate Highway 80 and U.S. Highway 97 for purposes of joinder only; and (3) Between Klamath Falls, Oreg., and Maryhill, Wash.: From Klamath Falls over U.S. Highway 97 to Maryhill, and return over the same route, serving no intermediate points, and serving the junction of Interstate Highway 80 and U.S. Highway 97 for purposes of joinder only, (1), (2), and (3) as alternate routes for operating convenience only in connection with carrier's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Portland, Oreg.

No. MC 82492 (Sub-No. 94), filed November 28, 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: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plant site and warehouse facilities of Wilson & Co., Inc., at Albert Lea, Minn., and Cedar Rapids, Iowa, to points in Kentucky, restricted to the transportation of traffic originating at the above named origins and destined to the named destinations.

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 82492 (Sub-No. 95), filed November 29, 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: *Meats, meat products and meat by-products, 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 commodities in bulk), from the plantsites and storage facilities utilized by Wilson & Co., Inc. at Cherokee, Iowa, to points in Indiana, Michigan, and Ohio, restricted to the transportation of traffic originating at the above-specified plantsites and storage facilities and destined to the named destinations.

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 83539 (Sub-No. 384), filed November 29, 1973. Applicant: C & H TRANSPORTATION CO., INC., 1936-2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical transformers, circuit breakers, or parts thereof*, which by reason of size or weight require the use of special equipment; and (2) *electrical equipment and parts* which do not require the use of special equipment when transported in mixed loads with shipments of electrical transformers and circuit breakers requiring special equipment, between points in Rankin County, Miss., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to the transportation of shipments originating at or destined to Rankin County, Miss.

NOTE.—Common control was approved in Docket No. MC-F-9241. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 88380 (Sub-No. 12), filed December 5, 1973. Applicant: R. E. B. TRANSPORTATION, INC., 2400 Cold Springs Road, Fort Worth, Tex. 76106. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements, agricultural tractors, agricultural machinery*, and *related materials and supplies* when moving in connection therewith, between points in Texas, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Kansas, Mississippi, Louisiana, New Mexico, Oklahoma, and Texas, restricted against the transportation of self-propelled articles each weighing 15,000 pounds or more.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 95540 (Sub-No. 884) (AMENDMENT), filed June 15, 1973, published in the FEDERAL REGISTER issue of July 20, 1973, and republished as amended this issue. Applicant: WATKINS MOTOR LINES, INC., 1940 Monroe Drive NE., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs* (except dairy products and meats, meat products, and meat by-products), from points in Wisconsin and Michigan to points in Iowa, Nebraska, Kansas, Oklahoma, Texas, Alabama, Georgia, Arkansas, North Carolina, and Florida.

NOTE.—The purpose of this republication is to indicate the amended commodity description as described above. 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 104523 (Sub-No. 58) (CORRECTION), filed November 2, 1973, published in the FEDERAL REGISTER issue of December 20, 1973, and republished, as corrected, this issue. Applicant: HUSTON TRUCK LINE, INC., 235 Maple Street, P.O. Box 17, Friend, Nebr. 68359. Applicant's representative: David R. Parker, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Copper oxide* (except in bulk), from Texas City, Tex., to the plantsite and facilities of Prince Manufacturing Company, Quincy, Ill.; and (2) *tile, and materials, supplies, and equipment used in connection therewith*, from points in Texas, to points in Arkansas, Colorado, Delaware, District of Columbia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and Wyoming.

NOTE.—The purpose of this republication is to correct the territorial description in (2) above, previously published in error. 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 Fort Worth or Dallas, Tex.

No. MC 105566 (Sub-No. 102), filed December 3, 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) *Evaporated milk*, in cans, *dry food*, and *beverage preparations*, (a) from Defiance, Ohio, to points in Nevada, and (b) from Berlin Township (Delaware County), Ohio, to points in Nevada, California, Oregon, and Washington; and (2) *salad dressings*, from Columbus, Ohio, to points in Washington, Oregon, Nevada, and California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 105269 (Sub-No. 56), filed November 9, 1973. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake Street, Kalamazoo, Mich. 49005. Applicant's representative: John M. Veale, Suite 1700, One Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, and paper mill products*, and *paper mill materials and supplies*, between points in Illinois, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia, Wisconsin, and Brownstown, Ind., in non-radial movement.

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 105566 (Sub-No. 99), filed December 3, 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: *Paint, paint ingredients, paint materials*, including *putty, caulking compounds*, and *adhesive cement and glue* (except in bulk, in tank vehicles), from Dayton, Ohio, to points in California, Nevada, 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 Columbus, Ohio, or Washington, D.C.

No. MC 105566 (Sub-No. 103), filed December 3, 1973. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 634, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper*, other than newsprint, from West Linn, Oreg., to points in Kentucky, Illinois, Indiana, Ohio, 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 Chicago, Ill., or Washington, D.C.

No. MC 106644 (Sub-No. 163), filed November 15, 1973. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., P.O. Box 916, Atlanta, Ga. 30318. Applicant's representative: W. Randall Tye, 1500 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and equipment* used in carpet tufting, finishing, and manufacturing, between Chattanooga, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority can be tacked at Chattanooga, Tenn., with MC 106644 Subs-41 and 106, and also basic certificate MC 106644 could be tacked at Chattanooga, Tenn., all the preceding allowing such size and weight machinery and equipment as named in the application to be transported between points in the United States, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, Kentucky, Arkansas, Missouri, Iowa, Illinois, Indiana, Ohio, Maryland, Pennsylvania, New York, New Jersey.

No. MC 106674 (Sub-No. 116), filed November 28, 1973. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Suite 425, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials*, from the facilities of The Celotex Corporation located at or near Elizabethtown, Ky., to points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Maine, Massachusetts, Maryland, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia 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 Tampa, Fla., or Washington, D.C.

No. MC 107002 (Sub-No. 440), filed October 23, 1973. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representative: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Missouri.

NOTE.—Applicant states it can tack with its lead: (a) at Memphis, Tenn., with item 1 to provide a through service from Cordova, Ala., to points in Missouri; (b) item 3, at Memphis, Tenn., to provide a through service from Tuscaloosa, Ala., to points in Missouri. (The Memphis Commercial Zone extends into Mississippi); (c) item 4, at Memphis, Tenn., to provide a through service from Tuscaloosa, Ala., and points within 5 miles thereof; (d) item 5, at Memphis, Tenn., to provide a through service from the site of the Pipe line terminal of the Dixie Pipe Line Company near Demopolis, Ala., to points in Missouri; (e) items 24 and 54 at Memphis, Tenn., to provide a through service from Mobile, Ala., to points in Missouri; (f) items 39 and 40, at Memphis, Tenn., to provide a through service from Moscow, Ala., and Moundville, Ala., to points in Missouri; (g) items 41 and 42 at Memphis, Tenn., to provide a through service from Albertville, Ala., and Site of Dixie Pipe Line Company near Demopolis, Ala., to points in Missouri; (h) items 46 and 47, at Memphis, Tenn., to provide a through service from points in Desha County, Ark., and Helena, Ark., to points in Missouri; (i) item 48, at Memphis, Tenn., to provide a through service from Lake Village, Ark., to points in Missouri; (j) item 52, at Memphis, Tenn., to provide a through service from Pensacola, Fla., to points in Missouri; (k) item 54, at Memphis, Tenn., to provide a through service from Mississippi to points in Missouri; (l) item 177, at Memphis, Tenn., to provide a through service from Birmingham, Ala., to points in Missouri; (m) item 184, at Memphis, Tenn., to provide a through service from points in Santa Rosa County, Fla., to points in Missouri; (n) item 185, at Memphis, Tenn., to provide a through service from Decatur, Ala., to points in Missouri; (o) item 226, at Memphis, Tenn., to provide a through service from Tullahoma, Tenn., to points in Missouri; (p) item 246, at Memphis, Tenn., to provide a through service from the plantsites and storage facilities of American Mineral Spirits Company at Birmingport, Ala., to points in Missouri; (q) item 267.5 at Memphis, Tenn., to provide a through service from Crossett, Ark., and Louisville, Miss., to points in Missouri; and (r) item 280, at Memphis, Tenn., to provide a through service from Tuscaloosa, Ala., to points in Missouri. If a hearing is

deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 107295 (Sub-No. 686), filed November 23, 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: *Insulating materials*, from Grambling, La., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority can be tacked at Grambling, La., to provide a through service (1) in Sub-No. 183 from points in Henry County, Tenn., (2) in Sub-No. 291, from Stanhope, N.J., (3) in Sub-No. 434, from Cleveland, Ohio, and (4) in Sub-No. 440, from Houston, Tex., and Atlanta, Ga., to those destination points named above. If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La.

No. MC 107295 (Sub-No. 688), filed November 28, 1973. Applicant: PRE-FAB TRANSIT CO., 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: (1) *Buildings*, complete, knocked down, or in sections; (2) *building sections and panels;* (3) *parts and accessories* used in the installations and completion of commodities in (1) and (2) above; and (4) *metal prefabricated structural components and panels, and accessories* used in the installation and completions thereof, from the plantsite and warehouse facilities of Marathon Metallic Building Company at El Paso, Ill., to points in Arizona, California, Colorado, Connecticut, Idaho, Maine, Massachusetts, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, 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 St. Louis, Mo.

No. MC 107743 (Sub-No. 26), filed December 3, 1973. Applicant: SYSTEM TRANSPORT, INC., P.O. Box 3456TA, Spokane, Wash. 99220. Applicant's representative: S. J. Cully, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar pitch products* (except bulk products requiring tank or hopper bottom vehicles), from the plant site of Reilly Tar & Chemical Corp. located at Granite City, Ill., to points in Washington, Oregon, California, Nevada, Colorado, Utah, Wyoming, Montana, Idaho, North Dakota, and South 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 Indianapolis, Ind., or St. Louis, Mo.

No. MC 108341 (Sub-No. 32) (CLARIFICATION), filed March 9, 1973, published in the FEDERAL REGISTER issue of April 26, 1973, and republished as clarified this issue. Applicant: MOSS TRUCKING COMPANY, INC., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* which because of size or weight require the use of special equipment; (2) *commodities* which because of size or weight do not require the use of special equipment, when transported as part of the same shipment with commodities which because of size or weight require the use of special equipment; and (3) *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Florida, Georgia, North Carolina, South Carolina, and Virginia, on the one hand, and, on the other, points in that part of the United States on and east of the western boundaries of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

NOTE.—Applicant states that the requested authority can be tacked with its Sub-28 at the District of Columbia Commercial Zone to provide service between points in Maryland, Delaware, those in Pennsylvania east of the Susquehanna River, New Jersey, New York, Connecticut, Massachusetts, and Rhode Island, on the one hand, and, on the other, points in that part of the United States on and east of the western boundaries of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

HEARING: February 4, 1974, at 9:30 a.m., Daylight Savings Time, in the Cavalier Inn, Heritage Room, 426 North Tryon Street, Charlotte, N.C.

No. MC 108676 (Sub-No. 57), filed December 3, 1973. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue NE., Knoxville, Tenn. 37917. Applicant's representative: Carl U. Hurst, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the plantsite and warehouse facilities of PPG Industries, Inc., located at or near Wichita Falls, Tex., Mt. Holly Springs, and Kebert Park, Pa., Crystal City, Mo., and Cumberland, Md., 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 Knoxville, Tenn., or Louisville, Ky., or Pittsburgh, Pa.

No. MC 109478 (Sub-No. 130), filed December 4, 1973. Applicant: WORSTER MOTOR LINES, INC., R. D. #1, Gay Road, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West 10th St., P.O. Box 216, Erie, Pa. 16512. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, and incidental materials, supplies, and advertising matter used in the distribution and disbursement thereof*, from Cranston, R.I., to points in New York and Pennsylvania; and (2) *empty containers and incidental materials, supplies, and advertising matter*, from points in New York and Pennsylvania, to Cranston, R.I.

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 request it be held at Washington, D.C., or New York, N.Y.

No. MC 109490 (Sub-No. 9), filed December 5, 1973. Applicant: HEDING TRUCK SERVICE, INC., Union Center, Wis. 53962. Applicant's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Blvd., Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feeds* and *animal and poultry feed ingredients* (except commodities in bulk), from Union Center, Wis., to points in the United States (except points in Alaska, Colorado, Hawaii, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, and Pennsylvania); and (2) *materials, equipment, and supplies* used in the manufacture or distribution of animal and poultry feeds and animal and poultry feed ingredients, from the above-described destination points, to Union Center, Wis., restricted to the transportation of traffic originating at or destined to the plant site and storage facilities of Merrick Dry Milk Co., Inc., located at Union Center, 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 Madison, Wis.

No. MC 109821 (Sub-No. 35), filed December 4, 1973. Applicant: H. TAYNTON COMPANY, INC., 40 Main Street, Wellsboro, Pa. 16901. Applicant's representative: Robert DeKroyft, 201 Bloomfield Avenue, Verona, N.J. 07044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Manufactured glass products;* and (2) *commodities and equipment used in the manufacture, sale, and shipment of manufactured glass products*, between Dale Summit, Pa., and the plantsite of Corning Glass Works, located near Bluffton, Ind.

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 either Elmira, Binghamton, or New York, N.Y., or Washington, D.C.

No. MC 110563 (Sub-No. 119), filed December 5, 1973. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, Ohio Building, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 W. Washington, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats,*

meat products, meat by-products, and articles distributed by meat packinghouses, as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and warehouse facilities utilized by Farmland Foods, Inc., at or near Dennison, Carroll, and Iowa Falls, Iowa, to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, retricted to traffic originating at the plantsites and warehouse facilities utilized by Farmland Foods, Inc., at or near the above mentioned origin points.

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., or Des Moines, Iowa.

No. MC 112306 (Sub-No. 17), filed October 9, 1973. Applicant: C & R TRANSFER CO., a Corporation, 1315 West Blackhawk, Sioux Falls, S. Dak. Applicant's representative: James W. Olson, 506 West Boulevard, Rapid City, S. Dak. 57701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Treated and untreated posts, poles, pilings, and lumber*, from Whitewood, S. Dak., to points in Wisconsin, Illinois, and Detroit, Mich., under contract with Whitewood Post & Pole Company.

NOTE.—Applicant holds common carrier authority in MC 123885 Sub-No. 1 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Rapid City, S. Dak., or Sioux Falls, S. Dak.

No. MC 112617 (Sub-No. 310), filed December 7, 1973. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, plastics and plastic materials*, from the plant site of General Electric Co., located at or near Mt. Vernon, Ind., to points in Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Iowa, Kansas, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Vermont, Virginia, West Virginia, Washington, and Wisconsin.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Evansville, Ind., or Washington, D.C.

No. MC 112520 (Sub-No. 279), filed November 21, 1973. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: W. Guy McKenzie, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in Columbia County, Fla., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas.

NOTE.—Common control was approved in MC-F-5239. Applicant states that the requested authority can be tacked as follows: in Sub No. 1 (a) on resinous compounds, rosin, rosin derivatives, tall oil products and foundry core compounds, in bulk, in tank vehicles, at Pensacola, Fla., to serve points in Arkansas, Illinois, Missouri, Ohio and Tennessee; (b) on sulphuric acid at points in Columbia County, Fla., to provide a through service from Mobile, Ala., to the destination points named above (except Florida); and (c) on synthetic resin compounds, in solution, in bulk, in tank vehicles, at Valdosta, Ga., to serve El Dorado, Ark.; in Sub-No. 18, on resinous compounds, rosin derivatives and tall oil products, in bulk, in tank vehicles, at Pensacola, Fla., to serve points in Indiana, Kansas, and Kentucky; in Sub-No. 24 (a) rosin, tall oil and tall oil products, at Port St. Joe, Fla., to serve points in Arkansas, Indiana, Kentucky, Missouri, Ohio, and Illinois, and (b) on plastic synthetics, ester gum, rosin oil (not including natural rosin), in bulk, in tank vehicles, at Valdosta, Ga., to serve points in Arkansas, Indiana, Kentucky, Missouri, Ohio, and Illinois; in Sub-No. 35, on vegetable oil (except tall oil and naval stores) and fish oil, in bulk, in tank vehicles, at Pensacola, Fla., to serve points in Illinois (except Jacksonville), Indiana, Kansas, Kentucky, Missouri, and Ohio; in Sub-No. 71, on petroleum products, at points in Columbia County, Fla., to provide a through service from points in Bradford County, Fla., to points in the destination states named above (except Florida and Georgia); in Sub-No. 75, on nitrogen fertilizer solutions and anhydrous ammonia, in bulk, in tank vehicles, at Pace, Fla., to serve points in Arkansas and Kentucky.

In Sub-No. 82, on dry crude sulphate of soda, in bulk, in hopper and tank vehicles, at points in Columbia County, Fla., to provide a through service from points in Decatur County, Ga., to the destination points named above (except Florida and Alabama); in Sub-No. 83, on chemicals, in bulk, in tank or hopper trailers, (a) at Mobile, Ala., to serve points in Arkansas and (b) at points in Columbia County, Fla., to provide a through service from Mobile, Ala., to points in North Carolina, South Carolina, and Texas; in Sub-No. 91, on Fuller's earth, dry, in bulk, in tank vehicles, at points in Decatur County, Ga., to serve points in Arkansas; in Sub-No. 92, on liquid chemicals, in bulk, in tank vehicles, at points in Escambia and Santa Rosa Counties to serve points in Missouri; in Sub-No. 102, on acids and chemicals, in bulk, at points in Columbia County, Fla., to provide a through service from Avondale, La., to the destination points named above (except Florida); in Sub-No. 106, on Methanol, in bulk, in tank vehicles, (a) at points in Santa Rosa County, Fla., to serve points in Arkansas, Kentucky, and Virginia, and (b) at points in Columbia County, Fla., to provide a through service from points in Santa Rosa County, Fla., to points in Texas; in Sub-No. 116, on rosin soap, rosin, and toluene mixtures and rosin and benzine mixtures, in bulk, at Panama City, Fla., to serve points in Arkansas and Oklahoma; in Sub-No. 119, on anhydrous ammonia, in bulk, in tank vehicles, and dry urea, in bulk, at Avondale, La., to serve points in Kentucky and Arkansas; in Sub-No. 123, on anhydrous ammonia, nitrogen fertilizer solutions, ammoniated solutions, aqua ammonia, fertilizer compounds, and fertilizer material, in bulk, at points in Columbia County, Fla., to provide a through service from the Southern Nitrogen Co., Inc. located in Decatur County, Ga., to the destination points named above (except Florida); in Sub-No. 128, on fertilizer and fertilizer material (except sulphur) dry, in bulk, at points in Columbia County, Fla., to provide a through service from points in Decatur County, Ga., to the destination points named above (except Florida); in Sub-No. 134, on liquid fertilizer solutions (except nitrogen fertilizer solutions), in bulk, in tank vehicles, at points in Columbia County, Fla., to provide a through service from the site of Allied Chemical Corporation in Bainbridge, Ga., to the destination points named above (except Alabama, Florida and Georgia).

In Sub-No. 148, on sulphate of alumina, in bulk, in tank vehicles, at points in Columbia County, Fla., to provide a through service from the plant sites of American Cyanamid Corp. located at Demopolis and Coosa Pines, Ala., to points in Alabama, Louisiana, North Carolina, South Carolina, and Texas; in Sub-No. 161, on anhydrous dimethylamines and monoethylamines, at Pace, Fla., to serve Charleston, W. Va.; in Sub-No. 169, on liquid fertilizer, in bulk, in tank vehicles, at points in Columbia County, Fla., to provide a through service from points in Tift County, Ga., to the destination points named above (except Florida and Georgia); in Sub-No. 170, on fertilizer and fertilizer material, in bulk, at points in Columbia County, Fla., to provide a through service from points in Houston County, Ala., to the destination points named above (except Florida and Georgia); in Sub-No. 172, on anhydrous ammonia, in bulk, in tank vehicles, at points in Columbia County, Fla., to provide a through service from points in Muscogee and Dougherty Counties, Ga., to the destination points named above (except Florida, Alabama and Georgia); in Sub-No. 183, on tall oil and tall oil products, in bulk, in tank vehicles, to serve points in Virginia; in Sub-No. 184, on commodities having an immediate prior movement by rail, at points in Columbia County, Fla., to provide a through service from Tallahassee, Fla., to the destination points named above (except Florida); in Sub-No. 185, on dry urea, in bulk, at Avondale, La., to serve points in Illinois, Iowa, Nebraska, Minnesota, and South Dakota; in Sub-No. 186, on vegetable oil, in bulk, in tank vehicles, (a) at points in Columbia County, Fla., to provide a through service from points in Lowndes County, Ga., to points in Texas and (b) at points in Lowndes Co., Ga. to serve points in Kentucky, West Virginia, Virginia, and Maryland; in Sub-No. 190, on fertilizer and fertilizer material, in bulk, at points in Columbia County, Fla., to provide a through service from points in Colquitt and Mitchell Counties, Ga., to the destination points named above (except Florida).

In Sub-No. 191, on chemicals (except aluminum sulphate, vegetable oils, and naval stores), at Port St. Joe, Fla., to serve points in Arkansas, Kentucky, Maryland, Virginia, and the District of Columbia; in Sub-No. 195, on chemicals, in bulk, (except phosphatic feed supplies), (a) at Tampa, Fla., to serve Charleston, W. Va.; and (b) at points in Columbia County, Fla., to provide a through service from Tampa, Fla., to points in Louisiana and Texas; in Sub-No. 202, on petroleum and petroleum products, in containers, (a) at Guntersville, Ala., to serve points in Arkansas and Kentucky and (b) at points in Columbia County, Fla., to provide a through service from Guntersville, Ala., to points in Alabama and Texas; in

Sub-No. 204, on acids and chemicals, in bulk, at the sites of the Monsanto Co. located at or near Gonzalez and Pensacola, Fla., to serve points in Connecticut, Indiana, Kentucky, and Pennsylvania; in Sub-No. 207, on hydrofluorsilic acid, in bulk, in tank vehicles, (a) at the plant sites and facilities of the Cotton Producers Association located in Crisp and Effingham Counties, Ga., to serve points in Arkansas, Indiana, Iowa, Kansas, Kentucky, Nebraska, Ohio, Oklahoma, Illinois, and Missouri and (b) at points in Columbia County, Fla., to provide a through service from the plant sites and facilities of the Cotton Producers Association located in Crisp and Effingham Counties, Ga., to points in Georgia, North Carolina, and South Carolina; in Sub-No. 209, on fertilizer and fertilizer material (except nitrogen fertilizer solutions), at points in Columbia County, Fla., to provide a through service from points in Crisp County, Ga., to the destination points named above (except Florida); in Sub-No. 212, on fertilizer and fertilizer ingredients, in bulk, at points in Columbia County, Fla., to provide a through service from points in Barbour and Henry Counties, Ala., to the destination points named above (except Florida and Georgia); in Sub-No. 213, on anhydrous ammonia, at points in Columbia County, Fla., to provide through service from points in Decatur County, Ga., to the destination points named above (except Alabama, Florida, and Georgia); in Sub-No. 219, on phosphatic feed ingredients, in bulk, (a) at the facilities of Occidental Chemical Co., located near White Springs, Fla., to serve points in Virginia, Delaware, Maryland, Kentucky, Pennsylvania, and New Jersey and (b) at points in Columbia County, Fla., to provide a through service from the facilities of Occidental Chemical Co. located near White Springs, Fla., to points in Alabama, Georgia, and Texas.

In Sub-No. 224, on liquid acids and chemicals, in bulk, in tank vehicles, (a) at the facilities of American Cyanamid Co. located at Avondale, La., to serve points in Arkansas, Illinois, Indiana, and Kentucky, and (b) at points in Columbia County, Fla., to provide a through service from the facilities of American Cyanamid Co. located at Avondale, La., to points in Louisiana and Texas; in Sub-No. 232, on fertilizer and fertilizer material, in bulk, in tank vehicles, at points in Columbia County, Fla., to provide a through service from Albany, Ga., to the destination points named above (except Florida and Alabama); in Sub-No. 238, on resin solutions, in bulk, in tank vehicles, at points in Appling County, Ga., to serve points in Arkansas, Ohio, and Indiana; in Sub-No. 239, on liquid fertilizer, in bulk, in tank vehicles, at points in Columbia County, Fla., to provide a through service from points in Sumter County, Ga., to the destination points named above (except Florida and Alabama); in Sub-No. 245, on hydrofluorsilic acid, in bulk, at points in Columbia County, Fla., to provide a through service from International Minerals and Chemical Corp. located at Americus, Ga., to the destination points named above (except Alabama, Florida, and Georgia); in Sub-No. 255, on dry liquid animal feed and animal feed supplement (except animal fats and oils), in bulk, in tank vehicles, at points in Columbia County, Fla., to provide a through service from Donaldsville, Ga. to the destination points named above (except Alabama, Florida, and Georgia); in Sub-No. 255, on dry phosphatic feed ingredients, in bulk, at the facilities of Occidential Chemical Co. located near White Springs, Fla., to serve points in Illinois (except East St. Louis, Ill.); in Sub-No. 258, on paint, varnishes, lacquers, resins, stains, and paint material, in bulk, in tank vehicles (a) at Covington, Ga., to serve points in Arkansas and (b) at points in Columbia County, Fla., to provide a through service from Covington, Ga., to points in Georgia, North Carolina, and South Carolina; and in Sub-No. 268, on fertilizer and fertilizer ingredients, in bulk, in tank vehicles, at points in Barbour County, Ala., to serve points in Indiana, and Kentucky. If a hearing is deemed necessary, applicant requests it be held at Tallahassee, or Jacksonville, Fla. or Athens, Ga.

No. MC 112713 (Sub-No. 158), filed December 6, 1973. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, P.O. Box 7270, Shawnee Mission, Kans. 66207. Applicant's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, Ill. 60603. 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), between Charleston, W. Va., and Richmond, Va., serving no intermediate points, and serving Charleston, W. Va., for joinder only: from Charleston over U.S. Highway 60 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction Interstate Highway 64, thence over Interstate Highway 64 to junction Interstate Highway 95, thence over Interstate Highway 95 to Richmond, and return over the same route, as an alternate route for operating convenience only, in connection with carrier's authorized regular route operations, restricted to the transportation of traffic moving to or from St. Louis, Mo., and points west thereof.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 113362 (Sub-No. 264), filed November 26, 1973. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, 1105½ 8th Ave. NE., P.O. Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, 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 in tank vehicles), from the plant site and warehouse facilities of Wilson and Co., Inc., at Albert Lea, Minn., and Cedar Rapids, Iowa, to points in Oklahoma and Texas, restricted to traffic originating at and destined to the points named above.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 113475 (Sub-No. 17), filed November 30, 1973. Applicant: RAWLINGS TRUCK LINE, INC., P.O. Box 831, Emporia, Va. 23847. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logs of compressed wood, bark, or sawdust*, from Plymouth, N.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Maine, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, and *returned shipments* of the above-described commodity from the designated destination states to Plymouth, N.C.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113475 (Sub-No. 18), filed November 30, 1973. Applicant: RAWLINGS TRUCK LINE, INC., P.O. Box 831, Emporia, Va. 23847. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood pulp* from Askin, N.C., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia; and (2) *lumber*, from Askin and New Bern, N.C., to points in South Carolina and Georgia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113495 (Sub-No. 59) (CORRECTION), filed November 13, 1973, published in the FEDERAL REGISTER issue of December 20, 1973, and republished, as corrected, this issue. Applicant: GREGORY HEAVY HAULERS, INC., 51 Oldham Street, P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal buildings and component parts;* and (2) *materials, equipment, and supplies* used in the erection of the commodities named in (1) above (except commodities in bulk), from Portland, Tenn., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, North Carolina, Ohio, Virginia, West Virginia, and Wisconsin.

NOTE.—The purpose of this republication is to correct the applicant's name and representative's address. 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 Nashville, Tenn., or Washington, D.C.

No. MC 113678 (Sub-No. 527), filed November 27, 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: *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 Amarillo, Tex., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Arizona, California, and New Mexico, restricted to shipments originating at the plant site and facilities utilized by John Morrell & Co. at Amarillo, Tex.

NOTE.—Applicant states that the existing authority can be tacked at points in California to provide through service from Amarillo, Tex., to points in Oregon, Washington, and Idaho. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.; Amarillo, Tex.; or Denver, Colo.

No. MC 113855 (Sub-No. 287), filed November 30, 1973. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrostatic precipitators and electrostatic precipitator parts;* (2) *steel siding and roofing;* and (3) *waste treatment system or plants, including their parts and accessories*, from Warrenton, Mo., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at the plant and facilities of Binkley Company.

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 114194 (Sub-No. 172), filed December 5, 1973. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Applicant's representative: Ernest A. Brooks, II, 1301–02 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soybean flakes, soybean meal, and soybean grits*, in bulk, from Bloomington, Ill., to St. Louis, Mo.; (2) *lime*, in bulk, from the plantsite and storage facilities of Ash Grove Cement at or near Springfield, Mo., to Wood River, Ill.; and (3) *flour*, in bulk, (a) from St. Louis, Mo., to points in Colorado, Louisiana, New Mexico, and Texas, and (b) from Springfield, Ill., to points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, 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 St. Louis, Mo.

No. MC 114121 (Sub-No. 3), filed November 26, 1973. Applicant: SUPERIOR CARTAGE OF WASHINGTON, INC., 150 South Horton Street, Seattle, Wash. 98134. Applicant's representative: Jed L. Kelson, 3701 Wilshire Blvd., 7th Floor, Los Angeles, Calif. 90010. 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 the use of special equipment), (1) Between Seattle and Everett, Wash.: From Seattle over Interstate Highway 5 to Everett, and return over the same route; and (2) Between Seattle and Tacoma, Wash.: From Seattle over Interstate Highway 5 to Tacoma, and return over the same route, serving in (1) and (2) above all intermediate points and those off-route points within 5 miles of the above destination routes and those located within the Everett, Seattle, and Tacoma Commercial Zones, restricted to the transportation of shipments having an immediate prior or subsequent movement in freight forwarder service.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Los Angeles, Calif.

No. MC 114211 (Sub-No. 214) filed November 29, 1973. Applicant: WARREN TRANSPORT, INC., 324 Manhard St., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural implements and farm machinery, attachments, parts and accessories*, between Independence, Mo., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *materials, equipment, and supplies* used in the manufacture or distribution of the above described commodities (except commodities in bulk), between points in the United States (except Alaska and Hawaii), on the one hand, and, on the other, Independence, Mo.; and (3) *experimental and show display agricultural implements and farm machinery, attachments, parts and accessories*, between points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority can be tacked at points in the United States to serve points in the United States. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Chicago, Ill.

No. MC 114211 (Sub-No. 215), filed December 3, 1973. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Self-propelled vehicles;* (b) *equipment* designed for use in conjunction with self-propelled vehicles; and (c) *parts and attachments* for commodities in (a) and (b) above, from Barnesville, Minn., to points in the United States (except Alaska and Hawaii); and (2) *equipment, materials, and supplies* used in the manufacture, sale or distribution of all the foregoing commodities (except commodities in bulk), from points in the United States (except Alaska and Hawaii) to Barnesville, Minn.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at points in the United States, to serve points in the United States. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Fargo, N. Dak.

No. MC 114273 (Sub-No. 154), filed November 30, 1973. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue, NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magazines*, from Milwaukee, Wis., to points in Iowa.

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 114457 (Sub-No. 178), filed December 7, 1973. Applicant: DART TRANSIT COMPANY, a Corporation, 780 N. Prior Avenue, St. Paul. 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: *Plastic products*, from Winchester, Va., to points in Minnesota.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Winchester, Va.

No. MC 116063 (Sub-No. 132), filed November 1, 1973. Applicant: WESTERN—COMMERCIAL TRANSPORT, INC., 2929 W. 5th Street, P.O. Box 270, Fort Worth, Tex. 76101. Applicant's representative: W. H. Cole (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils, animal fats, and blends thereof*, in bulk, in tank vehicles, from Fort Worth, Tex., to points in Georgia.

NOTE.—Applicant states that the requested authority can be tacked at Forth Worth, Tex., to provide a through service (1) in Sub-No. 4 from Loving and Roswell, N. Mex., transporting cottonseed oil, (2) in Sub-No.

47, from the plant site of Wilson and Co., at Cherokee, Iowa, transporting animal fats and animal oils, (3) in Sub-No. 97, Route 1, from points in New Mexico and Oklahoma, transporting animal fats, oil, and greases, (4) in Sub-No. 97, Route 6, from Dupo, Ill., transporting vegetable oils, animal fats, and blends thereof, (5) in Sub-No. 97, Route 9, from points in Texas, transporting vegetable oils, animal fats, and blends thereof, (6) in Sub-No. 97, Route 10, from Oklahoma City, Okla., transporting vegetable oils, animal fats, and blends thereof, (7) in Sub-No. 97, Route 12, from points in Arkansas, Colorado, Louisiana, Mississippi, Iowa, Kansas, Nebraska, Illinois, Indiana, Missouri, and Oklahoma, transporting vegetable oils, (8) in Sub-No. 97, Route 18, from Anderson-Clayton Plant site near Jacksonville, Ill., and Humko Co. Plant near Champaign, Ill., transporting processed, refined, and blended vegetable and animal oils, and animal fats, (9) in Sub-No. 97, Route 24, from Rochester, N.Y., transporting blends of vegetable, and animal oils, and lard, (10) in Sub-No. 97, Route 26, from points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin, transporting animal fats, (11) in Sub-No. 97, Route 34, from points in Louisiana, Arkansas, and Oklahoma, transporting animal fats, (12) in Sub-No. 97, Route 85, from Jacksonville, Ill., transporting blends of animal fats, and vegetable oils, and crude and unprocessed animal fats, and vegetable oils, (13) in Sub-No. 97 Route 86, from Chicago, Ill., transporting animal fats, and vegetable oils and blends thereof, (14) in Sub-No. 97, Route 93, from St. Louis, Mo., and Kansas City, Kans., transporting hydrolyzed fats and mixtures of hydrolyzed fats, and natural animal fats, and greases, (15) in Sub-No. 127, from the facilities of Wilson Certified Foods, Inc., at Marshall, Mo., transporting fats, and oils, and products thereof, to points in Georgia. If a hearing is deemed necessary, applicant requests it be held at Fort Worth, or Dallas, Tex.

No. MC 116063 (Sub-No. 133), filed December 10, 1973. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., 2929 W. 5th Street, P.O. Box 270, Fort Worth, Tex. 76101. Applicant's representative: W. H. Cole (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paints, stains, and varnishes*, in bulk, in tank vehicles, from Garland, Tex., to points in Nebraska.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority in Sub-No. 97 at Garland, Tex., to provide a through service from points in Texas to points in Nebraska. If a hearing is deemed necessary, applicant requests it be held at Dallas or Fort Worth, Tex.

No. MC 116763 (Sub-No. 270), filed November 30, 1973. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Poynette, Waunakee, Sun Prairie, Cobb, and Merrill, Wis., to points in Pennsylvania west of U.S. Highway 15 and points in Ohio, restricted to traffic originating at and destined to the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 116947 (Sub-No. 28), filed November 23, 1973. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby St. SW., Atlanta, Ga. 30310. Applicant's representative: William Addams, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mineral wool, glass wool, collapsed or compressed air duct or air hose, insulating material* having a density of 6 pounds to 9 pounds per cubic foot, from Atlanta, Ga., to points in Alabama, Arkansas, Florida, Kentucky, Louisiana, Mississippi, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and Virginia; and (2) *material and supplies* used in the manufacture and distribution of the commodities named in (1) above, from the destination states named in (1) above, to Atlanta, Ga., under contract with Clecon, Inc., Atlanta, Ga.

NOTE.—Applicant holds common carrier authority in MC 117956 (Sub-No. 2) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 116982 (Sub-No. 14), filed November 28, 1973. Applicant: FUCHS, INC., Rural Route #1, Box 576, Sauk City, Wis. 53583. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and housing units, complete, knocked down, or in sections, and component parts thereof, wood products, composition wood products, laminated products, and parts and accessories for all of these products;* (a) from points in Martin County, Minn., to points in the United States (except Alaska and Hawaii), and (b) from Moberly, Mo., Coldwater, Mich., and Mazomanie, Wis., to points in Arizona, California, Colorado, Connecticut, Delaware, Florida, Idaho, Maine, Maryland, Massachusetts, Montana, Nevada, New Jersey, New Hampshire, New Mexico, North Carolina, Oregon, Rhode Island, South Carolina, Utah, Virginia, Vermont, Washington, Wyoming, and the District of Columbia; (a) *materials, equipment, and supplies used in the manufacture, sale, distribution, erection and completion of the items named in paragraph (1) above, and return shipments of the items named in paragraph (1) above;* (a) from points in the United States (except Alaska and Hawaii), to Martin County, Minn.; (b) from points in Arizona, California, Colorado, Connecticut, Delaware, Florida, Idaho, Maine, Maryland, Massachusetts, Montana, Nevada, New Jersey, New Hampshire, New Mexico, North Carolina, Oregon, Rhode Island, South Carolina, Utah, Virginia, Vermont, Washington, Wyoming, and the District of Columbia, to Moberly, Mo., and Coldwater, Mich.; and (c) from points in Arizona, California, Colorado, Connecticut, Delaware, Florida, Idaho, Maine, Maryland, Massachusetts, Montana, Nevada, New Jersey, New Hampshire, New Mexico, North Carolina, Oregon, Rhode Island, South Carolina, Utah, Virginia, Vermont, Washington, Wisconsin, Wyoming, and the District of Columbia, to Mazomanie, Wis., restricted to a transportation service to be performed under a continuing contract, or contracts, with Wick Building Systems, Inc.; and (3) *fertilizer and fertilizer ingredients* between points in Wisconsin, Illinois, and Iowa, restricted to a transportation service to be performed under a continuing contract, or contracts, with F S Services, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Madison, or Milwaukee, Wis.

No. MC 117392 (Sub-No. 12), filed December 3, 1973. Applicant: EDMANDS TRUCKING, INC., 1700 South Willow Street, Manchester, N.H. 03103. Applicant's representative: Frank W. Edmands, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Woburn, Mass., to points in New Hampshire.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, aplicant requests it be held at Manchester or Concord, N.H., or Boston, Mass.

