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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.

<b>DIESEL FUEL</b> —FEO establishes ceiling price for No. 2-D; effective 2-5-74.....	4784
<b>SUPPLEMENTAL SECURITY INCOME</b> —HEW proposal regarding benefits for essential persons; comments by 3-11-74.....	4785
<b>HEALTH MANPOWER</b> —HEW regulations on financial distress grants and loans to health profession schools and students (2 documents); effective 3-11-74.....	4770, 4775
<b>NURSING PERSONNEL</b> —HEW regulations on loan guarantee and interest subsidies for construction of teaching facilities; effective 2-7-74.....	4778
<b>LOANS</b> —FDIC regulations for areas having special flood hazards; effective 3-2-74.....	4756
<b>NEW ANIMAL DRUGS</b> — FDA approves use of oxytetracycline injection for treatment of specified animals; effective 2-7-74.....	4759
FDA approves use of vincofos capsules for treatment of dogs; effective 2-7-74.....	4759
<b>SUGARBEETS</b> —USDA determination of wage rates; effective 2-18-74.....	4750
<b>HOOVER DAM</b> —Interior Department regulations governing conduct on the facilities and grounds; effective 2-7-74.....	4755
<b>ANTIDUMPING</b> —Treasury Department determination on Picker Sticks from Mexico.....	4789

(Continued Inside)

#### PART II:

<b>FEDERAL RULEMAKING PROCEDURES</b> —Administrative Conference of the United States issues recommendations and statements.....	4845
---	------

#### PART III:

<b>CHILDRENS SLEEPWEAR</b> — CPSC regulations on labeling and advertising requirements; effective 3-11-74.....	4852
CPSC proposal regarding recordkeeping requirements; comments by 3-11-74.....	4855

# REMINDERS

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

## Rules Going into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no.  
and date

### FEBRUARY 7

FDA—Permitted amount of feed and drinking water of animals or for the treatment of food-producing animals; selenium in animal feed..... 1355;  
1-8-74

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HIGHLIGHTS—Continued

<b>SOIL CONSERVATION SERVICE</b> —Agriculture Department regulations concerning cooperative relationships and agreements with nonfederal interests.....	4749	DoD: USAF Scientific Advisory Board Electronics Systems Division Advisory Group, 2-13-74.....	4789
<b>MEETINGS</b> —		HEW: Tuberculosis Control Advisory Committee, 2-28 and 3-1-74.....	4795
Agriculture Department: California Region Roads Advisory Committee, 3-1-74.....	4792	Interior Department: National Advisory Board on Wild Free-Roaming Horses and Burros, 3-26 and 3-27-74.....	4789
Gunnison Valley Forest Grazing Advisory Board, 3-8-74.....	4792	National Science Foundation: Advisory Panel for Biochemistry, 2-22 and 2-23-74.....	4817
Lincoln National Forest Grazing Advisory Board, 3-12-74.....	4792	Advisory Panel for Political Science, 2-22-74.....	4817
		Council on Environmental Quality: Advisory Committee on Alternative Automotive Power Systems, 2-11 and 2-12-74.....	4803

# Contents

<b>ADMINISTRATIVE CONFERENCE OF THE UNITED STATES</b>		<b>DELAWARE RIVER BASIN COMMISSION</b>	
Rules and Regulations		Notices	
Recommendations and miscellaneous statements.....	4845	Public hearing.....	4805
<b>AGRICULTURAL MARKETING SERVICE</b>		<b>DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION</b>	
Rules and Regulations		Notices	
Inspection and certification of certain agricultural commodities and products thereof; fees and charges; corrections (2 documents).....	4749	Decisions on applications for duty-free entry of scientific articles:	
<b>AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE</b>		National Radio Astronomy Observatory.....	4794
Rules and Regulations		University of Hawaii.....	4794
Wage rates: sugarbeets.....	4750	University of Pennsylvania et al.....	4795
<b>AGRICULTURE DEPARTMENT</b>		<b>DRUG ENFORCEMENT ADMINISTRATION</b>	
<i>See also</i> Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Forest Service; Soil Conservation Service.		Notices	
Notices		Levodexoxyephedrine; withdrawal of petition to remove from control.....	4789
Foreign Agricultural Service; establishment and transfer of functions.....	4793	<b>EDUCATION OFFICE</b>	
<b>AIR FORCE DEPARTMENT</b>		Notices	
Notices		New vocational education research grants; extension of deadline.....	4796
USAF Scientific Advisory Board; meetings.....	4789	<b>ENVIRONMENTAL PROTECTION AGENCY</b>	
<b>ALCOHOL, TOBACCO, AND FIREARMS BUREAU</b>		Rules and Regulations	
Rules and Regulations		Glass manufacturing point source category; effluent guidelines and standards for the insulation fiberglass subcategory; correction.....	4760
Importation of arms, ammunition, and implements of war; correction.....	4760	Government property; procurement regulations.....	4760
<b>ATOMIC ENERGY COMMISSION</b>		Notices	
Notices		Waste management at Hanford reservation; hearing; cross reference.....	4813
Availability of General Manager's draft environmental statements.....	4799	<b>FEDERAL AVIATION ADMINISTRATION</b>	
		Rules and Regulations	
		Airworthiness directives:	
		Cessna Model 172 airplanes.....	4756
		McDonnell Douglas DC-8 series airplanes.....	4757
		<i>(Continued on next page)</i>	
			4745

## FEDERAL COMMUNICATIONS COMMISSION

### Notices

- Common carrier services information; domestic public radio services applications accepted for filing ..... 4805
- Standard broadcast applications; availability for processing ..... 4813
- Hearings, etc.:*
- Gross Telecasting, Inc. .... 4808
- Maller, Richard N. and New England Telephone Co. .... 4808
- Wolverine Radio Co., Inc. and Patten Corp. .... 4813

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Rules and Regulations

- Loans in areas having special flood hazards ..... 4756

## FEDERAL DISASTER ASSISTANCE ADMINISTRATION

### Notices

- Major disasters:
- Maine ..... 4797
- Oregon ..... 4798
- Washington ..... 4798

## FEDERAL ENERGY OFFICE

### Rules and Regulations

- Mandatory petroleum price regulations; special price rule for diesel fuel sales ..... 4784

## FEDERAL HIGHWAY ADMINISTRATION

### Notices

- Georgia; proposed action plan ..... 4798

## FEDERAL MARITIME COMMISSION

### Notices

- Bastidas, Alex A.; order or revocation ..... 4813
- Japan Line, Ltd. et al; agreements filed ..... 4813

## FEDERAL RESERVE SYSTEM

### Notices

- Chase Manhattan Corp.; order denying acquisition ..... 4814
- Fountain Valley Bankette Corp.; formation of bank holding company ..... 4816
- United Tennessee Bancshares Corp.; proposed acquisition ..... 4816

## FEDERAL TRADE COMMISSION

### Rules and Regulations

- Prohibited trade practices; cease and desist orders; Southern States Distributing Co. et al ..... 4758

## FOOD AND DRUG ADMINISTRATION

### Rules and Regulations

- Cheeses; pasteurized process spread and cold pack cheese and cheese food; identity standard, confirmation of effective date ..... 4760
- New animal drugs:
- Oxytetracycline hydrochloride injection ..... 4759
- Vincifos capsules ..... 4759

## Notices

- Filing petitions for food additive:
- American Maize-Products Co. .... 4795
- BASF Wyandotte Corp. .... 4796
- DuPont & Co. .... 4796

## FOREST SERVICE

### Notices

- Availability of draft environmental statements:
- Asotin Planning Unit ..... 4791
- Elgin Planning Unit ..... 4792
- Suppression strategy for control of Southern Pine Beetle in Southeastern United States ..... 4793
- Meetings:
- California Region Roads Advisory Committee ..... 4792
- Gunnison Valley Forest Grazing Advisory Board ..... 4792
- Lincoln National Forest Grazing Advisory Board ..... 4792

## GEOLOGICAL SURVEY

### Notices

- Known leasing area (coal):
- Henry Mountains, Utah ..... 4790
- Wilboux-Beach, Mont. and N. Dak ..... 4790

## HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Center for Disease Control; Education Office; Food and Drug Administration; Public Health Service; Social Security Administration.

### Notices

- Buck, Keith E. et al; proposed issuance of exclusive patent license ..... 4796
- Social Security Administration; organization, functions and delegations of authority ..... 4796

## HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Disaster Assistance Administration.

## INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

### Notices

- Electric face equipment standard initial permit applications; opportunity for public hearing (3 documents) ..... 4816, 4817

## INTERIOR DEPARTMENT

See also Geological Survey; Land Management Bureau; National Park Service; Reclamation Bureau.

### Notices

- Red Rock Canyon Lands Area, Nev.; availability of draft environmental statement ..... 4791

## INTERSTATE COMMERCE COMMISSION

### Rules and Regulations

- Car service:
- Providence and Worcester Co. .... 4783
- Railroad operating regulations for freight car movement ..... 4781

- Freight forwarders of household goods; need for greater regulation; correction ..... 4784

## Proposed Rules

- Class I motor common carriers of property and of agents; standard headings and standard item numbers for commonly published rules in tariffs ..... 4787
- Equipment leased by motor carriers of property; adjustment of compensation because of rising costs ..... 4787

## Notices

- Assignment of hearings ..... 4822
- Motor Carrier Board transfer proceeding ..... 4823
- Motor carrier, broker, water carrier, and freight forwarder applications ..... 4824
- Northeastern railroad investigation; assignment of hearing ..... 4823

## JUSTICE DEPARTMENT

See Drug Enforcement Administration.

## LABOR DEPARTMENT

See Occupational Safety and Health Administration; Wage and Hour Division.

## LAND MANAGEMENT BUREAU

### Notices

- National Advisory Board on Wild Free-Roaming Horses and Burros; meeting ..... 4789

## NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

### Notices

- Defects investigations and determinations; public proceeding; lower control arm, Ford Motor Co. vehicles ..... 4843

## NATIONAL PARK SERVICE

### Notices

- Benz, Edward E. et al; intention to negotiate concession contract (2 documents) ..... 4790
- Consulting Committee to the National Survey of Historic Sites and Buildings; meeting ..... 4790
- Lake Mead National Recreation Area, Ariz. and Nev.; hearings on wilderness proposal ..... 4791

## NATIONAL SCIENCE FOUNDATION

### Notices

- Meetings:
- Advisory Panel for Biochemistry ..... 4817
- Advisory Panel for Political Science ..... 4817

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

### Notices

- Stanley Works; grant of variance ..... 4721

**PUBLIC HEALTH SERVICE**

Rules and Regulations  
 Grants for construction of health research and related facilities:  
   Financial distress grants to health professions schools..... 4775  
   Health professions student loans..... 4770  
   Loan guarantees and interest subsidies to assist in construction of nurse training facilities..... 4778

**RECLAMATION BUREAU**

Rules and Regulations  
 Hoover Dam; rules of conduct..... 4755

**SECURITIES AND EXCHANGE COMMISSION**

Notices  
 SEC Report Coordinating Group; establishment..... 4820  
*Hearings, etc.:*  
   BBI, Inc..... 4818  
   Bay State Growth Fund, Inc..... 4818  
   Granite State Electric Co. and New England Electric System..... 4818  
   Narragansett Electric Co..... 4819  
   National Investors Corp..... 4819  
   Patterson Corp..... 4820  
   U.S. Financial Inc..... 4820  
   Westgate California Corp..... 4820

**SOCIAL SECURITY ADMINISTRATION**

Proposed Rules  
 Supplemental security income for the aged, blind, and disabled; essential person factors..... 4785

**SOIL CONSERVATION SERVICE**

Rules and Regulations  
 Cooperative relationships and arrangements..... 4749  
 Notices  
 Availability of draft and final environmental statements:  
   Chippewa Creek Watershed Project, Ohio..... 4793  
   Kuckapoo Creek Watershed Project (Lipan) Project, Tex..... 4793  
   Poinsett Watershed Project, Ark..... 4794

**TARIFF COMMISSION**

Notices  
 Certain disposable catheters and cuffs therefor; hearing..... 4721  
 Cylinder boring machines and boring bars and components; dismissal of investigation..... 4721  
 Nina Footwear Co., Inc.; petition for investigation..... 4721  
 Variable displacement flower holders; filing written views..... 4721

**TRANSPORTATION DEPARTMENT**

*See* Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration.

**TREASURY DEPARTMENT**

*See also* Alcohol, Tobacco and Firearms Bureau.  
 Notices  
 Picker sticks from Mexico; determination of sales at less than fair value..... 4789

**WAGE AND HOUR DIVISION**

Rules and Regulations  
 Child labor regulations, orders, and statement of interpretation; work experience and career exploration services; correction... 4760

# List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

<b>1 CFR</b>		<b>16 CFR</b>		<b>40 CFR</b>	
305.....	4846	13.....	4758	426.....	4760
310.....	4846	302.....	4852	<b>41 CFR</b>	
<b>7 CFR</b>		<b>PROPOSED RULES:</b>		15-60.....	4760
68 (2 documents).....	4749	302.....	4855	<b>42 CFR</b>	
660.....	4749	<b>20 CFR</b>		57 (3 documents).....	4770, 4775, 4778
862.....	4750	<b>PROPOSED RULES:</b>		<b>43 CFR</b>	
<b>10 CFR</b>		146.....	4785	421.....	4755
212.....	4784	<b>21 CFR</b>		<b>49 CFR</b>	
<b>12 CFR</b>		19.....	4760	1033 (2 documents).....	4781, 4783
339.....	4756	135b.....	4759	1085.....	4784
<b>14 CFR</b>		135c.....	4759	<b>PROPOSED RULES:</b>	
39 (2 documents).....	4756, 4757	<b>27 CFR</b>		1057.....	4787
		47.....	4760	1310.....	4787
		<b>29 CFR</b>			
		570.....	4760		

# 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 7—Agriculture

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

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

#### 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

###### Correction

In FR Doc. 74-1284 for the issue of Thursday, January 17, 1974 make the following changes:

1. In the first column of page 2098 renumber § 64.42b to read § 68.42b.

2. In the last column of the table on page 2099 under the heading "Germination, purity, and noxious weed" change the entries opposite "velvetbean" and "velvetgrass" to read "1 $\frac{3}{4}$ " and "3" respectively.

#### 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; Correction

In FR Doc. 74-1284, appearing at page 2100 in the issue of January 17, 1974, make the following change:

The effective date at the end of the document should read "March 1, 1974."

Dated: January 31, 1974.

E. L. PETERSON,  
Administrator.

[FR Doc. 74-3055 Filed 2-6-74; 8:45 am]

### CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

#### SUBCHAPTER G—MISCELLANEOUS

#### PART 660—COOPERATIVE RELATIONSHIPS AND ARRANGEMENTS

The purpose of this publication is to codify existing Soil Conservation Service general policy on cooperative relationships and arrangements. Since the policy contained herein is well established, it was determined unnecessary, as provided by 5 U.S.C. 553, to invite

public participation with respect to this publication.

Dated: January 31, 1974.

KENNETH E. GRANT,  
Administrator,  
Soil Conservation Service.

- Sec.
- 660.1 Purpose and policy.
- 660.2 Agreements.
- 660.3 Cooperation with soil, water, and other conservation districts.
- 660.4 Acceptance and use of gratuitous benefits from nonfederal sources.

AUTHORITY: Pub. L. 74-46, 49 Stat. 163 (16 U.S.C. 590 a-1); Pub. L. 83-566, 68 Stat. 666 as amended (16 U.S.C. 1001 et seq.); Sec. 13, Pub. L. 78-534, 58 Stat. 905; Pub. L. 87-703, 78 Stat. 607 as amended (7 U.S.C. 1011-1013); Pub. L. 89-560, 80 Stat. 706 (42 U.S.C. 3271-3274).

##### § 660.1 Purpose and policy.

This part sets forth Soil Conservation Service (SCS) policy on cooperation with nonfederal interests, cooperation with soil, water, and other conservation districts, and acceptance and use of gratuitous benefits from nonfederal sources. It is SCS policy to enter into cooperative relationships and arrangements with nonfederal interests in the furtherance of authorized SCS programs of mutual benefit and interest.

##### § 660.2 Agreements.

Cooperative relationships and arrangements initiated by SCS are written in memorandums of understanding, cooperative agreements, and trust fund agreements. The nature and arrangement of the cooperation determines which type of instrument is used. The instrument evidences the intent of SCS and the cooperating parties to carry out an undertaking which will result in mutual benefit to the parties concerned.

(a) A memorandum of understanding provides for each party to the undertaking to operate within its own sphere of work, authority, and resources.

(b) A cooperative agreement provides for the parties to the undertaking to work jointly, with each party contributing resources such as funds, equipment, supplies, materials, and services.

(c) A trust fund agreement provides for one or more of the parties to contribute funds to and place such funds in trust with SCS. SCS expends the contributed funds in accordance with SCS policies and procedures for the purpose stated in the agreement.

##### § 660.3 Cooperation with soil, water, and other conservation districts.

(a) The U.S. Department of Agriculture (USDA), upon request and subject to the requirements of paragraph (b) of this section, will enter into a basic memorandum of understanding with a soil and water or other conservation district (district) if any USDA agency can assist the district in carrying on its program. The basic memorandum of understanding establishes the general basis of cooperation for which the district may subsequently receive assistance from one or more USDA agencies.

(b) USDA will enter into the basic memorandum of understanding with a district only after the district governing body has developed a program setting forth the district's long-term soil, water, and resource-use objectives. The basic memorandum of understanding provides that the district shall develop an annual work plan for carrying out its program.

(c) After USDA and the district have entered into the basic memorandum of understanding, the district may request the assistance of any USDA agency in carrying out the district's program. SCS assistance to a district is evidenced in a supplemental memorandum of understanding between SCS and the district. Prior to SCS execution of the supplemental memorandum of understanding, SCS will determine and inform the district of the SCS assistance that currently can be made available to the district.

##### § 660.4 Acceptance and use of gratuitous benefits from nonfederal sources.

(a) Gratuitous benefits include assignment to SCS of such things as nonfederal personnel, equipment, supplies, materials, office space, warehouse space, parking space, and utilities and other space and building services. SCS may request and accept gratuitous benefits from nonfederal sources under the following conditions:

(1) SCS determines that the benefits are necessary to or furthers the discharge of duties and functions of SCS and are clearly in the interest of the federal government; and

(2) Any personal services performed by donor personnel also would be appropriate to be performed by SCS employees, and the services will be performed under the technical direction and supervision of an SCS employee; and

(3) SCS and the nonfederal source enter into an agreement for the benefits,

except in the event of emergencies which involve the safety of human life or protection of property (31 U.S.C. 665b).

(b) Nonfederal sources as used in this section are limited to individuals who do not hold federal appointments, state and local governmental units, and private organizations and groups other than general or specialized organizations of farmers referred to in § 0.735-21 of this title.

(c) Personnel assigned to SCS by non-federal sources are not to be considered federal employees, and they are not entitled to federal employee benefits such as retirement and leave. The nonfederal personnel shall be administratively responsible to their nonfederal employer, but shall be subject to the technical guidance and direction of SCS. Assigned nonfederal personnel may be provided at SCS expense with office space, supplies, equipment, and other working tools and facilities needed to perform their duties. Under certain conditions, SCS may provide travel and transportation expenses to assigned nonfederal personnel. Assigned nonfederal personnel shall meet SCS qualification standards to perform the duties assigned and to operate equipment.

(d) Agreements for gratuitous benefits with soil and water or other conservation districts are in addition to and not a part of the supplemental memorandums of understanding discussed in § 660.3(c).

[FR Doc.74-3115 Filed 2-6-74;8:45 am]

## CHAPTER VIII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (SUGAR), DEPARTMENT OF AGRICULTURE

### SUBCHAPTER H—DETERMINATION OF WAGE RATES

[Docket No. SH-321]

#### PART 862—WAGE RATES: SUGARBEETS

The Sugar Act requires sugarbeet producers, as one of the conditions with which they must comply to be eligible for government payments under the act, to pay all workers employed in the production, cultivation, and harvesting of sugarbeets in full at not less than minimum wage rates determined by the Secretary of Agriculture to be fair and reasonable. Such determination may not be made until after investigation and opportunity for interested persons to testify on whether the wage rates established under the previous year's determination continue to be fair and reasonable or whether such determination should be amended. Public hearings were held in four locations during the period October 10-17, 1973.

The determination, which becomes effective on February 18, 1974, increases the minimum wage rate for specified hand labor operations performed on a time basis by 15 cents to \$2.30 per hour, and the minimums for work performed on a piecework basis are increased by rates ranging from \$1.00 to \$2.50 per acre.

Pursuant to the provisions of section 301(c)(1) of the Sugar Act of 1948 (7

U.S.C. 1131(c)(1)), as amended (herein referred to as "act"), after investigation and consideration of the evidence obtained at the public hearings held during October 1973, the following determination is hereby issued.

The regulations previously appearing in these sections under "Determination of Wage Rates; Sugarbeets" remain in full force and effect as to the time periods to which they were applicable.

Sec.	
862.9	General requirements.
862.10	Wage rates.
862.11	Compensable working time.
862.12	Applicability of wage requirements.
862.13	Payment of wages.
862.14	Evidence of compliance.
862.15	Employment of workers through a labor contractor or crew leader.
862.16	Subterfuge.
862.17	Claim for unpaid wages.
862.18	Failure to pay all wages in full.
862.19	Child labor.
862.20	Checking compliance.

AUTHORITY: Secs. 862.9 to 862.20 issued under secs. 301, 403, 61 Stat. 929, as amended, 932 (7 U.S.C. 1131, 1153).

#### § 862.9 General requirements.

A producer of sugarbeets shall be deemed to have complied with the wage provisions of the act if all persons employed on the farm in the production, cultivation, or harvesting of sugarbeets, as provided in § 862.12, shall have been paid in accordance with the following provisions of this part.

#### § 862.10 Wage rates.

All such persons shall have been paid in full for all such work and shall have been paid wages therefor at rates required by existing legal obligations, regardless of whether those obligations resulted from an agreement (such as a labor union agreement) or were created by State or Federal legislative action, or at rates as agreed upon between the producer and the worker, but not less than the following, which shall become effective on February 18, 1974, and shall remain in effect until amended, superseded, or terminated:

(a) *When employed on a time basis.* For the hand labor operations of thinning, hoeing, hoe-trimming, blocking and thinning, weeding, pulling, topping, loading, or gleaning: \$2.30 per hour: *Provided*, That for workers 14 or 15 years of age the hourly rate specified herein may be reduced by not more than 15 percent.

(b) *When employed on a piecework basis for the hand labor operations in the following table:*

Hand labor operations	Rate per acre
A. Thinning: Removing excess beets with a hoe only.....	\$16.50
B. Hoeing: Removing weeds and excess beets with a hoe only.....	21.50
C. Hoe-Trimming: Removing weeds with a hoe and by hand and removing excess beets with a hoe only.....	25.75
D. Weeding: Removing weeds with a hoe and by hand following either A, B, or C above, E below, or following the operation specified in paragraph (c) of this section.....	14.00

And in the State of California only:

E. Blocking and Thinning: Removing weeds and excess beets with a hoe and by hand..... 37.00

(1) *Wide row planting.* The above rates and the rates provided for in paragraph (c) of this section may be reduced by not more than the indicated percentages for the following row spacing: 28 inches or more but less than 31 inches, 20 percent; 31 inches or more but less than 34 inches, 25 percent; 34 inches or more, 30 percent.

(2) *Narrow row planting.* The above rates and the rate provided for in paragraph (c) of this section shall be increased by not less than the indicated percentages for the following row spacing: 19 inches or less but more than 16 inches, 25 percent; 16 inches or less, 35 percent.

(c) In the fields that have been completely machine-thinned and on which chemical herbicides have been applied, removing weeds with a hoe only may be employed as a first operation: *Provided*, That the applicable piecework rate therefor shall be not less than \$14.00 per acre.

(d) *When employed on a piecework basis for hand labor operations not specified or defined, or for harvesting.* The piecework rate for blocking and thinning in States other than California, weeding not qualified as a first operation under paragraph (c) of this section or not preceded by the operations described in A, B, C, or E or paragraph (b) of this section, and any other hand labor operation involving the removal of beets or weeds which is not defined above, and for the operations of pulling, topping, loading, or gleaning, shall be as agreed upon between the producer and the worker: *Provided*, That the average hourly rate of earnings of each worker for each operation shall be not less than \$2.30 per hour computed on the basis of the total time such worker is employed on the farm for such operations.

(e) *When employed on a time or piecework basis for other operations.* For all other operations in the production, cultivation, or harvesting of sugarbeets for which no minimum rate is provided for herein, the rate shall be as agreed upon between the producer and the worker.

#### § 862.11 Compensable working time.

For work performed under § 862.10, compensable working time includes all time which the worker spends in the performance of his duties except time taken out for meals during the workday. Compensable working time commences at the time the worker is required to start work in the field and ends upon completion of work in the field. However, if the producer requires the operator of mechanical equipment, or any other class of worker to report to a place other than the field, such as an assembly point, tractor shed, etc., located on the farm, the time spent in transit from such place to the field and from the field to such place is compensable working time. Any time spent in performing work directly related to the principal work performed by the

worker, such as servicing equipment, is compensable working time. Time of the worker while being transported from a central labor recruiting point or labor camp to the farm is not compensable working time.

**§ 862.12 Applicability of wage requirements.**

The wage requirements of this part apply to all persons who are employed or who work on the farm in operations directly connected with the production, cultivation, or harvesting of sugarbeets on any acreage from which sugarbeets are marketed or processed for the production of sugar, or any acreage which qualifies as bonafide abandoned. Such persons include field overseers or supervisors while directing other workers, and those workers employed by a custom operator who performs the above services on the farm. The wage requirements are not applicable to persons who voluntarily perform work without pay on the farm for a religious or charitable institution or organization; inmates of a prison who work on a farm operated by the prison; truck drivers employed by a contractor engaged by the producer only in hauling sugarbeets; members of a cooperative arrangement among producers for the exchange of labor to be performed by themselves or members of their families; persons who have an agreement with the producer to perform all work on a specified acreage in return for a share of the crop proceeds if such share, including the share of any Sugar Act payments, results in earnings at least as much as would otherwise be received in accordance with the requirements of this part for the work performed; custom operators and members of their immediate families; or workers performing services which are indirectly connected with the production, cultivation, or harvesting of sugarbeets, including but not limited to mechanics, welders, and other maintenance workers and repairmen.

**§ 862.13 Payment of wages.**

(a) The producer shall make payment of wages in accordance with the following requirements: (1) Workers shall be paid by check or in currency for all work performed, and shall be paid upon completion of each hand labor operation performed on the farm unless some other arrangement is agreed upon by the producer and worker and acknowledged in writing signed by the worker; (2) deductions from payments are permitted and may be made for cash advances made only by producers to workers and, in reasonable amounts agreed upon by the producer and worker, for items furnished by the producer such as meals and transportation, and for mandatory deductions or withholdings required by law; (3) deductions may not be made from wages for payment of debts originally incurred with someone other than the producer, except as required and provided under applicable garnishment statutes or by other legal process; and (4) deductions may not be made for payment to a labor contractor or supervisor for his services,

or for any items which the producer agreed to furnish the worker free of charge.

(b) The producer shall furnish the worker at the time of payment of wages or, if payment of wages is made through a labor contractor or crew leader, require the labor contractor or crew leader to furnish the worker at the time of payment of wages a statement showing the producer's and worker's names, the gross earnings, the items and amounts of deductions, and the net earnings of the worker, and the producer or the labor contractor or crew leader shall obtain the worker's signature acknowledging receipt of the amount of wages received which shall in no event be less than that required by this part.

**§ 862.14 Evidence of compliance.**

Each producer subject to the provisions of this part shall keep and preserve, for a period of 3 years following the date on which his application for a Sugar Act payment is filed, such wage records as will demonstrate that each worker has been paid in full in accordance with the requirements of this part. Wage records should set forth dates work was performed, the class of work performed, units of work (piecework or hours), agreed upon rates per unit of work, total earnings, and any permissible deductions, and the amount paid each worker. The producer shall furnish upon request to the appropriate Agricultural Stabilization and Conservation County Committee such records or other evidence as may satisfy such committee that the requirements of this part have been met.

**§ 862.15 Employment of workers through a labor contractor or crew leader.**

(a) If a producer employs workers through a labor contractor or crew leader, the producer may make payment of workers' wages through such labor contractor or crew leader: *Provided*, That the producer obtain from such contractor or crew leader and have on file:

(1) A written record that he is registered or licensed as derived from examination of a valid certificate of registration or a farm labor contractor employee identification card; (2) a copy of his authorization signed by each worker to collect wages due each such worker; (3) a copy of each worker's statement of earnings as required by § 862.13, or a wage record sheet such as the "Wage Record Sheet Sugarbeet Program" shown in Exhibit 9 of Handbook 1-SU, available in county ASCS offices, showing the names of the producer and workers, dates work was performed, description of work performed, units of work, agreed upon rates per unit, and the amounts of wages due each such worker; and (4) the signature of each worker acknowledging receipt of wages received which shall in no event be less than those required by this part. The producer is responsible for paying to the labor contractor or crew leader the fee for his services, and the producer shall have on file a statement signed by the labor contractor or crew

leader showing the amount of the fee being paid by the producer to the labor contractor or crew leader for his services, and showing that such fee is over and above the wages agreed upon by the contractor and the producer which shall in no event be less than those provided by this part.

(b) Responsibility for insuring that workers actually receive the minimum wage or the agreed upon wage, whichever is higher, less only deductions authorized by this part, rests with the producer. Whenever it appears that a worker has received less than the minimum or agreed upon wage, whichever is higher, less deductions authorized by this part, the producer shall not have met the requirements of this part for eligibility for payment under the act until it is determined that all workers on the farm have been paid in full: *Provided, however*, That a producer who having acted in good faith to fulfill his obligation to insure that the minimum or agreed upon wage is actually received by the workers, has obtained and has on file documents which meet the requirements set forth in paragraph (a) of this section and which show payment of wages in accordance with this part, shall have met the requirements of this part except that in cases where the worker files a claim in the county ASCS office that he has not been paid wages in accordance with this part and it is found by the county committee that the worker's signature has been forged or he has been forced to sign under duress or by fraud, the producer shall not have met the requirements of this part for eligibility for payment under the act until the county committee determines that all workers on the farm have been paid in full.

**§ 862.16 Subterfuge.**

The producer shall not reduce the wage rates to workers below those determined herein, through any subterfuge or device whatsoever.

**§ 862.17 Claim for unpaid wages.**

Any person who believes he has not been paid in accordance with this part may file a wage claim with the Agricultural Stabilization and Conservation Service County Office against the producer on whose farm the work was performed. Detailed instructions and wage claim forms are available at the county ASCS office. Such claim must be filed within 2 years from the date the work with respect to which the claim is made was performed. Upon receipt of a wage claim the county ASCS office shall thereupon notify the producer against whom the claim is made concerning the representation made by the worker. The county ASC committee shall arrange for such investigation as it deems necessary and the producer and worker shall be notified in writing of its recommendations for settlement of the claim. If either party is not satisfied with the recommended settlement, an appeal may be made to the State Agricultural Stabilization and Conservation Service Office.

The address of the State ASCS Office will be furnished by the local county ASCS office. Upon receipt of the appeal the State ASC committee shall likewise consider the facts and notify the producer and worker in writing of its recommendations for settlement of the claim. If the recommendation of the State ASC committee is not acceptable, either party may file an appeal with the Deputy Administrator, Programs, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All such appeals shall be filed within 15 days after the date the written notice of the recommended settlement is mailed by the respective committee, otherwise such recommended settlement will be applied in making payments under the act. If a claim is appealed to the Deputy Administrator, Programs, his decision shall be binding on all parties insofar as payments under the act are concerned. Appeals procedures are set forth and explained fully in Part 780 of this title.

#### § 862.18 Failure to pay all wages in full.

(a) Notwithstanding the provisions of this part requiring that all persons employed on the farm in the production, cultivation, or harvesting of sugarbeets be paid in full for all such work as one of the conditions to be met by a producer for payment under the act, if the producer has failed to meet this condition but has met all other conditions, a portion of such payment representing the remainder after deducting from the payment the amount of accrued unpaid wages, may be disbursed to producer(s) upon a determination by the county committee (1) that the producer had made full disclosure to the county committee or its representatives of any known failure to pay all workers on the farm wages in full as a condition for payment under the Sugar Act; and (2) that either (i) the failure to pay all workers their wages in full was caused by the financial inability of the producer, or (ii) the failure to pay all workers in full was caused by an inadvertent error or was not the fault of the producer or his agent, and the producer has used reasonable diligence to locate and to pay in full the wages due all such workers. If the county committee makes the determination as heretofore provided in this section, such committee shall cause to be deducted from the payment for the farm the full amount of the unpaid wages which shall be paid promptly to each worker involved if he can be located, otherwise the amount due shall be held for his account, and the remainder of the payment for the farm, if any, shall be made to the producer. If the county committee determines that the producer did not pay all workers in full because of an inadvertent error that was not discovered until after he received his Sugar Act payment, the producer shall be placed on the claims control record for the total amount of the unpaid wages.

(b) Except as provided in paragraph (a) of this section, if upon investigation

the county committee determines that the producer failed to pay all workers on the farm the required wages, the entire Sugar Act payment with respect to such farm shall be withheld from the producer until such time as evidence is presented to the county committee which will satisfy the county committee that all workers have been paid in full the wages earned by them, or if unpaid workers cannot be located and the county committee determines that the producer used reasonable diligence to locate such workers, the amounts of unpaid wages shall be deducted from the Sugar Act payment computed for the farm and the balance released to the producer after the expiration of 1 year from the date payment would otherwise be made. If payment has been made to the producer prior to the county committee's determination that all workers on the farm have not been paid in full, the producer shall be placed on the claims control record for the total payment until the county committee determines that all workers on the farm have been paid in full, the producer refunds the entire amount of the debt, or a setoff in the amount of the debt is made from a program payment otherwise due the producer, or the county committee after determining that the producer used reasonable diligence to locate such workers has recovered from such producer the amount of unpaid wages computed for the farm.

#### § 862.19 Child labor.

Notwithstanding any of the foregoing provisions of this part, the act provides that the employment of workers under 14 years of age, or the employment of workers 14 and 15 years of age for more than 8 hours per day (except a member of the immediate family of a person who was the legal owner of not less than 40 percent of the crop at the time work was performed), will result in a deduction from Sugar Act payments to the producer. The Fair Labor Standards Act also provides that a minor under 16 years of age may not work during school hours, or in occupations declared hazardous by the Secretary of Labor, except on the home farm for his own parents.

#### § 862.20 Checking compliance.

The procedures to be followed by county ASCS offices in checking compliance with the wage requirements of this part are set forth under the applicable sections of Handbook 1-SU issued by the Deputy Administrator, Programs, ASCS. Copies of Handbook 1-SU may be inspected at local county ASCS offices and copies may be obtained from State Agricultural Stabilization and Conservation Service offices. The address of the State ASCS office will be furnished by the local county ASCS office.

#### STATEMENT OF BASES AND CONSIDERATIONS

*General.* The foregoing determination provides fair and reasonable wage rates to be paid for work performed by persons employed on the farm in the pro-

duction, cultivation, or harvesting of sugarbeets as one of the conditions under which producers must comply to be eligible for payments under the act.

*Requirements of the act and standards employed.* Section 301(c)(1) of the act requires that all persons employed on the farm in the production, cultivation, or harvesting of sugarbeets with respect to which an application for payment is made, shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determination the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended (i.e., cost of living, prices of sugar and by-products, income from sugarbeets and costs of production), and the differences in conditions among the various sugar-producing areas.

*Wage determination.* This determination differs from the prior determination in that the minimum wage rate for specified hand labor operations performed on a time basis is increased 15 cents to \$2.30 per hour; and minimum piecework rates are increased \$1.00 per acre for thinning, \$1.50 per acre for hoeing, \$1.75 per acre for hoe-trimming, \$1.00 per acre for weeding, and \$2.50 per acre for blocking and thinning (applicable only in the State of California). Other provisions of the prior determination continue unchanged.

Public hearings were held in Ann Arbor, Mich.; San Benito, Texas; Denver, Colo.; and San Francisco, Calif. during the period October 10-17, 1973. These hearings afforded interested persons the opportunity to present testimony and make recommendations relating to fair and reasonable wage rates for sugarbeet workers. Testimony was presented by representatives of both sugarbeet producers and workers. In addition written arguments supplementary to evidence received at the hearings were accepted by the Department as part of the hearing record.

Representatives of producers generally recommended that the minimum hourly and piecework wage rates established in 1973 remain unchanged for 1974. One producer representative, however, recommended an increase in piecework rates of approximately 5.5 percent while at the same time holding the hourly wage rate steady. Another producer representative suggested that minimum wages be established in line with the prevailing fieldworker wages in beet-growing areas.

Several changes were recommended for the current piecework classifications:

- (a) One producer recommended that the definition of the weeding classification under paragraph (c) of § 862.10 be revised to apply to weeding in fields that have been planted to a stand as well as to fields that have been machine thinned and treated with herbicides.
- (b) Another producer recommended that (1) a new piece rate classification be estab-

lished for weeding after July 1 on fields that have already been weeded under classification D or E, to be paid at about half the regular weeding rate, and that (2) a new piece rate classification be established for removing occasional double beets and weeds following an electronic thinner, to be paid at about 15 percent higher than the regular weeding rate.

(c) Another representative of producers recommended a new piece rate category for rates to be paid for the removal of weeds only, following an application of herbicides.

Other recommendations by producer representatives were to hold future wage hearings either in August or early September, or after harvest, and drop the compliance provisions from the determination.

Recommendations on hourly wage rates by worker representatives varied, although all agreed that the rate should be a guaranteed minimum whether the worker was paid by piece rate or hourly rate. Recommendations were for \$3.00 per hour, \$2.50 per hour, and a mixed rate of \$3.00 for machine operators and \$2.75 for hand harvesters.

Two recommendations on piece rates were given by representatives of fieldworkers:

- (1) (a) Thinning—\$16.00.
- (b) Thinning and Weeding—\$24.00.
- (c) Blocking and Thinning (Nation-wide)—\$34.00.
- (d) Weeding, removing weeds as (1) a first operation in fields which have been completely machine thinned and on which chemical herbicides have been applied, or (2) as a second operation following (a), (b), or (c) above. (A time limit being established to limit the use of (2) to situations where the field has not had a chance to become completely overgrown)—\$13.00.
- (2) (a) Thinning—\$20.00.
- (b) Hoeing—\$25.00.
- (c) Hoe-Trimming—\$29.00.
- (d) Weeding—\$18.00.
- (e) Blocking and Thinning (In California)—\$39.50.

One organization representing labor recommended that several new provisions be added to the fair wage determination (1) to require growers to provide farmworkers with equipment at no charge except where loss or destruction occurs due to negligence on the part of the worker; (2) to affirm the right of workers to join labor organizations and set forth rules for recognizing exclusive bargaining representatives; (3) that no Sugar Act payments be made to growers who knowingly hire illegal aliens or discriminate against workers for filing wage claims; (4) to provide that the rate paid handicapped workers may not be reduced by more than 25 percent; and (5) that for workers 14 and 15 years of age and full-time students employed on a part-time basis, not to exceed 20 hours in any workweek, the rate may not be reduced by more than 15 percent.

Several representatives of fieldworkers concurred in the recommendation that the new determination expressly prohibit retaliatory and discriminatory acts against workers for filing grievances. They also joined in recommending that the present system, whereby ASC Farmer Committees are designated to

hear grievances be replaced either by a new Committee system of growers and farmworkers, or by a tripartite arbitration panel consisting of a grower, a farmworker, and a mutually agreed upon lawyer as the third member, that a contingency fund be established in each county to promptly pay wage claims awarded to workers if (a) no appeal is filed and (b) the grower has not made full payment within 30 days of the mailing of the determination, such fund to be replenished by deductions from growers' Sugar Act payments; and that regulations be adopted requiring the payment of interest on unpaid wage claims at 5 percent where the grower makes prompt payment, and at 7 percent where payment is made out of a contingency fund.

With regard to payment of wages, farmworker representatives recommended the requirement of a written contract specifying wages to be paid or at least a written receipt for all deductions from wages; the requirement that wages be paid semi-monthly, or upon completion of the operation being performed, whichever is earlier, final payment to be made within three days of termination of employment; and a regulation providing for a fair and equitable pro rata system of reimbursement for advances and limiting the recovery of such advances to the parties involved in the employment contract.

Fieldworker representatives also recommended that the determination require compliance with applicable federal or state housing regulations, whichever are more stringent, in order to be eligible for Sugar Act payments; that notice of hearings be given 30 days in advance and be given wider circulation; and that hearings be held at times and locations more conducive to farmworker participation.

Consideration has been given to all recommendations and testimony presented at the public hearings; to the returns, costs, and profits of producing sugarbeets obtained by field survey for a prior crop and recast in terms of price and production conditions likely to prevail for the 1974 crop; and to other standards generally considered in wage determinations, such as the cost of living and the producer's ability to pay wages.

A principal purpose of the Sugar Act is to protect the welfare of those engaged in the domestic sugar-producing industry. The Act, through a system of conditional payments to growers, assures that all parties engaged in the production and processing of sugar crops share equitably in the proceeds of the industry. Conditional payments act as an incentive to growers to adjust their production to quota and carryover needs.

This payment system also has three other objectives: (1) To provide adequate income to growers; (2) to assure growers and fieldworkers a fair sharing of returns to the industry; and (3) to prevent the employment of child labor in fieldwork. The sharing of returns between growers and fieldworkers is accomplished by requiring growers to pay field

workers in full for work performed and at rates not less than those determined by the Secretary to be fair and reasonable.

Worker representatives recommended that the minimum hourly wage rate be increased by amounts ranging from 35 cents to 85 cents, and that minimum piecework rates be increased by amounts from \$1.50 to \$5.00 per acre. Producer representatives generally recommended that wage rates remain unchanged. This determination increases the minimum wage rate for work performed on a time basis by 15 cents per hour, and the minimum piecework rates for the five specified hand labor operations by amounts ranging from \$1.00 to \$2.50 per acre. These increases average about 7.0 percent.

Based upon the "Consumer Price Index" as published by the Bureau of Labor Statistics of the U.S. Department of Labor, the cost of living rose 6.2 percent in 1973 as compared to 1972. However, the cost of food and apparel—the basic items purchased by migratory families—increased 13.5 percent. Using data presently available it is anticipated that the cost of living for all items will increase as much (or more) in 1974 as in 1973, with the exception that food and apparel will increase between 7 and 8 percent. The increase in minimum wage rates established in this determination will offset the continuing rise in the cost of the most essential items needed by sugarbeet fieldworkers. The earnings of all workers on sugarbeet farms are expected to average about \$2.50 per hour in 1974, or about 30 cents more than the projected average general farm wage rate in states where sugarbeets are grown.

Due to rising net returns from sugar sales, improved yields of beets per planted acre, and reduced requirements for hand labor, producers on average have had profitable crops in recent years. Growers generally will not receive their final payment for 1973-crop sugarbeets until after September 30, 1974, the end of the marketing year for 1973-crop beet sugar in most regions. It is anticipated that net returns from the sale of 1973-crop sugar will increase moderately above the net proceeds realized by sugarbeet processors from the 1972 crop, and producers on average are expected to have a profitable sugarbeet crop.

Based on average yields and sucrose content of beets for recent years, a level of plantings slightly more than in 1973, expected net returns from sugar sales, and anticipated prices to be paid by sugarbeet producers for wages and other production costs, producers' profit (management income) from the 1974 crop is expected to be less favorable than from the 1973 crop. The principal reasons for the expected reduction in profit in 1974 as compared to 1973 are the lower anticipated yields (based on five-year averages), higher prices for supplies and services, the increases in wages to workers provided by this determination, and related factors.

Representatives of the Department completed a survey of the 1972 crop at the end of calendar year 1973. The data collected in this field study have been considered in formulating this year's wage determinations.

Testimony and recommendations were again received on the proposal, originally made by the Department in its notice of hearings for the 1973 determination, concerning the reduction in the number of and redefinition of hand labor operations. Adoption of changes recommended by both worker and producer representatives could simplify the somewhat complex set of work categories currently in use. However, the Department continues to believe that any change would upset well established regional practices to which both producers and workers have become accustomed over the years; and that the disadvantages outweigh any gains that might accrue from a change. While it is believed that the currently specified operations offer sufficient variety for the most common practices in use, the Department will continue to monitor the situation and propose any changes which might become necessary due to changing technology and increased mechanization of sugar-beet cultivation.

The recommendation that workers have a representative on ASC committees for the purpose of resolving wage disputes has again not been adopted. The Department still believes that adoption of this proposal would eliminate an equitable and workable means of resolving wage claims. Analysis of wage claims filed with local ASC committees indicates that the claim of the worker is upheld in the majority of cases.

Worker representatives also recommended that the determination require compliance with applicable federal or state housing regulations, whichever are more stringent, as a prerequisite for receiving payments under the act. The adoption of this proposal would benefit workers in those instances where the grower provides inadequate housing, water, and sanitary facilities. As pointed out earlier in this statement of bases and considerations, the benefits of the U.S. sugar program are divided among producers and workers as well as others engaged in the industry. In insuring a fair division of the benefits of the sugar program, the Department takes the view that workers should receive their benefits in the form of cash wages. When the worker receives a fair and reasonable cash wage he is then free to choose for himself whether to live in housing provided by the producer or to make other arrangements for himself. Furthermore, the Department deems it advisable to avoid the duplication of efforts among government agencies wherever possible. For those producers who voluntarily furnish housing to their employees, such housing is subject to the housing and sanitary regulations issued under the Occupational Safety and Health Act of 1972, for which the Department of Labor is responsible. The further enforcement of that Act with respect to sugar farms

by this Department, which has neither the personnel nor the expertise for such an undertaking, would be an unwarranted duplication of effort.