No. MC 117644 (Sub-No. 35), filed November 26, 1973. Applicant: D & T TRUCKING CO., INC., P.O. Box 2611, New Brighton, Minn. 55112. Applicant's representative: William J. Boyd, 29 South La Salle Street, Suite 330, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic games, toys, trays, cups, tables, and parts thereof*, from South Plainfield and Metuchen, N.J., to points in Minnesota, Wisconsin, Nebraska, Iowa, Kansas, Missouri, Illinois, Indiana, Michigan, Ohio, North Dakota and South Dakota, under contract with Standard Plastic Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 117730 (Sub-No. 17), filed November 29, 1973. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, Ill. 60142. Applicant's representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, in bulk, in hopper or conveyor trailers, from Utica, Ill., to points in Indiana, Ohio, Pennsylvania, and Kansas.

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 117883 (Sub-No. 182), filed November 26, 1973. Applicant: SUBLER

TRANSFER, INC., 791 East Main Street, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler, P.O. Box 62, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except nides and commodities in bulk), from York, Nebr., to points in Connecticut, Delaware, District of Columbia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, restricted to traffic originating at the plantsite or storage facilities of Sunflower Beef Packers, Inc., located at or near York, Nebr.

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 118202 (Sub-No. 24), filed September 21, 1973. Applicant: SCHULTZ TRANSIT, INC., 323 East Bridge Street, P.O. Box 406, 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: *Meat, meat products, and meat by-products, articles distributed by meat packinghouses*, and *such commodities* as are used by meat packinghouses, and *such commodities* as are used by meat packers in the conduct of their business when destined to and used by meat packers as described in Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), and *materials, supplies, and equipment* used by meat packers in the conduct of their business, from the plantsite and warehouse facilities utilized by Yankton Sioux Industries at Wagner, S. Dak., to points in Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, New Mexico, and Colorado.

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 Minneapolis, Minn., or Washington, D.C.

No. MC 118142 (Sub-No. 57), filed December 3, 1973. Applicant: M. BRUENGER & CO., INC., 6330 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier's Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Wichita, Kans., to Denver, Colo.

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 Wichita, Kans.

No. MC 118610 (Sub-No. 19), filed December 3, 1973. Applicant: L & B EXPRESS, INC., P.O. Box 137, Madisonville, Ky. 42431. Applicant's representative: Fred F. Bradley, Courthouse, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, roofing, pipe and pipe fittings* (except commodities in bulk), from Rockdale and Waukegan, Ill., to points in Kentucky and Tennessee, restricted to traffic originating at the facilities of the Johns-Manville Corporation.

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 Frankfurt, Ky., or Louisville, Ky.

No. MC 119631 (Sub-No. 21), filed December 4, 1973. Applicant: DEIOMA TRUCKING COMPANY, a Corporation, P.O. Box 915, Mount Union Station, Alliance, Ohio 44601. Applicant's representative: James E. Wilson, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay products*, from the plantsite or warehouse facilities of United States Ceramic Tile Co., at Canton, Ohio, and approximately two miles from East Sparta, Ohio, to points in Wisconsin, Illinois, New Hampshire, Vermont, Maine, Rhode Island, Massachusetts, Connecticut, Virginia, Delaware, New Jersey, and the District of Columbia; and (2) *materials used in the manufacture of clay products*, on return.

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 Columbus, Ohio.

No. MC 119656 (Sub-No. 21), filed November 29, 1973. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, Ind. 46996. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap aluminum, aluminum dross, and slag*, from points in Indiana, to the plant site of William F. Jobbins, Inc., at Aurora, Ill.

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 Indianapolis, Ind.

No. MC 119656 (Sub-No. 23), filed December 4, 1973. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, Ind. Applicant's representative: Donald W. Smith, One Indiana Square, Suite 2465, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, which because of size or weight require the use of special equipment, from East Chicago, Ind., to points in Illinois.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at East Chicago, Ind., to provide a through service from points within 75 miles of Chicago, Ill., to points in Illinois. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 119777 (Sub-No. 274), filed November 9, 1973. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Carl U. Hurst, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carbon and graphite products*, between Hickman, Ky., on the one hand, and, on the other, points in the United States (except Alabama, Florida, Illinois, Indiana, Michigan, New York, New Jersey, North Carolina, Ohio, Texas, Pennsylvania, West Virginia, Wisconsin, Alaska, and Hawaii); and (2) *equipment, materials, and supplies* (except in bulk) used in the manufacture of carbon and graphite products, from points in the United States (except Alabama, Florida, Illinois, Indiana, Michigan, New York, New Jersey, North Carolina, Ohio, Texas, Pennsylvania, West Virginia, Wisconsin, Alaska, and Hawaii), to Hickman, Ky.

NOTE.—Applicant holds contract carrier authority in MC 126970 Sub-Nos. 1 and 3, therefore dual operations may be involved. Applicant states that the requested authority can be tacked with its existing authority at Hickman, Ky., to serve Alabama, Florida, Illinois, Indiana, Michigan, New York, New Jersey, North Carolina, Ohio, Pennsylvania, Texas, West Virginia, and Wisconsin. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 119777 (Sub-No. 276), filed December 10, 1973. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Robert M. Pearce, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Casing, pipe, tubing, couplings, pallets, mine roof washers, bars, crop ends, angles, channels, plates, and steel sheets* (except commodities requiring special equipment), from St. Louis, Mo., and points in Illinois and Indiana, to points in Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, South Carolina, and Tennessee.

NOTE.—Applicant holds contract carrier authority in MC 126970 and subs thereunder, therefore, dual operations may be involved. Common control was approved in MC-F-8759. 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 120616 (Sub-No. 3) filed November 27, 1973. Applicant: A. V. DEDMON TRUCKING, INC., Highway 150 East, Shelby, N.C. 28150. Applicant's representative: John C. Bradley, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those requiring special equipment), (a) between points in Cleveland and Burke Counties, N.C., and (b) between points in said counties on the one hand, and, on the other, points in North Carolina on and west of a line beginning at the South Carolina State Boundary line and extending northerly along U.S. Highway 17 to its intersection with North Carolina Highway 43 at Vanceboro, thence northwesterly along North Carolina Highway 43 to Norlina; (2) *personal effects and property* used or to be used in a dwelling when a part of the equipment or supply of such dwelling; when a part of the equipment or supply of such dwelling; *furniture, fixtures, equipment, and the property* of stores, offices, museums, institutions, hospitals, or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments; and (3) *articles* including objects of art, displays, and exhibits, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, between points in North Carolina. This authority does not include materials used in the manufacture of furniture and the manufactured products hauled to or from such manufactured plants.

NOTE.—By the instant application, applicant seeks to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 120728 (Sub-No. 4), filed November 14, 1973. Applicant: MOJAVE TRANSPORTATION CO., a Corporation, 14410 South Avalon Boulevard, Gardena, Calif. 90247. Applicant's representative: Martin J. Rosen, 140 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Commodities, which by reason of size or weight, require special handling or the use of special equipment*, and (b) *commodities which do not require special handling or the use of special equipment* when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (2) *self-propelled articles, transported on trailers, and related machinery, tools, parts, and supplies* moving in connection therewith; (3) *iron and steel articles* as described in Appendix 5 to the Commission's report in *Descriptions in Motor Carrier Certificates*, Ex Parte, MC 45, 61 M.C.C. 209 and 766; (4) *pipe other than iron or steel, together with fittings;* and (5) *construction materials*, between points in California.

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 Los Angeles, or San Francisco, Calif.

No. MC 121060 (Sub-No. 29), filed November 30, 1973. Applicant: ARROW TRUCK LINES, INC., P.O. Box 5568, Birmingham, Ala. 35207. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Suite 425, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, valves, fittings, hydrants, parts* thereof and *accessories* therefor (except commodities in bulk), from the facilities of American Cast Iron Pipe Company at or near Birmingham, Ala., to points in Tennessee, Georgia, Florida, North Carolina, and South Carolina, restricted to traffic originating at the above named origin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Washington, D.C.

No. MC 121107 (Sub-No. 9), filed November 30, 1973. Applicant: PITT COUNTY TRANSPORTATION COMPANY, INC., P.O. Box 207, Farmville, N.C. 27828. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logs of compressed wood, bark, or sawdust*, from Plymouth, N.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland Maine, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, and *returned shipments* of the above-described commodity from the designated destination states to Plymouth, N.C.

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 121336 (Sub-No. 2), filed November 26, 1973. Applicant: SUPERIOR FAST DRAYAGE, doing business as SUPERIOR EXPRESS, 611 North Mission Road, Los Angeles, Calif. 90033. Applicant's representative: Jed L. Kelson, 3701 Wilshire Blvd., 7th Floor, Los Angeles, Calif. 90010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except (1) household goods as defined by the Commission; (2) automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses, and bus chassis; (3) livestock; (4) commodities in bulk in tank vehicles; (5) commodities when transported in dump trucks or hopper-type trucks; and (6) commodities when transported in motor vehicles equipped for mechanical mixing in transit), between points in California located within the Los Angeles Basin Territory as described as follows: Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth, easterly along State Highway No. 118 to Sepulveda Boulevard, northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando, westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99, northwesterly along U.S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said country road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way to The Atchison, Topeka & Santa Fe Railway Company, southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line

to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning.

NOTE.—Applicant seeks by this application to convert a Certificate of Registration to a certificate of Public Convenience and Necessity. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 123392 (Sub-No. 59), filed November 30, 1973. Applicant: JACK B. KELLEY, INC., U.S. 66 West at Kelley Drive, Route #1 Box 400, Amarillo, Tex. 79106. Applicant's representative: Austin L. Hatchell, Suite 1022, Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compressed gas* (except butane, propane, and anhydrous ammonia), and *cryogenic liquids* in specialized equipment, between points in Arizona, Colorado, Kansas, South Dakota, Nebraska, Iowa, Missouri, Wyoming, Oregon, Nevada, California, Illinois, Utah, Washington, Montana, Idaho, North Dakota, Minnesota, and Wisconsin.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority in Sub-No. 31 at points in Arizona, Colorado, Kansas, Illinois, and Missouri to provide service between those States named above and points in Alabama, Arkansas, Florida, Georgia, Illinois, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Indiana, Ohio, West Virginia, Virginia, Pennsylvania, New York, New Jersey, Maryland, and Delaware. If a hearing is deemed necessary, applicant requests it be held at Amarillo, Tex., Oklahoma City, Okla., or Dallas, Tex.

No. MC 123407 (Sub-No. 150), filed November 5, 1973. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6 and McCool Road, Valparaiso, Ind. 46383. Applicant's representative: Donald W. Rice (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Veneer, wood products, building materials, and supplies* (except commodities in bulk), between points in Washburn County, Wis., on the one hand, and, on the other, points in Minnesota, North Dakota, South Dakota, Nebraska, Illinois, Indiana, Michigan, and Georgia.

NOTE.—Common control may be involved. Applicant states it can tack at points in the United States to serve points in the United States (except Alaska and Hawaii). Applicant has no present intention of tacking. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Washington, D.C.

No. MC 123407 (Sub-No. 151), filed November 29, 1973. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the PPG plant site at Wichita Falls, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing and pending authority at points in the United States, to serve points in the United States (except Alaska and Hawaii). If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123778 (Sub-No. 21), filed December 4, 1973. Applicant: JALT CORP., doing business as UNITED NEWSPAPER DELIVERY SERVICE, 75 Cutters Lane, Woodbridge, N.J. 07095. 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: *Newspapers and magazines and advertising matter*, when transported in the same vehicle with a regulated commodity (otherwise exempt from economic regulations under Section 203(b)(7) of the Act), from Woodbridge, N.J., to Wilmington, Del., Baltimore, Md., the District of Columbia, and points in New Jersey and Connecticut, those in that part of Pennsylvania on and east of U.S. Highway 15, and those in New York on and east of New York Highway 14, under contract with Select Magazines, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 124062 (Sub-No. 9), filed November 28, 1973. Applicant: FRICK TRANSPORT, INC., Wawaka, Ind. 46794. Applicant's representative: Donald W. Smith, One Indiana Square, Suite 2465, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solution*, in bulk, in tank vehicles, (1) from Valmeyer, Breese, and West York, Ill., to points in Kentucky, Missouri, and Indiana; and (2) from Jordan and Dublin, Ind., to points in Ohio, Kentucky, Illinois, and Michigan.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority in the base certificate at Dublin, Ind., to provide a through service from Chicago, Ill., to points in Ohio, Kentucky, Illinois, and Michigan. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 124070 (Sub-No. 29), filed December 10, 1973. Applicant: CHEMICAL HAULERS, INC., P.O. Box 2038, Hammond, Ind. 46323. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastics*, dry, in bulk, from the plant site and storage facilities of Cosden Oil & Chemical Company located at or near Chicago, 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 Chicago, Ill.

No. MC 124211 (Sub-No. 235), filed October 10, 1973. Applicant: HILT TRUCK LINES, INC., P.O. Box 988, Downtown Station, Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: (1) *Alcoholic beverages* (except malt beverages) and articles dealt in and used by beverage distributors, between points in Kansas and those in Missouri on and west of U.S. Highway 65, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (2) *pet food*, from Kansas City, Kans., to points in Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wyoming.

NOTE.—Common control was approved in MC-F-11887. Applicant states that the requested authority can be tacked with its existing authority as follows: on (1) Above in Sub-No. 18 at points in Kansas and Missouri to provide service between Omaha, Nebr., and points in the United States; in Sub-No. 34 at points in Kansas to provide service between the facilities of Anchor Hocking Glass Corp. located at or near Gurnee, Ill., and points in the United States; in Sub-No. 40 at points in Kansas and Missouri to provide a through service from points in Nebraska to points in the United States; in Sub-No. 44 at points in Kansas and Missouri to provide a through service from Minneapolis and St. Paul, Minn.; Kansas City and St. Louis, Mo.; Omaha, Nebr.; Chicago, Peoria, Belleville, and Quincy, Ill.; Milwaukee and Waukesha, Wis., and Pueblo, Colo., to points in the United States; in Sub-No. 109 at points in Kansas to provide a through service from Detroit, Mich.; points in Nebraska; Minneapolis, Minn.; Muskogee, Okla.; and La Crosse, Milwaukee, and Waukesha, Wis.; to points in the United States; in Sub-No. 112 at specific highway points in Kansas to provide service between Lincoln, Nebr., and points in the United States; in Sub-No. 118 at points in Kansas to provide service between Lincoln, Nebr., and points in the United States; in Sub-No. 121 at Smith Center, Kans., to provide service between points in Nebraska and points in the United States; in Sub-No. 125 at points in Kansas and Missouri to provide a through service from points in Nebraska to points in the United States; in Sub-No. 127 at points in Missouri to provide service between Lincoln, Nebr., and points in the United States; in Sub-No. 131 at points in Kansas to provide a through service from Mobile, Ala., and points in Louisiana to points in the United States; in Sub-No. 132 at points in Kansas to provide a through service from St. Louis, Mo., and Denver, Colo., and at points in Kansas and Missiouri to provide a through service from Kansas City, Mo., to points in the United States; in Sub-No. 139 at points in Kansas and Missouri to provide service between points in Minnesota and points in the United States; in Sub-No. 149 at points in Kansas and Missouri to provide a through service from the plant site and warehouse facilities of Shasta Beverages located at Hayward, Calif.; Lenexa, Kans., and Omaha, Nebr., to those points in the United States to which service is not provided in Sub-No. 149; in Sub-No. 151 at points in Kansas and Missouri to provide a through service from Eldora, Iowa, to those points in the United States to which service is not provided in Sub-No. 151: in Sub-No. 172 at points in Kansas and Missouri to provide a through service from points

in Cook County, Ill., to points in the United States; in Sub-No. 175 at points in Missouri to provide a through service from Lincoln, Nebr., to points in the United States; in Sub-No. 194 at points in Kansas and Missouri to provide a through service from points in California to points in the United States; in Sub-No. 195 at points in Kansas to provide a through service from Burlington, Iowa, to points in the United States; in Sub-No. 197 at points in Kansas and Missouri to provide a through service from points in California to points in the United States; in Sub-No. 208 at those points in Kansas which serve as intermediate points in the regular route authority under Sub-No. 16 to provide service between Waverly and Milford, Nebr., and points in the United States; and in Sub-No. 209 at points in Kansas to provide a through service from points in Florida to points in the United States; and on (2) above; in Sub-No. 36 at points in Nebraska and Wyoming to serve the plant site of Darling & Co. located at or near Cedar Rapids and Alpha, Iowa; in Sub-No. 104 at Kansas City, Kans., to provide a through service from points in Saunders County, Nebr., to points in Minnesota, Nebraska, North Dakota, and South Dakota; and at Saunders County, Nebr., to serve points in Kansas, Wisconsin and specified points in Missouri, and in Sub-No. 109 at points in Saunders County, Nebr., to serve points in Illinois, Indiana, Michigan, and Ohio. If a hearing is deemed necessary, applican requests it be held at Kansas City, Mo., or Topeka, Kans.

No. MC 125440 (Sub-No. 13), filed November 20, 1973. Applicant: JULES TISCHLER, doing business as RARITAN MOTOR EXPRESS, 129 Lincoln Boulevard, Middlesex, N.J. 08846. Applicant's representative: Bert Collins, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precast, pre-stressed concrete products, and concrete planks*, (a) from the plant sites or other facilities of Formigli Corp. at Vineland, Williamstown Junction, and Berlin, N.J., to points in Virginia, Maryland, Pennsylvania, New York, Delaware, and the District of Columbia and (b) from the plant sites or other facilities of Formigli Corp., Spotsylvania County, Va., to points in Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, and the District of Columbia, and (2) *materials, supplies, and equipment* used in the manufacture, erection, or installation thereof, from the aforementioned destination territory in 1 (a) and (b) above to the described origin locations in 1 (a) and (b) above, under contract with the Formigli Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 124545 (Sub-No. 2), filed November 29, 1973. Applicant: HANSON M. SAVAGE, doing business as H. M. SAVAGE, Box 36, Chester Depot, Vt. 05144. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mined and ground talc*, from Chester, Vt., to points in Delaware, Maryland, Ohio, Pennsylvania, Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, and New Jersey, under a continuing contract with Vermont Talc Company of Chester, Vt.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt.

No. MC 125512 (Sub-No. 9), filed November 30, 1973. Applicant: ELTON F. BURISH, Route #2 Box 58A, Marathon, Wis. 54448. Applicant's representative: Mrs. Elton Burish (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood chips*, in bulk, from the facilities of Wenos Lumber Co. located at Watersmeet (Gogebic County) and American Can Co. located at Amasa (Iron County), Mich., to the facilities of Wausau Paper Mills Co., Inc., located at Brokaw; American Can Co. located at Rothschild (Marathon County) and Green Bay (Brown County); Weyerhauser Co. located at Marshfield (Wood County) and Owens-Illinois Co. located at Tomahawk (Lincoln County), Wis., under a continuing contract or contracts with American Can Company Lake States Woodlands of Rothschild, Wis., and (2) *sawdust, shavings, bark, and wood waste residue* generated by manufacturing plants, in bulk, from the facilities of Iron Woods Products Corp. and Stiegers Lumber Co. located at or near Bessemer (Gogebic County); Northern Hardwoods Division of Copper Range Co. located near South Range (Houghton County); American Timber Homes located near Escanaba (Delta County); Jurmu's Lumber, Sawing & Planning Mill located at or near Daggett (Menominee County), and points in Delta, Dickenson, and Menominee Counties, Mich. to the facilities of Weyerhauser Company, located at or near Marshfield (Woods County), Wis., under a continuing contract or contracts with Weyerhauser Company of Marshfield, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Wausau, Wis.

No. MC 125533 (Sub-No. 6) (CORRECTION), filed October 29, 1973, published in the FEDERAL REGISTER issue of December 13, 1973, and republished, in part, as corrected, this issue. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, Ohio 44312. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. (23) *sewer pipe*, other than *iron and steel*, and *attachments, parts, and fittings* therefor, from Mogadore, Ohio, to Fort Lauderdale and Ocala, Fla.

NOTE.—The purposes of this partial republication are; (1) to correctly state item (23), and (2) to delete items (24) through (35) pursuant to the completed finance proceeding in MC–F–11929.

No. MC 125826 (Sub-No. 10), filed December 4, 1973. Applicant: CHARLES L. BARTLESON, doing business as W. C. LEASING, Box 80A, Pennsville-Pedricktown Road, Pedricktown, N.J. 08067. Applicant's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbon dioxide*, solidified and liquefied, from Hopewell, Va., to points in Maryland, Delaware, and Pennsylvania, under continuing contract with Airco Industrial Gases Division of AIRCO, INC.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 127840 (Sub-No. 38), filed December 4, 1973. Applicant: MONTGOMERY TANK LINES, INC., P.O. Box 382, 17730 South Chicago Avenue, Lansing, Ill. 60438. Applicant's representative: William H. Towle, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, vegetable oils*, and *blends and products* of animal fats, animal oils and vegetable oils, in bulk, in tank vehicles, between Waterloo, Iowa, on the one hand, and, on the other, points in Missouri, Kansas, Nebraska, North Dakota, South Dakota, Minnesota, Wisconsin, and Illinois (except Chicago, Ill., and points within its Commercial Zone as defined by the Commission).

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at points in the destination States named above to serve points in the eastern United States. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128375 (Sub-No. 104), filed November 29, 1973. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid cleaning compounds, floor wax, floor polishers, carpet washers, vacuum cleaner bags, and related advertising, display, and promotional materials moving in mixed shipments* (except in bulk), from French Lick, Ind., to points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada, under continuing contract with Liggett & Myers Incorporated.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 128375 (Sub-No. 105), filed December 7, 1973. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household and personal care products and related items* and *materials and*

supplies used in the manufacture and distribution thereof, between Ada, Mich., on the one hand, and, on the other, points in Washington, Oregon, Idaho, Montana, Wyoming, North Dakota, South Dakota, Minnesota, Nebraska, Iowa, Georgia, Kansas, Colorado, Utah, Nevada, California, Arizona, New Mexico, Texas, Oklahoma, and Missouri under a continuing contract or contracts with Amway Corporation. If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 128383 (Sub-No. 44), filed November 29, 1973. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vhicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, and motor vehicles requiring the use of special equipment), Between Logan International Air port at or near Boston, Mass., Bradley International Airport, Windsor Locks, Conn., and Tweed-New Haven Airport, New Haven, Conn., on the one hand, and, on the other, Philadelphia International Airport, Philadelphia, Pa., Friendship International Airport, Anne Arundel County, Md., Washington National Airport, Gravelly Point, Va., Dulles International Airport, Fairfax and Loudon Counties, Va., Douglas Municipal Airport, Charlotte, N.C., Hartsfield International Airport, Atlanta, Ga., and the Miami International Airport at or near Miami, Fla., restricted to the transportation of traffic having a prior or subsequent movement by air or moving in substitution for air service.

NOTE.—Applicant states that the requested authority can be tacked: (1) With its lead certificate and in Sub-No. 3 at Philadelphia Airport to provide service between La Guardia Airport, and John F. Kennedy International Airport, New York, N.Y., and Newark Airport, Newark, N.J.; (2) in Sub-No. 6, at Philadelphia Airport to provide service between Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem Counties, N.J., those points in Burlington County, N.J., south of Rancocas Creek, points in Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Bucks County, Pa., north and west of U.S. Highway 22; (3) in Sub-No. 14, at Friendship International Airport, Anne Arundel County, Md., to provide service between points in Delaware, and points in Hanover, Henrico, Chesterfield, Isle of Wight, Nansemond, York, Roanoke, Franklin, Montgomery, Craig, Bedford, Botetourt, Accomock, and Northampton Counties, Va., and Richmond, Norfolk, Portsmouth, Virginia Beach, Chesapeake, Newport News, Hampton, Salem, and Roanoke, Va.; and (4) in Sub-No. 31 (Pending), at Dulles International Airport, Fairfax and Loudon Counties, Va., to provide service between Winston-Salem-Greensboro-High Point Airport, N.C.; points in (1), (2), (3), and (4), on the one hand, and, on the other, the destination points named above. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 128383 (Sub-No. 45), filed November 29, 1973. Applicant: PINTO TRUCKING SERVICE, INC. 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, and motor vehicles requiring the use of special equipment), between John F. Kennedy International Airport, New York, N.Y., La Guardia Airport, New York, N.Y., Newark Airport, Newark, N.J., Philadelphia International Airport, Philadelphia, Pa., Friendship International Airport, Anne Arundel County, Md., Washington National Airport, Gravelly Point, Va., and Dulles International Airport, Fairfax and Loudon Counties, Va., on the one hand, and, on the other, points in the District of Columbia and Maryland (except points in Garrett, Allegany, Washington, and Frederick Counties, Md.), restricted to the transportation of traffic having a prior or subsequent movement by air or moving in substitution for air service.

NOTE.—Applicant states that the requested authority can be tacked: (1) in Sub-No. 6, at Philadelphia Airport to provide service between points in Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem Counties, N.J., those points in Burlington County, N.J., south of Rancocas Creek, points in Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Bucks County, Pa., north and west of U.S. Highway 22; (2) in Sub-No. 14, at Friendship Airport to provide service between points in Delaware, and points in Hanover, Henrico, Chesterfield, Isle of Wight, Nansemond, York, Roanoke, Franklin, Montgomery, Craig, Bedford, Botetourt, Accomack, and Northampton, Counties, Va., and Richmond, Norfolk, Portsmouth, Virginia Beach, Chesapeake, Newport News, Hampton, Salem, and Roanoke, Va.; (3) in Sub-No. 17, at John F. Kennedy International Airport and La Guardia Airport, New York, N.Y., to provide service between Alleghany, Erie, Pike, Washington, and Wyoming Counties, Pa.; (4) in Sub-No. 22, at John F. Kennedy International Airport, to provide service between Cleveland Hopkins International Airport, Cleveland, Ohio, Vandalia Airport, Dayton, Ohio, and Weir-Cook Airport, Indianapolis, Ind.; and (5) (Pending), at John F. Kennedy Airport and Philadelphia Airport to provide service between Logan International Airport, Boston, Mass., O'Hare International Airport, Chicago, Ill., Detroit Metropolitan Airport, Detroit, Mich., Douglas Municipal Airport, Charlotte, N.C., Greensboro-High Point-Winston-Salem Regional Airport, N.C., Hartsfield International Airport, Atlanta, Ga., and Miami International Airport, Miami, Fla.; points in (1), (2), (3), (4), and (5), on the one hand, and, on the other, the destination points named above. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 128878 (Sub-No. 32), filed November 30, 1973. Applicant: SERVICE TRUCK LINE, INC., P.O. Box 3904, Shreveport, La. 71103. Applicant's representative: Ewell Muse, Jr., 415 Perry Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer materials* from Opelousas and Uncle Sam, La., to points in Akansas, Louisiana, and Texas; (2) *liquid feed and liquid feed materials*, from points in Caddo Parish, La., to points in Arkansas, Louisiana, and Texas; (3) *glue, glue stock, and synthetic resin*, in bulk, in tank vehicles, from Crossett, Ark., to points in Texas; (4) *liquid feed*, in bulk in tank vehicles from Mobile, Ala., to Shreveport, La.; (5) *petroleum products*, in bulk dump vehicles, from Port Arthur, Tex., to Harbour, La.; (6) *petroleum products*, in bulk, in tank vehicles from Hosston, La., to points in Alabama, Arkansas, Georgia, Florida, Illinois, Indiana, Kentucky, Kansas, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, North Carolina, Tennessee, and Texas; and (7) *asphalt and asphalt materials*, in containers, from El Dorado, Ark., to points in 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 Shreveport or Baton Rouge, La., or Houston, Tex.

No. MC 128988 (Sub-No. 36), filed December 7, 1973. Applicant: JO/KEL, INC., 159 South Seventh Avenue, P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract 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, and those which because of size or weight require the use of special equipment), from the facilities of Westinghouse Electric Corporation located at or near Irwin, Pa., to points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada, under a continuing contract or contracts with Westinghouse Electric Corporation of Pittsburgh, Pa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129149 (Sub-No. 11), filed December 7, 1973. Applicant: ELLIS HAINES, doing business as HAINES TRUCK LINES, 995 Washington Street, Bushnell, Ill. 61422. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soy bean products*, dry, from Bushnell, Ill., to points in Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Minnesota, New York, Nebraska, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, West Virginia, and Wisconsin, under continuing contracts with Lauhoff Grain Company and A. E. Staley Manufacturing Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, or Springfield, Ill.

No. MC 129386 (Sub-No. 14), filed December 3, 1973. Applicant: REFRIGERATED TRUCKS, INC., 1007 Mullowney Lane, Billings, Mont. 59102. Applicant's representative: Franklin S. Longan, Suite 319 Securities Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses, and such commodities* as are used by meat packers in the conduct of their business when destined to and for use by meat packers, from Billings, Mont., to points in Arizona, California, Nevada, Minnesota, Wyoming, Wisconsin, North Dakota, South Dakota, Illinois, Colorado, New Mexico, Texas, Washington, Oregon, Utah, Idaho, Kansas, Nebraska, and Missouri; and (2) *commodities* used in the meat packing business, from the destination states named in (1) above to Billings, Mont.

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 Billings, Mont.

No. MC 133229 (Sub-No. 13), filed December 4, 1973. Applicant: COATS FREIGHTWAYS, INC., 601 32nd Avenue, Council Bluffs, Iowa 51501. Applicant's representative: Arlyn L. Westergren, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), from Minden, Nebr., to points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, Massachusetts, 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 Omaha, Nebr.

No. MC 133566 (Sub-No. 30), filed December 7, 1973. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: William L. Slover, 1224 17th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson & Co., Inc., located at or near Cedar Rapids, Iowa, to points in Indiana, Michigan, Ohio, and Louisville, Ky., restricted to the transportation of traffic originating at the above named origin and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Oklahoma City, Okla.

No. MC 133566 (Sub-No. 31), filed December 7, 1973. Applicant: GANGLOFF & DOWNHAM TRUCKING CO. INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: William L. Slover, 1224 17th Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* (except commodities in bulk), in vehicles equipped with mechanical temperature controls, from the storage facilities of Arnold Bakers, Inc., located at Westbury, Long Island, N.Y., to points in Virginia, North Carolina, Ohio, and Michigan, restricted to the transportation of traffic originating at the above named facilities.

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 Hartford, Conn., or Washington, D.C.

No. MC 133920 (Sub-No. 5), filed November 29, 1973. Applicant: HOWARD SHEPPARD, INC., P.O. Box 755, Sandersville, Ga. 31082. Applicant's representative: Monty Schumacher, Suite 310, 2045 Peachtree Road, NE., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrogen fertilizer solutions* (liquid fertilizers), in bulk, in tank vehicles, from the storage facilities of the Royster Company at Columbia, Ala., to points in Georgia.

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–134404 (Sub-No. 16), filed December 7, 1973. Applicant: AMERICAN TRANS–FREIGHT, INC., P.O. Box 499, South Bound Brook, N.J. 08880. Applicant's representative: Bert Collins, Suite 6193, No. 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wheels, tires, hub caps, and battery parts; and materials, supplies, and equipment* used or useful in the production, distribution or sale of wheels, tires, hub caps, and battery parts (except in bulk), between Lineville, Ala., and Piney Flats, Tenn., on the one hand, and, on the other, points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Alabama, Florida, and the District of Columbia, under contract with Amerace Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 134477 (Sub-No. 45), filed November 29, 1973. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Thomas Fischbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, 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 in tank vehicles), from the plant site and storage facilities utilized by American Beef Packers, Inc., at or near Cactus (Moore County), Tex., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authoriy. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr. or Minneapolis, Minn.

No. MC 134599 (Sub-No. 94), filed December 7, 1973. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic material liquid, weed killing compounds, agriculture fungicides, or insecticides and raw material, and supplies* used in the manufacture and production thereof, between Gastonia, N.C., on the one hand, and, on the other, points in Arkansas, Connecticut, California, Georgia, Kentucky, Indiana, Illinois, Louisiana, Maryland, Mississippi, Missouri, Minnesota, South Carolina, Virginia, West Virginia, Florida, Kansas, Oklahoma, Montana, North Dakota, Massachusetts, Ohio, New Jersey, Texas, Pennsylvania, and Tennessee, under continuing contract with Uniroyal, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Salt Lake City, Utah.

No. MC 134752 (Sub-No. 2), filed December 3, 1973. Applicant: HILL & WILLIAMS BROS., INC., 799 44th Street, Marion, Iowa 52302. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet*, from Dalton, Ga., to points in Iowa, under contract with World Carpets, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

No. MC 134884 (Sub-No. 7), filed December 3, 1973. Applicant: FARWEST FURNITURE TRANSPORT, INC., 6840 112th Avenue SE., Renton, Wash. 98055. Applicant's representative: Bruce E. Mitchell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and fixtures*, (1) between points in Washington, Oregon, California, and Idaho, on the one hand, and, on the other, points in Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, and Nevada, and (2) between points in Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, and Nevada.

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.

No. MC 135056 (Sub-No. 4), filed December 3, 1973. Applicant: MJR ENTERPRISES, a Corporation, 20407 S. Normandie Ave., Torrance, Calif. 90502. Applicant's representative: Donald Murchison, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail furniture stores, including counter and cabinets, and store fixtures and equipment, (1) between points in California, Oregon, and Washington, on the one hand, and, on the other, points in the United States including Alaska, but excluding Hawaii; and (2) from Salt Lake City and Ogden, Utah, to points in Idaho, under continuing contracts with Custom Furniture Rental, Dream Lane Bedding, Jonas Mfg., Guarnty of California, Gem Furn., Colorado Furniture Rental, Inc., and U-Rent Furniture Inc., Cims Furniture Mfg., Cal Creations Inc., Capri Furniture Mfg., Triangle Pacific Wood Carv. Div., McMahan's Furniture Stores, and Mercury Furniture Mfg.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 135185 (Sub-No. 16), filed December 10, 1973. Applicant: COLUMBINE CARRIERS, INC., 5925 East Evans Avenue, P.O. Box 22198, Denver, Colo. 80222. 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: *Razors, razor blades, shaving cream, toilet preparations, toilet articles, pens, markers, ink, stationery, and stationery products, cigarette lighters, cleaning compounds, hair curlers, hair spray, electric hair dryers, electric hair combs, shampoo, sponges, fire extinguishers, electric appliances, photographic equipment, materials, and supplies, and store display racks, stands, and cabinets*, (1) from St. Paul, Minn., to Dallas, Tex.; Los Angeles, Calif.; Richmond, Va.; Detroit, Mich.; Andover and Boston, Mass.; Kearney, N.J.; Farmingdale, Long Island, N.Y.; Seattle, Wash.; Denver, Colo.; and points in Ohio and Pennsylvania; (2) from Andover, Mass., to Dallas, Tex.; Los Angeles and Santa Monica, Calif.; Detroit, Mich.; and Seattle, Wash.; and (3) from Santa Monica, Calif., to Andover and Boston, Mass., and points in Illinois, (1), (2), and (3) under a continguing contract or contracts with The Gillette Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 136212 (Sub-No. 6), filed December 4, 1973. Applicant: JENSEN TRUCKING COMPANY, INC., 213 S. Washington Street, P.O. Box 37, Papillion, Nebr. 68046. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber packing, rubber products, synthetic rubber products, materials, equipment, mixed compound, and supplies* used in the manufacture of the above named commodities, *paper, tubes, boxes, and repair parts for machinery*, from Burton, Ohio, Dyersburg, Tenn., and Goshen, Ind., to Gothenburg, Nebr., restricted to traffic destined to the facilities utilized by Goshen Rubber Company at or near Gothenburg, Nebr.

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 Pittsburg, Pa., or Dallas, Tex.

No. MC 136244 (Sub-No. 1), filed November 28, 1973. Applicant: GEORGE VINCENT CHARETTE, 930 Broadway Street, Windsor, Ontario, Canada N9C 3W7. Applicant's representative: Wilhelmina Boersma, 1606 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Reconditioned pallets and shipping containers and materials* used in the reconditioning of the above commodities, between points in Ohio, on the one hand and, on the other, the port of entry on the International Boundary line between the United States and Canada at Detroit, Mich., under contract with Auto Pallets and Boxes (Ontario) Limited, and Auto Pallets and Boxes, Inc., of Detroit.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 136285 (Sub-No. 7), filed December 12, 1973. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 9165, Savannah, Ga. 31402. Applicant's representative: William P. Jackson, 919 Eighteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay*, in cargo containers, from points in Aiken County, S.C., and points in Chatham, Richmond, Jefferson, Wilkes, Washington, Wilkinson, Twiggs, Bibb, Decatur, Columbia, McDuffie, Taliaferro, Glascock, Hancock, Baldwin, Peach, Houston, Macon, Schley, Sumter, Lee, Dougherty, Baker, Mitchell, Grady, and Thomas Counties, Ga., to Jacksonville, Fla., restricted to the transportation of traffic having a subsequent movement by water; and (2) *empty cargo containers*, from Jacksonville, Fla., to points in the abovenamed counties in South Carolina and Georgia.

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 Jacksonville, Fla.

No. MC 136532 (Sub-No. 2), filed December 3, 1973. Applicant: LOYD SIMPSON, doing business as LOYD SIMPSON TRUCKING, 125 Houston Street, Durant, Okla. 74701. 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: *Nursery pots, nursery sleeves, nursery paint, and flowers* when moving in mixed loads with regulated commodities, from Newark, N.J.; New York, N.Y.; Kokomo, Ind.; Cleveland, Oiho; and Euclid, Ohio, to San Francisco and Half Moon Bay, Calif.

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 San Francisco, Calif., or Oklahoma City, Okla.

No. MC 136643 (Sub-No. 3), filed December 5, 1973. Applicant: JENI TRUCKING, INC., c/o J. H. Harvey, Inc., Broadway, Thornwood, N.Y. 10594. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, and (2) *household appliances and equipment*, from Thornwood, N.Y., to points in Fairfield, New Haven, and Litchfield Counties, Conn., and Bergen, Essex, Hudson, Passaic, Union, Morris, and Sussex Counties, N.J., under contract with J. H. Harvey, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 136713 (Sub-No. 4) (AMENDMENT), filed November 12, 1973, published in the FEDERAL REGISTER issued December 20, 1973, and republished, as amended, this issue. Applicant: AERO LIQUID TRANSIT, INC., 834 West Main Street, Lowell, Mich. Applicant's representative: Daniel J. Kozera, Jr., 715 McKay Tower, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases*, in bulk, in tank vehicles, from Lowell and Alto, Mich., to points in Indiana and Ohio.

NOTE.—The purpose of this republication is to amend the territorial description. 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 Lansing, Mich., or Chicago, Ill., or Detroit, Mich.

No. MC 136733 (Sub-No. 1), filed November 21, 1973. Applicant: WEISS TRANSPORTATION CO., INC., 5000 Beaufait, Detroit, Mich. 48211. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Detroit, Mich., to points in Allen, Defiance, Erie, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, and Wood Counties, Ohio.

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 Lansing or Detroit, Mich.

No. MC 136786 (Sub-No. 40), filed November 30, 1973. Applicant: ROBCO TRANSPORTATION, INC., 3033 Excelsior Boulevard, Minneapolis, Minn. 55416. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture, furniture parts, clocks, and lamps*, from points in Virginia, Macon, Ga., and Mt. Airy, N.C., to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, New Mexico, Colorado, Wyoming, Montana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Louisiana, Arkansas, Missouri, Iowa, and Minnesota; and (2) *new furniture and furniture parts*, from El Dorado, Ark., 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 Charlotte, N.C., or Roanoke, Va.

No. MC 138157 (Sub-No. 10), filed November 28, 1973. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 4284 Mission Boulevard, Pomona, Calif. 91766. Applicant's representative: Patrick E. Quinn, 605 South 14th St., P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Industrial fluorescent lighting fixtures and parts thereof;* and (2) *medical electrical appliances and parts thereof*, from Los Angeles, Calif., to points in Texas and Oklahoma and points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada.

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.

No. MC 138627 (Sub-No. 2), filed November 12, 1973. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, Iowa 50501. Applicant's representative: Arlyn L. Westergren, St. 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: *Gypsum and gypsum products, building materials, and materials, equipment, and supplies* used in the manufacture, distribution, installation, and application of such products (except liquid commodities in bulk), between the plantsite and storage facility utilized by Gold Bond Building Products, Division of National Gypsum Co., Celotex Corp., and Georgia-Pacific Corp. at or near Fort Dodge, Iowa, on the one hand, and, on the other, points in Montana, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Michigan, Wisconsin, Illinois, and Indiana.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Omaha, Nebr.

No. MC 138690 (Sub-No. 2), filed November 30, 1973. Applicant: MAIN-TRANSIT TAXI SERVICE, INC., 7088 Transit Road, Williamsville, N.Y. 14221. Applicant's representative: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical apparatus and appliance parts* in express service, between ports of entry on the International Boundary line between the United States and Canada on the Detroit and Niagara Rivers, on the one hand, and, on the other, Buffalo, Attica, and New York, N.Y.; Erie, Philadelphia, and Pittsburgh, Pa.; Edison and North Bergen, N.J.; Charlotte and Detroit, Mich.; Byesville, Canton, Cincinnati, Cleveland, Columbus, Lima, Mansfield, and Middlefield, Ohio, restricted to traffic moving in foreign commerce in vehicles having a gross weight not exceeding 6,000 pounds, under contract or contracts with Westinghouse Canada Limited.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 138703 (Sub-No. 1), filed November 30, 1973. Applicant: BOESDORFER TRUCKING, INC., 117 West Church Street, Pleasant Plains, Ill. 62677. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and dry fertilizer and liquid and dry fertilizer materials*, in bulk, from Hannibal, Louisiana, and Crystal City, Mo., to points in Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 139076 (Sub-No. 2), filed September 17, 1973. Applicant: IDEAL TRANSPORT CO., INC., P.O. Box 308, Quinter, Kans. 67552. Applicant's representative: Clyde N. Christey, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Stubblemulch plows, off-set disks, roto-mulch harrows, rod weeders, and anhydrous ammonia spreading equipment*, from points in Gove County, Kans., to points in Nebraska, Colorado, Oklahoma, Texas, New Mexico, South Dakota, North Dakota, Iowa, and Montana; and (2) *materials and supplies used in the manufacture of* (1) above, from Middletown, Ohio; Pueblo, Colo.; Chicago and Quincy, Ill.; Bentonville, Ark.; Stratton, Nebr.; Los Angeles, Calif.; and points on the International Boundary line between the United States and Canada located at the Province of Alberta, Canada, to points in Gove County, Kans., under contract with Ideal Industries, Inc., and Midwest Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Kans.

No. MC 139135 (Sub-No. 1), filed December 7, 1973. Applicant: SHOE NAIL SUPPLY, a partnership, P.O. Box 2435, Pampa, Tex. 79065. Applicant's representative: Mario V. Mirabelli, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat scraps, bone meal, meat meal, and blood meal*, (1) from Clovis, N. Mex., to points in Texas, Oklahoma, Arkansas, and Missouri; and (2) from Pampa, Tex., to points in Oklahoma, Arkansas, and Missouri.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Amarillo, Tex., or Minneapolis, Minn.

No. MC 139304, filed November 28, 1973. Applicant: CARL D. SOURS, 1041 Florida Avenue, Hagerstown, Md. 21740. Applicant's representative: Allen M. Baumgardner, 120 West Washington Street, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, butter substitutes, flavored drinks and juices; material and supplies* related to sales and distribution of the Eldridge Dairy Company, between Hagerstown, Md., Martinsburg, W. Va., Berkeley Springs, W. Va., and Waynesboro, Pa., under continuing contract with The Eldridge Dairy Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Hagerstown, Md., or Washington, D.C.

No. MC 139326, filed December 4, 1973. Applicant: W. A. WAGNER, INC., P.O. Box 27, Garden Prairie, Ill. 61038. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, construction, excavating, road building, contractors' and builders' equipment*, and (2) *accessories and parts moving with the equipment, including articles or commodities, which because of shape, size, form, weight, or inherent character, re-*

quire the use of special equipment and special handling, between points in Illinois, Wisconsin, and Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No., MC 139330, filed November 30, 1973. Applicant: FRANCIS J. VESELY, an individual, doing business as FRANCIS VESELY TRUCKING, 106 Howard Drive, Williamstown, N.J. 08094. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Mineral wool, mineral wool products, insulation and insulation materials* (except commodities in bulk), from the plant site of Certain-Teed Products Corp., at Williamstown Junction, N.J., and its warehouse and storage facilities in Camden and Cumberland Counties, N.J., to points in Delaware, District of Columbia, Maryland, Pennsylvania, New York, and Connecticut.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139331, filed December 3, 1973. Applicant: JOSEPH TALLARICO, 200 Keyser Avenue, Old Forge, Pa. 18518. 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: *Charcoal,* from the plant site of Humphrey Charcoal Corporation at Brookville (Jefferson County), Pa., to points in New York, New Jersey, Ohio, Maryland, Delaware, West Virginia, District of Columbia, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

MOTOR CARRIER OF PASSENGER(S)

No. MC 3647 (Sub-No. 446) (Corrected), filed October 3, 1973, published in the FEDERAL REGISTER issue of November 29, 1973, and republished as corrected this issue. Applicant: TRANSPORT OF NEW JERSEY, 180 Boyden Avenue, Maplewood, N.J. 07040. Applicant's representative: John F. Ward (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express, and newspapers,* in the same vehicle with passengers, (1) Between points in Monmouth County, N.J.: From the junction of Monmouth County Highway 524 (Adelphia Road) and Stillwells Corner Road over Monmouth County Highway 524 to junction Iron Bridge Road, thence over Iron Bridge Road to junction Monmouth County Highway 537, thence over Monmouth County Highway 537 to junction Stillwells Corner Road, and return over the same route, serving all intermediate points; (2) Between points in Ocean County, N.J.: (A) From the junction of U.S. Highway 9 and Ocean County Highway 526 over Ocean County Highway 526 to junction Ocean County Highway 549, and return over the same route serving all intermediate points; and (b) From the junction of Ocean County Highway 549 and Burnt Tavern Road (at Garden State Parkway Interchange No. 91) over Ocean County Highway 549 to junction Herbertsville Road, thence over Herbertsville Road to junction Maple Avenue, thence over Maple Avenue to junction Burnt Tavern Road, thence over Burnt Tavern Road to junction Ocean County Highway 549, and return over the same route, serving all intermediate points.

NOTE.—The purpose of this republication is to indicate the corrected route description in (2)(B) above, which was inadvertantly previously published in error. If a hearing is deemed necessary, applicants requests it be held at Newark, N.J.

No. MC 61802 (Sub-No. 6), filed November 26, 1973. Applicant: THE COLONIAL TRANSIT COMPANY, INCORPORATED, 310 Charlotte Street, Fredericksburg, Va. 22401. Applicant's representative: L. C. Major, Jr., Suite 301 Tavern Square, 421 King Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, (1) in round-trip charter operations from Dale City and Lake Ridge, Va., to points in Connecticut, Delaware, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia and (2) in special operations from Fredericksburg, Va., points in Spotsylvania, Stafford, and Prince William Counties, Va., to the Charles Town Race Track and Shenandoah Downs Race Track in Charles Town, W. Va., and return.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Fredericksburg, Va., or Washington, D.C.

No. MC 139186 (Amendment), filed October 4, 1973, published in the FEDERAL REGISTER issue of November 29, 1973, and republished as amended this issue. Applicant: MORGILLO'S MOTOR LIVERY SERVICE, INC., doing business as MORGILLO'S LIVERY SERVICE, 179 Valley Street, New Haven, Conn. 06515. Applicant's representative: Sidney L. Goldstein, 109 Church Street, New Haven, Conn. 06510. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers* (five (5) or less) *and their baggage* in door-to-door non-scheduled charter service by air-conditioned limousines, between New Haven, East Haven, Hamden, West Haven, North Haven, Orange, Woodbridge, Wallingford, Derby, Ansonia, Seymour, and Shelton, Conn., on the one hand, and, on the other, points in Massachusetts, Rhode Island, New York, and New Jersey.

NOTE.—The purpose of this republication is to indicate that applicant seeks to perform a charter service in lieu of special operations as previously published. If a hearing is deemed necessary, applicant requests it be held at New Haven or Hartford, Conn.

No. MC 139311, filed November 29, 1973. Applicant: HOLIDAY TRANSPORTATION, INC., Highway 75 South, P.O. Box 731, Moorhead, Minn. 56560. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage,* in special and charter operations, from points in Cass and Richland Counties, N. Dak., and Clay, Becker, and Wilkin and Ottertail Counties, Minn., to points in the United States (except Alaska and Hawaii) and return.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak., or St. Paul, Minn.

APPLICATION(S) FOR BROKERAGE LICENSE

No. MC 130224, filed November 30, 1973. Applicant: GRAND NATIONAL TOURS, INC., 315 Morgan Building, 720 SW. Washington Street, Portland, Oreg. 97205. Applicant's representative: Stephen B. Herrell, 500 Morgan Park Building, 729 SW. Alder Street, Portland, Oreg. 97205. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Portland, Salem, and Eugene, Oreg., to sell or offer to sell the transportation of *passengers, individually and in groups, and their baggage,* between points in the United States, including Alaska but excluding Hawaii, originating or terminating at points in Oregon or points in Benton, Franklin, Yakima, Klickitat, Skamania, Clark, Cowlitz, or Lewis Counties, Wash.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

FREIGHT FORWARDER APPLICATION(S)

No. FF-252 Sub 3 (AMENDMENT), filed December 12, 1973, published in the FEDERAL REGISTER issue of January 3, 1974, and republished as amended this issue. Applicant: CHI-CAN FREIGHT FORWARDING, LTD., 4956 South Kedzie Avenue, Chicago, Ill. 60632. Applicant's representative: Paul J. Maguire, 3800 North Lawndale Avenue, Chicago, Ill. 60618. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder,* through use of the facilities of common carriers by rail, motorcarrier, and express, in the transportation of *general commodities* (except commodities in bulk), between points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, and Wisconsin, including points on the International Boundary line between the United States and Canada located in Minnesota and North Dakota.

NOTE.—The purpose of this republication is to clarify applicant's request for authority along the International Boundary line between the United States and Canada. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. FF–409 Sub 1, filed December 26, 1973. Applicant: HOUSTON CONTAINER & TRAILER MARRYING COMPANY, doing business as CONTRAMAR, a Corporation, 254 McCarty, Houston, Tex. 77029. Applicant's representative: Joe G. Fender, 802 Houston First Savings Bldg., Houston, Tex. 77002. Authority sought to engage in operation, in interstate commerce, as a freight forwarder, through use of the facilities of common carriers by railroad and motor vehicle, in the transportation of general commodities (except automobiles, trucks, and buses as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, household goods, unaccompanied baggage, and commodities in bulk), from Houston and Galveston, Tex., to points in Texas, New Mexico, Colorado, Nebraska, Iowa, Illinois, Missouri, Kansas, Oklahoma, Arkansas, and Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

WATER CARRIER APPLICATION(S)

No. W–1273 filed December 17, 1973. Applicant: AIPLE TOWING CO., INC., 133 South Water Street, Stillwater, Minn. 55082. Applicant's representative: William K. Johnson, 135 South LaSalle Street, Chicago, Ill. 60603. Authority sought to engage in operation, in interstate or foreign commerce, as a *common carrier by water* in the transportation of *general commodities*, between all points on the following described waterways: Gulf of Mexico between and including Brownsville, Tex., and Ft. Myers, Fla.; Gulf Intracoastal Canal between and including St. Marks, Fla., and Brownsville, Tex., and also including the Port Allen Route between and including Baton Rouge, La., and Morgan City, La.; Apalachicola-Chattahoochee River between and including its mouth and Columbus, Ga.; Flint River between and including its mouth and Bainbridge, Ga.; Warrior River between and including its mouth and Port Birmingham, Ala.; Tombigbee River between and including its mouth and Selma, Ala.; Pascagoula River between and including its mouth and Vancleave, Ala.; Houston Ship Canal between and including its mouth and Houston, Tex.; Mississippi River between and including the mouth and Minneapolis, Minn.; St. Croix River between and including the mouth and Stillwater, Minn.; Minnesota River between and including the mouth and Shakopee, Minn.; Illinois Waterway between and including Grafton, Ill., and Chicago, Ill.; Lake Michigan between and including Portage, Ind., and Milwaukee, Wis.; Missouri River between and including the mouth and Sioux City, Iowa; White River between and including the mouth and Newport, Ark.; Arkansas River between and including the mouth and Catoosa, Okla.; Yazoo River between and including the mouth and Greenwood, Miss.; Ouachita River via Red River and Black River between the mouth of the Ouachita River and Camden, Ark.; Ohio River between and including Cairo, Ill., and Pittsburgh, Pa.; Tennessee River between and including the mouth and Knoxville, Tenn.; Hiwasee River between and including the mouth and Charleston, Tenn.; Clinch River between and including the mouth and Clinton, Tenn.; Emory River between and including the mouth and Harriman, Tenn.; Cumberland River between and including the mouth and Carthage, Tenn.; Green River between and including the mouth and Monmouth Cave Landing, Ky.; Licking River between and including the mouth and Ryland Lakes, Ky.; Kanawha River between and including the mouth and Gauley Bridge, W. Va.; Monongahelia River between and including the mouth and Fairmont, W. Va.; Allegheny River between and including the mouth and East Brady, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–1327 Filed 1–16–74;8:45 am]

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

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PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

■

MEDICAL ASSISTANCE PROGRAM

Intermediate Care Facility Services

Title 45—Public Welfare

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

MEDICAL ASSISTANCE PROGRAM

Intermediate Care Facility Services

Notice of proposed rulemaking to implement section 4 of Pub. L. 92–223 transferring intermediate care facility services to the medical assistance program under title XIX of the Social Security Act, and providing for a program of independent professional review of such services, was published on March 5, 1973 in the FEDERAL REGISTER (38 FR 5974). Over 380 comments were received from State health and welfare departments, State mental health and mental retardation authorities, consumer-oriented organizations, providers and provider organizations, and other interested individuals. The Department of Justice also submitted extensive comments. Specific comments covered the following substantive concerns:

1. *The proposed standards are too detailed to permit facilities requisite flexibility.* Accordingly, requirements for administrative management, resident records, rehabilitative and restorative services, social services, activities programming, dietary services, health services, and pharmacy services have been shortened and procedural details eliminated.

2. *Professional resources to meet staffing and consultant requirements are scarce or unavailable in many areas.* Consultants in the areas of social services, activities programming, and meal services have been eliminated. The RN and pharmacy consultants are retained. With the exception of the licensed practical nurse, the requirement that professional individuals on the ICF staff be designated to supervise the various resident services has been deleted. The functions, stated in terms of objectives, have been retained. The professional staff rendering or supervising physical therapy, occupational therapy, speech and adiology services, social services and psychological services in an institution for the mentally retarded are no longer required to have specialized training in mental retardation or one year of experience in treating the mentally retarded. Master's degrees are no longer required for social workers and educators who are Qualified Mental Retardation Professionals. Specific staff-to-resident ratios in institutions for the mentally retarded have been deferred for 3 years.

3. *Not all residents in an intermediate care facility require the full spectrum of services outlined in the proposed standards.* Language has been modified to make it clear that services are provided to residents on an "as needed" basis and are made available either directly by the staff of the facility or through arrangements with qualified outside resources.

4. *Environment and sanitation standards are overly detailed and impose an unnecessary burden on the facility.* Physical standards have been revised to eliminate reference to special requirements for laundry facilities, food preparation areas, fire inspection reports on file, elevators, basic service areas for major subdivisions, one dayroom per floor, maintenance staff, indoor and outdoor recreational areas and access to outside exposure and corridors. Bedroom requirements are stated in terms of minimum square footage, with variations permitted by the survey agency under certain conditions. A resident call system has been added in intermediate care facilities other than institutions for the mentally retarded. Specific numbers of toilets and bathing facilities per resident in institutions for the mentally retarded have been deleted. Waiver authority for environment and sanitation standards has been modified to conform with skilled nursing facility standards.

5. *The Life Safety Code standard should be revised to accommodate the small community facility.* The regulation has been changed to permit application of residential occupancy sections of the Life Safety Code under specified conditions.

6. *Educational requirements for the health services supervisor in an intermediate care facility should be broadened.* The standards now provide that under specified conditions, other categories of licensed personnel with specialized training may serve as charge nurse.

7. *The administrator of an institution for the mentally retarded should not be limited to a licensed nursing home administrator.* The standard has been revised to allow a Qualified Mental Retarded Professional to serve as administrator, unless the institution is licensed as a nursing home.

8. *Psychological evaluations are not necessary for each admission; required re-evaluation of the need for and quality of care are too frequent.* For geriatric ICF residents, psychological evaluations are now required only where appropriate; medical and social re-evaluations as part of the active treatment requirement are now required on an annual basis. Redetermination by the Independent Professional Review team of the need for continued care is also now required on an annual basis.

9. *The Federal policy relating to "distinct parts" is not clear.* The regulations now provide that a State may establish a "distinct part" requirement as part of its State plan for intermediate care facility services. Residents, however, may not be transferred from one facility to another if such transfer might adversely affect their health.

Other changes are as follows:

1. Former §§ 249.12 and 249.13 have been combined to form a new § 249.12 which specifies a common set of standards for all intermediate care facilities (including institutions for the mentally retarded). A modified version of the standards for Residential Facilities for the Mentally Retarded established by the Accreditation Council for Facilities for the Mentally Retarded of the Joint Commission on Accreditation of Hospitals which are to be effective three years after publication of the regulations, are set forth as a new § 249.13.

2. The certification procedures applicable to intermediate care facilities have been conformed to those established for skilled nursing facilities and set forth in final regulations issued under § 249.33.

3. The requirement for transfer agreements with a skilled nursing facility has been deleted to conform to skilled nursing facility standards; waiver authority for transfer agreements has been moved to the survey agency.

4. The section on reasonable charges will be amended in separate regulations to incorporate section 207 of Pub. L. 92–603, which requires payment schedules to provide a reasonable differential between skilled nursing and intermediate care facilities.

5. Consistent with the new skilled nursing facility regulations the American National Standards Institute (Standard No. A117.1) standards have been included.

Accordingly, Chapter II, Title 45, Code of Federal Regulations, is amended as follows:

PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

1. Section 234.130 of Part 234 is amended by revising paragraphs (a) and (c). Paragraph (a) is revised to specify the conditions and requirements to be met by States authorized by section 4(d) of Public Law 92–223, as amended by section 292 of Public Law 92–603, to provide intermediate care facility services under title XI of the Social Security Act. Policies for the provision of intermediate care facility services under the medical assistance program, title XIX of the Act, are being published simultaneously in Parts 249 and 250 of this chapter. Paragraph (c) is revised to specify the governing rules for Federal financial participation in payments for intermediate care facility services under the medical assistance program during the period beginning January 1, 1972, and ending on the date on which determination is made by the State under the provisions of § 249.11 of this chapter as to the facility's eligibility for such payments, but in no case later than 12 months following the date of publication of these regulations. As amended, § 234.130 reads as follows:

§ 234.130 Assistance in the form of institutional services in intermediate care facilities.

(a) *Applicability and State plan requirements.* A State which, on January 1, 1972, did not have in effect a State plan approved under title XIX of the Social Security Act may provide assistance under title I, X, XIV, or XVI of the Act in the form of institutional services in intermediate care facilities as authorized under title XI of the Act, until the first day of the first month (occurring after January 1, 1972) that such State does have in effect a State plan approved

under title XIX of the Act. In any State which may provide such assistance as authorized under title XI of the Act, a State plan under title I, X, XIV, or XVI of the Act which includes such assistance must:

* * * * *

(c) *Federal financial participation.* (1) Federal financial participation is available under section 1121 of the Act in vendor payments for institutional services provided to individuals who are eligible under the respective State plan and who are residents in intermediate care facilities. The rate of participation is the same as for money payments under the respective title or, if the State so elects, at the rate of the Federal medical assistance percentage as defined in section 1905(b) of the Act. Such Federal financial participation ends on the date specified in paragraph (c)(2) of this section, or 12 months after the date when the State first has in effect a State plan approved under title XIX of the Act, whichever is later.

(2) For the period from January 1, 1972, to the date on which a determination is made under the provisions of § 249.11 of this chapter as to a facility's eligibility to receive payments for intermediate care facility services under the medical assistance program, title XIX of the Act, but not later than 12 months following the effective date of these regulations, Federal financial participation in payments for such services under title XIX is governed by the provisions of this section, applied to State plans under title XIX.

* * * * *

PART 248—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

2. Section 248.60 of Part 248 is amended by revising paragraph (a)(1) and adding new paragraphs (b)(9) and (b)(10) as set forth below.

§ 248.60 Institutional status.

(a) *Federal financial participation.* (1) Federal financial participation under title XIX of the Social Security Act is not available in medical assistance for any individual who is an inmate of a public institution except as a patient in a medical institution or as a resident of an intermediate care facility.

* * * * *

(b) *Definitions.* * * *

(9) "Resident" of an intermediate care facility is a patient or other individual who has been admitted to an intermediate care facility (including an institution for the mentally retarded or persons with related conditions or distinct part thereof) prior to the effective date of these regulations, or after that date in accordance with § 250.24 of this chapter and is receiving room and board, and, is under a planned program of care and supervision on a continuous 24-hour-a-day basis, and in the case of institutions for the mentally retarded or persons with related conditions is also receiving active treatment (see § 249.10(d)(1)(v) of this chapter).

(10) "Institution for the mentally retarded or persons with related conditions" means an institution (or distinct part thereof) primarily for the diagnosis, treatment, or rehabilitation of the mentally retarded or persons with related conditions, which provides in a protected residential setting, individualized ongoing evaluation, planning, 24 hour supervision, coordination and integration of health or rehabilitative services to help each individual reach his maximum of functioning capabilities.

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

3. Section 249.10 of Part 249 is amended by revising paragraph (b)(14); redesignating paragraph (b)(15) as paragraph (b)(17); reserving paragraph (b)(16); and by adding a new paragraph (b)(15), revising paragraph (c), and adding new subdivisions (iv), (v), and (vi) to paragraph (d)(1), as set forth below:

§ 249.10 Amount, duration, and scope of medical assistance.

* * * * *

(b) *Federal financial participation.* * * *

(14) *Inpatient hospital services, skilled nursing facility services, and intermediate care facility services for individuals 65 years of age or over in an institution for tuberculosis or mental diseases.* For purposes of this subparagraph:

(i) (*a*) "Inpatient hospital services" in an institution for mental diseases are those items and services which are provided under the direction of a physician for the care and treatment of inpatients in a psychiatric hospital which meets the requirements under title XVIII, section 1861(f) of the Social Security Act.

(*b*) "Inpatient hospital services" in an institution for tuberculosis are those items and services which are provided under the direction of a physician for the care and treatment of inpatients in a tuberculosis hospital which meets the requirements under title XVIII, section 1861(g) of the Social Security Act.

(ii) "Skilled nursing facility services" are those items and services furnished by a skilled nursing facility as defined in paragraph (b)(4)(i) of this section.

(iii) "Intermediate care facility services" are those items and services furnished by an intermediate care facility as defined in paragraph (b)(15) of this section to residents who have been determined in accordance with § 250.24 of this chapter to be in need of such care.

(iv) An "institution for mental diseases" means an institution which is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.

(v) An "institution for tuberculosis" means an institution which is primarily engaged in providing diagnosis, treatment, or care of persons with tuberculosis, including medical attention, nursing care, and related services.

(15) *Intermediate care facility services (other than such services in an institution for tuberculosis or mental diseases) for individuals who are determined, in accordance with section 1902(a)(31)(A) of the Act, to be in need of such care.* Intermediate care facility services may include services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions. (See paragraph (d)(1)(vi) of this section.) "Intermediate care facility services" means those items and services furnished by a facility which meets the following conditions:

(i) (*a*) It meets fully all requirements for licensure under State law to provide, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities. Payments to a facility which formerly met all requirements of the State for licensure, but is currently determined not to meet fully all such requirements, may be recognized for a period specified by the State standard-setting authority, if during such period such facility promptly takes all necessary steps to again meet such requirements. Institutions operated by a governmental agency may be considered to be licensed if they meet all requirements which are applied for licensure to the same type of facility in any other ownership category (i.e., nonprofit or proprietary) within the State;

(*b*) In the case of a public institution for the mentally retarded or persons with related conditions (or distinct part thereof), the primary purpose of such institution is to provide health or rehabilitative services for mentally retarded individuals or persons with related conditions;

(*c*) It meets such standards of safety and sanitation as are applicable to nursing homes under State law;

(*d*) It meets the standards for an intermediate care facility specified by the Secretary under § 249.12, and in the case of an institution for the mentally retarded or persons with related conditions, also meets the standards specified under § 249.13 no later than three years after the effective date of these regulations; and

(*e*) Effective no later than 12 months following the date of publication of these regulations, it has been determined by the survey agency in accordance with § 249.33 to meet all of the conditions in paragraph (b)(15)(i) of this section as evidenced by an agreement executed between the single State agency and the facility for the provision of intermediate care facility services and the making of payments under the plan; or

(ii) Effective no later than 12 months following the date of publication of these regulations:

(a) In the case of a certified participating provider of hospital services or skilled nursing facility services under title XIX or title XVIII of the Social Security Act, it has been determined by the survey agency in accordance with § 249.33 of this part to meet the standards of § 249.12(a)(1)(iii), (3)(i), 4(i)(C)(6)(iv) and (9) and (b)(2), (3), (4), (5) and (6) for the provision of intermediate care facility services and the making of payments under the plan, or

(b) In the case of an institution for the mentally retarded or persons with related conditions (or distinct part thereof) participating as a certified provider of hospital services or skilled nursing facility services under title XIX or title XVIII of the Social Security Act, it has been determined by the survey agency in accordance with § 249.33 to meet the standards of § 249.12(a)(1)(ii)(A)(2), and (iii), (3)(i), (4)(i)(C) and (F), and (9) and (c)(1), (3), (4), (5) and (6), for the provision of intermediate care facility services and the making of payments under the plan.

(iii) Nothing in this section precludes a State from establishing a "distinct part" requirement in an institution providing intermediate care services. *Provided,* Such requirement includes the following provisions:

(a) The distinct part meets all requirements for an intermediate care facility;

(b) The distinct part is an identifiable unit such as an entire word or contiguous wards, wing, floor or building. It consists of all beds and related facilities in the unit and houses all residents, except as hereafter provided, for whom payment is being made for intermediate care facility services. It is clearly identified and is approved in writing by the survey agency; and

(c) The distinct part may share such central services and facilities as management services, building maintenance and laundry, with other units;

Provided further, That the State may not require transfer of a resident within or between facilities when in the opinion of the attending physician such transfer might be harmful to the physical or mental health of the resident.

(iv) The term "intermediate care facility" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ Scientist, Boston, Mass., but only with respect to institutional services deemed appropriate by the State.

(v) The term "intermediate care facility" also includes any facility located on an Indian reservation, which provides, on a regular basis, health-related care and services and is certified by the Secretary as meeting the provisions of paragraph (b)(15)(i)(c) of this section and the standards of § 249.12 and § 249.13.

With respect to intermediate care facility services furnished by an intermediate care facility whose provider agreement has expired or has otherwise terminated, the State agency may continue to claim Federal financial participation in payments on behalf of eligible individuals for such services furnished by such facility during a period not to exceed 30 days starting with the date of expiration or other termination of its provider agreement, but only if such individuals were admitted to the facility before the date of expiration or other termination of its provider agreement, and if the State agency makes a showing satisfactory to the Secretary that it has made reasonable efforts to facilitate the orderly transfer of such individuals from such facility to another facility.

(16) [Reserved]

(c) *Limitations.* (1) Federal financial participation in expenditures for medical and remedial care and services listed in paragraph (b) of this section is not available with respect to any individual who is an inmate of a public institution (except as a patient in a medical institution or as a resident of an intermediate care facility), or any individual who has not attained 65 years of age who is a patient in an institution for tuberculosis or mental diseases;

(2) Payments to institutions for the mentally retarded or persons with related conditions may not include reimbursement for vocational training and educational activities; and

(3) With respect to expenditures in any calendar quarter prior to January 1, 1975, Federal financial participation for intermediate care facility services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions is available only to the extent that:

(i) The cost of such services for individuals in such institution receiving assistance under the State plan in the current calendar quarter, and (ii) the cost of assistance and health, social, or rehabilitative services provided in the current quarter under a plan developed and supervised by a Qualified Mental Retardation Professional (as defined in § 249.12(c)(3)) of such institution for individuals who were released from such institution during the preceding four quarters and would be eligible under the State plan if in such institution exceeds the product of the total number of eligible individuals receiving intermediate care facility services in the institution in the current quarter times the average per capita per quarter non-Federal expenditures in the institution (or distinct part thereof) for the base year. Federal financial participation will be at 100 percent of the cost increase described in the preceding sentence except that such Federal financial participation may not exceed the Federal medical assistance percentage times the cost of intermediate care facility services for eligible individuals in the institution (or distinct part thereof). For purposes of this subparagraph.

(a) The base year shall be the four quarters immediately preceding the quarter in which the State in which such institution is located elected to make such services available under its plan approved under title XIX;

(b) The per capita per quarter non-Federal expenditures for the base year and the costs for intermediate care facility services in the institution for each subsequent period in which claims are made are those expenditures for inpatient care and services in such public institution (or distinct part thereof) determined in accordance with Office of Management and Budget circular A-87;

(c) The number of eligible individuals receiving intermediate care facility services in the current quarter means the number of different eligible individuals receiving care for the whole quarter plus the full quarter equivalent number for eligible individuals receiving less than a full quarter's care. In determining the per capita expenditures for the base year, similar methods of computation shall be used;

(d) Non-Federal expenditures mean the total costs less any Federal funds received directly or indirectly in relation to such costs;

(e) The cost for the current calendar quarter excludes Federal funds received directly or indirectly from any source other than title XIX or section 1115 of the Social Security Act;

(f) The cost of services for individuals released from such institution during the preceding four quarters includes only those State and local expenditures for which Federal financial participation is not received;

(g) As a basis for determining the proper amount of Federal payments, the State or appropriate political subdivision must submit to the single State agency, in such form and at such times as are specified by the single State agency, in accordance with Social and Rehabilitation Service guidelines, estimated and actual cost data and other necessary information for each such institution and for the services provided to individuals released from each such institution during the preceding four quarters; and

(h) The single State agency shall have on file adequate records to substantiate compliance with the requirements of this section and to assure that all necessary adjustments have been made.

(d) *General provisions.* (1) * * *

(iv) "Resident of an intermediate care facility" is a patient or other individual who has been admitted to an intermediate care facility (including an institution for the mentally retarded or persons with related conditions or distinct part thereof) prior to the effective date of these regulations, or after that date in accordance with § 250.24 of this chapter, and is receiving room and board, and, is under a planned program of care and supervision on a continuous 24-hour-a-day basis, and in the case of institutions for the mentally retarded is also receiving active treatment.

(v) For purposes of paragraph (d)(1)(iv) of this section and § 248.60(b) of this chapter, "active treatment" means:

(a) Regular participation, in accordance with an individual plan of care in professionally developed and supervised activities, experiences, or therapies.

(b) An individual "plan of care" which is a written plan setting forth measurable goals or behaviorally stated objectives and prescribing an integrated program of individually designed activities, experiences or therapies necessary to achieve such goals or objectives. The overall objective of the plan is to attain or maintain the optimal physical, intellectual, social, or vocational functioning of which the individual is presently or potentially capable;

(c) An interdisciplinary professional evaluation consisting of complete medical, social and psychological diagnosis and evaluation, and an evaluation of the individual's need for institutional care, prior to but not to exceed 3 months before admission to the institution or, in the case of individuals who make application while in such institution, before requesting payment under the plan;

The evaluation is conducted by a physician, a social worker and other professionals. At least one member of the team meets the requirements of § 249.12 (c)(3);

(d) Re-evaluation medically, socially, and psychologically at least annually by the staff involved in carrying out the resident's individual plan of care, including review of the individual's progress toward meeting the plan objectives, the appropriateness of the individual plan of care, assessment of continuing need for institutional care, and consideration of alternate methods of care; and

(e) An individual postinstitutionalization plan (as part of the individual plan of care) developed prior to discharge by a Qualified Mental Retardation Professional (see § 249.12(c)(3)) and other appropriate professionals, including provision for appropriate services, protective supervision, and other follow-up services in the resident's new environment.

(vi) "Persons with related conditions" are those individuals who have epilepsy, cerebral palsy or other developmental disabilities as defined pursuant to Part C of the Developmental Disabilities Services and Facilities Construction Act.

* * * * *

4. Section 249.11 is redesignated as § 249.20 of Part 249, and as so redesignated is revised to read as set forth below:

§ 249.20 Free choice of providers of medical services: State plan requirement.

A State plan for medical assistance under title XIX of the Social Security Act must provide that any individual eligible for medical assistance under the plan may obtain the services available under the plan from any institution, agency, pharmacy, or practitioner, including an organization which provides such services or arranges for their availability on a prepayment basis, which is qualified to perform such services. However, services provided on a prepayment basis may be limited in accordance with section 1902(a)(23) of the Social Security Act. This provision does not prohibit the State agency from establishing the fees which will be paid to providers for furnishing medical and remedial care available under the plan or from setting reasonable standards relating to the qualifications of providers of such care. In the case of Guam, Puerto Rico, and the Virgin Islands this provision applies only with respect to calendar quarters beginning after June 30, 1975.

5. A new §§ 249.12 and 249.13 are added to Part 249 as set forth below:

§ 249.12 Standards for intermediate care facilities.

(a) The standards for an intermediate care facility (as defined in § 249.10(b)(15) of this part) which are specified by the Secretary pursuant to section 1905(c) and (d) of the Social Security Act and are applicable to all intermediate care facilities are as follows. The facility:

(1) Maintains methods of administrative management which assure that:

(i) There are on duty during all hours of each day staff sufficient in numbers and qualifications to carry out the policies, responsibilites, and programs of the facility. The numbers and categories of personnel are determined by the number of residents and their particular needs in accordance with guidelines issued by the Social and Rehabilitation Service;

(ii) There are written policies and procedures available to staff, residents and the public which:

(A) Govern all areas of service provided by the facility:

(*1*) Admission, transfer, and discharge of residents policies shall assure that:

(*i*) Only those persons are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts;

(*ii*) As changes occur in their physical or mental condition, necessitating service or care which cannot be adequately provided by the facility, residents are transferred promptly to hospitals, skilled nursing facilities, or other appropriate facilities; and

(*iii*) Except in the case of an emergency, the resident, his next of kin, attending physician, and the responsible agency, if any, are consulted in advance of the transfer or discharge of any resident, and casework services or other means are utilized to assure that adequate arrangements exist for meeting his needs through other resources; and

(*2*) In the case of institutions for the mentally retarded or persons with related conditions, policies define the uses of physical restraints, the staff members who must authorize their use, and a mechanism for monitoring and controlling their use;

(B) Set forth the rights of residents and prohibits their mistreatment or abuse;

(C) Provide for the registration and disposition of complaints without threat of discharge or other reprisal against any employee or resident.

(iii) A written account, available to residents and their families, is maintained on a current basis for each resident with written receipts for all personal possessions and funds received by or deposited with the facility and for all disbursements made to or on behalf of the resident;

(iv) The facility has a written and regularly rehearsed plan for staff and residents to be followed in case of fire, explosion or other emergency;

(v) There are written procedures for personnel to follow in an emergency, including care of the resident, notification of the attending physician and other persons responsible for the resident, arrangements for transportation, for hospitalization, or other appropriate services;

(vi) There is an orientation program for all new employees that includes review of all facility policies. An inservice education program is planned and conducted for the development and improvement of skills of all the facility's personnel. Records are maintained which indicate the content of, and participation in, all such orientation and staff development programs;

(vii) The facility is in conformity with Federal, State, and local laws, codes, and regulations pertaining to health and safety, including procurement, dispensing, administration, safeguarding and disposal of medications and controlled substances; building, construction, maintenance and equipment standards; sanitation; communicable and reportable diseases; and post-mortem procedures.

(2) Has in effect a transfer agreement with one or more hospitals sufficiently close to the facility to make feasible the transfer between them of residents and their records, which provide the basis for effective working arrangements under which inpatient hospital care or other hospital services are available promptly to the facility's residents when needed. Any facility which does not have such an agreement in effect but which is found by the survey agency to have attempted in good faith to enter into such an agreement with a hospital shall be considered to have such an agreement in effect if and for so long as the survey agency finds that to do so is in the public interest and essential to assuring intermediate care facility services for eligible persons in the community.