The proposed regulation penalizing an employer who knowingly hires illegal aliens deals with a matter which is the subject of legislation; namely, The Immigration and Nationality Act, administered by the Immigration Service under the Attorney General. That Act makes unlawful the "harboring" of certain aliens, but as enacted by Congress, the act declares that employment does not constitute harboring. Moreover, the Department lacks the personnel and expertise to undertake the request of workers on this matter. To do so would be to create an unwarranted duplication of effort between federal agencies.

The recommendations made by worker representatives concerning the payment of interest to workers who file claims, and the charge of interest to growers who do not pay wages due a worker have not been adopted. The Department believes that the current provisions regarding failure to pay all wages in full are sufficiently stringent to prevent deliberate non-payment of wages. The recommendation that a grower's entire Sugar Act payment, when withheld due to intentional failure to pay the required wages, be put into a contingency fund to pay workers unpaid wages in subsequent years has also not been adopted. This determination continues the provisions for either withholding the entire payment until the producer proves that all workers have been paid in full, or releasing after 1 year the balance of the payment after deducting the amounts of unpaid wages for workers who cannot be located. It is believed that these penalties provide adequate safeguards for those workers whose wages may have been intentionally withheld by producers.

The recommendation that the Department require written contracts before any work is performed on a farm has not been adopted. The execution of written contracts would benefit both the worker and producer, in that both parties would have written evidence of the terms of their agreement. However, the Department believes it inadvisable to impose a general requirement that employers must enter into a written contract. Such a requirement would be unduly restrictive on the freedom of action of both workers and employers. Over the years, the Department has repeatedly recommended the advantages of written contracts and continues to strongly encourage their use to minimize the chances for misunderstandings.

The recommendation that the Department prohibit retaliatory acts by growers against workers for filing grievance claims has not been adopted. A producer must pay the worker in full for work performed whether such work was satisfactory or not, but the producer need not retain his services under these regulations. The Department believes that retaliation against a worker by a grower would be extremely difficult to substantiate. More-

over, such a provision would be equally difficult to administer, and could engage administrative personnel to such an extent that other provisions of the Sugar Act could not be properly administered.

A proposed regulation by workers which would provide that the rate paid handicapped workers may not be reduced by more than 25 percent has not been adopted. The Department has no record of complaint on this matter from either workers or producers, and believes that any handicapped workers currently engaged in sugarbeet fieldwork are being compensated at the full rate of pay required by the determination.

The recommendation by workers concerning the rate of pay for full-time students employed on a part-time basis has not been adopted. The determination already provides that the hourly rate may not be reduced by more than 15 percent for workers 14 or 15 years of age, and that the full wage rate applies to all other workers.

The recommendation by workers that the determination be amended to affirm the right of workers to join labor organizations and to set forth rules for recognizing exclusive bargaining representatives has not been adopted. The Department has never questioned the right of farmworkers to organize unions and conduct collective bargaining. However, the Department feels that the establishment of rules for recognizing bargaining representatives is a matter for negotiation between producers and workers.

A proposed regulation requiring growers to furnish farmworkers with equipment at no charge except where loss or destruction occurs due to negligence on the part of the worker has not been adopted. The Department does not know of any tools used by sugarbeet fieldworkers other than hoes and files, and understands that these are customarily furnished to the worker by the producer.

The recommendations made by worker representatives on bi-monthly paydays for fieldworkers and procedures for reimbursement of cash travel advances were dealt with in last year's determination. Briefly, wage determinations now require that the worker receive payment upon completion of each hand labor operation on a farm unless other arrangements have been agreed upon between the producer and worker. In regard to cash advances, the Department continues to believe that problems encountered by producers and workers regarding settlement procedures for cash advances are neither serious nor widespread. Moreover, it is believed that it would be to the worker's disadvantage if guidelines were established for handling cash advances, since the grower would likely be much less inclined to advance money to the worker prior to the worker's departure from his home base. If employers are unwilling to make advances to workers, then employment opportunities of workers will be adversely affected. For these and other reasons contained in last year's determination, the Department has again not adopted the provision on cash advances.

Both worker and producer representatives expressed dissatisfaction about the date and location of the hearings for this year's determination. The hearings, which have customarily been held in December, were held in mid-October of 1973, primarily to enable the Department, to issue a wage determination in February 1974 for the 1974 crop of sugarbeets. This is in keeping with the spirit of the U.S. District Court's decision in the Freeman v. USDA case (U.S. District Court for the District of Columbia Civil Action #1490-72), concerning the effective dates of wage determinations, and also with the Department's belief that all hand labor operations for a particular crop of sugarbeets should be subject to the same minimum wage rates. This determination will cover all the early hand work performed in California and Arizona. With respect to location of hearings, the Department attempts to choose hearing sites which are equally accessible to all interested persons.

This determination is issued on a continuing basis and will remain in effect until amended, superseded, or terminated. However, the Department will keep the wage situation under review and will conduct investigations and hold hearings annually.

On the basis of an examination of all relevant factors, the provisions of this determination are deemed to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing wage determination will effectuate the wage provisions of the Sugar Act of 1948, as amended.

NOTE.—The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date: This determination shall become effective on February 18, 1974.

Signed at Washington, D.C. on February 4, 1974.

GLENN A. WEIR,  
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.74-3157 Filed 2-6-74;8:45 am]

Title 43—Public Lands: Interior  
CHAPTER I—BUREAU OF RECLAMATION,  
DEPARTMENT OF THE INTERIOR  
PART 421—RULES OF CONDUCT AT  
HOOVER DAM

On November 23, 1973, there was published in the FEDERAL REGISTER (38 FR 32263) a notice of proposed rulemaking to provide regulations governing conduct on the facilities and grounds of Hoover Dam, located on the Colorado River near Boulder City, Nevada. All interested persons were invited to submit written comments, suggestions, or objections relating to the proposed regulations on or before January 7, 1974. No comments or objections were received; accordingly, the proposed regulations are hereby

adopted without change and are set forth below. The rules shall become effective on February 7, 1974.

Dated: January 31, 1974.

G. G. STAMM,  
Commissioner of Reclamation.

- Sec. 421.1 Applicability.
- 421.2 Preservation of property.
- 421.3 Conformity with signs and emergency directions.
- Sec. 421.4 Disturbances.
- 421.5 Vehicular and pedestrian traffic.
- 421.6 Gambling.
- 421.7 Alcoholic beverages and narcotics.
- 421.8 Soliciting, vending, and advertising.
- 421.9 Distribution of handbills.
- 421.10 Weapons and explosives.
- 421.11 Audio devices.
- 421.12 Abandoned and unattended property.
- 421.13 Closing of areas.
- 421.14 Nondiscrimination.
- 421.15 Penalties and other laws.

AUTHORITY: 62 Stat. 281, as amended (40 U.S.C. 318; 63 Stat. 377, as amended; 38 FR 23838 and 38 FR 27945).

§ 421.1 Applicability.

These rules and regulations apply to Hoover Dam and all structures, buildings, and grounds appurtenant thereto which are situated on lands over which the United States has concurrent legislative jurisdiction, and to all persons entering in or on such property.

§ 421.2 Preservation of property.

The following are prohibited: the improper disposal of rubbish; the creation of any hazard to persons or things; the throwing of articles of any kind from the roadway, walks, or guardrails across the top of the dam, from the parking areas or visitor observation points, or from any other structure or building; the climbing upon the guardrails of the dam or upon the roof or any part of any building or structure; and the willful destruction, damage, or removal of property or any part thereof.

§ 421.3 Conformity with signs and emergency directions.

Official signs of a prohibitory or directory nature and the directions of uniformed police officers shall be complied with.

§ 421.4 Disturbances.

The following conduct is prohibited: that which is disorderly; which creates loud and unusual noise; which obstructs the usual use of roadways, parking lots, observation points, entrances, foyers, corridors, walkways, elevators, stairways, offices, and other work areas; which otherwise tends to impede or disturb the general public in viewing the property or obtaining the services available thereon; or which tends to impede or disturb public or contractor employees in the performance of their duties.

§ 421.5 Vehicular and pedestrian traffic.

(a) Vehicle operators shall drive in a careful and safe manner at all times and shall comply with the signals and direc-

tions of uniformed police officers and all posted traffic signs.

(b) Vehicles shall not block entrances, driveways, walks, loading platforms, or fire hydrants.

(c) Vehicles shall not be parked in unauthorized locations, in locations reserved for specific uses, continuously in excess of 25 hours without permission, or contrary to the direction of posted signs (see 43 CFR 421.12), or contrary to the direction of uniformed police officers.

(d) Pedestrians shall use the walkways on the dam and designated crosswalks, and shall not walk in the vehicle lanes.

This paragraph may be supplemented from time to time by the issuance and posting of specific traffic directives as may be required and when so issued and posted such directives shall have the same force and effect as if made a part hereof.

§ 421.6 Gambling.

Participating in games for money or other personal property, the operation of gambling devices, the conduct of lottery or pool, and the selling or purchasing of numbers tickets are prohibited.

§ 421.7 Alcoholic beverages and narcotics.

Operating a motor vehicle on property by a person under influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering property under the influence of any narcotic drug, hallucinogen, marijuana, barbiturate, amphetamine, or alcoholic beverage is prohibited (unless prescribed by a physician). The use or possession of any narcotic drug, hallucinogen, marijuana, barbiturate, amphetamine, or alcoholic beverage on property is prohibited (unless prescribed by a physician).

§ 421.8 Soliciting, vending, advertising, and distribution of handbills.

All soliciting, vending, or advertising is prohibited. The distribution of material such as handbills, pamphlets, and flyers is prohibited. This rule does not apply to national or local drives for funds for welfare, health and other purposes sponsored or approved by the Bureau of Reclamation.

§ 421.9 Photography and motion pictures.

Photographs may be taken in or from any area open to the public. Use of photographic equipment in any manner or from any position which may create a hazard to persons or property is prohibited. Written permission by the Bureau of Reclamation is required for the filming of any professional or commercial motion or sound pictures except by bona fide newsreel and news television photographers and soundmen. Cameras and other equipment carried on guided tours within the dam and powerplant are subject to inspection.

§ 421.10 Weapons and explosives.

The carrying of firearms, other dangerous or deadly weapons, or explosives,

either openly or concealed, except for official purposes, is prohibited.

#### § 421.11 Audio devices.

The operation or use of a public address system is prohibited, except when specifically authorized by the Bureau of Reclamation.

#### § 421.12 Abandoned and unattended property.

(a) Abandonment of any vehicle or other personal property is prohibited, and such property may be impounded by the Bureau of Reclamation.

(b) Leaving any vehicle or other personal property unattended for longer than 25 hours, without prior permission of the Bureau of Reclamation, is prohibited and such property may be impounded by the Bureau of Reclamation. In the event unattended property interferes with the safe and orderly management of the Hoover Dam facilities, it may be impounded by the Bureau of Reclamation at any time.

#### § 421.13 Closing of areas.

The Project Manager may establish a reasonable schedule of visiting hours for all or portions of the area. He may close or restrict the public use of all or any portion of the property when necessary for protection of the property or the safety and welfare of persons. All persons shall obey signs designating closed areas and visiting hours.

#### § 421.14 Nondiscrimination.

There shall be no discrimination by segregation or otherwise against any persons because of race, color, religion, sex, or national origin in furnishing or refusing to furnish the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided.

#### § 421.15 Penalties and other laws.

Whoever shall be found guilty of violating these rules and regulations while on property over which the United States exercises exclusive or concurrent legislative jurisdiction, is subject to fine of not to exceed \$50 or imprisonment of not more than 30 days, or both (see 40 U.S.C. 318c). Nothing contained in these rules and regulations shall be construed to abrogate any other Federal laws or regulations, or any State or local laws and regulations, applicable to any area in which property is situated.

[FR Doc.74-3107 Filed 2-6-74; 8:45 am]

**Title 12—Banks and Banking**  
**CHAPTER III—FEDERAL DEPOSIT**  
**INSURANCE CORPORATION**  
**SUBCHAPTER B—REGULATIONS AND**  
**STATEMENTS OF GENERAL POLICY**  
**PART 339—LOANS IN AREAS HAVING**  
**SPECIAL FLOOD HAZARDS**

1. In enacting the Flood Disaster Protection Act of 1973 (87 Stat. 975), the Congress found that annual losses throughout the nation from floods and other financial institutions, requiring in substance that the property securing such loans be covered by adequate flood insurance.

To implement these requirements, the federal financial supervisory agencies designated in the Act, including the Federal Deposit Insurance Corporation, are directed, pursuant to sections 102(b) and 202(b) of the Act, (87 Stat. 978, 982) to issue appropriate regulations with respect to institutions under their respective supervisory jurisdictions. This Part mudslides are increasing at an alarming rate, partly as a result of the accelerating development of, and concentration of population in, areas of flood hazards.

The Congress further found that a component part of this accelerating development has been the availability of financial assistance, including real estate loans by banks and other financial institutions, thus encouraging construction in flood prone areas.

Accordingly, the Flood Disaster Protection Act imposes certain conditions on the making of such loans by federally supervised, regulated or insured banks 339 is intended to comply with that legislative mandate.

2. Chapter III of Title 12 of the Code of Federal Regulations is amended by adding a new Part 339 which reads as follows:

- Sec.  
339.0 Introduction and scope.  
339.1 Requirement to purchase flood insurance.  
339.2 Prohibition as to loans in nonparticipating communities.  
339.3 Exemption.  
339.4 Records of compliance.

**AUTHORITY:** Sec. 102(b), 202(b), 205(b), 87 Stat. 978, 983.

#### § 339.0 Introduction and scope.

The provisions of this Part 339 apply to certain loans secured by improved real estate made by insured State nonmember banks in areas determined by the Secretary of Housing and Urban Development to be areas having special flood hazards.

#### § 339.1 Requirement to purchase flood insurance.

On and after the effective date of this Part 339, no insured State nonmember bank shall make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or to the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less.

#### § 339.2 Prohibition as to loans in nonparticipating communities.

On and after July 1, 1975 no insured State nonmember bank shall make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of

Housing and Urban Development as an area having special flood hazards, unless the community<sup>1</sup> in which such area is situated is then participating<sup>2</sup> in the national flood insurance program.

#### § 339.3 Exemption.

Notwithstanding the provisions of section 339.1 of this Part 339, flood insurance shall not be required on any State-owned property that is covered under an adequate policy of self-insurance satisfactory to the Secretary of Housing and Urban Development who shall publish and periodically revise the list of States falling within the exemption provided by this section.

#### § 339.4 Records of compliance.

Each insured State nonmember bank shall maintain, in connection with all loans secured by improved real estate, or a mobile home, sufficient records to indicate the method used by the bank to determine whether or not such loans fall within the provisions of §§ 339.1, 339.2 or 339.3 of this Part 339.

(Sec. 102(b), 202(b), 205(b), 87 Stat. 970, 982, 983)

3. The requirements of Sections 553(b) and 553(d) of Title 5 of the United States Code and Sections 302.1, 302.2 and 302.5 of the rules and regulations of the Federal Deposit Insurance Corporation, with respect to notice, public participation, and deferred effective date, were not followed in connection with the promulgation of this regulation because the Board of Directors found that the public interest and requirements of existing law compelled it to make the action effective no later than March 2, 1974.

4. *Effective date.* This regulation is effective March 2, 1974.

By order of the Board of Directors,  
February 4, 1974.

FEDERAL DEPOSIT INSURANCE  
CORPORATION,  
[SEAL] ALAN R. MILLER,  
*Executive Secretary.*

[FR Doc.74-3166 Filed 2-6-74; 8:45 am]

**Title 14—Aeronautics and Space**  
**CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

[Docket No. 74-CE-2-AD; Amdt. 39-1783]

**PART 39—AIRWORTHINESS DIRECTIVES**  
**Cessna Model 172 Airplanes**

During production inspections the manufacturer discovered cracks in the aft fuselage bulkhead assemblies that had

<sup>1</sup> For the purposes of this Part 339, a community is a State or a political subdivision thereof which has building code jurisdiction over a particular area having special flood hazards.

<sup>2</sup> For the purposes of this Part 339, a community participating in the national flood insurance program is a community which has complied with the requirements for participation as set forth in § 1909.22 of the regulations of the Federal Insurance Administration of the Department of Housing and Urban Development (24 CFR § 1909.22) and in which flood insurance is currently being sold.

developed during the forming process. These assemblies are installed on certain Cessna Model 172 series airplanes.

This condition, if not corrected, could ultimately result in failure of the bulkhead assembly. Consequently, the manufacturer issued Cessna Service Letter SE 73-37 dated November 16, 1973. The service letter set forth procedures for inspecting the assembly and advises of Cessna Service Kit SK 172-44 which provides a means for repairing cracked bulkhead assemblies.

Since the condition described herein is likely to exist in other airplanes of the same type design, an Airworthiness Directive (AD) is being issued applicable to certain Cessna Model 172 series airplanes making compliance with the inspection procedures of Cessna Service Letter SE73-37 mandatory, requiring a visual inspection within 100 hours' time in service after the effective date of this AD and repairing cracked bulkhead assemblies in accordance with Cessna Service Kit SK 172-44.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

Cessna. Applies to Model 172 (Serial Numbers 17260759 through 17261495, F17200905 through F17201034 and FR17200351 through FR17200440) series airplanes.

Compliance: Required as indicated, unless already accomplished.

To detect cracks in the aft fuselage bulkhead assembly and provide means for repair of cracked assemblies, accomplish the following:

(a) Within the next 100 hours' time in service after the effective date of this AD, visually inspect the aft fuselage bulkhead assembly (P/N 0512157-7) for cracks in accordance with Cessna Service Letter SE73-37 dated November 16, 1973, or later FAA-approved revisions.

(b) If as a result of any inspection required herein, cracks are found, prior to further flight, repair the bulkhead assembly in accordance with Cessna Service Kit SK 172-44.

(c) Any alternate methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective February 12, 1974.

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

Issued in Kansas City, Missouri, on January 29, 1974.

A. L. COULTER,  
Director, Central Region.

[FR Doc. 74-3095 Filed 2-6-74; 8:45 am]

[Airworthiness Docket No. 74-WE-1-AD;  
Amdt. 39-1784]

### PART 39—AIRWORTHINESS DIRECTIVES McDonnell Douglas DC-8 Series Airplanes

The agency has received reports that inadvertent deployment of the ground spoilers in flight was a possible cause of two accidents and could have resulted in a third. The ground spoiler system is operated by the spoiler handle, and is intended for use only when the airplane is on the ground. Also, in two of the accidents, improper procedures were used to arm the spoilers during the approach. There is some evidence to indicate that the manner in which the spoiler system was rigged may have contributed to the possibility of inadvertent deployment.

The agency has previously adopted Amendment 39-1122, AD 70-25-2, (35 FR 18454), requiring that the wing spoiler control in the cockpit be placarded to prohibit deployment in flight and that the airplane flight manual limit the spoilers to ground operations only. Notwithstanding the issuance of that AD, the subsequent service experience indicates that deployment, either intended or inadvertent as to cause, may occur.

The agency had advised the manufacturer and operators, through the auspices of the Air Transport Association, of the Airworthiness Directive, as additional corrective action to AD 70-25-2, and as a relieving action to AD 70-25-2, when the inspections and installation developed by the manufacturer are accomplished. While the manufacturer has clearly represented to the agency that the spoiler system is safe when properly rigged and operated, the agency has determined that, in the interest of public safety in aviation, every possible reasonable means be adopted to prevent the deployment in flight of the ground spoilers.

Since this condition is likely to exist or develop in other airplanes of the same type, an airworthiness directive is being issued to require the installation of a spoiler handle lockout during flight. In addition, in the interim period required to manufacture and install the spoiler handle lockouts, certain inspections, reports and a restriction to the use of the spoilers are being required.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

McDONNELL DOUGLAS CORPORATION. Applies to DC-8 series airplanes certificated in all categories.

Compliance required as indicated after the effective date of this AD, unless already accomplished.

To prevent the inadvertent deployment of ground spoilers in flight, accomplish the following:

(i) After the effective date of this AD all re-rigging of the spoiler system must be accomplished in accordance with the following McDonnell Douglas documents or equivalent approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(a) DC-8 Maintenance Manual chapters: 27-35-0, Series 50 (Temporary Revision), dated October 9, 1973, or 27-60-0, Series 60, dated December 1, 1973, or later revisions.

(b) Service Bulletin 27-251, Revision 2, dated January 7, 1974, or later FAA-approved revisions.

(2) Within the next 100 hours' time in service, add to the Limitations Section of the FAA-approved Airplane Flight Manual, the following Ground Spoiler Operation Limitation:

On those airplanes not modified by Service Bulletin 27-251, do not attempt to arm the ground spoilers below 1000 feet above the terrain.

(3) Within the next 450 hours' time in service, unless Service Bulletin 27-251 has already been accomplished, perform the following inspections:

With the actuator hook extended (Ground condition), proceed as follows:

(a) (1) Measure the spoiler lever aft travel necessary to extend the spoilers (as measured at the pedestal cover). Travel minimum required is  $\frac{3}{8}$  inch. This measurement should be taken by moving the lever slowly aft from the full forward (hands off) position until the spoilers initiate movement. (Observe System Pressure Drop of 200 psi or more).

(ii) The lever should be capable of being moved full aft and armed in the spoiler deployed position.

(b) Jack the aircraft nose to extend the nose gear oleo. With the actuator hook retracted (flight position), the spoiler handle should be armed and the following conditions observed:

(i) The handle should be capable of being armed with an "up" motion only. No aft motion of the level should be required.

(ii) After arming, the spoiler lever should be no further aft (measured at the pedestal cover) than  $\frac{1}{16}$  inch from the forward lever stop.

(c) In the event that any of the requirements of (a) or (b), above, are not met, re-rig the affected portion of, or the entire system, per the documents referenced in (1), above.

(4) Within the next 3600 hours' time in service, install the spoiler handle lockout in accordance with McDonnell Douglas Service Bulletin 27-251, Revision 2, or later FAA-approved revisions, or an equivalent installation approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

(5) Upon completion of (3) above, a report of the spoiler lever aft travel necessary to extend the spoilers (as measured at the pedestal cover), and total airframe time shall be sent to the Chief, Aircraft Engineering Division, FAA, Western Region, Attn: AWE-160; P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. (Reporting approved by the Bureau of the Budget under BOB No. 04-R0174).

(6) Immediately prior to the completion of AD Item (4) report the spoiler lever aft travel necessary to extend the spoilers (as measured at the pedestal cover), and total airframe time to the Chief, Aircraft Engineering Division, FAA, Western Region, Attn: AWE-160; P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. (Reporting approved by the Bureau of the Budget under BOB No. 04-R0174).

(7) Measure the spoiler lever aft travel necessary to extend the spoilers (as measured at the pedestal cover) prior to, and

Immediately after re-rigging of the spoiler system that is accomplished at any time during the period between (3) and (4) above. A report of these measurements and total airframe time shall be sent to the Chief, Aircraft Engineering Division, FAA, Western Region, Attn: AWE-160; P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. (Reporting approved by the Bureau of the Budget under BOB No. 04-R0174).

(8) Upon completion of all the requirements of this AD, Amendment 39-1123 (35 FR 18454), AD 70-25-2, is no longer mandatory. The placard and AFM limitation described in AD 70-25-2 may be removed.

This amendment becomes effective February 15, 1974.

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

Issued in Los Angeles, California, on January 29, 1974.

ARVIN O. BASNIGHT,  
Director, FAA Western Region.

[FR Doc. 74-3098 Filed 2-6-74; 8:45 am]

## Title 16—Commercial Practices

### CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 8882-0]

#### PART 13—PROHIBITED TRADE PRACTICES

**Southern States Distributing Co., Formerly Known as Southern Cross Discount Co., Inc., and Trading as Southern States Decorators, et al.**

Subpart—Advertising falsely or misleadingly; § 13.10 *Advertising falsely or misleadingly*; § 13.15 *Business status, advantages or connections*; 13.15-20 *Connections or arrangements with others*; § 13.30 *Composition of goods*; § 13.70 *Fictitious or misleading guarantees*; § 13.73 *Formal regulatory and statutory requirements*; 13.73-92 *Truth in Lending Act*; § 13.155 *Prices*; 13.155-35 *Discount savings*; 13.155-95 *Terms and conditions*; 13.155-95(a) *Truth in Lending Act*; § 13.170 *Qualities or properties of product or service*; 13.170-30 *Durability or permanence*; 13.170-34 *Economizing or saving*; § 13.175 *Quality of product or service*; § 13.205 *Scientific or other relevant facts*; § 13.240 *Special or limited offers*. Subpart—Delaying or withholding corrections, adjustments or action owed: § 13.677 *Delaying or failing to deliver goods*. Subpart—Failing to maintain records: § 13.1051 *Failing to maintain records*; 13.1051-20 *Adequate*. Subpart—Misrepresenting oneself and goods—business status, advantages or connections: § 13.1395 *Connections or arrangements with others—Goods*; § 13.1590 *Composition*; § 13.1623 *Formal regulatory and statutory requirements*; 13.1623-95 *Truth in Lending Act*; § 13.1647 *Guarantees*; § 13.1710 *Qualities or properties*; § 13.1715 *Quality*; § 13.1740 *Scientific or other rele-*

*vant facts*; § 13.1747 *Special or limited offers*; § 13.1760 *Terms and conditions*; 13.1760-50 *Sales contract—Prices*; § 13.1817 *Reductions for prospect referrals*; § 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*; § 13.1857 *Instruments' sale to finance companies*; § 13.1876 *Notice of third party sale of contract*; § 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, Southern States Decorators, et al., Docket 8882-0, Atlanta, Ga., Dec. 6, 1973]

*In the Matter of Southern States Distributing Company, formerly known as Southern-Cross-Discount Company, Inc., a corporation, and also trading and doing business as Southern States Decorators, Southern Cross Pools, Southern Cross Windows, Miracle Plastic Roofers and Carpet Discount Outlet, and Emanuel I. Gladstone, individually and as an officer of said corporation.*

Order and opinion requiring an Atlanta, Ga., seller and distributor of home improvement products, including residential siding and swimming pools, among other things to cease misrepresenting offers to sell; disparaging products advertised; misrepresenting offers as limited; misrepresenting prices and guarantees; failing to maintain adequate records substantiating pricing, savings and comparative value claims; misrepresenting the efficacy, durability, efficiency, composition or quality of respondents' products; misrepresenting connections or arrangements with others; failing to disclose required information as to sale of instruments of indebtedness to third parties; and failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the Truth in Lending Act.

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

I. It is ordered, That respondents, Southern States Distributing Company (formerly known as Southern Cross Discount Company, Inc.), a corporation trading and doing business as Southern States Decorators, Southern Cross Pools, Southern Cross Windows, Miracle Plastic Roofers and Carpet Discount Outlet, or under any other name, its successors and assigns, and Emanuel I. Gladstone, individually and as an officer of said corporation, and respondents' officers, 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 or installation of home improvement products including

residential siding, swimming pools or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Making representations purporting to offer products, installations or services for sale when the purpose of such representations is not to sell the offered products, installations or services, but to obtain leads or prospects for the sale of other products, installations or services at higher prices.

2. Discouraging the purchase of any product, installation or service by failing to deliver or perform as obligated to, or disparaging any product advertised or offered for sale by respondents.

3. Representing directly or by implication, that any product, installation or service is offered for sale by respondents when such offer is not a bona fide offer to sell such product, installation or service.

4. Representing, directly or by implication, that any of respondents' offers to sell products or installations or services is limited as to time or restricted or limited in any other manner, unless such represented limitations or restrictions are actually in force and in good faith adhered to.

5. Representing, directly or by implication, that any price for respondents' products, installations or services is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products, installations, or services have been sold in substantial quantities by respondents in the recent regular course of their business; or misrepresenting, in any manner, their prices or the savings available to their purchasers.

6. Failing to maintain adequate records (a) which disclose the facts upon which any savings claim, including former pricing claims and comparative value claims of the type discussed in paragraph 5 of this Order are based; and (b) from which the validity of any savings claim, including former pricing claims and similar representations of the type described in paragraph 5 of this Order can be determined.

7. Representing, directly or by implication, that any of respondents' products, installations or services are warranted or guaranteed unless the nature and extent of the warranty or guarantee, the identity of the warrantor or guarantor and the manner in which the warrantor or guarantor will perform thereunder, are clearly and conspicuously disclosed in immediate conjunction therewith; and unless respondents promptly and fully perform all of their obligations and requirements, directly or impliedly represented under the terms of each such warranty or guarantee.

8. Falsely representing, directly or by implication, that their aluminum siding materials will not require painting, or

other type of restorative maintenance; or misrepresenting in any manner the efficacy, durability, efficiency, composition or quality of any of respondents' products, installations or services.

9. Falsely representing, directly or by implication, that respondents' salesworkers or representatives are connected or affiliated with any manufacturer or manufacturers of products sold by respondents; or misrepresenting, in any manner, the connections, affiliations or sponsorships of respondents, their salesworkers or representatives, or the nature or scope of respondents' business activities.

10. Falsely representing, directly or by implication, that the home of any of the respondents' purchasers, or prospective purchasers will be used for any type of advertising or demonstration purpose or as a model home and, that as a result of such use, respondents' purchasers or prospective purchasers will receive a reduced price or will earn discounts, referral fees or allowances of any type.

11. Failing to disclose, orally prior to the time of sale and in writing on any trade acceptance, conditional sales contract, promissory note, or other instrument of indebtedness executed by the purchaser, with such conspicuousness and clarity as is likely to be observed and read by such purchaser:

(a) The disclosures, if any, required by Federal law or the law of the state in which the instrument is executed;

(b) Where negotiation of the instrument to a third party is not prohibited by the law of the state in which the instrument is executed, that the trade acceptance, conditional sales contract, promissory note or other instrument may, at the option of the seller and without notice to the purchaser, be negotiated or assigned to a finance company or other third party; and

(c) Where the law of the state in which the instrument is executed does not preserve as against any holder of the instrument all the legal and equitable defenses the purchaser may assert against the seller, that in the event the instrument is negotiated or assigned to a finance company or other third party, the purchaser may have to pay such finance company or other third party the full amount due under his contract whether or not he has claims against the seller's merchandise as defective; the seller refuses to service the merchandise; or the seller is no longer in business, or other like claims.

II. It is further ordered, That the respondents, Southern States Distributing Company (formerly known as Southern Cross Discount Company, Inc.), a corporation, trading and doing business as Southern States Decorators, Southern Cross Pools, Southern Cross Windows, Miracle Plastic Roofers and Carpet Discount Outlet, or under any other name, its successors and assigns and Emanuel I. Gladstone, individually and as an officer of said corporation, and respondents' officers, 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 indi-

rectly, any extension of consumer credit as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR § 226) of the Truth in Lending Act (P.L. 90-321, 15 U.S.C. § 1601 *et seq.*), do cease and desist from:

1. Failing to disclose the "annual percentage rate" in accordance with § 226.5 of Regulation Z, as required by § 226.8 (b) (2) of Regulation Z.

2. Representing, directly or by implication, in any advertisement as "advertisement" is defined in Regulation Z, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under § 226.8 of Regulation Z,

(i) the cash price;

(ii) the amount of the downpayment required 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;

(iv) the amount of the finance charge expressed as the annual percentage rate; and

(v) deferred payment price.

3. Failing to keep record evidence of compliance with the consumer credit cost disclosure requirements of Regulation Z for two years, as required by § 226.6(i) of Regulation Z.

III. 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 the individual respondent named herein shall notify the Commission of the discontinuance of his present business or employment and of his affiliation with any new business or employment, within thirty (30) days following affiliation with the new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the 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.

By the Commission.<sup>1</sup>

Issued: December 26, 1973.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.74-3094 Filed 2-6-74;8:45 am]

<sup>1</sup> Commissioner Hanford did not participate in this proceeding since oral argument was heard prior to her assumption of Office.

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Oxytetracycline Hydrochloride Injection

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (47-278V) filed by Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, MO 64502, proposing revised indications for use of oxytetracycline injection for the intravenous treatment of specified cattle. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended by revising § 135b.65(b) (3) (ii) as follows:

§ 135b.65 Oxytetracycline hydrochloride injection.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) It is administered by intramuscular or intravenous injection to beef cattle and non-lactating dairy cattle at a level of 3 to 5 milligrams of oxytetracycline per pound of body weight per day. In severe foot-rot and severe forms of the indicated diseases treat at 5 milligrams per pound of body weight. When administered intramuscularly no more than 0.5 to 2 milliliters should be injected in each site in the case of smaller animals and no more than 10 milliliters should be injected in each site in adult cattle. Treatment in cattle should be continued for 24 to 48 hours following remission of disease symptoms, not to exceed a total of 4 days. It is administered to sows intramuscularly at a level of 3 milligrams of oxytetracycline per pound of body weight approximately 8 hours before farrowing or immediately after completion of farrowing. No more than 5 milliliters should be injected intramuscularly per site in sows.

\* \* \* \* \*

*Effective date.* This order shall be effective February 7, 1973.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(1).)

Dated: January 31, 1974.

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

[FR Doc.74-3120 Filed 2-6-74;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Vincofos Capsules

The Commissioner of Food and Drugs has evaluated a new animal drug appli-

cation (91-581V) filed by Shell Chemical Co., a Division of Shell Oil Co., 2401 Crow Canyon Rd., San Ramon, CA 94583, proposing safe and effective use of vincosfos as a broad spectrum anthelmintic for dogs. The application is approved.

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

§ 135c.126 Vincosfos capsules.

(a) *Specifications.* Vincosfos capsules contain 19, 38, 75, 189, and 302 milligrams of vincosfos in soft-gelatin capsules.

(b) *Sponsor.* See code No. 033 in § 135-501(c) of this chapter.

(c) *Conditions of use.* (1) It is recommended for the removal and control of large roundworms (*Toxocara canis*, *Toxascaris leonina*), hookworms (*Ancylostoma caninum*, *Uncinaria stenocephala*), whipworms (*Trichuris vulpis*), and tapeworms (*Taenia pisiformis*, *Dipylidium caninum*) occurring in the intestinal tract of dogs over 3 months of age.

(2) The drug is administered orally so that the active ingredient dosage falls within the range of 7 to 9 milligrams per pound of body weight. Dogs weighing in excess of 65 pounds need not receive more than the 65-pound dosage. For use in "risk" animals which are very old, heavily parasitized or otherwise debilitated, a split dosage schedule should be used providing half the recommended dosage which is then repeated at 8 to 24 hours later. Split dosage slightly lowers the activity of the drug against the flea tapeworm (*D. caninum*).

(3) Do not use in puppies under 3 months of age. Re-treatment should not be given at less than weekly intervals. Do not administer this drug in conjunction with other anthelmintic, antiflorial, muscle relaxant or CNS depressant drugs. Do not administer to dogs with mechanical blockage of the intestinal tract, impaired liver function, circulatory failure or to dogs recently exposed to or showing signs of infectious disease. Do not use this drug in dogs known to be harboring adult or microfilarial heartworms (*Dirofilaria immitis*). This drug is a cholinesterase inhibitor and should not be used simultaneously or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides or chemicals.

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

*Effective date.* This order shall be effective February 7, 1973.

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

Dated: January 31, 1974.

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

[FR Doc.74-3121 Filed 2-6-74;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Pasteurized Process Cheese Spread, Cold-Pack Cheese and Cold-Pack Cheese Food; Confirmation of Effective Date of Order Amending Standards of Identity

In the matter of amending the definitions and standards of identity for pasteurized process cheese spread, cold-pack cheese and cold-pack cheese food (21 CFR 19.775, 19.785, and 19.787) to permit the use of additional and/or increased levels of mold-inhibitors in these foods:

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of October 5, 1973 (38 FR 27592). Accordingly, the amendments promulgated by that order became effective December 4, 1973.

Dated: January 30, 1974.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.74-3122 Filed 2-6-74;8:45 am]

Title 27—Alcohol, Tobacco Products and Firearms

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

SUBCHAPTER C—FIREARMS

[T.D. ATF-8]

PART 47—IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR

Correction

In FR Doc. 74-2062 appearing in the issue for Friday, January 25, 1974, on pages 3251-3256 make the following changes:

1. In § 47.11 on page 3252, the first line in the third column reading "may be imposed and remedies invoked as" is deleted.

2. In § 47.21 on page 3253 in the third column under the heading "CATEGORY VIII—AIRCRAFT, SPACECRAFT, and ASSOCIATED EQUIPMENT" change the first line of the first "Note" to read "Note: Category VIII (b) through (l) and".

3. In the first column on page 3256 in § 47.61, correct paragraph (c) to read as follows:

(c) Otherwise violates any provisions of this part—

Shall upon conviction be fined not more than \$25,000 or imprisoned not more than 2 years, or both.

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENT OF INTERPRETATION

Work Experience and Career Exploration Services

Correction

In FR Doc. 74-2122 appearing at page 3256 of the issue for Friday, January 25, 1974 and corrected on page 4478 in the issue of Monday, February 4, 1974, the last line of § 570.35a(b) (3) (ii), now reading "a reasonable size. A unit of 12 to 25 stu-", should read "instruction and on-the-job experience."

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

PART 426—GLASS MANUFACTURING POINT SOURCE CATEGORY

Insulation Fiberglass Subcategory; Correction

In FR Doc. 74-1860 appearing at page 2564 in the issue of Tuesday, January 22, 1974, make the following change: In the table contained in § 426.12, appearing at page 2566, under the column headed "Effluent Characteristic", the term "BOD" should, in both instances, read "BOD<sub>5</sub>".

Dated: January 31, 1974.

ROBERT L. SANSOM,  
Assistant Administrator  
for Air and Water Programs.

[FR Doc.74-3075 Filed 2-6-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 15—ENVIRONMENTAL PROTECTION AGENCY

PART 15-60—GOVERNMENT PROPERTY

On August 23, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 22637-22646) which stated that the Environmental Protection Agency was considering an amendment to 41 CFR Chapter 15 to add a new Part 15-60, Government Property.

Interested parties were invited to submit comments and written data on or before September 21, 1973. All relevant matter submitted by interested persons has been considered and the amendment is hereby adopted, subject to the following changes:

1. In the first sentence of § 15-60.102-1, *Prime contractors*, delete the phrase: "Except for the conditions specified in paragraph (g), Risk of Loss, of the Government Property clause set out in § 15-60.702 \* \* \* and substitute the following: "Except for the conditions specified in paragraph (g), Risk of Loss, of the Government Property

clauses set out in § 15-60.701(b) and § 15-60.702, \* \* \*

2. Delete the last sentence in § 15-60.103, *Use for or by contractors of test facilities owned and operated by the Government*, and substitute the following: "Whenever any such use is authorized, the Contracting Officer shall insure that adequate consideration comparable to commercial charges, if any, flows to the Government. (See § 15-60.503 for policy regarding evaluation of bids and competitive proposals.)"

3. Section 15-60.203, *Contract changes* is hereby changed to read as follows:

(a) Contracts may be modified:

(1) Bilaterally to provide for Government-furnished material when adequate consideration flows to the Government;

(2) Unilaterally under the Changes clause to increase the amount of Government-furnished material; and

(3) Unilaterally to make substitutions or decreases in material to be furnished by the Government, subject to equitable adjustment of the contract in accordance with the Government Property clause."

4. The citation, "§ 15-60.301(b)" in the next to the last sentence of § 15-60.301-2 (a), *Justification for providing property*, is hereby changed to read "§ 15-60.301-2(b)."

5. The phrase " \* \* \* appropriate program manager." at the end of the first sentence in § 15-60.301-2(c) (3) is hereby changed to read " \* \* \* Chief officer, at Division level or above, responsible for management of the program/project involved."

6. The word "clause" is hereby changed to the word "Article" in § 15-60.301-6(b)(4)(c) and (d) of § 15-60.301-6, *Contract schedule articles*. Also, the word "facilities" is hereby changed to the word "property" in § 15-60.301-6(b)(5)(b)(2) of § 15-60.301-6.

7. Section 15-60.502(c) is hereby deleted and the following substituted therefor:

"(c) Require prospective contractors to:

(1) List items (including dollar value) of Government-owned property in their possession which they propose to use in performance of the prospective contract;

(2) Identify the contract or other instrument under which the property is accountable; and

(3) Present written permission to use such property in the performance of the prospective Environmental Protection Agency (EPA) contract from the Government Contracting Officer having cognizance of the property."

8. The citation, "§ 15-60.300", under Subpart § 15-60.6—Administration of Government Property is hereby corrected to read "§ 15-60.600."

9. The phrase " \* \* \* or other written authorization to a contract \* \* \*" in the first sentence of § 15-60.601(c) is hereby corrected to read " \* \* \* or other written authorization to a contractor \* \* \*"

10. § 15-60.700(b) is hereby corrected to read as follows:

"(b) As used throughout this Subpart, the term 'fixed-price contract' shall include any advertised or negotiated fixed-

price type contract and any letter contract which will be converted into a fixed-price type definitive contract, but shall exclude small purchases made under Subparts 1-3.6 and 15-3.6."

11. The following changes are hereby made in § 15-60.701, *Government Property clause for Fixed-Price Contracts*:

(a) Substitute paragraph (c) (applicable to contracts with educational institutions) of the Government Property (Fixed Price) (1973) clause has been amended, in the second sentence, by inserting the words "for the conduct of research" following the word "purchased."

(b) The following changes are made in § 15-60.701(b):

(1) The title of paragraph (b) is revised to read:

"Contracts with educational institutions and contracts requiring cost and pricing data."

(2) The "Risk of Loss" clause "(g)" is deleted and the "Risk of Loss" clause set out in the following new § 15-60.701 (b) is substituted therefor:

12. The following changes are hereby made in the Government Property clause set out in § 15-60.702, *Government Property clause for Cost-Reimbursement contracts*:

(a) Delete the words "contract price" in the next to last sentence of paragraph (a) and substitute the words "estimated cost, fixed fee."

(b) Substitute paragraph (c) (applicable to contracts with educational institutions) of the Government Property (Fixed Price) (1973) clause has been amended, in the second sentence, by inserting the words "for the conduct of research" following the word "purchased."

(c) Delete the word "industrial" in paragraph (g) (1) (ii) (A) and substitute the word "business."

*Effective date.* These regulations shall become effective as of the date of publication in the February 7, 1973.

Dated: January 31, 1974.

JOHN QUARLES,  
Acting Administrator.

The new Part 15-60 reads as follows:

Sec.	
15-60.000	Scope of part.
	<b>Subpart 15-60.1—General</b>
15-60.100	Scope of subpart.
15-60.101	Definitions.
15-60.101-1	Property.
15-60.101-2	Government property.
15-60.101-3	Provide.
15-60.101-4	Nonseverable.
15-60.101-5	Dollar value.
15-60.101-6	Procurement contract.
15-60.101-7	Material.
15-60.101-8	Nonprofit organization.
15-60.102	Responsibility and liability for Government property.
15-60.102-1	Prime contractors.
15-60.102-2	Subcontractors.
15-60.103	Use for or by contractors of test facilities owned and operated by the Government.
	<b>Subpart 15-60.2—Material</b>
15-60.200	Scope of subpart.
15-60.201	Policy.

Sec.	
15-60.202	Procedure.
15-60.203	Contract changes.
15-60.204	Disposal.
	<b>Subpart 15-60.3—Providing Government Property to Contractors</b>
15-60.300	Scope of subpart.
15-60.301	Providing property.
15-60.301-1	General.
15-60.301-2	Justification for providing property.
15-60.301-3	Special and general purpose property.
15-60.301-4	Providing property when disposal is limited.
15-60.301-5	Changing Government property to be provided.
15-60.301-6	Contract schedule articles.
	<b>Subpart 15-60.4—Use and Charges</b>
15-60.400	Scope of subpart.
15-60.401	General.
15-60.402	Use without charge.
15-60.403	Rent.
	<b>Subpart 15-60.5—Competition</b>
15-60.500	Scope of subpart.
15-60.501	General.
15-60.502	Solicitation documents.
15-60.503	Evaluation of bids and proposals.
	<b>Subpart 15-60.6—Administration of Government Property</b>
15-60.600	Scope of subpart.
15-60.601	General.
15-60.602	Property Administrator.
15-60.603	Insurance.
15-60.604	Risk of loss or damage liability.
	<b>Subpart 15-60.7—Contract Clauses</b>
15-60.700	Scope of subpart.
15-60.701	Government property clause for fixed-price contracts.
15-60.702	Government property clause for cost-reimbursement contracts.
15-60.703	Government property clause for "no-fee" cost-reimbursement contracts with educational or nonprofit institutions and State and local Governments.

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

§ 15-60.000 Scope of part.

This part sets forth policy and procedures with respect to providing property for use by contractors in performance of EPA contracts and prescribes appropriate contract clauses. This part does not apply to the lease of property to contractors or to property to which the Government has acquired a lien or title solely as a result of advance, progress, or partial payments.

**Subpart 15-60.1—General**

§ 15-60.100 Scope of subpart.

This subpart 15-60.1 contains (a) definition of terms used throughout this part 15-60 and (b) certain statements of general policy.

§ 15-60.101 Definitions.

As used in this subpart, the following terms have the meaning stated below. Additional definitions applicable to property administration are set forth in EPA publication entitled "Guide for Control of Government Property by Contractors."

**§ 15-60.101-1 Property.**

Property includes all property, both real and personal, severable and non-severable, and expendable material and nonexpendable equipment.

**§ 15-60.101-2 Property.**

Government property means all property owned by or leased to the Government or acquired by the Government under the terms of a contract. Government property includes both Government-furnished property and contractor-acquired property as defined below:

(a) Government-furnished property is property in the possession of, or acquired directly by, the Government and subsequently delivered or otherwise made available to the contractor; and

(b) Contractor-acquired property is property procured or otherwise made available by the contractor for performance of a contract, title to which is vested in the Government.

**§ 15-60.101-3 Provide.**

Provide means to furnish Government-owned property or to allow a contractor to acquire property at Government expense.

**§ 15-60.101-4 Nonseverable.**

Nonseverable, when related to Government property, means that such property cannot be removed after erection or installation without substantial loss of value or damage thereto, or to the premises where installed.

**§ 15-60.101-5 Dollar value.**

This is the amount determined by the Government and recorded in inventory records as the price or cost of an item of Government-owned property.

**§ 15-60.101-6 Procurement contract.**

Procurement contract means a Government contract for the acquisition of property or services of any description; e.g., research and development, construction, scientific, educational, medical, etc.

**§ 15-60.101-7 Material.**

Material means property which may be consumed or expended in the performance of a contract or which may be incorporated into or attached to an end item to be delivered under a contract. It includes, but is not limited to raw and processed material, parts, components, assemblies, small tools and supplies which may be consumed in normal use during performance of a contract.

**§ 15-60.101-8 Nonprofit organization.**

Nonprofit organization means any corporation, foundation, trust, or institution operated for scientific, educational, or medical purposes, not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

**§ 15-60.102 Responsibility and liability for Government property.****§ 15-60.102-1 Prime contractors.**

Except for the conditions specified in paragraph (g) *Risk of Loss*, of the Government Property clauses set out in

§ 15-60.701(b) and § 15-60.702, it is EPA policy not to hold a contractor responsible for loss of or damage to Government property when such property is provided under:

(a) A negotiated, fixed-price type procurement contract for which the price is not based on (1) adequate price competition, (2) established catalog or market prices of commercial items sold in substantial quantities to the general public (see § 1-3.807-1(a)(2)), or (3) prices set by law or regulation; or

(b) Cost-reimbursement type procurement contracts.

**§ 15-60.102-2 Subcontractors.**

(a) If Government property is provided to a subcontractor directly by the Government § 15-60.102-1 shall apply.

(b) If Government property is provided to a subcontractor by a prime contractor, the latter shall be required to hold the subcontractor liable for any loss of or damage to such property; provided, however the prime contractor may, with the prior approval of the Contracting Officer:

(i) include in any cost-reimbursement type subcontract thereunder provisions similar to those contained in paragraph (g) of the clause in § 15-60.702; and

(ii) include in any fixed-price subcontract meeting the criteria set forth in § 15-60.102-1(a) a provision similar to that contained in § 15-60.701(b).

Contracting Officers shall, prior to approving the inclusion of the provisions referred to above in any subcontract, balance the need for the protection and care of Government property against the cost thereof. A prime contractor who provides Government property to a subcontractor shall not be relieved of any responsibility to the Government that he may have under the terms of his contract.

**§ 15-60.103 Use for or by contractors of test facilities owned and operated by the Government.**

The on-site use for or by contractors of existing Government-owned test facilities located at installations owned and operated by the Government may be authorized in connection with the performance of Government contracts only when:

(a) There is no commercial test capability adequate for the testing needs, or

(b) Substantial cost savings will result from use of the Government-owned test facilities.

Whenever any such use is authorized the Contracting Officer shall insure that adequate consideration comparable to commercial charges, if any, flows to the Government. (See § 15-60.503 for policy regarding evaluation of bids and competitive proposals.)

**Subpart 15-60.2 Material****§ 15-60.200 Scope of subpart.**

This subpart prescribes policy and procedure for furnishing material (see § 15-60.101-7) to contractors for performance of EPA formally advertised and negotiated contracts.

**§ 15-60.201 Policy.**

Contractors normally are expected to furnish all material required for performance of EPA contracts. However, it may be in the Government's interest to furnish such material when justified by reason of economy, to expedite contract performance, to achieve standardization, or under other appropriate conditions.

**§ 15-60.202 Procedure.**

(a) Solicitation documents shall describe material to be furnished by the Government, in detail sufficient for evaluation by prospective contractors.

(b) Whenever material is to be furnished by the Government the contract shall specify whether the contracting activity or the contractor is to prepare requisitioning documents. If the contractor is to be responsible for preparing requisitioning documents, the EPA Property Administrator will instruct the contractor to prepare such documents in accordance with the Federal Standard Requisitioning and Issue Procedure (FEDSTRIP) system, prescribed by Subpart 101-26.2 of the Federal Property Management Regulations. (See FPR Subpart 1-5.9 for "Use of GSA Supply Services by Contractors Performing Cost-Reimbursement Type Contracts.")

(c) The appropriate Government Property clause prescribed in Subpart 15-60.7 shall be incorporated into all contracts which provide for Government-furnished material.

**§ 15-60.203 Contract changes.**

(a) Contracts may be modified:

(1) bilaterally to provide for Government-furnished material when adequate consideration flows to the Government;

(2) unilaterally under the changes clause to increase the amount of Government-furnished material; and

(3) unilaterally to make substitutions or decreases in material to be furnished by the Government, subject to equitable adjustment of the contract in accordance with the Government Property clause.

**§ 15-60.204 Disposal.**

Residual Government material (including scrap and salvage) shall be disposed of in accordance with instructions of the EPA Property Administrator and as directed by the Contracting Officer. (See FPMR, EPA Property Management Regulations, FPR Part 1-8, and EPA publication entitled "Guide for Control of Government Property by Contractors".)

**Subpart 15-60.3—Providing Government Property to Contractors****§ 15-60.300 Scope of subpart.**

This subpart enunciates policy to guide the decision-making process when property (other than material) is to be provided a contractor for performance of an EPA contract and to insure that such decisions are properly documented.

**§ 15-60.301 Providing property.****§ 15-60.301-1 General.**

(a) Contractors are expected to provide all resources necessary for perform-

ance of EPA contracts. Every effort must be made to locate and select contractors that demonstrate a willingness and ability to provide their own resources. However, during procurement planning, solicitation of prospective contractors, evaluation of proposals, contract negotiations, or during postaward performance of the contract, EPA may determine that it is in the Government's interest to furnish Government-owned property or to allow the contractor to acquire property at Government expense.

(b) Providing property at Government expense can create an expensive and burdensome inventory that may have to be disposed of at a fraction of its cost. EPA personnel must insure that (1) providing property is justified, (2) the Government receives adequate consideration, and (3) one contractor or prospective contractor, does not receive a competitive advantage over others. A decision to provide property at Government expense must be supported by a comprehensive "determination and findings."

(c) Items of property to be furnished by the Government or acquired by the contractor must be identified as specifically as possible in the original contract Schedule or in a Change Order or Supplemental Agreement, as appropriate. When acquisition of property at Government expense is authorized in a contract Schedule, Change Order or Supplemental Agreement, purchase orders or subcontracts issued by the contractor for acquisition of individual items of property are subject to the requirements of the Subcontracts clause incorporated into the contract. Authorization to acquire property should not be construed as consent to placement of a subcontract or vice-versa, unless so specified in the contract or in a written determination by the Contracting Officer.

#### § 15-60.301-2 Justification for providing property.

(a) The Contracting Officer shall not authorize a contractor to (1) acquire property at Government expense, (2) obtain Government-furnished property, or (3) use Government-owned property in his possession until the Chief Officer, at Division level or above, responsible for management of the program/project involved, submits a written justification of need to provide the property to the Contracting Officer. If the Contracting Officer concurs in the justification of need, he will prepare and sign a separate "determination and findings" which identifies the property to be provided and sets forth the facts and circumstances which support providing the property. The "determination and findings" shall be approved by the Chief Officer responsible for procurement at the contracting activity involved. A similar approved "determination and findings" is required when changes are made in the kind or amount of property provided or acquired. However, a separate "determination and findings" is not mandatory if the justification of need fully supports providing the property and contains the

minimum information prescribed in § 15-60.301-2(b). In such case concurrences by the Contracting Officer and Chief Officer responsible for procurement may be stated on the justification of need.

(b) As a minimum, the justification of need and/or "the determination and findings" must:

(1) Identify the specific program and project for which the property is required.

(2) Describe the kind, quantity, and estimated cost (including transportation and installation costs) of the individual item of property required to be furnished or acquired.

(3) Explain why the property is essential for contract performance.

(4) Explain why it is in the Government's interest to provide the property; why other alternatives (e.g., renting the property, use of subcontractors, modification of program/project requirements, procurement from another contractor, etc.); are impractical or uneconomical and why providing the requested property is likely to result in lower cost to the Government for products delivered or services rendered, when all costs are considered (e.g., purchase price of the property, transportation, modification, installation, maintenance, and administration costs by the contractor and the Government.)

(5) Identify, if known, location of the contractor's facility at which the property will be used and the contractor's personnel assigned responsibility for acquisition and management of the property.

(c) A justification of need is required regardless of when the need for the property is determined; thus:

(1) A written justification of need must be transmitted with EPA Form 1900.8, Procurement Request/Requisition, whenever the program/project manager is aware, prior to preparation of EPA Form 1900.8, that it will be necessary to authorize use of Government-owned property in contractor's possession, furnish Government-owned property, or allow contractor to acquire property at Government expense. Known requirements of this kind must be specified in the solicitation document as prescribed in Subpart 15-60.5.

(2) When the need to authorize use of existing Government-owned property or to authorize the furnishing or acquisition of property does not become known until evaluation of contractor's proposals or during contract negotiations, the Contracting Officer shall obtain a justification of need prior to execution of the procurement contract. In order to maintain the integrity of the competitive procurement process, other proposers that have submitted proposals will be offered the opportunity to amend their proposals as contemplated by §§ 1-3.805 and 15-3.805.

(3) After award of a contract, the Contracting Officer shall not authorize the use, furnishing, or acquisition of property until a justification of need is furnished by the Chief Officer, at Division level or above, responsible for management of

the program/project involved. Also, the Contracting Officer must insure that consideration for such authorization flows to the Government in the form of a reduction in contract price/cost, payment of rent for use of the property, or other legal consideration determined to be adequate in terms of improved performance, increased quality, faster delivery, etc.

#### § 15-60.301-3 Special and general purpose property.

(a) Generally, only special purpose property (i.e., equipment and facilities items whose usefulness, without need for substantial modification, is limited to a particular operation or project) may be provided to a contractor. Standard or general purpose items of administrative equipment (e.g., office furniture and equipment, cafeteria equipment, lockers, shelving, etc.), and technical equipment (e.g., laboratory furniture and fixtures, microscopes, oscilloscopes, gauges, etc.), shall be provided only when justified under the most exceptional circumstances.

(b) Items of property having a unit cost of less than \$1,000.00 shall not be provided contractors except as authorized under contracts with:

(1) Nonprofit institutions of higher education or other non-profit organizations whose primary purpose is the conduct of scientific research;

(2) State and local Government agencies; or

(3) Contractors operating a Government-owned plant or performing on-site at Government installations.

#### § 15-60.301-4 Providing property when disposal is limited.

(a) Nonseverable property. Nonseverable property, other than foundation and similar improvements necessary for the installation of equipment, shall not be installed or constructed on land not owned by the Government, in such fashion as to be nonseverable, unless approved by the Director, Contracts Management Division, PM-214, or the Deputy Assistant Administrator for Administration, PM-211, in accordance with EPA Order 1960.1. The determination to locate such nonseverable property on land not owned by the Government shall be made only when all of the conditions in paragraph (a) (1) through (4) of this section have been met:

(1) Consideration has been given to any nonrecoverable costs involved, including transportation and installation.

(2) Consideration has been given to (i) locating the Government property where it can be segregated from existing contractor-owned and Government-owned property and where it is readily accessible from public thoroughfares and (ii) obtaining a written agreement by the contractor on whose land the property is to be placed that either the Government or another Government contractor will have a right to use and operate the property upon termination or completion of the work for which it was provided. (In cases where such an agreement is not

## RULES AND REGULATIONS

obtained, the negotiation effort shall be documented accordingly);

(3) The contractor agrees that the Government (i) will have the right to abandon in place all nonseverable Government property provided and (ii) will not have any obligation to disassemble or remove the property or to restore or rehabilitate the premises on which the property is located, unless otherwise provided in the contract and approved by the Director, Contracts Management Division, PM-214, or the Deputy Assistant Administrator for Administration, PM-211, as required by EPA Order 1960.1 (this approval authority shall not be delegated); and

(4) One of the circumstances in paragraphs (a) (4) (i) — (iv) of this section has been met—

(i) The Government obtain an option to acquire the underlying land;

(ii) The property is disposable, after the Government's need therefor has ceased, to parties other than the contractor and the Government acquires from the owner a right to retain title and to dispose of all facilities it has constructed, without regard to the laws of real property in the jurisdiction in which the facility is located. Such right of disposition must be unencumbered, and will be evidenced by written agreement or other legal instrument signed by the contractor or other owner of the real property;

(iii) The contractor agrees in writing that he will purchase the property upon the termination or completion of the contract under which the property is provided, or within a specified reasonable time thereafter, at a price to be determined by appraisal, or at a price equal to the acquisition cost of the property less depreciation at the rate or rates specified in the contract (which rate or rates shall take into account the estimated useful life of the property) or for the scrap and salvage value of the property if it is determined that the estimated useful life of the property will not extend beyond the completion of the work for which the property was provided. Any such purchase agreement must permit the Government to credit any amounts due the contractor under the contract against the purchase price; or

(iv) The Deputy Assistant Administrator, PM-211, specifically approves other provisions which he considers adequate to protect the interests of the Government in regard to the property.

(b) Property subject to patent or other proprietary rights. If patent or other proprietary rights of a contractor may restrict the disposal of Government property, the condition in either paragraph (a) (4) (ii) or (iii) of this section shall be satisfied before such property is provided.

#### § 15-60.301-5 Changing Government property to be provided.

Increases in the amount of Government property specified in a contract shall be made under the contract "Changes" clause by issuance of an ap-

propriate Change Order or Supplemental Agreement. Such increases shall be made only when approved in accordance with the policies prescribed in this Subpart 15-60.3 and when the Government receives adequate consideration therefor. Unilateral decreases in or substitutions for the Government property specified in a contract to be provided by the Government may be ordered by the Contracting Officer pursuant to the Government Property clause incorporated into the contract.

#### § 15-60.301-6 Contract schedule articles.

(a) *General.* Whenever a contractor is authorized to acquire property at Government expense, is furnished Government-owned property, or is authorized to use Government-owned property in his possession, such property will be identified, as specifically as possible, in the contract Schedule and the appropriate Government Property clause prescribed in Subpart 15-60.7 will be included in the contract. Also, the Schedule will include the appropriate Article prescribed in § 15-60.301-6(b).

(b) *Contract Schedule Articles.* (1) When property is to be acquired or fabricated by a contractor, the estimated cost of such property and the following Article will be included in the Contract Schedule:

##### PROPERTY TO BE ACQUIRED OR FABRICATED (1973)

Subject to the approval of the Contracting Officer, the Contractor may acquire or fabricate (the property listed below) (the property listed in Appendix "A" attached hereto and made a part hereof). The Government will reimburse the Contractor for the cost of such property as determined allowable by the Contracting Officer in accordance with Part 1-15 of the Federal Procurement Regulations as in effect on the date of this contract. The Contractor shall have no obligation to acquire or fabricate property and the Government shall have no obligation to reimburse any amount for such property in excess of the total estimated cost of such property set forth in this Schedule, unless this contract is amended to increase such amount. All property acquired or fabricated, for which the contractor is reimbursed, shall be subject to the provisions of the Government Property clause of this contract.

(2) If a procurement contract is negotiated on the basis that Government-owned property will be provided the Contractor, the following Article will be included in the contract Schedule. If the Government is to pay the cost of transportation and installation of such property the Schedule will so state. The dollar value of each item of property listed will be shown.

##### GOVERNMENT-FURNISHED PROPERTY (1973)

The terms and conditions of this contract are based on the Government furnishing the property (listed below) (listed in Appendix "A" attached hereto and made a part hereof). Title to property furnished shall remain in the Government and is subject to the provisions of the Government Property clause of this contract. The Contractor is authorized to use the Government-owned property, (on

a no-charge basis) (at the rental rates specified herein), in performance of this contract.

(3) The following Article will be included in the contract Schedule when a Contractor is authorized to use Government property in his possession. Also, the appropriate Government Property clause prescribed in Subpart 7 of this Part 15-60 must be incorporated into the procurement contract. The dollar value of each item of property listed will be shown and if the Government is to pay the cost of installing or modifying such property the Schedule will so state.

##### USE OF GOVERNMENT PROPERTY IN CONTRACTOR'S POSSESSION (1973)

The Contractor is authorized to use in performance of this contract, (on a no-charge basis) (at the rental rates specified herein), the Government property (listed below) (listed in Appendix "A" attached hereto and made a part hereof), provided to him under (this contract) (the following contracts);

(4) The following Article will be included in all contracts under which the Contractor must pay rent for use of Government-owned property:

##### USE AND CHARGE

(a) Subject to the payment of a rental therefor, the Contractor may use in the performance of this contract the property specified in the Schedule or authorized in writing by the Contracting Officer. The amount of rental to be paid for the right to use the property under this paragraph (a) shall be determined in accordance with the following procedures:

(1) The following bases are or shall be established in writing for the rental computation prescribed in paragraph (a) (2) below in advance of any use of the property under this paragraph:

(i) The rental rates for the right to use the property shall be those set forth in paragraph (e) below.

(ii) The cost of the property shall be the total cost to the Government, as determined by the Contracting Officer of each item of property, including the cost of transportation and installation, if such costs are borne by the Government.

(iii) For the purpose of determining the amount of rental due under paragraph (a) (2) below, the rental period shall be not less than one (1) month nor more than six (6) months, as may be mutually agreed to.

(iv) For the purpose of computing any credit under paragraph (a) (2) below, the measurement unit for determining the amount of use of the property by the Contractor shall be hours of actual use, direct labor hours, or any other measurement unit which will result in an equitable apportionment of the rental charge, as may be mutually agreed to.

(2) The Contractor shall compute the amount of rentals to be paid for each rental period, using the bases established pursuant to paragraph (a) (1) above. The rental rates shall be applied to the cost of such of the property as may have been authorized for use in advance pursuant to this paragraph (a), for each rental period. The full charge for each rental period, so determined, shall be reduced by a credit in the amount of such rental as would otherwise be properly allocable to work with respect to which the use of the property without charge is authorized. Such credit shall be computed by multiplying the full rental for the rental period by a fraction whose numerator is the amount of use of the property by the Contractor without charge during such period, and whose

denominator is the total amount of use of the property by the Contractor during such period.

(3) The Contractor shall submit to the Contracting Officer within ninety (90) days after the close of each rental period a written statement of the use made of the property by the Contractor and the rental due the Government hereunder, and shall make available such records and data as are determined by the Contracting Officer to be necessary to verify the information contained in the statement.

(4) If the Contractor fails to submit the statement within the prescribed ninety (90) day period, the Contractor shall be liable for the full rental for the period in question, subject to the exception stated in subparagraph (5) below.

(5) If the Contractor's failure to submit the statement within the prescribed ninety (90) day period arose out of causes beyond the control and without the fault or negligence of the Contractor, the Contracting Officer shall grant to the Contractor in writing a reasonable extension of time in which to make such submission.

(b) Unless otherwise authorized in writing by the Contracting Officer, the Contractor shall use the property only in performance of contracts and subcontracts of the Environmental Protection Agency.

(c) Concurrently with the submission of the written statement prescribed by paragraph (a)(3) above, the Contractor shall pay the rental due the Government under this Article by check made payable to the Treasurer of the United States. Each check shall be mailed or delivered to the Contracting Officer. Receipt and acceptance by the Government of the Contractor's checks pursuant to this paragraph shall constitute an accord and satisfaction of the final amount due the Government hereunder unless the Contractor is notified in writing within one hundred-eighty (180) days following such receipt that the amount received is not regarded by the Government as the final amount due.

(d) If the Contractor uses any item of the property without authorization, the Contractor shall be liable for the full monthly rental, without credit, for such item for each month or part thereof in which such unauthorized use occurs: Provided, however, that the Director, Contracts Management Division, PM-214, may, in writing, waive the Contractor's liability for such unauthorized use if he determines that the Contractor exercised reasonable care to prevent such unauthorized use. In this latter event, the Contractor shall be liable only for the rental that would otherwise be due under this Article. The acceptance of any rental by the Government hereunder shall not be construed as a waiver or relinquishment of any rights it may have against the Contractor growing out of the Contractor's unauthorized use of the property or any other failure to perform this contract according to its terms.

(e) The following rental rates shall be used when rent is to be charged, or an evaluation factor (equivalent to rent) is computed:

(1) For land and land preparation, buildings, building installations, and land installations, a fair and reasonable rental based on sound commercial practice;

(2) For personal property (equipment and facilities) not covered in (1) above; not less than the prevailing commercial rate for like property, if any, or in the absence of such rate, not less than two percent (2%) of the dollar value per month for electronic test equipment and automotive equipment;

and not less than one percent (1%) of the dollar value per month for all other property and equipment.

(5) When a Contractor is permitted to authorize his subcontractors to use Government property in the subcontractor's possession, on a no-charge basis, the following Article will be included in the contract Schedule:

USE OF GOVERNMENT PROPERTY BY SUBCONTRACTORS (1973)

(a) The following subcontractors having Government-owned property provided under the contracts set forth below, in effect on the date of this contract, are authorized to use such property on a no-charge basis for the subcontract items listed below, and the subcontract shall so provide:

Subcontractor	Contract No.	Subcontract Item

(b) If the Contractor enters into other subcontracts with subcontractors who have Government-owned property provided to them under contracts which provide that no-charge use may be authorized, the Contracting Officer may authorize the use of such property on a no-charge basis: Provided:

(1) He determines that such use will not give the subcontractor a favored competitive position; and

(2) This contract is amended to reflect adequate consideration to the Government for the use of such property on a no-charge basis. Such subcontracts shall specifically authorize the no-charge use, and require the written approval of the Contracting Officer. No modification to this contract will be required, as provided in (2) above, if the Contracting Officer determines that an elimination of charge for use of such property will, of itself, result in an adequate decreased cost to the Government under this contract.

(c) If the Government-owned property provided to the Contractor or any subcontractor hereunder on a no-charge basis are increased or decreased or do not remain available during the performance of this contract, or if any change is made in the terms and conditions under which they are made available, such equitable adjustments as may be appropriate will be made in the terms of this contract, unless such increase or decrease was contemplated in the establishment of the price of this contract or a subcontract.

(d) The Contractor agrees that he will not directly or indirectly, through overhead charges or otherwise, include in the price of this contract, or seek reimbursement under this contract for, any rental charge paid by the Contractor for the use on other contracts of the property referred to herein. Any subcontract hereunder which authorizes the subcontractor to use Government property on a no-charge basis shall contain a provision to the same effect as this paragraph (d).

Subpart 15-60.4—Use and Charges

§ 15-60.400 Scope of subpart.

This subpart deals with the authority for a contractor or subcontractor to use Government property and the charge for such use.

§ 15-60.401 General.

Authority for a contractor to use Government property must be granted by the Contracting Officer responsible for

the contract under which the property is accountable and the contract file must be documented accordingly. If use without charge is granted, the contract file must be documented with a description of the consideration to the Government for such "no-charge" use and the Article prescribed in § 15-60.301-6(b)(3) must be included in the contract Schedule. The Article prescribed in § 15-60.301-6(b)(3) and the "Use and Charges" Article set out in § 15-60.301(b)(4) will be included in all contracts involving Government property when rent is charged for such use.

§ 15-60.402 Use without charge.

(a) A contractor may use Government property without charge in the performance of:

(1) Prime contracts which specifically authorize use without charge, and

(2) Subcontracts of any tier if the Contracting Officer having cognizance over the prime contract concerned has:

(i) Determined that the Government will receive adequate consideration, and

(ii) Authorized use without charge by:

(a) Including such authorization in the prime contract;

(b) Approving a subcontract specifically authorizing such use; or

(c) By otherwise approving such use in writing.

(b) A prime contractor may authorize subcontractors to use Government property in the subcontractor's possession, on a no-charge basis, when (1) the price or fee of the prime contract is negotiated with the specific understanding that the use of property by subcontractors on a no-charge basis will be permitted in the performance of specific subcontracts with specific subcontractors and (2) the "Use of Government Property by Subcontractors" clause, prescribed in § 15-60.301-6(5), is included in the prime contract Schedule.

§ 15-60.403 Rent.

(a) The following rental rates shall be used when rent is to be charged or an evaluation factor (equivalent to rent) is computed:

(1) For land and land preparation, buildings, building installations, and land installations, a fair and reasonable rental based on sound commercial practice;

(2) For personal property (equipment and facilities) not covered in (1) above not less than the prevailing commercial rate for like property, if any, or in the absence of such rate, not less than two percent (2%) of the dollar value for electronic test equipment and automotive equipment; and not less than one percent (1%) of the dollar value per month for all other property and equipment.

Subpart 15-60.5 Competition

§ 15-60.500 Scope of subpart.

This subpart sets forth guidance designed to preclude one prospective contractor from receiving a competitive advantage over others when Government property is provided.

**§ 15-60.501 General.**

It is incumbent upon the Contracting Officer to insure that genuine competition prevails and that adequate consideration flows to the Government whenever and however Government property is to be provided a contractor for contract performance. Willingness and ability to provide all resources necessary for contract performance should be an important factor in evaluating competitive contractors.

**§ 15-60.502 Solicitation documents.**

Contracting Officers shall make certain that solicitation documents:

(a) Require prospective contractors to specify additional facilities and equipment which must be acquired for contract performance, the estimated cost of individual items, and whether acquisition of such property will be financed by the prospective contractor or whether the Government will be requested to provide the required items.

(b) Explain whether it is the Government's intention to provide property, when it is known prior to solicitation that contract performance will require additional facilities or equipment.

(c) Require prospective contractors to:

(1) List items (including dollar value) of Government-owned property in their possession which they propose to use in performance of the prospective contract;

(2) Identify the contract or other instrument under which the property is accountable; and

(3) Present written permission to use such property in the performance of the prospective EPA contract from the Government Contracting Officer having cognizance of the property.

(d) Include a statement that the user will assume all costs related to making the property available for use (e.g., transportation, installation, rehabilitation, modification, etc.), unless the Government is to assume such costs.

(e) Include a statement which explains the consideration to be given Government property during evaluation of bids and proposals. This is to insure that all prospective bidders and offerors understand that Government property will be an important consideration in evaluating their bids and proposals.

**§ 15-60.503 Evaluation of bids and proposals.**

The following policy shall be considered during evaluation of bids and proposals:

(a) In a competitive procurement, a prospective contractor provided Government property or authorized to use Government-owned property in his possession receives some degree of competitive advantage. When evaluating bids and proposals, such an advantage must be precluded through use of an equalizing factor in establishing the competitive range for negotiation and in arriving at the lowest bid. Any equitable equalizing factor may be used; e.g., rent equivalent, value of property, depreciation, etc.

(b) Government property to be furnished or acquired need not be assigned a weighted factor or criterion for evaluating bids and proposals. However, the evaluation narrative shall explain the importance that was placed upon Government property in rating and ranking bids and proposals.

(c) If a contractor is to be allowed to retain Government property at contract completion, the bid or proposal price shall be increased by an evaluation factor equivalent to:

(1) The cost to be reimbursed by the Government for property acquired at Government expense; and

(2) The current dollar value (cost less depreciation) of Government-furnished property.

**Subpart 15-60.6—Administration of Government Property****§ 15-60.600 Scope of subpart.**

This subpart sets forth policy and procedures governing administration of Government-furnished property and property acquired by contractors at Government expense for performance of EPA contracts.

**§ 15-60.601 General.**

(a) Responsibility within EPA for administering Government property in a contractor's possession rests primarily with EPA Property Administrators and is defined in an "Agreement of Understanding Covering Contract Property Administration" executed by the Directors of the Contracts Management Division, PM-214, Facilities and Support Services Division, PM-215, and Financial Management Division, PM-223.

(b) The contractor's responsibility regarding the management and use of Government property is delineated in an EPA publication entitled "Guide for Control of Government Property by Contractors," instructions from EPA Property Administrators, and as specified in the contract.

(c) The Contracting Officer shall furnish the Property Administrator a copy of each contract, contract modification, or other written authorization to a contractor which involves Government property in any manner. Also, the Contracting Officer shall furnish the Property Administrator a copy of all determinations and findings which support a decision to authorize permanent improvements to private property as contemplated in EPA Order 1960.1A.

**§ 15-60.602 Property Administrator.**

(a) The Property Administrator is the EPA "Accountable Officer" for Government property in a contractor's possession and maintains the official records of such property.

(b) EPA Property Administrators are appointed and assigned by the Director, Facilities and Support Services Division, PM-215.

(c) A Property Administrator shall be designated as Representative of the Contracting Officer for property administration for every cost-reimbursement type contract and for each fixed-price type

contract under which Government property is involved. Contracting Officers shall designate the Property Administrator in the contract Schedule or by a letter of designation and furnish a copy to the Property Administrator.

(d) As the Representative of the Contracting Officer the Property Administrator performs all transactions and handles all matters concerning Government property in the contractor's possession. However, the Contracting Officer must execute sales contracts and determinations of liability for lost, damaged, or destroyed Government property and will resolve disputes with contractors that cannot be settled by the Property Administrator.

(e) The Property Administrator will review and determine the adequacy of contractor's property policy and procedures concerning:

- (1) Receiving and inspection;
- (2) Accounting, control, and reports;
- (3) Utilization, including reporting excess property;
- (4) Maintenance, i.e., protection, preservation, service, repair, warranties and guaranties, etc.
- (5) Scrap and salvage of material, parts, etc.; and
- (6) Disposal, including preparation for shipment and shipping procedures.

**§ 15-60.603 Insurance.**

Consideration will be given to requiring a contractor to procure and maintain insurance against loss of or damage to Government property in his possession whenever less than 75 percent of the total use of such property is for Government work.

**§ 15-60.604 Risk of loss or damage liability.**

When justified by the circumstances of a particular procurement, the contract may require the contractor to assume greater risks than those enumerated in the applicable "Government Property" clause set forth in Subpart 15-60.7. (See § 15-60.102.)

**Subpart 15-60.7—Contract Clauses****§ 15-60.700 Scope of subpart.**

(a) This subpart prescribes Government Property clauses to be used in EPA contracts.

(b) As used throughout this subpart, the term "fixed-price contract" shall include any advertised or negotiated fixed-price type contract and any letter contract which will be converted into a fixed-price type definitive contract, but shall exclude small purchases made under Subparts 1-3.6 and 15-3.6.

(c) As used throughout this subpart, the term "cost-reimbursement contract" shall include any cost-reimbursement type contract and any letter contract which will be converted to a cost-reimbursement type definitive contract.

**§ 15-60.701 Government Property Clause For Fixed-Price Contracts.**

(a) The following clause shall be used in fixed-price contracts under which the Government is to furnish or the Con-

tractor is to acquire Government property:

**GOVERNMENT PROPERTY (FIXED-PRICE) (1973)**

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

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

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

with the procedures provided for in the "Changes" clause of this contract.

(c) *Title.* Title to all property furnished by the Government shall remain in the Government. In order to define the obligations of the parties under this clause, title to each item of property acquired by the Contractor for the Government pursuant to this contract shall pass to and vest in the Government when its use in the performance of contract commences, or upon payment therefor by the Government whichever is earlier, whether or not title previously vested. All Government-furnished property, together with all property acquired by the Contractor, title to which vests in the Government under this paragraph, is subject to the provisions of this clause and is hereinafter collectively referred to as "Government Property." Title to the Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

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

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

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

(ii) At any time prior to twelve (12) months after completion or termination of the contract, the Contracting Officer reserves the right to require the Contractor to transfer title to property costing \$1,000.00 or more per unit to the Government or to a third party named by the Contracting Officer.

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

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

(d) *Property Administration.* The Contractor agrees to maintain and administer a property control system in accordance with EPA publication "Guide for Control of Government Property by Contractors," in effect as of the date of this contract, supplied by the Government. While the Contractor is responsible for the Government property (Government furnished and Con-

tractor acquired), the Government will maintain the official accountability records.

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

(f) *Maintenance and Repair of Government Property.* The Contractor shall maintain and administer, in accordance with sound industrial practice, a program for the maintenance, protection and preservation of Government property until disposed of by the Contractor in accordance with this clause. In the event that any damage occurs to Government property the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property as the Government directs: Provided, however, that if the Contractor cannot effect such repair within the time required, the Contractor shall dispose of such property in the manner directed by the Contracting Officer. The contract price includes no compensation to the Contractor for the performance of any repair or replacement for which the Government is responsible, and an equitable adjustment will be made in any contractual provisions affected by such repair or replacement of Government property made at the direction of the Government, in accordance with the procedures provided for in the "Changes" clause of this contract. Any repair or replacement for which the Contractor is responsible under the provisions of this contract shall be accomplished by the Contractor at his own expense.

(g) *Risk of Loss.* Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss of or damage to Government property provided under this contract upon its delivery to him or upon passage of title thereto to the Government as provided in paragraph (c) hereof, except for reasonable wear and tear and except to the extent that such property is consumed in the performance of this contract.

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

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

## RULES AND REGULATIONS

practice and account therefor as a part of general overhead or other reimbursable cost in accordance with the Contractor's established accounting procedures.

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

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

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

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

(b) *Contracts with educational institutions and contracts requiring cost and pricing data.* Substitute the following paragraph (g) for paragraph (g) of the Government Property clause set out in paragraph (a) of this section for (1) negotiated fixed-price contracts with educational institutions and (2) other negotiated fixed-price contracts when the contract price is not based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or the prices are set by law or regulations:

(g) *Risk of Loss.* (1) The Contractor shall not be liable for any loss of or damage to the Government property, or for expenses incidental to such loss or damage except that the Contractor shall be liable for any loss or damage to Government property provided under the contract upon its delivery to him or passage of title to the Government as provided in paragraph (c) above (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of his managers, superintendents, or other equivalent representatives who have supervision or direction of all or substantially all of the Contractor's business, or all or substantially all of the Contractor's operations at any one plant, laboratory, or separate location in which the contract is being performed;

(ii) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in paragraph (g) (1) (i) above;

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

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

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

(iv) Which results from a risk expressly required to be insured under some other provision of this contract, or of the schedules or

task orders thereunder, but only to the extent of the insurance so required to be procured and maintained or to the extent of insurance actually procured and maintained, whichever is greater; or

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

Any failure of the Contractor to act, as provided in paragraph (g) (1) (ii) above, shall be conclusively presumed to be a failure resulting from willful misconduct, or lack of good faith on the part of such directors, officers, or other representatives mentioned in paragraph (g) (1) (i) above, if the Contractor is notified by the Contracting Officer by registered or certified mail, addressed to one of such directors, officers or other representatives, of the Government's disapproval, withdrawal of approval or nonacceptance of the Contractor's program or system. In such event, it shall be presumed that any loss or damage to Government property resulted from such failure. The Contractor shall be liable for such loss or damage unless he can establish by clear and convincing evidence that such loss or damage did not result from his failure to maintain an approved program or system, or occurred during such time as an approved program or system for control of Government property was maintained.

If more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) The Contractor represents that he is not including in the price hereunder, and agrees that he will not hereafter include in any price to the Government, any charge or reserve for insurance (including self-insurance funds or reserves) covering loss or destruction of or damage to the Government property, except to the extent that the risk of loss is imposed on the Contractor under Paragraph (g) (1) (iii) above, or insurance has been required under paragraph (g) (1) (iv) above.

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

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

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

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

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

The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made by him in performing his obligations under this paragraph (g) (3).

(4) With the approval of the Contracting Officer after loss or destruction of or damage to Government property, and subject to such conditions and limitations as may be imposed by the Contracting Officer, the Contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of Government property which has been damaged beyond practicable repair, or which is so commingled or combined with property of others, including the Contractor, that separation is impracticable.

(5) Except to the extent of any loss or destruction of or damage to Government property for which the Contractor is relieved of liability under the foregoing provisions of this clause, and except for reasonable wear and tear or depreciation, or the utilization of the Government property in accordance with the provisions of this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of or damage to the Government property, and such property (other than that which is permitted to be sold) shall be returned to the Government in as good condition as when received by the Contractor in connection with this contract, or as repaired under paragraph (f) above.

(6) In the event the Contractor is reimbursed or compensated for any loss or destruction of or damage to the Government property, he shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, destruction or damage and, upon the request of the Contracting Officer, shall at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

#### § 15-60.702 Government property clause for cost-reimbursement contracts.

The following clause shall be used in cost-reimbursement contracts (except those with educational or other nonprofit institutions and State and local Governments when no payment of fee is contemplated) under which the Government is to furnish or the Contractor is to acquire Government property:

#### GOVERNMENT PROPERTY (COST-REIMBURSEMENT) (1973)

(a) *Government-Furnished Property.* The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described as Government-furnished property in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based on the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay, if any, occasioned the Contractor and shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provisions affected by any such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes." In the event that Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt thereof notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (1) return such property at the Government's expense or

otherwise dispose of the property or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon written request of the Contractor shall equitably adjust the estimated costs, fixed fee, or delivery or performance dates, or all of them, and any other contractual provision effected by the return or disposition, or the repair or modification in accordance with the procedures provided for in the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

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

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

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

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

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

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

(ii) At any time prior to twelve (12) months after completion or termination of the contract, the Contracting Officer reserves the right to require the Contractor to transfer title to property costing \$1,000.00 or more per unit to the Government or to a third party named by the Contracting Officer.

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

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

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

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

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

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

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

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

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

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

(ii) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in paragraph (g)(1)(i) above—

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

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

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

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

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

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

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

(4) Upon the happening of loss or destruction of or damage to the Government prop-

## RULES AND REGULATIONS

erty, the Contractor shall notify the Contracting Officer thereof, take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order and furnish to the Contracting Officer a statement of—

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

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

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

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

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

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

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

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

Contractor's established accounting procedures.

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

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

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

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

As provided in paragraph (i) of the above clause, the Contracting Officer may authorize or approve use of the Contractor's established scrap disposal and accounting procedures whenever the amount and recoverable value of scrap from Government property are relatively minor and the Contractor's established procedures for accumulating and disposing of scrap and crediting the proceeds thereof to general overhead or other general cost will permit the Government to share equitably in such scrap recovery through a reduction of overhead or other cost factor affecting reimbursement under the contract.

#### § 15-60.703. Government Property Clause for "No-Fee" Cost-Reimbursement Contracts with Educational or Nonprofit Institutions and State and Local Governments.

Cost-reimbursement contracts which provide only for reimbursement of cost to educational or nonprofit institutions and State and local Governments shall incorporate the "Government Property" clause prescribed in § 15-60.702, modified to delete all reference to fee.

[FR Doc.74-3174 Filed 2-6-74; 8:45 am]

### Title 42—Public Health

#### CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### SUBCHAPTER D—GRANTS

#### PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

##### Health Professions Student Loans

In the FEDERAL REGISTER of July 12, 1973 (38 FR 18557) the Acting Director, National Institutes of Health, with the approval of the Secretary of Health, Education, and Welfare, proposed to amend Part 57 by repealing Subpart C of Part 57 and substituting a new Subpart C in lieu thereof. The purpose of the proposed change was to implement certain statutory changes made by section 105 of the Comprehensive Health Manpower Training Act of 1971 (P.L. 92-157).

Interested persons were afforded the opportunity to participate in the rule-making through submission of comments on or before August 13, 1973. No such comments were received. There have, however, been a few minor changes in

the regulations as proposed, which are merely technical in nature, and are self-explanatory.

**Effective date.** The regulations as set forth below shall become effective on March 11, 1974.

Dated: December 26, 1973.

CHARLES C. EDWARDS,  
Assistant Secretary for Health.

Approved: February 4, 1974.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

##### Subpart C—Health Professions Student Loans

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| Sec.   |   |
| 57.201 | Applicability.  |
| 57.202 | Definitions.  |
| 57.203 | Eligibility of schools.   |
| 57.204 | Application by school.  |
| 57.205 | Agreement for Federal Capital Contributions and Federal Capital Loans.                            |
| 57.206 | Allotment and payment of Federal Capital Contributions and Federal Capital Loans.                 |
| 57.207 | Federal Capital Loan Promissory Note.   |
| 57.208 | Health Professions Student Loan Funds.  |
| 57.209 | Nondiscrimination.  |
| 57.210 | Eligibility and selection of health professions student loan recipients.                          |
| 57.211 | Maximum amount of health professions student loan.  |
| 57.212 | Evidence of student indebtedness—promissory note; security.                                       |
| 57.213 | Payment of health professions student loans.  |
| 57.214 | Repayment and collection of health professions student loans.                                     |
| 57.215 | Cancellation of health professions student loans for disability and death.                        |
| 57.216 | Repayment or cancellation of loans for practice.  |
| 57.217 | Repayment of loans made subsequent to November 17, 1971, for failure to complete course of study. |
| 57.218 | Records, reports, inspection and audit.   |
| 57.219 | Additional conditions.  |
| 57.220 | Noncompliance.  |

AUTHORITY: Sec. 215, 58 Stat. 690; 42 amended, 42 U.S.C. 216.

##### § 57.201 Applicability.

The regulations of this subpart are applicable to Federal Capital Contributions and Federal Capital Loans made by the Secretary to public or other nonprofit health professions schools under Subpart I of Part C of Title VII of the Public Health Service Act (42 U.S.C. 294-294f), and to loans made to students by such schools pursuant thereto.

##### § 57.202 Definitions.

As used in this subpart, the following terms shall have the following meanings:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(c) "School" means a public or other nonprofit school of medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, or veterinary medicine which provides a course of study, or a portion thereof, which leads respectively to a degree of doctor of medicine, doctor of dental surgery or an equivalent degree, doctor of osteopathy, doctor of optometry or an equivalent degree, doctor of podiatry or an equivalent degree, bachelor of science in pharmacy or an equivalent degree, or doctor of veterinary medicine or an equivalent degree, and which is accredited as provided in section 721(b) (1) (B) of the Act.

(d) "State" means a State, the District of Columbia, Puerto Rico or the Virgin Islands.

(e) "Health Professions Student Loan Fund or Funds" means a fund established at a school pursuant to Subpart I of Part C of Title VII of the Act, either with Federal Capital Contributions together with Institutional Capital Contributions, or with Federal Capital Loans. Where a school receives monies from both methods of payment, reference is made to Funds.

(f) "Federal Capital Contribution" means the capital portion allotted by the Secretary to a school for deposit in a Health Professions Student Loan Fund pursuant to section 742 of the Act.

(g) "Institutional Capital Contribution" means the money provided by a school, in an amount not less than one-ninth of the Federal Capital Contribution, and deposited in a Health Professions Student Loan Fund.

(h) "Federal Capital Loan" means a loan made by the Secretary to a school pursuant to section 744(a) of the Act, the proceeds of which are to be deposited by such school in a Health Professions Student Loan Fund.

(i) "Health professions student loan" means the amount of money advanced to a student by a school from a Health Professions Student Loan Fund under a properly executed promissory note.

(j) "Educational loan" means a health professions student loan as defined in paragraph (i) of this section or the amount of money provided to a student under any other bona fide loan which the Secretary determines was reasonably necessary for meeting the student's costs of attending a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, taking into account the tuition, fees, books, equipment, living expenses and such other expenses as the Secretary determines were reasonably necessary to enable an individual to attend such school.

(k) "Full-time student" means a student who is enrolled in a school and pursuing a course of study which constitutes a full-time academic workload, as determined by the school, leading to a degree specified in paragraph (c) of this section.

(l) "Date upon which a student ceases to be a full-time student" means the first day of the month which is nearest to the date upon which he ceases to be a full-time student as defined in paragraph (k) of this section.

(m) "Academic year" means the traditional, approximately 9-month September to June annual session. For the purpose of computing academic year equivalents for students who, during a 12-month period, attend for a longer period than the traditional academic year, the academic year will be considered to be of 9 months' duration.

(n) "Fiscal year" means the Federal fiscal year commencing on the first day of July and ending on the 30th day of June.

(o) "Permanently and totally disabled" means the inability to engage in any substantial gainful activity because of a medically determinable impairment, which impairment is expected to continue for a long and indefinite period of time, or to result in death.

(p) "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Ocean Survey, and the U.S. Public Health Service.

(q) "National of the United States" means (1) a citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (8 U.S.C. 1101(a) (2)).

(r) "State health authority" means the Director of the agency responsible for administering or supervising the administration of the State plan for health services under section 314(d) of the Act.

#### § 57.203 Eligibility of schools.

To be eligible for a Federal Capital Contribution or a Federal Capital Loan under this subpart, the applicant school shall meet the applicable requirements of sections 740(a) and 744(a) of the Act.

#### § 57.204 Application by school.

(a) Each school desiring a Federal Capital Contribution or a Federal Capital Loan under the Act shall submit an application in such form and at such time as the Secretary may require. The application shall be executed by an official authorized to act for the applicant school and to assume on behalf of the applicant school the obligations imposed by the terms and conditions of any Federal Capital Contribution or Federal Capital Loan, including the regulations of this subpart.

(b) Each application shall be reviewed to determine institutional eligibility and the reasonableness of the amount of Federal support requested. When necessary to these ends, the Secretary may require the submission of additional data.