(3) Maintains effective arrangements

(i) For required institutional services through a written agreement with an outside resource in those instances where the facility does not employ a qualified professional person to render a required service. The responsibilities, functions, and objectives and the terms of agreement with each such resource are delineated in writing and signed by the administrator or authorized representative and the resource;

(ii) Through which medical and remedial services required by the resident but not regularly provided within the facility can be obtained promptly when needed.

(4) Maintains an organized resident record system which assures that:

(i) There is available to professional and other staff directly involved with the resident and to appropriate representatives of the State agency a record for each resident which includes as a minimum:

(A) Identification information and admission data including past resident medical and social history;

(B) Copies of initial and periodic examinations, evaluations, and progress notes including all plans of care and any modifications thereto, and discharge summaries;

(C) An overall plan of care setting forth goals to be accomplished, prescribing an integrated program of individually designed activities, therapies, and treatments necessary to achieve such goals, and indicating which professional service or individual is responsfble for each element of care or service prescribed in the plan;

(D) Entries describing treatments and services rendered and medications administered;

(E) All symptoms and other indications of illness or injury including the date, time, and action taken regarding each; and

(F) In the case of institutions for the mentally retarded or persons with related conditions, the resident's legal status, developmental history, a copy of the post-institutionalization plan of care and a signed order for any physical restraints including justification and duration of application;

(ii) Records are adequately safeguarded against destruction, loss, or unauthorized use; and

(iii) Records are retained for a minimum of 3 years following a resident's discharge.

(5) Meets such provisions of the Life Safety Code of the National Fire Protection Association (21st Edition, 1967) as are applicable to institutional occupancies; except that:

(i) For facilities of 15 beds or less, the State survey agency may apply the Lodging or Rooming Houses section of the residential occupancy requirements of the Code for institutions for the mentally retarded or persons with related conditions and intermediate care facilities primarily engaged in the treatment of alcoholism and drug abuse, all of whose residents are currently certified by a physician or in the case of an institution for the mentally retarded or persons with related conditions by a physician or psychologist as defined in paragraph (c)(3)(i) of this section, as:

(A) Ambulatory;

(B) Engaged in active programs for rehabilitation which are designed to and can reasonably be expected to lead to independent living, or in the case of an institution for the mentally retarded or persons with related conditions, receiving active treatment; and

(C) Capable of following directions and taking appropriate action for self-preservation under emergency conditions;

(ii) In accordance with criteria issued by the Secretary, the State survey agency may waive the application to any such facility of specific provisions of such Code, for such periods as it deems appropriate, which provisions if rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver will not adversely affect the health and safety of the residents; and

(iii) The Life Safety Code shall not apply in any State if the Secretary makes a finding that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects residents in intermediate care facilities.

Where waivers permit the participation of an existing facility of two or more stories which is not of at least 2-hour fire resistive construction, blind, nonambulatory or physically handicapped residents are not housed above the street level floor unless the facility is of 1-hour protected non-combustible construction (as defined in National Fire Protection Association Standard #220), fully sprinklered 1-hour protected ordinary construction or fully sprinklered 1-hour protected wood frame construction.

(6) Maintains conditions relating to environment and sanitation as set forth below:

(i) Resident living areas are designed and equipped for the comfort and privacy of the resident. Each room is equipped with or conveniently located near adequate toilet and bathing facilities appropriate in number, size, and design to meet the needs of residents. Each room is at or above grade level and each resident room contains a suitable bed, closet space which provides security and privacy for clothing and personal belongings, and other appropriate furniture;

(A) Resident bedrooms have no more than 4 beds. Single resident rooms measure at least 100 square feet, and multi-resident rooms provide a minimum of 80 square feet per bed. The survey agency may waive in existing buildings, for such periods as deemed appropriate, provisions which, if rigidly enforced, would result in unreasonable hardship upon the facility but only if such waiver is in accordance with the particular needs of the residents and will not adversely affect their health and safety. Each room is equipped with a resident call system; or

(B) In the case of institutions for the mentally retarded or persons with related conditions, the number of residents in multi-resident bedrooms does not exceed 12 persons. Single resident rooms measure 100 square feet, and multi-resident rooms provide a minimum of 80 square feet per bed. The survey agency may waive in existing buildings, for such periods as deemed appropriate, provisions which, if rigidly enforced, would result in unreasonable hardship upon the institution but only if such waiver is in accordance with the particular needs of the residents and will not adversely affect their health and safety; and

(ii) The facility has available at all times a quantity of linen essential for proper care and comfort of residents. Each bed is equipped with clean linen;

(iii) An adequate supply of hot water for resident use is available at all times. Temperature of hot water at plumbing fixtures used by residents is automatically regulated by control valves;

(iv) Except in the case of an institution for the mentally retarded or persons with related conditions, corridors used by residents are equipped with firmly secured handrails;

(v) Provision is made for isolating residents with infectious diseases;

(vi) Areas utilized to provide therapy services are of sufficient size and appropriate design to accommodate necessary equipment, conduct examinations, and provide treatment;

(vii) The facility provides one or more areas for resident dining, diversional, and social activities; and areas used for corridor traffic shall not be considered as areas for dining, diversional or social activities;

(viii) If a multipurpose room is used for dining and diversional and social activities, there is sufficient space to accommodate all activities and prevent their interference with each other;

(ix) The facility is accessible to and functional for residents, personnel, and the public. All necessary accommodations are made to meet the needs of persons with semi-ambulatory disabilities, sight and hearing disabilities, disabilities of coordination, as well as other disabilities in accordance with the American National Standards Institute (ANSI) Standard No. A117.1 (1961) American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped. The survey agency may waive in existing buildings, for such periods as deemed appropriate, specific provisions of ANSI Standard No. A117.1 (1961) which, if rigidly enforced, would result in unreasonable hardship upon the facility, but only if such waiver will not adversely affect the health and safety of residents. For purposes of ANSI Standard No. A117.1 (1961), "existing buildings" are defined as those facilities or parts thereof whose construction plans are approved and stamped by the appropriate State agency responsible therefor before the date these regulations become effective.

(7) Provides or arranges menus and meal service so that:

(i) At least three meals or their equivalent are served daily, at regular times with not more than 14 hours between a substantial evening meal and breakfast;

(ii) A designated staff member suited by training or experience in food management or nutrition is responsible for planning and supervision of menus and meal service;

(iii) If the facility accepts or retains individuals in need of medically prescribed special diets, the menus for such diets are planned by a professionally qualified dietitian, or are reviewed and approved by the attending physician, and the facility provides supervision of the preparation and serving of the meals and their acceptance by the resident;

(iv) Menus are planned and followed to meet nutritional needs of residents, in accordance with physicians' orders

and to the extent medically possible, in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;

(v) Records of menus as actually served are retained for 30 days;

(vi) All food is procured, stored, prepared, distributed, and served under sanitary conditions; and

(vii) Individuals needing special equipment, implements, or utensils to assist them when eating have such items provided.

(8) Implements methods and procedures relating to drugs and biologicals which assure that:

(i) If the facility does not employ a licensed pharmacist, it has formal arrangements with a licensed pharmacist to provide consultation on methods and procedures for ordering, storage, administration and disposal and recordkeeping of drugs and biologicals;

(ii) Medications administered to a resident are ordered either in writing or orally by the resident's attending or staff physician. Physician's oral orders for prescription drugs are given only to a licensed nurse, pharmacist, or physician. All oral orders for medication are immediately recorded and signed by the person receiving them and are countersigned by the attending physician in a manner consistent with good medical practice;

(iii) Medications not specifically limited as to time or number of doses when ordered are controlled by automatic stop orders or other methods in accordance with written policies and the attending physician is notified;

(iv) Self-administration of medication is allowed only with permission of the resident's attending physician;

(v) A registered nurse reviews monthly each resident's medications and notifies the physician when changes are appropriate. Medications are reviewed quarterly by the attending or staff physician; and

(vi) All personnel administering medications must have completed a State-approved training program in medication administration.

(9) Provides health services which assure that each resident receives treatments, medications, diet, and other health services as prescribed and planned, all hours of each day, in accordance with the following:

(i) Immediate supervision of the facility's health services on all days of each week is by a registered nurse or licensed practical (or vocational) nurse employed full-time on the day shift in the intermediate care facility and who is currently licensed to practice in the State: *Provided*, That:

(A) In the case of facilities where a licensed practical (or vocational) nurse serves as the supervisor of health services, consultation is provided by a registered nurse, through formal contract, at regular intervals, but not less than 4 hours weekly;

(B) By January 1975, licensed practical (or vocational) nurses serving as health services supervisors have training that includes either graduation from a State approved school of practical nursing or education and other training that is considered by the State authority responsible for licensing of practical nurses to provide a background that is equivalent to graduation from a State approved school of practical nursing, or have successfully completed the Public Health Service examination for waivered licensed practical (vocational) nurses; and

(C) Other categories of licensed personnel with special training in the care of residents may serve as charge nurse: *Provided*, That such person is licensed by the State in such category following completion of a course of training which includes at least the number of classroom and practice hours in all of the nursing subjects included in the program of a State approved school of practical (or vocational) nursing as evidenced by a report to the single State agency by the agency or agencies of the State responsible for the licensure of such personnel comparing the courses in the respective curricula; and

(ii) Responsible staff members are on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies;

(iii) In the case of an institution for the mentally retarded or persons with related conditions, with less than 15 beds, which has only residents certified by a physician as not in need of professional nursing services, paragraph (a)(9)(i) and (ii) of this section may be met if the institution arranges through formal contract for the services of a registered nurse or public health nurse to visit as required for the care of minor illnesses, injuries, or emergencies, and consultation on the health aspects of the individual plan of care; and if a responsible staff member is on duty at all times who is immediately accessible, to whom residents can report injuries, symptoms of illness, and emergencies;

(iv) A written health care plan is developed and implemented by appropriate staff for each resident in accordance with instructions of the attending or staff physician. The plan is reviewed and revised as needed, but not less often than quarterly;

(v) Nursing services are provided in accordance with the needs of the residents and, in the case of a facility other than an institution for the mentally retarded or persons with related conditions, restorative nursing care is provided to each resident to achieve and maintain the highest possible degree of function, self-care and independence.

(b) In addition, for intermediate care facilities other than institutions for the mentally retarded or persons with related conditions, the following standards specified pursuant to section 1905(c) of the Social Security Act shall apply.

(1) The facility is administered by a person licensed in the State as a nursing home administrator or, in the case of a hospital qualifying as an intermediate care facility, by the hospital administrator, with the necessary authority and responsibility for management of the facility and implementation of administrative policies.

(2) The administrator or an individual on the professional staff of the facility is designated as resident services director and is assigned responsibility for the coordination and monitoring of the residents' overall plans of care.

(3) The facility provides, according to the needs of each resident, specialized and supportive rehabilitative services either directly or through arrangements with qualified outside resources, which are designed to preserve and improve abilities for independent function, prevent insofar as possible progressive disabilities, and restore maximum function, and which are:

(i) Provided under a written plan of care, developed in consultation with the attending physician and if necessary, an appropriate therapist. The plan is based on the attending physician's orders and an assessment of the resident's needs. The resident's progress is reviewed regularly, and the plan is altered or revised as necessary;

(ii) Provided in accordance with accepted professional practices by qualified therapists or by qualified assistants as defined in 20 CFR 405.1101(m), (n), (q), (r), and (t) ,or other supportive personnel under appropriate supervision.

(4) The facility provides or arranges for social services as needed by the resident, designed to promote preservation of the resident's physical and mental health.

(i) A designated staff member suited by training or experience is responsible for arranging for social services and for the integration of social services with other elements of the plan of care.

(ii) A plan for such care is recorded in the resident's record and is periodically evaluated in conjunction with the resident's total plan of care.

(5) The facility provides an activities program designed to encourage restoration to self-care and maintenance of normal activity which assures that:

(i) A staff member qualified by experience or training in directing group activity is responsible for the direction and supervision of the activities program;

(ii) A plan for independent and group activities is developed for each resident in accordance with his needs and interests;

(iii) The plan is incorporated in his overall plan of care and is reviewed with the resident's participation at least quarterly and altered as needed;

(iv) Adequate recreation areas are provided with sufficient equipment and materials available to support independent and group activities; and

(6) The facility maintains policies and procedures to assure that each resident's health care is under the continuing supervision of a physician who sees the resident as needed and in no case less often than every 60 days, unless justified otherwise and documented by the attending physician.

(c) In addition, for institutions for the mentally retarded or persons with related

conditions the following standards specified pursuant to section 1905(d) of the Social Security Act shall apply.

(1) Residents are admitted when it has been determined in accordance with § 249.10(d)(1)(v)(c) that the resident is in need of the care and services provided by the institution.

(2) The institution is administered by a person licensed in the State as a nursing home administrator or by a Qualified Mental Retardation Professional who meets the requirements set forth in subparagraph (3) of this paragraph however, in the case of an institution licensed by a nursing home, by a person licensed in the State as a nursing home administrator, or, in the case of a hospital qualifying as an institution for the mentally retarded or persons with related conditions, by the hospital administrator. The administrator has the necessary authority and responsibility for management of the institution and implementation of administrative policies.

(3) The institution provides for a Qualified Mental Retardation Professional who is responsible for supervising the implementation of each resident's individual plan of care, integrating the various aspects of the institution's program, recording each resident's progress and initiating periodic review of each individual plan of care for necessary modifications or adjustments. The term "Qualified Mental Retardation Professional" means:

(i) A psychologist with at least a master's degree from an accredited program and with specialized training or 1 year of experience in treating the mentally retarded;

(ii) A physician licensed under State law to practice medicine or osteopathy and with specialized training or 1 year of experience in treating the mentally retarded;

(iii) An educator with a degree in education from an accredited program and with specialized training or 1 year of experience in working with the mentally retarded;

(iv) A social worker with a bachelor's degree in social work from an accredited program, or a bachelor's degree in a field other than social work and at least three years social work experience under the supervision of a qualified social worker, and with specialized training or 1 year of experience in working with the mentally retarded;

(v) A physical or occupational therapist as define in 20 CFR 405.1101(m) or (q) and who has specialized training or 1 year of experience in treating the mentally retarded;

(vi) A speech pathologist or audiologist as defined in 20 CFR 405.1101(t) and who has specialized training or 1 year of experience in treating the mentally retarded;

(vii) A registered nurse who has specialized training or 1 year of experience in treating the mentally retarded;

(viii) A therapeutic recreation specialist who is a graduate of an accredited program and where applicable, is licensed or registered in the State, and who has specialized training or 1 year of experience in working with the mentally retarded.

(4) The institution provides all necessary resident living services, training, and guidance in the activities of daily living, and development of self-help skills for maximum independence, and, as needed by the individual resident, provides directly or through arrangements the following:

(i) Dental services to provide evaluation, diagnosis, treatment and annual review, including care for dental emergencies, administered by or under the supervision of a dentist licensed in the State to practice dentistry or dental surgery;

(ii) Physical and occupational therapy services for purposes of initiating, monitoring and followup of individualized treatment programs rendered by or under the supervision of a physician with special training or experience in the specialty or a physical therapist or an occupational therapist as defined in 20 CFR 405.1101(m) or (q);

(iii) Psychological services including participation in the evaluation and periodic reviews, individual treatment, and consultation and training services to program staff, rendered by a psychologist with a master's degree from an accredited program;

(iv) Social services available to all residents as appropriate, including evaluation and counseling, with referral to, and use of, other community resources as appropriate, participation in periodic reviews and planning for community placement, discharge and followup services;

(v) Speech pathology and audiology services to maximize the communication skills of residents for purposes of initiation, monitoring and followup of individualized treatment programs under the direction of a physician with special training or experience in the specialty or a therapist as defined in 20 CFR 405.-1101(t);

(vi) Organized recreational activities for residents consistent with their needs and capabilities, including provision of adequate recreation areas, equipment and materials to support independent and organized activities; and

(vii) Physician services including a complete physicial examination at least annually and formal arrangements to provide for medical emergencies on a 24-hour, 7-days-a-week-basis.

(5) The institution has a direct care staff which conducts a resident living program designed to provide training in activities of daily living and development of self-help and social skills, and to carry out the recommendations and plans for treatment of each resident under the supervision of a person (or persons) whose training and experience is appropriate for the program and who is qualified to supervise and direct activities of daily living and

(6) No later than three years after the effective date of these regulations the institution meets the standards specified in § 249.13. For institutions determined to meet the standards specified in § 249.13, the following sections of paragraphs (a) and (c) of this section do not apply: (a)(1)(i), (ii), (iv), (v) and (vi); (a)(4); (a)(6)(i)(B), (iii), (v), (vi), (vii), and (viii); (a)(7); (a)(8); (c)(4); and (c)(5).

§ 249.13 Standards for intermediate care facility services in institutions for the mentally retarded or persons with related conditions.

Effective not later than 3 years after the effective date of these regulations the standards for intermediate care facility services (as defined in § 249.10(b)(15)) in an institution for the mentally retarded or persons with related conditions which are specified by the Secretary pursuant to section 1905(c) and (d) of the Social Security Act and referred to in § 249.12(c)(6), are specified in this section. At such time as an institution is deemed to meet the standards contained in this section, such institution will no longer be required to meet the following provisions of § 249.12: (a)(1)(i), (ii), (iv), (v) and (vi); (a)(4); (a)(6)(i)(B), (iii), (v), (vi), (vii) and (viii); (a)(7); (a)(8); (c)(4); and (c)(5).

(a) *Administrative policies and practices*—(1) *General policies and practices.* (i) The facility shall have a written outline of the philosophy, objectives, and goals it is striving to achieve, that is available for distribution to staff, consumer representatives, and the interested public, and that shall include but need not be limited to:

(A) Its role in the State comprehensive program for the mentally retarded;

(B) Its goals for its residents; and

(C) Its concept of its relationship to the parents of its residents, or to their surrogates.

(ii) The facility shall have a written statement of policies and procedures concerning the rights of residents that assure the civil rights of all residents.

(iii) The facility shall have a written statement of policies and procedures that protect the financial interests of residents and when large sums accrue to the resident, provide for counseling of the resident concerning their use, and for appropriate protection of such funds. These policies shall permit normalized and normalizing possession and use of money by residents for work payment and property administration as, for example, in performing cash and check transactions and in buying clothes and other items.

(iv) Policies and procedures in the major operating units of the facility shall be described in manuals that are current, relevant, available, and followed.

(v) The facility shall have a plan for a continuing management audit to insure compliance with State laws and regulations and the effective implementation of its stated policies and procedures.

(vi) A governing body of the facility shall exercise general direction and shall establish policies concerning the operation of the facility and the welfare of the individuals served.

(vii) The governing body shall establish appropriate qualifications of education, experience, personal factors, and skills for the chief executive officer.

(viii) The chief executive officer shall make arrangements so that some one individual is responsible for the administrative direction of the facility at all times.

(ix) A table of organization shall provide for and show the major operating programs of the facility, with staff divisions, the administrative personnel in charge of the programs and divisions, and their lines of authority, responsibility, and communication.

(x) The administration of the facility shall provide for effective staff and resident participation and communication.

(A) Standing committees appropriate to the facility, such as human rights, research review, and infection shall be constituted and shall meet regularly. Committees shall include the participation of direct-care staff, whenever appropriate.

(B) Minutes and reports of staff meetings, and of standing and ad hoc committee meetings shall include records of recommendations and their implementation, and shall be kept and filed.

(xi) There shall be an active program of ready, open, and honest communication with the residents and families.

(A) The facility shall maintain active means of keeping residents' families or surrogates informed of activities related to the residents that may be of interest to them or of significant changes in the resident's condition.

(B) Communications to the facility from residents' relatives shall be promptly and appropriately handled and answered.

(C) Close relatives and parent surrogates shall be permitted to visit at any reasonable hour, and without prior notice unless contra-indicated by the residents' needs. Steps shall be taken, however, so that the privacy and rights of the other residents are not infringed by this practice.

(D) Parents shall be permitted to visit all parts of the facility that provide services to residents.

(E) Frequent and informal visits home shall be encouraged, and the regulations of the facility shall facilitate rather than inhibit such visitations.

(2) *Admission and release.* (i) No individual whose needs cannot be met by the facility shall be admitted to it. The number admitted as residents to the facility shall not exceed:

(A) its rated capacity; and

(B) its provisions for adequate programming.

(ii) The laws, regulations, and procedures concerning admission, readmission, and release shall be summarized and available for distribution.

(iii) The residential facility shall admit only residents who have had a comprehensive evaluation, covering physical, emotional, social, and cognitive factors, conducted by an appropriately constituted interdisciplinary team.

(iv) Initially, service need shall be defined without regard to the actual availability of the desirable options. All available and applicable programs of care, treatment, and training shall be investigated and weighed, and the deliberations and findings recorded. Admissions to the residential facility shall occur only when it is determined to be the optimal available plan. Where admission is not the optimal measure, but must nevertheless be recommended or implemented, its inappropriateness shall be clearly acknowledged and plans shall be initiated for the continued and active exploration of alternatives.

(v) Within the period of one month after admission there shall be:

(A) A review and updating of the preadmission evaluation;

(B) A prognosis that can be used for programming and placement;

(C) Direct-care personnel participation in the aforementioned activities;

(D) Recorded in the resident's unit record the results of the evaluations; and

(E) A written interpretation of the evaluation, in action terms, which is made to:

(*1*) The direct-care personnel responsible for carrying out the resident's program;

(*2*) The special services staff responsible for carrying out the resident's program; and

(*3*) The resident's parents or his surrogates.

(vi) There shall be a regular, at least annual, joint review of the status of each resident by all relevant personnel, including personnel in the living unit, with program recommendations for implementation. This review shall include:

(A) Consideration of the advisability of continued residence and alternative programs;

(B) At the time of the resident's attaining majority, or if he becomes emancipated prior thereto:

(*1*) The need for guardianship of the resident; and

(*2*) The exercise of the resident's civil and legal rights.

(vii) The results of these reviews shall be:

(A) Recorded in the resident's unit record;

(B) Made available to relevant personnel;

(C) Interpreted to the resident's parents or surrogates who shall be involved in planning and decision making; and

(D) Interpreted to the resident, when appropriate.

(viii) At the time of permanent release or transfer, there shall be recorded a summary of findings, progress and plans.

(ix) Planning for release shall include provision for appropriate services, including protective supervision and other follow-up services, in the resident's new environment. Procedures shall be established so that parents or guardians who request the release of a resident are counseled concerning the advantages and disadvantages of such release.

(x) When a resident is transferred to another facility, there shall be:

(A) Written evidence of the reason for the transfer; and

(B) Except in an emergency, prior knowledge, and ordinarily the written consent, of the resident and his guardian.

(xi) In the event of any unusual occurrence, including serious illness or accident, impending death, or death, the resident's next of kin, or the person who functions in that capacity (a guardian or citizen advocate) shall be notified promptly.

(xii) When death occurs:

(A) Any autopsy shall be performed by a qualified physician, so selected as to be free of any conflict of interest or loyalty; and

(B) The family shall be told of the autopsy findings, if they so desire.

(3) *Personnel policies.* (i) The hiring, assignment, and promotion of employees shall be based on their qualifications and abilities, without regard to sex, race, color, creed, age, ethnic or national origin.

(ii) Written job descriptions shall be available for all positions.

(iii) Licensure, certification, or standards such as are required in community practice shall be required for all comparable positions in the facility.

(iv) Ethical standards of professional conduct, as developed by professional societies, shall be recognized as applying in the facility.

(v) There shall be an authorized procedure, consistent with due process, for suspension and/or dismissal of an employee for cause.

(vi) The facility's personnel policies and practices are in writing and are available to all its employees.

(vii) Written policy shall prohibit mistreatment, neglect, or abuse of residents. Alleged violations shall be reported immediately, and there shall be evidence that:

(A) All alleged violations are thoroughly investigated;

(B) The results of such investigation are reported to the chief executive officer, or his designated representative, within 24 hours of the report of the incident; and

(C) Appropriate sanctions are invoked when the allegation is substantiated.

(viii) Staffing shall be sufficient so that the facility is not dependent upon the use of residents or volunteers for productive services. There shall be a written policy to protect residents from exploitation when they are engaged in productive work.

(ix) Appropriate to the size and nature of the facility, there shall be a staff training program that includes:

(A) Orientation for all new employees, to acquaint them with the philosophy, organization, program, practices, and goals of the facility;

(B) Inservice training for employees who have not achieved the desired level of competence, and continuous inservice training to update and improve the skills and competencies of all employees; and

(C) Supervisory and management training for all employees in, or candidates for, supervisory positions.

(x) Where appropriate to the size and nature of the facility, there shall be an individual designated to be responsible for staff development and training.

(xi) Written policies are in effect to insure that employees with symptoms or signs of communicable disease are not permitted to work.

(b) *Resident Living*—(1) *Staff-resident relationships and activities.* (i) The primary responsibility of living unit staff shall be to devote their attention to the care and development of the residents as follows:

(A) living unit personnel shall train residents in activities of daily living and in the development of self-help and social skills; and

(B) appropriate provisions shall be made to ensure that the efforts of the staff are not diverted from these responsibilities by excessive housekeeping and clerical duties, or other non-resident-care activities.

(ii) Members of the living unit staff from all shifts shall participate in appropriate referral, planning, initiation, coordination, implementation, follow-through, monitoring, and evaluation activities relative to the care and development of the resident.

(iii) There shall be specific evaluation and program plans for each resident that are:

(A) Available to direct care staff in each living unit; and

(B) Reviewed by a member or members of an interdiscipilinary program team at least monthly, with documentation of such review entered in the resident's record.

(iv) Activity schedules shall be developed for each resident, and shall be available to direct care staff and shall be implemented daily.

(A) Such schedules shall not permit "dead time" of unscheduled activity of more than three hours continuous duration; and

(B) Such schedules shall allow for individual or group free activities, with appropriate materials, as specified by the program team.

(v) Multiple-handicapped and nonambulatory residents shall:

(A) Spend a major portion of their waking day out of bed;

(B) Spend a portion of their waking day out of their bedroom areas;

(C) Have planned daily activity and exercise periods; and

(D) Be rendered mobile wherever possible by various methods and devices.

(vi) All residents shall have planned periods out of doors on a year-round basis.

(vii) Residents shall be permitted personal possessions, such as toys, books, pictures, games, radios, arts and crafts materials, religious articles, toiletries, jewelry and letters.

(viii) There shall be a written statement of policies and procedures for the control and discipline of residents that is:

(A) Available in each living unit;

(B) Available to parents or guardians; and

(C) Where appropriate, formulated with resident participation.

(ix) Corporal punishment shall not be permitted. Residents shall not discipline other residents, except as part of an organized self-government program that is conducted in accordance with written policy.

(x) Seclusion, defined as the placement of a resident alone in a locked room shall not be employed.

(xi) Except as provided in paragraph (b) (1) (xiii), of this section, physical restraint shall be employed only when absolutely necessary to protect the resident from injury to himself or to others, and restraint shall not be employed, as punishment, for the convenience of staff, or as a substitute for program.

(A) The facility shall have a written policy that defines the uses of restraint, the staff members who must authorize its use, and a mechanism for monitoring and controlling its use.

(B) Orders for restraints shall not be in force for longer than 12 hours.

(C) A resident placed in restraint shall be checked at least every thirty minutes by appropriately trained staff and a record of such checks shall be kept.

(D) Mechanical restraints shall be designed and used so as not to cause physical injury to the resident, and so as to cause the least possible discomfort. Opportunity for motion and exercise shall be provided for a period of not less than 10 minutes during each 2 hours in which restraint is employed.

(E) Totally enclosed cribs and barred enclosures shall be considered restraints. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered to be restraints, but shall be designed and applied:

(*1*) Under the supervision of a qualified professional person; and

(*2*) In accordance with principles of good body alignment, concern for circulation, and allowance for change of position.

(xii) Chemical restraint shall not be used excessively, as punishment, for convenience of staff, as a substitute for program, or in quantities that interfere with a resident's habilitation program.

(xiii) Behavior modification programs involving the use of time-out devices or the use of aversive stimuli shall be:

(A) Reviewed and approved by the facility's human rights committee or the appropriate Qualified Mental Retardation Professional;

(B) Conducted only with the consent of the affected resident's parents or surrogates;

(C) Described in written plans that are kept on file in the facility;

(D) Applied, in the case of restraints employed as time-out devices, only during conditioning sessions, and only in the presence of the trainer; and

(E) Not used for more than 1 hour in the case of removal from a situation for time-out purposes, and this procedure shall be used only during the conditioning program, and only under the supervision of the trainer.

(2) *Clothing.* (i) Each resident shall have an adequate allowance of neat, clean, suitable, and seasonable clothing.

(ii) Each resident shall have his own clothing, which is, when necessary, properly marked with his name.

(iii) Residents shall be dressed daily in their own clothing, unless contraindicated in written medical orders.

(iv) Residents shall as appropriate, be trained and encouraged to:

(A) Select their daily clothing;

(B) Dress themselves; and

(C) Change their clothes to suit the activities in which they engage.

(v) Storage space for clothing to which the resident (including those in wheelchairs) has access shall be provided.

(3) *Health, hygiene, and grooming.* (i) Residents shall be trained to exercise maximum independence in health, hygiene, and grooming practices, including bathing, brushing teeth, shampooing, combing and brushing hair, shaving, and caring for toenails and fingernails.

(ii) Every resident who does not eliminate appropriately and independently shall be engaged in a toilet training program. The facility's training program shall be applied systematically and regularly. Records shall be kept of the progress of each resident receiving toilet training. Residents who are incontinent shall be immediately bathed or cleansed, upon voiding or soiling, unless specifically contraindicated by the training program in which they are enrolled, and all soiled items shall be changed.

(iii) Procedures shall be established for:

(A) Monthly weighing of residents, with greater frequency for those with special needs;

(B) Quarterly measurement of height, until the age of maximum growth;

(C) Maintenance of weight and height records; and

(D) Assuring that residents maintain normal weights.

(iv) Orders prescribing bed rest or prohibiting residents from being taken out-of-doors shall be reviewed by a physician at least every three days.

(v) Provisions shall be made to furnish and maintain in good repair, and to encourage the use of, dentures, eyeglasses, hearing aids, braces, and so forth, prescribed by appropriate specialists.

(4) *Grouping and organization of living units.* Residents of grossly different ages, developmental levels, and social needs shall not be housed in close physical or social proximity, unless such housing is planned to promote the growth and development of all those housed together. Residents who are mobile-nonambulatory, deaf, blind, epileptic, and so forth, shall be integrated with peers of comparable social and intellectual development, and shall not be segregated on the basis of their handicaps.

(5) *Resident-Living staff.* (i) There shall be sufficient, appropriately qualified, and adequately trained personnel to conduct the resident-living program, in accordance with the standards specified

in these regulations. Resident-living personnel shall be administratively responsible to a person whose training and experience is appropriate to the program.

(ii) Regardless of the organization or design of resident-living units, the overall staff-resident ratios are as follows unless program needs justify otherwise:

(A) For units including children under the age of 6 years, severely and profoundly retarded, severely physically handicapped, and residents who are aggressive, assaultive, or security risks, or who manifest severely hyperactive or psychotic-like behavior, the overall ratio (allowing for five-day workweek plus holiday, vacation, and sick time), is 1 to 2;

(B) For units serving moderately retarded residents requiring habit training, the overall ratio is 1 to 2.5; and

(C) For unit serving residents in vocational training programs and adults who work in sheltered employment situations, the overall ratio is 1 to 5.

(6) *Design and equipage of living units.* (i) Bedrooms shall:

(A) Be on or above street grade level;

(B) Be outside rooms;

(C) Accommodate no more than 4 residents. Any deviation from this size shall be justified on the basis of meeting the program needs of the specific residents being served; and

(D) Provide at least 80 square feet per resident in multiple sleeping rooms, and not less than 100 square feet in single rooms.

(ii) Each resident shall be provided with:

(A) A separate bed of proper size and height for the convenience of the resident;

(B) A clean, comfortable mattress;

(C) Bedding appropriate for weather and climate; and

(D) Appropriate furniture, such as a chest of drawers, a table or desk, and an individual closet with clothes racks and shelves accessible to the resident.

(iii) Space shall be provided for equipment for daily out-of-bed activity for all residents not yet mobile, except those who have a short-term illness, or those very few for whom out-of-bed activity is a threat to life.

(iv) Suitable storage shall be provided for personal possessions, such as toys and individual prosthetic equipment, so that they are accessible to the resident for their use.

(v) Toilets, bathtubs, and showers shall provide for individual privacy, unless specifically contraindicated by program needs.

(vi) If the facility accepts physically handicapped residents, water closets and bathing and toileting appliances shall be equipped for use by the physically handicapped.

(vii) Each habitable room shall have direct outside ventilation by means of windows, louvers, air conditioning, or mechanical ventilation horizontally and vertically.

(viii) Each habitable room shall have at least one window.

(ix) Floors shall provide a resilient, nonabrasive, and slip-resistant surface. Carpeting used in units serving residents who crawl or creep shall be nonabrasive.

(x) Temperature and humidity shall be maintained within a normal comfort range by heating, air conditioning, or other means. The heating apparatus employed shall not constitute a burn hazard to the residents.

(xi) The temperature of the hot water at all taps to which residents have access shall be controlled by the use of thermostatically controlled mixing valves or by other means, so that it does not exceed 110 degrees Fahrenheit.

(xii) Emergency lighting of stairs and exits, with automatic switches, shall be provided in units housing more than 15 residents.

(xiii) There shall be adequate clean linen and dirty linen storage areas for each living unit.

(c) *Professional and special programs and services*—(1) *General provisions.* In addition to the resident-living services detailed in paragraph (b) of this section, residents shall be provided with professional and special programs and services, in accordance with their needs for such programs and services.

(i) Programs and services provided by the facility, or to the facility by agencies outside it, or by persons not employed by it, shall meet the standards for quality of services as stated in this section, and all contracts for the provision of such services shall stipulate that these standards will be met.

(ii) There are interdisciplinary teams for evaluating the resident's needs, planning an individualized habilitation program to meet identified needs, and periodically reviewing the resident's responses to his program and revising the program accordingly, which shall be constituted of persons drawn from, or representing, such of the professions, disciplines, or service areas included in this section as are relevant in each particular case.

(2) *Dental services.* (i) There are comprehensive diagnostic services for all residents which include a complete extra and intraoral examination, utilizing all diagnostic aids necessary to properly evaluate the resident's oral condition, within a period of 1 month following admission unless such an examination was done within 6 months of admission, and the results are received and reviewed by the facility and are entered in the resident's record.

(ii) There are comprehensive treatment services for all residents which include:

(A) Provision for dental treatment;

(B) Provision for emergency treatment on a 24-hour, seven-days-a-week basis, by a qualified dentist; and

(C) A recall system that will assure that each resident is reexamined at specified intervals in accordance with his needs, but at least annually.

(iii) There is education and training in the maintenance of oral health which includes:

(A) A dental hygiene program that includes:

(1) Imparting information regarding nutrition and diet control measures to residents and staff;

(2) Instruction of residents and staff in living units in proper oral hygiene methods; and

(B) Instruction of parents or surrogates in the maintenance of proper oral hygiene, where appropriate (as in the case of residents leaving the facility).

(iv) A permanent dental record shall be maintained for each resident. A summary dental progress report shall be entered in the resident's unit record at stated intervals. A copy of the permanent dental record shall be provided a facility to which a resident is transferred.

(v) There shall be a formal arrangement for providing qualified and adequate dental services to the facility, including care in dental emergencies on a 24-hour, 7-days-a-week-basis.

(vi) There shall be available sufficient, appropriately qualified dental personnel, and necessary supporting staff, to carry out the dental services program. All dentists providing services to the facility shall be fully licensed to practice in the State in which the facility is located. All dental hygienists providing services to the facility shall be licensed to practice in the State in which the facility is located.

(3) *Training and habilitation services.* (i) Training and habilitation services defined as the facilitation of the intellectual, sensorimotor, and affective development of the individual, shall be available to all residents, regardless of chronological age, degree of retardation, or accompanying disabilities or handicaps.

(ii) Individual evaluations of residents shall:

(A) Be based upon the use of empirically reliable and valid instruments, whenever such tools are available; and

(B) Provide the basis for prescribing an appropriate program of training experiences for the resident.

(iii) There shall be written training and habilitation objectives for each resident that are:

(A) Based upon complete and relevant diagnostic and prognostic data;

(B) Stated in specific behavioral terms that permit the progress of the individual to be assessed.

(iv) There shall be evidence of training and habilitation services activities designed to meet the training and habilitation objectives set for every resident. There shall be a functional training and rehabilitation record for each resident, maintained by, and available to, the training and habilitation staff.

(v) Appropriate training and habilitation programs shall be provided residents with hearing, vision, perceptual, or motor impairments, in cooperation with appropriate staff.

(vi) There shall be available sufficient, appropriately qualified training and habilitation personnel, and necessary supporting staff, to carry out the training and habilitation program. Supervision of delivery of training and habilitation services shall be the responsibility of a person who is a Qualified Mental

Retardation Professional as defined in § 249.12(c)(3).

(4) *Food and nutrition services.* (i) Food services shall include:

(A) Menu planning;

(B) Initiating food orders or requisitions;

(C) Establishing specifications for food purchases and insuring that such specifications are met;

(D) Storing and handling of food;

(E) Food preparation;

(F) Food serving;

(G) Maintaining sanitary standards in compliance with State and local regulations; and

(H) Orientation, training, and supervision of food service personnel.

(ii) A nourishing, well-balanced diet, shall be provided all residents. Modified diets shall be:

(A) Prescribed by the resident's program team with a record of the prescription kept on file;

(B) Planned, prepared, and served by persons who have received adequate instruction; and

(C) Periodically reviewed and adjusted as needed.

(iii) The food and nutrition needs of residents shall be met in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, adjusted for age, sex, activity, and disability, through a nourishing, well-balanced diet unless contraindicated by medical needs.

(iv) Denial of a nutritionally adequate diet shall not be used as a punishment. At least three meals shall be served daily, at regular times with:

(A) Not more than a 14 hour span between a substantial evening meal and breakfast of the following day;

(B) Not less than 10 hours between breakfast and the evening meal of the same day; and

(C) Mealtimes comparable to those normally existing in the community.

(v) Menus shall be written in advance. Menus shall provide a sufficient variety of foods served in adequate amounts at each meal, and shall be different for the same days of each week and adjusted for seasonal changes. Records of menus as served shall be filed and maintained for at least thirty days. Records of food purchased for preparation shall be filed and maintained for at least thirty days.