#### § 57.205 Agreements for Federal Capital Contributions and Federal Capital Loans.

(a) *Federal capital contribution agreements.* No application for a Federal Capital Contribution shall be approved unless there is in effect an agreement between the Secretary and the applicant

Applications and instructions are available from the Regional Health Manpower Director at the Regional Office of the Department of Health, Education, and Welfare for the region in which the applicant is located.

school for Federal Capital Contributions pursuant to section 740 of the Act.

(b) *Federal capital loan agreements.* No application for a Federal Capital Loan shall be approved unless there is in effect an agreement between the Secretary and the applicant school for Federal Capital Loans containing the terms required by section 744(b) of the Act and such additional terms and conditions, consistent with the applicable provisions of section 740 of the Act, as the Secretary deems appropriate.

#### § 57.206 Allotment and payment of Federal Capital Contributions and Federal Capital Loans.

(a) *Annual allotment.* At a time determined by him, the Secretary shall make allotments to each school with which he has entered into an agreement pursuant to § 57.205. If the total of the amounts requested for any fiscal year by all schools for Federal Capital Contributions and Federal Capital Loans exceeds the amount of Federal funds determined by the Secretary at the time of such allotment to be available for such purposes for such fiscal year, the allotment to each such school, whether in the form of Federal Capital Contributions or Federal Capital Loans or a combination of both, shall be reduced to whichever of the following is the smaller: (1) The amount requested in the application or (2) An amount which bears the same ratio to the total amount of Federal funds determined by the Secretary at the time of such allotment to be available for such fiscal year for the Health Professions Student Loan Program as the number of full-time students estimated by the Secretary to be enrolled in such school bears to the estimated total number of full-time students in all such schools during such year. Amounts remaining after such allotment shall be reallocated in accordance with subparagraph (2) of this paragraph among schools whose applications requested more than the amounts so allotted to them, but with such adjustments as may be necessary to prevent the total allotted to any school from exceeding the total requested by it.

(b) *Supplementary allotment from revolving fund only.* From funds which become available during any fiscal year for payment to schools from the revolving fund established by section 744(a) of the Act after the allotments pursuant to paragraph (a) of this section for such fiscal year have been made, the Secretary may, in his discretion and at such time as he shall determine, make supplementary allotments to schools with which he has Federal Capital Loan Agreements and whose requests for funds for such fiscal year exceed the amounts allotted to them pursuant to paragraph (a) of this section. If the total need for supplementary funds exceeds the amounts determined by the Secretary to be available for supplementary allotments, the supplementary allotment to each school shall be reduced to whichever of the following is the smaller: (1) The supplementary amount requested or (2) an

amount which bears the same ratio to the amount determined by the Secretary to be available for supplementary allotment as the number of full-time students estimated by the Secretary to be enrolled in such school bears to the estimated total number of full-time students enrolled for such year in all schools which request supplementary allotments. Any amounts remaining after such supplementary allotment may be allotted among schools in such manner as the Secretary determines will best carry out the purposes of the Act.

(c) *Payment.* The allotment of Federal Capital Contributions and/or Federal Capital Loans to a school shall be paid in such amounts, at such times, and in such installments as will not result in unnecessary accumulation of money in any Health Professions Student Loan Fund.

**§ 57.207 Federal Capital Loan Promissory Note.**

Each Federal Capital Loan shall be made subject to the terms of a promissory note which shall be executed by an authorized official on behalf of the borrowing school. Each such note shall include such terms with respect to the payment of interest and the repayment of principal as are consistent with the provisions of section 744 of the Act, and shall include such other terms as the Secretary finds reasonably necessary to protect the financial interests of the United States and to promote the purposes of the applicable provisions of the Act.

**§ 57.208 Health Professions Student Loan Funds.**

(a) *Funds established with Federal Capital Contributions.* Any fund established by a school with Federal Capital Contributions shall be deposited and carried in a special account of such school. There shall be in such fund at all times monies representing the Institutional Capital Contribution, equal to at least one-ninth of the amount of the balance of the Federal Capital Contributions in such fund.

(1) Except for funds transferred as provided for in subparagraph (2) of this paragraph, such fund shall be used by such school only for (i) health professions student loans to full-time students; (ii) capital distribution as provided in section 743 of the Act or as agreed to by the school and the Secretary; and (iii) costs of litigation and, to the extent specifically approved by the Secretary, other collection costs that are in excess of the usual expenses incurred in the collection of health professions student loans.

(2) Not to exceed 20 per centum of the amount paid to any such school from the appropriation for any fiscal year for Federal Capital Contributions may be transferred to the sums available to the school for scholarship awards under section 780 of the Act, to be used for the same purpose as such sums: *Provided, however,* That where the Secretary finds in a particular case that a school has demonstrated an unusual need for scholarship funds, he may approve the trans-

fer of an amount in excess of 20 per centum of the amount so paid. In the case of any transfer pursuant to this subparagraph, the proportionate amount of the Institutional Capital Contribution (i.e., one-ninth of the amount so transferred) may be withdrawn by the school from such fund.

(b) *Funds established with Federal Capital Loans.* Any funds established by a school with Federal Capital Loans shall be deposited and carried in a special account of such school, and shall be used by such school only for (1) health professions student loans to full-time students; (2) repayments of principal and interest on Federal Capital Loans; and (3) costs of litigation and, to the extent specifically approved by the Secretary, other collection costs that are in excess of the usual expenses incurred in the collection of health professions student loans.

**§ 57.209 Nondiscrimination.**

(a) No eligible applicant shall be denied a health professions student loan on the grounds of sex or creed.

(b) Attention is called to the requirements of section 799A of the Act and the regulations issued by the Secretary pursuant thereto (45 CFR Part 83), which together provide that the Secretary may not enter into a contract under Title VII of the Act with any entity unless he receives satisfactory assurances that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(c) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d et seq.) which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to Federal Capital Contributions and Federal Capital Loans made under Subpart I of Part C, Title VII of the Act, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(d) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

**§ 57.210 Eligibility and selection of health professions student loan recipients.**

(a) *Eligibility.* Health professions student loans from any fund may be made only to students who are:

(1) Nationals of the United States or permanent residents of the Trust Territory of the Pacific Islands or who are in the United States, Puerto Rico, the Vir-

gin Islands, or Guam for other than temporary purposes and intend to become permanent residents thereof.

(2) Enrolled, or accepted for enrollment in the school as full-time students; and

(3) In need of the amount of the loan to pursue a full-time course of study at the school.

(b) *Selection of health professions student loan recipients and determination of need.* It shall be the responsibility of the school to select qualified applicants and to make a reasonable determination of need. In determining whether a student is in need of a health professions student loan to pursue a full-time course of study at the school, the school shall take into consideration:

(1) The financial resources available to the student; and

(2) The costs reasonably necessary for the student's attendance at the school, including any special needs and obligations which directly affect the student's ability to attend the school on a full-time basis.

(c) *Records of approval or disapproval.* The records of the school shall indicate the basis for approval or disapproval of all or any part of each student application for a health professions student loan.

**§ 57.211 Maximum amount of health professions student loan.**

Effective on November 18, 1971, the total of the health professions student loans made from the Fund or Funds to any student for an academic year may not exceed \$3,500. The maximum amount loaned during a 12-month period to any student enrolled in a school which provides a course of study longer than the 9-month academic year may be proportionately increased.

**§ 57.212 Evidence of student indebtedness—promissory note; security.**

(a) *Evidence of indebtedness—promissory note.* Each health professions student loan to a student from any Fund or Funds shall be evidenced by a promissory note, executed by the student borrower in such form as shall be approved by the Secretary.

(1) Any substantive deviations from the promissory note form so approved shall be made only pursuant to approval by the Secretary prior to the making of any loan evidenced thereby, except that a school which elects to require security or endorsement in cases permitted under paragraph (b) of this section may include a provision reflecting such election without prior approval.

(2) Each promissory note shall include a provision stating that the loan evidenced thereby shall bear interest, on the unpaid balance of such loan, computed only for periods during which repayment of the loan is required, at the rate of 3 percent per year.

(3) A copy of each executed note shall be supplied by the school to the student maker thereof.

(b) *Security.* Neither security nor endorsement shall be required except that

if the borrower is a minor and if under the applicable State law the note executed by him would not create a binding obligation, then the school is permitted to require security or endorsement.

**§ 57.213 Payment of health professions student loans.**

(a) Health professions student loans from any Fund or Funds shall be paid to or on behalf of student borrowers in such installments as are deemed appropriate by the school, except that no school shall pay to or on behalf of any borrower more during any given installment period (e.g., semester, term, or quarter) than the school determines he needs for such period.

(b) No payment shall be made from any Fund or Funds to or on behalf of any student borrower if at the time of such payment such borrower is not a full-time student as defined in § 57.202(k).

**§ 57.214 Repayment and collection of health professions student loans.**

(a) *Repayment of health professions student loans.* Subject to the provisions of this paragraph any health professions student loan, including interest accrued thereon, shall be repayable in equal or graduated periodic installments in amounts calculated on the basis of a 10-year repayment period. Except as otherwise provided in this paragraph, repayment of all such loans made after June 30, 1969, shall begin 1 year after the student ceases to be a full-time student.

(1) When a borrower, within such 1-year period, reenters the same or another school as a full-time student, the date upon which interest accrual and the repayment period begin shall be related to and determined by the date on which he last ceases to be a full-time student at any such school.

(2) The following periods shall be excluded from the 10-year repayment period: (i) All periods of up to a total of 3 years of active duty performed by the borrower as a member of a uniformed service; (ii) all periods of up to a total of 3 years of service as a volunteer under the Peace Corps Act; and (iii) all periods of advanced professional training: *Provided*, That, with respect to health professions student loans made prior to November 18, 1971, but subsequent to June 30, 1969, such periods of advanced training may not exceed a total of 5 years; *Provided further*, That, with respect to student loans made before July 1, 1969, all periods up to a total of 5 years of advanced professional training after June 30, 1969, may be excluded from such repayment period where so agreed by the school which made the loan and the Secretary, except that in no such case may the total of the periods of advanced professional training so excluded from the repayment period and the period between the date on which the borrower ceases to be a full-time student and the date on which, under the terms of the promissory note evidencing such loan, the repayment period is to begin, exceed 6 years. For purposes of this subdivision

advanced professional training shall include only (i) internship and residency programs or (ii) full-time training beyond the first professional degree of at least 1 academic year which is provided by an accredited institution or an affiliate thereof, and which will advance the borrower's knowledge of and strengthen his skills in the health profession for the study of which he received the loan.

(3) Each student borrower may (subject to the provisions of paragraph (b) (3) of this section) choose the repayment schedule which he prefers from those in use by the school and approved by the Secretary, but a student borrower may, at his option and without penalty, prepay all or part of the principal and accrued interest at any time.

(b) *Collection of health professions student loans.* (1) Each school at which a Fund is established shall exercise due diligence in the collection of all health professions student loans due the Fund. The school shall use such collection practices as are generally accepted among institutions of higher education and which are at least as extensive and effective as those used in the collection of other student loan accounts due the school.

(2) With respect to any health professions student loan made after June 30, 1969, the school may assess a charge for failure of the borrower to pay all or any part of an installment when it is due, and, in the case of a borrower who is entitled to deferment benefits under section 741(c) of the Act, or cancellation benefits or repayment under section 741(f) of the Act for any failure to file timely and satisfactory evidence of such entitlement. The amount of such charge may not exceed \$1 for the first month or part of a month by which such installment or evidence is late and \$2 for each such month or part of a month thereafter. The school may elect to add the amount of such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(3) With respect to any health professions student loan made after June 30, 1969, the school may provide that during the repayment period of such loan, payments of principal and interest by the borrower with respect to all the outstanding loans made to him from any Health Professions Student Loan Fund shall be at a rate equal to not less than \$15 per month.

**§ 57.215 Cancellation of health professions student loans for disability and death.**

(a) *Permanent and total disability.* Determinations as to whether or not a student borrower is entitled to a cancellation of indebtedness in accordance with section 741(d) of the Act on the basis of permanent and total disability as defined in § 57.202(o) shall be made by the Secretary on the recommendation of the school to whose fund the borrower is in-

debted, supported by such medical certifications as the Secretary may require relating to the borrower's disability.

(b) *Death.* The determination as to whether or not a student borrower is entitled to a cancellation of indebtedness in accordance with section 741(d) of the Act because of the death of the borrower shall be made by the school to which the borrower is indebted on the basis of a certification of death or such other official proof as is conclusive under State law.

**§ 57.216 Repayment or cancellation of loans for practice.**

(a) *Practicing in a shortage area.* (1) Subject to the provisions of section 741(f) of the Act and of this paragraph, any person who has obtained a degree specified in § 57.202(c) and who obtained any educational loan as defined in § 57.202(j), and who enters into an agreement with the Secretary to spend all or substantially all of his professional time (as a member of the National Health Service Corps or otherwise) for a period of at least two consecutive years practicing his profession in, and helping to meet the need for professional services of the population of an area in a State designated under section 329(b) of the Act, or otherwise determined by the Secretary, after consultation with the State health authority, to have a shortage of and need for persons trained in his profession, is entitled to have a portion of such loan repaid by the Secretary as follows:

(i) Upon completion by the borrower of the first year of practice as specified in the agreement, the Secretary shall pay 30 percent of the principal of, and the interest on, each such loan which was unpaid as of the date the borrower began such practice.

(ii) Upon completion by the borrower of the second year of such practice the Secretary shall pay another 30 percent of the principal of, and the interest on, each such loan which was unpaid as of the date the borrower began such practice.

(iii) Upon completion by the borrower of a third year of such practice, the Secretary shall pay another 25 percent of the principal of, and interest on, each such loan which was unpaid as of the date the borrower began such practice.

(2) Notwithstanding the requirement in subparagraph (1) of this paragraph of completion of such practice, the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of practice for which the borrower is eligible to receive such payments. Such payments will be contingent upon a declaration by the borrower at such time and in such manner as the Secretary may prescribe that the borrower is then engaged in practice eligible for such payments and will continue to be so engaged for the period required (in the absence of this paragraph) to entitle the borrower to have such payments made: *Provided*, That not more than 85 percent of the principal of any such loan which was unpaid on the date the borrower began

## RULES AND REGULATIONS

such practice shall be paid by the Secretary pursuant to this paragraph.

(3) A borrower who fails to complete two years of practice pursuant to the agreement entered into with the Secretary shall be liable to reimburse the Secretary for any payments made pursuant to such agreement.

(4) A borrower who fails to complete a third year of practice shall be liable to reimburse the Secretary for any payments made pursuant to subparagraph (2) of this paragraph in consideration of such practice.

(5) In accordance with section 741(f) of the Act, an area in a State, other than one designated under section 329(b) of the Act, may be determined by the Secretary, after consultation with the State health authority, to have a shortage of and need for persons trained in the health professions, based upon consideration of, among other pertinent factors: (i) The latest reliable statistical data available to him regarding numbers of health professions practitioners and the population to be served by such practitioners; (ii) inaccessibility of medical services to the residents of the area; and (iii) particular local health problems. A list of areas in which practice will qualify a borrower for repayment under this paragraph shall be promulgated periodically by the Secretary and published in the Federal Register together with the methodology used in determining such areas.

(b) *Continuation of provisions for cancellation of loans made prior to November 18, 1971—(1) Practicing in a shortage area.* Any person who obtained prior to November 18, 1971, one or more loans from a Fund or Funds established under Part C of Title VII of the Act, and who engages in the practice of medicine, dentistry, optometry, or osteopathy in an area having a shortage of and need for physicians (M.D. and D.O.), dentists, or optometrists and whose practice is certified by the State health authority (as designated for purposes of section 314(d) of the Public Health Service Act) as helping to meet the shortage of and need for such professional services, shall be entitled, upon compliance with the statute, regulations, and instruction, to have a portion of such loans canceled as follows: 10 per centum of the total of such loans (plus accrued interest on such amount) which is unpaid as of the date that such person's professional services begin in such area, for each year of such practice thereafter, up to 50 per centum of the total of such unpaid amount, plus accrued interest thereon.

(i) For purposes of subparagraph (1) of this paragraph, the State health authority may designate as areas in the State in which there is a shortage of and need for physicians, dentists, or optometrists any county (or established comparable political subdivision in those States in which there are no counties) in which the ratio of practicing physicians, dentists, or optometrists, respectively, to the most recent available estimated population in the county is lower than the following ratios:

Physicians (M.D. and D.O.)	1:1,500
Dentists	1:3,000
Optometrists	1:15,000

*Provided,* That the State health authority may, with the approval of the Secretary, designate as shortage areas: (a) Geographical areas other than counties where he finds that the use of another classification of areas of the State will better reflect the health manpower needs of the State as related to particular administrative, geographical, or other factors, and (b) those counties or other geographical areas in which the ratio of such professional personnel to population is equal to or greater than the ratios specified above in special circumstances such as (1) inaccessibility of medical services to the residents of the area, (2) age or incapacity of professionals rendering service, and (3) particular local health problems.

(ii) For purposes of subparagraph (1) of this paragraph, in determining whether the practice of a physician, dentist, or optometrist in a shortage area helps to meet the shortage of and need for such professional services in the area, the State health authority shall take into consideration the amount of time which the practitioner devotes to serving the health needs of persons living in the area; the extent to which his services are generally available to residents of the area; and such other factors as will permit the State health authority to determine that the physician, dentist, or optometrist is substantially helping to meet the shortage of and need for professional services for residents of the area.

(iii) For purposes of subparagraph (1) of this paragraph, a year of practice in a shortage area means any 12-month period of continuous practice (a) after the date the person begins practice in such area if the area is at that time designated as an area in which there is a shortage of and need for physicians, dentists, or optometrists, or (b) after the date the area is designated a shortage area if the area was so designated subsequent to the date that such person began practicing in such area: *Provided,* That, when an area's designation is changed, after a practitioner would otherwise be eligible for cancellation of a portion of his loan by practicing in such area, so that such area is no longer a shortage area, such change in designation shall not affect the eligibility of such practitioner to have a portion of his loan canceled for any year in which he continues to practice his profession in such area.

(iv) For the purposes of subparagraph (1) of this paragraph, the State health authority shall certify to the Secretary in such form and at such times as the Secretary may prescribe: (a) The areas of his State which he has determined to be shortage areas and (b) the names of loan recipients whose practice in such areas he has determined helps to meet the shortage of and need for the designated area in accordance with physicians, dentists, or optometrists in the criteria prescribed in this paragraph.

(v) A list of areas in which practice will qualify borrowers for cancellation under the provisions of this paragraph will be promulgated by the Secretary and published in the FEDERAL REGISTER.

(2) *Practicing in a rural shortage area characterized by low family income.* Any person who obtained prior to November 18, 1971, one or more loans from a C of Title VII of the Act and who enrolls in or Funds established under Part C of Title VII of the Act and who enrolls in the practice of medicine, dentistry, optometry, or osteopathy in an area which has been determined by the Secretary pursuant to this paragraph to be a rural shortage area characterized by low family income, and whose practice is certified by the State health authority pursuant to subparagraph (1) of this paragraph as helping to meet the shortage of and need for such professional services, shall be entitled, upon compliance with the statute, regulations, and instructions, to have a portion of such loans canceled as follows: 15 per centum of the total of such loans (plus accrued interest on such amount) which is unpaid as of the date that such person's professional services begin in such area, for each year of such practice thereafter, up to 100 per centum of the total of such unpaid amount (plus accrued interest thereon).

(i) For purposes of subparagraph (2) of this paragraph, the Secretary, after consultation with the appropriate State health authority, may determine an area to be a rural shortage area characterized by low family income if the area has been designated as a shortage area pursuant to subparagraph (1) of this paragraph and is an area in which (a) at least 50 per centum of the total population is rural (as determined in accordance with the most recent available data of the U.S. Bureau of the Census), or there is no municipality of more than 10,000 population, and (b) at least 30 per centum of all persons have an income of less than 125 per centum of the poverty level as determined in accordance with the most recent available data of the U.S. Bureau of the Census.

(3) Nothing in this paragraph shall be construed to prevent any person from entering into an agreement with the Secretary under section 741(f) of the Act, as amended by the Comprehensive Health Manpower Training Act of 1971 (P.L. 92-157), as provided in paragraph (a) of this section.

**§ 57.217 Repayment of loans made subsequent to November 17, 1971 for failure to complete program of study.**

In the event the Secretary undertakes to repay educational loans pursuant to section 741(f) of the Act, he shall utilize the following criteria in making his determination as to each applicant's eligibility:

(a) An applicant will be considered to have failed to complete the course of study leading to his first professional degree for which an eligible educational loan was made upon certification by a health professions school that the individual ceased to be enrolled in such

school subsequent to November 17, 1971;

(b) An applicant will be considered to be in exceptionally needy circumstances if, upon comparison of the income and other financial resources of the applicant with his expenses and financial obligations, the Secretary determines that repayment of such loan would constitute a serious economic burden on the applicant. In making such determination the Secretary shall take into consideration the net financial assets of the applicant and the relationship of the income available to the applicant to the low-income levels published annually by the Secretary pursuant to paragraph (c) of this section;

(c) An applicant will be considered to be from a low-income family if the applicant comes from a family with an annual income below a level based on low-income thresholds by family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index and multiplied by a factor to be determined by the Secretary for adaptation to this program, and the family has no substantial net financial assets. Such factor and income levels as adjusted will be published annually by the Secretary in the FEDERAL REGISTER.

(d) An applicant will be considered to be from a disadvantaged family if the individual comes from a family in which the annual income minus unusual expenses which contribute to the economic burdens borne by the family does not exceed the low-income levels published by the Secretary pursuant to paragraph (c) of this section and the family has no substantial net financial assets;

(e) An applicant will be considered as not having resumed his health professions studies within two years following the date the individual ceased to be a student upon a certification so stating from the applicant; and

(f) An applicant will be considered as not reasonably expected to resume his health professions studies within two years following the date upon which he terminated such studies based upon consideration of the reasons for the applicant's failure to complete these studies, taking into account such factors as academic, medical, or financial difficulties.

Provided however, That the Secretary shall only repay educational loans made subsequent to November 17, 1971.

**§ 57.218 Records, reports, inspection and audit.**

(a) *Records and reports.* (1) Each Federal Capital Contribution and Federal Capital Loan shall be subject to the condition that the school shall maintain such records, and file with the Secretary such reports relating to the operation of its Health Professions Student Loan Fund or Funds, as the Secretary may find necessary to carry out the purposes of the Act and the regulations. Where any school has both a Fund established with Federal Capital Contributions and a Fund established with Federal Capital Loans, records shall be kept separately for each Fund. All records shall be re-

tained until such time as agreed upon with the Secretary that there is no further need for retention.

(2) The following individual student records not related to the operation of the Fund or Funds must be retained for five years after the individual student has ceased to be a full-time student:

(i) Approved and disapproved student applications for assistance;

(ii) Documentation of the financial need of applicants;

(iii) Reasons for approval or disapproval of applications; and

(iv) Such other records as the Secretary may prescribe.

Such individual student records may be destroyed at the end of such five-year period, except that in all cases where questions have arisen as a result of Federal audit, such records shall be retained until resolution of all such questions.

(b) *Inspection and audit.* Any application for a Federal Capital Contribution or a Federal Capital Loan shall constitute the consent of the applicant school to inspection and fiscal audit by the Secretary and the Comptroller General of the United States or any of their duly authorized representatives of the fiscal and other records of the applicant school which relate to such Contribution or Loan.

**§ 57.219 Additional conditions.**

The Secretary may with respect to any agreement entered into with any school pursuant to § 57.205, impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the purposes of the agreement, the interest of the public health or the conservation of funds awarded.

**§ 57.220 Noncompliance.**

Whenever the Secretary finds that a participating school has failed to comply with the applicable provisions of the Act or the regulations of this subpart, he may, on reasonable notice to the school withhold further payments of Federal Capital Contributions or Federal Capital Loans, and take such other action, including the termination of any agreement, as he finds necessary to carry out the purposes of the applicable provisions of the Act and regulations. In such case no further expenditures shall be made from the Health Professions Student Loan Fund or Funds involved until the Secretary determines that there is no longer any such failure of compliance.

[FR Doc.74-3150 Filed 2-6-74; 8:45 am]

**PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS**

**Financial Distress Grants to Health Professions Schools**

In the FEDERAL REGISTER of June 14, 1973 (38 FR 15628) the Acting Director,

National Institutes of Health, with the approval of the Secretary of Health, Education, and Welfare proposed to amend Part 57 by adding thereto a new Subpart M to implement section 773 of the Public Health Service Act (42 U.S.C. 295f-3) which authorizes the Secretary of Health, Education, and Welfare to make grants to assist public or nonprofit private schools of medicine, osteopathy, dentistry, optometry, podiatry, pharmacy, or veterinary medicine which are in serious financial straits to meet their cost of operation in the fiscal year in which the grant is sought, or which have special need for financial assistance to meet accreditation requirements.

Interested persons were afforded the opportunity to participate in the rule-making through submission of comments on or before July 16, 1973. No such comments were received. The only substantive change in the regulations as proposed concerns the record retention policy (§ 57.2214(a)) which, as modified, will be governed by the relevant provisions of 45 CFR Part 74.

*Effective date.* The regulations as set forth below shall become effective March 11, 1974.

Dated December 26, 1973.

CHARLES C. EDWARDS,  
Assistant Secretary for Health.

Approved February 4, 1974.

CASPAR W. WEINBERGER,  
Secretary.

**Subpart M—Financial Distress Grants to Health Professions Schools**

- Sec.
- 57.1201 Applicability.
  - 57.1202 Definitions.
  - 57.1203 Eligibility.
  - 57.1204 Application.
  - 57.1205 Assurances required.
  - 57.1206 Grant awards.
  - 57.1207 Payments.
  - 57.1208 Expenditure of grant funds.
  - 57.1209 Nondiscrimination.
  - 57.1210 Accountability.
  - 57.1211 Records, reports, inspection, and audit.
  - 57.1212 Additional conditions.
  - 57.1213 Early termination and withholding of payments.

AUTHORITY:—Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 773, 85 Stat. 446 (42 U.S.C. 295f-3).

**§ 57.1201 Applicability.**

The regulations in this subpart are applicable to the award of grants pursuant to section 773 of the Public Health Service Act (42 U.S.C. 295f-3) to assist schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry which are in serious financial straits to meet their cost of operation or which have special need for financial assistance to meet accreditation requirements.

**§ 57.1202 Definitions.**

As used in this subpart:  
(a) "Act" means the Public Health Service Act, as amended.

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and

## RULES AND REGULATIONS

Welfare to whom the authority involved has been delegated.

(c) "School" means a public or other nonprofit school of medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, or veterinary medicine which provides a course of study or a portion thereof leading respectively to a degree of doctor of medicine, doctor of dental surgery or an equivalent degree, doctor of osteopathy, doctor of optometry or an equivalent degree, doctor of podiatry or an equivalent degree, bachelor of science in pharmacy or equivalent degree, or doctor of veterinary medicine or an equivalent degree, and which is accredited as provided in section 775 (b) (2) of the Act.

(d) "Council" means the National Advisory Council on Health Professions Education (established by section 725 of the Act).

(e) "Fiscal year" means the Federal fiscal year beginning July 1 and ending the following June 30.

(f) "Construction" means (1) the construction of new buildings or the expansion or acquisition of existing buildings (including related costs such as architect's fees, acquisition of land, offsite improvements, and the initial equipping of such buildings); and (2) the remodeling, alteration and repair of existing buildings.

#### § 57.1203 Eligibility.

To be eligible for a financial distress grant under section 773 of the Act the applicant shall:

(a) Be a school as defined in § 57.1202 (c) with operating income insufficient to meet its cost of operation in the fiscal year in which the grant is sought, or which has special need for financial assistance to meet accreditation requirements. A school is considered to have such "special need" for financial assistance if accreditation requirements cannot be met within the school's operating income; and

(b) Be located in a State, the District of Columbia, Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

#### § 57.1204 Application.

(a) Each school desiring a financial distress grant shall submit an application in such form and at such time as the Secretary may require.<sup>1</sup> Such application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(b) The application shall state the purpose for which the application is made and shall include a narrative of the manner in which the applicant intends to utilize funds awarded in accordance with

<sup>1</sup> Applications and instructions are available from the Regional Health Manpower Director at the Regional Office of the Department of Health, Education, and Welfare for the region in which the project to be conducted is located.

this subpart and a proposed plan to eliminate the need for support under this subpart.

#### § 57.1205 Assurances required.

(a) Pursuant to section 773(d) of the Act, the applicant shall submit an assurance satisfactory to the Secretary that the applicant will expend in carrying out its functions as a school during the fiscal year for which the grant is sought, an amount of non-Federal funds (excluding costs of construction as defined in § 57.1202(f)) at least as great as the average amount of non-Federal funds (excluding expenditures of a nonrecurring nature, including costs of construction as defined in § 57.1202(f)) expended for this purpose during the 3 fiscal years immediately preceding such fiscal year. The determination of the average amount of non-Federal funds expended by a new school during this 3-year period shall be the average for such of the 3 preceding years as expenditures were actually made in carrying out the functions of the school: *Provided, however*, That the Secretary may, after consultation with the Council, waive the above requirement with respect to any school if he determines that the application of such requirement to such school would be inconsistent with the purposes of section 773 of the Act.

(b) The Secretary may in individual cases require additional assurances where he finds that such additional assurances are necessary to carry out the purposes of section 773 of the Act.

#### § 57.1206 Grant awards.

(a) Within the limits of funds available for such purpose, the Secretary, after consultation with the Council, may award a financial distress grant to assist any applicant with operating income insufficient to meet its costs of operation in the fiscal year in which the grant is sought, or which has special need for financial assistance to meet accreditation requirements taking into consideration, among other pertinent factors:

(1) The extent to which the school is either in serious financial straits and unable to meet its cost of operation or has special need for financial assistance to meet accreditation problems;

(2) The alternatives available to the school to meet its need for financial assistance;

(3) The actions which the applicant has taken, or proposes to take, to ameliorate the problem;

(4) The merit of the applicant's proposed plan to eliminate the long-range need for support under this program; and

(5) The causes of the school's financial distress.

(b) Any grant under this subpart shall be made upon such terms and conditions as the Secretary determines to be reasonable and necessary to carry out the purposes of the grant including requirements, where applicable, that the school agree (1) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress; (2) to conduct a comprehensive

cost analysis study in cooperation with the Secretary; and (3) to carry out appropriate operational and financial reforms on the basis of information obtained in the course of the comprehensive cost analysis study or on the basis of other relevant information.

(c) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary to carry out the purposes of the applicant's approved plan: *Provided, however*, That grant awards to meet costs of operation of a school shall not exceed the funds necessary to meet the school's anticipated deficit through June 30 of the year in which the grant is sought.

(d) All grant awards shall be in writing, shall set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee.

(e) Neither the approval of any application nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, or other award with respect to any approved plan or portion thereof.

#### § 57.1207 Payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

#### § 57.1208 Expenditure of grant funds.

(a) Grant funds awarded to schools for the purpose of meeting costs of operation may be expended for such costs in accordance with the applicable provisions of the Act, the regulations of this subpart and the terms and conditions of the award for any purpose necessary to reduce or remove the operating deficit through June 30 of the year in which the grant is sought, including the liquidation of obligations incurred either by the grantee or parent institution prior to the date of the grant award to the extent such obligations were incurred for costs properly considered regular operating costs of the school: *Provided, however*, That such funds shall not be expended for (1) construction as defined in § 57.1202(f) (except that grant funds may be used for alteration and renovation); (2) student aid; and (3) depreciation, amortization, or use charges. Such funds will be available for a fixed period set forth on the grant award statement based upon the Secretary's estimate of the time necessary to permit the school to utilize the grant funds in reducing or removing the current deficit.

(b) Grant funds awarded to schools for the purpose of meeting accreditation requirements shall be expended solely for carrying out the school's approved plan in accordance with the applicable provisions of the Act, the regulations of this subpart, the terms and conditions of

<sup>2</sup> The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Departments' and regional offices' information centers listed in 45 CFR 5.31 and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

the award and the applicable portions of the Department of Health, Education, and Welfare Grants Administration Manual: *Provided however*, That grant funds may only be used to pay direct costs. Such funds will be available for obligation through the end of the fiscal year following the fiscal year in which the grant is sought.

(c) Any unobligated grant funds remaining in the grant account at the end of the period of fund availability (as set forth in paragraphs (a) and (b) of this section) shall be refunded to the Federal Government.

§ 57.1209 Nondiscrimination.

(a) Attention is called to the requirements of section 799A of the Act and to 45 CFR, part 83, which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under title VII of the Act to, or for the benefit of, any entity unless he receives satisfactory assurance that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR, part 80).

(c) Attention is also called to the requirements of title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person, shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

(d) Grant funds used for alteration or renovation shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (Sept. 24, 1965), as amended, and with the applicable rules, regulations, and procedures prescribed pursuant thereto.

§ 57.1210 Accountability.

(a) *Accounting for grant award payments.*—All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each award the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart.

(b) *Accounting for equipment under grants to meet accreditation requirements.*—As used in this section, the term

"equipment" means an article of property procured or fabricated which is complete in itself, is of a durable nature, and has an expected service life of more than 1 year. Equipment on hand on the date of termination for which accounting is required in accordance with the procedures set forth in chapter 1-410-50 of the "Grants Administration Manual" shall be identified and reported by the grantee in accordance with such procedures and be accounted for by one or a combination of the following methods, as determined by the Secretary:

(1) *Retention of equipment for other health projects.*—Equipment may be used, without adjustment of accounts, for other grant-supported activities (whether or not federally supported) within the scope of the applicable provisions of the Act, and no other accounting for such equipment shall be required; *Provided, however*, (i) That during such period of use no charge for depreciation, amortization or for other use of the equipment shall be made against any existing or future Federal grant or contract, and (ii) if within the period of its useful life, the equipment is transferred by sale or otherwise for use outside the scope of section 773 of the Act, the Federal portion of the fair market value at the time of transfer shall be refunded to the Federal Government.

(2) *Sale or other disposition of equipment, crediting of proceeds or value.*—The equipment may be sold by the grantee and the net proceeds of sale credited to the grant account for grant-related use, or they may be used or disposed of in any manner by the grantee by crediting to the grant account the Federal share of the fair market value on the termination date. To the extent equipment purchased from grant funds is used for credit or trade-in on the purchase of new equipment, the accounting obligation shall apply to the same extent to such new equipment.

(3) *Return or transfer of equipment.*—The equipment may be returned to the Federal Government by the grantee, or in accordance with the provisions of chapter 1-410-50B of the Grants Administration Manual may be transferred to another grantee.

(c) *Accounting for grant-related income.*—(1) *Interest.*—Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds pending their disbursement for grant purposes. A State, as defined in section 102 of the Intergovernmental Cooperation Act of 1968, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All grantees other than a State, as defined in this subsection, must return all interest earned to the Federal Government.

(2) *Grant-related income.*—Grant-related income earned by the grantee shall be disposed of in accordance with one of

the alternatives specified in chapter 1-420 of the Grants Administration Manual as determined by the Secretary in the grant award.

(d) *Grant closeout.*—(1) *Date of final accounting.*—A grantee shall render, with respect to each approved project, a full account, as provided herein, as of date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.*—There shall be payable to the Federal Government as final settlement with respect to each grant the total sum of (i) any amount not accounted for pursuant to paragraph (a) of this section; (ii) any credits for equipment on hand as provided in paragraph (b) of this section; (iii) any credits for earned interest pursuant to paragraph (c) (1) of this section, and (iv) any other settlements required pursuant to paragraph (c) (2) of this section. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assigns by set off or other action as provided by law.

§ 57.1211 Records, reports, inspection, and audit.

(a) *Records and reports.*—The relevant provisions of Subpart D of 45 CFR Part 74 establishing uniform administrative requirements for the retention and custody of records shall be applicable to all grants awarded pursuant to this subpart.

(b) *Inspection and audit.*—Any application for a grant award under this subpart shall constitute the consent of the applicant to inspections of the facilities, equipment, and other resources of the applicant at reasonable times by the Secretary and the Comptroller General of the United States or any of their duly authorized representatives and to interviews with the principal staff members and students to the extent that such resources, personnel, and students are, or will be involved in the activity. In addition, the acceptance of any grant award under this subpart shall constitute the consent of the grantee to inspections and fiscal audits by such persons of the supported activity and of progress and fiscal records relating to the use of grant funds.

§ 57.1212 Additional conditions.

The Secretary may, with respect to any grant award, impose additional conditions prior to or at the time of any award when, in his judgment, such conditions are necessary to assure or protect advancement of the approved activity, the interests of the public health or the conservation of grant funds.

§ 57.1213 Early termination and withholding of payments.

Whenever the Secretary finds that a grantee has failed in a material respect to comply with the applicable provisions of the Act, the regulations of this subpart, or the terms of the grant, he may on reasonable notice to the grantee, withhold further payments, and take such other action, including the termination

## RULES AND REGULATIONS

of the grant, as he finds appropriate to carry out the purposes of the applicable provisions of the Act and regulations. Noncancelable obligations of the grantee properly incurred prior to the receipt of the notice of termination will be honored. The grantee shall be promptly notified of such termination in writing and given the reasons therefor.

[FR Doc.74-3149 Filed 2-6-74;8:45 am]

**PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS**

**Loan Guarantees and Interest Subsidies To Assist in Construction of Nurse Training Facilities**

In the FEDERAL REGISTER of May 24, 1973 (38 FR 13654) the Acting Director, National Institutes of Health, with the approval of the Secretary of Health, Education, and Welfare, proposed to amend Part 57 by adding thereto a new Subpart X governing loan guarantee and interest subsidy agreements made pursuant to section 809 of the Public Health Service Act.

Interested persons were afforded the opportunity to participate in the rule-making through submission of comments on or before June 25, 1973. No such comments were received.

There have been however, several changes made in the regulations as proposed, a number of which, notably in § 57.1714(a), are editorial and technical in nature and have been made in the interest of clarity. Three of the changes, however, are substantive in nature.

The first appears in § 57.1705(a)(1) which, as modified, will require that with respect to other than interim facilities the title assurance period shall not be less than 20 years or the term of the guaranteed loan. This modification was necessary in order to assure that the applicant will have sufficient title to the site to allow him to use it for the purposes for which constructed during the entire period of the Federal interest.

The second change involves the addition of three separate paragraphs to § 57.1714(b), which, in sum, indicate that the Secretary's obligation to make interest subsidy payments ceases where the applicant is found to be in noncompliance with either section 845 of the Public Health Service Act, Title VI of the Civil Rights Act of 1964, or Title IX of the Education Amendments of 1972. Furthermore, these paragraphs state that the Secretary shall resume making interest subsidy payments where he subsequently determines that the applicant is again in compliance with the requirements of such provisions.

A third change is the addition of § 57.1714(a)(6) to clarify that the Secretary shall not guarantee disbursements made to an applicant subsequent to notification by the Secretary to a lender

that the applicant has ceased to comply with section 845 of the Public Health Service Act, which prohibits discrimination on the basis of sex.

In addition, the subpart has been redesignated subpart R and the sections have been renumbered accordingly.

**Effective date.** The regulations as set forth below shall be effective on February 7, 1974.

Dated: December 26, 1973.

CHARLES C. EDWARDS,  
Assistant Secretary for Health.

Approved: February 4, 1974.

CASPAR W. WEINBERGER,  
Secretary of Health, Education,  
and Welfare.

**Subpart R—Loan Guarantees and Interest Subsidies to Assist in Construction of Nurse Training Facilities**

Sec.	
57.1701	Applicability.
57.1702	Definitions.
57.1703	Eligibility.
57.1704	Application.
57.1705	Approval of applications.
57.1706	Priority.
57.1707	Limitations applicable to loan guarantee.
57.1708	Amount of interest subsidy payments; limitations.
57.1709	Forms of credit and security instruments.
57.1710	Security for loans.
57.1711	Opinion of legal counsel.
57.1712	Length and maturity of loans.
57.1713	Repayment.
57.1714	Loan guarantee and interest subsidy agreements.
57.1715	Loan closing.
57.1716	Right of recovery—subordination.
57.1717	Waiver of right of recovery.

AUTHORITY: Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216).

**§ 57.1701 Applicability.**

The regulations of this subpart are applicable to loan guarantees and interest subsidy payments made pursuant to section 809 of the Public Health Service Act (42 U.S.C. 296h) to assist nonprofit private schools of nursing which are eligible for construction grants under part A of title VIII of the Public Health Service Act in carrying out projects for construction of nurse training facilities.

**§ 57.1702 Definitions.**

As used in this subpart:

(a) All terms not defined herein shall have the same meanings as given them in section 843 of the act.

(b) "Act" means the Public Health Service Act, as amended.

(c) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(d) "Council" means the National Advisory Council on Nurse Training (established by section 841(a) of the act).

(e) "Nonprofit" as applied to any school means one which is a corporation or association or is owned and operated

by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure to the benefit of any private shareholder or individual.

**§ 57.1703 Eligibility.**

(a) **Eligible applicants.**—In order to be eligible for a loan guarantee or interest subsidy under this subpart, the applicant shall:

(1) Be a nonprofit private school of nursing, and

(2) Otherwise meet the applicable requirements set forth in section 802(b) of the act and § 57.403 of subpart E of this part with respect to eligibility for grants for construction of nurse training facilities.

(b) **Eligible loans.**—Subject to the provisions of this subpart, the Secretary may guarantee payment, when due, of principal and interest on, or may pay interest subsidies with respect to, or may both guarantee and pay interest subsidies with respect to, any loan or portion thereof made to an eligible applicant by a non-Federal lender: *Provided*, that no such guarantee or interest subsidy shall apply to any loan the interest on which is exempt from Federal income taxation.

**§ 57.1704 Application.**

Each applicant desiring to have a loan guaranteed or to have interest subsidies paid on its behalf, or any combination of such loan guarantee or interest subsidies, shall submit an application for such assistance in such form and manner and at such time as the Secretary may require.<sup>1</sup>

(a) The application shall contain or be supported by such information as the Secretary may require to enable him to make the determinations required of him under the act and this subpart.

(b) The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any loan guarantee or agreement to pay interest subsidies, including the applicable regulations of this subpart.

**§ 57.1705 Approval of applications.**

(a) **General.**—Any application for loan guarantee or interest subsidies, or for a combination of both, may be approved by the Secretary, after consultation with the Council, only if he makes each of the applicable determinations set forth in section 802(b) of the act. In addition,

(1) Any such approval shall be subject to compliance by the applicant with the applicable provisions set forth in §§ 57.406, 507.407, 57.408, and 57.410 of subpart E of this part: *Provided however*, That for purposes of the title assurance in § 57.407(a) the period shall be not less than 20 years or the term of the

<sup>1</sup> Applications and instructions are available from the Regional Health Manpower Director at the Regional Office of the Department of Health, Education, and Welfare for the region in which the applicant is located.

guaranteed loan, whichever is longer or in the case of interim facilities, the term of the guaranteed loan, and

(2) Any such application may be approved by the Secretary only if he determines:

(i) That the applicant will have sufficient financial resources to enable him to comply with the terms and conditions of the loan;

(ii) That the applicant has the necessary legal authority to finance, construct, and maintain the proposed project, to apply for and receive the loan, and to pledge or mortgage any assets or revenues to be given as security for such loan;

(iii) That the loan will be made only with respect to initial permanent financing of the project;

(iv) That the loan will be secured by a lien against the facilities to be constructed or against other security satisfactory to the Secretary specified in § 57.1710;

(v) That the rate of interest on the loan does not exceed such per centum per annum as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States; and

(vi) Such additional determinations as the Secretary finds necessary with respect to particular applications in order to protect the financial interests of the United States.

(b) *Loan guarantees.*—In addition to the requirements of paragraph (a) of this section, any application for a loan guarantee may be approved by the Secretary only if he determines that the loan with respect to which such guarantee is sought would not be available to the applicant on reasonable terms and conditions without such guarantee. To assist the Secretary in making such determination, each applicant for a loan guarantee shall submit statements from at least three non-Federal institutions normally engaged in making long-term loans for construction, describing whether, and the terms and conditions under which, each institution would make a loan to the applicant for the project described in the applications.

(c) *Interest subsidies.*—In addition to the requirements of paragraph (a) of this section, any application for interest subsidies may be approved by the Secretary only if he determines that without such interest subsidy payments the applicant would not, over a substantial portion of the loan term, be able to repay the principal and interest of the loan without jeopardizing the quality of the educational program.

§ 57.1706 Priority.

(a) Priority in approving applications for loan guarantee and/or interest subsidies shall be determined in accordance with the factors specified in section 802 of the act, and the following: (1) The availability of training opportunities for students; (2) the relative effectiveness of the project in carrying out

the purposes of sections 801-804 and section 809 of the act at the least relative cost to the Federal Government; and (3) the relative ability of the applicant to make efficient and productive use of the facility constructed, consistent with sections 801-804 and section 809 of the act.

§ 57.1707 Limitations applicable to loan guarantee.

(a) The amount of loan with respect to which a guarantee is made under this subpart shall be determined by the Secretary based upon such considerations as the availability of funds and the applicant's need therefor: *Provided, That:*

(1) Subject to paragraph (a)(2) of this section, no loan with respect to which a guarantee is made for any project under this subpart may be in an amount which, when added to the amount of any grant made with respect to such project under part A of title VIII of the act or any other law of the United States, or to the total of such grants, exceeds 90 percent of the eligible cost of construction of such project as determined by the Secretary;

(2) Notwithstanding paragraph (a)(1) of this section, the Secretary may in particular cases guarantee loans in excess of the amount specified in paragraph (a)(1) where he determines that, because of special circumstances, such additional loan guarantee will further the purposes of sections 801-804 and section 809 of the act. In making such determination, the Secretary will in each case consider the following factors:

(i) The need for the project in the area to be served;

(ii) The availability of financing for the project on reasonable terms and conditions without such additional loan guarantee;

(iii) Whether the project can be constructed without such additional loan guarantee; and

(iv) Other relevant factors consistent with the purposes of sections 801-804 and section 809 of the act and this subpart.

(3) In determining the cost of construction of the project there shall be excluded from such cost all fees, interest, and other charges relating or attributable to the financing of the project except the following:

(i) Reasonable fees attributable to services rendered by legal counsel in connection with such loan;

(ii) With the approval of the Secretary, reasonable fees attributable to the services of a financial advisor in assisting the applicant in securing the loan and arranging for repayment thereof, and

(iii) Interest attributable to the interim financing of construction of the project prior to the initial permanent financing thereof.

(b) No loan guarantee under this subpart shall apply to more than 90 percent of the loss of principal of and interest on such loan incurred by the holder of such loan upon default by the applicant.

§ 57.1708 Amount of interest subsidy payments, limitations.

The length of time for which interest subsidy payments will be made under the

agreement, the amount of loan with respect to which such payments will be made, and the level of such payments shall be determined by the Secretary on the basis of the availability of funds and his determination of the applicant's need therefor taking into consideration his analysis of the present and reasonable projected future financial ability of the applicant to repay the principal and interest of the loan without jeopardizing the quality of its educational program: *Provided, however,* That each such interest subsidy payment shall not exceed the amount necessary to reduce by 3 percent per annum the net effective interest rate otherwise payable on the loan or the portion thereof with respect to which such interest subsidy is paid.

§ 57.1709 Forms of credit and security instruments.

Each loan with respect to which a guarantee is made or interest subsidies are paid under this subpart shall be evidenced by a credit instrument and secured by a security instrument in such forms as may be acceptable to the Secretary.

§ 57.1710 Security for loans.

Each loan with respect to which a guarantee is made or interest subsidies are paid under this subpart shall be secured in a manner which the Secretary finds reasonably sufficient to insure repayment. The security may be one or a combination of the following:

(a) A first mortgage on the facility and site thereof.

(b) Negotiable stocks or bonds of a quality and value acceptable to the Secretary.

(c) A pledge of unrestricted and unencumbered income from an endowment or other trust fund acceptable to the Secretary.

(d) A pledge of a specified portion of annual general or special revenues of the applicant acceptable to the Secretary.

(e) Such other security as the Secretary may find acceptable in specific instances.

§ 57.1711 Opinion of legal counsel.

At appropriate stages in the application and approval procedure for a loan guarantee or interest subsidy, the applicant shall furnish to the Secretary a memorandum or opinion of legal counsel with respect to the legality of any proposed note issue, the legal authority of the applicant to issue the note and secure it by the proposed collateral, and the legality of the issue upon delivery. "Legal counsel" means either a law firm or individual lawyer, thoroughly experienced in the long-term financing of construction projects, and whose approving opinions have previously been accepted by lenders or lending institutions. The legal memorandum or opinion to be provided by legal counsel in each case shall be as follows:

(a) A memorandum, submitted with the application for a loan guarantee or interest subsidy, stating that the applicant is or will be lawfully authorized to finance, construct, and maintain the

project, and to issue the proposed obligations and to pledge or mortgage the assets and/or revenues offered to secure the loan, citing the basis for such authority; and

(b) A final approving opinion, delivered to the Secretary at the time of delivery of the evidence of indebtedness to the lender, stating that the credit and security instruments executed by the applicant are duly authorized and delivered and that the indebtedness of the applicant is valid, binding, and payable in accordance with the terms on which the loan guarantee was approved by the Secretary.

#### § 57.1712 Length and maturity of loans.

The repayment period for loans with respect to which guarantees are made or interest subsidies paid under this subpart shall be limited to 30 years: *Provided*, That

(a) The Secretary may, in particular cases where he determines that a repayment period of less than 30 years is more appropriate to an applicant's total financial plan, approved such shorter repayment period;

(b) The Secretary may, in particular cases where he determines that, because of unusual circumstances, the applicant would be financially unable to amortize the loan over a repayment period of 30 years, approve a longer requirement period which shall in no case exceed 40 years; and

(c) In no case shall a loan repayment period exceed the useful life of the facility to be constructed with the assistance of the loan.

#### § 57.1713 Repayment.

Unless otherwise specifically authorized by the Secretary, each loan with respect to which a guarantee is made or interest subsidies are paid shall be repayable in substantially level total annual installments of principal and interest, sufficient to amortize the loan through the final year of the life of the loan.

#### § 57.1714 Loan guarantee and interest subsidy agreements.

For each application for a loan guarantee or interest subsidy, or combination thereof, which is approved by the Secretary under this subpart, an offer to guarantee such loan and/or make interest subsidy payments with respect thereto will be sent to the applicant, setting forth the pertinent terms and conditions for the loan guarantee and/or interest subsidy, and will be conditioned upon the fulfillment of such terms and conditions. The accepted offer will constitute the loan guarantee agreement, the interest subsidy agreement, or the loan guarantee and interest subsidy agreement, as the case may be. Each such agreement shall include the applicable provisions set forth below:

(a) *Loan guarantee.* Each agreement pertaining to a loan guarantee shall include the following provisions:

(1) That the loan guarantee evidenced by the agreement shall be incontestable (1) in the hands of the applicant on

whose behalf such loan guarantee is made except for fraud or misrepresentation on the part of such applicant, and (ii) as to any person who makes or contracts to make a loan to such applicant in reliance on such guarantee, except for fraud or misrepresentation on the part of such other person.

(2) That the applicant shall be permitted to prepay up to 15 percent of the original principal amount of such loan in any calendar year without additional charge. The applicant and the lender may further agree that the applicant will be permitted to prepay in excess of 15 percent of the original principal amount of the loan in any calendar year without additional charge, but no such payment in excess of 15 percent shall be made without the prior written approval of the Secretary.

(3) That if the applicant shall default in making periodic payment, when due, of the principal and interest on the loan guaranteed under the agreement, the holder of the loan shall promptly give the Secretary written notification of such default. The Secretary shall, immediately upon receipt of such notice, provide the holder with written acknowledgment of such receipt.

(4) That if such default in making periodic payment when due of the principal and interest on the guaranteed loan is not cured within 90 days after receipt by the Secretary of notice of such default, the holder of the loan shall have the right to make demand upon the Secretary, in such form and manner as the Secretary may prescribe, for payment of 90 percent of the amount of the overdue payments of principal and accrued interest, together with such reasonable late charges as are made in accordance with the terms of the credit instrument or security instrument evidencing or securing such loan. The Secretary shall pay such amount from funds available to him for that purpose.

(5) That in the event of exercise by the holder of the loan of any right to accelerate payment of such loan as a result of the applicant's default in making periodic payment when due of the principal and interest on the guaranteed loan, the Secretary shall, upon demand by the holder not less than 90 days after receipt by the Secretary of notification of such default, pay to such holder 90 percent of the total amount of the principal of and interest on the loan remaining unpaid after the holder has exercised his right to foreclose upon and dispose of the security and has applied the proceeds thereby received to reduce the outstanding balance of the loan, in accordance with applicable law and the terms of the security instrument.

(6) That the Secretary shall not guarantee any funds disbursed by a lender after notification by the Secretary to such lender that the Assurance executed by the applicant under section 845 of the Act is no longer satisfactory.

(b) *Interest subsidy.*—Each agreement pertaining to the payment of interest subsidies with respect to a loan shall include the following provisions:

(1) That the holder of the loan shall have a contractual right to receive from the United States interest subsidy payments in amounts sufficient to reduce by up to 3 percent per annum the net effective interest rate determined by the Secretary to be otherwise payable on such loan.

(2) That payments of interest subsidies pursuant to subparagraph (1) of this paragraph will be made by the Secretary, in accordance with the terms of the loan with respect to which the interest subsidies are paid, directly to the holder of such loan, or to a trustee or agent designated in writing to the Secretary by such holder, until such time as the Secretary is notified in writing by the holder that such loan has been transferred. Pursuant to such written notification of transfer, the Secretary will make such interest payments directly to the new holder (transferee) of the loan: *Provided, however*, That it shall be the responsibility of the holder to remit any payments of interest subsidy to the new holder which the Secretary may have made to the holder after such transfer and prior to receipt of such written notice, and the Secretary shall not be liable to any party for amounts remitted to the holder prior to receipt of such written notice and acknowledgement in writing by the Secretary of receipt of such notice.

(3) That the holder of the loan will promptly notify the Secretary of any default or prepayment by the applicant with respect to the loan.

(4) In the event of any exercise by the holder of the loan of the right to accelerate payment of such loan, whether as a result of default on the part of the applicant or otherwise, the Secretary's obligations with respect to the payment of interest subsidies shall cease.

(5) Where, during the life of the loan with respect to which interest subsidies are to be paid, the applicant ceases to use the facility for the purposes for which constructed, the Secretary's obligation with respect to the payment of interest subsidies shall cease: *Provided, however*, that where the applicant is continuing to use the facility for purposes eligible for support under sections 801-804 and section 809 of the act, the Secretary may make a determination, based upon the nursing personnel needs of the community served by the facility as well as other relevant factors, to continue to make interest subsidy payments in accord with the agreement.

(6) Where during the life of the loan with respect to which interest subsidies are to be paid, it is determined, after an opportunity for a hearing pursuant to 45 CFR Part 83, that the Assurance executed by the applicant under section 845 of the Act, is no longer satisfactory, the Secretary's obligation with respect to the payment of interest subsidies shall cease: *Provided however*, That the Secretary shall resume making interest subsidy payments if he determines that a subsequent Assurance submitted by the applicant is satisfactory.

(7) Where during the life of the loan with respect to which interest subsidies

are to be paid, it is determined by the Secretary, after an opportunity for a hearing pursuant to 45 CFR Parts 80 and 81, that the applicant has ceased to comply with the Assurance it has executed under 45 CFR § 80.4(d) concerning non-discrimination on the basis of race, color or national origin, the Secretary's obligation with respect to the payment of interest subsidies shall cease: *Provided however*, That the Secretary shall resume making interest subsidy payments if he subsequently determines that the applicant has come into compliance with the requirements of Title VI of the Civil Rights Act of 1964 and implementing regulations.

(8) Where during the life of the loan with respect to which interest subsidies are to be paid, it is determined by the Secretary after an opportunity for a hearing pursuant to Title IX of the Education Amendments of 1972, that the applicant has ceased to comply with such Title, and its implementing regulations, the Secretary's obligation with respect to the payment of interest subsidies shall cease: *Provided however*, That the Secretary shall resume making interest subsidy payments if he subsequently determines that the applicant has come into compliance with the requirements of Title IX of the Education Amendments of 1972 and implementing regulations.

(c) *General*.—In addition to the applicable requirements of paragraphs (a) and (b) of this section, each agreement, whether pertaining to a loan guarantee or interest subsidy or both, shall contain such other provisions as the Secretary finds necessary in order to protect the financial interests of the United States.

§ 57.1715 Loan closing.

Closing of any loan with respect to which a guarantee is made or interest subsidies are paid under this subpart shall be accomplished at such time as may be agreed upon by the parties to such loan and found acceptable by the Secretary.

§ 57.1716 Right of recovery—subordination.

(a) The United States shall be entitled to recover from the applicant for a loan guarantee under this subpart the amount of any payment made pursuant to such guarantee, unless the Secretary waives such right of recovery as provided in § 57.1717.

(b) Upon making of any payments pursuant to a loan guarantee under this subpart, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

§ 57.1717 Waiver of right of recovery.

In determining whether there is good cause for waiver of any right of recovery which he may have against an applicant by reason of any payments made pursuant to a loan guarantee under this subpart, the Secretary shall take into consideration the extent to which:

(a) The facility with respect to which the loan guarantee was made will continue to be devoted by the applicant or other owner to nurse training or the teaching of other health professions personnel;

(b) There are reasonable assurances that for the remainder of the repayment period of the loan other facilities not previously utilized for nurse training will be so utilized and are substantially equivalent in nature and extent for such purposes; and

(c) Such recovery would seriously curtail the training of qualified nursing personnel in the area served by the facility.

[FR Doc.74-3151 Filed 2-6-74;8:45 am]

Title 49—Transportation  
CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[R.S.O. 1112]

PART 1033—CAR SERVICE

Railroad Operating Regulations for Freight Car Movement

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of January 1974.

It appearing, that there are acute shortages of freight cars throughout the country; that certain carriers are unable to furnish an adequate supply of freight cars to shippers located on their lines; that these shortages of freight cars are impeding both the domestic and export movements of agricultural, mineral, forest, and manufactured products, and other commodities; and that the existing car service rules, regulations, and practices of the railroads are ineffective with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of freight cars to meet the requirements of shippers. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.112 Service Order No. 1112.

(a) *Railroad operating regulations for freight car movement*. Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Application:

(i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all loaded cars.

<sup>1</sup>(iii) This order shall apply to all

<sup>1</sup> Change.

empty general service freight equipment cars described on pages 1119-1121, inclusive and listed in the Official Railway Equipment, Register ICC RER No. 390, issued by W. J. Trezise, or reissues thereof including cars bearing mechanical designations modified in the manner described in the various notes thereto. (See exceptions, paragraph (a) (1) (iv), (v), (vi), (vii), and (viii) of this section.)

(iv) Exception: Car of mechanical designation FL, SC, SM, ST, or NE.

<sup>2</sup>(v) Exception: Empty cars of private ownership as defined in Service Order No. 1170, or revisions thereof.

(vi) Exception: Empty cars owned by The Alaska Railroad, while held in the State of Washington, pursuant to instructions of the car owner, are exempt from the provisions of this order.

(vii) Exception: Empty cars, described in paragraph (a) (1) (iii) of this section, which are in general service and are not assigned to the exclusive use of a specified shipper, owned by and bearing the registered reporting marks assigned to the line holding the car, are exempt from the provisions of this order.

(viii) Exception: To alleviate hardships or inequities, exceptions to this order may be authorized to the carrier by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C. Requests for such exceptions may be made only by carriers and shall be sent to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for recording and submission to the Railroad Service Board, Interstate Commerce Commission, for consideration.

(ix) This order shall apply to all empty cars described in part (iii) of this section, which are assigned to the exclusive use of a specified shipper, except as otherwise provided in this section.

(x) Freight cars assigned to the exclusive use of a specified shipper may be removed from assignment; provided, that assignee furnishes written notice to originating railroad and to the car owner, if different from originating railroads, at least one day in advance of his desire to release such cars from assignment on a permanent, or on a temporary basis of not less than 15 days' duration (See exception). The carrier must remove cars from assignment in accordance with assignee's request.

EXCEPTION: Assigned cars which have arrived empty at the point of assignment or at a point of loading designated by assignee, shall not be diverted empty to another point for loading unless authorized by prepaid shipping order showing destination and route at a rate of ten cents (10¢) per mile, subject to a minimum of 100 miles for each railroad handling the car in line-haul service, plus applicable tariff switching charges of each participating railroad which does not provide line-haul service in connection with the movement, or unless released from assignment in the manner described herein. If released from assignment, cars may not be ordered empty to any point or shipper on instructions of the assignee who ordered the release of the cars.

<sup>1</sup> Change.

## RULES AND REGULATIONS

(xi) Car assigned to the exclusive use of a specified shipper must be listed on assignment lists posted in the office of the Chief Transportation Officer of the car owner, and in the office designated to issue waybills and other shipping documents for loaded movements from the points of assignment. Assignment lists must specify initial and number of each assigned car, the shipper to whom assigned, and the date car assignment became effective. Requests for assignments of cars must be secured in writing, or confirmed in writing, by the carrier on whose lines the cars are assigned, not less than ten days before the effective date of the car assignment. Freight cars in assigned service on October 9, 1972, shall be considered as having been in such assignments for ten days or longer, provided that the assignment lists are prepared and posted, as required herein, not later than October 23, 1972.

(xii) The mechanical designations of existing freight cars in paragraph (a) (1) (iii) of this section may not be changed to any mechanical designation other than those listed in paragraph (a) (1) (iii) of this section during the period this order is in effect.

(xiii) Actual placement means placing a car in an accessible position for loading or unloading, or placing on an industrial interchange track serving the consignor or consignee. If such placing is prevented by any cause attributable to consignor or consignee and car is placed on the private or other-than-public-delivery tracks serving the consignor or consignee, it shall be considered constructively placed without notice.

(xiv) Holidays shall be those listed in Item 25 of Agent B. B. Maurer's Tariff 4-J ICC H-59, naming Car Demurrage Rules and Charges, supplements thereto, or successive issues thereof.

<sup>1</sup>(2) *Placing of cars.* (i) Loaded cars shall be actually or constructively placed within 24 hours, exclusive of Saturdays, Sundays, and holidays following arrival at destination, or after arrival at the yard from which cars are dispatched for actual placement.

(ii) Empty cars which are in general service and are not assigned to the exclusive use of specified shipper, which after placement will be subject to demurrage or detention rules applicable to cars for loading, shall be actually or constructively placed within 48 hours, exclusive of Saturdays, Sundays, and holidays, after arrival at the point where held.

(iii) Empty cars described in paragraph (a) (1) (ix) of this section which are assigned to the exclusive use of a specified shipper shall be subject to a storage charge of \$5.00 per car per day or fraction thereof until ordered placed for loading or appropriated for loading, without free time allowance and without allowance for Saturdays, Sundays, and holidays. (See exception, paragraph (a) (2) (iv) of this section.)

(A) In computing storage charges on cars subject to this part, such charges shall begin at the second 7:00 a.m., ex-

clusive of Saturdays, Sundays, and holidays, following the sending or giving of notice that the cars are being held awaiting orders for actual placement or appropriation for loading.

(B) When empty assigned cars are held at any point awaiting orders from assignee for placement for loading or awaiting appropriation by assignee for loading, a written notice of arrival (see note) shall be sent or given assignee within 24 hours of arrival of the empty car at the point where held, exclusive of Saturdays, Sundays, and holidays. Such notice shall contain the initials and numbers of each car held and shall state that each car is being held subject to a storage charge of \$5.00 per car per day or fraction of a day, until ordered placed for loading or ordered released, in writing, from assignment.

NOTE: When the assignee notifies the railroad, in writing, that it will accept verbal or telephone notice of the arrival of empty assigned cars, verbal or telephone notice may be substituted for written notice of arrival. The carriers will maintain a written record of all such verbal or telephone notices, such records to show car initials and numbers, date and hour of notice, name of assignee, name of railroad employee giving the notice, and name of employee of assignee receiving the notice.

(C) Empty cars released from storage status by order or appropriation for loading shall be subject to all demurrage or detention rules and charges published in tariffs applicable to cars held for loading, from time released from storage charges.

(iv) Exception to paragraph (a) (2) (iii) of this section: When it is impossible to load or to receive for loading empty cars assigned to the exclusive use of a shipper because of cessation of operations for a period of five days or more resulting from a strike, work stoppage, flood, high water, or other interference at the plant of the assignee for which empty assigned cars are held, the charges provided in paragraph (a) (2) (iii) of this section shall be suspended for the period of such interference with operations; provided, that the assignee furnishes a written notice to the carrier at the point of assignment, with a copy to the Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C., for his approval. Such notice shall be given within five days, exclusive of Saturdays, Sundays, and holidays, after the date on which the interference ceased; and shall state the date and time when the interference began and ceased and the cause of the interference.

<sup>1</sup>(v) When delivery of a car, either empty or loaded, consigned or ordered to an industrial interchange track or to an other-than-public-delivery track, cannot be made because of any condition attributable to the consignor or consignee, such car shall be held at destination or, if it cannot reasonably be accommodated there, at an available hold point; and constructive placement notice, shall be sent or given the consignor or consignee

within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or hold point.

(vi) Proper notice for cars placed on public delivery tracks shall be sent or given within 24 hours after placement, exclusive of Saturdays, Sundays, and holidays.

(vii) Cars held at destination for accessorial terminal services described in the applicable tariffs, such as holding for orders or inspection, shall be placed on unloading, hold, or inspection tracks; and proper notice shall be given within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or at hold point. Time and charges shall be computed following such notice and demurrage or detention charges assessed in accordance with provisions of governing tariffs.

(3) *Removal of cars.* (i) Empty cars must be removed from point of unloading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays, and holidays, following unloading or release by consignee or shipper, unless such empty cars are ordered or appropriated by the shipper for reloading within such 24-hour period. Empty cars not ordered for loading at point where made empty must be forwarded or set aside for cleaning, repairs, or weighed, if to be weighed at that point, within 24 hours following removal of empty cars.

<sup>1</sup>(ii) Outbound loaded freight cars must be removed from point of loading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays, and holidays, following acceptance by carrier of the shipping instructions covering the cars. Such cars must be forwarded or set aside for repairs or weighed, if to be weighed at that point, within 24 hours, following release and removal.

(iii) Cars subject to paragraph (a) (3) (i) and (ii) of this section, not made accessible to the carrier, shall be subject to demurrage until such time as they become, and remain, accessible to the carrier.

(iv) Cars shall not be removed from point of unloading or from industrial interchange tracks, nor released from demurrage or detention status, until all bracing, blocking, dunnage, paper, residue of lading, debris, and other foreign matter directly related to the inbound load have been removed from the car in accordance with the requirements of Rules 14 and 27 of the Uniform Freight Classification, I.C.C. 7, issued by J. D. Sherson, supplements thereto, or reissues thereof.

EXCEPTION: Dunnage being returned to shipper under the provisions of the applicable tariffs may be left in cars released as empty, provided that proper shipping instructions are received by the carrier prior to 5:00 p.m., of the first day, which is not a Saturday, Sunday or holiday, immediately following release of the car.

(4) *Forwarding of cars.* (i) Loaded cars and empty cars shall be forwarded within 24 hours, except cars described in para-

<sup>1</sup> Change.<sup>1</sup> Change.<sup>1</sup> Change.

graph (a) (4) (ii), (iii), or (iv) of this section, or cars described in paragraph (a) (2) (ii) of this section.

(ii) Exception: Loaded cars held subject to instructions of consignee, consignor, or other qualified owner of the freight contained therein, while subject to applicable tariffs.

(iii) Exception: Cars held for repairs, weighing, or cleaning. (See paragraph (a) (5) of this section.)

(iv) Exception: Cars held because no train or switch engine service is available between hold point and destination.

(5) *Cars held for repairs, weighing, or cleaning.* (i) Cars of system, foreign, or private ownership which are held for light repairs or cleaning shall be placed on repair or cleaning tracks not later than the first 7 a.m., exclusive of Sundays, and holidays, after time carded for repairs or cleaning. Light repairs or cleaning shall be accomplished within 24 hours, exclusive of Sundays, and holidays, after placement on repair or cleaning tracks; except that when necessary to order material from car owner to make the repairs to foreign or private cars held awaiting such material, repairs shall be completed within 24 hours, exclusive of Sundays and holidays, after receipt of such material at the station at which the repair point is located.

(ii) Light repairs are defined as repairs requiring less than 20 man-hours by repair track forces to complete.

(iii) Cars which must be weighed shall be weighed and restencilled, if required, within 24 hours, exclusive of Sundays and holidays, after arrival at the point at which weighing is to be accomplished, or after request for weight is received, if weights are requested by shipper or by car owner.

(iv) Cars which have been repaired, cleaned or weighed shall become subject such to paragraph (a) (2), (4), or (4) of this section, as applicable, from the date such repairs, cleaning or weighing have been accomplished.

(6) *Movement of freight cars.* (i) No common carrier by railroad subject to the Interstate Commerce Act shall delay the movement of cars by holding such cars in yards, terminals, or sidings for the purpose of increasing the time in transit of such cars.

(ii) Cars shall not be set out between terminals except in cases of emergency.

(iii) Back-hauling cars for the purpose of increasing the time in transit is prohibited.

(iv) Through cars shall not be handled on local or way freight trains for the purpose of increasing the time in transit of such cars.

(v) The use of any common carrier by railroad, or the acceptance of instructions from the shipper, for the movement of cars over its line via any route other than its shortest available route or its usual and customary fast freight route from point of receipt of the car from consignor, or connecting line, to point of

delivery to consignee, or to next connecting line, except for the purpose of according a lawfully established transit privilege (not including a diversion or reconsignment privilege) is hereby prohibited.

(b) *Rules and regulations suspended.* The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Effective date.* This order shall become effective at 12:01 a.m., February 1, 1974.

(d) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 74-3171 Filed 2-6-74; 8:45 am]

[Corrected S. O. 1169]

#### PART 1033—CAR SERVICE

##### Providence and Worcester Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of January 1974.

It appearing, that the Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees (B&M), in Finance Docket No. 26558, was authorized to abandon a portion of its Worcester Branch between milepost 3.2595 at Worcester, Massachusetts, and milepost 25.199 at Gardner, Massachusetts, a distance of approximately 21.94 miles; that the Commission's order authorizing abandonment of the aforementioned trackage required the B&M to sell this trackage to any responsible person or corporation offering to continue its operation; that the Providence and Worcester Company (P&W) has agreed to purchase the aforementioned line of the B&M; that the B&M and the P&W have agreed upon the terms of the sale of this line to the P&W; that the B&M has also consented to the use by the P&W of its line between milepost 0.00 at Worcester, Massachusetts, and milepost 3.2595 at Worcester, Massachusetts, a distance

of approximately 3.26 miles, in order to provide a connection between the existing line of the P&W and the line to be acquired by the P&W from the B&M; that the B&M has also consented to the use of the remaining segment of its Worcester Branch between milepost 25.199, and milepost 26.166 at Gardner, Massachusetts, a distance of approximately 1.033 miles, in order to provide interchange connections with the B&M; that operation by the P&W over the aforementioned trackage authorized to be abandoned by the B&M and over the necessary connecting trackage of the B&M at Worcester, Massachusetts, and Gardner, Massachusetts, is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

*It is ordered, That:*

§ 1033.1169 Corrected Service Order No. 1169.

(a) *Providence and Worcester Company authorized to operate over tracks authorized to be abandoned by Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees, and over tracks of Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees.* The Providence and Worcester Company (P&W) be, and it is hereby, authorized to operate over tracks of the Worcester Branch authorized to be abandoned by the Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees (B&M), between milepost 3.2595 at Worcester, Massachusetts, and milepost 25.199 at Gardner, Massachusetts, a distance of approximately 21.94 miles, and over tracks of the B&M between milepost 0.00 and milepost 3.2595 at Worcester, Massachusetts, a distance of approximately 3.26 miles, and over tracks of the B&M between Worcester Branch milepost 25.199 and milepost 26.166, a distance of approximately 1.033 miles, at Gardner, Massachusetts, pending disposition of the application of the P&W, in Finance Docket No. 27515, seeking authority to acquire and operate the aforementioned trackage.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the P&W over tracks authorized to be abandoned by the B&M and over tracks of the B&M is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via the B&M, until tariffs naming rates and routes specifically applicable via the P&W become effective.

(d) *Effective date.* This order shall become effective at 12:01 a.m., February 1, 1974.

<sup>1</sup> Change.

## RULES AND REGULATIONS

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.74-3169 Filed 2-6-74;8:45 am]

[No. FF-C-51]

#### PART 1085—FREIGHT FORWARDERS OF HOUSEHOLD GOODS

##### Need for Greater Regulations; Correction

FEBRUARY 4, 1974.

In the report of the Commission, 344 I.C.C. 862, decided January 3, 1974, in the above-entitled proceeding,<sup>1</sup> served January 21, 1974, the address of this Commission's San Antonio, Tex., field office was incorrectly listed in the appendix, § 1085.1. The correct address of that field office is 301 Broadway Bldg., Room 206, San Antonio, Tex., 78205.

<sup>1</sup> Published at 39 FR 3270, January 25, 1974.

The correction will be reflected in the bound volume.

[SEAL] ROBERT L. OSWALD,  
Secretary.  
[FR Doc.74-3172 Filed 2-6-74;8:45 am]

#### Title 10—Energy

### CHAPTER II—FEDERAL ENERGY OFFICE

#### PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

##### Special Price Rule for Diesel Fuel Sales

This special rule is issued as an amendment to Part 212 to place a ceiling on the prices of No. 2-D diesel fuel at all levels of sale. The special order is effective at noon on February 5, 1974 and will last until the end of the month unless terminated sooner by FEO upon enactment of a provision by the Congress affording relief in the form of higher rates to affected interests in the trucking industry.

The ceiling price for No. 2-D diesel fuel is defined as the highest price charged in 10% of the transactions with the class of purchaser between February 1 through February 4, 1974. For retail sales, the "transaction," which is defined to occur at the time of shipment, will be considered to occur at the time the diesel fuel was dispensed from the pump or other facility. If a price increase were announced during the first four days of February but no transactions occurred at the higher price, the seller will not be able to charge that higher price during the period the ceiling is in effect.

Because the purpose of this special rule is to provide immediate guidance and information with respect to the mandatory petroleum allocation rules and regulations, the Federal Energy Office finds that normal rulemaking procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, E.O. 11748, 38 FR 33575;

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 47, 39 FR 24)

In consideration of the foregoing, Part 212 of Chapter II, Title 10, of the Code of Federal Regulations is amended by adding Appendix A as set forth below, effective at noon, February 5, 1974.

Issued in Washington, D.C., February 5, 1974.

WILLIAM N. WALKER,  
General Counsel,  
Federal Energy Office.

#### APPENDIX A

##### SPECIAL RULE NO. 1

**SECTION 1 Scope.** This rule establishes a special price rule which applies to each transfer or sale of No. 2-D diesel fuel, effective 12 noon, February 5, 1974. This rule shall remain in effect until 12:01 a.m., March 1, 1974 unless sooner terminated by FEO upon enactment of a provision by the Congress affording relief in the form of higher freight rates to affected interests in the trucking industry.

**SEC. 2 Definitions.** For purposes of this Special Rule—

"Base period" means the period February 1 through February 4, 1974, or if a seller had no transactions during that period, the nearest preceding four-day period in which the seller had a transaction.

"Ceiling price" means the highest price at or above which at least 10 percent of the amount of No. 2-D diesel fuel was priced by the seller in transactions with the class of purchaser concerned during the base period. In computing the ceiling price, a seller may not exclude any temporary special sale, deal or allowance in effect during the base period.

"Seller" means a refiner, reseller, reseller-retailer or retailer.

"Transaction" means an arms-length sale between unrelated persons and is considered to occur at the time of shipment.

**SEC. 3 Special rule.** Notwithstanding the general provisions of Part 212, effective 12 noon, February 5, 1974, no person may charge to any class of purchaser and no purchaser may pay a price for No. 2-D diesel fuel which exceeds the ceiling price charged for No. 2-D diesel fuel in transactions with the same class of purchaser during the base period.

[FR Doc.74-3321 Filed 2-6-74;11:04 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 HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[ 20 CFR Part 416 ]

(Regs. No. 16)

### SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

#### Essential Person Factors

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments to Part 416 provide general information and basic guidelines for the provisions of Public Law 93-66, enacted July 9, 1973, relating to supplemental security income benefits for essential persons. Public Law 93-66 provides higher benefit levels for certain recipients under the supplemental security income program for the aged, blind, and disabled where an essential person lives in the home of the recipient. Proposed additions to Subpart B (Eligibility) set forth the criteria that must be met in order to consider the needs of an essential person under the new program. Proposed additions to Subpart E set forth the manner in which payments are to be made for essential persons. Proposed additions to Subparts K and L set forth the method to be used for deeming the income and resources of an essential person to the qualified individual.

The rules set forth in the proposed regulations will be applied by the Social Security Administration in order to administer the supplemental security income program during the period from January 1, 1974, when the new program becomes effective, until final regulations are adopted.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, by March 11, 1974.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare,

North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 1102 and 1611 of the Social Security Act and section 211 of Public Law 93-66, 49 Stat. 647, as amended, 86 Stat. 1466, as amended, 87 Stat. 154; 42 U.S.C. 1302, 1382, 1382 note.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: January 21, 1974.

J. B. CARDWELL,  
Commissioner of Social Security.

Approved: January 28, 1974.

CASPAR W. WEINBERGER,  
Secretary of Health, Education,  
and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below.

1. Sections 416.241-416.249 are added to proposed Subpart B to read as follows:

#### Subpart B—Eligibility

- |         |  |
|---------|--|
| Sec.    |  |
| 416.241 | Supplemental security income benefits for essential persons; general.      |
| 416.242 | Criteria for a qualified individual.                                       |
| 416.243 | Criteria for an essential person.  |
| 416.244 | Number of essential persons.   |
| 416.245 | Loss of essential person status.   |
| 416.249 | Qualified individual's option to exclude the needs of an essential person. |

#### § 416.241 Supplemental security income benefits for essential persons; general.

In determining (for purposes of this part) the eligibility for and the amount of the supplemental security income benefit payable to any qualified individual (as defined in § 416.242) with respect to any period for which such individual has in his home an essential person (as defined in § 416.243), the standard payment amount as prescribed in section 1611 of the Act shall be increased if consideration of the income and resources of such essential person would not cause the qualified individual to lose eligibility for such benefits. In determining whether the qualified individual loses eligibility on the basis of the income of the essential person, the standard of payment against which such income will be applied is that prescribed in section 1611(a) of the Act plus the essential person increment(s). The resource limitation in § 416.1205 (as modified by § 416.1260, where applicable) will apply.

#### § 416.242 Criteria for a qualified individual.

For purposes of § 416.241, a qualified individual is any individual who for the month of December 1973 was a recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act, and, in determining the need of such individual for aid or assistance for December 1973 under such State plan, there were taken into account the needs of a person other than the qualified individual (i.e., an "essential person") who:

- Was living in the home of the qualified individual; and
- Was not eligible in his or her own right for aid or assistance under such State plan for December 1973.

#### § 416.243 Criteria for an essential person.

An essential person is any person who for the month of December 1973 was a person whose needs were taken into account in determining the need of a qualified individual (see § 416.242) for aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act, as in effect for June 1973, and who:

- Lives in the home of the qualified individual; and
- Is not eligible in his or her own right for supplemental security income benefits; and
- Is not an eligible spouse (as defined in section 1614(b) of the Act) of the qualified individual or any other individual; and
- Does not have income or resources in an amount that will cause the qualified individual to lose eligibility for benefits (see § 416.1190 and § 416.1203).

#### § 416.246 Number of essential persons.

The number of essential persons that shall be considered in increasing the amount of the supplemental security income payment to each qualified individual, shall be limited to those persons, as determined by the Social Security Administration, who are identified in State records (in accordance with the State plan as approved for June 1973 and State practices under such approved plan) as being essential to the qualified individual for the month of December 1973. (See § 416.531 for amount of payment.)

#### § 416.248 Loss of essential person status.

- General. If for any month after December 1973, any essential person fails to meet the criteria specified in § 416.243,

such person shall not thereafter be considered to be an essential person.

(b) *Essential person absent from the home.* If the essential person is temporarily absent from the home of the qualified individual (e.g., hospitalization), the increment to the standard payment that is based on the presence of the essential person shall be allowed or continued. An absence will be considered to be temporary if the essential person intends to return to reside with the qualified individual and the facts support such intention and the probability of its occurrence; provided, however, that in no event may an absence of more than 90 days be considered temporary.

(c) *Qualified individual absent from the home.* If the qualified individual is temporarily absent from his home (e.g., hospitalization), the increment to the standard payment amount that is based on the presence of the essential person shall be allowed or continued. An absence will be considered to be temporary if the qualified individual intends to return to reside with the essential person and the facts support such intention and the probability of its occurrence; provided, however, that in no event may an absence of more than 6 months be considered temporary.

(d) *Essential person becomes eligible for benefits.* If the essential person becomes eligible for supplemental security income payments on the basis of age, blindness, or disability (see § 416.201), his status as an essential person shall continue throughout the month prior to the month for which he is determined to be eligible for such payment in his own right and shall cease at the end of such prior month.

(e) *Essential person becomes an eligible spouse.* If the essential person becomes eligible for supplemental security income payments as the eligible spouse of the qualified individual or any other individual, his status as an essential person shall continue throughout the month prior to the month for which he is determined to be eligible for such payments and shall cease at the end of such prior month.

**§ 416.249 Qualified individual's option to exclude the needs of an essential person.**

A qualified individual may request the Administration to determine his standard payment amount without the addition of any increment based on an essential person. Such request shall be effective with the month after the month in which such request, in writing, is filed with the Administration. Such request is irrevocable, and essential person status is lost permanently.

2. Sections 416.531 and 416.532 are added to proposed Subpart E to read as follows:

**Subpart E—Payment of Benefits, Overpayments, and Underpayments**

**§ 416.531 Standard of payment based on existence of an essential person.**

In determining the amount of the supplemental security income standard of

payment to any qualified individual (see § 416.242), for months after December 1973, such standard shall be increased to take into account the needs of an essential person (see § 416.243). The amount of such increase shall be at the rate of \$840 per year, in the case of any period prior to July 1974, and at the rate of \$876 per year thereafter. The total amount due the qualified individual will be computed in accordance with section 1611 of the Act. The resulting monthly payment will be made to the qualified individual. If State records appropriately identify two or more essential persons for a qualified individual, an increment of \$70 per month (\$73 after June 1974) shall be added to the qualified individual's standard of payment for each such essential person.

**§ 416.532 Method of payment when the essential person resides with more than one eligible person.**

(a) When an essential person lives with an eligible individual and an eligible spouse, the State may report that the person is essential to one or both members of the couple. In either event, the income and resources of the essential person will be considered to be available to the family unit. The payment increment attributable to the essential person will be added to the rate of payment for the couple, the countable income subtracted, and the resulting total benefit divided equally between the eligible individual and the eligible spouse.

(b) Where the essential person lives with two eligible individuals (as opposed to an eligible individual and eligible spouse), one of whom has been designated the qualified individual, the income and resources of the essential person will be considered to be available only to the qualified individual (as defined in § 416.242) and any increase in payment will be made to such qualified individual.

(c) In those instances where the State has designated the essential person as essential to two or more eligible individuals so that both are qualified individuals, the payment increment attributable to the essential person must be shared equally, and the income and resources of the essential person counted in equal amounts against each qualified individual.

(d) When an essential person lives with an eligible individual and an eligible spouse (or two or more eligible individuals) only one of whom is the qualified individual, essential person status is not automatically retained upon the death of the qualified individual or upon the separation from the qualified individual. A review of the State records established on or before December 31, 1973, will provide the basis for a determination as to whether the remaining eligible individual or eligible spouse meets the definition of qualified individual. Payment in consideration of the essential person will be dependent on whether the essential person continues to live with a qualified individual. If the essential person does reside with a quali-

fied individual, status as an essential person is retained.

(e) Where an eligible couple is separated for less than 6 months, the full payment attributable to the essential person, less the income of the essential person, will be made to the qualified individual with whom the essential person resides (see Subpart D for computation of payment where one person in a separated couple has an essential person).

3. Section 416.1190 is added to proposed Subpart K to read as follows:

**Subpart K—Income**

**§ 416.1190 Deeming of income of an essential person.**

In the case of a qualified individual (as defined in § 416.242) whose payment standard has been increased because of the presence of an essential person (as defined in § 416.243), the income of such qualified individual shall be deemed to include the income of such essential person. The income deemed to the qualified individual shall be treated as unearned income. If such qualified individual would not meet the income criteria for eligibility (as defined in § 416.241) because of this deemed income, then the provision of this section will not apply. However, if such essential person is the ineligible spouse of the qualified individual, or a parent (or spouse of a parent) of the qualified individual who is a child under age 21, then the income of such person (although not an essential person) will be deemed to such qualified individual in accordance with the provisions of section 1614(f) of the Act.

4. Sections 416.1203 and 416.1262 are added to proposed Subpart L to read as follows:

**Subpart L—Resources**

**§ 416.1203 Deeming of resources of an essential person.**

In the case of a qualified individual (as defined in § 416.242) whose payment standard has been increased because of the presence of an essential person (as defined in § 416.243), the resources of such qualified individual shall be deemed to include the resources of such essential person. If such qualified individual would not meet the resource criteria for eligibility (as defined in §§ 416.1205 and 416.1260) because of the deemed resources, then the provision of this section will not apply. However, if such essential person is an ineligible spouse of a qualified individual or a parent (or spouse of a parent) of a qualified individual who is a child under age 21, then the resources of such person (although not an essential person) will be deemed to such qualified individual in accordance with the provision in § 416.1202.

**§ 416.1262 Special resource provision applicable in cases involving essential persons.**

(a) *Essential persons continuously meet criteria of eligibility.* In determining the resources of an individual (and spouse, if any) who meet the conditions specified in § 416.1260 and whose payment standard is increased because such

individual has in his home an essential person (as defined in § 416.243), either the State plan resource limit and exclusions (as specified in § 416.1260) applicable to cases in which the needs of an essential person are taken into account in determining the individual's needs, or the resource limit as specified in § 416.1205 and exclusions as specified in § 416.1210, whichever is most advantageous to the individual (and spouse), will be used.

(b) *Essential person fails to meet criteria of eligibility.* If for any month after December 1973 a person fails to meet the criteria for an essential person as specified in § 416.243, in determining the resources of an individual (and spouse, if any) either the State plan resource limit and criteria as specified in § 416.1260 applicable to the individual or individual and spouse, as the case may be, or the resource limit as specified in § 416.1205 and exclusions as specified in § 416.1210, whichever is most advantageous to the individual (and spouse), will be used.

[FR Doc.74-3093 Filed 2-6-74; 8:45 am]

**INTERSTATE COMMERCE COMMISSION**

[ 49 CFR Part 1057 ]

[Ex Parte No. MC-43 (Sub-No. 2) ]

**EQUIPMENT LEASED BY MOTOR CARRIERS OF PROPERTY**

**Adjustment of Compensation Because of Rising Fuel Costs**

*Order.* At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 5th day of February, 1974.

This order limits the period for filing comments to the notice of proposed rulemaking and order, entered January 30, 1974, and published in the FEDERAL REGISTER on February 4, 1974 (39 FR 4488) proposing an amendment to the Lease and Interchange of Vehicles regulations, 49 CFR 1057.4(a)(5), of this Commission so as to require that payments to equipment lessors be increased by the amount they are paying for fuel above the level paid on May 15, 1973.

A joint resolution adopted by the Senate today would require that, in view of the national emergency resulting from the independent truckers' work stoppage, this Commission's final order in this proceeding be effective no later than February 15, 1974. This means that the time for filing comments must be modified from the present February 20, 1974, date to February 13, 1974, in order for this Commission to be able to analyze any comments that may be received pursuant to the original notice in this proceeding.

*It is ordered.* That based on the foregoing, the time for filing comments in accordance with the original Notice of Proposed Rulemaking and Order in this proceeding be, and it is hereby, fixed as February 13, 1974.

*It is further ordered.* That the said Notice of Proposed Rulemaking and Order entered in this proceeding on January 30, 1974, be, and it is hereby, vacated

and set aside to the extent inconsistent herewith.

*And it is further ordered.* That statutory notice of this action be given to the general public by mailing a copy of this order to the Governor of every State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation, by depositing a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy thereof to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.74-3306 Filed 2-6-74; 9:48 am]

[ 49 CFR Part 1310 ]

[Docket No. 35867 (Sub-No. 1) ]

**TARIFFS OF CLASS I MOTOR COMMON CARRIERS OF PROPERTY AND OF AGENTS**

**Standard Headings and Standard Item Numbers for Commonly Published Rules**

*Notice of proposed rulemaking and order.* At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 16th day of January 1974.

In this proceeding we propose to consider whether or not we should amend the proposed regulations which are the subject of a rulemaking proceeding in Docket No. 35867 for the purpose of including therein regulations for the prescription of standard headings and standard item numbers for assignment to the most commonly published rules in tariffs of class I common carriers of property by motor vehicle and in tariffs of publishing agents of common carriers of property by motor vehicle.

It appearing, that proposed regulations which will govern the construction, filing, and posting of tariffs of common carriers of property by motor vehicle and of their tariff publishing agents are now the subject of a rulemaking proceeding in Docket No. 35867 and will be published in Part 1310 of Title 49 of the Code of Federal Regulations (Tariff Circular No. MF 5);

It further appearing, that a definite worthwhile purpose will be served by issuing regulations which prescribe standard headings and standard item numbers for assignment to the most commonly used rules in tariffs inasmuch as such regulations will result in bringing tariffs closer to the goal of standardization, which is necessary if tariff simplification and greater use of automatic data processing is to be facilitated;

And it further appearing, that the matters involved in this proceeding bear close relationship with those pending in Docket No. 35867 and therefore it would be appropriate to consider these matters in conjunction with the issues in Docket No. 35867; that initial and reply statements in such docket are presently due

on or before March 5, 1974, and April 5, 1974, respectively, and that in view of the addition of the matters to be considered in this proceeding the time for filing of initial statements and replies thereto will be extended;

And good cause appearing therefor:

*It is ordered.* That a rulemaking proceeding be, and it is hereby, instituted under the provisions of the Interstate Commerce Act and section 553 of the Administrative Procedure Act for the purpose of considering whether or not the facts and circumstances warrant the amendment of the proposed regulations in Part 1310 (proposed Tariff Circular No. MF 5) of Title 49 of the Code of Federal Regulations for the purpose of establishing therein regulations which will prescribe in substantially the following manner standard headings and standard item numbers for assignment to the most commonly published rules in tariffs issued by class I common carriers of property by motor vehicle and in tariffs issued by publishing agents of motor common carriers of property by motor vehicle:

1. Where the following subjects are to be provided for in tariffs, the rules covering shall be published ahead of the others, shall bear the headings indicated and be assigned the item numbers opposite thereto.