(vi) Food shall be served:

(A) In appropriate quantity;

(B) At appropriate temperature;

(C) In a form consistent with the developmental level of the resident; and

(D) With appropriate utensils.

(vii) Dry or staple food items shall be stored at least twelve inches above the floor, in a ventilated room not subject to sewage or waste water backflow, or contamination by condensation, leakage, rodents, or vermin. Perishable foods shall be stored at the proper temperatures to conserve nutritive values. Food served to residents and not consumed shall be discarded. Effective procedures for cleaning all equipment and work areas shall be followed consistently. Handwashing facilities, including hot and cold water, soap, and paper towels, shall be provided adjacent to work areas.

(viii) All residents, including the mobile nonambulatory, shall eat or be fed in dining rooms, except where contraindicated for health reasons, or by decision of the team responsible for the resident's program. Table service shall be provided for all who can and will eat at a table, including residents in wheelchairs. Dining areas shall be equipped with tables, chairs, eating utensils, and dishes designed to meet the developmental needs of each resident.

(ix) Dining rooms shall be adequately supervised and staffed for the direction of self-help dining procedures, and to assure that each resident receives an adequate amount of food.

(x) Residents shall be provided with systematic training to develop appropriate eating skills, utilizing adaptive equipment where it serves the developmental process.

(xi) Direct-care staff shall be trained in and shall utilize proper feeding techniques. Residents shall eat in an upright position unless medically contraindicated. Residents shall eat in a manner consistent with their developmental needs.

(xii) There shall be a sufficient number of competent personnel to fulfill the food and nutrition needs of residents.

(xiii) In facilities of 20 beds or more, food and nutrition services shall be directed by a dietition who meets the requirements of 20 CFR 405.1101.

(xiv) In facilities with less than 20 beds, food and nutrition services shall be directed by a designated staff member suited for such duties by training or experience in food management or nutrition.

(5) *Medical services.* (i) Medical services shall be rendered:

(A) directly, through personal contact between physicians and residents; and

(B) indirectly, through contact between physicians and other persons working with the residents.

(ii) Electroencephalographic services shall be available as necessary. There shall be evidence, such as may be provided by a record of the deliberations of a utilization review committee, that hospital and laboratory services are utilized in accordance with proper professional standards.

(iii) Physicians shall participate, when appropriate:

(A) In the continuing interdisciplinary evaluation of individual residents, for the purposes of initiation, monitoring, and follow-up of individualized habilitation programs; and

(B) In the development for each resident of a detailed, written statement of:

(*1*) Case management goals, encompassing the areas of physical and mental health, education, and functional and social competence; and

(*2*) A management plan detailing the various habilitation or rehabilitation modalities that are to be applied in order to achieve the specified goals, with clear designation of responsibility for implementation.

(iv) The statement of treatment goals and management plans shall be reviewed and updated:

(A) As needed, but at least annually; and

(B) To insure continuing appropriateness of the goals, consistency of management methods with the goals, and the achievement of progress toward the goals.

(v) There are preventive health services to residents which include:

(A) Means for the prompt detection and referral of health problems, through adequate medical surveillance, periodic inspection, and regular medical examination;

(B) Annual physical examinations that include:

(1) Examination of vision and hearing; and

(2) Routine screening laboratory examinations, as determined necessary by the physician, and special studies when the index of suspicion is high;

(C) Immunizations, using as a guide the recommendations of the United States Public Health Service Advisory Committee on Immunization practices and of the committee on the Control of Infectious Diseases of the American Academy of Pediatrics;

(D) Tuberculosis control, in accordance with the recommendations of the American College of Chest Physicians and/or the section on diseases of the chest of the American Academy of Pediatrics, as appropriate to the facility's population; and

(E) Reporting of communicable diseases and infections in accordance with law.

(vi) There shall be a formal arrangement for qualified medical care for the facility, including care for medical emergencies on a twenty-four-hour, seven-days-a-week basis. A physician, fully licensed to practice medicine in the State in which the facility is located, shall be designated to be responsible for maintaining the general health conditions and practices of the facility.

(vii) The facility maintains effective arrangements through which medical and remedial services required by the resident but not regularly provided within the facility can be obtained promptly when needed.

(viii) There shall be adequate space, facilities, and equipment to fulfill the medical needs of residents.

(6) *Nursing services.* (i) Residents shall be provided with nursing services, in accordance with their needs.

(ii) Nursing services to residents shall include, as appropriate:

(A) Registered nurse participation in:

(*1*) The preadmission evaluation study and plan;

(*2*) The evaluation study, program design, and placement of the resident at the time of admission to the facility;

(*3*) The periodic reevaluation of the type, extent, and quality of services and programming;

(*4*) The development of discharge plans; and

(5) The referral to appropriate community resources;

(B) Training in habits in personal hygiene, family life, sex education (including family planning and venereal disease counseling);

(C) Control of communicable diseases and infections, through:

(1) Indentification and assessment;

(2) Reporting to medical authorities; and

(3) Implementation of appropriate protective and preventive measures;

(D) Development of a written plan for each resident to provide for nursing services as a part of the total habilitation program; and

(E) Modification of the nursing plan, in terms of the resident's daily needs, at least annually for adults and more frequently for children, in accordance with developmental changes.

(iii) A registered nurse shall participate, as appropriate, in the planning and implementation of training of facility personnel. Direct-care personnel shall be trained in:

(A) Detecting signs of illness or dysfunction that warrant medical or nursing intervention;

(B) Basic skills required to meet the health needs and problems of the residents; and

(C) First aid in the presence of accident or illness.

(iv) There shall be available sufficient, appropriately qualified nursing staff, which may include currently licensed practical nurses and other supporting personnel, to carry out the various nursing service activities. The individual responsible for the delivery of nursing services shall have knowledge and experience in the field of developmental disabilities.

(v) Nursing service personnel at all levels of experience and competence shall be:

(A) Assigned responsibilities in accordance with their qualifications;

(B) Delegated authority commensurate with their responsibility; and

(C) Provided appropriate professional nursing supervision.

(7) *Pharmacy services.* (i) Pharmacy services shall be provided under the direction of a qualified licensed pharmacist. There shall be a formal arrangement for qualified pharmacy services, including provision for emergency service, by means appropriate to the facility.

(ii) There shall be a current pharmacy manual that:

(A) Includes policies and procedures, and defines the functions and responsibilities relating to pharmacy services; and

(B) Is revised annually to keep abreast of current developments in services and management techniques.

(iii) There shall be a formulary system approved by the responsible physician and pharmacist, and by other appropriate facility staff. Copies of the facility's formulary and of the American Hospital Formulary Service shall be located and available, as appropriate to the facility.

(iv) Upon admission of the resident, a medication history of prescription and nonprescription drugs used shall be obtained where possible, preferably by the pharmacist, and this information shall be entered in the resident's record for the information of the staff. The pharmacist shall:

(A) Receive the original, or a direct copy, of the physician's drug treatment order;

(B) Maintain for each resident an individual record of all medications (prescription and nonprescription) dispensed, including quantities and frequency of refills;

(C) Participate, as appropriate, in the continuing interdisciplinary evaluation of individual residents for the purposes of initiation, monitoring, and follow-up of individualized habilitation programs; and

(D) Establish quality specifications for drug purchases, and insure that they are met.

(v) A pharmacist or RN shall regularly review the record of each resident on medication for potential adverse reactions, allergies, interactions, contraindications, rationality and laboratory test modifications, and advise the physician of any recommended changes with reasons, and with an alternate drug regimen.

(vi) Written policies and procedures that govern the safe administration and handling of all drugs shall be developed by the responsible pharmacist, physician, nurse and other professional staff, as appropriate to the facility. There shall be a written policy governing the self-administration of drugs, whether prescribed or not. The compounding, packaging, labeling, and dispensing of drugs, including samples and investigational drugs, shall be done by the pharmacist, or under his supervision, with proper controls and records. Each drug shall be identified up to the point of administration. Wherever possible, drugs that require dosage measurement shall be dispensed by the pharmacist in a form ready to be administered to the resident.

(vii) Medications shall not be used by any resident other than the one for whom they were issued. Only appropriately trained staff shall be allowed to administer drugs.

(viii) Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security. All drugs shall be kept under lock and key except when authorized personnel are in attendance. The security requirements of Federal and State laws shall be satisfied in storerooms, pharmacies, and living units. Poisons, drugs used externally, and drugs taken internally shall be stored on separate shelves or in separate cabinets, at all locations. Medications that are stored in a refrigerator containing things other than drugs shall be kept in a separate compartment with proper security. If there is a drug storeroom separate from the pharmacy, there shall be a perpetual inventory of receipts and issues of all drugs by such storeroom.

(ix) Discontinued and outdated drugs, and containers with worn, illegible, or missing labels, shall be returned to the pharmacy for proper disposition.

(x) There shall be automatic stop orders on all drugs. There shall be a drug recall procedure that can be readily implemented. Medication errors and drug reactions shall be recorded and reported immediately to the practitioner who ordered the drug. There shall be a procedure for reporting adverse drug reactions to the Federal Food and Drug Administration.

(xi) There shall be an emergency kit readily available to each living unit and constituted so as to be appropriate to the needs of its residents.

(8) *Physical and occupational therapy services.* (i) Physical and occupational therapy services shall be provided:

(A) Directly, through personal contact between therapists and residents; and

(B) Indirectly, through contact between therapists and other persons involved with the residents.

(ii) Physical therapy and occupational therapy staff shall provide treatment-training programs that are designed to:

(A) Preserve and improve abilities for independent function, such as range of motion, strength, tolerance, coordination, and activities of daily living; and

(B) Prevent, insofar as possible, irreducible or progressive disabilities, through means such as the use of orthotic and prosthetic appliances, assistive and adaptive devices, positioning, behavior adaptations, and sensory stimulation.

(iii) The therapist shall function closely with the resident's primary physician and with other medical specialists and treatment-training progress shall be recorded regularly, evaluated periodically, and used as the basis for continuation or change of the resident's program.

(iv) Evaluation results, treatment objectives, plans, and procedures and continuing observations of treatment progress shall be:

(A) Recorded accurately, summarized and communicated;

(B) Used in evaluating progress; and

(C) Included in the resident's unit record.

(v) There shall be available sufficient, appropriately qualified staff, and supporting personnel, to carry out the various physical and occupational therapy services, in accordance with stated goals and objectives.

(A) Physical and occupational therapists shall meet the requirements of 20 CFR 405.1101.

(B) Therapy assistants shall meet the requirements of 20 CFR Part 405.1101 and work under the supervision of a qualified therapist.

(C) Physical and occupational therapy personnel shall be:

(1) Assigned responsibilities in accordance with their qualifications;

(2) Delegated authority commensurate with their responsibilities; and

(3) Provided appropriate professional direction and consultation.

(vi) Space, facilities, equipment, supplies, and resources shall be adequate for providing efficient and effective physical and occupational therapy services.

(9) *Psychological services.* (i) Psychological services shall be rendered:

(A) Directly, through personal contact between psychologists and residents; and

(B) Indirectly, through contact between psychologists and other persons involved with the residents.

(ii) Psychologists shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents, for the purposes of initiation, monitoring and follow-up of individualized habilitation programs.

(iii) The reporting and dissemination of evaluation results shall be done in such a manner as to:

(A) Promptly provide information useful to staff working directly with the resident; and

(B) Maintain accepted standards of confidentiality.

(iv) Psychologists shall participate, when appropriate, in the development of written, detailed, specific, and individualized habilitation program plans that:

(A) Provide for periodic review, follow-up, and updating; and

(B) Are designed to maximize each resident's development and acquisition of:

(*1*) Perceptual skills;

(*2*) Sensorimotor skills;

(*3*) Self-help skills;

(*4*) Communication skills;

(*5*) Social skills;

(*6*) Self direction;

(*7*) Emotional stability; and

(*8*) Effective use of time (including leisure time).

(v) There shall be available sufficient, appropriately qualified staff, and necessary supporting personnel, to carry out the various psychological service activities, in accordance with the needs of the following functions:

(A) Psychological services to residents, including evaluation, consultation, therapy, and program development;

(B) Administration and supervision of psychological services; and

(C) Staff training.

(iv) Psychologists providing services to the facility shall have at least a master's degree from an accredited program and experience or training in the field of mental retardation.

(10) *Recreation services.* (i) Recreational services shall be coordinated with other services and programs provided the residents, in order to make fullest possible use of the facility's resources and to maximize benefits to the residents.

(ii) Records concerning residents shall include:

(A) Periodic surveys of their recreation interests; and

(B) The extent and level of each resident's participation in the activities program.

(iii) There shall be sufficient, appropriately qualified recreation staff, and necessary supporting staff, to carry out the various recreation services in accordance with stated goals and objectives.

(iv) Personnel conducting the recreation program shall have:

(A) A bachelor's degree in recreation, or in a specialty area, such as art, music, or physical education; or

(B) An associate degree in recreation and one year of experience in recreation; or

(C) A high school diploma, or an equivalency certificate; and two years of experience in recreation, or one year of experience in recreation plus completion of comprehensive inservice training in recreation; or

(D) Demonstrated proficiency and experience in conducting activities in one or more program areas.

(v) Recreation areas and facilities shall be designated and constructed or modified so as to be easily accessible to all residents regardless of their disabilities.

(vi) Recreation equipment and supplies in sufficient quantity and variety shall be provided to carry out the stated objectives of the activities programs.

(11) *Social services.* (i) Social services, as part of an interdisciplinary spectrum of services, shall be provided to the residents through the use of social work methods directed toward:

(A) Maximizing the social functioning of each resident;

(B) Enhancing the coping capacity of his family; and

(C) Asserting and safeguarding the human and civil rights of the retarded and their families and fostering the human dignity and personal worth of each resident.

(ii) During the evaluation process, which may or may not lead to admission, the resident and his family shall be helped by social workers to consider alternative services, based on the retarded person's status and salient family and community factors, and make a responsible choice as to whether and when residential placement is indicated.

(iii) Social workers shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents for the purposes of initiation, monitoring, and followup of individualized habilitation programs.

(iv) During the retarded person's admission to, and residence in, the facility, or while he is receiving services from the facility, social workers shall as appropriate, provide liaison between him, the facility, the family, and the community, so as to:

(A) Help the staff to:

(*1*) Individualize and understand the needs of the resident and his family in relation to each other;

(*2*) Understand social factors in the resident's day-to-day behavior, including staff-resident relationships; and

(*3*) Prepare the resident for changes in his living situation;

(B) Help the family to develop constructive and personally meaningful ways to support the resident's experience in the facility; through:

(*1*) Counseling concerned with problems associated with changes in family structure and functioning;

(*2*) Referral to specific services, as appropriate; and

(C) Help the family to participate in planning for the resident's return to home or other community placement.

(v) After the resident leaves the facility, social workers shall provide systematic followup to assure referral to appropriate community agencies.

(vi) There shall be available sufficient, appropriately qualified staff and necessary supporting personnel to carry out the various social service activities.

(A) Social workers providing service to the facility shall meet the requirements of 20 CFR 405.1101.

(B) Social work assistants or aides employed by the facility shall work under the supervision of a social worker having the qualifications specified in (A) of this subdivision.

(12) Speech pathology and audiology services. (i) Speech pathology and audiology services shall be rendered through:

(A) Direct contact between speech pathologists, audiologists and residents; and

(B) Working with other personnel, such as teachers and direct-care staff, in implementing communication improvement programs in environmental settings.

(ii) Speech pathology and audiology services available to the facility shall include:

(A) Screening and evaluation of residents with respect to speech and hearing functions;

(B) Comprehensive audiological assessment of residents, as indicated by screening results, to include tests of puretone air and bone conduction, speech audiometry, and other procedures, as necessary, and to include assessment of the use of visual cues;

(C) Assessment of the use of amplification;

(D) Provision for procurement, maintenance, and replacement of hearing aids, as specified by a qualified audiologist;

(E) Comprehensive speech and language evalatuion of residents, as indicated by screening results, including appraisal of articulation, voice, rhythm, and language.

(F) Participation in the continuing interdisciplinary evaluation of individual residents for purposes of initiation, monitoring, and followup of individualized habilitation programs;

(G) Treatment services interpreted as an extension of the evaluation process, that include:

(*1*) Direct counseling with residents;

(*2*) Consultation with appropriate staff for speech improvement and speech education activities; and

(*3*) Collaboration with appropriate staff to develop specialized programs for developing the communication skills of individuals in comprehension (for example, speech, reading, auditory training, and hearing aid utilization) as well as expression (for example, improvement

in articulation, voice, rhythm, and language); and

(H) Participation in in-service training programs for direct-care and other staff.

(iii) Evaluation and assessment results shall be reported accurately and systematically, and in such manner as to:

(A) Where appropriate, provide information useful to other staff working directly with the resident; and

(B) Provide evaluative and summary reports for inclusion in the resident's unit record.

(iv) Continuing observations of treatment progress shall be:

(A) Recorded accurately, summarized, and communicated; and

(B) Utilized in evaluating progress.

(v) There shall be available sufficient, appropriately qualified staff, and necessary supporting personnel, to carry out the various speech pathology and audiology services, in accordance with stated goals and objectives.

(A) Staff who assume independent responsibilities for clinical services shall meet the requirements of 20 CFR 405.1101.

(B) Adequate, direct and continuing supervision shall be provided personnel, volunteers, or supportive personnel utilized in providing clinical services.

(vi) Space, facilities, equipment, and supplies shall be adequate for providing efficient and effective speech pathology and audiology services.

(d) *Records.*—(1) *Maintenance of resident records.* (i) A record shall be maintained for each resident that is adequate for:

(A) Planning and continuous evaluating of the resident's habilitation program;

(B) Furnishing documentary evidence of the resident's progress and of his response to his habilitation programs; and

(C) Protecting the legal rights of the residents, facility, and staff.

(ii) All entries in the resident's record shall be legible, dated, and authenticated by the signature and identification of the individual making the entry.

(iii) Symbols and abbreviations are used in record entries only if a legend is provided to explain them.

(2) *Content of records.* (i) The following information shall be obtained and entered in the resident's record at the time of admission to the facility:

(A) Name, date of admission, date of birth, place of birth, citizenship status, marital status, and social security number;

(B) Father's name and birthplace, mother's maiden name and birthplace, and parents' marital status;

(C) Name and address of parents, legal guardian, and/or next of kin;

(D) Sex, race, height, weight, color of hair, color of eyes, identifying marks, and recent photograph;

(E) Reason for admission or referral problem;

(F) Type and legal status of admission;

(G) Legal competency status;

(H) Language spoken or understood;

(I) Sources of support, including social security, veterans' benefits, and insurance;

(J) Information relevant to religious affiliation;

(K) Report(s) of the preadmission evaluation(s); and

(L) Reports of previous histories and evaluations.

(ii) Within the period of one month after admission there shall be entered in the resident's record:

(A) A report of the review and updating of the preadmission evaluation;

(B) A statement of prognosis that can be used for programming and placement; and

(C) A comprehensive evaluation and individual program plan, designed by an interdisciplinary team.

(iii) Records during residence shall include:

(A) Reports of accidents, seizures, illnesses, and treatments thereof, and immunizations;

(B) Records of all periods of restraint with justification and authorization for each;

(C) Reports of regular, at least annual, review and evaluation of the program, developmental progress, and status of each resident;

(D) Observations of the resident's response to his program, recorded with sufficient frequency to enable evaluation of its efficacy;

(E) Records of significant behavior incidents;

(F) Records of family visits and contacts;

(G) Records of attendance and leaves;

(H) Correspondence pertaining to the resident;

(I) Periodic updating of the information recorded at the time of admission; and

(J) Appropriate authorizations and consents.

(iv) At the time of discharge from the facility, a discharge summary shall be prepared.

(3) *Confidentiality of records.* (i) All information contained in a resident's records, including information contained in an automated data bank, shall be considered confidential.

(ii) The record is the property of the facility, whose responsibility it is to secure the information against loss, defacement, tampering, or use by unauthorized persons.

(iii) There shall be written policies governing access to, duplication of, and dissemination of information from the record.

(iv) Written consent of the resident, if competent, or his guardian shall be required for the release of information to persons not otherwise authorized to receive it.

(4) *Central record service.* (i) The facility shall maintain an organized central record service for the collection and dissemination of information regarding residents.

(ii) Records shall be readily accessible to authorized personnel where a centralized system is used and appropriate records shall also be available in the resident living units.

(iii) There shall be a master alphabetical index of all residents admitted to the facility.

(iv) Records shall be retained for a period consistent with the statute of limitations of the State in which the facility is located and Department of Health, Education, and Welfare regulations.

(5) *Records personnel.* (i) There shall be available sufficient, appropriately qualified staff and necessary supporting personnel to facilitate the accurate processing, checking, indexing, filing, and prompt retrieval of records and record data.

(ii) There shall be adequate space, facilities, equipment, and supplies for providing efficient and effective record services.

(e) *Research.* If the facility conducts research, it shall follow, and comply with the statement of assurance on research involving human subjects required by the United States Department of Health, Education, and Welfare for projects supported by that Department.

(f) *Safety and sanitation*—(1) *Safety.* (i) There shall be a written staff organization plan and detailed, written procedures, which are clearly communicated to, and periodically reviewed with, staff, for meeting all potential emergencies and disasters pertinent to the area, such as fire, severe weather, and missing persons. The plans and procedures shall be posted at suitable locations through the facility.

(ii) Evacuation drills shall be held at least quarterly, for each shift of facility personnel and under varied conditions in order to:

(A) Insure that all personnel on all shifts are trained to perform assigned tasks;

(B) Insure that all personnel on all shifts are familiar with the use of the firefighting equipment in the facility; and

(C) Evaluate the effectiveness of disaster plans and procedures.

(iii) Evaluation drills shall include actual evacuation of residents to safe areas during at least one drill each year, on each shift. There shall be special provisions for the evacuation of the physically handicapped, such as fire chutes and mattress loops with poles; and there shall be a written, filed report and evaluation of each evacuation drill. All accidents shall be investigated and corrective action shall be taken.

(iv) The facility is accessible to and functional for residents, personnel, and the public. All necessary accommodations are made to meet the needs of persons with semi-ambulatory disabilities, sight and hearing disabilities, disabilities of coordination, as well as other disabilities in accordance with the American National Standards Institute (ANSI) Standard No. A117.1 (1961) American Standard Specification for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped. The survey agency may waive in existing buildings, for such periods as deemed appropriate, specific provisions of ANSI Standard No. A117.1 (1961) which, if rigidly enforced, would result in unrea-

sonable hardship upon the facility, but only if such waiver will not adversely affect the health and safety of residents.

(v) Paint used inside the facility shall be lead free. Old paint or plaster containing lead shall have been removed, or covered in such manner that it is not accessible to residents.

(2) *Sanitation.* There shall be records that document strict compliance with the sanitation, health, and environmental safety codes of the State or local authorities having primary jurisdiction over the facility. Written reports of inspections by State or local health authorities, and records of action taken on their recommendations, shall be kept on file at the facility.

(g) *Administrative support services*—(1) *Functions, personnel, and facilities.* Adequate, modern administrative support shall be provided to efficiently meet the needs of, and contribute to, program services for residents, and to facilitate attainment of the goals and objectives of the facility.

(i) There shall be adequate documentation of the purchasing process.

(ii) The inventory control system and stockroom operation shall be adequate.

(iii) There shall be appropriate storage facilities for all supplies and surplus equipment.

(iv) There shall be sufficient trained and experienced personnel to accomplish the necessary purchase, supply, and property control functions.

(2) *Communications.* (i) There shall be adequate communication services, including adequate telephone service, whenever residents are in the facility.

(ii) The communication system shall assure:

(A) Prompt contact of on-duty personnel; and

(B) Prompt notification of responsible personnel in the event of emergency.

(3) *Engineering and maintenance.* (i) The facility shall have an appropriate and written preventive maintenance program.

(ii) There shall be sufficient trained and experienced personnel to accomplish the required engineering and maintenance functions.

(4) *Laundry services.* Laundry services shall be managed so that daily clothing and linen needs are met without delay.

(h) *Definitions.* As used in this section the term

(i) "Ambulatory" means able to walk independently, without assistance.

(ii) "Chief executive officer" means the individual appointed by the governing body of a facility to act in its behalf in the overall management of the facility. Job titles may include, but are not limited to, superintendent, director, and administrator.

(iii) "Facility" means an intermediate care facility for the mentally retarded or persons with related conditions.

(iv) "Governing body" means the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

(v) "Living unit" means a resident-living unit that includes sleeping areas and may additionally include dining and activity areas.

(vi) "Mobile nonambulatory" means unable to walk independently or without assistance, but able to move from place to place with the use of devices such as walkers, crutches, wheel chairs, wheeled platforms, and so forth.

(vii) "Nonambulatory" means unable to walk independently, without assistance.

(viii) "Nonmobile" means unable to move from place to place.

(ix) "Resident-living" means pertaining to residential or domiciliary services provided by a facility.

(x) "Time out" means time out for positive reinforcement. A behavior modification procedure in which, contingent upon the omission of undesired behavior, the resident is removed from the situation in which positive reinforcement is available.

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

6. A new § 250.24 is added to Part 250 as set forth below:

§ 250.24 Independent professional review in intermediate care facilities.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act which includes intermediate care facility services (except in the case of such services in a Christian Science Sanitorium operated or listed and certified by the First Church of Christ, Scientist, Boston, Massachusetts) must:

(1) Provide, with respect to individuals eligible under the State plan who are admitted to an intermediate care facility or who make application while in such a facility, for an interdisciplinary professional review (covering physical, emotional, social and cognitive factors) of the need for the care in and the services provided by such a facility and for a written individual plan of care and service. Under this requirement, the following methods are followed in each case prior to admission or, in the case of individuals who make application while in an intermediate care facility, prior to authorization of payments:

(i) Each individual receives a comprehensive medical, social, and in the case of an institution for the mentally retarded or persons with related conditions, a psychological evaluation. Psychological evaluations for residents in intermediate care facilities other than institutions for the mentally retarded or persons with related conditions are performed where appropriate. Such psychological evaluations are performed prior to but not to exceed 3 months before admission or, in the case of individuals who make application while in such facility, before requesting payment under the plan. The comprehensive evaluation includes:

(A) Diagnoses, summaries of present medical, social, and where appropriate, developmental findings, medical and social family history, mental and physical functional capacity, prognoses, range of service needs and amounts of care required;

(B) An evaluation by an agency worker of the resources available in the home, family and community; and

(C) An explicit recommendation with respect to admission or in the case of persons who make application while in an intermediate care facility, continued care in such facility. Where it is determined that intermediate care facility services are required by an individual whose needs might be met through the use of alternative services which are currently unavailable, this fact is entered in the record and plans are initiated for the active exploration of alternatives;

(ii) The individual plan of care includes: written objectives; orders for medications, treatments, restorative and rehabilitative services, therapies, diet, activities, and special procedures designed to meet the objectives; plans for continuing care (including provisions for review and necessary modifications of the plan) and discharge; and

(iii) Written reports of the evaluation and the written individual plan of care are delivered to the facility and entered in the individual's record at the time of admission or, in the case of individuals already in the facility, immediately upon completion.

(2) Provide for periodic on-site inspection to be made in all intermediate care facilities caring for individuals under the plan by one or more independent professional review teams which shall:

(i) (A) Include one or more physicians or registered nurses, and other appropriate health and social service personnel;

(B) In the case of institutions for the mentally retarded or persons with related conditions include at least one team member knowledgeable about the specific problems and needs of the mentally retarded resident;

(C) In the case of institutions for mental diseases, include at least one team member knowledgeable about the specific problems and needs of the mentally ill resident;

(D) In the case of an intermediate care facility serving a geriatric population, include at least one team member knowledgeable about the specific problems and needs of the geriatric resident; and

(E) Where there is no physician on the review team, assure availability of a physician to provide consultation to the team; and

(ii) Have no members who have a financial interest in or are employed by any intermediate care facility, or, in the case of teams reviewing care in institutions for mental diseases or institutions for the mentally retarded or persons with related conditions, have a financial interest in any such institution or are em-

ployed by an institution reviewed by the team of which they are members;

(3) Provide that:

(i) There are a sufficient number of teams, so distributed within the State that on-site inspections can be made in all intermediate care facilities caring for residents under the plan at appropriate intervals;

(ii) No physician member of a team inspects the care of residents for whom he is the attending physician;

(iii) At least one inspection by an independent professional review team is made in each intermediate care facility within 1 year from the effective date of these regulations and thereafter at intervals to be determined by the team and the single State agency for each facility on the basis of consideration of the quality of care being rendered in the facility and the conditions of residents in the facility, but not less often than annually;

(iv) No facility is notified of the time of an inspection more than 48 hours before the arrival of the independent professional review team; and

(v) The independent professional review team inspection includes personal contact with and observation of each resident receiving assistance under the plan by a team member or members, and review of each such resident's records including the individual plan of care. In the case of individuals 65 years of age or older in institutions for mental diseases, the inspection may be a review of each such individual's records, if such records contain complete reports of periodic assessments required by section 1902(a)(20) of the Social Security Act. If such reports are not available or are found to be inadequate, personal contact with and observation of each such individual is required. Such reviews and observations are to determine the adequacy of the services available to meet the current health, rehabilitative, and social needs and promote the optimal physical, mental, and psychosocial functioning of residents; the adequacy, appropriateness, and quality of services actually being rendered each individual receiving services under the plan; the necessity and desirability of the continued placement of such residents in such facilities; the feasibility of meeting their health and rehabilitative needs through alternative institutional or noninstitutional services; and in the case of institutions for the mentally retarded or persons with related conditions, whether the mentally retarded individual is also receiving active treatment. Under this requirement, such determinations may be based upon consideration of such items as whether:

(A) The medical, social, and where appropriate, psychological evaluation and the individual plan of care are complete and current, the individual plan of care is being followed, and all services ordered (including dietary orders) are being rendered and properly recorded;

(B) Prescribed medications have been reviewed by the attending physician at least quarterly, and tests or observations of residents indicated by their medication regiment have been made at appropriate times and properly recorded;

(C) Progress notes are made as required and appear to be consistent with the observed condition of the resident;

(D) Adequate health services are being rendered each resident as evidenced by such observations as cleanliness, absence of signs of malnutrition or dehydration and apparent activity and alertness;

(E) Adequate rehabilitative services are being rendered each resident as evidenced by a planned program of activities to prevent regression, the progress toward meeting the plan objectives and the apparent maintenance of optimal physical, mental, and psychosocial function;

(F) The resident currently requires any service not available in or actually being furnished by the particular facility or through arrangements with others; and

(G) Each resident actually needs continued placement in the facility or there is an appropriate plan to transfer the resident to an alternate method of care.

(4) Provide that:

(i) A full and complete report on each inspection visit is promptly submitted by the independent professional review team to the single State agency covering the observations, conclusions, and recommendations of the team with respect to the adequacy, appropriateness and quality of all resident services provided in the facility or through arrangements, as well as specific findings with respect to individuals;

(ii) The single State agency forwards a copy of each inspection report both to the facility involved and its functioning utilization review committee, to the agency of the State responsible for licensure and to the agencies responsible for certification or approval of the facilities involved for purposes of title XIX and to other agencies of the State which require the information in such reports in the performance of their official functions; and

(iii) Reports and recommendations are followed by appropriate corrective action on the part of the single State agency.

(b) *Coordination of medical review and independent professional review.* Periodic inspections by independent professional review teams as required by paragraph (a) of this section may be conducted by medical review teams (see § 250.23) where the composition of such a team meets the requirements of paragraph (a)(2) of this section or is modified or supplemented to meet such requirements for purpose of its independent professional review activities, and where such medical review team is willing and able to undertake in addition to its regular medical review program the on-site inspection functions required by paragraph (a)(3) of this section.

(c) *Coordination of utilization review and independent professional review.* Periodic inspections by independent professional review teams as required by paragraph (a) of this section may be conducted by noninstitution based utilization review committees where the composition of such a committee meets the requirements of paragraph (a)(2) of this section, or is modified or supplemented to meet such requirements for purpose of its independent professional review activities, and where such committee is willing and able to undertake in addition to its regular utilization review program the on-site inspection functions required by paragraph (a)(3) of this section.

7. Section 250.30 is amended by revising paragraph (a)(6) and adding a new paragraph (b)(3)(iii) as set forth below:

§ 250.30 Reasonable charges.

(a) *State plan requirements.* * * *

(6) Provide that participation in the program will be limited to providers of service who accept, as payment in full, the amounts paid in accordance with the fee structure, except that, with respect to payment for care furnished in skilled nursing facilities and services in intermediate care facilities, existing supplementation programs are permitted where the State has determined and advised the Secretary of Health, Education, and Welfare that its payments for such care or services furnished under the plan are less than the reasonable cost of such care or services permitted under Federal regulations, and the State has, prior to January 1, 1971, in the case of skilled nursing facilities, and the effective date of these regulations, in the case of intermediate care facilities, provided the Secretary with a plan for phasing out such supplementation within a reasonable period after the applicable date.

* * * * *

(b) *Upper limits.* * * *

(3) * * *

(iii) *Intermediate care facility services.* Customary charges which are reasonable. Schedules of payments established by the State agency shall not exceed an upper limit based on the average per diem rate paid for skilled nursing facility services in the State. Schedules will be acceptable if within the upper limits either on a facility-by-facility basis or on the basis of average payments according to a reasonable classification of facilities based on levels of care. (A financial audit of the facilities is not required, but the State shall establish schedules of payments which are consistent with the intent that upper limits do not exceed average amounts paid for skilled nursing facility services.)

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

Effective date: These regulations shall be effective March 18, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: January 4, 1974.

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

Approved: January 10, 1974.

CASPAR W. WEINBERGER,
Secretary.

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PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

Social Security Administration

■

SKILLED NURSING FACILITIES

Standards for Certification and Participation in Medicare and Medicaid Programs

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Skilled Nursing Facilities

On July 12, 1973, there was published in the FEDERAL REGISTER (38 FR 18620) a notice of proposed rulemaking which set forth proposed amendments to regulations relating to the conditions of participation for skilled nursing facilities, the certification procedures for providers and suppliers of services, the provider and supplier appeals processes, and implementation of provisions of the Social Security Amendments of 1972 (Pub. L. 92-603) affecting the foregoing.

Interested parties were given the opportunity to submit within 30 days data, views, or arguments on the proposed amendments. The comment period was extended by the Secretary for an additional 30 days to September 13, 1973, and notice of this extension appeared in the FEDERAL REGISTER of August 14, 1973.

Comments were received from many sources (including representatives of national, State and local organizations) concerned with skilled nursing services and with the qualifications and duties of health care personnel rendering services under Medicare. All of the comments received on the proposed regulations have been carefully considered.

The most substantive comments received recommended the inclusion of requirements for: (1) A medical director or organized medical staff for skilled nursing facilities; (2) 7-day registered nurse services; (3) a discharge planning program; and (4) a "bill of rights" for patients in such facilities. Since these items were not included in the proposed regulations as published, and are of considerable impact, they are not included in these final regulations. However, they will be published with notice of proposed rulemaking at a later date to afford ample opportunity for comments. Furthermore, under another notice of proposed rulemaking, to be published at a later date, additional changes in the utilization review standards will be issued.

A number of the comments recommended that: (1) Patient care policies be available to the public; (2) the frequency of physician visits be clearly defined; (3) all nursing service staff receive training in rehabilitative nursing; (4) the definition of qualifications of certain health specialists be clarified; (5) there should be a requirement for daily rounds by the charge nurse; and (6) the director of nursing services participates at least annually in continuing education. These comments were accepted and the regulations clarified accordingly.

The following changes have been made to reflect other comments that were received:

(1) The director of nursing services may not serve as a charge nurse in a facility with an average daily total occupancy of 60 or more. This requirement had been an average daily occupancy of 50 or more. This brings the requirement in line with most other Federal and State standards.

(2) In the case of patients needing laboratory and radiological services in a facility not providing such services, the requirement was added that the facility assist the patient in arranging for transportation to the provider of such services. This addition reflects a similar requirement for dental services; as with the dental services provision, transportation of patients for laboratory and radiological services is not covered under Medicare.

(3) The paragraph concerning approved drugs and biologicals which lack substantial evidence of effectiveness for all indications has been deleted. Department-wide regulations on this subject, applicable to all providers and suppliers participating in Federal programs, will be published in the near future. In the meantime, current regulations and policies relating to drugs and biologicals remain in effect.

(4) Those provisions concerning the term of a provider agreement were revised to extend the term of agreement to 60 days after the date specified for the correction of deficiencies to enable the State agency to survey and process their recommendation to the Secretary before the agreement expires.

(5) The definition of a social worker has been revised to include a graduate of a school of social work approved or accedited by the Council on Social Work Education. This will permit a social worker with either a master's or baccalaureate degree in social work to serve as a qualified consultant.

(6) The definitions of qualified professionals in § 405.1101 frequently make reference to the standards of various national professional organizations. The Department has examined the current standards of those organizations and is adopting them. The Secretary will examine future changes in the standards of these organizations and determine whether such changes should be reflected in regulations.

(7) Several provisions of existing regulations which were not included in the proposed regulations as published on July 12, 1973, have now been reinstated after reviewing comments that their deletion could have an adverse effect on patient care. These were: Time requirements for physical examination of the patient at admission; the attending physician must arrange for the medical care of the patient in his absence; duties assigned food service employees outside the dietetic service cannot interfere with their dietetic work assignments; and space, supplies, and equipment must be provided for a patient activities program.

(8) A provision was added to require the retention of the medical records of minors until 3 years after the patient becomes of age under State law. The regulations had been silent on this point. State laws typically provide opportunity for an individual to personally enforce rights accruing during their minority once majority is reached. While this change may require retention of records for a considerable length of time, protection for both the minor patient and the facility is provided, should litigation occur.

The following summarizes those substantive comments that were not accepted.

(1) The suggestion that the time for consultation for the dietitian or pharmacist consultant be specified either in hours or number of visits weekly was not accepted because a rigidly accepted number of hours or visits is no assurance of quality of the service provided. The regulations are, to the extent possible, performance standards, and rely upon the professional judgment of the surveyor in determining whether quality service inherent in the standard has been achieved.