Item	Heading
100	Cancellation of Items—Automatic
110	Cancellation of Loose-leaf Pages—Automatic
120	Operating Authority Limiting Application of Tariff
130	Governing Tariffs
140	Definitions of Terms Used
150	Consecutive Numbers
160	Fractions, Disposition of
170	References to Tariffs, Items, Etc.

2. Where the following subjects are to be provided for in tariffs, the rules covering shall bear the headings indicated and be assigned the item numbers opposite thereto. Where a heading includes two or more distinct but related subjects (for example, "Service on Saturdays, Sundays, Holidays, or After Hours"), the words covering particular subjects not being treated may be dropped from the heading.

Item	Heading
180	Application of Tariff
190	Absorptions
200	Advertising
210	Allowances
220	Arrival Notice
230	Assembling—Distributing Service
240	Bill of Lading
250	Capacity Loads
260	Charge, Maximum
270	Charge, Minimum
280	Charges, Advancing
290	Charges, Terminal, at Ports
300	Claims, Loss and Damage—Procedures
310	COD Shipments
320	Customs or In Bond Freight
330	Deadheading of Vehicle
340	Density
350	Detention of Vehicle
360	Dunnage
370	Equipment
380	Exclusive Use of Vehicle
390	Expedited Service
400	Expiration Dates

Item	Heading
410	Export, Import, Coastwise, or Inter-coastal Rates
420	Freight Bills
430	Impractical Operations
440	Intermediate Application of Rates
450	Marking or Tagging Freight
460	Mixed Shipments
470	Packaging
480	Peddler Truck Service
490	Permits, Special
500	Pickup and Delivery
510	Prohibited or Restricted Articles
520	Protective Service
530	Reconsignment or Diversion
540	Redelivery
550	Refused and Undelivered Shipments
560	Reissued Matter, Method of Treating
570	Sealing of Trucks
580	Service on Saturdays, Sundays, Holidays, or After Hours
590	Special Handling, Shipments Requiring
600	Special Services
610	Split Pickup or Split Delivery
620	Stopoff in Transit to Complete Loading or Unloading
630	Storage
640	Substituted Service
650	Terminal and Special Service Tariffs Governing
660	Terminal Areas of Points
670	Trade Names of Carriers Used
680	Transfer Service at Interchange Points
690	Transit Privileges
700	Weighing
710	Weights

If it is desired to publish a rule for which there is no appropriate heading in the list, the carrier or agent may assign a heading and a number of its choosing, provided it is not one listed in paragraph 1 or 2 herein.

4. Except in cases where a heading is such that additional words or a subheading would not add more specificity or clarity, a rule may contain either qualifying words or one or more subheadings to clearly and specifically identify the individual subjects included therein. However, words denoting a subject for which a separate rule heading and number is provided for in paragraph 1 or 2 may not be used nor the subject included unless such a separate rule is set up but merely to refer to the first rule for applicable provisions. When qualifying words are used, a dash shall be shown after the prescribed heading, followed by the words. For example, "Bills of Lading—Order Notify". Sub-headings or references to excepted classification rules shall be shown in appropriate places under the heading.

5. When it is necessary or practicable to split a rule into two or more parts, the prescribed item may be subdivided. In this event, the first part of the rule (which shall contain the general or master rule, if any) must be assigned the

prescribed item number without a numerical suffix. Each subdivision thereof must be assigned a compound number, which shall be constructed by use of the prescribed number followed by a hyphen, then a new series of numbers—for example, item 400-1, 400-2, 400-3, and so on in numerical sequence. Each such subdivision must show the prescribed heading.

6. When one or more carriers take exception to a rule, regardless of whether or not the rule is a prescribed one such exceptions are to be arranged in items immediately following the rule to which the exceptions are taken. The exceptions are to be arranged in alphabetical order by names of carriers. The items in which the exceptions appear shall be subdivisions of the general item and shall be designated with compound numbers as set forth in paragraph 5. The rule to which the exception is being taken shall refer to the number of each item where each exception will be found. If exception is taken only to a particular portion of a rule, only that portion shall make reference to the exception.

7. Each tariff (not supplement or loose-leaf page amendment) except those specifically excepted in paragraph 8 herein, received by this Commission after six calendar months from the effective date of these regulations must comply therewith.

8. Tariffs will not be required to comply with these regulations if such tariffs contain (a) only provisions and tables for the determination of distances; (b) only rules and regulations promulgated by the Department of Transportation governing the acceptance and transportation of dangerous articles; or (c) primarily rates or other provisions published to apply on shipments of household goods as defined by the Commission.

*It is further ordered*, That all class I common carriers of property by motor vehicle and all tariff publishing agents of common carriers of property by motor vehicle be, and they are hereby, made respondents in this proceeding.

*It is further ordered*, That any person intending to participate in this proceeding (Docket No. 35867 (Sub-No. 1)) by submitting initial statements or reply statements shall notify the Commission by filing with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 15, 1974, the original and one copy of a statement of his or her intention to participate; that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties to the proceeding in Docket

35867 and to this proceeding (Docket 35867 (Sub-No. 1)), upon whom copies of all statements must be filed; and that initial statements and reply statements must be filed on or before April 15, 1974, and May 15, 1974, respectively.

*It is further ordered*, That any interested person subsequently submitting initial written statements of facts, views, and arguments should specify therein (1) whether he or she opposes or supports the proposed regulations; (2) the reasons for such opposition or support; (3) the types of tariffs, if any, that should be excepted from the regulations; (4) whether or not additional categories of rule headings are needed; and (5) recommendations for alternate regulations if he or she opposes the proposed ones.

*It is further ordered*, That the dates on or before which initial or reply statements are due in the proceeding in Docket No. 35867, be, and they are hereby, changed to April 15, 1974, and May 15, 1974, respectively.

*It is further ordered*, That while this proceeding does not currently appear to be a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, statements filed by parties participating in this proceeding shall indicate the presence or absence of any effect of the recommendations made therein to this Commission on the quality of the human environment. Cf. *Implementation—National Environmental Policy Act, 1969*, 340 ICC 431 (1972).

*And it is further ordered*, That statutory notice of this proceeding be given to the general public by mailing a copy of this order to each party of record in Docket No. 35867, to the Governor of every State, and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, for public inspection, and by delivering a copy to the Director, Office of the Federal Register as notice to all interested persons.

Written material or suggestions submitted will be available for public inspection at the office of the Interstate Commerce Commission, 12th Street and Constitution Avenue, Washington, D.C., during regular business hours.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 74-3170 Filed 2-6-74; 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 THE TREASURY

Office of the Secretary

### PICKER STICKS FROM MEXICO

Antidumping; Determination of Sales at Less Than Fair Value

FEBRUARY 5, 1974.

Information was received on March 28, 1973, that picker sticks from Mexico were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisalment Notice" was published in the FEDERAL REGISTER of November 7, 1973 (38 FR 30751).

I hereby determine that for the reasons stated below, picker sticks from Mexico are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

*Statement of reasons on which this determination is based.* The information before the U.S. Customs Service reveals that the proper basis of comparison for fair value purposes is between exporter's sales price and the adjusted home market price of such or similar merchandise.

Exporter's sales price was calculated on the basis of the sale price by the United States importer to unrelated purchasers in the United States, with deductions for foreign freight and brokerage, United States freight and brokerage, United States import duties, selling expenses incurred in the United States, selling commission in the United States, and quantity discounts, and an addition to a sales tax which has not been collected by reason of the exportation of the merchandise to the United States.

Home market price was calculated on the basis of a weighted-average f.o.b. plant price. Adjustments were made for differences in commissions, certain cost savings arising from differences in quantities sold in the two markets, and cost of packing.

Using the above criteria, exporter's sales price was found to be lower than the adjusted home market price of such or similar merchandise.

The United States Tariff Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] JAMES B. CLAWSON,  
Acting Assistant  
Secretary of the Treasury.

[FR Doc.74-3302 Filed 2-6-74;9:38 am]

## DEPARTMENT OF DEFENSE

Department of the Air Force

### USAF SCIENTIFIC ADVISORY BOARD

Notice of Meetings

FEBRUARY 1, 1974.

The USAF Scientific Advisory Board Electronics Systems Division Advisory Group will hold a closed meeting on February 13, 1974 from 8:15 a.m. until 5 p.m., at L. G. Hanscom Field, Command Management Center, Bldg 1606, Bedford, Massachusetts.

The Group will receive classified briefings on Air Force command and control systems.

The USAF Scientific Advisory Board Guidance and Control Panel Review of Aircraft Inertial Systems will hold closed meetings on February 14 and 15, 1974, from 9 a.m. until 4 p.m. each day, at Wright-Patterson Air Force Base, Ohio.

The meeting will consist of classified discussions and briefings on aircraft inertial systems.

For further information please contact the Scientific Advisory Board Secretariat at 202-697-8404.

STANLEY L. ROBERTS,  
Colonel, USAF Chief, Legislative  
Division Office of The Judge  
Advocate General.

[FR Doc.74-3103 Filed 2-6-74;8:45 am]

## DEPARTMENT OF JUSTICE

Drug Enforcement Administration

### SCHEDULES OF CONTROLLED SUBSTANCES

#### Withdrawal of Petition To Remove Levodexyephedrine From Control

On May 4, 1972, the Drug Enforcement Administration received a petition for the initiation of proceedings to remove the levorotatory isomer of methamphetamine from schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513). The petitioner was Richardson-Merrill Inc., a bulk manufacturer of that substance.

By letter dated June 27, 1972, the Administration notified the petitioner that the petition had been accepted for filing in accordance with 21 CFR 1308.44(c) and subsequently published acceptance of their petition in the FEDERAL REGISTER dated July 7, 1973.

By letter dated October 16, 1973, the petitioner voluntarily withdrew its peti-

tion. There being no other petitions to remove levodexyephedrine from control, this matter is officially closed.

Dated: February 4, 1974.

JOHN R. BARTELS, Jr.,  
Administrator, Drug Enforcement  
Administration.

[FR Doc.74-3139 Filed 2-6-74;8:45 am]

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

### NATIONAL ADVISORY BOARD ON WILD FREE-ROAMING HORSES AND BURROS

Notice of Meeting

Notice is hereby given that the National Advisory Board for Wild Free-Roaming Horses and Burros will hold a meeting on March 26 and 27, 1974, at the Interior South Building, 1951 Constitution Avenue N.W., Washington, D.C. A Board business meeting will be held the morning of March 26 starting at 8:30 a.m. to be followed by an hour set aside from 10:30 to 11:30 a.m. for public comment. The afternoon program will include a formal presentation by the Advisory Board on its recommendations for possible legislative changes to the Wild Horse and Burro Act (Public Law 92-195). The two managing agencies, the Bureau of Land Management and Forest Service, will then present to the Board the progress made in the protection, management, and control of wild free-roaming horses and burros since passage of the act on December 15, 1971. The first day of the meeting will conclude with a period of discussion among Board members, and the Secretaries of the Interior and Agriculture and congressional members, or their respective representatives. On March 27, a program planning meeting will be held from 9 to 11:30.

The meeting will be open to the public. Those persons wishing to make an oral statement must inform the Advisory Board Chairman in writing prior to the meeting of the Board. Any interested person may file a written statement with the Board for its consideration. The Advisory Board Chairman is Dr. C. Wayne Cook. Written statements may be submitted at the meeting or mailed to Dr. Cook c/o the Director (330), Bureau of Land Management, Washington, D.C. 20240.

Additional details can be obtained by contacting the Office of Public Affairs, Bureau of Land Management, Washington, D.C.

Minutes of the meeting will be available for public inspection 60 days after the meeting at the Office of the Director (330), Bureau of Land Management, Interior Building, 18th and C Streets, NW, Washington, D.C. 20240.

January 30, 1974.

CURT BERKLUND,  
*Director.*

[FR Doc.74-3105 Filed 2-6-74;8:45 am]

**Geological Survey**  
**HENRY MOUNTAINS, UTAH**  
**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 Utah, 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:

(44) Utah.

Henry Mountains (Utah) Known Leasing Area (Coal); December 31, 1973, 40,913 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 U.S. Geological Survey, National Center, Mail Drop 640, Reston, Virginia 22092.

Dated: January 29, 1974.

HENRY W. COULTER,  
*Acting Director.*

[FR Doc.74-3071 Filed 2-6-74;8:45 am]

**WIBAUX-BEACH, MONTANA AND**  
**NORTH DAKOTA**  
**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 States of Montana and North Dakota, 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.

(34) North Dakota.

Wibaux-Beach (Montana and North Dakota) Known Leasing Area (Coal); October 1, 1973, 124,048 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 U.S.

Geological Survey, National Center, Mail Drop 640 Reston, Virginia 22092.

Dated: January 29, 1974.

HENRY W. COULTER,  
*Acting Director.*

[FR Doc.74-3072 Filed 2-6-74;8:45 am]

**National Park Service**  
**EDWARD AND ANNA E. BENZ**  
**Notice of Intention to Negotiate**  
**Concession Contract**

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; (16 U.S.C. 20)), public notice is hereby given that on March 11, 1974, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Edward and Anna E. Benz authorizing them to provide concession facilities and services for the public at Cape Cod National Seashore for a period of five (5) years from January 1, 1974, through December 31, 1978.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the Environmental Quality Act and the guidelines of the Council on Environmental Quality. The environmental assessment may be reviewed in the Northeast Regional Office, 143 North Third Street, Philadelphia, Pennsylvania 19106.

The foregoing concessioners have performed their obligations under the expired contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, are entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before March 11, 1974.

Interested parties should contact the Assistant Director, Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: January 30, 1974.

RUSSELL E. DICKENSON,  
*Director, National Park Service.*

[FR Doc.74-3066 Filed 2-6-74;8:45 am]

**EDWARD G. AND NANCY A. BENZ**  
**Notice of Intention to Negotiate**  
**Concession Contract**

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; (16 U.S.C. 20)), public notice is hereby given that on March 11, 1974, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Edward G. and Nancy A. Benz, authorizing them to provide concession

facilities and services for the public at Cape Cod National Seashore for a period of five (5) years from January 1, 1974, through December 31, 1978.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the Environmental Quality Act and the guidelines of the Council on Environmental Quality. The environmental assessment may be reviewed in the Northeast Regional Office, 143 North Third Street, Philadelphia, Pennsylvania 19106.

The foregoing concessioners have performed their obligations under the expired contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, are entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before March 11, 1974.

Interested parties should contact the Assistant Director, Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: January 30, 1974.

RUSSELL E. DICKENSON,  
*Director, National Park Service.*

[FR Doc.74-3065 Filed 2-6-74;8:45 am]

**CONSULTING COMMITTEE TO THE NATIONAL SURVEY OF HISTORIC SITES AND BUILDINGS**

**Notice of Meeting**

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Consulting Committee to the National Survey of Historic Sites and Buildings will be held at 8:30 a.m., e.d.t., on February 26 and 27, 1974, in Conference Room 7000-B in the Department of the Interior Building, Washington, D.C.

The purpose of the Consulting Committee is to review and evaluate studies of potential national historic landmarks prepared by the National Survey. The Committee's evaluation is the initial screening of potential historic landmarks. Its recommendations are forwarded to the Secretary of the Interior's Advisory Board on National Parks, Historic Sites, Buildings and Monuments for a final review.

The members of the Consulting Committee are:

Dr. Richard H. Howland (Chairman), Washington, D.C.  
Dr. John O. Brew, Cambridge, Massachusetts  
Mr. Herbert E. Kahler, Alexandria, Virginia  
Dr. Walter L. Creese, Urbana, Illinois  
Professor Frederick D. Nichols, Charlottesville, Virginia  
Dr. Henry A. Millon, Cambridge, Massachusetts  
Mr. James Biddle, Washington, D.C.

Mr. Charles E. Lee, Columbia, South Carolina  
Dr. Dorothy B. Porter, Washington, D.C.  
Dr. John W. Huston, Annapolis, Maryland

The subjects that are to be evaluated

1. A part of the subtheme "Political and Military Affairs, 1828-1860."
2. A part of the subtheme "Architecture."
3. A part of the subtheme "Social and Humanitarian Movements."
4. Studies in the field of Black History in the themes: "Major American Wars," "Development of the English Colonies, 1700-1775," and "Society and Social Conscience."
5. A special study of Speedwell Village in Morristown, New Jersey, under the subtheme "Science and Invention."
6. A reevaluation of Old Pioneer Hall at Iowa Wesleyan College, Mt. Pleasant, Iowa, under the subtheme "Education."

The meeting will be open to the public. However, facilities and space for accommodating the public are limited. It is expected that not more than 10 persons will be able to attend the sessions. Any member of the public may file with the Consulting Committee a written statement on the subjects to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Dr. A. R. Mortensen, Director, Office of Archeology and Historic Preservation, 202-523-5101. Minutes of the meeting will be available for public inspection six weeks after the meeting at the Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: January 28, 1974.

ROBERT M. LANDAU,  
Liaison Officer, Advisory Com-  
missions National Park Ser-  
vice.

[FR Doc.74-3067 Filed 2-6-74; 8:45 am]

#### LAKE MEAD NATIONAL RECREATION AREA, ARIZONA, NEVADA

##### Public Hearings Regarding Wilderness Proposal

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), and in accordance with Departmental procedures as identified in 43 CFR 19.5 that public hearings will be held on March 28, 1974, at the Chamber of Commerce Meeting Room, at the intersection of U.S. Highway 93 and 66, Kingman, Arizona, and on March 30, 1974, at the Environmental Protection Agency Auditorium, National Environmental Research Center Building, 944 East Harmon Avenue, Las Vegas, Nevada, for the purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness comprising about 469,300 acres within the Lake Mead National Recreation Area. The hearing in Kingman, Arizona, will begin at 10 a.m., recess from 12 noon until 1:30 p.m., and continue until 6 p.m. The hearing in Las Vegas, Nevada, will begin at 9 a.m., recess from 12 noon until 1:30 p.m., and continue until 5 p.m. The National Recreation Area is located in northwestern Arizona and southeastern Nevada.

A packet containing a preliminary wilderness study report, and providing additional information about the proposal, may be obtained from the Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005, or from the Regional Director, Western Region, National Park Service, 450 Golden Gate Avenue, Box 36036, San Francisco, California 94102.

A description of the preliminary boundaries and a map of the area proposed for establishment as wilderness are available for review in the above office and in Room 1210 of the Department of the Interior Building at 18th and C Streets, NW., Washington, D.C.

Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearings, provided they notify the Hearing Officer, in care of the Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005, by March 26 of their desire to appear. Those not wishing to appear in person may submit written statements on the wilderness proposal to the Hearing Officer, at that address for inclusion in the official record, which will be held open until April 30, 1974.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

- (1) Governor of the State or his representative.
- (2) Members of Congress.
- (3) Members of the State Legislature.
- (4) Official representative of the counties in which the proposed wilderness is located.
- (5) Officials of other Federal agencies and public bodies.
- (6) Organizations in alphabetical order.
- (7) Individuals in alphabetical order.
- (8) Others not giving advance notice, to the extent there is remaining time.

Dated: January 29, 1974.

RICHARD C. CURRY,  
Associate Director,  
National Park Service.

[FR Doc.74-2819 Filed 2-6-74; 8:45 am]

#### Office of the Secretary

[Int Des 74-8]

#### RED ROCK CANYON LANDS AREA, NEVADA

##### Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management, Department of the Interior, has prepared a draft environmental statement concerning the management and development of the Red Rock Recreation Lands in southern Nevada. The lands are located in Clark County, Nevada.

The environmental statement considers the impact of various alternatives for the management and development of the Red Rock area.

Copies are available for inspection at the following locations:

Nevada State Office, Bureau of Land Management, 300 Booth Street, Reno, Nevada; Las Vegas District Office, 301 Stewart, Las Vegas, Nevada; Director, Bureau of Land Management, Interior Building, Washington, D.C. Comments concerning the environmental impact of the proposed implementation of the Recreation Plan should be addressed to the State Director, Bureau of Land Management, 300 Booth Street, Reno, Nevada. These comments must be submitted on or before March 25, 1974, to be considered in the preparation of the final environmental statement.

WILLIAM A. VOGELY,  
Acting Deputy Assistant Secretary  
of the Interior.

[FR Doc.74-3099 Filed 2-6-74; 8:45 am]

#### DEPARTMENT OF AGRICULTURE

##### Forest Service

##### ASOTIN PLANNING UNIT

##### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Asotin Planning Unit, Umatilla National Forest, Washington, USDA-FS-R6-DES(Adm) 74-3.

The environmental statement concerns the proposed management direction and resource allocation for a portion of the Umatilla National Forest known as the Asotin Planning Unit.

This draft environmental statement was transmitted to CEQ on February 1, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service  
South Agriculture Bldg., Room 3230  
12th St. & Independence Ave., S.W.  
Washington, D.C. 20250

USDA, Forest Service  
Umatilla National Forest  
2517 S.W. Halley Avenue  
Pendleton, Oregon 97801

USDA, Forest Service  
Pacific Northwest Region  
319 S.W. Pine Street  
Portland, Oregon 97204

A limited number of single copies are available upon request to Herbert B. Rudolph, Forest Supervisor, Umatilla National Forest, 2517 SW. Hailey Avenue, Pendleton, Oregon 97801.

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 Herbert B. Rudolph, Forest Supervisor, Umatilla National Forest, 2517 S.W. Hailey Avenue, Pendleton, Oregon 97801. Comments must be received by April 1, 1974 in order to be considered in the preparation of the final environmental statement.

VICTOR L. KREIMEYER,  
*Acting Regional Forester.*

[FR Doc.74-3073 Filed 2-6-74;8:45 am]

#### CALIFORNIA REGION ROADS ADVISORY COMMITTEE

##### Notice of Meeting

The California Region Roads Advisory Committee will meet at 10:00 a.m. on March 1, 1974, in Room 539, Appraiser's Building, 630 Sansome Street, San Francisco, California.

The purpose of this meeting is to discuss the following items:

1. Status of timber purchaser road cost collection program and recommended actions.
2. Status of Purchaser Credit Allowances and Engineer's Cost Estimates and proposed actions.
3. Regional Forester's Stable Road Policy.
4. Region's response and plans for coping with the energy crisis.
5. Plans for purchaser engineering in Fiscal Year 1975.

The meeting will be open to the public. Persons who wish to attend should notify Jon D. Kennedy, Assistant Regional Engineer, at 415-556-6832. Written statements may be filed with the Committee before or after the meeting.

The Committee has established the following rules for public participation:

Public attendees may speak up at any time. However, the Committee Chairman may impose a time limit on any speaker

to insure that all agenda items are covered during the Committee meeting.

DOUGLAS R. LEISZ,  
*Regional Forester.*

FEBRUARY 1, 1974.

[FR Doc.74-3102 Filed 2-6-74; 8:45 am]

#### ELGIN PLANNING UNIT

##### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Elgin Planning Unit, Umatilla National Forest, Oregon, USDA-FS-R6-DES(Adm) 74-2.

The environmental statement concerns the proposed management direction and resource allocation for a portion of the Umatilla National Forest known as the Elgin Planning Unit.

This draft environmental statement was transmitted to CEQ on February 1, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service  
South Agriculture Bldg., Room 3230  
12th St. & Independence Ave., S.W.  
Washington, D.C. 20250.

USDA, Forest Service  
Umatilla National Forest  
2517 S.W. Hailey Avenue  
Pendleton, Oregon 97801

USDA, Forest Service  
Pacific Northwest Region  
319 S.W. Pine Street  
Portland, Oregon 97204

A limited number of single copies are available upon request to Herbert B. Rudolph, Forest Supervisor, Umatilla National Forest, 2517 S.W. Hailey Avenue, Pendleton, Oregon 97801.

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 Herbert B. Rudolph, Forest Supervisor, Umatilla National Forest, 2517 S.W. Hailey Avenue, Pendleton, Oregon 97801. Comments

must be received by April 1, 1974 in order to be considered in the preparation of the final environmental statement.

VICTOR L. KREIMEYER,  
*Acting Regional Forester, Pacific Northwest Region, Forest Service.*

JANUARY 30, 1974.

[FR Doc.74-3074 Filed 2-6-74;8:45 am]

#### GUNNISON VALLEY FOREST GRAZING ADVISORY BOARD

##### Notice of Meeting

The Gunnison Valley Forest Grazing Advisory Board will meet at 3:00 p.m. on Friday, March 8, 1974, at the Cebolla and Taylor River Districts' Headquarters, 216 North Colorado, Gunnison, Colorado 81230.

The purpose of this meeting is to provide National Forest grazing permittees a means for expression of their recommendations concerning the management and administration of National Forest grazing lands.

The meeting will be open to the public. Persons who wish to attend should notify Jerry Martinez, Range and Wildlife Staff Officer, 216 North Colorado, Gunnison, Colorado 81230, telephone (303) 641-0471. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rule for public participation: to the extent time permits, interested persons may be permitted by the Board Chairman to present oral statements at the meeting.

JEROLD R. MARTINEZ,  
*Acting Forest Supervisor.*

January 31, 1974.

[FR Doc.74-3104 Filed 2-6-74;8:45 am]

#### LINCOLN NATIONAL FOREST GRAZING ADVISORY BOARD

##### Notice of Meeting and Agenda

The Lincoln National Forest Grazing Advisory Board will meet at 10 a.m., March 12, 1974, at the Municipal Building, Alamogordo, New Mexico.

The purpose of this meeting is to elect Officers, discuss status of current legislation and policies of concern to Forest Service and livestock industry, discuss status of appeal of Regional Forester's decision concerning grazing of Laborcita Allotment, and discuss range improvement and management programs for fiscal years 1974 and 1975.

The meeting will be open to the public. Persons who wish to attend should notify Larry S. Allen, Federal Building, Alamogordo, New Mexico 88310, phone 437-6030. Written statements may be filed with the board before or after the meeting.

A time will be set aside for public comment and questions at 1 p.m.

FEBRUARY 1, 1974.

KENNETH L. EVANS,  
Forest Supervisor.

[FR Doc.74-3101 Filed 2-6-74; 8:45 am]

**SUPPRESSION STRATEGY FOR CONTROL OF SOUTHERN PINE BEETLE IN THE SOUTHEASTERN UNITED STATES**

**Availability of Draft Environmental Statement**

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the suppression strategy for control of southern pine beetle in the Southeastern United States, USDA-FS-DES(Adm)—

The environmental statement concerns a proposed analysis of the need and desirability for a Southeastern Area-wide suppression program by identifying the resources threatened, describing the techniques and benefits of suppression, and assessing the environmental impact of suppression activity.

This draft environmental statement was filed with CEQ on \_\_\_\_\_

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.

USDA, Forest Service, Division of Forest Pest Control, 1621 N. Kent St., Room 1205-B, Arlington, Va. 22209.

USDA, Forest Service, Southeastern Area, State and Private Forestry, 1720 Peachtree St. NW., Room 711, Atlanta, Ga. 30309.

A limited number of single copies are available upon request to Douglass A. Craig, Area Director, 1720 Peachtree St. NW., Room 700, Atlanta, Georgia 30309.

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 Douglass A. Craig, Area Director, Southeastern Area State and Private Forestry, 1720 Peachtree St. NW., Room 700, Atlanta, Georgia 30309.

Comments must be received not later than 30 days after the filing date with CEQ in order to be considered in the preparation of the final environmental statement.

D. A. CRAIG,  
Area Director, Southeastern Area.

[FR Doc.74-3106 Filed 2-6-74; 8:45 am]

**Office of the Secretary  
FOREIGN AGRICULTURAL SERVICE  
Establishment of New Agency and  
Transfer of Functions**

On December 13, 1973, the Department gave public notice of a proposal to reorganize certain international activities in the Department (38 FR 34349).

Replies have been favorable to the proposed establishment of a new Foreign Agricultural Service and to transfer into the new agency the following functions:

- (a) All functions of the present Foreign Agricultural Service.
- (b) All functions of the Export Marketing Service.
- (c) All functions of the International Organizations Staff.

Effective February 3, 1974, there is established a new Foreign Agricultural Service with the above stated functions. The new agency will be under the direction of an Administrator reporting to the Secretary through the Assistant Secretary for International Affairs and Commodity Programs.

Department delegations appearing in 7 CFR Part 2 will be revised to reflect this reorganization.

Done at Washington, D.C., this first day of February 1974.

EARL L. BUTZ,  
Secretary of Agriculture.

[FR Doc.74-3116 Filed 2-6-74; 8:45 am]

**Soil Conservation Service  
CHIPPEWA CREEK WATERSHED PROJECT,  
OHIO**

**Notice of Availability of Final  
Environmental Statement**

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental statement for the Chippewa Creek Watershed Project, Wayne, Medina, Stark, and Summit Counties, Ohio, USDA-SCS-ES-WS(ADM)-73-38(F).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment, supplemented by 33.2 miles of channel alteration, and three floodwater retarding reservoirs.

The final environmental statement was transmitted to CEQ on January 16, 1974.

Copies are available during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue, SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, 311 Old Federal Building, Columbus, Ohio 43215.

Copies are available for purchase from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please order by name and number of statement. The estimated cost is \$12.00.

Dated: January 29, 1974.

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources Soil Conservation  
Service.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services).

[FR Doc.74-3113 Filed 2-6-74; 8:45 am]

**KICKAPOO CREEK WATERSHED PROJECT  
(LIPAN) PROJECT, TEXAS**

**Notice of Availability of Draft  
Environmental Statement**

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Kickapoo Creek Watershed (Lipan) Project, Palo Pinto, Erath, Hood, and Parker Counties, Texas, USDA-SCS-ES-WS(ADM)-74-17(D).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment and six single-purpose floodwater retarding structures.

A limited supply is available at the following locations to fill single copy requests:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Ave., SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please use name and number of statement above when ordering. The estimated cost is \$4.25.

Copies of the draft environmental statement have been sent to various federal, state, and local agencies for comment as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Edward E. Thomas, State Conservationist, Soil Conservation Service, Room 605, First National Bank Building, Temple, Texas 76501.

Comments must be received on or before April 1, 1974 in order to be considered in the preparation of the final environmental statement.

Dated: January 31, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

[FR Doc.74-3114 Filed 2-6-74;8:45 am]

#### POINSETT WATERSHED PROJECT, ARK.

##### Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental statement for the Poinsett Watershed Project, Craighead and Poinsett Counties, Arkansas, USDA-SCS-ES-WS-(ADM)-73-28-(F).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment throughout the watershed, supplemented by (1) 47 single-purpose floodwater-retarding structures, (2) 21.7 miles of channel modification, and (3) 638 acres of critical area treatment.

The final environmental statement was transmitted to CEQ on January 17, 1974.

Copies are available for inspection during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, Room 5029, Federal Building, 700 West Capitol, Little Rock, Arkansas 72203.

Copies are available for purchase from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please order by name and number of statement. The estimated cost is \$5.50.

Dated: January 29, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator  
for Watersheds.

[FR Doc.74-3112 Filed 2-6-74;8:45 am]

#### DEPARTMENT OF COMMERCE

Domestic and International Business  
Administration

##### NATIONAL RADIO ASTRONOMY OBSERVATORY

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the

Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 73-00549-18-80050.  
Applicant: National Radio Astronomy Observatory, Associated Universities, Inc., Edgemont Road, Charlottesville, Va. 22901. Article: 400 60 mm (millimeter) helical circular waveguide and couplers for TE<sub>01</sub> mode and related antenna coupling waveguide components and accessories. Manufacturers: Furukawa Electric Co., Ltd., and Sumitomo Electrical Industries, Ltd., Japan. Intended use of article: The article is intended to be used as part of the Very Large Array radio telescope to transmit radio wavelength radiation received from extraterrestrial objects to recording apparatus. The study of this radiation enables astronomers to study the sources of energy, origin, and evolution of the universe.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (April 11, 1973).

Reasons: The foreign article provides the capabilities for transmitting a signal over a 21 kilometer path in a frequency range of from 49 to 51 gigahertz (GHz) at bandwidths on the order of 40 GHz with very low signal distortion and for minimum signal attenuation. The National Bureau of Standards (NBS) advised in its memorandum dated December 27, 1973 that the capabilities described above are pertinent to the applicant's intended use. NBS also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.74-3079 Filed 2-6-74;8:45 am]

#### UNIVERSITY OF HAWAII

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific

article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00142-33-46500.  
Applicant: University of Hawaii at Hilo, P.O. Box 1357, Hilo, Hawaii 96720. Article: Ultra-microtome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to section normal and pathological tissues from marine biological organisms. These fragile, highly hydrated, cellular tissues are processed intact and also after subsection to mechanical and biochemical treatment such as extraction procedures, histochemical tests and physical manipulation in a program aimed at ascertaining the types of tumors in marine animals, ascertaining the effect of antitumor agents on them and the extraction of growth promoting and inhibiting substances from marine invertebrate tissues. The article will also be used for demonstrations and conducting research in courses intended to prepare students for medical school, dental school and careers in research. Application received by Commissioner of Customs: September 24, 1973. Advice submitted by Department of Health, Education, and Welfare on: January 11, 1974.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior case (Docket No. 70-00077-33-46500) relat-

ing to the duty-free entry of an identical foreign article, HEW advised that "ultra-thin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by HEW in its memorandum of January 11, 1974 that cutting speeds in the excess of 4 mm/sec. are pertinent to the applicant's research studies.

We therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.74-3078 Filed 2-6-74;8:45 am]

**UNIVERSITY OF PENNSYLVANIA ET AL.**  
Notice of Consolidated Decision on Applications for Duty-free Entry of Accessories for Foreign Instruments

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to section 6(c) of the Educational Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00140-00-46040.  
Applicant: University of Pennsylvania, Purchasing Department, Philadelphia, Pa. 19174. Article: Electromagnetic Shutter with Exposure Meter. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is an accessory to an existing electron microscope, which will be utilized for completion of various biomedical projects including: (1) Ultrastructural evaluation of human brain, peripheral nerve and muscle biopsies; (2) Electron microscopy

of rats with experimental allergic encephalomyelitis and malnutrition; (3) Ultrastructural evaluation of spontaneous and experimental virus diseases of humans and rats, and of humans suspected of having a disease caused by virus infections. Application received by Commissioner of Customs: September 24, 1973. Advice submitted by Department of Health, Education, and Welfare on: January 10, 1974.

Docket Number: 74-00148-00-46040.  
Applicant: Case Western Reserve University, Institute of Pathology, 2085 Adelbert Road, Cleveland, Ohio 44106. Article: Universal Camera for Elmiskop 101, #C72200-A3-A4. Manufacturer: Siemens AG, West Germany. Intended use of article: The foreign article is an accessory to an existing electron microscope being used in studies of the morphological effects of antimalarial drugs on malarial parasites. The article will also be used in an electron microscope course for graduate students in the Department of Pathology. Application received by Commissioner of Customs: October 1, 1973. Advice submitted by Department of Health, Education, and Welfare on: January 11, 1974.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda that the accessories are pertinent to the applicants' intended uses and that it knows of no comparable domestic articles. The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily adapted to the instruments with which the foreign articles are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.74-3076 Filed 2-6-74;8:45 am]

**DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE**

Center for Disease Control

**TUBERCULOSIS CONTROL ADVISORY  
COMMITTEE**

Notice of Meetings

Pursuant to Public Law 92-463, the Director, Center for Disease Control, an-

nounces the meeting dates and other required information for the following National Advisory body scheduled to assemble during the month of February 1974.

Committee name	Date, time, place	Type of meeting and/or contact person
Tuberculosis Control Advisory Committee.	February 28-March 1, 8:30 a.m., Room 207, Bldg. 1, Center for Disease Control, Atlanta, Georgia 30333.	Open-Contact Ms. Mary L. Atkinson, Room 361, Bldg. 1, Center for Disease Control, Atlanta, Georgia 30333. Code: 404-633-3975.

Purpose: The Committee consults with and advises the Tuberculosis Control Division, Bureau of State Services, Center for Disease Control on policies and programs in tuberculosis control.

Agenda: To discuss policies on use of isoniazid as preventive treatment in tuberculosis control.

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: January 30, 1974.

DAVID SPENCER,  
Director, Center for  
Disease Control.

[FR Doc.74-3129 Filed 2-6-74;8:45 am]

**Food and Drug Administration**

[FAP 4A2947]

**AMERICAN MAIZE-PRODUCTS CO.**

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; (21 U.S.C. 348(b) (5))), notice is given that a petition (FAP 4A2947) has been filed by American Maize-Products Co., 113th St. and Indianapolis Boulevard, Hammond, IN 46326, proposing that § 121.1031 *Food starch modified* (21 CFR 121.1031) be amended to provide for the safe use of a food starch-modified by treatment with phosphorus oxychloride followed by acetic anhydride or vinyl acetate.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm 6-86, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: January 29, 1974.

ALBERT C. KOLBYE, Jr.  
Acting Director, Bureau of Foods.

[FR Doc.74-3117 Filed 2-6-74;8:45 am]

[FAP 3A2886]

**BASF WYANDOTTE CORP.****Notice of Filing of Petition for Food Additive**

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; (21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3A2886) has been filed by BASF Wyandotte Corp., 1609 Biddle Ave., Wyandotte, MI 48192, proposing that § 121.1091 *Chemicals used in washing or to assist in the lye peeling of fruits and vegetables* (21 CFR 121.1091) be amended to provide for the safe use of a mixture consisting of  $\alpha$ -alkyl ( $C_{12}$ - $C_{18}$ )- $\omega$ -hydroxy-poly(oxyethylene) (3.3-3.7 moles) block polymer, average molecular weight 380, esterified with phosphoric anhydride;  $\alpha$ -alkyl ( $C_{10}$ - $C_{12}$ )- $\omega$ -hydroxy - hydroxy - poly(oxyethylene) (11.9-12.9 moles)/poly(oxypropylene) (1.3-1.8 moles) copolymer, average molecular weight 810, esterified with phosphoric anhydride; and  $\alpha$ -alkyl ( $C_{12}$ - $C_{18}$ )- $\omega$ -hydroxypoly(oxyethylene) 7.5-8.5 moles/poly (oxypropylene) (3.8-4.2 moles) block copolymer average molecular weight 810, for washing fruits and vegetables.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: January 29, 1974.

ALBERT C. KOLBYE, JR.,  
Acting Director, Bureau of Foods.

[FR Doc.74-3118 Filed 2-6-74;8:45 am]

[FAP 4B2984]

**E. I. DU PONT DE NEMOURS & CO., INC.****Notice of Filing of Petition for Food Additive**

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; (21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 4B2984) has been filed by E. I. du Pont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898, proposing that the food additive regulations (21 CFR Part 121) be amended to provide for the safe use of polyester elastomers produced by an ester exchange reaction between any combination of the dimethyl esters of terephthalic acid, isophthalic acid, and orthophthalic acid and  $\alpha$ -hydro- $\omega$ -hydroxypoly(oxytetramethylene) and 1,4-butanediol as food-contact surfaces intended for use in contact with bulk quantities of dried foods.

The environmental impact analysis report and other relevant material have

been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: January 29, 1974.

ALBERT C. KOLBYE, JR.,  
Acting Director, Bureau of Foods.

[FR Doc.74-3119 Filed 2-6-74;8:45 am]

**Office of Education****NEW VOCATIONAL EDUCATION RESEARCH GRANTS****Extension of Deadline**

Notice is hereby given that the U.S. Commissioner of Education has extended the thirty day period allowed for receipt of State board approval of local education agency applications for new Vocational Education Research grants under section 131(a) of Part C of the Vocational Education Act of 1963, as amended (20 U.S.C. 1281(a)) previously published in the FEDERAL REGISTER at 38 FR 33566 on December 5, 1973.

The closing date for receipt of all applications for these grants was extended from January 4, 1974 to January 11, 1974, by notice published in the FEDERAL REGISTER at 39 FR 815 on January 3, 1974.

Approval of the State board with respect to an application from a local education agency must be received by the Office of Education by February 15, 1974.

(Catalog of Federal Domestic Assistance No. 13.498; Vocational Education Research)

Dated: February 1, 1974.

JOHN OTTINA,  
U.S. Commissioner of Education.

[FR Doc.74-3070 Filed 2-6-74;8:45 am]

**Office of the Assistant Secretary for Health****KEITH E. BUCK, ET AL.****Proposed Issuance of Exclusive License**

Notice is hereby given of intent to issue a limited-term, revocable, exclusive patent license in and to an invention of Keith E. Buck, Sotiris Kitrilakis, and Thomas C. Robinson entitled "Respirator" under § 8.2(b), 45 CFR and the "Greater Rights" provision of the President's Statement on Government Patent Policy of August 23, 1971, to TECNA Corporation, 4204 Hollis Street, Emeryville, California 94608.

Any objection thereto together with request for opportunity to be heard, if desired, should be directed to the Assistant Secretary for Health, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington,

D.C. 20201, on or before March 11, 1974. Interested parties may obtain a copy of the patent application directed to this invention upon request in writing to the party hereinabove named.

(45 CFR 8.2(b), President's Statement on Government Patent Policy)

Dated: January 31, 1974.

CHARLES C. EDWARDS,  
Assistant Secretary for Health.

[FR Doc.74-3146 Filed 2-6-74;8:45 am]

**Office of the Secretary****SOCIAL SECURITY ADMINISTRATION****Statement of Organization, Functions, and Delegations of Authority**

The Statement of Organization, Functions, and Delegations of Authority for the Office of Public Affairs in the Social Security Administration (Part 4 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare) is hereby amended to reflect the reorganization of the Office of Public Affairs. This reorganization consists of the streamlining of basic public affairs functions within the Office of Public Affairs, and the transfer of the following functions, previously assigned to the Office of Public Affairs, to the Office of Administration in the Social Security Administration (SSA):

1. The public inquiries function and all related positions, including management support activities and positions;
2. Production aspects of the audiovisual function and related staff;
3. Responsibility for providing receptionist services at the main entrance to the Altmeier Building in the SSA headquarters complex at Baltimore, conducting visitor tours through this headquarters complex, as well as the positions necessary to perform these functions; and
4. Distribution of public information materials.

As revised, the new Statement of Organization and Functions for the Office of Public Affairs, reads as follows:

**MISSION**

The Office of Public Affairs (OPA), advises the Commissioner of Social Security on matters pertaining to SSA's nationwide public affairs program. It assesses public affairs needs and opportunities, and develops and coordinates programs and materials to promote the public's knowledge and understanding of its protection under social security and its rights and responsibilities under benefit programs administered by SSA.

**ORGANIZATIONS**

The Office of Public Affairs, under the supervision of the Assistant Commissioner for Public Affairs, consists of:

1. The Assistant Commissioner for Public Affairs
2. The immediate office of the Assistant Commissioner for Public Affairs
3. Functional components within the Office of Public Affairs

THE ASSISTANT COMMISSIONER FOR  
PUBLIC AFFAIRS

A. The Assistant Commissioner for Public Affairs is directly responsible to the Commissioner of Social Security for SSA's public affairs activities and provides general supervision to each component in the Office of Public Affairs.

B. In the event of the absence or disability of the Assistant Commissioner for Public Affairs, or in the event of a vacancy in this position, the Deputy Assistant Commissioner for Public Affairs acts for him.

C. In the event of the absence or disability of both the Assistant Commissioner for Public Affairs and the Deputy Assistant Commissioner for Public Affairs, or in the event of vacancies in both positions, a designated OPA executive acts for them.

IMMEDIATE OFFICE OF THE ASSISTANT  
COMMISSIONER FOR PUBLIC AFFAIRS

The immediate Office of the Assistant Commissioner for Public Affairs consists of:

1. The Assistant Commissioner for Public Affairs
2. The Deputy Assistant Commissioner for Public Affairs

FUNCTIONAL COMPONENTS WITHIN THE  
OFFICE OF PUBLIC AFFAIRS

The Office of Public Affairs consists of the following functional components:

1. Audio-Visual Staff
2. Editorial Services Staff
3. Public Information Staff
4. Support Services Staff

FUNCTIONS

The Office of Public Affairs is responsible for:

1. Planning, developing and directing SSA's programs for promoting public knowledge and understanding of protection, rights and responsibilities under programs administered by SSA.
2. Assessing public needs and interests and assuring SSA responsiveness to them.
3. Establishing and evaluating public affairs policies and standards for SSA and acting for the Commissioner of Social Security on public affairs matters.
4. Advising the Office of the Secretary of Health, Education, and Welfare; the Commissioner of Social Security; and other Department of Health, Education, and Welfare (DHEW) and SSA components on public affairs aspects of SSA programs.
5. Engaging in cooperative public affairs activities with the Office of the Secretary, other government agencies and private organizations.
6. Preparing, reviewing, and insuring the high quality of informational materials distributed to the public and providing technical guidance for public affairs training in SSA.

IMMEDIATE OFFICE OF THE ASSISTANT  
COMMISSIONER FOR PUBLIC AFFAIRS

1. The Assistant Commissioner for Public Affairs:

a. Is responsible to the Commissioner of Social Security to provide overall executive leadership in the formulation of SSA-wide public affairs policies and programs.

b. Plans, directs, coordinates, implements and assesses comprehensive programs to inform the public of its rights and responsibilities under benefit programs administered by SSA.

2. The Deputy Assistant Commissioner for Public Affairs assists the Assistant Commissioner for Public Affairs in carrying out his responsibilities and performs such duties as the Assistant Commissioner prescribes.

FUNCTIONAL COMPONENTS WITHIN THE  
OFFICE OF PUBLIC AFFAIRS

The functional components within the Office of Public Affairs and their responsibilities, are as follows:

1. The Audio-Visual Staff, which is responsible for:

a. Determining the audio-visual needs of SSA's total public affairs program.

b. Planning, creating, clearing and managing a wide variety of audio-visual materials (radio and TV spots, special shows, film strips, motion pictures, posters, exhibits, etc.) to inform the public of its protection, rights and responsibilities under benefit programs administered by SSA.

c. Providing professional advice to other SSA components on substantive audio-visual matters.

d. Representing SSA in the technical production of all audio-visual public information materials.

e. Studying audio-visual media on a continuing basis to assure maximum effectiveness in SSA's planning and developing of materials for communication with general and specific audiences.

2. The Editorial Services Staff, which is responsible for:

a. Setting standards for clear, effective writing in all of SSA's public communications and assisting SSA components in maintaining these standards.

b. Establishing specifications for SSA's printed public affairs materials, within DHEW and Government Printing Office (GPO) guidelines, and planning, clearing and scheduling publication of such material for national distribution, in coordination with other SSA components.

c. Developing copy for nationwide publications, and preparing draft materials for adaptation by SSA personnel at all organizational levels.

d. Conducting editorial reviews of all SSA printed public informational materials for national distribution and providing special writing assistance upon request by the Commissioner of Social Security.

3. The Public Information Staff, which is responsible for:

a. Developing, coordinating, and implementing SSA policy and practices to insure the accuracy of information released to the public; to establish and maintain good working relationships with members of public information media, and the general public; and to

provide for SSA's compliance with Freedom of Information legislation.

b. Preparing and issuing news items for national release and for local release through District Offices.

c. Covering newsworthy events affecting SSA's mission and programs, responding to media requests for information or assistance, and providing the media with suggestions for items of public interest.

d. Analyzing press coverage of SSA's programs to assess public reaction, and preparing the Daily Press Service for the Executive Staff and Regional Commissioners.

e. Preparing news and feature stories for the Baltimore press on headquarters events, programs of community interest and employee activities and accomplishments.

4. The Support Services Staff, which is responsible for:

a. Providing coordination, consultative and advisory services to the Assistant Commissioner for Public Affairs on public relations activities being carried on in the field.

b. Assessing public affairs problems and needs within the context of social security laws, regulations, established SSA policies; planning communications strategy with the media, general public, public and private organizations and other special audiences; and developing appropriate modifications in SSA public affairs policies, programs, and materials.

c. Maintaining liaison with the SSA Regional Offices, keeping them informed on SSA and DHEW public information policy and alert to current situations, while keeping informed on trends and needs in the field.

d. Establishing and maintaining standards, procedures, and systems governing public communications management throughout SSA and evaluating public communications programs, materials, and operations for accuracy, effectiveness, and responsiveness.

e. Providing direction, liaison, technical assistance, and training to SSA components and coordinating, where appropriate, with other DHEW components on public affairs matters.

f. Preparing work plans, and providing all general administrative management services (personnel, budget, and related areas), for OPA.

Dated: January 31, 1974.

ROBERT H. MARIK,  
Assistant Secretary for  
Administration and Management.

[FR Doc.74-3147 Filed 2-6-74;8:45 am]

DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT

Federal Disaster Assistance Administration  
[FDAA-410-DR; Docket No. NFD-152]

MAINE

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Maine, dated January 18, 1974, and

published January 24, 1974 (39 FR 2786), is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 18, 1974:

The Counties of:  
Franklin                      Sagadahoc  
Oxford

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance.)

Dated: February 1, 1974.

WILLIAM E. CROCKETT,  
*Acting Administrator, Federal  
Disaster Assistance Adminis-  
tration.*

[FR Doc.74-3160 Filed 2-6-74; 8:45 am]

[FDAA-413-DR; Docket No. NFD-153]

### OREGON

#### Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Oregon, dated January 25, 1974, and published February 1, 1974 (39 FR 4124), is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 25 1974:

The Counties of:

Gilliam                      Wallowa

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance.)

Dated: February 1, 1974.

WILLIAM E. CROCKETT,  
*Acting Administrator, Federal  
Disaster Assistance Adminis-  
tration.*

[FR Doc.74-3161 Filed 2-6-74; 8:45 am]

[FDAA-414-DR; Docket No. NFD-154]

### WASHINGTON

#### Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Washington, dated January 25, 1974, and published February 1, 1974 (39 FR 4124), is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 25, 1974:

The Counties of:

Benton                      Mason  
Columbia                      Pend Oreille  
Ferry                          Stevens  
Kitsap                          Thurston  
Lewis

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance.)

Dated: February 1, 1974.

WILLIAM E. CROCKETT,  
*Acting Administrator, Federal  
Disaster Assistance Adminis-  
tration.*

[FR Doc.74-3159 Filed 2-6-74; 8:45 am]

## DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

GEORGIA

### Proposed Action Plan

The Georgia Department of Transportation has submitted to the Federal Highway Administration of the U.S. Department of Transportation a proposed Action Plan as required by Policy and Procedure Memorandum 90-4 issued on June 1, 1973. The Action Plan outlines the organizational relationships, the assignments of responsibility, and the procedures to be used by the State to assure that economic, social and environmental effects are fully considered in developing highway projects and that final decisions on highway projects are made in the best overall public interest, taking into consideration: (1) Needs for fast, safe and efficient transportation; (2) public services; and (3) costs of eliminating or minimizing adverse effects.

The proposed Action Plan is available for public review at the following locations:

1. Georgia Department of Transportation, Information Office, Room 114, #2 Capitol Square, S.W., Atlanta, Georgia 30334.
2. District Office #1, Department of Transportation, P.O. Box 1057, Gainesville, Georgia 30501.
3. District Office #2, Department of Transportation, P.O. Box 8, Tennille, Georgia 31089.
4. District Office #3, Department of Transportation, P.O. Box 711, Thomaston, Georgia 30286.
5. District Office #4, Department of Transportation, P.O. Box 747, Tifton, Georgia 31794.
6. District Office #5, Department of Transportation, P.O. Box 1158, Jesup, Georgia 31545.
7. District Office #6, Department of Transportation, P.O. Box 10, Cartersville, Georgia 30120.
8. District Office #7, Department of Transportation, DeKalb-Peachtree Airport, Suite 120, Administration Building, Atlanta, Georgia 30341.
9. Georgia Division Office—FHWA, 1422 W. Peachtree Street, #700, Atlanta, Georgia 30309.
10. FHWA Regional Office—Region 4, Office of Environment and Design, Room 208, 1720 Peachtree Road, N.W., Atlanta, Georgia 30309.
11. U.S. Department of Transportation, Federal Highway Administration, Environmental Development Division, Nassif Building—Room 3248, 400-7th Street, S.W., Washington, D.C. 20590.

Comments from interested groups and the public on the proposed Action Plan are invited. Comments should be sent to the FHWA Regional Office shown above before March 8, 1974.

Issued on February 1, 1974.

NORBERT T. TIEMANN,  
*Federal Highway Administrator.*

[FR Doc.74-3063 Filed 2-6-74; 8:45 am]

## ATOMIC ENERGY COMMISSION

[Docket No. 50-293]

BOSTON EDISON CO.

### Proposed Issuance of Changes to Technical Specifications of Facility Operating License

Notice is hereby given that the Atomic Energy Commission (the Commission) is considering the issuance of changes to the Technical Specifications of Facility Operating License No. DPR-35 which would authorize the Boston Edison Company (the applicant) to operate the Pilgrim Nuclear Power Station using a partial loading of 8 x 8 fuel (containing U-235) and also would authorize changes to the limiting conditions for operation associated with fuel densification for the 8 x 8 and 7 x 7 fuels. The applicant is presently licensed to possess and operate its Pilgrim Nuclear Power Station located in Plymouth County, Massachusetts, at power levels up to 1998 MWt using a full core of 7 x 7 fuel (containing U-235).

The Commission will consider the issuance of the subject changes to the Technical Specifications upon: (1) The completion of a favorable Safety Evaluation on the application by the Commission's Directorate of Licensing and (2) a finding by the Commission that the application for the changes complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I. The generic aspects of the 8 x 8 reload assemblies are being discussed with the Advisory Committee on Reactor Safeguards. The Directorate of Licensing has issued a "Technical Report on the General Electric Company 8 x 8 Fuel Assembly" dated February 5, 1974.

On or before March 11, 1974, the applicant may file a request for a hearing with respect to issuance of changes to the Technical Specifications of the subject facility operating license, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required in 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the follow-

ing factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by March 11, 1974. A copy of the petition and/or request should also be sent to the Chief Hearing Counsel, Office of the General Counsel, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545.

For further details, see the (1) application by Boston Edison dated January 24, 1974, including Report NEDO-20103—"General Design Information for General Electric Boiling Water Reload Fuel Commencing in Spring, 1974", and (2) the "Technical Report on the General Electric Company 8 x 8 Fuel Assembly" dated February 5, 1974, by the Directorate of Licensing which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. As the Safety Evaluation report to be prepared by the Directorate of Licensing on the application becomes available, it may be inspected at the above locations, and a copy may be obtained.

Single copies of item (2) above and, when available, the Safety Evaluation may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Maryland, this fifth day of February 1974.

For the Atomic Energy Commission,

DENNIS L. ZIEMANN,  
Chief Operating Reactors  
Branch #2 Directorate of  
Licensing.

[FR Doc.74-3303 Filed 2-6-74; 9:37 am]

## DRAFT ENVIRONMENTAL STATEMENTS

### Notice of Availability

Notice is hereby given that five Draft Environmental Statements issued pursuant to the Atomic Energy Commis-

sion's implementation of the National Environmental Policy Act of 1969 are being placed in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20545. The Draft Statements are:

- WASH-1530 Additional High Level Waste Facilities, Savannah River Plant, Aiken, South Carolina.
- WASH-1531 New Waste Calcining Facility, National Reactor Testing Station, Idaho.
- WASH-1532 Radioactive Waste Facilities, Oak Ridge National Laboratory, Oak Ridge, Tennessee.
- WASH-1533 HTGR Fuel Refabrication Pilot Plant, Oak Ridge National Laboratory, Oak Ridge, Tennessee.
- WASH-1534 HTGR Fuels Reprocessing Facility, National Reactor Testing Station, Idaho.

The Statements will also be in the Commission's Albuquerque Operations Office, P.O. Box 5400, Albuquerque, New Mexico 87115; Chicago Operations Office, 9500 South Cass Avenue, Argonne, Illinois 60439; Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho 83401; Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee 37830; Richland Operations Office, Federal Building, Richland, Washington 99352; San Francisco Operations Office, 1333 Broadway, Oakland, California 94612; Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina 29801.

The Statements were prepared in support of legislative action related to the Commission's request for appropriation of funds for Fiscal Year 1975 for these projects.

The Draft Environmental Statements will be furnished upon request addressed to the Office of the Assistant General Manager for Biomedical and Environmental Research and Safety Programs, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Comments on the Draft Environmental Statements from members of the public shall be considered in the preparation of the Final Environmental Statements if received by the Atomic Energy Commission by March 25, 1974.

Dated at Germantown, Md., this 31 day of January 1974.

For the Atomic Energy Commission,

PAUL C. BENDER,  
Secretary of the Commission.

[FR Doc.74-3130 Filed 2-6-74; 8:45 am]

## REGULATORY GUIDES

### Notice of Issuance and Availability

The Atomic Energy Commission has issued a guide in its Regulatory Guide series. The Regulatory Guide series has been developed to describe and to make available to the public methods acceptable to the AEC Regulatory staff for implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance

to applicants concerning certain information needed by the staff in its review of applications for permits and licenses.

The new guide is in Division 5, "Materials and Plant Protection." Regulatory Guide 5.20, "Training, Equipping, and Qualifying of Guards and Watchmen," describes procedures generally acceptable to the Regulatory staff for the pre-employment screening, training, qualification, and requalification of guards and watchmen responsible for the protection of special nuclear material and fuel reprocessing facilities.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Comments and suggestions in connection with improvements in the guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Requests for single copies of the issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated.

Other Division 5 Regulatory Guides currently being developed include the following:

- Organization for Materials and Plant Protection.
- Management Review of Materials and Plant Protection Programs and Activities.
- Standards for Physical Barrier Construction.
- Special Nuclear Material Doorway Monitors: Performance and Use.
- Tamper Indicating Devices.
- Safe Secure Trailer (Interim Guide).
- Truck Identification Markings.
- Communication with Transport Vehicles.
- Coordination of Response Plan with Law Enforcement Authority.
- Monitoring Transfers of Special Nuclear Material.
- Selection of Material Balance Areas.
- Internal Transfers of Nuclear Material.
- Material Control in Unirradiated Scrap Recovery Facilities.
- Minimizing Nuclear Material Holdup in Process Equipment (wet processes).
- Minimizing Nuclear Material Holdup in Process equipment (dry processes).
- Dynamic Inventory Techniques.
- Verification of Nuclear Material Physical Inventories.
- Assessment of the Assumption of Normality.
- Limit of Error Concepts and Principles of Calculation in Nuclear Materials Control.
- Evaluation of Material Unaccounted for (MUF).
- Evaluation of Shipper and Receiver Data.
- Resolution of Shipper-Receiver Differences.
- Acceptable Methods for the Accounting for Nuclear Grade PuO<sub>2</sub> Powder, Sinterable.
- General Guide to a Measurement Control Program.
- Training and Qualifying Measurement Control Personnel.
- Accountability Measurements of Pu(NO<sub>3</sub>)<sub>4</sub> Solutions.
- Accountability Measurements of PuO<sub>2</sub> Powder.
- Chemical, Nuclear, and Radiochemical Analysis of UO<sub>2</sub>(NO<sub>3</sub>)<sub>2</sub> Solutions.

Standard Methods for Chemical, Nuclear & Radiochemical Analysis of Pu Metal and Nitrate.

Guide for Mass and Scales Calibration.  
Guide to Mixing and Sampling Nuclear Materials.

Guide to Making Working Standards from Production Material.

Radiometric Calibration Techniques.  
Calorimetric Assay of Pu-Bearing Solids.  
Nondestructive Assay of Low Enrichment Uranium Fuel Rods.

Nondestructive Assay of Plutonium Bearing Fuel Rods by Gamma-Ray Spectroscopy.

Nondestructive Assay of High Enrichment Uranium Fuel Plates.

Nondestructive Assay of Plutonium Residue in Process Equipment.

Nondestructive Plutonium Scrap and Waste Assay by Spontaneous Fission Detection.

Nondestructive Uranium-235 Enrichment Assay by Gamma-Ray Spectrometry.

Nondestructive Assay of High-Enriched Uranium Scrap by Active Neutron Interrogation.

Nondestructive Assay of Uranium Residue in Process Equipment.

(5 U.S.C. 552(a))

Dated at Bethesda, Maryland this 30th day of January 1974.

For the Atomic Energy Commission.

LESTER ROGERS,  
Director of Regulatory Standards.

[FR Doc.74-3131 Filed 2-6-74; 8:45 am]

[Docket No. 50-141]

#### STANFORD UNIVERSITY

#### Notice of Intent To Issue Order Authorizing Dismantling of Facility

By application notarized September 20, 1973, and supplement dated November 19, 1973, Stanford University requested authorization to dismantle their reactor in accordance with a plan submitted to the Commission. Operation of the facility has been discontinued and all fuel has been removed from the reactor and shipped to an authorized reprocessing facility.

The Commission has reviewed the application in accordance with the provisions of the Commission's regulations and has identified an additional requirement that all planned liquid releases from the facility must be verified within 30 days of planned release to be within the standards established by 10 CFR Part 20 by current radiological analysis.

The Commission has found that the dismantlement and disposal of component parts and waste from the facility in accordance with the regulations in 10 CFR Chapter I and the application, as modified, will not be inimical to the common defense and security or to the health and safety of the public. The basis for the findings is set forth in the Safety Evaluation by the Regulatory Staff which is being issued concurrently with this notice.

Accordingly, an appropriate Order will be issued after February 25, 1974, authorizing Stanford University to dismantle their reactor covered by License No. R-60, as amended. The dismantling plan, as modified by this order, will replace the

Technical Specifications in their entirety.

Dated at Bethesda, Md., this 30th day of January 1974.

For the Atomic Energy Commission.

ROBERT J. SCHEMEL,  
Chief, Operating Reactors  
Branch #1, Directorate of Licensing.

[FR Doc.74-3013 Filed 2-6-74; 8:45 am]

#### WASTE MANAGEMENT ACTIVITIES AT HANFORD RESERVATION

##### Notice of Hearing

Notice is hereby given by the Atomic Energy Commission and the Environmental Protection Agency of an informal meeting between staffs of the two agencies to be held at the Battelle Memorial Institute Auditorium, Battelle Memorial Institute, Pacific Northwest Laboratories, Battelle Blvd., Richland, Washington 99352, on February 14, 1974 at 9 a.m. The purpose of the meeting will be to discuss waste management activities at the Atomic Energy Commission's Hanford reservation and AEC's environmental impact statement now in preparation which covers such activities. The public is cordially invited to attend these discussions.

Further information can be obtained from Mr. William R. Voigt, Deputy Director, Division of Production and Materials Management, U.S. Atomic Energy Commission, Washington, D.C. 20545 and E. David Harward, Director, Technology Assessment Division, Office of Radiation Programs, Environmental Protection Agency, Washington, D.C. 20460.

Dated this 6th day of February 1974.

JAMES L. LIVERMAN,  
Assistant General Manager  
for Biomedical and Environmental Research and Safety Programs, Atomic Energy Commission.

W. D. ROWE,  
Deputy Assistant Administrator  
for Radiation Programs, Environmental Protection Agency.

[FR Doc.74-3319 Filed 2-6-74; 11:06 am]

#### CIVIL AERONAUTICS BOARD

[Dockets 26270, etc.]

#### AMERICAN AIRLINES, INC.

##### Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of February 1974.

By tariff revisions<sup>1</sup> bearing the posting date of December 21, 1973, originally marked to become effective February 4, 1974, but subsequently postponed to April 1, 1974, American Airlines, Inc. (American) proposes, *inter alia*, to increase general commodity container rates and

<sup>1</sup> Revisions to Airlines Tariff Publishers, Inc., Agent, Tariffs C.A.B. 96 and 208.

charges and revise the bulk cubic dimensional weight formula (cube rule).

American's container proposal seeks to increase its general commodity rates and charges by (1) increasing the minimum weights per container to equal the product of the cubic capacity and 8.9 pounds per cubic foot, instead of the current 6.9 pounds; (2) raising the applicable rate per 100 pounds, by applying the standard containerization discounts<sup>2</sup> to the current general commodity bulk rates, which are typically higher than those now used; (3) increasing the minimum charge per container to equal the product of the proposed higher minimum weights and rates; and (4) raising the rates for weights in excess of the minimum weights to reflect the proposed higher discounted rates per 100 pounds less the standard density discounts.

The proposed revision to the cube rule for bulk shipments results in the establishment of a standard of one pound for each 194 cubic inches or 8.9 pounds per cubic foot density for all shipments. Currently, cubic dimensional weight is derived from the total cubic measurement of the shipment on the basis of one pound for each 250 cubic inches (6.9 pounds per cubic foot) or in the case of cut flowers and nursery stock, one pound for each 266 cubic inches (6.5 pounds per cubic foot). The result is that current light density shipments now paying on the basis of current dimensional weight requirements will receive increases ranging between 29 and 37 percent.

Complaints requesting suspension pending investigation have been filed by Emery Air Freight Corporation (Emery), Shulman Air Freight, Inc. (Shulman) and United Parcel Service Co. (UPS) against American's container increases, and by the Society of American Florists (SAF) and the Pet Industry Parties (PIP) against the cube-rule revision.<sup>3</sup>

The complainants against the container proposal variously allege, *inter alia*, that the proposal is discriminatory against container traffic while similar loose traffic will not receive an increase; no attempt has been made to compare the cost of handling containers with the revenue that would accrue under the pro-

<sup>2</sup> Typically, \$1 per cwt. for weight up to the minimum chargeable weight (pivot weight) for type A and LD-3 containers (other containers typically have lower discounts) and a 33 percent discount below the bulk rates for weight in excess of the pivot weight loaded in the same container.

<sup>3</sup> The PIP also requested that the tariff be rejected, but did not detail specific grounds for such action. In addition, the Board received a number of letters and telegrams in opposition to American's proposals. The Board also received a motion for acceptance of a late-filed complaint, jointly by the National Small Shipment Traffic Conference and the Drug and Toilet Preparation Traffic Conference. However, the complaint was received in telegram form and did not conform with the filing requirements of the Board's Economic Regulations. Consequently, the complaint is not accepted.

posal; the proposed increases are different from the container charges proposed by American in the Domestic Air Freight Rate Investigation; since the Board is presently focusing upon these concepts in the Rate Case, the proposed increases should not be permitted until that investigation is completed; the proposal would increase general commodity container rates while lower specific commodity container rates would remain the same; the incentive to containerize is substantially reduced; and American significantly understates the overall revenue impact of the proposal.

The complainants against the proposed bulk cube-rule revision variously allege, among other things, that a change in the dimensional-weight rule in the middle of the Domestic Air Freight Rate Investigation will substantially alter one of the basic ingredients from which air freight charges are derived; the fuel crisis is temporary and should not be permitted to change such a fundamental rate-making factor as the dimensional-weight basis; increases of lesser magnitude have been suspended by the Board due to their significant impact upon shippers; there is no basis to adopt the international cube rule as there is no similarity between domestic and international commerce; the floral industry views this proposal as causing great potential harm since numerous specific varieties of flowers have densities less than 8.9 pounds; American's justification is based upon all-cargo service, whereas the predominance of floral products moves in combination service; the density of floral products cannot be improved without disrupting present market and distribution practices; a combination of spiraling air freight costs and low market values has seriously jeopardized the floral industry's ability as well as that of shippers of low or moderate density traffic, to utilize air freight; and it is illogical that modern efficient jet aircraft call for a cube rule far more restrictive than that applicable to piston aircraft.

In support of its container increases and in answer to the complaints, American asserts, *inter alia*, that a change in the domestic cube rule is advocated by other carriers and the Bureau of Economics in the Domestic Air Freight Rate Investigation, Docket 22859; American's all-cargo aircraft are designed for a payload on the average of 15.7 pounds per cubic foot, but loads have only been averaging 7.5 pounds per cubic foot; the current fuel crisis makes it necessary to improve revenue based upon current traffic mix from the available capacity flying; the Bureau in the Rate Case has recommended adoption of the 8.9 pound cube rule; the proposal incorporates into the container tariff the same 8.9 standard for dimensional weight; the proposal would result in treating alike bulk and container traffic in terms of application of the cube rule; no complainant forwarder has alleged that it is incapable of tendering container traffic that meets or exceeds the proposed minima; Ameri-

can's records disclose that in 1972 the average weight per type A container was 3,818 pounds, or very nearly the proposed minimum; on a weighted average all shippers other than UPS tender type A containers with an average of 4,375 pounds, in excess of the proposed minimum; the proposal reinstates the discount relationship between bulk and container shipments as originally conceived under the industry container agreement; and American is losing in excess of \$35 million per year in providing freight services, and expects to generate approximately \$5 million in additional revenues from this proposal.

In support of its increase in the bulk dimensional weight basis and in answer to the complaints, American asserts, among other things, the same justification as mentioned above in support of the change in minimum weights for containers; at no point in its complaint, except in the vaguest of terms, does PIP allege that it will suffer any damage whatsoever as a result of this proposal; this proposal will not thwart the purpose of the pending Rate Case since this is but one issue in the proceeding; the floral industry has presented no evidence that its traffic will be diverted on account of increases; alternative transportation is available for floral traffic; since the average dock density of cut flowers is over 8 pounds per cubic foot, the resulting increases in charges are far less than might appear.

All of American's proposed revisions come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to reject or suspend the proposals or to permit them to become effective pending final decision of the Board in that investigation. We shall not reject the proposals because the filings conform to the Board's tariff regulations.

Upon consideration of all relevant factors, however, the Board finds that the proposals, to the extent that they apply to westbound general commodity container rates and charges in markets involving lengths of haul of 1,000 miles and over, should be suspended. American's proposal to increase the bulk dimensional weight basis to 8.9 pounds will be permitted to become effective as filed, however.

We are of the opinion that the proposal, to the extent that it involves higher container rates and charges in markets involving hauls of 1,000 miles or over, should be suspended essentially because the carrier makes no showing that the increased rates and charges proposed for various lengths of haul are in line with their costs. The proposed westbound container charges for movements of 1,000 miles and over appear excessive in relation to costs as indicated by data available to the Board. No cost support was

\* American incorporates the answer of The Flying Tiger Line Inc., to complaint of SAF in Docket 26270, in its own answer.

provided by American for these increases.

The remaining portions of the container proposals, including westbound increases for distances less than 1,000 miles and all eastbound increases, will be permitted to become effective because they appear sufficiently related to costs.

We now turn to the proposed revision in the cube rule for bulk shipments. The basic principle underlying this rule is that low-density freight (low weight per cubic content or displacement) should not be transported at actual weight, but instead at its "dimensional" or "volume" weight, because an aircraft is space-limited, as well as weight-limited. Stated in another way, in the absence of a dimensional rule, light density traffic would not pay its fair share of the costs of air transportation at the same rate per pound as dense traffic because rates are based on the avoirdupois weight of the traffic.

The most efficient density of cargo, from the standpoint of aircraft operating economy, is that which would utilize both the maximum weight capacity and lift capacity of an aircraft. The current rule of 6.9 pounds per cubic foot (for all commodities except florist products) dates back to the era of the DC-3 and DC-4 type aircraft, which had a design density of approximately that amount. Currently, the average design density of domestic all-cargo aircraft is about 11.6 pounds per cubic foot. On the other hand, the average stowed density is much less, 8.83 pounds per cubic foot.

In view of the foregoing, we believe that American's proposal of 8.9 pounds per cubic foot for all commodities represents an acceptable approach to the problem, subject to a final solution in the Domestic Air Freight Rate Investigation, Docket 22859. The Board does not find, from the facts before it, that this proposal warrants suspension pending the investigation in Docket 22859. Moreover, this proposal would achieve uniformity for all cargo, both domestic and international, by making all types of cargo subject to the same cube rule.

We must note, however, that American's filing, which is intended to recoup a part of the losses it believes it is sustaining in providing air freight services, will impact heavily on a relatively narrow segment of the shipping public. For example, American has not proposed to increase its bulk general commodity rates or bulk or container specific commodity rates although such rates are probably contributing to American overall operating loss. When added revenues are justified by carriers, we would expect them to relate increases to the costs of the various services provided and also to apply the needed increases in a manner that is fair and even-handed over the spectrum of their customers. Moreover, the revision of the cube rule will result in shippers of floral products paying rates much more comparable to the rates charged for nonperishable commodities. In these circumstances, the Board believes that such shippers should be accorded comparable service and that

selective embargos of perishables should be avoided.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly Section 204(a) and 1002 thereof,

*It is ordered, That:*

1. Pending hearing and decision by the Board, the increased rates, charges, and provisions described by Appendix A<sup>2</sup> are suspended and their use deferred to and including June 29, 1974, unless otherwise ordered by the Board and that no change be made therein during the period of suspension except by order or special permission of the Board;

2. Except to the extent granted herein, the complaints of the Society of American Florists in Docket 26270, Shulman Air Freight, Inc. in Docket 26272, the Pet Industry Parties in Docket 26292, United Parcel Service Co. in Docket 26293, and Emery Air Freight Corp. in Docket 26296 are dismissed; and

3. Copies of this order shall be filed with the tariffs and served upon American Airlines, Inc., the Society of American Florists, Shulman Air Freight, Inc., the Pet Industry Parties, Emery Air Freight Corp., as well as upon the United Parcel Service Co., which is hereby made a party to Docket 22859.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc.74-3153 Filed 2-6-74; 8:45 am]

[Docket 26331; Order 74-2]

#### EASTERN AIR LINES, INC.

##### Order Denying Petition

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of February, 1974. On January 18, 1974, Eastern Air Lines, Inc. (Eastern) filed a petition requesting authority for all trunk and local service carriers to engage in discussions to consider means of limiting passenger amenities and services ancillary to, severable from, and not an essential part of providing air transportation on domestic and overseas flights, particularly short-haul flights.<sup>1</sup>

In support of the petition, Eastern alleges, inter alia, that the authority to hold discussions is urgently required by the industry to hold down the magnitude of a needed fare increase, and is clearly in the interest of both the carriers and the fare-paying public; that largely as a result of the enormous increase in fuel costs anticipated in 1974, the unprecedented efforts on the part of individual carriers to lay off personnel, cutback schedules, ground aircraft, and temporarily close stations may not go far

<sup>2</sup> Filed as part of the original document.

<sup>1</sup> American Airlines, Inc. has filed an answer stating that it believes that such discussions may be useful, and that it is willing to join them.

enough to preserve the economic viability of the industry.

It is also alleged that the discussions sought are another avenue that should be explored in order to assure that relief from the fuel shortage and its by-products does not entirely take the form of increased fares; and that limiting some of the amenities by which carriers compete is a reasonable alternative, but one which goes beyond the ability of individual airline management to control effectively except on a very limited scale, or at the expense of losing patronage to a competitor. Therefore, industry-wide multilateral measures, as in the case of frequency reductions, are required to achieve any appreciable benefit.

Eastern contends that there is nothing novel about limiting unnecessary amenities; that as early as 1948 the elimination of meal service was considered in connection with discussions on fares conducted by the Board, at which time a staff study estimated an annual saving to the industry of \$11 million as a result of eliminating meal service. While the full extent of the potential cost savings is difficult to assess, Eastern believes that the magnitude of the savings to the industry and ultimately to the fare-paying public would be significant, particularly in view of the fact that the overall level of trunkline operating expenses is 15 times greater today than it was in 1948.

The Institute for Public Interest Representation (IPIR) has filed comments opposing the petition on the grounds that the public would be completely unrepresented at the discussions; that crucial information concerning the nature of the carriers' discussion is either undefined or missing; and that unless public participation is assured, the meeting would improperly circumvent clearly established Board procedure. IPIR further alleges that the services Eastern seeks to limit can logically fall into only two categories: Those presently required by tariffs on file with the Board, or those developed as competitive measures. If Eastern's petition addresses the former, the meeting is allegedly both unnecessary and extra-legal. If the carrier's petition addresses the latter, IPIR contends that it can only logically provoke Board rejection as a vehicle intended to circumvent the requirements of the Federal Aviation Act of 1958, which states in part that the Board must foster "competition to the extent necessary to assure the sound development of an air transportation system properly adapted to the needs of \* \* \* the United States."

Upon consideration of the application, the answers thereto and all relevant matters, the Board has decided to deny Eastern's petition.

Eastern does not identify the particular amenities (and hence the costs related thereto) which it believes are unnecessary, except for food service in short-haul markets, but rather seeks blanket authority to discuss all amenities. Thus, the carrier has failed to define the scope of the discussions it seeks with any particularity, and for this reason

alone the petition must be denied. Moreover, Eastern does not indicate what steps it has taken to eliminate amenities it believes to be unnecessary, but rather seems to discount any possibility of successful unilateral efforts. While we realize that the inflight services provided by carriers are competitive, we are nevertheless not persuaded that individual carriers cannot effectively control their services and costs in this area. In this connection, we believe it pertinent that only one other carrier has indicated support for the discussions Eastern seeks.

The types of inflight amenities provided as well as their quantity and quality have traditionally been left to the discretion of individual airline managements. So long as the situation does not go beyond reasonable competitive bounds, and we have no reason to believe that it has, the Board would be most reluctant to permit the extraordinary step of authorizing industry-wide discussions.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102 and 204 thereof,

*It is ordered that:*

1. The petition of Eastern Air Lines, Inc. in Docket 26331 is hereby denied; and

2. This order shall be served on American Airlines, Inc., Eastern Air Lines, Inc., and the Institute for Public Interest Representation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc.74-3152 Filed 2-6-74; 8:45 am]

#### CONSUMER PRODUCT SAFETY COMMISSION

##### AEROSOL SPRAY PRODUCTS

##### Change of Public Hearing Location and Extension of Time Period

In the FEDERAL REGISTER of January 14, 1974 (39 FR 1793), the Consumer Product Safety Commission gave notice of a public hearing to be held at 10 a.m. on Feb. 20, 1974, to discuss a petition submitted by the Center for Science in the Public Interest requesting the Commission to establish regulations for the safety and packaging of all unregulated aerosol spray products, especially those used in the home.

To accommodate all parties who have indicated an interest in attending the hearing and in presenting views, notice is given that the location of the hearing has been changed to the auditorium of the General Services Administration Building at 18th and F Streets NW, Washington, D.C., and the time period for the hearing is extended to include February 21, 1974.

Dated: February 1, 1974.

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

[FR Doc.74-3123 Filed 2-6-74; 8:45 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### ADVISORY COMMITTEE ON ALTERNATIVE AUTOMOTIVE POWER SYSTEMS

#### Notice of Meeting

Notice is hereby given that the Council on Environmental Quality's Advisory Committee on Alternative Automotive Power Systems will hold its next meeting in Washington, D.C. on February 11 and 12, 1974. The sessions, which are open to the public, will commence at 9 a.m. in room 2010, New Executive Office Building, 17th and Pennsylvania Avenue.

The agenda for this meeting of the Advisory Committee will include reports by the Environmental Protection Agency, Department of Transportation, Department of Defense, National Science Foundation and the National Aeronautics and Space Administration on programs related to low emission, energy conservative automobiles. In addition, the agenda will include reports on fuel economy studies conducted by the Department of Transportation and the Council on Environmental Quality, review of studies on the feasibility of alternative fuels for automotive use by the Environmental Protection Agency and the Atomic Energy Commission, a review of electric vehicle evaluation studies conducted by the Environmental Protection Agency and the Postal Service, and a review of plans by the California Institute of Technology/Jet Propulsion Laboratory for a study of alternative vehicle propulsion systems.

A list of advisory committee members is available from, and requests for additional information should be made to: Dr. Philip E. Schambra, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006 (202-382-6754).

STEVEN D. JELLINEK,  
Acting Staff Director.

[FR Doc. 74-3158 Filed 2-6-74; 8:45 am]

## ENVIRONMENTAL IMPACT STATEMENTS

### Notice of Availability

The following environmental impact statements were received by the Council on Environmental Quality during the week January 28 through February 1, 1974. The date of receipt for each individual statement is noted in the statement summary. Under the Council's Guidelines, which became effective January 28, 1974, the minimum period for public review and comment for draft environmental impact statements is forty-five (45) days, with the date of this FEDERAL REGISTER notice of availability being the date from which the period of review shall be calculated.

Copies of individual environmental impact statements are available from the originating agency for those parties who would like an opportunity to comment on them. (Copies of the statements will also be made available through two commercial sources, the National Technical

Information Service of the Department of Commerce, and the Environmental Law Institute of Washington, D.C. It is for this purpose that NTIS and ELR accession numbers appear at the end of each statement summary.)

#### DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tshirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, (202) 447-3965.

#### FOREST SERVICE

##### Draft

Inch Mountain Planning Unit, Kootenai N.F., Lincoln County, Montana, January 29: The statement refers to the proposed implementation of a multiple use plan for the 59,000 acre Inch Mountain Planning Unit, Kootenai National Forest. Under the plan the seven sub-units of Inch Mountain will be managed for such values as timber production, wildlife habitat maintenance, recreational use, and scenic viewing. There will be some road construction. Adverse impact will include soil and vegetation disturbance, temporary air and noise pollution, and visual (aesthetic) disturbance. (ELR Order No. 40172.) (NTIS Order No. EIS 74 0172-D.)

Vegetation Management, Oregon and California, January 28: The statement refers to the proposed use of the chemical herbicides amitrole, dicamba, 2,4-D, 2,4,5-T, silvex and picloram on lands of the Rogue River, Mt. Hood and Willamette National Forests, in Oregon and California, from January 1, 1974, through June 30, 1975. The herbicides are used in reforestation, forest plantation management, recreation sites, and right-of-way maintenance. Adverse impacts of the program will include the loss of non-target species, and short-term aesthetic deterioration (two volumes). (ELR Order No. 40160.) (NTIS Order No. EIS 74 0163-D.)

Vegetation Management, Washington National Forests, several counties, Washington, January 28: The statement refers to the use of the chemical herbicides amitrole, dicamba, 2,4,5-T, 2,4-D, picloram, and silvex, on lands of the Olympic, Mt. Baker, Snoqualmie, and Gifford Pinchot National Forests. The herbicides are used for control of undesirable vegetation in crop tree release, site preparation, weeding, range vegetation, right-of-way maintenance, and noxious weed control programs. The action will result in a loss of some non-target species, as well as an adverse aesthetic (visual) impact (two volumes). (ELR Order No. 40163.) (NTIS Order No. EIS 74 0163-D.)

#### ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. W. Herbert Pennington, Office of Assistant General Manager, E-201, AEC, Washington, D.C. 20545 (301) 973-4241. For Regulatory Matters: Mr. A. Glambusso, Deputy Director for Reactor Projects, Directorate of Licensing, P-722, AEC, Washington, D.C. 20545, (301) 973-7373.

##### Draft

General Atomic Fuel Fabrication Facility, Franklin County, North Carolina, January 30: The statement refers to the proposed issuance of a special nuclear material license to the General Atomic Company, in order for the Company to possess, process, and use the material to fabricate fuel elements at the planned General Atomic Fuel Fabrication Facility, near Youngsville. The facility will process annually a maximum of 20,000 kg of highly enriched uranium hexafluoride and 587,000 kg of thorium nitrate into fuel elements which correspond to initial fuel loadings for six 1,100 MWe High Temperature Gas Cooled Reactors (HTGR). Only unirradiated uranium and thorium will be processed. (ELR Order No. 40179.) (NTIS Order No. EIS 74 0179-D.)

##### Final

Nine Mile Point Nuclear Station, New York, January 31: Proposed is the conversion of the current provisional operating license, held by the Niagara Mohawk Power Corporation, to a full term license. Unit 1 of the Station employs a boiling water reactor to produce 1,850 MWt, from which 610 MWe (net) are generated. Exhaust steam is cooled by a once-through flow of water from Lake Ontario, with discharge at 6 degree above ambient. Transmission line right-of-way has required 1640 acres. Comments made by: DOC, USCG, HEW, USDA, AHP, EPA, FPC, DOI, and State agencies. (ELR Order No. 40187.) (NTIS Order No. EIS 74 0187-F.)

Barnwell Nuclear Fuel Plant (BNFP), Barnwell County, South Carolina, January 31: The statement refers to the regulating of construction and operation of the plant by Allied-Gulf Nuclear Services. BNFP will recover unused uranium and plutonium from irradiated nuclear fuels, using an adaptation of the Purex process technology. Design capacity is for 1,500 tons of enriched uranium oxide fuel annually, the equivalent of reprocessing the spent fuel from nuclear power plants having a combined capacity of 50,000 MWe. The gaseous release of radioactivity will be reduced to a level as low as practicable. Comments made by: AHP, USDA, DOC, HEW, DOI, DOT, EPA, FPC, and State agencies. (ELR Order No. 40185.) (NTIS Order No. EIS 74 0185-F.)

#### DEPARTMENT OF DEFENSE

##### ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-7168.

##### Draft

Bayou La Batre, Maintenance Dredging, Alabama, January 28: The project involves maintaining existing channel dimensions in the Bayou La Batre. The channel has an overall length of approximately 33,500 ft. The project also includes maintenance dredging of a turning basin. Spoil from the inland portion of the project, and that area extending about 2,000 to 3,000 ft. from shore, is pumped to diked land disposal sites. Spoil from the remainder of the project is disposed of in open-water sites adjacent to the channel. The dredging will result in some disruption and destruction of benthic organisms and terrestrial habitat. Dredging will also cause temporary water turbidity (Mobile District) (34 pages). (ELR Order No. 40176.) (NTIS Order No. EIS 74 0176-D.)

Indian River Inlet, Project Maintenance, Sussex County, Delaware, January 28: The project involves continuing operation and maintenance activities in the navigable portions of the Indian River Inlet and Bay. Included in the project are channel dredging, repair of jetties, and spoil disposal on existing sites. Dredging will produce temporary local turbidity, which may release trapped pollutants into the water and disturb marine biota. Established vegetation will be destroyed at the disposal sites (Philadelphia District) (48 pages). (ELR Order No. 40164.) (NTIS Order No. EIS 74 0164-D.)

Ellicott Creek Basin, New York, January 28: The statement refers to the proposed construction of a parallel channel to Ellicott

Creek, for an approximate distance of 17,500 feet. The diversion channel, along with 2.5 miles of channel work on Ellicott Creek proper, is intended to provide flood protection for the Town of Amherst. Recreational facilities would also be included as a project measure. Adverse impact of the action will include the displacement of 11 residences; the loss of 105 acres of natural wildlife habitat; and the removal of 100 trees from Ellicott Creek Park (Buffalo District). (ELR Order No. 40177.) (NTIS Order No. EIS 74 0177-D.)

Ft. Yates Highway Bridge, Sioux and Emmens Counties, N. Dak., January 28. The statement refers to the construction of a bridge across Lake Oahe with approximately 19.5 miles of connecting roads. The crossing corridor is midway between Bismarck, N.D. and Mobridge, S.D. The project will require a commitment of 473 acres. Adverse impacts during construction include increase in the levels of air and noise pollution, temporary water turbidity and some soil erosion. The U.S. Army Engineer District in Omaha is coordinating this project with the State Highway Department in Bismarck, N. Dak. (Omaha District) (40 pages). (ELR Order No. 40157) (NTIS Order No. EIS 74 0157-D.)

Paint Creek Lake, Ross and Highland Counties, Ohio, January 30. The statement refers to the on-going construction and operation of a dam, reservoir and other facilities, for purposes of flood control, water supply and quality control, fish and wildlife enhancement, and recreation. Adverse impacts of the project include the loss of agricultural land and historic and archeological sites. (Huntington District) (ELR Order No. 40182) (NTIS Order No. EIS 74 0182-D.)

Crane Island Rehandling Basin, Virginia, January 28. The project involves maintenance dredging of the Crane Island Rehandling Basin by hydraulic methods. The action will require the removal of an estimated 1,000,000 cubic yards of sediments, which are to be deposited in the Crane Island disposal area. Maintenance dredging will have some adverse impact, as it will remove or destroy benthic organisms, and will temporarily increase turbidity and sediment load in the water column above the rehandling basin. (Norfolk District) (29 pages) (ELR Order No. 40152) (NTIS Order No. EIS 74 0152-D.)

Aberdeen Creek, Maintenance Dredging, Gloucester County, Va., January 28. The project involves the maintenance dredging of Aberdeen Creek Channel and turning basin to their authorized dimensions. The action will require the removal of an estimated 70,000 cubic yards of materials which are to be placed in a previously used diked disposal area. Adverse environmental impacts include destruction or relocation of biota in the channel and at the disposal area, possible interference with anadromous fish spawning activities, and elimination of a portion of a marginal tidal wetland. (Norfolk District) (12 pages) (ELR Order No. 40155) (NTIS Order No. EIS 74 0155-D.)

#### Final

Kalmu Beach, January 31. The statement refers to the proposed replenishment of the beach and the construction of an offshore submerged breakwater to protect the replenished beach. The breakwater will disrupt waves suitable for surfing. Construction activity will adversely affect marine biota. (125 pages) Comments made by: HEW, DOT, USCG, DOC, EPA, DOD, DOI, State, and local agencies and concerned citizens. (ELR Order No. 40188) (NTIS Order No. EIS 74 0188-F.)

#### ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630 Water-side Mall, Washington, D.C. 20460, 202-755-0940.

#### Draft

North Lake Tahoe-Truckee River Basin, California and Nevada, January 30. The statement evaluates several alternative proposals for local or regional wastewater treatment and disposal systems which are designed to eliminate water quality degradation of Lake Tahoe and the Truckee River. Plan H, which is recommended by EPA, would provide for the collection and transportation of all wastes to a treatment plant at the confluence of the Truckee River and Martis Creek. Included would be an interceptor system, a tertiary treatment plant (4.5 MGD capacity), and a land disposal system consisting of subsurface percolation trenches. There will be construction disruption with all proposals; under plan H, the groundwater in the upper aquifers will be degraded to some extent. (ELR Order No. 40181) (NTIS Order No. EIS 74 0181-D.)

#### FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 202-386-6084.

#### Final

Rock Island Project No. 943, Chelan and Douglas Counties, Wash., January 31. The action involved is the amendment of an existing major license, held by Public Utility District No. 1 of Chelan County. The amendment would allow the construction of a second powerhouse at the Rock Island Project, on the Columbia River. The new construction would include eight 51.3 MW generator units, a new fish passage facility, two miles of transmission line, and related work. Impact will include the inundation of 335 acres of land, and encroachment of waters upon roadways and railroad. (226 pages). Comments made by: AEC, HEW, HUD, and State agencies. (ELR Order No. 40186) (NTIS Order No. EIS 74 0186-F.)

#### DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

#### Final

Crow Indian Ceded Coal Mining Lease, Big Horn County, Mont. January 29. Proposed is the approval of the mining plan for the proposed Westmoreland Resources coal strip mining operation in Tract III of the Crow Indian Ceded Area. The Crow Ceded Area encompasses approximately 1.1 million acres. Adverse impact will include the disruption of surface characteristics, soil, vegetation, and wildlife. Dust and noise problems will increase; ground water will be diverted from coal seam aquifers, causing a reduction in the potentiometric surface. Sulfur dioxide emission levels will be reduced at midwestern utility plants using coal from this proposed site. (359 pages). Comments made by: EPA, USDA, DOC, DOT, DOI, State and local agencies. (ELR Order No. 40178) (NTIS Order No. EIS 74 0178-F.)