(2) Concern was expressed about the requirement that a facility assume financial responsibility when arranging with an outside resource to provide therapy and certain other services. It was suggested that the patient be billed directly by the person(s) furnishing the services. The provision was retained because these services are part of extended care services under Part A and billing for other services under Part A is done by the facility. Furthermore, the Part A payment mechanism provides safeguards against overutilization and exorbitant fees, and focusing responsibility on the facility enables the surveyor to readily review the circumstances under which the services are offered.

(3) Request was made that during the appeals process, benefits should continue to be paid to a facility that had been terminated from participation in the program. This request was rejected because facilities are terminated from program participation when the health and safety of patients can no longer be assured and only after the facility has been given notice of the nature of its deficiencies and been given ample time to make the necessary improvements. When this decision has been made, it is not possible to justify continuing payment to a facility beyond the 30-days benefits provided in the statute for those beneficiaries admitted to the facility prior to the effective date of termination.

(4) Request was also made that Medicaid provide hearings for all facilities that had been terminated or where agreements had not been renewed. This appeals process will be determined by State practices consonant with Medicaid being a State-administered program.

(5) Numerous comments were received from social workers, consumer groups and organizations, protesting the optional provision of social services by skilled nursing facilities. This change is the result of amendments found in section 265 of Pub. L. 92-603, the Social Security Amendments of 1972; hence, no

action could be taken to reinstate this as a mandatory requirement without further legislative action.

(6) The suggestion that there be a specific ratio of nursing staff to patients was not accepted because the variation from facility to facility in the composition of its nursing staff, physical layout, patient needs and the services necessary to meet those needs precludes setting such a figure. A minimum ratio could result in all facilities striving only to reach that minimum and could result in other facilities hiring unneeded staff to satisfy an arbitrary ratio figure. However, as a means of closely monitoring the adequacy of staffing in skilled nursing facilities, Medicare has adopted a provision that now appears in title XIX regulations thereby further achieving uniformity between the two programs. This provision calls for the facility to submit quarterly staffing reports to the State agency, and this is reflected in these amendments in Subpart K, § 405.1121 (b).

(7) Several suggestions were made that there was insufficient provision for protection of the patient's rights. The regulations do specifically provide that the facility must have rules on the protection of the personal and property rights of patients; and that patient care policies include provisions to protect these rights. Additionally, discriminatory treatment in skilled nursing facilities would be barred by the continued requirement that the facilities must be in compliance with title VI of the Civil Rights Act of 1964. However, as previously indicated, a "bill of rights" for patients will be published under the notice of proposed rulemaking procedures.

Some criticism of the revised format of the conditions of participation was expressed. The skilled nursing facility regulations are designed as performance standards; greater specificity would diminish their applicability to all facilities. Additionally, State agency surveyors have recently undergone extensive training to enhance their understanding of the program and the survey process. These performance-oriented requirements will provide these surveyors criteria on which to base their assessment of an individual facility's performance. Further, certification requirements for all providers and suppliers of services (hospitals, skilled nursing facilities, home health agencies, providers of outpatient physical therapy services, independent laboratories, and portable X-ray services) are now centralized in the new Subpart T.

In the definition found in § 405.1101 (a) (2), administrator of skilled nursing facility, the length of supervisory management experience required was revised from one year to three years to assure adequate experience to direct administrative activities in such health facilities. This technical change reflects current title XIX requirements for administrators and thereby further achieves conformance between the two programs.

The amendments as announced under the notice of proposed rulemaking (38 FR 18620) are adopted, with the noted changes. In addition, some parts of the regulations were redrafted for clarification purposes, in line with the comments received.

(Secs. 1102, 1814, 1832, 1833, 1861, 1863, 1865, 1866, 1871, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 313–327, as amended, 79 Stat. 331 (42 U.S.C. 1302, 1395f, 1395k, 1395l, 1395x, 1395z, 1395bb, 1395cc, 1395hh))

Effective date. These amendments shall be effective February 19, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged and Disabled-Hospital Insurance)

Dated: December 19, 1973.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: December 27, 1973.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Regulation No. 5 of the Social Security Administration, as amended (20 CFR Part 405), are further amended as set forth below:

Subpart F—Agreements, Elections, Contracts, Nominations, and Notices

1. The heading for Subpart F is revised to read as set forth above.

§ 405.601, 405.602 [Amended]

2. In §§ 405.601 and 405.602, the words "extended care facility" are revised to read "skilled nursing facility."

3. A new § 405.604 is added to read as follows:

§ 405.604 Term agreements with skilled nursing facilities.

Effective with respect to provider agreements accepted for filing on or after October 30, 1972, an agreement with a skilled nursing facility shall be for a specified term and such term shall be determined by the Secretary in the following manner:

(a) (1) The term of an agreement may be for a period of 12 full calendar months where the facility is in full compliance with the standards contained in Subpart K of this part.

(2) Where the facility is not in full compliance with standards contained in Subpart K of this part the term of an agreement may:

(i) Be restricted to a term that ends no later than the 60th day following the end of the time period specified for the correction of deficiencies in a written plan which the Secretary has approved: *Provided,* That such term shall not exceed 12 full calendar months; or

(ii) Provide a conditional term of 12 full months, subject to an automatic cancellation clause that the agreement will terminate at the close of a predetermined date which shall be no later than the 60th day following the end of the time period specified for the correction of deficiencies: *Provided,* That such date will occur within such 12-month term, unless the Secretary determines that all required corrections have been satisfactorily completed or that the facility has made substantial effort and progress in correcting such deficiencies and has resubmitted in writing a plan of correction acceptable to the Secretary.

(b) (1) Where the Secretary determines that the health and safety of program beneficiaries will not be jeopardized thereby, the term of an agreement may be extended for a period of 2 full calendar months, if the Secretary finds that such extension is necessary to:

(i) Prevent irreparable harm to such facility; or

(ii) Prevent hardship to the program beneficiaries being furnished items and services by such facility; or

(2) If the Secretary finds it impracticable within such term to determine whether such facility is complying with the provisions of the Act and regulations issued thereunder.

(c) (1) Except as provided in paragraph (b) of this section, the term of an agreement may not be extended and such agreement shall terminate at the close of the last day of its specified term and will not be automatically renewable from term to term.

(2) The nonrenewal of an agreement under the conditions described in this section is not a termination of the agreement by the Secretary pursuant to the provisions discussed in § 405.614. A determination by the Secretary not to accept such facility for participation following the end of such term shall be an initial determination relating to the facility's qualifications as a provider of services for the period immediately following such term and the facility shall be entitled to a hearing with respect to such determination. (See Subpart O of this part.)

(3) Where the Secretary determines that he will not accept an agreement with a skilled nursing facility for the period immediately following the end of the term of such facility's existing agreement, the Secretary shall give notice of such determination to the facility at least 30 days and to the public at least 15 days before the end of such term. Each notice by the Secretary shall state the reasons for such determination, the effective date for the termination of the existing agreement, and the applicability of such termination as it relates to the services of the facility.

(d) Notwithstanding the preceding provisions of this section, an agreement filed by an extended care facility (now defined as a skilled nursing facility) which was accepted by the Secretary prior to October 30, 1972, and which was in effect on such date, shall be for a specified term ending at the close of December 31, 1973.

4. Section 405.605 is revised to read as follows:

§ 405.605 Provider of services; scope of term.

As used in section 1866 of the Act and this Part 405, the term "provider of services" (or "provider") refers only to a hospital, a skilled nursing facility, or a home health agency (see Subparts J,

K, and L of this part) and, for the limited purposes of furnishing outpatient physical therapy or speech pathology services a clinic, rehabilitation agency, or public health agency (see Subpart Q of this part).

5. Section 405.606 is amended by revising paragraph (b), and adding a new paragraph (c) to read as follows:

§ 405.606 Acceptance of provider as a participant.

* * * * *

(b) If the provider wishes to participate in the program, both copies of the agreement shall be signed by an authorized official of the organization and filed with the Secretary and, upon acceptance for filing by the Secretary, a copy of such agreement shall be returned to the provider with the Secretary's written notice of acceptance. Such notice shall indicate the date on which the agreement was signed by the authorized official of the provider and the date on which the agreement was accepted by the Secretary; specify the effective date of the agreement; and, in the case of an agreement filed by a skilled nursing facility, the term of such agreement as determined in accordance with the provisions of § 405.604.

(c) The participation of a hospital, skilled nursing facility, or home health agency which voluntarily files an agreement to participate in the health insurance program contemplates that such hospital, facility, or agency will accept program beneficiaries for care and treatment. If a participating hospital, facility, or agency has any restrictions on the types of services it will make available and/or the type of health conditions that it will accept, or has any other criteria relating to the acceptance of persons for care and treatment, it is expected that such restrictions or criteria, if made applicable to program beneficiaries, will be applied in the same manner in which they are applied to all other persons seeking care and treatment by such hospital, facility, or agency. A provider's admission policies and practices that are inconsistent with the provider agreement objectives set forth in this paragraph (c) may be the basis for termination of participation by the Secretary pursuant to § 405.614(a)(1).

6. Paragraph (a) of § 405.613 is revised to read as follows:

§ 405.613 Termination by provider of services.

(a) A provider may terminate a section 1866 agreement (and in the case of a skilled nursing facility, prior to the end of the specified term of such agreement—see § 405.604) by filing with the Secretary a written notice of its intention to terminate such agreement. The notice of intent to terminate shall state the date for the termination of the agreement (the date must be the first day of a month). The Secretary may accept the termination date stated in the notice or he may set a different date. If the notice of termination does not specify the date for the termination of the agreement, the date shall be set by the Secretary. However, if the termination date is set by the Secretary, such date shall not be more than 6 months from the date the notice is filed. In addition to giving notice to the Secretary, the provider also gives at least 15 days notice to the public by publishing in one or more local newspapers a statement of the date of termination of the provider agreement with the Secretary. The notice also shall inform the public of the applicability of termination (see § 405.615) as it relates to services of the provider.

* * * * *

7. Paragraph (a) of § 405.614 is revised to read as follows:

§ 405.614 Termination by the Secretary.

(a) *Cause for termination.* The Secretary may terminate an agreement (and in the case of a skilled nursing facility, prior to the end of the specified term of such agreement—see § 405.604) if the Secretary determines that the provider of services:

(1) Is not complying substantially with the provisions of title XVIII and this Part 405, or with the provisions of the agreement entered into pursuant to § 405.606; or

(2) No longer meets the appropriate conditions of participation necessary to qualify as a hospital (see Subpart J of this part), skilled nursing facility (see Subpart K of this part), home health agency (see Subpart L of this part), or a rehabilitation agency, clinic, or public health agency as a provider of outpatient physical therapy or speech pathology services (see Subpart Q of this part), as the case may be; or

(3) Fails to furnish information as the Secretary finds to be necessary for a determination as to whether payments are due or were due under this Part 405 and the amounts thereof; or

(4) Refuses to permit examination of its fiscal or other records by, or on behalf of, the Secretary as may be necessary for verification of information furnished as a basis for payment under the health insurance benefits program.

* * * * *

8. Paragraph (a) of § 405.615 is revised to read as follows:

§ 405.615 Applicability of termination.

A termination of an agreement under the conditions described in §§ 405.604, 405.613, or 405.614 shall be applicable:

(a) In the case of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services), or posthospital extended care services furnished to any individual after the effective date of such termination, except that payment may be made for up to 30 days with respect to such services furnished to any beneficiary who was admitted to the hospital or skilled nursing facility prior to the effective date of the termination.

* * * * *

9. Section 405.616 is amended to read as follows:

§ 405.616 Reinstatement of provider as participant after termination.

(a) Subject to the provisions of paragraph (b) of this section, where an agreement between a provider of services and the Secretary is terminated by the Secretary under the conditions described in §§ 405.604 and 405.614, such institution or agency shall not file another agreement to participate in the health insurance benefits program unless the Secretary finds that the reason for the termination of the prior agreement has been removed and that there is reasonable assurance that it will not recur.

(b) Where an agreement between a provider of services and the Secretary is terminated under conditions described in § 405.604, § 405.613, or § 405.614, such institution or agency shall not file another agreement to participate in the health insurance benefits program unless the Secretary finds that such institution or agency has fulfilled (or has made arrangements satisfactory to the Secretary to fulfill) all of the statutory and regulatory responsibilities of its prior agreement with the Secretary.

* * * * *

10. Section 405.685 is amended by adding a paragraph (d) to read as follows:

§ 405.685 Agreements with States pursuant to section 1864; general.

The Secretary shall enter into an agreement with any State which is able and willing to do so, under which the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary:

* * * * *

(d) To review statements obtained from each skilled nursing facility setting forth (from payroll records) the average numbers and types of personnel (in full-time equivalents) on each tour of duty during at least 1 week of each quarter, such week to be selected by the survey agency and to occur irregularly in each quarter of a year.

Subpart K—Conditions of Participation; Skilled Nursing Facilities

11. Subpart K is amended by deleting §§ 405.1101 through 405.1110. These sections are superseded by new Subpart T. Subpart K is further amended by revising the heading as set forth above, adding a new § 405.1101 and §§ 405.1120 through 405.1137 to read as follows:

Sec.

405.1101	Definitions.
*	* * * *
405.1120	Compliance with Federal, State, and local laws.
405.1121	Governing body and management.
405.1122	Patient care policies.
405.1123	Physician services.
405.1124	Nursing services.
405.1125	Dietetic services.
405.1126	Specialized rehabilitative services.
405.1127	Pharmaceutical services.
405.1128	Laboratory and radiologic services.
405.1129	Dental services.
405.1130	Social services.
405.1131	Patient activities.
405.1132	Medical records.

Sec.
405.1133 Transfer agreement.
405.1134 Physical environment.
405.1135 Infection control.
405.1136 Disaster preparedness.
405.1137 Utilization review.

§ 405.1101 Definitions.

As used in this subpart, the following definitions apply:

(a) *Administrator of skilled nursing facility.* A person who:

(1) Is licensed as required by State law; or

(2) If the State does not have a Medicaid program, and has no licensure requirement, is a high school graduate (or equivalent), has completed courses in administration or management approved by the appropriate State agency, and has 3 years of supervisory management experience in a skilled nursing facility or related health program; or

(3) If the administrator of a hospital in which there is a hospital-based distinct-part skilled nursing facility, in a State that does not license skilled nursing facility administrators, meets the requirements of § 405.1021(f).

(b) *Approved drugs and biologicals.* Only such drugs and biologicals as are:

(1) In the case of Medicare:

(i) Included (or approved for inclusion) in the United States Pharmacopoeia, National Formulary, or United States Homeopathic Pharmacopoeia; or

(ii) Included (or approved for inclusion) in AMA Drug Evaluations or Accepted Dental Therapeutics, except for any drugs and biologicals unfavorably evaluated therein; or

(iii) Not included (nor approved for inclusion) in the compendia listed in paragraphs (b)(1)(i) and (b)(1)(ii) of this section, may be considered approved if such drugs:

(A) Were furnished to the patient during his prior hospitalization, and

(B) Were approved for use during a prior hospitalization by the hospital's pharmacy and drug therapeutics committee (or equivalent), and

(C) Are required for the continuing treatment of the patient in the facility.

(2) In the case of Medicaid, those drugs approved by the State Title XIX agency.

(c) *Charge nurse.* A person who is:

(1) Licensed by the State in which practicing as a:

(i) Registered nurse; or

(ii) Practical (vocational) nurse who:

(A) Is a graduate of a State-approved school of practical (vocational) nursing; or

(B) Has 2 years of appropriate experience following licensure by waiver as a practical (vocational) nurse, and has achieved a satisfactory grade on a proficiency examination approved by the Secretary, or on a State licensure examination which the Secretary finds at least equivalent to the proficiency examination, except that such determinations of proficiency shall not apply with respect to persons initially licensed by a State or seeking initial qualifications as a practical (vocational) nurse after December 31, 1977; and

(2) Is experienced in nursing service administration and supervision and, in areas such as rehabilitative or geriatric nursing, or acquires such preparation through formal staff development programs.

In the case of skilled nursing facility services in an institution for the mentally retarded or in an institution for those with mental diseases, or a distinct part thereof, a person licensed in another category of health care discipline who has special training in the care of such patients may serve as charge nurse provided that such person is licensed in such category by the State following completion of a course of training which included at least the number of classroom and practice hours in all the nursing subjects included in the program of a State-approved school of practical (vocational) nursing, as evidenced by a report on comparison of the courses in the respective curricula to the State agency by the agency(ies) of the State responsible for the licensure of such personnel. (An institution primarily engaged in the care of the mentally retarded or in the treatment of mental diseases cannot qualify as a participating skilled nursing facility under Medicare.)

(d) *Controlled drugs.* Drugs listed as being subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513) as set forth in 21 CFR Part 308.

(e) *Dietetic service supervisor.* A person who:

(1) Is a qualified dietitian; or

(2) Is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

(3) Is a graduate of a State-approved course that provided 90 or more hours of classroom instruction in food service supervision and has experience as a supervisor in a health care institution with consultation from a dietitian; or

(4) Has training and experience in food service supervision and management in a military service equivalent in content to the program in paragraph (e)(2) or (e)(3) of this section.

(f) *Dietitian (qualified consultant).* A person who:

(1) Is eligible for registration by the American Dietetic Association under its requirements in effect on the publication of this provision.

(2) Has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, has 1 year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

(g) *Director of nursing services.* A registered nurse who is licensed by the State in which practicing, and has 1 year of additional education or experience in nursing service administration, as well as additional education or experience in such areas as rehabilitative or geriatric nursing, and participates annually in continuing nursing education.

(h) *Drug administration.* An act in which a single dose of a prescribed drug or biological is given to a patient by an authorized person in accordance with all laws and regulations governing such acts. The complete act of administration entails removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container), verifying it with the physician's orders, giving the individual dose to the proper patient, and promptly recording the time and dose given.

(i) *Drug dispensing.* An act entailing the interpretation of an order for a drug or biological and, pursuant to that order, the proper selection, measuring, labeling, packaging, and issuance of the drug or biological for a patient or for a service unit of the facility.

(j) *Existing buildings.* For purposes of ANSI Standard No. A117.1 and minimum patient room size (see § 405.1134 (c) and (e)) in skilled nursing facilities or parts thereof whose construction plans are approved and stamped by the appropriate State agency responsible therefore before the date these regulations become effective.

(k) *Licensed nursing personnel.* Registered nurses or practical (vocational) nurses licensed by the State in which practicing.

(l) *Medical record practitioner (qualified consultant).* A person who:

(1) Is eligible for certification as a registered record administrator (RRA), or an accredited record technician (ART), by the American Medical Record Association under its requirements in effect on the publication of this provision; or

(2) Is a graduate of a school of medical record science that is accredited jointly by the Council on Medical Education of the American Medical Association and the American Medical Record Association.

(m) *Occupational therapist (qualified consultant).* A person who:

(1) Is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association; or

(2) Is eligible for certification by the American Occupational Therapy Association under its requirements in effect on the publication of this provision; or

(3) Has 2 years of appropriate experience as an occupational therapist, and has achieved a satisfactory grade on a proficiency examination approved by the Secretary, except that such determinations of proficiency shall not apply with respect to persons initially licensed by a State or seeking initial qualifications as an occupational therapist after December 31, 1977.

(n) *Occupational therapy assistant.* A person who:

(1) Is eligible for certification as a certified occupational therapy assistant (COTA) by the American Occupational Therapy Association under its requirements in effect on the publication of this provision; or

(2) Has 2 years of appropriate experience as an occupational therapy assistant, and has achieved a satisfactory grade on a proficiency examination approved by the Secretary, except that such determination of proficiency shall not apply with respect to persons initially licensed by a State or seeking initial qualification as an occupational therapy assistant after December 31, 1977.

(o) *Patient activities coordinator (qualified consultant).* A person who:

(1) Is a qualified therapeutic recreation specialist; or

(2) Has 2 years of experience in a social or recreational program within the last 5 years, 1 year of which was full-time in a patient activities program in a health care setting; or

(3) Is a qualified occupational therapist or occupational therapy assistant.

(p) *Pharmacist.* A person who:

(1) Is licensed as a pharmacist by the State in which practicing, and

(2) Has training or experience in the specialized functions of institutional pharmacy, such as residencies in hospital pharmacy, seminars on institutional pharmacy, and related training programs.

(q) *Physical therapist (qualified consultant):* A person who is licensed as a physical therapist by the State in which practicing, and

(1) Has graduated from a physical therapy curriculum approved by the American Physical Therapy Association, or by the Council on Medical Education and Hospitals of the American Medical Association, or jointly by the Council on Medical Education of the American Medical Association and the American Physical Therapy Association; or

(2) Prior to January 1, 1966, was admitted to membership by the American Physical Therapy Association, or was admitted to registration by the American Registry of Physical Therapists, or has graduated from a physical therapy curriculum in a 4-year college or university approved by a State department of education; or

(3) Has 2 years of appropriate experience as a physical therapist, and has achieved a satisfactory grade on a proficiency examination approved by the Secretary, except that such determinations of proficiency shall not apply with respect to persons initially licensed by a State or seeking qualification as a physical therapist after December 31, 1977; or

(4) Was licensed or registered prior to January 1, 1966, and prior to January 1, 1970, had 15 years of full-time experience in the treatment of illness or injury through the practice of physical therapy in which services were rendered under the order and direction of attending and referring physicians; or

(5) If trained outside the United States, was graduated since 1928 from a physical therapy curriculum approved in the country in which the curriculum was located and in which there is a member organization of the World Confederation for Physical Therapy, meets the requirements for membership in a member organization of the World Confederation for Physical Therapy, has 1 year of experience under the supervision of an active member of the American Physical Therapy Association, and has successfully completed a qualifying examination as prescribed by the American Physical Therapy Association.

(r) *Physical therapist assistant.* A person who is licensed as a physical therapist assistant, if applicable, by the State in which practicing, and

(1) Has graduated from a 2-year college-level program approved by the American Physical Therapy Association; or

(2) Has 2 years of appropriate experience as a physical therapist assistant, and has achieved a satisfactory grade on a proficiency examination approved by the Secretary, except that such determinations of proficiency shall not apply with respect to persons initially licensed by a State or seeking initial qualification as a physical therapist assistant after December 31, 1977.

(s) *Social worker (qualified consultant).* A person who is licensed, if applicable, by the State in which practicing, is a graduate of a school of social work accredited or approved by the Council on Social Work Education, and has 1 year of social work experience in a health care setting.

(t) *Speech pathologist or audiologist (qualified consultant).* A person who is licensed, if applicable, by the State in which practicing, and

(1) Is eligible for a certificate of clinical competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision; or

(2) Meets the educational requirements for certification, and is in the process of accumulating the supervised experience required for certification.

(u) *Supervision.* Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Unless otherwise stated in regulations, the supervisor must be on the premises if the person does not meet assistant-level qualifications specified in these definitions.

(v) *Therapeutic recreation specialist (qualified consultant).* A person who is licensed or registered, if applicable, by the State in which practicing, and is eligible for registration as a therapeutic recreation specialist by the National Therapeutic Recreation Society (Branch of National Recreation and Park Association) under its requirements in effect on publication of this provision.

§ 405.1120 Condition of participation—compliance with Federal, State, and local laws.

The skilled nursing facility is in compliance with applicable Federal, State, and local laws and regulations.

(a) *Standard: Licensure.* The facility, in any State in which State or applicable local law provides for licensing of facilities of this nature:

(1) Is licensed pursuant to such law; or

(2) If not subject to licensure, is approved by the agency of the State or locality responsible for licensing skilled nursing facilities as meeting fully the standards established for such licensing, and

(3) Except that a facility which formerly met fully such licensure requirements, but is currently determined not to meet fully all such requirements, may be recognized for a period specified by the State standard-setting authority.

(b) *Standard: Licensure or registration of personnel.* Staff of the facility are licensed or registered in accordance with applicable laws.

(c) *Standard: Conformity with other Federal, State, and local laws.* The facility is in conformity with all Federal, State, and local laws relating to fire and safety, sanitation, communicable and reportable diseases, postmortem procedures, and other relevant health and safety requirements.

§ 405.1121 Condition of participation—governing body and management.

The skilled nursing facility has an effective governing body, or designated persons so functioning, with full legal authority and responsibility for the operation of the facility. The governing body adopts and enforces rules and regulations relative to health care and safety of patients, to the protection of their personal and property rights, and to the general operation of the facility. The governing body develops a written institutional plan that reflects the operating budget and capital expenditures plan.

(a) *Standard: Disclosure of ownership.* The facility supplies full and complete information to the survey agency as to the identity (1) of each person who has any direct or indirect ownership interest of 10 per centum or more in such skilled nursing facility or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such skilled nursing facility or any of the property or assets of such skilled nursing facility, (2) in case a skilled nursing facility is organized as a corporation, of each officer and director of the corporation, and (3) in case a skilled nursing facility is organized as a partnership, of each partner; and promptly reports any changes which would affect the current accuracy of the information so required to be supplied.

(b) *Standard: Staffing patterns.* The facility furnishes to the State survey agency information from payroll records setting forth the average numbers and types of personnel (in full-time equivalents) on each tour of duty during at least 1 week of each quarter. Such week will be selected by the survey agency.

(c) *Standard: Bylaws.* The governing body adopts effective patient care policies and administrative policies and bylaws governing the operation of the facility, in accordance with legal requirements. Such policies and bylaws are in writing, dated, and made available to all members of the governing body which

ensures that they are operational, and reviews and revises them as necessary.

(d) *Standard: Independent medical evaluation (medical review).* The governing body adopts policies to ensure that the facility cooperates in an effective program which provides for a regular program of independent medical evaluation and audit of the patients in the facility to the extent required by the programs in which the facility participates (including, at least annually, medical evaluation of each patient's need for skilled nursing facility care).

(e) *Standard: Administrator.* The governing body appoints a qualified administrator who is responsible for the overall management of the facility, enforces the rules and regulations relative to the level of health care and safety of patients, and to the protection of their personal and property rights, and plans, organizes, and directs those responsibilities delegated to him by the governing body. Through meetings and periodic reports, the administrator maintains ongoing liaison among the governing body, medical and nursing staffs, and other professional and supervisory staff of the facility, and studies and acts upon recommendations made by the utilization review and other committees. In the absence of the administrator, an employee is authorized, in writing, to act on his behalf.

(f) *Standard: Institutional planning.* The institutional plan:

(1) Provides for an annual operating budget which includes all anticipated income and expenses related to items which would, under generally accepted accounting principles, be considered income and expense items (except that nothing in this paragraph shall require that there be prepared, in connection with any budget, an item-by-item identification of the components of each type of anticipated expenditure or income),

(2) Provides for a capital expenditures plan for at least a 3-year period (including the year to which the operating budget described in paragraph (1) of this section is applicable) which includes and identifies in detail the anticipated sources of financing for, and the objectives of, each anticipated expenditure in excess of $100,000 related to the acquisition of land, the improvement of land, buildings, and equipment, and the replacement, modernization, and expansion of the buildings and equipment which would, under generally accepted accounting principles, be considered capital items,

(3) Provides for review and updating at least annually, and

(4) Is prepared, under the direction of the governing body of the institution, by a committee consisting of representatives of the governing body, the administrative staff, and the organized medical staff (if any) of the institution.

(g) *Standard: Personnel policies and procedures.* The governing body, through the administrator, is responsible for implementing and maintaining written personnel policies and procedures that support sound patient care and personnel practices. Personnel records are current and available for each employee and contain sufficient information to support placement in the position to which assigned. Written policies for control of communicable disease are in effect to ensure that employees with symptoms or signs of communicable disease or infected skin lesions are not permitted to work, and that a safe and sanitary environment for patients and personnel exists and incidents and accidents to patients and personnel are reviewed to identify health and safety hazards. Employees are provided, or referred for, periodic health examinations, to ensure freedom from communicable disease.

(h) *Standard: Staff development.* An ongoing educational program is planned and conducted for the development and improvement of skills of all the facility's personnel, including training related to problems and needs of the aged, ill, and disabled. Each employee receives appropriate orientation to the facility and its policies, and to his position and duties. Inservice training includes at least prevention and control of infections, fire prevention and safety, accident prevention, confidentiality of patient information, and preservation of patient dignity, including protection of his privacy and personal and property rights. Records are maintained which indicate the content of, and attendance at, such staff development programs.

(i) *Standard: Use of outside resources.* If the facility does not employ a qualified professional person to render a specific service to be provided by the facility, there are arrangements for such a service through a written agreement with an outside resource—a person or agency that will render direct service to patients or act as a consultant. The responsibilities, functions, and objectives, and the terms of agreement, including financial arrangements and charges, of each such outside resource are delineated in writing and signed by an authorized representative of the facility and the person or the agency providing the service. The agreement specifies that the facility retains professional and administrative responsibility for the services rendered. The financial arrangements provide that the outside resource bill the facility for covered services (either Part A or B for Medicare beneficiaries) rendered directly to the patient, and that receipt of payment from the program(s) to the facility for the services discharges the liability of the beneficiary or any other person to pay for the services. The outside resource, when acting as a consultant, apprises the administrator of recommendations, plans for implementation, and continuing assessment through dated, signed reports, which are retained by the administrator for follow-up action and evaluation of performance. (See requirement under each service—§§ 405.1125 through 405.1132.)

(j) *Standard: Notification of changes in patient status.* The facility has appropriate written policies and procedures relating to notification of the patient's attending physician and other responsible persons in the event of an accident involving the patient, or other significant change in the patient's physical, mental, or emotional status, or patient charges, billings, and related administrative matters. Except in a medical emergency, a patient is not transferred or discharged, nor is treatment altered radically, without consultation with the patient or, if he is incompetent, without prior notification of next of kin or sponsor.

§ 405.1122 Condition of participation—patient care policies.

The skilled nursing facility has written policies to govern the continuing skilled nursing care and related medical or other services provided.

(a) *Standard: Development and review of patient care policies.* The facility has policies, which are developed with the advice of (and with provision for review of such policies from time to time, but at least annually, by) a group of professional personnel including one or more physicians and one or more registered nurses, to govern the skilled nursing care and related medical or other services it provides. The policies, which are available to admitting physicians, sponsoring agencies, patients, and the public, reflect awareness of, and provision for, meeting the total medical and psychosocial needs of patients, including admission, transfer, and discharge planning; and the range of services available to patients, including frequency of physician visits by each category of patients admitted. These policies also include provisions to protect patients' personal and property rights. Medical records and minutes of staff and committee meetings reflect that patient care is being rendered in accordance with the written patient care policies, and that utilization review committee recommendations regarding the policies are reviewed and necessary steps taken to ensure compliance.

(b) *Standard: Execution of patient care policies.* The facility has a physician, a registered nurse, or a medical staff, designated in writing, to be responsible for the execution of such policies. If the responsibility for day-to-day execution of patient care policies has been delegated to a registered nurse, the facility makes available an advisory physician from whom she receives medical guidance.

§ 405.1123 Condition of participation—physician services.

Patients in need of skilled nursing or rehabilitative care are admitted to the facility only upon the recommendation of, and remain under the care of, a physician. To the extent feasible, each patient or his sponsor designates a personal physician.

(a) *Standard: Medical findings and physicians' orders at time of admission.* There is made available to the facility, prior to or at the time of admission, patient information which includes current medical findings, diagnoses, and

orders from a physician for immediate care of the patient. Information about the rehabilitation potential of the patient and a summary of prior treatment are made available to the facility at the time of admission or within 48 hours thereafter.

(b) *Standard: Patient supervision by physician.* The facility has a policy that the health care of every patient must be under the supervision of a physician who, based on a medical evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of total patient care. Each attending physician is required to make arrangements for the medical care of his patients in his absence. The medical evlauation of the patient is based on a physical examination done within 48 hours of admission unless such examination was performed within 5 days prior to admission. The patient is seen by his attending physician at least once every 30 days for the first 90 days following admission. The patient's total program of care (including medications and treatments) is reviewed during a visit by the attending physician at least once every 30 days for the first 90 days, and revised as necessary. A progress note is written and signed by the physician at the time of each visit, and he signs all his orders. Subsequent to the 90th day following admission, an alternate schedule for physician visits may be adopted where the attending physician determines and so justifies in the patient's medical record that the patient's condition does not necessitate visits at 30-day intervals. This alternate schedule does not apply for patients who require specialized rehabilitative services, in which case the review must be in accordance with § 405.1126(b). At no time may the alternate schedule exceed 60 days between visits. If the physician decides upon an alternate schedule of visits of more than 30 days for a patient, (1) in the case of a Medicaid benefits recipient, the facility notifies the State Medicaid agency of the change in schedule, including justification, and (2) the utilization review committee or the medical review team (see § 405.1121(d)) promptly reevaluates the patient's need for monthly physician visits as well as his continued need for skilled nursing facility services (see § 405.1137(d)). If the utilization review committee or the medical review team does not concur in the schedule of visits at intervals of more than 30 days, the alternate schedule is not acceptable.

(c) *Standard: Availability of physicians for emergency patient care.* The facility has written procedures, available at each nurses station, that provide for having a physician available to furnish necessary medical care in case of emergency.

§ 405.1124 Condition of participation—nursing services.

The skilled nursing facility provides 24-hour service by licensed nurses, including the services of a registered nurse at least during the day tour of duty 5 days a week. There is an organized nursing service with a sufficient number of qualified nursing personnel to meet the total nursing needs of all patients.

(a) *Standard: Director of nursing services.* The director of nursing services is a qualified registered nurse employed full-time who has, in writing, administrative authority, responsibility, and accountability for the functions, activities, and training of the nursing services staff, and serves only one facility in this capacity. If the director of nursing services has other institutional responsibilities, a qualified registered nurse serves as her assistant so that there is the equivalent of a full-time director of nursing services on duty. The director of nursing services is responsible for the development and maintenance of nursing service objectives, standards of nursing practice, nursing policy and procedure manuals, written job descriptions for each level of nursing personnel, scheduling of daily rounds to see all patients, methods for coordination of nursing services with other patient services, for recommending the number and levels of nursing personnel to be employed, and nursing staff development (see § 405.1121(h)).

(b) *Standard: Charge nurse.* A registered nurse, or a qualified licensed practical (vocational) nurse, is designated as charge nurse by the director of nursing services for each tour of duty, and is responsible for supervision of the total nursing activities in the facility during each tour of duty. The director of nursing services does not serve as charge nurse in a facility with an average daily total occupancy of 60 or more patients. The charge nurse delegates responsibility to nursing personnel for the direct nursing care of specific patients during each tour of duty, on the basis of staff qualifications, size and physical layout of the facility, characteristics of the patient load, and the emotional, social, and nursing care needs of patients.

(c) *Standard: Twenty-four-hour nursing service.* The facility provides 24-hour nursing service which is sufficient to meet nursing needs in accordance with the policies developed as provided in § 405.1122(a) on patient care policies. The policies ensure that each patient receives treatments, medications, and diet as prescribed, and rehabilitative nursing care as needed; receives proper care to prevent decubitus ulcers and deformities, and is kept comfortable, clean, well-groomed, and protected from accident, injury, and infection; and encouraged, assisted, and trained in self-care and group activities. Nursing personnel, including at least one registered nurse on the day tour of duty 5 days a week, licensed practical (vocational) nurses, nurse aides, orderlies, and ward clerks, are assigned duties consistent with their education and experience, and based on the characteristics of the patient load and the kinds of nursing skills needed to provide care to the patients. Weekly time schedules are maintained and indicate the number and classification of nursing personnel, including relief personnel, who worked on each unit for each tour of duty.

(d) *Standard: Patient care plan.* In coordination with the other patient care services to be provided, a written patient care plan for each patient is developed and maintained by the nursing service consonant with the attending physician's plan of medical care, and is implemented upon admission. The plan indicates care to be given and goals to be accomplished and which professional service is responsible for each element of care. The patient care plan is reviewed, evaluated, and updated as necessary by all professional personnel involved in the care of the patient.

(e) *Standard: Rehabilitative nursing care.* Nursing personnel are trained in rehabilitative nursing, and the facility has an active program of rehabilitative nursing care which is an integral part of nursing service and is directed toward assisting each patient to achieve and maintain an optimal level of self-care and independence. Rehabilitative nursing care services are performed daily for those patients who require such service, and are recorded routinely.

(f) *Standard: Supervision of patient nutrition.* Nursing personnel are aware of the nutritional needs and food and fluid intake of patients and assist promptly where necessary in the feeding of patients. A procedure is established to inform the dietetic service of physicians' diet orders and of patients' dietetic problems. Food and fluid intake of patients is observed, and deviations from normal are recorded and reported to the charge nurse and the physician.

(g) *Standard: Administration of drugs.* Drugs are administered in compliance with State and local laws. Procedures are established by the pharmaceutical services committee (see § 405.1127(d)) to ensure that drugs are checked against physicians' orders, that the patient is identified prior to administration of a drug, and that each patient has an individual medication record and that the dose of drug administered to that patient is properly recorded therein by the person who administers the drug. Drugs and biologicals are administered as soon as possible after doses are prepared, and are administered by the same person who prepared the doses for administration, except under single unit dose package distribution systems. (See § 405.1101(h).)

(h) *Standard: Conformance with physicians' drug orders.* Drugs are administered in accordance with written orders of the attending physician. Drugs not specifically limited as to time or number of doses when ordered are controlled by automatic stop orders or other methods in accordance with written policies. Physicians' verbal orders for drugs are given only to a licensed nurse, pharmacist, or physician and are immediately recorded and signed by the person receiving the order. (Verbal orders for Schedule II drugs are permitted only in the case of a bona fide emergency situation.) Such orders are countersigned by the attending physician within 48 hours. The attending physician is notified of an automatic stop order prior to the last

dose so that he may decide if the administration of the drug or biological is to be continued or altered.

(i) *Standard: Storage of drugs and biologicals.* Procedures for storing and disposing of drugs and biologicals are established by the pharmaceutical services committee. In accordance with State and Federal laws, all drugs and biologicals, are stored in locked compartments under proper temperature controls and only authorized personnel have access to the keys. Separately locked, permanently affixed compartments are provided for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention & Control Act of 1970 and other drugs subject to abuse, except under single unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected. An emergency medication kit approved by the pharmaceutical services committee is kept readily available.

§ 405.1125 Condition of participation—dietetic services.

The skilled nursing facility provides a hygienic dietetic service that meets the daily nutritional needs of patients, ensures that special dietary needs are met, and provides palatable and attractive meals. A facility that has a contract with an outside food management company may be found to be in compliance with this condition provided the facility and/or company meets the standards listed herein.

(a) *Standard: Staffing.* Overall supervisory responsibility for the dietetic service is assigned to a full-time qualified dietetic service supervisor. If the dietetic service supervisor is not a qualified dietitian he functions with frequent, regularly scheduled consultation from a person so qualified. (See § 405.1121(i).) In addition, the facility employs sufficient supportive personnel competent to carry out the functions of the dietetic service. Food service personnel are on duty daily over a period of 12 or more hours. If consultant dietetic services are used, the consultant's visits are at appropriate times, and of sufficient duration and frequency to provide continuing liaison with medical and nursing staffs, advice to the administrator, patient counseling, guidance to the supervisor and staff of the dietetic service, approval of all menus, and participation in development or revision of dietetic policies and procedures and in planning and conducting inservice education programs (see § 405.1121(h)).

(b) *Standard: Menus and nutritional adequacy.* Menus are planned and followed to meet nutritional needs of patients in accordance with physicians' orders and, to the extent medically possible, in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council National Academy of Sciences.

(c) *Standard: Therapeutic diets.* Therapeutic diets are prescribed by the attending physician. Therapeutic menus are planned in writing, and prepared and served as ordered, with supervision or consultation from the dietitian and advice from the physician whenever necessary. A current therapeutic diet manual approved by the dietition is readily available to attending physicians and nursing and dietetic service personnel.

(d) *Standard: Frequency of meals.* At least three meals or their equivalent are served daily, at regular hours, with not more than a 14-hour span between substantial evening meal and breakfast. To the extent medically possible, bedtime nourishments are offered routinely to all patients.

(e) *Standard: Preparation and service of food.* Foods are prepared by methods that conserve nutritive value, flavor, and appearance, and are attractively served at the proper temperatures and in a form to meet individual needs. If a patient refuses food served, appropriate substitutes of similar nutritive value are offered.

(f) *Standard: Hygiene of staff.* Dietetic service personnel are free of communicable diseases and practice hygienic food-handling techniques. In the event food service employees are assigned duties outside the dietetic service, these duties do not interfere with the sanitation, safety, or time required for dietetic work assignments. (See § 405.1121(g).)

(g) *Standard: Sanitary conditions.* Food is procured from sources approved or considered satisfactory by Federal, State, or local authorities, and stored, prepared, distributed, and served under sanitary conditions. Waste is disposed of properly. Written reports of inspections by State and local health authorities are on file at the facility, with notation made of action taken by the facility to comply with any recommendations.

§ 405.1126 Condition of participation—specialized rehabilitative services.

In addition to rehabilitative nursing (§ 405.1124(e)), the skilled nursing facility provides, or arranges for, under written agreement, specialized rehabilitative services by qualified personnel (i.e., physical therapy, speech pathology and audiology, and occupational therapy) as needed by patients to improve and maintain functioning. These services are provided upon the written order of the patient's attending physician. Safe and adequate space and equipment are available, commensurate with the services offered. If the facility does not offer such services directly, it does not admit nor retain patients in need of this care unless provision is made for such services under arrangement with qualified outside resources under which the facility assumes professional and financial responsibilities for the services rendered. (See § 405.1121(i).)

(a) *Standard: Organization and staffing.* Specialized rehabilitative services are provided, in accordance with accepted professional practices, by qualified therapists or by qualified assistants or other supportive personnel under the supervision of qualified therapists. Written administrative and patient care policies and procedures are developed for rehabilitative services by appropriate therapists and representatives of the medical, administrative, and nursing staffs.

(b) *Standard: Plan of care.* Rehabilitative services are provided under a written plan of care, initiated by the attending physician and developed in consultation with appropriate therapist(s) and the nursing service. Therapy is provided only upon written orders of the attending physician. A report of the patient's progress is communicated to the attending physician within 2 weeks of the initiation of specialized rehabilitative services. The patient's progress is thereafter reviewed regularly, and the plan of rehabilitative care is reevaluated as necessary, but at least every 30 days, by the physician and the therapist(s).

(c) *Standard: Documentation of services.* The physician's orders, the plan of rehabilitative care, services rendered, evaluations of progress, and other pertinent information are recorded in the patient's medical record, and are dated and signed by the physician ordering the service and the person who provided the service.

(d) *Standard: Qualifying to provide outpatient physical therapy services.* If the facility provides outpatient physical therapy services, it meets the applicable health and safety regulations pertaining to such services as are included in Subpart Q of this part. (See §§ 405.1719; 405.1720; 405.1722 (a) and (b) (1), (2), (3)(i), (4), (5), (6), (7), and (8); and 405.1725.)

§ 405.1127 Condition of participation—pharmaceutical services.

The skilled nursing facility provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals. Whether drugs and biologicals are obtained from community or institutional pharmacists or stocked by the facility, the facility is responsible for providing such drugs and biologicals for its patients, insofar as they are covered under the programs, and for ensuring that pharmaceutical services are provided in accordance with accepted professional principles and appropriate Federal, State, and local laws. (See § 405.1124 (g), (h), and (i).)

(a) *Standard: Supervision of services.* The pharmaceutical services are under the general supervision of a qualified pharmacist who is responsible to the administrative staff for developing, coordinating, and supervising all pharmaceutical services. The pharmacist (if not a full-time employee) devotes a sufficient number of hours, based upon the needs of the facility, during regularly scheduled visits to carry out these responsibilities. The pharmacist reviews the drug regimen of each patient at least monthly, and reports any irregularities to the medical director and administrator. The pharmacists submits a written report at least quarterly to the pharmaceutical services committee on the status of the facility's pharmaceutical service and staff performance.

(b) *Standard: Control and accountability.* The pharmaceutical service has procedures for control and accountability of all drugs and biologicals throughout the facility. Only approved drugs and

biologicals are used in the facility, and are dispensed in compliance with Federal and State laws. Records of receipt and disposition of all controlled drugs are maintained in sufficient detail to enable an accurate reconciliation. The pharmacist determines that drug records are in order and that an account of all controlled drugs is maintained and reconciled.

(c) *Standard: Labeling of drugs and biologicals.* The labeling of drugs and biologicals is based on currently accepted professional principles, and includes the appropriate accessory and cautionary instructions, as well as the expiration date when applicable.

(d) *Standard: Pharmaceutical services committee.* A pharmaceutical services committee (or its equivalent) develops written policies and procedures for safe and effective drug therapy, distribution, control, and use. The committee is comprised of at least the pharmacist, the director of nursing services, the administrator, and one physician. The committee oversees pharmaceutical service in the facility, makes recommendations for improvement, and monitors the service to ensure its accuracy and adequacy. The committee meets at least quarterly and documents its activities, findings, and recommendations.

§ 405.1128 Condition of participation—laboratory and radiologic services.

The skilled nursing facility has provision for promptly obtaining required laboratory, X-ray, and other diagnostic services.

(a) *Standard: Provision for services.* If the facility provides its own laboratory and X-ray services, these meet the applicable conditions established for certification of hospitals that are contained in §§ 405.1028 and 405.1029, respectively. If the facility itself does not provide such services, arrangements are made for obtaining these services from a physician's office, a participating hospital or skilled nursing facility, or a portable X-ray supplier or independent laboratory which is approved to provide these services under the program. All such services are provided only on the orders of the attending physician, who is notified promptly of the findings. The facility assists the patient, if necessary, in arranging for transportation to and from the source of service. Signed and dated reports of a clinical laboratory, X-ray, and other diagnostic services are filed with the patient's medical record.

(b) *Standard: Blood and blood products.* Blood handling and storage facilities are safe, adequate, and properly supervised. If the facility provides for maintaining and transfusing blood and blood products, it meets the conditions established for certification of hospitals that are contained in § 405.1028(j). If the facility does not provide its own facilities but does provide transfusion services alone, it meets at least the requirements of § 405.1028(j)(1), (3), (4), (6), and (9).

§ 405.1129 Condition of participation—dental services.

The skilled nursing facility has satisfactory arrangements to assist patients to obtain routine and emergency dental care (See § 405.1121(i).) (The basic Hospital Insurance Program does not cover the services of a dentist in a skilled nursing facility in connection with the care, treatment, filling, removal, or replacement of teeth or structures supporting the teeth; and only certain oral surgery is included in the Supplemental Medical Insurance Program.)

(a) *Standard: Advisory dentist.* An advisory dentist participates in the staff development program for nursing and other appropriate personnel (see § 405.1121(h)), and recommends oral hygiene policies and practices for the care of patients.

(b) *Standard: Arrangements for outside services.* The facility has a cooperative agreement with a dental service, and maintains a list of dentists in the community for patients who do not have a private dentist. The facility assists the patient, if necessary, in arranging for transportation to and from the dentist's office.

§ 405.1130 Condition of participation—social services.

The skilled nursing facility has satisfactory arrangements for identifying the medically related social and emotional needs of the patient. It is not mandatory that the skilled nursing facility itself provide social services in order to participate in the program. If the facility does not provide social services, it has written procedures for referring patients in need of social services to appropriate social agencies. If social services are offered by the facility, they are provided under a clearly defined plan, by qualified persons, to assist each patient to adjust to the social and emotional aspects of his illness, treatment, and stay in the facility.

(a) *Standard: Social service functions.* The medically related social and emotional needs of the patient are identified and services provided to meet them, either by qualified staff of the facility, or by referral, based on established procedures, to appropriate social agencies. If financial assistance is indicated, arrangements are made promptly for referral to an appropriate agency. The patient and his family or responsible person are fully informed of the patient's personal and property rights.

(b) *Standard: Staffing.* If the facility offers social services, a member of the staff of the facility is designated as responsible for social services. If the designated person is not a qualified social worker, the facility has a written agreement with a qualified social worker or recognized social agency for consultation and assistance on a regularly scheduled basis. (See § 405.1121(i).) The social service also has sufficient supportive personnel to meet patient needs. Facilities are adequate for social service personnel, easily accessible to patients and medical and other staff, and ensure privacy for interviews.

(c) *Standard: Records and confidentiality of social data.* Records of pertinent social data about personal and family problems medically related to the patient's illness and care, and of action taken to meet his needs, are maintained in the patient's medical record. If social services are provided by an outside resource, a record is maintained of each referral to such resource. Policies and procedures are established for ensuring the confidentiality of all patients' social information.

§ 405.1131 Condition of participation—patient activities.

The skilled nursing facility provides for an activities program, appropriate to the needs and interests of each patient, to encourage self care, resumption of normal activities, and maintenance of an optimal level of psychosocial functioning.

(a) *Standard: Responsibility for patient activities.* A member of the facility's staff is designated as responsible for the patient activities program. If he is not a qualified patient activities coordinator, he functions with frequent, regularly scheduled consultation from a person so qualified. (See § 405.1121(i).)

(b) *Standard: Patient activities program.* Provision is made for an ongoing program of meaningful activities appropriate to the needs and interests of patients, designed to promote opportunities for engaging in normal pursuits, including religious activities of their choice, if any. Each patient's activities program is approved by the patient's attending physician as not in conflict with the treatment plan. The activities are designed to promote the physical, social, and mental well-being of the patients. The facility makes available adequate space and a variety of supplies and equipment to satisfy the individual interests of patients (see § 405.1134(g)).

§ 405.1132 Condition of participation—medical records.

The facility maintains clinical (medical) records on all patients in accordance with accepted professional standards and practices. The medical record service has sufficient staff, facilities, and equipment to provide medical records that are completely and accurately documented, readily accessible, and systematically organized to facilitate retrieving and compiling information.

(a) *Standard: Staffing.* Overall supervisory responsibility for the medical record service is assigned to a full-time employee of the facility. The facility also employs sufficient supportive personnel competent to carry out the functions of the medical record service. If the medical record supervisor is not a qualified medical record practitioner, this person functions with consultation from a person so qualified. (See § 405.1121(i).)

(b) *Standard: Protection of medical record information.* The facility safeguards medical record information

against loss, destruction, or unauthorized use.

(c) *Standard: Content.* The medical record contains sufficient information to identify the patient clearly, to justify the diagnosis and treatment, and to document the results accurately. All medical records contain the following general categories of data: Documented evidence of assessment of the needs of the patient, of establishment of an appropriate plan of treatment, and of the care and services provided; authentication of hospital diagnoses (discharge summary, report from patient's attending physician, or transfer form), identification data and consent forms, medical and nursing history of patient, report of physical examination(s), diagnostic and therapeutic orders, observations and progress notes, reports of treatments and clinical findings, and discharge summary including final diagnosis and prognosis.

(d) *Standard: Physician documentation.* Only physicians enter or authenticate in medical records opinions that require medical judgment (in accordance with medical staff bylaws, rules, and regulations, if applicable). Each physician signs his entries into the medical record.

(e) *Standard: Completion of records and centralization of reports.* Current medical records and those of discharged patients are completed promptly. All clinical information pertaining to a patient's stay is centralized in the patient's medical record.

(f) *Standard: Retention and preservation.* Medical records are retained for a period of time not less than that determined by the respective State statute, the statute of limitations in the State, or 5 years from the date of discharge in the absence of a State statute, or, in the case of a minor, 3 years after the patient becomes of age under State law.

(g) *Standard: Indexes.* Patients' medical records are indexed according to name of patient and final diagnoses to facilitate acquisition of statistical medical information and retrieval of records for research or administrative action.

(h) *Standard: Location and facilities.* The facility maintains adequate facilities and equipment, conveniently located, to provide efficient processing of medical records (reviewing, indexing, filing, and prompt retrieval).

§ 405.1133 Condition of participation—transfer agreement.

The skilled nursing facility has in effect a transfer agreement with one or more hospitals approved for participation under the programs, which provides the basis for effective working arrangements under which inpatient hospital care or other hospital services are available promptly to the facility's patients when needed. (A facility that has been unable to establish a transfer agreement with the hospital(s) in the community or service area after documented attempts to do so is considered to have such an agreement in effect.)

(a) *Standard: Patient transfer.* A hospital and a skilled nursing facility shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them or (in case the two institutions are under common control) by reason of a written undertaking by the person or body which controls them, there is reasonable assurance that:

(1) Transfer of patients will be effected between the hospital and the skilled nursing facility, ensuring timely admission, whenever such transfer is medically appropriate as determined by the attending physician, and

(2) There will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions, and

(3) Security and accountability for patients' personal effects are provided on transfer.

Any skilled nursing facility which does not have such agreement in effect, but which is found by a State agency (of the State in which such facility is situated) with which an agreement under section 1864 is in effect (or, in the case of a State in which no such agency has an agreement under 1864, by the Secretary) to have attempted in good faith to enter into such an agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of patients and the information referred to in paragraph (a)(2) of this section, shall be considered to have such an agreement in effect if and for so long as such agency (or the Secretary, as the case may be) finds that to do so is in the public interest and essential to ensuring skilled nursing facility services for persons in the community who are eligible for payments with respect to such services under the programs.

§ 405.1134 Condition of participation—Physical environment.

The skilled nursing facility is constructed, equipped, and maintained to protect the health and safety of patients, personnel, and the public.

(a) *Standard: Life safety from fire.* The skilled nursing facility meets such provisions of the Life Safety Code of the National Fire Protection Association (21st Edition, 1967) as are applicable to nursing homes; except that, in consideration of a recommendation by the State survey agency, the Secretary may waive, for such periods as deemed appropriate, specific provisions of such Code which, if rigidly applied, would result in unreasonable hardship upon a skilled nursing facility, but only if such waiver will not adversely affect the health and safety of the patients; and except that the provisions of such Code shall not apply in any State if the Secretary finds, in accordance with applicable provisions of section 1861(j)(13) of the Social Security Act, that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in skilled nursing facilities. Where waiver permits the participation of an existing facility of two or more stories which is not of at least 2-hour fire resistive construction, blind, nonambulatory, or physically handicapped patients are not housed above the street level floor unless the facility is of 1-hour protected noncombustible construction (as defined in National Fire Protection Association Standard No. 220), fully sprinklered 1-hour protected ordinary construction, or fully sprinklered 1-hour protected wood-frame construction. Nonflammable medical gas systems, such as oxygen and nitrous oxide, installed in the facility comply with applicable provisions of National Fire Protection Association Standard No. 56B (Standard for the Use of Inhalation Therapy) 1968 and National Fire Protection Association Standard No. 56F (Nonflammable Medical Gas Systems) 1970.

(b) *Standard: Emergency power.* The facility provides an emergency source of electrical power necessary to protect the health and safety of patients in the event the normal electrical supply is interrupted. The emergency electrical power system must supply power adequate at least for lighting in all means of egress; equipment to maintain fire detection, alarm, and extinguishing systems; and life support systems. Where life support systems are used, emergency electrical service is provided by an emergency generator located on the premises.

(c) *Standard: Facilities for physically handicapped.* The facility is accessible to, and functional for, patients, personnel, and the public. All necessary accommodations are made to meet the needs of persons with semiambulatory disabilities, sight and hearing disabilities, disabilities of coordination, as well as other disabilities, in accordance with the American National Standards Institute (ANSI) Standard No. A117.1, American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped. The Secretary (or in the case of a facility participating as a skilled nursing facility under title XIX only, the survey agency—see § 249.33(a)(1)(i) of this title) may waive in existing buildings, for such periods as deemed appropriate, specific provisions of ANSI Standard No. A117.1 which, if rigidly enforced, would result in unreasonable hardship upon the facility, but only if such waiver will not adversely affect the health and safety of patients.

(d) *Standard: Nursing unit.* Each nursing unit has at least the following basic service areas: Nurses station, storage and preparation area(s) for drugs and biologicals, and utility and storage rooms that are adequate in size, conveniently located, and well lighted to facilitate staff functioning. The nurses station is equipped to register patients' calls through a communication system from patient areas, including patient rooms and toilet and bathing facilities.

(e) *Standard: Patient rooms and toilet facilities.* Patient rooms are designed and equipped for adequate nursing care and the comfort and privacy

of patients, and have no more than four beds, except in facilities primarily for the care of the mentally ill and/or retarded where there shall be no more than 12 beds per room. (An institution primarily engaged in the care of the mentally retarded or in the treatment of mental diseases cannot qualify as a participating skilled nursing facility under Medicare.) Single patient rooms measure at least 100 square feet, and multipatient rooms provide a minimum of 80 square feet per bed. The Secretary (or in the case of a facility participating as a skilled nursing facility under title XIX only, the survey agency—see § 249.33(a)(1)(i) of this title) may permit variations in individual cases where the facility demonstrates in writing that such variations are in accordance with the particular needs of the patients and will not adversely affect their health and safety. Each room is equipped with, or is conveniently located near, adequate toilet and bathing facilities. Each room has direct access to a corridor and outside exposure, with the floor at or above grade level.

(f) *Standard: Facilities for special care.* Provision is made for isolating patients as necessary in single rooms ventilated to the outside, with private toilet and handwashing facilities. Procedures in aseptic and isolation techniques are established in writing and followed by all personnel. Such areas are identified by appropriate precautionary signs.

(g) *Standard: Dining and patient activities rooms.* The facility provides one or more clean, orderly, and appropriately furnished rooms of adequate size designated for patient dining and for patient activities. These areas are well-lighted and well-ventilated. If a multipurpose room is used for dining and patient activities, there is sufficient space to accommodate all activities and prevent their intereference with each other.

(h) *Standard: Kitchen and dietetic service areas.* The facility has kitchen and dietetic service areas adequate to meet food service needs. These areas are properly ventilated, and arranged and equipped for sanitary refrigeration, storage, preparation, and serving of food as well as for dish and utensil cleaning and refuse storage and removal.

(i) *Standard: Maintenance of equipment, building, and grounds.* The facility establishes a written preventive maintenance program to ensure that equipment is operative and that the interior and exterior of the building are clean and orderly. All essential mechanical, electrical, and patient care equipment is maintained in safe operating condition.

(j) *Standard: Other environmental considerations.* The facility provides a functional, sanitary, and comfortable environment for patients, personnel, and the public. Provision is made for adequate and comfortable lighting levels in all areas, limitation of sounds at comfort levels, maintaining a comfortable room temperature, procedures to ensure water to all essential areas in the event of loss of normal water supply, and adequate ventilation through windows or mechanical means or a combination of both.

§ 405.1135 Condition of participation—infection control.

The skilled nursing facility establishes an infection control committee of representative professional staff with responsibility for overall infection control in the facility. All necessary housekeeping and maintenance services are provided to maintain a sanitary and comfortable environment and tc help prevent the development and transmission of infection.

(a) *Standard: Infection control committee.* The infection control committee is composed of memers of the medical and nursing staffs, administration, and the dietetic, pharmacy, housekeeping, maintenance, and other services. The committee establishes policies and procedures for investigating, controlling, and preventing infections in the facility, and monitors staff performance to ensure that the policies and procedures are executed.

(b) *Standard: Aseptic and isolation techniques.* Written effective procedures in aseptic and isolation techniques are followed by all personnel. Procedures are reviewed and revised annually for effectiveness and improvement.

(c) *Standard: Housekeeping.* The facility employs sufficient housekeeping personnel and provides all necessary equipment to maintain a safe, clean, and orderly interior. A full-time employee is designated responsible for the services and for supervision and training of personnel. Nursing personnel are not assigned housekeeping duties. A facility that has a contract with an outside resource for housekeeping services may be found to be in compliance with this standard provided the facility and/or outside resource meets the requirements of the standard.

(d) *Standard: Linen.* The facility has available at all times a quantity of linen essential for proper care and comfort of patients. Linens are handled, stored, processed, and transported in such a manner as to prevent the spread of infection.

(e) *Standard: Pest control.* The facility is maintained free from insects and rodents through operation of a pest control program.

§ 405.1136 Condition of participation—disaster preparedness.

The skilled nursing facility has a written plan, periodically rehearsed, with procedures to be followed in the event of an internal or external disaster and for the care of casualties (patients and personnel) arising from such disasters.

(a) *Standard: Disaster plan.* The facility has an acceptable written plan in operation, with procedures to be followed in the event of fire, explosion, or other disaster. The plan is developed and maintained with the assistance of qualified fire, safety, and other appropriate experts, and includes procedures for prompt transfer of casualties and records, instructions regarding the location and use of alarm systems and signals and of fire-fighting equipment, information regarding methods of containing fire, procedures for notification of appropriate persons, and specifications of evacuation routes and procedures. (See § 405.1134(a).)

(b) *Standard: Staff training and drills.* All employees are trained, as part of their employment orientation, in all aspects of preparedness for any disaster. The disaster program includes orientation and ongoing training and drills for all personnel in all procedures so that each employee promptly and correctly carries out his specific role in case of a disaster. (See § 405.1121(h).)

§ 405.1137 Condition of participation—utilization review.

The skilled nursing facility carries out utilization review of the services provided in the facility at least to inpatients who are entitled to benefits under the program(s). Utilization review has as its overall objectives both the maintenance of high quality patient care and assurance of appropriate and efficient utilization of facility services. There are two elements to utilization review: medical care evaluation studies that identify and examine patterns of care provided in the facility, and review of extended duration cases which is concerned with efficiency, appropriateness, and cost effectiveness of care. If the Secretary determines that the utilization review procedures established pursuant to title XIX are superior in their effectiveness to the procedures required under this section, he may, to the extent that he deems it appropriate, require for purposes of this title that the procedures established pursuant to title XIX be utilized instead of the procedures required by this section.

(a) *Standard: Written plan of utilization review activity.* The facility has a written, currently applicable utilization review plan, approved by the governing body and the medical director or organized medical staff (if applicable), which includes at least the following: (1) procedures for medical care evaluation studies, and for dissemination and followup of study findings and committee recommendations; (2) definition of the period(s) of extended duration and procedures for review of individual cases of extended duration; (3) a method for identifying patients other than by name (e.g., medical record number); and (4) provision for maintaining written records of committee activities.

(b) *Standard: Composition and organization of utilization review committee.* The committee or group responsible for utilization review is composed of two or more physicians and, optionally, other professional personnel. All medical determinations are made by the physician members of the committee. No physician reviews any case in which he was professionally involved.

(c) *Standard: Medical care evaluation studies.* Medical care evaluation studies are performed to promote the most effec-

tive and appropriate use of available health facilities and services consistent with patient needs and professionally recognized standards of health care. Studies, which could include assessment of findings resulting from periodic medical review, emphasize identification and analysis of patterns of patient care and changes indicated to maintain consistent high quality of services. Each medical care evaluation study (whether medical or administrative in emphasis) identifies and analyzes factors related to the patient care rendered in the facility, and serves as the basis for recommendations for change beneficial to patients, staff, the facility, and the community. Studies, on a sample or other basis, include but need not be limited to, admissions, durations of stay, and professional services (including drugs and biologicals) furnished. At least one study is in progress at any given time.

(d) *Standard: Review of cases of extended duration.* Periodic review is made of each current inpatient skilled nursing facility beneficiary case of continuous extended duration, the length of which is defined in the utilization review plan, to determine whether further inpatient stay is necessary. Reviews may also be applied to patients not covered by the program, and/or to cases where duration of stay has not yet reached the definition(s) of extended duration. The plan may specify a different number of days for different diagnostic classes of cases, or may use the same number of days for all cases. In any event, the period(s) specified bears a reasonable relationship to current average length-of-stay statistics, and does not exceed 21 days from admission. An exception to this 21-day limit may be made where the specific diagnostic classes of cases have average lengths of stay exceeding 21 days, in which instances the plan specifices the extended duration period for each specific diagnostic class. In cases for which advance approval of payment has been made, the period(s) of extended duration may be defined as that period for which payment has been approved. After the initial review, reviews for medical necessity for further inpatient stay are made at least every 30 days for the first 90 days and at least every 90 days thereafter. A review is made and a final determination regarding the patient's further care is reached no later than 7 days following the time period specified as the period of extended duration in the utilization review plan.

(e) *Standard: Admission or further stay not medically necessary.* Final determination regarding the necessity for admission or for further stay, including stay beyond the period of extended duration, is limited to physician members of the committee, and may be made by the full physician complement, a subcommittee, or a single committee physician. When a single committee physician has decided that admission is not medically necessary or is inappropriate, or that further stay is no longer medically necessary, further concurrence is obtained as specified in the plan (to include at least a second committee physician) within the 7-day period. If committee members determine, from an extended duration review or a medical care evaluation study, that further stay is not medically necessary, the attending physician is consulted or given the opportunity for consultation, and notification is made in writing within 48 hours by the committee to the administration, the attending physician, and the patient or his representative.

(f) *Standard: Administrative responsibilities.* The administrative staff of the facility is kept directly and fully informed of committee activities to facilitate support and assistance. The administrator studies and acts upon recommendations made by the committee, coordinating such functions with appropriate staff members.

(g) *Standard: Utilization review records.* Written records of committee activities are maintained. Appropriate reports, signed by the committee chairman, are made regularly to the medical staff, administrative staff, governing body, and sponsors (if any). Minutes of each committee meeting are maintained and include at least:

(1) Name of committee,

(2) Date and duration of meeting,

(3) Names of committee members present and absent,

(4) Description of activities presently in progress to satisfy the requirements for medical care evaluation studies, including the subject and reason for study, dates of commencement and expected completion, summary of studies completed since the last meeting, conclusions, and followup on implementation of recommendations made from previous studies, and

(5) Summary of extended duration cases reviewed, including the number of cases, case identification numbers, admission and review dates, and decisions reached, including the basis for each determination and action taken for each case not approved for extended care.

Subpart O—Providers of Services, Independent Laboratories, and Suppliers of Portable X-ray Services; Determinations and Appeals Procedures

11. Section 405.1501 is revised to read as follows:

§ 405.1501 Providers of services, emergency service hospitals, independent laboratories, and suppliers of portable X-ray services; determinations and appeals procedures.

(a) The provisions contained in this Subpart O shall govern the procedure for making and reviewing determinations with respect to whether an institution, facility, agency, or clinic is a provider of services (i.e., a hospital, skilled nursing facility, home health agency, or for purposes of furnishing outpatient physical therapy or speech pathology services, a clinic, rehabilitation agency, or public health agency) within the meaning of title XVIII of the Social Security Act and Subparts J, K, L, or Q of this part, as appropriate; whether an institution is a hospital, as such term is included in section 1861(e) for purposes of sections 1814(d) and 1835(b) of the Act (see § 405.152(a)(1)), qualified to elect to claim payment for all emergency hospital services furnished in a calendar year (see § 405.658); the termination of the Secretary's agreement with a provider of services for cause (see §§ 405.604 and 405.614); whether an institution continues to remain in compliance with the qualifications for claiming emergency service reimbursement for a calendar year under the provisions of sections 1814(d) and 1835(b) of the Act; and whether an independent laboratory or supplier of portable X-ray services meets the appropriate conditions for coverage of its services (see Subparts M and N of this part).

(b) Any institution, facility, agency, or clinic dissatisfied with an initial determination (see § 405.1502) that it does not qualify as a provider of services may request a reconsideration of that determination (see § 405.1510). If dissatisfied with the reconsidered determination, or with an initial determination terminating the Secretary's agreement with it for cause, an institution, facility, agency, or clinic is entitled to a hearing thereon and, if dissatisfied with the Secretary's final decision after such hearing, to Appeals Council review and then judicial review of such decision (see § 405.1530 et seq.).

(c) Any independent laboratory or supplier of portable X-ray services which is dissatisfied with an initial determination (see § 405.1502) that its services do not meet the condition for coverage (see Subparts M and N of this Part 405) may request a reconsideration of that determination (§ 405.1510). If dissatisfied with the reconsidered determination or where a determination had been made that an independent laboratory's or portable X-ray supplier's services met the respective conditions for coverage, with an initial determination thereafter that its services no longer meet the respective conditions for coverage, a laboratory or portable X-ray supplier may request a hearing thereon (see § 405.1530), and if dissatisfied with the decision of the Administrative Law Judge may request Appeals Council review. A laboratory or portable X-ray supplier is not entitled to judicial review of the Secretary's final decision after such hearing and review.

(d) To be a participating provider of services, eligible for payment, a provider must be in compliance with title VI of the Civil Rights Act of 1964 and must enter into an agreement with the Secretary under section 1866 of the Social Security Act (see Subpart F of this Part 405). The provisions of this Subpart O do not govern in any respect the adjudication of issues related to the compliance of an institution or agency with title VI of the Civil Rights Act of 1964, or the implementing regulation (45 CFR Part 80) issued by the Secretary of Health, Education, and Welfare.

(e) Any institution which is dissatisfied with an initial determination (see § 405.1502) that it does not qualify to

elect to claim payment for all emergency hospital services furnished in a calendar year, may request a reconsideration of that determination (see § 405.1510). If dissatisfied with the reconsidered determination, or where the institution's election to claim payment for all such services furnished in a calendar year has been accepted for filing, with an initial determination thereafter of its failure to remain in compliance with the qualifications for claiming such payments for such calendar year, the institution is entitled to a hearing thereon and, if dissatisfied with the Secretary's final decision after such hearing, to Appeals Council review and then judicial review of such decision (see § 405.1530 et seq.).

§§ 405.1502, 405.1510, 405.1513, 405.1514, 405.1515, 405.1518, 405.1542 [Amended]

12. In §§ 405.1502, 405.1510, 405.1513, 405.1514, 405.1515, 405.1518, and 405.1542 (a), the word "Administration" is changed to "Secretary."

13. Paragraph (b) of § 405.1502 is amended by revising subparagraph (2) to read as follows:

§ 405.1502 Initial determinations.

The Secretary will make findings, setting forth the pertinent facts and conclusions, and an initial determination with respect to:

* * * * *

(b) * * *

(2) Whether an independent laboratory or supplier of portable X-ray services continues to meet the appropriate conditions for coverage of its services; and

* * * * *

14. Section 405.1503 is revised to read as follows:

§ 405.1503 Notice of initial determination.

Written notice of an initial determination (see § 405.1502) with respect to whether an institution, facility, agency, or clinic is or is not a provider; or with respect to whether an institution is or is not a hospital for purposes of the emergency service reimbursement provisions of sections 1814(d) and 1835(b) of the Act; or with respect to the termination of an agreement for cause; or with respect to whether an institution continues to remain in compliance with the qualifications for claiming emergency services reimbursement for a calendar year under the provisions of sections 1814(d) and 1835(b) of the Act; or with respect to whether an independent laboratory or supplier of portable X-ray services meets the appropriate conditions for coverage of its services (see Subparts M and N of this Part 405) will be mailed to the institution, facility, agency, clinic, laboratory, or portable X-ray supplier (see §§ 405.1510 and 405.1530).

15. Section 405.1505 is revised to read as follows:

§ 405.1505 Administrative actions which are not initial determinations.

(a) The finding that an institution, facility, agency, or clinic determined to be a provider has deficiencies with respect to one or more conditions of participation, or that an independent laboratory or supplier of portable X-ray services, determined to be in substantial compliance with the conditions, has deficiencies with respect to one or more conditions for coverage of services of independent laboratories or suppliers of portable X-ray services.

(b) The finding that an institution, facility, or agency does not meet the conditions for participation as set out in Subparts J, K, or L of this part, as appropriate, but only where such institution, facility, or agency is nevertheless approved as a provider of services on the basis of a special access certification.

(c) The finding that the services of a laboratory are covered under the health insurance program because the laboratory is not independent of a hospital for purposes of section 1861(s) (10) and (11) of the Act and the laboratory meets the health and safety standards prescribed for such laboratories.

(d) The finding that laboratory services are physician's services for the reason that the laboratory is being maintained primarily for the physician's patients, and such physician's services are covered under the supplementary medical insurance program.

(e) The refusal by the Secretary to accept for filing an agreement submitted by an institution, facility, agency, or clinic under the terms of section 1866 of the Social Security Act where such institution, facility, agency, or clinic:

(1) Is not in compliance with the provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(2) Has been adjudged insolvent or bankrupt under appropriate State or Federal law or with respect to which a court proceeding to make such a judgment is pending under such law.

(f) The finding that, pursuant to § 405.616, a provider may not file another agreement, where such provider's agreement has been terminated under the conditions described in §§ 405.604, 405.613, or 405.614.

(g) The finding that an institution is not a hospital for purposes of the emergency service reimbursement provisions of sections 1814(d) and 1835(b) of the Act, if such findings are not made in accordance with the provisions of §§ 405.1502(d) (1) or (2) and 405.1503.

(h) The refusal to accept for filing an election submitted by an institution to claim payment for all emergency hospital services furnished in a calendar year (see § 405.658), where such institution has previously charged an individual or other person for emergency hospital services furnished to the individual in such calendar year.

(i) The refusal to accept for filing an election submitted by an institution to claim payment for all emergency hospital services furnished in a calendar year where such election is submitted after the close of such calendar year (see § 405.658(c)).

(j) The finding that, pursuant to § 405.659, an institution is not eligible to file an election to claim emergency services reimbursement after such institution has been notified of its failure to continue to comply.

16. Paragraph (b) of § 405.1511 is revised to read as follows:

§ 405.1511 Time and place of filing request for reconsideration.

* * * * *

(b) The request for reconsideration must be filed within 6 months after the date of the mailing of the notice of the initial determination unless the time for filing is extended as provided in § 405.1518. The request is to be filed with the Secretary or with an employee of the Department of Health, Education, and Welfare authorized to accept such requests at a place other than such office. A request for reconsideration which has been timely filed with the State agency that performed the survey and certification function will be considered to have been filed with the Secretary.

17. Section 405.1519 is revised to read as follows:

§ 405.1519 Revision of initial or reconsidered determination.

Except in the case of a determination that an institution, facility, agency, or clinic qualifies as a provider of services, or that an institution qualifies to elect to claim payment for all emergency hospital services furnished in a calendar year, an initial or reconsidered determination which is otherwise final under § 405.1504 or § 405.1517 may be reopened by the Secretary upon his own motion within 12 months after the date of the notice of the initial determination (see § 405.1503). Notice of the reopening of a determination and any revision thereof shall be given to the institution, facility, agency, clinic, laboratory, or portable X-ray supplier which was a party to the determination (see § 405.1520).

18. Section 405.1531 is revised to read as follows:

§ 405.1531 Filing a request for a hearing; time and manner of filing.

The request for a hearing shall be made in writing, signed by a proper official of the institution, facility, agency, clinic, laboratory, or portable X-ray supplier concerned and filed at an office of the Department of Health, Education, and Welfare or with an Administrative Law Judge or the Appeals Council of the Bureau of Hearings and Appeals. The request must be filed within 6 months after the date on which written notice of an initial determination provided for in § 405.1502(b)(2), (c), or (d)(2), or a reconsidered or revised determination is mailed to the institution, facility, agency, clinic, laboratory, or portable X-ray supplier (see §§ 405.1503, 405.1516, and 405.1520), except where the time is extended for "good cause" (see § 405.1569).

19. Section 405.1532 is revised to read as follows:

§ 405.1532 Parties to the hearing.

The parties to the hearing shall be the institution, facility, agency, clinic, laboratory, or portable X-ray supplier which was a party to the prior determination

(see §§ 405.1502(b)(2), (c), and (d)(2), 405.1514, and 405.1519) and the Bureau of Health Insurance as representing the Secretary. The Bureau of Health Insurance shall be represented at the hearing (see § 405.1543).

§§ 405.1537, 405.1545 [Amended]

20. In §§ 405.1537 and 405.1545, the words "Bureau of Health Insurance" are changed to "Secretary."

21. Paragraph (b) of § 405.1542 is revised to read as follows:

§ 405.1542 Hearing on new issues.

* * * * *

(b) On the application of either party, or on his own motion, in lieu of considering any new issue to the manner described in the preceding paragraph, the Administrative Law Judge may remand the case for consideration of the new issue and, where appropriate, a determination. Where necessary the Administrative Law Judge may direct that the case be returned to him for further proceedings. See also § 405.1560.

22. Section 405.1544 is revised to read as follows:

§ 405.1544 Subpoenas.

When reasonably necessary for the full presentation of a case, the Administrative Law Judge may upon his own motion, or upon the request of a party to the hearing, issue subpoenas for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents which are relevant and material to any matter in issue at the hearing. A party which desires the issuance of a subpoena shall, not less than 5 days prior to the time fixed for a hearing, file with the Administrative Law Judge a written request therefor, designating the witnesses or documents to be produced, and describing the address and location thereof with sufficient particularity to permit such witnesses or documents to be found. The request for a subpoena shall state the pertinent facts which the party expects to establish by such witnesses or documents and whether such facts could be established by other evidence without the use of a subpoena. A subpoena issued under the provisions of this section shall be issued in the name of the Secretary who shall pay the cost of the issuance and the fees and the mileage of any witnesses so subpoenaed, as provided in section 205(d) of the Act.

23. Section 405.1550 is revised to read as follows:

§ 405.1550 Waiver of right to appear and present evidence.

If the institution, facility, agency, clinic, laboratory, or portable X-ray supplier waives its right to appear before the Administrative Law Judge and present testimony, it shall not be necessary for the Administrative Law Judge to give notice of and conduct an oral hearing. A waiver of this right shall be made in writing and filed with the Administrative Law Judge. A waiver may be withdrawn by an institution, facility, agency, clinic, laboratory, or portable X-ray supplier, for good cause shown, at any time prior to the mailing of notice of the decision in the case. Even though an institution, facility, agency, clinic, laboratory, or portable X-ray supplier has filed a waiver of a hearing before an Administrative Law Judge, the Administrative Law Judge may nevertheless give notice of a time and place and conduct a hearing if he believes that testimony of the representatives of the institution, facility, agency, clinic, laboratory, or portable X-ray supplier or other persons is needed to clarify the facts in issue, or on a showing of good cause by the Bureau of Health Insurance as representing the Secretary of the need to present oral evidence. When such a waiver has been filed and no testimony received, the Administrative Law Judge shall make a record of the relevant written evidence, including applications, written statements, certificates, affidavits, reports, and other documents which were considered in connection with the initial, reconsidered, or revised determination (see §§ 405.1502, 405.1514, and 405.1519), and whatever additional relevant and material evidence was submitted by the parties for consideration by the Administrative Law Judge. Any additional evidence submitted by either party shall be furnished to the other party and that party shall be given a reasonable opportunity to submit further evidence in rebuttal. The parties may submit briefs or other written statements of evidence and/or proposed findings of fact or conclusions of law, copies of which shall be sent in accordance with § 405.1595. After the Administrative Law Judge sets the case for oral hearing and gives notice of the time and place set for the hearing, the request for hearing shall be dismissed in accordance with § 405.1552 where the institution, facility, agency, clinic, laboratory, or portable X-ray supplier fails to appear without good cause.

24. Section 405.1560 is revised to read as follows:

§ 405.1560 Remand by the Administrative Law Judge.

At the request of the Bureau of Health Insurance representing the Secretary and with the written or on-the-record concurrence of the other party to the hearing, the Administrative Law Judge may remand any case properly before him for a determination satisfactory to such other party. Such remand may be made at any time after the request for hearing and before mailing of the notice of decision.

25. Section 405.1563 is revised to read as follows:

§ 405.1563 Action by the Appeals Council on request for review.

The review or denial of the Administrative Law Judge's decision shall be conducted by a panel of at least two members of the Appeals Council designated by the Chairman or Deputy Chairman and one person from the U.S. Public Health Service designated by the Secretary. Except as provided in § 450.1568, the Appeals Council shall review the Administrative Law Judge's decision or dismissal where an institution, facility, agency, clinic, laboratory, or portable X-ray supplier, files a request for review. The Appeals Council may dismiss, deny, or grant a request for review filed by the Bureau of Health Insurance as representing the Secretary. If the review is granted, the Appeals Council may either modify, affirm, or reverse the Administrative Law Judge's decision. Notice of the action by the Appeals Council shall be mailed to the institution, facility, agency, clinic, laboratory, or portable X-ray supplier and the Bureau of Health Insurance.

§§ 405.1590, 405.1591 [Amended]

26. In §§ 405.1590 and 405.1591, the words "Social Security Administration" are changed to "Secretary."

27. Subparts J, L, M, and N are amended by deleting §§ 405.1001 through 405.1010, 405.1203 through 405.1208, 405.1301 through 405.1309, and 405.1401 through 405.1409. These deleted sections are superseded by new Subpart T.

Subpart T—Certification Procedure for Providers and Suppliers of Services

28. Subpart T is added to read as follows:

Sec.

405.1901 The certification process.
405.1902 Certification by State Agency.
405.1903 Documentation of findings.
405.1904 Periodic certification of compliance and approval.
405.1905 Certification of noncompliance.
405.1906 Determining compliance.
405.1907 Providers or suppliers with deficiencies.
405.1908 Special requirements applicable to skilled nursing facilities with deficiencies.
405.1909 Special requirements applicable to independent laboratories.
405.1910 Special hospital certification.

AUTHORITY: Secs. 1102, 1814, 1861, 1865, 1866, 1871, 49 Stat. 647, as amended, 79 Stat. 249, as amended, 79 Stat. 313–327, as amended, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.

§ 405.1901 The certification process.

(a) A prospective provider or supplier of services which meets the applicable statutory definitions contained in section 1861 (e), (f), (g), (j), (o), (p)(4), (s)(3) or (s)(10) of the Social Security Act and which is found to be in compliance with each of the conditions where applicable prescribed by the Secretary may agree to become a provider or supplier of services upon acceptance by the Secretary. Health and safety requirements prescribed by the Secretary are set forth in the conditions of participation for hospitals, skilled nursing facilities, home health agencies, rehabilitation agencies, clinics, and public health agencies (see Subparts J, K, L, and Q of this part), and in the conditions for coverage of independent laboratories and portable X-ray suppliers (see Subparts M and N of this part).

(b) Hospitals currently accredited by the Joint Commission on Accreditation of Hospitals or by the American Osteopathic Association are deemed to meet

all of the conditions of participation, except the requirements for utilization review as described in section 1861(e)(6) of the Act and any standard promulgated by the Secretary which is higher than the requirements for accreditation as specified in section 1861(e)(9) of the Act, and, in the case of tuberculosis and psychiatric hospitals, the additional staffing and medical records requirements considered necessary for the provision of intensive care. Notwithstanding that a hospital is accredited by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association, it may be subject to a survey by State and/or Federal survey personnel. In such cases a copy of the latest JCAH or AOA survey report will be released to the Secretary (on a confidential basis) with the hospital's concurrence. If the hospital declines to authorize such release, it will lose its deemed status and will be subject to the regular State agency survey procedure. Such surveys will be conducted on a sample basis to validate the JCAH and AOA accreditation process or in response to substantial allegations or evidence of a condition adverse to the health and safety of patients in an accredited hospital. If such a survey reveals noncompliance with one or more of the conditions of participation established in or pursuant to title XVIII of the Act, the hospital must come into compliance with such condition(s).

(c) The Secretary may, at the request of a State, approve higher health and safety requirements for that State. Also, where a State or political subdivision imposes higher requirements as a condition for the purchase of health services under a State plan approved under titles I, XVI, or XIX of the Social Security Act, the Secretary is required to impose like requirements as a condition to the payment for services under title XVIII in such institutions or agencies in the State or subdivision.

(d) Attention is invited to the requirements of title VI of the Civil Rights Act of 1964 (78 Stat. 252; Pub. L. 88–352) which provides that no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving Federal financial assistance (section 601), and to the implementing regulations issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80).

§ 405.1902 Certification by State agency.

(a) Section 1864(a) of the Social Security Act provides that the services of State agencies, operating under agreements with the Secretary, will be used by the Secretary in determining whether providers or prospective providers meet the conditions of participation or suppliers meet the conditions for coverage. Pursuant to these agreements, State agencies will survey each provider and supplier and certify to the Secretary as to whether they are found to be in compliance with the conditions of participation and/or coverage.

(b) In the case of a skilled nursing facility completing the second of two successive agreements under title XIX provisions in effect prior to July 1, 1973, and having the same deficiency(ies) which occasioned the two agreements, the State survey agency will review the performance of such facility (which may be limited to a review of the documentation of record) in providing safe and adequate patient care and in progressing toward correction of such deficiency(ies). On the basis of its evaluation, the State survey agency will recommend to the Secretary that:

(1) No provider agreement may be executed with such facility; or

(2) A new provider agreement may be executed for a period related to the time required to correct such deficiency(ies) but not to exceed 6 months; or

(3) A new provider agreement may be executed for a period of 12 months but subject to a provision for automatic cancellation 60 days following the scheduled date for correction unless the State survey agency finds and notifies the Secretary that all required corrections have been satisfactorily completed.

(c) The certifications by the State agency represent recommendations to the Secretary. The Secretary, on the basis of such certifications by the State agency will determine whether a provider or supplier is eligible to participate in the Health Insurance for the Aged and Disabled Program. Notice of determination of eligibility or noneligibility will be sent to the provider or supplier.

§ 405.1903 Documentation of findings.

(a) The findings of the State agency with respect to each of the conditions of participation or conditions for coverage shall be adequately documented. Where the State agency certifies to the Secretary that a provider or supplier is not in compliance with the conditions, and therefore not eligible to participate in the program, such documentation includes, in addition to the description of the specific deficiencies which resulted in the agency's recommendation, a report of all consultation which has been undertaken in an effort to assist the provider or supplier to comply with the conditions, a report of the provider's or supplier's responses with respect to the consultation, and the State agency's assessment of the prospects for such improvements as to enable the provider or supplier to achieve compliance with the conditions within a reasonable period of time. (See § 405.1907.)

(b) If a provider or supplier is certified by the State agency as in compliance with the conditions or as meeting the requirements for special certification (see § 405.1910), with deficiencies not adversely affecting the health and safety of patients, the following information will be incorporated into the finding:

(1) A statement of the deficiencies which were found, and

(2) A description of further action which is required to remove the deficiencies, and

(3) A time-phased plan of correction developed by the provider and supplier and concurred with by the State agency, and

(4) A scheduled time for a resurvey of the institution or agency to be conducted by the State agency within 90 days following the completion of the survey.

(c) If, on the basis of the State certification, the Secretary determines that the provider or supplier is eligible to participate, the information described in paragraph (b) of this section will be incorporated into a notice of eligibility to the provider or supplier.

§ 405.1904 Periodic certification of compliance and approval.

(a) Initial certifications and recertifications by the State agency to the effect that a provider or supplier is in compliance with all the conditions of participation will be for a period of 12 months. (See paragraph (b) of this section for periods of certification applicable to skilled nursing facilities.) State agencies may visit or resurvey providers or suppliers more frequently where necessary to evaluate correction of deficiencies, ascertain continued compliance, or accommodate to periodic or cyclical survey programs. In addition, the State agency shall review information received through medical review conducted in skilled nursing facilities (see § 405.1121(d)). The State agency shall also review statements obtained from each facility setting forth (from payment records) the average numbers and types of personnel (in full-time equivalents) on each tour of duty during at least 1 week of each quarter, such week to be selected by the survey agency and to occur irregularly in each quarter of the year. The State agency shall evaluate such reports as may pertain to the health and safety requirements and, as necessary, take appropriate action to achieve compliance or certify to the Secretary that compliance has not been achieved. A State finding and certificaiton to the Secretary that a provider or supplier is no longer in compliance will supersede the State's previous certification.

(b) A certification of a skilled nursing facility shall be for a period of up to 12 months, subject to the provision that any agreement filed by a skilled nursing facility with the Secretary under section 1866 of the Social Security Act and accepted by him prior to October 30, 1972, shall be deemed to be for a specified period ending December 31, 1973. A certification for less than 12 months may be issued in appropriate situations, based on such factors as the nature of deficiencies which may exist and the degree of progress achieved in correcting prior deficiencies. An agreement with a skilled nursing facility may, at the option of the Secretary, also be subject to automatic cancellation based upon a failure to correct deficiencies. (See § 405.604.)

(See § 405.1908 where a standard is not met during the period of a certification.)

§ 405.1905 Certification of noncompliance.

(a) The State agency will certify that a provider or supplier is not or is no longer in compliance with the conditions of participation or conditions for coverage where the deficencies are of such character as to substantially limit the provider's or supplier's capacity to render adequate care or which adversely affect the health and safety of patients; or

(b) If it is determined by the Secretary that an institution or agency is not in compliance with the conditions of participation or conditions for coverage, or that an institution or agency is no longer in compliance and the participation agreement is terminated under the conditions described in § 405.614, the institution or agency has the right to request that the determination be reviewed.

§ 405.1906 Determining compliance.

The decision as to whether there is compliance with a particular condition of participation or condition for coverage will depend upon the manner and degree to which the provider or supplier satisfies the various standards within each condition. Evaluation of a provider's performance against these standards will enable the State survey agency to document the nature and extent of deficiencies, if any, with respect to a particular function, and to assess the need for improvement in relation to the prescribed conditions.

§ 405.1907 Providers or suppliers with deficiencies.

(a) If a provider or supplier is found to be deficient with respect to one or more of the standards in the conditions of participation or conditions for coverage, it may participate in or be covered under the Health Insurance for the Aged and Disabled Program only if the facility has submitted an acceptable plan of correction for achieving compliance within a reasonable period of time acceptable to the Secretary. The existing deficiencies noted either individually or in combination neither jeopardize the health and safety of patients nor are of such character as to seriously limit the provider's capacity to render adequate care. (See § 405.1908 for special requirements applicable to skilled nursing facilities.)

(b) If it is determined during a survey that a provider or supplier is not in compliance with one or more of the standards, it will be granted a reasonable time to achieve compliance. The amount of time will depend upon the nature of the deficiency and the State survey agency's judgment as to the capabilities of the facility to provide adequate and safe care. Ordinarily a provider or supplier will be expected to take the steps needed to achieve compliance within 60 days of being notified of the deficiencies but the State survey agency may recommend that additional time be granted by the Secretary in individual situations, if in its judgment it is not reasonable to expect compliance within 60 days, e.g., a facility must obtain the approval of its governing body, or engage in competitive bidding.

§ 405.1908 Special requirements applicable to skilled nursing facilities with deficiencies.

(a) Where the facility is not in full compliance with the standards contained in Subpart K of this part, the period of certification shall:

(1) Be restricted to a period that is no later than the 60th day following the end of the time period specified for the correction of deficiencies in a written plan which the Secretary has approved: *Provided*, That such period shall not exceed 12 full calendar months, except as provided in § 405.604(b); or

(2) Provide a conditional period of 12 full months, subject to an automatic cancellation clause, the certification will expire at the close of a predetermined date which is no later than the 60th day following the end of the time period specified for the correction of deficiencies: *Provided*, That such date will occur within such 12-month period, unless the Secretary determines that all required corrections have been satisfactorily completed or that the facility has made substantial effort and progress in correcting such deficiencies and has resubmitted in writing a plan of correction acceptable to the Secretary.

(b) If the facility continues to be out of compliance with the same standard(s) at the end of the term of the agreement, a new agreement may not be accepted for filing (see

(c) When an agreement with a skilled nursing facility is not renewed at the end of its specified term (including the automatic cancellation of agreement), see § 405.604(c) for public notice and the right to request review.

(d) If the latest survey discloses that a skilled nursing facility that had standards out of compliance during the last survey is no longer in compliance with a standard that was previously met, a new period of certification may be approved only if, in the judgment of the Secretary, the new deficiency(ies) has occurred:

(1) Despite adequately documented intensive efforts or for reasons beyond its control, the skilled nursing facility was unable to maintain compliance, and

(2) Despite the deficiency the facility is making the best use of its resources to render adequate care.

(e) If a skilled nursing facility can document to the State's satisfaction that it achieved compliance with a previously unmet standard during the period of certification but for reasons beyond its control, e.g., loss of key staff member, was found out of compliance by the time of the next survey, this may be treated as a new deficiency instead of a carry-over deficiency unless in the judgment of the Secretary the facility did not make a good faith effort to maintain compliance with the standard.

§ 405.1909 Special requirements applicable to independent laboratories.

(a) The services of a qualified independent laboratory for which reimbursement may be made under the supplementary medical insurance program relate only to diagnostic tests performed in an independent laboratory as defined in § 405.1311(a). Diagnostic laboratory tests for purposes of section 1861(s) (10) and (11) of the Act and for purposes of this Subpart T shall include only those clinical and anatomical pathology diagnostic tests and procedures defined in § 405.1311(b). Diagnostic tests furnished by out-of-hospital physicians whose primary practice is directly attending patients and/or consultation as defined in § 405.1311(f), even though conducted partly through diagnostic procedures, are considered physicians' services rather than clinical laboratory services.

(b) A laboratory that requests an initial certification, or recertification by reason of a change in a director, but which meets all other requirements of Subpart M, except whose directory qualifies solely under the provisions of § 405.1312(b)(4), can be certified provided such laboratory requests approval based on such director's qualifications no later than 1 year following the effective date of these regulations.

(c) Independent laboratories previously found in compliance, but which have had their approval revoked in total or in a specialty or subspecialty because of unsatisfactory performance in proficiency testing, may subsequently be certified by the State agency and determined by the Secretary to be in compliance with the conditions where:

(1) After a 6-month period, an appraisal of the laboratory's performance in a proficiency testing program as defined in § 405.1311(c) reflects satisfactory test results on at least two sets of specimens, or

(2) After a 3-month period, the State agency's assessment of the laboratory's performance in examining proficiency test samples, analyzed during at least two State agency onsite visits, establishes the laboratory's competency.

(d) A laboratory which meets the requirements of § 405.1907 or paragraph (c) of this section may continue to be certified by the State agency and determined by the Secretary to be in compliance with these conditions where it (1) timely reports a change in ownership, location, directors, or supervisors, or (2) permits a State agency to conduct an onsite visit or survey at any time during the laboratory's regular hours of operations.

§ 405.1910 Special hospital certification.

(a) *General.* Where, by reason of factors such as isolated location or absence of sufficient facilities in an area, the failure to approve a hospital would seriously limit the access of beneficiaries to needed inpatient care, a hospital may, under special conditions and upon recommendation by the State agency, be

approved by the Secretary as a provider of services. Such approvals will be granted only when there are no deficiencies of such character and seriousness as to place health and safety of individuals in jeopardy. A hospital receiving this special approval shall furnish information showing the extent to which it is making the best use of its resources to improve its quality of care.

(b) *Minimum compliance requirements.* Each case will have to be decided on its individual merits, and while the degree and extent of compliance will vary, the institution must, as a minimum, meet all of the statutory conditions in section 1861(e)(1)–(8), in addition to meeting such other requirements as the Secretary finds necessary under section 1861(e)(9). (For further information relating to the exception in section 1861(e)(5) of the Act, see paragraph (c) of this section.)

(c) *Waiver of 24-hour registered nurse requirement.* For a period ending January 1, 1976, the Secretary is authorized to waive the requirement contained in section 1861(e)(5) that a hospital must provide 24-hour nursing service rendered or supervised by a registered nurse. Such a waiver may be granted for any 1-year period upon acceptance by the Secretary of findings adequately documented and certified by the State agency, that the following criteria are met:

(1) The hospital complies with all other requirements for special certification provided in this section.

(2) At least one registered nurse is employed full-time and sufficient other registered nurses are employed to assure that the day tour of duty is covered by a registered nurse 7 days a week.

(3) The hospital has in charge, on all tours of duty not covered by a registered nurse, a licensed practical (vocational) nurse who is a graduate of a State-approved school of practical (vocational) nursing or one who has passed a proficiency examination when such examinations are available and approved by the Secretary. Until such time as this examination is available, waivered licensed practical (vocational) nurses may serve as charge nurses.

(4) The hospital is located in a rural area and the supply of hospital services in such area is not sufficient to meet the needs of individuals residing therein and the failure to qualify as a participating hospital would seriously reduce the availability of such services to such individuals.

(5) The hospital has made and continues to make a good faith effort to comply with section 1861(e)(5), but such compliance is impeded by the lack of qualified nursing personnel in such area.

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Title 45—Public Welfare

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

MEDICAL ASSISTANCE PROGRAM

Notice of proposed rulemaking to implement sections 239, 246 and 249A of Pub. L. 92-603 relating to the medical assistance program under title XIX of the Social Security Act, was published on July 12, 1973 in the FEDERAL REGISTER (38 FR 18616).

Interested parties were given the opportunity to submit comments on the proposed amendments within 30 days. The comment period was extended by the Secretary for an additional 30 days to September 13, 1973, and notice of this extension appeared in the FEDERAL REGISTER of August 14, 1973.

The comments received concerning Subpart K—Conditions of Participation; Skilled Nursing Facilities (38 FR 18621) as they apply to skilled nursing facilities under the Medicaid program were jointly reviewed with the Social Security Administration. The changes adopted will be reflected in the final regulations issued by the Social Security Administration in 20 CFR 405.1101 and 405.1120 through 405.1137.

The comments received concerning the Medicaid provisions under 45 CFR Parts 205, 249 and 250 reflected general and overall approval of the regulations as proposed. Some concern was expressed with respect to uniformity in skilled nursing facility certification language for both Medicaid and Medicare. The regulations have been amended to adopt insofar as possible identical certification language for both programs.

In addition, Medicaid provisions under 45 CFR Part 249 have been revised to delete existing Federal requirements under the definition of skilled nursing home services and the certification procedures for skilled nursing facilities have been reorganized with no significant changes to clarify the roles and responsibilities of the State survey agency and the title XIX agency in the certification of skilled nursing facilities and intermediate care facilities under the Medicaid program. The Medicaid provisions under 45 CFR Part 249 applicable to intermediate care facilities have also been modified to include a provision requiring that institutions for the mentally retarded submit a plan for achieving compliance with standards in § 249.13 which become effective three years from the effective date of the standards issued for intermediate care facilities under the Medicaid program.

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

Chapter II, Title 45, Code of Federal Regulations is amended as set forth below.

1. Section 205.190 is amended by revising the introductory words to paragraph (a) to read as set forth below, and by deleting the reference to medical assistance in paragraph (a)(2)(i), and the last sentence of paragraph (a)(2), and by revising paragraph (a)(2)(iii) (*a*) and (*h*):

§ 205.190 Standard-setting authority for institutions.

(a) *State plan requirements.* If a State plan under title I, X, XIV, or XVI, of the Social Security Act includes aid or assistance to individuals in institutions as defined in § 233.60(b) (1) and (2) of this chapter, the plan must:

(1) Provide for the designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(2) Provide that the State agency will keep on file and make available to the Social and Rehabilitation Service upon request:

(i) A listing of the types or kinds of institutions in which an individual may receive financial assistance;

(ii) A record naming the State authority(ies) responsible for establishing and maintaining standards for such types of institutions;

(iii) The standards to be utilized by such State authority(ies) for approval or licensing of institutions including, to the extent applicable, standards related to the following factors:

(*a*) Health (dietary standards and accident prevention);

(*b*) Humane treatment;

(*c*) Sanitation;

(*d*) Types of construction;

(*e*) Physical facilities, including space and accommodations per person;

(*f*) Fire and safety;

(*g*) Staffing, in number and qualifications, related to the purposes and scope of services of the institution;

(*h*) Resident records;

(*i*) Admission procedures;

(*j*) Administrative and fiscal records;

(*k*) The control by the individual, or his guardian or protective payee, of the individual's personal affairs.

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PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

2. Section 249.33 is revised to read as follows:

§ 249.33 Standards for payment for skilled nursing facility and intermediate care facility services.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

(1) Provide that the single State agency will, prior to execution of an agreement with any facility (including hospitals) for provision of skilled nursing facility services and making payments

under the plan obtain certification from:

(i) The agency designated pursuant to § 250.100(c) of this chapter that the facility meets the statutory definition contained in section 1861(j) of the Social Security Act and is in full compliance with the standards prescribed by the Secretary in the regulations promulgated thereunder, except that for purposes of § 405.1134(c) of this title, the agency may waive, or, for purposes of § 405.1134(e) of this title, the agency may permit, variations in the provisions therein for facilities participating only under title XIX, provided such waiver or variation is authorized under conditions promulgated by the Secretary; or

(ii) The Secretary, pursuant to section 1910 of the Act, that the facility has been determined to qualify as a skilled nursing facility under title XVIII of the Act; or

(iii) The Secretary, pursuant to section 1905 of the Act, in the case of a facility located in the State on an Indian reservation that it meets the statutory definition contained in section 1861 (j) of the Social Security Act and in full compliance with the standards prescribed by the Secretary in the regulations promulgated thereunder.

(2) Provide that the single State agency will, prior to execution of an agreement with any facility (including hospitals and skilled nursing facilities) for provision of intermediate care facility services and making payments under the plan, obtain certification from the agency designated pursuant to § 250.100 (c) of this chapter that the facility meets the definition set forth under § 249.10(b)(15) (proposed); except that in the case of an intermediate care facility determined to have deficiencies under the requirements for environment and sanitation (§ 249.12(a)(6)) or of the Life Safety Code (§ 249.12(a)(5)) it may be recognized for certification as an intermediate care facility in accordance with subparagraph (4)(iii) of this paragraph for a period not exceeding 2 years following the date of such determination provided that:

(i) The institution submits a written plan of correction acceptable to the survey agency which contains:

(A) The specific steps that it will take to meet all such requirements; and

(B) A timetable not exceeding 2 years from the date of the initial certification after publication of these regulations detailing the corrective steps to be taken and when correction of deficiencies will be accomplished;

(ii) The survey agency makes a finding that the facility potentially can meet such requirements through the corrective steps and they can be completed during the 2 year allowable period of time;

(iii) During the period allowed for corrections, the institution is in compliance with existing State fire safety and sanitation codes and regulations;

(iv) The institution is surveyed by qualified personnel at least semiannually until corrections are completed and the survey agency finds on the basis of such surveys that the institution has in fact made substantial effort and progress in its plan of correction as evidenced by supporting documentation, signed contracts and/or work orders, and a written justification of such findings is maintained on file; and

(v) At the completion of the period allowed for corrections, the intermediate care facility is in full compliance with the Life Safety Code (NFPA, 21st Edition 1967), and the requirements for environment and sanitation set forth under § 249.12(a)(6), except for any provisions waived in accordance with § 249.12.

(3) Provide that any intermediate care facility receiving payments under the plan must supply to the licensing agency of the State full and complete information, and promptly report any changes which would affect the current accuracy of such information, as to the identity:

(i) Of each person having (directly or indirectly) an ownership interest of 10 percent or more in such facility,

(ii) In case a facility is organized as a corporation, of each officer and director of the corporation, and

(iii) In case a facility is organized as a partnership, of each partner;

(4) Provide that certification by the survey agency designated pursuant to § 250.100(c) of this chapter will be subject to the following provisions and exclusions:

(i) For purposes of paragraph (a)(1)(i) of this section, the facility is in compliance with each condition of participation as determined by the manner and degree to which the facility satisfies the standards within each condition;

(ii) For purposes of paragraphs (a)(1)(i) and (a)(2) of this section, the facility is in full compliance with the standards or meets the following conditions for any standards not fully met:

(A) The deficiencies noted, individually or in combination neither jeopardize the health and safety of patients nor are of such character as to seriously limit the provider's capacity to render adequate care. A written justification of such findings is maintained on file by the survey agency; and

(B) The facility provides in writing a plan of correction acceptable to the survey agency;

(iii) In the case of facilities certified under the provisions of paragraph (a)(4)(ii)(A) and (B) of this section certification will be for:

(A) A period that is no later than the 60th day following the end of the time period specified for the correction of deficiencies in a written plan which the survey agency has approved provided that such period shall not exceed 12 full calendar months or

(B) A conditional term of 12 full months, subject to an automatic cancellation clause that the certification will expire at the close of a predetermined date which no later than the 60th day following the end of the time period specified for the correction of deficiencies: *Provided*, That such date will occur within such 12-month period, unless the survey agency finds that all required corrections have been satisfactorily completed, or unless the survey agency finds and notifies the State agency that the facility has made substantial progress in correcting such deficiencies and has resubmitted in writing a new plan of correction acceptable to the survey agency. Except as provided in paragraph (a)(6) of this section, the period of a certification shall not exceed 12 calendar months.

(iv) No second certification under the condition specified in paragraph (a)(4)(ii) of this section may be executed if:

(A) The standard found deficient was in compliance during the previous certification period, except where the survey agency has made a determination based upon documented evidence that the facility despite intensive efforts or for reasons beyond its control was unable to maintain compliance and despite the deficiency(ies) the facility is making the best use of its resources to render adequate care; or

(B) The standards found deficient are the same as those which occasioned the prior certification, except:

(*1*) In a case where a facility can document to the State survey agency's satisfaction that it achieved compliance with a previously unmet standard during the period of certification but for reasons beyond its control and despite, in the judgment of the survey agency, a good faith effort to maintain compliance with the standard, was again out of compliance by the time of the next survey; or

(*2*) In the case of a skilled nursing facility completing the second of two successive agreements under provisions for certification in effect prior to July 1, 1973 and having the same deficiency(ies) which occasioned the two agreements, the survey agency will review the performance of such facility (which may be limited to a review of the documentation of record) in providing safe and adequate patient care and in progressing toward correction of such deficiency(ies). On the basis of its evaluation, the survey agency will advise the single State agency that:

(*i*) No provider agreement may be executed with such facility,

(*ii*) A new provider agreement may be executed for a period related to the time required to correct such deficiencies, but not to exceed six months; or

(*iii*) A new provider agreement may be executed for a period of twelve months but subject to a provision for automatic cancellation 60 days following the scheduled date for correction unless the survey agency finds and notifies the State agency that all required corrections have been satisfactorily completed. If the facility continues to be out of compliance with the same standard(s) at the end of the term of the agreement, a recertification may not be made.

(v) For purposes of this subparagraph (4), waivers granted pursuant to section 1902(a)(28) of the Act or § 249.12 are not considered deficiencies.

(5) Provide that the survey agency designated pursuant to § 250.100(c) of this chapter will:

(i) Review information contained in medical review and independent professional review team inspections made pursuant to State plan provisions under section 1902(a)(26) and (31) of the Social Security Act;

(ii) Review statements obtained from each facility setting forth (from payroll records) the average numbers and types of personnel (in full-time equivalents) on each shift during at least 1 week of each quarter, such week to be selected by the survey agency and to occur irregularly in each quarter of the year;

(iii) Review and evaluate such reports as they reflect on health and safety requirements and as necessary take appropriate action to achieve compliance or withdraw certification; and

(iv) Perform, with qualified personnel, on-site inspections at least once during the term of a certification or more frequently if there is a question of compliance.

(6) Provide that execution of the single State agency provider agreement with a facility for payments under the plan shall be contingent upon certification in accordance with the provisions of paragraph (a)(1) and (2) of this section. The term of an agreement may not exceed a period of one year and the effective date of such agreement may not be earlier than the date of certification. Execution of a provider agreement shall be for the term and in accordance with the provisions of certification determined by the survey agency except that the single State agency for good cause based on adequate and documented evidence may elect to execute a provider agreement for a term less than the full period of certification or may elect not to execute a provider agreement or may cancel a provider agreement for participation by a facility certified under the State plan. Notwithstanding the provisions of this subparagraph the single State agency may extend such term for a period not exceeding two months where the survey agency has notified the single State agency in writing prior to the expiration of a provider agreement that the health and safety of the patients will not be jeopardized thereby, and that such extension is necessary to prevent irreparable harm to such facility or hardship to the individuals being furnished items or services or that it is impracticable within such provider agreement period to determine whether such facility is complying with the provisions and requirements under the program.

(7) Provide that in the case of a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions, the single State agency will, prior to the execution of an agreement for the provision of intermediate care facility services, obtain a written agreement from the State or political subdivision responsible for the operation of such public institution that the non-Federal expenditures in any calendar quarter prior to January 1, 1975, with respect to

(i) Services furnished to residents in such institutions (or distinct part thereof) and (ii) services for individuals released during the preceding four quarters as provided in § 249.10(c)(3), will not, because of payments made under the plan, be reduced below the average quarterly per capita amount expended for services to residents in such institution in the four quarters immediately preceding the quarter in which the State in which such institution is located elected to make such services available under its approved plan;

(8) Provide during the period ending three years after the effective date of section 249.13 that in the case of an institution (or distinct part thereof) for the mentally retarded or persons with related conditions, the single State agency will:

(i) Prior to the execution of a provider agreement covering intermediate care facility services, where the institution is not in compliance with the standards specified in § 249.13, obtain a written plan of compliance which shall be submitted (including any amendments thereto) by the institution to the single State agency and approved by the Secretary, for achieving conformity with the standards specified in § 249.13. The plan of compliance shall:

(A) Detail the extent of the institution's current compliance with the standards prescribed in § 249.13, and the specific action steps required to achieve compliance with the standards specified in such section, including:

(*1*) The number, job titles, and qualifications of personnel currently employed by the facility and arrangements for recruiting and training additionally required personnel sufficient to assure that each resident participates in an effective program of active treatment;

(*2*) Any necessary structural changes and renovations to buildings and a schedule for their completion;

(*3*) The programs and services currently provided and any required reorganization or expansion thereof.

(B) Establish a timetable not exceeding 3 years from the effective date of § 249.13 for completion of all action steps necessary to achieve conformity with the standards specified in § 249.13;

(C) In the case of a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions, provide for approval of the plan of compliance by the State or political subdivision having jurisdiction over the operation of such public institution;

(D) Provide for semi-annual reports to be submitted to the single State agency by the institution documenting the actions taken and recording the progress made in implementing the plan of compliance;

(ii) Prior to the execution of a second (and each and any succeeding) provider agreement, obtain a written report from the survey agency (based on an on-site inspection) establishing that the facility is adhering to the timetable for completion of all necessary action steps referred to in paragraph (a)(8)(i) of this section.

(9) Provide that in the case of skilled nursing facilities certified under the provisions of title XVIII of the Social Security Act, the term of a provider agreement shall be subject to the same terms and conditions and coterminous with the period of approval of eligibility specified by the Secretary pursuant to that title, and upon notification that an agreement with a facility under title XVIII of the Act has been terminated or cancelled, the single State agency will take appropriate action to terminate the facility's participation under the plan. A facility whose agreement has been cancelled or otherwise terminated may not be issued another agreement until the reasons which cause the cancellation or termination have been removed and reasonable assurance provided the survey agency that they will not recur.

(10) Provide that facilities which do not qualify under this section are not recognized as skilled nursing facilities or intermediate care facilities for purposes of payment under title XIX of the Act.

(b) *Federal financial participation.* (1) Federal financial participation is available at 75 percentum in expenditures of the single State agency for compensation (or training) of its skilled professional medical personnel and staff directly supporting such personnel, which are necessary to carry out these regulations.

(2) Federal financial participation at applicable rates is also available for the single State agency to enter into a written contract (under the supervision of the Medical Assistance Unit) with the survey agency designated pursuant to § 250.100(c) of this chapter as necessary to carry out its responsibilities under these regulations. Such Federal financial participation is available only for those expenditures of the survey agency which are not attributable to the overall cost of meeting responsibilities under State law and regulations for establishing and maintaining standards but which are necessary and proper for carrying out these regulations.

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

3. A new § 250.100 is added to Part 250 as set forth below:

§ 250.100 Establishment and maintenance of State and Federal standards.

State plan requirements. A State plan for medical assistance under title XIX of the Social Security Act must:

(a) Provide for the designation of the State health agency or other appropriate State medical agency (whichever is utilized by the Secretary for purposes of title XVIII of the Act as specified in the first sentence of section 1864(a) of the Act) as the State authority responsible for establishing and maintaining health standards for private or public

institutions, excluding Christian Science sanatoria operated or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts, in which recipients of medical assistance under the plan may receive care and services. The State plan must describe these standards and such standards must be kept on file and made available to the Social and Rehabilitation Service upon request;

(b) Provide for the designation of the single State agency or other appropriate State authority or authorities which shall be responsible for establishing and maintaining standards other than those relating to health for public and private institutions in which recipients of medical assistance under the plan may receive care or services. The State plan must describe these standards and such standards must be kept on file and made available to the Social and Rehabilitation Service upon request; and

(c) Provide that the agency referred to in paragraph (a) of this section or such other State agency as is responsible for licensing health institutions in the State will, in accordance with a written agreement (or other written formal arrangement) with the single State agency, determine whether institutions and agencies, excluding Christian Science sanatoria operated or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts, meet the requirements for participation in the program as set forth elsewhere in this chapter; and that the staff of the agency making such determinations is the same staff responsible for such determinations for institutions or agencies participating under title XVIII. Written agreements (or other written formal arrangements) between the single State agency and the agency in the State responsible for licensing, for purposes of this paragraph, must specify and provide:

(1) That Federal standards and such forms, methods and procedures as may be designated by the Administrator of the Social and Rehabilitation Service will be used in determining provider eligibility and certification under the program;

(2) That copies of reports and inspections are completed by inspectors surveying the premises with notations indicating whether each requirement for which inspection is made is or is not satisfied, with documentation of deficiencies; and

(3) That all information and reports used in determining whether Federal requirements for participating facilities are being met are maintained on file by the survey agency for ready access by the Department of Health, Education, and Welfare, and the single State agency as may be necessary to meet other requirements under the plan and for purposes consistent with that agency's effective administration of the program.

4. Section 249.10 (of Part 249 is amended by revising paragraph (b)(4)(i) to read as follows:

§ 249.10 Amount, duration, and scope of medical assistance.

* * * * *

(b) *Federal financial participation.* * * *

(4)(i) *Skilled nursing facility services (other than services in an institution for tuberculosis or mental diseases) for individuals 21 years of age or older.* "Skilled nursing facility services" means services ordered by and under the direction of a physician, which as a practical matter can only be provided on an inpatient basis in a skilled nursing facility (which term includes any institution located on an Indian reservation and certified by the Secretary as meeting the requirements of section 1861(j) of the Act), and which are:

(*a*) Provided by a facility or distinct part of a facility which has not been determined by an officially designated State standard-setting authority not to meet fully all requirements of the State for licensure as a nursing home except as provided in the next sentence. Payments to a nursing home which formerly met fully all such requirements but is currently determined not to meet them, may be recognized for a period specified by the State standard-setting authority, if during such period such home promptly takes all necessary steps to again meet such requirements; and

(*b*) Provided by a facility or distinct part of a facility which is certified for participation pursuant to § 249.33 as evidenced by an agreement executed in accordance with the provisions of § 249.33, between the single State agency and the facility for the provision of skilled nursing facility services and the making of payments under the plan; except that with respect to skilled nursing facility services furnished by a facility whose provider agreement has expired or has otherwise terminated, the State agency may continue to claim Federal financial participation in payments on behalf of eligible individuals for such services furnished by such institution during a period not to exceed 30 days starting with the date of expiration or other termination of its provider agreement, but only if such individuals were admitted to the facility before the date of expiration or other termination of its provider agreement, and if the State agency makes a showing satisfactory to the Secretary that it has made reasonable efforts to facilitate the orderly transfer of such individuals from such institution to another facility.

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302)).

Effective date. These regulations shall be effective February 19, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: December 21, 1973.

JOHN A. SVAHN,
Acting Administrator, Social and Rehabilitation Service.

Approved: December 27, 1973.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

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