#### BUREAU OF LAND MANAGEMENT

#### Draft

Phoenix-Tucson Transmission Lines, Maricopa, Pinal, and Pima Counties, Ariz. January 29. The statement refers to the proposed granting of right-of-way across Federal and Indian lands for the purpose of constructing two 345kV transmission lines from Phoenix to Tucson. The lines would extend the power distribution system from the Navajo Generating Plant. Impacts of the action would include intrusion into a wild area; possible loss or degradation of archeo-

logical artifacts; and intrusion and possible negative effects to Indian cultural values (241 pages). (ELR Order No. 40173) (NTIS Order No. EIS 74 0173-D.)

#### BUREAU OF OUTDOOR RECREATION

#### Final

Proposed Roxborough State Park, Douglas County, Colo., January 29. The proposed action is the granting of \$589,000 in matching funds from the Land and Water Conservation Fund to the Colorado Division of Parks and Outdoor Recreation for the acquisition of 402 acres. The land will be used for the development of a new State Park, with trails, a visitor/interpretive center, and parking for 100 cars. Disturbance to the environment will be confined primarily to the visitor interpretive center area. (46 pages). Comments made by: EPA, DOI, HUD, COE, DOT, and State agencies. (ELR Order No. 40174) (NTIS Order No. EIS 74 0174-F.)

#### DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

#### FEDERAL AVIATION ADMINISTRATION

#### Draft

Truk District Airport, Caroline Islands, Caroline Isles, January 28. The statement refers to the development of the Truk District Airport. The project involves repositioning the existing runway to the northwest such that the new centerline coincides with the northwest edge of the existing runway. The development also includes extending and paving the runway to 6,000 ft. with provisions for an additional 900 ft. extension, perimeter fencing and the construction of a protective structure to ensure against possible wave overtopping during typhoons. The adverse impacts of the project are the loss of agricultural land, the loss of naturally occurring coral and fish habitat, and the increase in air and noise pollution associated with the airport. (538 pages) ELR Order No. 40171) (NTIS Order No. EIS 74 0171-D.)

Summers County Airport, True, Summers County, W. Va., January 28. The statement refers to the construction of Summers County Airport, in True. The project involves acquisition of 120 acres, construction of a runway, taxiway, apron, and access road. Also included in the plan is the relocation of approximately 0.9 mile of Route 18/1. Adverse impacts are slight increases in the levels of air and noise pollution, and the displacement of one family. (61 pages) (ELR Order No. 40168) (NTIS Order No. EIS 74 0168-D.)

Roane County Airport, Spencer, Roane County, W. Va., January 28. The project involves the construction of a new general aviation airport in Roane County. A runway, stub taxiway, parking apron, and access road will be constructed. There will also be installation of lighting and VASI. The most significant adverse impact will be an increase in the noise level. (46 pages) (ELR Order No. 40170) (NTIS Order No. EIS 74 0170-D.)

#### FEDERAL HIGHWAY ADMINISTRATION

#### Draft

Southside Boulevard Extension, Jacksonville, Duval County, Florida, January 28. The statement refers to the construction of Southside Boulevard Extension in the city of Jacksonville in Duval County. The new facility will connect with I-95 and I-295 in the southern part of the county, and again with the same two highways in the northern part of the county. The 23 mile, six-lane high capacity roadway will necessitate bridge construction at several locations. The levels

of air and noise pollution will increase as a result of the project. Actual construction will remove 145 acres of woodland and 5.3 acres of marshland. Ten businesses and between 49 and 84 families will be displaced (358 pages). (ELR Order No. 40165.) (NTIS Order No. EIS 74 0165-D.)

SR 105, Jacksonville, Duval County, Florida, January 28: The plan consists of upgrading State Road 105 (Heckscher Drive) in Jacksonville, from a rural two-lane facility into a modern municipal multi-lane urban facility. The project is generally located in northeastern Duval County, extending from US 17 to Blount Island, a distance of 6.5 miles. Three alternate bridge locations are evaluated for the improvement in addition to a "no road" alternative. Adverse impacts generated by the project are temporary degradation of water quality, and some soil erosion during construction. There will also be slight increases in the levels of air and noise pollution; from 5 to 8 families and 1 business will be displaced (72 pages). (ELR Order No. 40166.) (NTIS Order No. EIS 74 0166-D.)

SR 121, Gainesville, Alachua County, Florida, January 28: The project consists of upgrading SW-NW 34th Street (State Road 121) in Gainesville, from an existing two-lane facility to a modern multi-lane urban facility. The approximate length of the corridor is 8.04 miles. There are four alternates being studied to see which best serves the needs of the city. The adverse impacts generated by the improvements are the taking of additional right-of-way and impacts on residential areas. There will be a displacement of 0 to 19 families depending on the alternate chosen. A 4(f) determination will be required because of impact to the University Golf Course and Westside Park (80 pages). (ELR Order No. 40169.) (NTIS Order No. EIS 74 0169-D.)

SR-140, Franklin, Norfolk County, Massachusetts, January 28: The project involves relocation or reconstruction of a section of Route 140, approximately 1.5 miles in length, in the town of Franklin. The plan calls for a four-lane divided road with a section on new location traversing a proposed industrial site. A bridge will be constructed over I-495. Adverse impacts of the project involve visual damage to the area, and slight increases in the levels of air and noise pollution. Two families and 1 business will be displaced by construction (76 pages). (ELR Order No. 40156.) (NTIS Order No. EIS 74 0156-D.)

SR 111, Appalachian Corridor "J", Van Buren and Sequatchie Counties, Tennessee, January 29: The statement refers to the reconstruction of State Route 11 in Van Buren County, which is a section of Appalachian Corridor "J". The length of the proposed four-lane road is approximately 13.8 miles beginning at the Sequatchie County line, and extending northward to near the south city limits of Spencer. The project is expected to have some adverse effects in the existing natural environment by reduction of total available wildlife habitat (290 acres) and temporary siltation of streams during construction (80 pages). (ELR Order No. 40175.) (NTIS Order No. EIS 74 0175-D.)

I-66, Gainesville to Front Royal, Warren, Fauquier, and Prince William Counties, Virginia, January 28: The project consists of connecting two portions of completed I-66. The completion of this 36 mile stretch from Gainesville to Front Royal will provide uninterrupted interstate highway from I-495 in Fairfax County to I-81 at Strasburg in Shenandoah. Adverse environmental impacts include the loss of some wildlife, and an increase in noise pollution. Regardless of the alternate chosen there will be negative

impacts on the Appalachian National Scenic Trail and the Bull Run Mountain Park. The number of displaced families and businesses will vary according to alternate chosen (361 pages). (ELR Order No. 40167.) (NTIS Order No. EIS 74 0167-D.)

#### Final

Skagway, Alaska to Canadian Border, Alaska, January 30: The proposed project, in conjunction with a planned Canadian section of highway, will provide a link between Skagway and Alaska's interior highway system via Whitehorse, Yukon Territory. The action consists of 9.4 miles of new construction and reconstruction of the Skagway River Bridge on the same alignment (174 pages). Comments made by: COE, HUD, DOT, USDA, EPA, DOI, DOC, and State agencies. (ELR Order No. 40183.) (NTIS Order No. EIS 74 0183-F.)

Indian River Bridge, Indian River County, Florida, January 31: The statement considers construction of a two lane bridge and approaches between S.R. 5 and S.R. A1A over the Indian River. Project length is 2 miles. The number of displacements and the amount of land required for right-of-way will depend upon the route chosen (423 pages). Comments made by: EPA, DOI, HUD, HEW, COE, DOC, and State agencies. (ELR Order No. 40189.) (NTIS Order No. EIS 74 0189-F.)

Olive-Sample Street Interchange, South Bend, St. Joseph County, Indiana, January 29: The project provides for the construction and interchange and a railroad separation at the intersection of Olive Street and Sample Streets in South Bend. The project will extend from a point in Olive Street approximately 1,030 ft. south of Sample Street to a point on Olive Street approximately 1,333 ft. north of Sample Street. The major adverse impact of the project is the necessary displacement of 68 families and 9 businesses (60 pages). Comments made by: EPA, USDA, HEW, DOI, and State agencies. (ELR Order No. 40184.) (NTIS Order No. EIS 74 0184-F.)

Morris By-Pass (T.H. 59), Stevens County, Minnesota, January 30: The projects encompassed in this statement are the proposed relocation of 4.5 miles of T.H. 59 to bypass the City of Morris and the reconstruction of Township road (to be designated T.H. 329) on existing alignment. Seventy acres of agricultural land will be committed to the projects. Some wildlife habitat near the Pomme De Terre River will be lost (79 pages). Comments made by: DOI, EPA, State and local agencies. (ELR Order No. 40180.) (NTIS Order No. EIS 74 0180-F.)

#### U.S. POSTAL SERVICE

Contact: Mr. James J. Wilson, Assistant General Counsel, U.S. Postal Service, Room 226, Washington, D.C. 20260, (202) 245-4599.

#### Draft

U.S. Postal Service Facility, Manhattan, New York, January 14: The statement refers to the proposed construction of a major U.S. Postal Service vehicle maintenance facility (VMP) in combination with a multi-story housing project in the lower West Side of Manhattan. The housing project would include 864 apartment units in two 27 story towers and two low rise clusters; it would be developed using air rights conveyed by the Postal Service to the City of New York for housing purposes. (ELR Order No. 40074.) (NTIS Order No. EIS 74 0074-D.)

GARY L. WIDMAN,  
General Counsel.

[FR Doc.74-3145 Filed 2-6-74;8:45 am]

## DELAWARE RIVER BASIN COMMISSION

### INTERSTATE ENERGY COMPANY PETROLEUM PIPELINE

#### Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on the subject project on Tuesday, February 26, 1974, commencing at 10 a.m. The hearing will be held in the Stockholm Room of the Holiday Inn in Kulpville, Pa. (Lansdale interchange, exit 31 of the northeast extension of the Pennsylvania Turnpike.)

The purpose of the hearing is to receive testimony from interested organizations and individuals on the question of whether the proposed project should be included in the Commission's Comprehensive Plan and approved pursuant to section 3.8 of the Delaware River Basin Compact.

The proposed project would consist of an insulated pipeline with storage and pumping facilities for transporting heated, low-sulphur fuel oil from Marcus Hook on the Delaware River to electric generating stations at Martins Creek near Easton, Pa., and at Holland, N.J. About 90 miles of 18-inch pipeline would pass through Delaware, Chester, Montgomery, Bucks and Northampton Counties. Associated pumping and storage facilities would be constructed at several locations along the right-of-way.

A public information meeting about the proposed pipeline was held by the Commission in Kulpville, Pa., on June 26, 1973. An environmental impact statement has been prepared by the Commission and was released for public review and comment on January 14, 1974, in accordance with the requirements of the National Environmental Policy Act.

All persons wishing to testify are requested to register with the Secretary to the Commission no later than 12 noon on February 25, 1974.

W. BRINTON WHITALL,  
Secretary.

FEBRUARY 1, 1974.

[FR Doc.74-3100 Filed 2-6-74;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[Report 685]

### COMMON CARRIER SERVICES INFORMATION<sup>1</sup>

#### Domestic Public Radio Services Applications Accepted for Filing<sup>2</sup>

JANUARY 28, 1974.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an appli-

<sup>1</sup> All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's Rules, regulations and other requirements.

<sup>2</sup> The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

cation, in order to be considered with any domestic public radio services application appearing on the attached list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix below if filed by the end of the 60 days period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS  
COMMISSION,  
VINCENT J. MULLINS,  
*Secretary.*

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

- 20852-C2-P-(3)-74, Albert F. DiCroce d/b as Peabody Telephone Answering Service (KC786) C. P. for additional facilities to operate on 152.21 MHz located on Newbury Street, Route 1, Peabody, Massachusetts.
- 20853-C2-P-(2)-74, DPRS, Inc., trading as Zipcall (KTS212) C.P. to add transmitter site to operate on 35.22 MHz and to be located at WJAR-TV Standby Tower, Pine Street, Rehoboth, Massachusetts designated as Loc. #3; and add transmitter site to operate on 35.22 MHz to be located on Oak Street, 0.4 miles North of Route 6, Barnstable, Massachusetts, designated as Loc. #4.
- 20854-C2-P-(2)-74, DPRS, Inc. trading as Zipcall (KCB890) C.P. to add transmitter site to operate on 43.58 MHz to be located at WJAR-TV Standby Tower, Pine Street, Rehoboth, Massachusetts designated as Loc. #5; and add transmitter site to operate on 43.58 MHz to be located at Middlesex Bank Building, Burlington, Massachusetts designated as Loc. #6.
- 20855-C2-P-74, Electrocom Corporation (KCB891) C.P. to add transmitter site designated as Loc. #9 to operate on 35.58 MHz at End of Tower Road, Fall River, Massachusetts.

- 20857-C2-P-74, Citizens Utilities Company of California (New) C.P. for a new 2-way station to operate on 454.625 MHz to be located at 8220 Elk Grove-Florin Road, Elk Grove, California.
- 20858-C2-P-74, Central State Telephone Company (New) C.P. for a new 1-way station to operate on 158.10 MHz to be located 0.4 mile South of city limits of Vesper, Wisconsin.
- 20859-C2-P-74, Central State Telephone Company (New) C.P. for a new 1-way station to operate on 158.10 MHz to be located on Route 80, 6 miles South of Necedah, Wisconsin.
- 20860-C2-P-(2)-74, The Lincoln Telephone and Telegraph Company (New) C.P. for a new 2-way station to operate on 454.575 and 454.600 MHz to be located at 1440 M Street, Lincoln, Nebraska.
- 20861-C2-P-74, Badger State Telephone Company (New) C.P. for a new 1-way station to operate on 158.10 MHz to be located approximately 0.5 mile SE of Chll, Wisconsin.
- 20862-C2-P-74, Radio Telephone Service, Inc. (New) C.P. for a new 2-way station to operate on 152.09 MHz to be located on Buffalo Mountain, 3.1 miles South of Lothair section of Hazard, Kentucky.
- 20863-C2-P-74, Sue Edwards d/b as Answering Service of Hopkinsville (New) C.P. for a new 2-way station to operate on 152.21 MHz to be located at 2005 South Walnut Street, Hopkinsville, Kentucky.
- 20864-C2-AL-74, Robert L. Harrison d/b as Ozark Mobile Phone Company (KTS274) Consent to Assignment of License from Ozark Mobile Phone Company, ASSIGNOR to D. L. D'Auteuil, ASSIGNEE. Station: KTS274, Heber Springs, Arkansas.
- 20865-C2-P-(2)-74, General Telephone Company of Kentucky (KIY450) C.P. for additional facilities to operate on 152.51 and 152.81 MHz to be located at 151 Walnut Street, Lexington, Kentucky.
- 20867-C2-AL-(2)-74, Marvin Barenblat d/b as Autophone of San Antonio. Consent to Assignment of License from Autophone of San Antonio, ASSIGNOR to Anser-Phones, Inc., Acting by its Division, Autophone of San Antonio, ASSIGNEE, Stations: KKJ451 and KRS651, San Antonio, Texas.
- 20868-C2-P-74, Anserfone of St. Lucie County, Inc. (KIG838) C.P. for additional facilities to operate on 454.100 MHz located at 200 South 7th Street, Ft. Pierce, Florida.

Major amendments

- 821-C2-P-(5)-73, Telephone Message Bureau, Inc., trading as Contact (KGC596) Philadelphia, Pa. Amend to show applicant as Aisignal International of Philadelphia, Pennsylvania, Inc., at 201 E. Odgen Avenue, Hinsdale, Illinois. All other particulars to remain as reported on PN #610 dated August 21, 1972.
- 5281-C2-P-(4)-73, David R. Williams d/b as Industrial Communications (New) Salt Lake City, Utah. Amend control station location to show 1171 South West Temple, Salt Lake City, Utah. All other particulars to remain as reported in PN #632 dated January 22, 1973.

Corrections

- 5621-C2-P-(4)-73, Able Paging Service (KFL947) Columbia, S.C. Amend to read: C.P. for additional facilities on 152.15 MHz and to replace transmitter on 152.06 MHz located at 1520 Senate Street, Columbia, S.C. Also, C.P. for additional facilities on 152.21 MHz and to replace transmitter on 152.18 MHz, located at 605 Mason Road, Columbia, S.C.
- 20809-C2-P-(6)-74, Rendevoez Paging Corporation (KGC222) Correct to add frequency 454.150 MHz at Loc. #1. All other

particulars to remain as reported on PN #684 dated 1/21/74.

- 20810-C2-P-(2)-74, Otis L. Hale d/b as Mobilfone Communications (KLB500) Correct to add frequency 454.35 MHz at Loc. #3. All other particulars to remain as reported on PN #684 dated 1/21/74.
- 20788-C2-P-(2)-74, Industrial Communications Systems, Inc. (KSV926) Correct PN #683, dated 1/14/74 to read: C.P. to add control facilities to operate on 2121.4 MHz at Loc. #2: 1500 W. 58th St., Los Angeles, California; and to add repeater facilities to operate on 2170.4 MHz to be located at a new site described as Loc. #4: Saddle Peak, 4.5 miles NE of Malibu, California.

RURAL RADIO SERVICE

- 60199-C6-P-74, The Mountain States Telephone and Telegraph Company (New) C.P. for a new rural subscriber station to operate on 157.95 MHz to be located 5 miles West of Cheyenne, Wyoming.

POINT-TO-POINT MICROWAVE RADIO SERVICE

- 2759-C1-ML-74, Continental Telephone Company of California (KNL65) Elk Hills, 5 Miles WSW of Tupman, California. Mod. of License to change polarization from Vertical to Horizontal on freqs. 11,405, 11,645 MHz toward Buttonwillow, Calif.
- 2760-C1-P-74, American Telephone and Telegraph Company (KSH89) Madison Jct., 355 North Thompson Rd., Sun Prairie, Wisconsin. Lat. 43°11'00" N., Long. 89°15'13" W. C.P. to add freq. 4030H MHz toward Watertown Jct., Wis. on azimuth 82°17'.
- 2761-C1-P-74, General Telephone Company of California (KNG56) Oak Mountain, 6 Miles SSW of Lompoc, California. Lat. 34°33'59" N., Long. 120°29'56" W. C.P. to change antenna system, power, replace transmitter and change freqs. 6204.7, 6323.3 MHz to 2126.8V MHz toward a new point of communication at Mt. Santos, Calif. on azimuth 14°40'.
- 2762-C1-P-74, Same (KTQ44) Mt. Santos, 5.6 Miles North of Lompoc, California. Lat. 34°44'17" N., Long. 120°26'40" W. C.P. to change antenna system, correct elevation above mean level and add freq. 2178.8V MHz toward a new point of communication at Oak Mountain, Calif. on azimuth 194°42'.
- 2763-C1-AP-(2)-74, East Texas Transmission Company. Consent to Assignment of Permit from East Texas Transmission Company, ASSIGNOR to United Wehco, Inc., ASSIGNEE for Stations: KEX75—Walkers Mill, Tex. and KEX58—Goodman Mountain, Tex.
- 2764-C1-P-74, American Telephone and Telegraph Company (KAB20) 3.0 Miles South of Elkhorn, Iowa. Lat. 41°32'46" N., Long. 95°03'25" W. C.P. to change transmission path data and add freq. 4160H MHz toward Portsmouth, Iowa on azimuth 292°48'.
- 2765-C1-P-74, Same (KAN22) 2.5 Miles North of Portsmouth, Iowa. Lat. 41°41'24" N., Long. 95°31'00" W. C.P. to add freq. 4110V MHz toward Mondamin, Iowa on azimuth 270°44'.
- 2766-C1-P-74, Same (KAL48) 4.5 Miles ESE of Mondamin, Iowa. Lat. 41°41'36" N., Long. 95°56'17" W. C.P. to add freq. 3990V MHz toward Castana, Iowa on azimuth 06°38'.
- 2767-C1-P-74, Same (KAE39) 2.5 Miles SSE of Castana, Iowa. Lat. 42°02'14" N., Long. 95°53'04" W. C.P. to add freq. 3950H MHz toward Merville Jct., Iowa on azimuth 347°08'.
- 2768-C1-P-74, General Telephone Company of Kentucky (KYC57) High Knob, 9.4 Miles SW of Ashland, Kentucky. Lat. 38°23'44" N., Long. 82°48'22" W. C.P. to add freq. 6375.2V MHz toward Ashland (Pollard Hill), Ky. via Passive Reflector.

- 2769-C1-P-74, Same (KYC61) Biggs Hill, 6.0 Miles NE of Olive Hill, Kentucky. Lat. 38°-20'33" N., Long. 83°05'05" W. C.P. to add freq. 6093.5V MHz toward Morehead, Ky. on azimuth 237°01'.
- 2770-C1-P-74, Same (KYC63) 1.7 Miles East of Morehead, Kentucky. Lat. 38°10'38" N., Long. 83°24'24" W. C.P. to add freq. 11,405V MHz toward Morehead, Ky. on azimuth 286°26'; freq. 6197.2V MHz toward Biggs Hill, Ky. on azimuth 56°49'.
- 2771-C1-P-74, Same (New) 0.25 Mile West of 13th Street & Lexington Ave., Ashland (Polard Hill), Kentucky. Lat. 38°28'34" N., Long. 82°39'05" W. C.P. for a new station on freq. 6123.1V MHz toward High Knob, Ky. on azimuth 236°33'.
- 2772-C1-P-74, Same (KYC62) 154 East Second Street, Morehead, Kentucky. Lat. 38°-11'01" N., Long. 83°26'05" W. C.P. to add freq. 10,875V MHz toward Morehead, Ky. (KYC63) on azimuth 106°25'.
- 2773-C1-P-74, Tower Communications Systems Corp. (WPF49) 3.2 Miles ENE of Stoutsville, Ohio. Lat. 39°36'56" N., Long. 82°46'20" W. C.P. to add joint of communication on freqs. 10,975V, 11,135V and 10,815V MHz (via power split) toward Circleville, Ohio on azimuth 247°20'.
- 2774-C1-P-74, Eastern Microwave, Inc. (New) New York, New York. Lat. 40°46'09" N., Long. 73°58'55" W. C.P. for a new station on freq. 11,625V MHz toward Monsey, N.Y. on azimuth 348°07'.
- 2775-C1-P-74, United Wehco, Inc. (New) Moore Lake, 5 Miles East of Texarkana, Arkansas. Lat. 33°26'20" N., Long. 93°56'-27" W. C.P. for a new station on freqs. 5945.2H, 6004.5H (via power split) and 6063.8H MHz toward Texarkana, Ark. on azimuth 234°05'. (NOTE: a waiver of Section 21.701(i) is requested by United Wehco.)
- 2053-C1-P-74, Eastern Microwave, Inc. (New) Buffalo WBA, New York. Lat. 42°54'09" N., Long. 78°52'22" W. C.P. for a new station on freq. 6197.2H MHz toward Port Colborne, Ontario, Canada on azimuth 275°46'.
- 2776-C1-P/L-74, United Inter-Mountain Telephone Company (New) In any temporary fixed location within the territory of the grantee. C.P. & License for a new station on freqs. 5925-6425 MHz.
- 2778-C1-P-74, United Telephone Company of the Carolinas (KIC29) Saveall St., at Hwy. 22, Greenwood, South Carolina. Lat. 34°10'19" N., Long. 82°08'32" W. C.P. to add freq. 6286.2V MHz toward Saluda, S.C. on azimuth 118°43'; freq. 6286.2H MHz toward Troy, S.C. on azimuth 210°27'; freq. 6256.5H MHz toward Ware Shoals, S.C. on azimuth 342°07'.
- 2779-C1-P-74, The Mountain States Telephone and Telegraph Company (New) North of Highway 60, Datil C.O., New Mexico. Lat. 34°08'41" N., Long. 107°50'26" W. C.P. for a new station on freq. 2176.6H MHz toward Magdalena, N. Mex. on azimuth 107°58'.
- 2780-C1-P-74, Same (WBO73) 12.5 Miles WSW of Magdalena, New Mexico. Lat. 34°02'15" N., Long. 107°26'45" W. C.P. to add freq. 2121.6H MHz toward a new point of communication at Datil C.O., N. Mex. on azimuth 288°11'.
- 2781-C1-P-74, Eastern Microwave, Inc. (KYZ75) High Knob, 1.5 Miles West of Peck's Pond, Pennsylvania. Lat. 41°18'00" N., Long. 75°07'31" W. C.P. to add freq. 6078.6V MHz toward Ransom, Pa. on azimuth 285°19'.
- 2782-C1-P-74, Same (WOR41) Ransom, 1.85 Miles West of Scranton, Pennsylvania. Lat. 41°25'36" N., Long. 75°44'52" W. C.P. to establish a new path on freqs. 11,385V, 11,625V, and 11,305V MHz (via power split) toward Swoytsville, Pennsylvania on azimuth 215°27'.
- 2783-C1-P-74, American Microwave & Communications, Inc. (KQL46) 0.5 Mile West of Covington, Michigan. Lat. 46°32'02" N., Long. 88°32'37" W. C.P. to change freq. 5982.3H to 6412.5H MHz toward Bergland, Mich. on azimuth 281°43'; freq. 6412.5H (via power split) toward Houghton, Mich., on azimuth 356°22'.
- 2784-C1-P-74, Midwest Relay Company (WLJ69) Madison, Wisconsin. Lat. 43°03'09" N., Long. 89°28'42" W. C.P. to add freq. 6404.8H MHz toward Jefferson, Wis. on azimuth 97°38'.
- 2785-C1-MP-74, Same (WLJ68) Jefferson, 5 Miles NW of Fort Atkinson, Wisconsin. Lat. 42°59'38" N., Long. 88°53'49" W. Mod. of C.P. to reinstate freq. and change freq. to 5974.8H MHz toward Rubicon, Wis., on azimuth 41°13'.
- 2786-C1-P-74, N-Triple-C, Inc. (WOH54), 2 Miles NE of Davenport, Iowa. Lat. 41°34'28" N., Long. 90°29'04" W. C.P. to add freq. 2124.8H MHz on azimuth 235°34' toward Davenport, Iowa, and 2128.0V MHz on azimuth 197°8' toward Moline, Ill.
- 2787-C1-P-74, Same (New), 805 Brady Street, Davenport, Iowa. Lat. 41°31'43" N., Long. 90°34'24" W. C.P. for a new station on freq. 2174.8H MHz on azimuth 55°30' toward Davenport, Iowa.
- 2788-C1-P-74, Same (New), 421 19th Street, Moline, Illinois. Lat. 41°30'29" N., Long. 90°30'42" W. C.P. for a new station on freq. 2178.0V MHz on azimuth 17°7' toward Davenport, Iowa.
- 2789-C1-P-74, Southern Bell Telephone and Telegraph Company (KJG91), 787 Cherry Street, Macon, Georgia. Lat. 32°50'19" N., Long. 83°37'54" W. C.P. to change freqs. 6256.5H, 6375.2H MHz to 6286.2H, 6404.8H MHz toward Ft. Valley, Ga., on azimuth 225°38'; replace (2) Collins, MW-109A3 & (2) Collins, MW-108A-1 transmitters with (4) Western Electric, TH-3 transmitters.
- 2790-C1-P-74, Same (KJH69), Hartley Road, 3.6 Miles NW of Ft. Valley, Georgia. Lat. 32°35'56" N., Long. 83°55'15" W. C.P. to change power, alarm system, antenna system, change freqs. 6034.2H, 6152.8H MHz to 6004.5H, 6123.1H MHz toward Macon, Ga., on azimuth 45°29'; change freqs. 6004.5V, 6123.1V MHz to 6034.2V, 6152.8V MHz toward Andersonville, Ga., on azimuth 207°36'; replace (4) Collins, MW-108A-1 transmitters with (4) Western Electric, TH-3 transmitters.
- 2791-C1-P-74, Same (KJH68), 1.7 Miles NW of Andersonville, Georgia. Lat. 32°12'51" N., Long. 84°09'26" W. C.P. to change power, alarm system, antenna system and change freqs. 6286.2V, 6404.8V MHz to 6256.5V, 6375.2V MHz toward Ft. Valley, Ga., on azimuth 27°28'; change freqs. 6256.5H, 6375.2H MHz to 6286.2H, 6404.8H MHz toward Piney Grove, Ga., on azimuth 172°54'; replace (4) Collins, MW-108A-1 transmitters with (4) Western Electric, TH-3 transmitters.
- 2792-C1-P-74, Same (KJH67), Piney Grove, 7.6 Miles SSW of Leslie, Georgia. Lat. 31°50'47" N., Long. 84°06'13" W. C.P. to change antenna system, power, alarm system, change freqs. 6034.2H, 6152.8H MHz to 6004.5H, 6123.1H MHz toward Andersonville, Ga., on azimuth 352°56'; change freqs. 6004.5V, 6123.1V MHz to 6034.2V, 6152.8V MHz toward Albany, Ga., on azimuth 189°15'; replace (4) Collins, MW-108A-1 transmitters with (4) Western Electric, TH-3 transmitters.
- 2793-C1-P-74, Southern Bell Telephone and Telegraph Company (KIP48), 304 Piney Avenue, Albany, Georgia. Lat. 31°34'40" N., Long. 84°09'17" W. C.P. to change antenna system and location, power, change freqs. 6286.2V, 6404.8V MHz to 6256.5V, 6375.2V MHz toward Piney Grove, Ga., on azimuth 09°14'; replace (2) Collins, MW-
- 108A-1 transmitters with (2) Western Electric, TH-3 transmitters.
- Point to Point Microwave Radio Service.*  
*Major Amendments*
- 2188-C1-MP-74, Mountain Microwave Corporation (WOR88), 1102 "I" Street, Omaha, Nebraska. Lat. 41°12'57" N., Long. 96°5'-10" W. Amend application to change polarization from H to V on freq. 10915 MHz towards KMTV and on freq. 10755 MHz towards KETV.
- 2189-C1-MP-74, Same (WOR95). Amend application to change station location to 0.5 Mile West of Elwood, Nebraska. Lat. 40°-35'05" N., Long. 99°52'23" W. Change polarization from V to H on freq. 4050 MHz toward Curtis, Nebr.
- 2619-C1-P-74, United Wehco, Inc. (KEW55), 2.5 Miles NW of England, Arkansas. Lat. 34°34'31" N., Long. 91°59'24" W. Application amended to add point of communication on freqs. 6004.5H, 6063.8H, via power split) toward Jacksonville, Ark., on azimuth 337°45'.
- 2049-C1-P-74, Western Tele-Communications, Inc. (WOI83), 2980 Grand Avenue, Phoenix, Arizona. Change geographical coordinates to Lat. 33°29'08" N., Long. 112°-07'20" W. (All other particulars same as reported on Public Notice No. 677, dated December 3, 1973.)
- 2571-C1-AP-(37)-74, United Video, Inc., Consent to Assignment of Permit from United Video, Inc., Assignor, to Southern Pacific Communications Company, Assignee: Correct call signs in Notice of January 14, 1974 (Report No. 683) as follows: WSM56—Union, Mo.; WSM57—Belle, Mo.; WSM58—Rolla, Mo.; WSM59—Lebanon, Mo.; WSM60—Urbana, Mo.; WSM61—Warsaw, Mo.; WSM62—Marshville, Mo.; WSM63—Springfield, Mo.; WSM64—Pheps, Mo.
- 2572-C1-TC-(37)-74, United Video, Inc. Application amended to add the following authorizations to the referenced application for consent to transfer of control of the applicant to Sunset Communications: WBO90—Thackerville, Okla.; WOE67—Mannsville, Okla.; WOE68—Scully, Okla.; WOE83—Ada, Okla.; WOE70—Holdenville, Okla.; WOE69—Henryetta, Okla.; WQO52—Bald Hill, Okla.; WKS22—Muskegee, Okla. and WKS23—Marble City, Okla.
- Corrections*
- 2116-C1-TC-(23)-74, Video Microwave, Inc. Correct to Read: Consent to Transfer of Control from Microwave Associates, Inc., Transferor to Southern Pacific Communications Company, Transferee. (All other particulars same as reported on Public Notice No. 678, dated 12-10-73.)
- 2576-C1-P-74, American Telephone and Telegraph Company (KSE27) Palmyra, Wisconsin. Correct to Read: C.P. to add freq. 3850V MHz toward Watertown Jet., Wis., on azimuth 349°26'.
- 2578-C1-P-74, Same (KYJ64) Fox Lake, Wisconsin. Correct to Read: C.P. to add freq. 4170V MHz toward Watertown Jet., Wis., graph Company (KSE27) Palmyra, Wisconsin on azimuth 161°30'; freq. 4170H MHz toward Fisk, Wis., on azimuth 20°14'. (Public Notice No. 683, dated 1-14-74.)
- 2460-C1-P-74, Southern Bell Telephone and Telegraph Company (KIB25) Delete all particulars with reference to File No. 2460-C1-P-74. Application file is not necessary and public notice is not required.
- 2066-C1-P-74, Illinois Bell Telephone Company (KSO78) Sunnyland, Illinois. Correct azimuth to read 187°05' for freq. 4030H MHz toward Delavan, Ill. (All other particulars same as reported on Public Notice No. 678, dated 12-10-73.)

2596-C1-MP-74, American Telephone and Telegraph Company (WAD63) West Minot, Maine. Correct to Read: 2597-C1-ML-74 and Mod. of License to change polarizations from V to H on freqs. 5945.2 and 6004.5 and 6063.8 and 6123.1 MHz toward Canton, Maine.

*Informative.* Henceforth, the public notice pertaining to Section 214 applications and domestic satellite applications will be issued separately.

[FR Doc.74-3010 Filed 1-6-74;8:45 am]

[Docket No. 19929; FCC 74-92]

### GROSS TELECASTING, INC.

#### Order Instituting Inquiry

1. The Commission has under consideration allegations raising questions as to whether Gross Telecasting, Inc., licensee of Stations WJIM(AM), WJIM-FM and WJIM-TV, Lansing, Michigan, has deliberately distorted or slanted news broadcasts, used its licensed facilities for its private interests rather than the public interest, or used its licensed facilities to gain an unfair advantage over competitors or potential competitors in a non-broadcast business enterprise.

2. Therefore, it is ordered, on the Commission's own motion, pursuant to sections 403 and 409(e) of the Communications Act of 1934, as amended, that an inquiry is hereby instituted to determine whether the licensee, or any principal, agent or employee thereof, has engaged in the above-described practices, and if so to what extent and under what circumstances.

3. It is further ordered, That the inquiry shall be a non-public proceeding unless and until the Commission orders that public sessions be held after determining that the public interest would be served thereby. Such nonpublic proceedings are in accord with the Commission's practices in investigations of the nature indicated above.

4. It is further ordered, That, pursuant to section 5(d)(1) of the Communications Act of 1934, as amended, for the purpose of this inquiry authority is hereby delegated to the Chief Administrative Law Judge of the Commission to require by subpoena the production of books, papers, correspondence, memoranda and other records deemed relevant to the inquiry; to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and to perform such other duties in connection therewith as may be necessary or appropriate to the compilation of a complete record concerning the subject matter of this inquiry.

5. It is further ordered, That the Chief Administrative Law Judge is specifically authorized to designate a Commission Administrative Law Judge to exercise the authority conferred by this Order; and to require witnesses to testify and produce evidence under authority of, and in the manner provided in, section 409 of the Communications Act of 1934, as amended, when requested to do so by Commission Counsel.

6. It is further ordered, That the sub-

poena powers delegated by this Order shall be exercised in accordance with §§ 1.331 through 1.340 of the Commission's rules. Motions to quash or limit subpoena shall be directed to the presiding Administrative Law Judge in accordance with § 1.334 of the Rules. Applications for review of the presiding Administrative Law Judge's rulings on such motions may be filed with the Commission within ten (10) days after the issuance by the presiding Administrative Law Judge of such rulings.

7. It is further ordered, That the provisions of § 1.27 of the Commission's rules shall apply to the production of oral and documentary evidence under subpoena.

8. It is further ordered, That upon conclusion of the inquiry ordered herein, the presiding Administrative Law Judge shall certify the record thereof to the Commission for appropriate action.

Adopted: January 30, 1974.

Released: February 1, 1974.

#### FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc.74-3134 Filed 2-6-74;8:45 am]

[FCC 73-1361]

### RICHARD N. MALLER AND NEW ENGLAND TELEPHONE COMPANY (TELCO)

#### Memorandum Opinion and Order on Abusive Telephone Call

1. We have before us a formal complaint under Section 208 of the Act filed on December 9, 1971 by Mr. Richard N. Maller, 56 Reed Street, Westbrook, Maine, against Telco (the New England Telephone and Telegraph Company), 185 Franklin Street, Boston, Massachusetts, concerning alleged harassing debt collection calls made by Federated Credit Corporation, Reading, Massachusetts, over the interstate telephone network.

2. This complaint has its origin in a public notice we issued on June 10, 1970 (FCC 70-609), expressing our concern over the then increasing use of interstate telephone service for debt collection in ways that appeared to be in violation of applicable tariffs of the telephone companies and the criminal statutes. We noted therein that the tariffs of the telephone companies forbid use of the telephone " \* \* \* for a call or calls, anonymous or otherwise, if in a manner reasonably to be expected to frighten, abuse, torment or harass another"; or for calls that "interfere unreasonably with the use of the service by one or more other customers"; or calls for "unlawful purpose." (our emphasis) We stated that, upon violation of any of these conditions, the telephone company may, by written notice, discontinue service "forthwith." (See sections 2.2.2, 2.2.3 and 2.4.3 of FCC Tariff No. 263 of American Telephone and Telegraph Company). We also made reference to the provisions of section 223 of the Communications Act of 1934, as amended, which makes it a crime for any person in interstate or foreign com-

munications by means of telephone to make "repeated telephone calls, during which conversation ensues, solely to harass any person at the called number" or knowingly permit "others to use his telephone" for such purpose. 47 U.S.C. 223. Our objective in issuing the public notice was to inform the public of the requirements of law in this area and to alert users to their legal obligations and the penalties for failure to abide thereby.

3. On the same date that we issued our public notice, we directed letters to the Bell System and other telephone companies calling for prompt and effective steps by telephone companies to inform all present and potential users of their obligations under the tariffs and statutes and of the possible sanctions for violations. We also requested the telephone companies to take such additional measures as may be necessary to assure vigorous enforcement of the applicable tariffs without interfering with legitimate business usage, i.e., use of interstate telephone service to aid in the collection or payments of debts or for resolving, in a reasonable manner, bona fide disputes as to whether a debt is owed and, if so, in what amount.

4. On October 16, 1970 complainant's attorney filed an informal complaint with the Commission alleging that abusive and harassing debt collection calls had been placed to complainant's home by Federated Credit Corporation (hereinafter Federated). A tape recording was made of one of the calls initiated by Federated in October, 1970. On November 2, 1970 Telco provided complainant with unpublished telephone service. On December 8, 1970, the informal complaint was forwarded by us to Telco with the request that, pursuant to § 1.717 of the Commission's rules, the complaint be satisfied or the Commission advised of the carrier's refusal or inability to do so. On January 14, 1971 Telco informed us that it was investigating the matter.

5. In a letter dated April 6, 1971, Telco advised us that it had discussed the alleged calls with complainant's attorney, who indicated that the complainant had received abusive and threatening calls prior to October, 1970 but that the calls had ceased when complainant changed his telephone number to an unpublished number. Telco also stated that it had interviewed the manager of Federated, who informed Telco that Federated's records did not show the number of calls to complainant, that the last call to complainant was made in August, 1970, and that in Federated's view, the calls were not harassing or abusive or so intended. Telco further stated in its letter that its review of the business toll records associated with Federated's account from October, 1970 to April 6, 1971 failed to disclose any calls to complainant's home phone number and that records prior to October, 1970 had not been retained. Telco concluded by stating that, due to the conflicting testimony of both parties to the dispute and lack of any further evidence, there was no basis for it to decide that the calls in question were

made in a manner violative of Telco's tariffs.

6. Since it appeared that Telco may have reached its conclusion without inquiring into the content of the recorded call in October, 1970, we requested the company to listen to the tape recording. In this way Telco could determine whether it contained any material which Telco considered harassing or abusive and in violation of its tariff. Telco responded on June 25, 1971 and stated that initially the tape was not readily available when it first talked with complainant's attorney and that, inasmuch as the recording had been obtained without the use of a beep tone or an announcement that the telephone conversation was being recorded, Telco concluded that such recording would probably not be admissible in evidence and the matter of the tape recording was not pursued by Telco at that time. However, Telco stated that, pursuant to our request, it had listened to the recording and that in Telco's opinion, the caller was abusive on that call. Finally, Telco stated that it had previously explained the applicable tariff provisions and possible sanctions for violations to the manager of Federated, and that if there were any evidence of further continuous abusive calls from Federated, then Telco would follow established procedures by issuing another warning, and if this was not heeded, a legal review of the case would be made and service disconnected. On July 8, 1971 we informed complainant of Telco's June 25, 1971 response and requested that the complainant advise us if he became aware of any further abusive calls from Federated and that he provide the details of such call or calls including time, content, etc.

7. Not satisfied with the results achieved by the informal complaint, Mr. Maller filed the formal complaint on December 9, 1971 that is now before us. Complainant challenges, inter alia, Telco's action of providing him with unpublished service on November 2, 1970 claiming that the proper course of action at that time was for Telco to terminate Federated's service rather than giving him an unpublished number. Complainant alleges that, at the time unpublished service was provided to complainant, Telco was confronted with documented allegations of telephone harassment; that complainant was not informed of the alternative option of having Federated's telephone service discontinued, and, therefore he elected, against his wishes, to have his telephone number on an unpublished basis; that changing his number to unpublished status was not adequate to protect him from further harassing calls since Federated later made more calls to complainant at the place of his employment; and that the provision of unpublished service at his home was not an adequate substitute for the enforcement of federal law and Commission policies. Complainant also challenges Telco's June 25, 1971 assertions that if there were evidence of further continuous violations by Federated, Telco would follow established procedures by issuing another warning, and if not heeded, Telco would

make a legal review of the matter and then terminate Federated's service. Complainant claims that there was a basis for terminating Federated's service on June 25, 1971, in that there were numerous repeated, harassing and abusive debt collection calls made by Federated to complainant's home from January 1970 through October, 1970 including the recorded call in October, 1970 that Telco admits was abusive. As to these particular calls complainant states that initially these calls were received once a week during the aforementioned period, but by the latter part of October, 1970 Federated was calling complainant every day; that on or about October 14, 1970 four calls were made in one evening and that complainant had recorded one of these conversations on tape; that such calls were made at odd hours of the day or night and to his wife and children; that such calls often threatened institution of legal proceedings and disparagement of credit; and that abusive and indecent terms were repeatedly used.

8. Finally, complainant claims that, even if service termination wasn't required earlier such action is required at the present time in view of the fact that Federated made several more harassing debt collection calls to complainant at complainant's place of employment after June 25, 1971, and that such calls constituted further violations requiring Telco to initiate its established procedures looking toward termination of Federated's service. Complainant requests that the Commission investigate and make a determination that Federated committed the aforementioned violations; that we issue a show cause order why Telco should not initiate termination procedures against Federated; and that alternately we order hearings looking toward eventual termination of service.

9. In its responsive pleadings Telco denies that it is now, or that it has ever been, legally obligated to initiate termination procedures against Federated and alleges that its conduct has at all times been just and reasonable and, in all respects, in accordance with the law and Telco's tariffs. Telco asserts that complainant voluntarily requested unpublished service; that Telco did not receive notice of complainant's informal complaint until December 8, 1970, which was after unpublished service was provided on November 2, 1970; and that at the time it provided such unpublished service neither complainant nor his attorney had presented any documentary material or any other evidence to Telco of further harassing calls. As to the alleged calls made after June 25, 1971 to complainant's employer, Telco claims that termination of Federated's service was not required because of the disputed facts concerning such calls and lack of further evidence. Telco requests that we dismiss the complaint.

#### DISCUSSION

10. This formal complaint raises questions of substantial importance relating to our regulatory concern over the abusive or harassing use of telephone service for collection of actual or claimed debts.

The primary question raised herein is whether Telco in this case fulfilled its obligation to take reasonable steps, including suspension or termination of Federated's telephone service, if necessary, to assure enforcement of its tariffs, as required by section 203 of the Act and to assure non-discriminatory treatment of telephone subscribers as required by section 202(a) of the Act. 47 U.S.C. 202-203.

11. In resolving the basic questions before us, we shall first consider whether Telco acted appropriately in providing unpublished service to complainant in November, 1970 as a means of preventing the receipt of harassing debt collection calls. No calls were received from Federated at complainant's home after unpublished service was provided. However, complainant had to pay an extra charge for such service and it was an inconvenience to him. Under these circumstances our view is that such unpublished telephone service was not an appropriate response to his complaint. As a general rule, we believe that the telephone company has an obligation to focus its preventive procedures upon the conduct of the allegedly abusive caller and, if at all possible, to avoid taking any measures which would cause the complaining customer the inconvenience and extra expense of unpublished home service. Moreover, it appears clear that such unpublished service generally will not protect an employed customer from further debt collection calls as it is reasonable to expect that a debt collection caller, unable to reach an individual at his home, will call complainant's place of employment. We do not mean to imply that a telephone company should not, under any circumstances, provide unpublished service to a complaining customer as a partial or temporary means of ameliorating the effects of unlawful debt collection calls. What we do wish to stress, however, is that, in a case where there are valid complaints of abusive calls and it appears necessary or desirable to provide unpublished service, such service should be furnished only when the customer clearly requests it and when he is told that it is a temporary and partial measure and that he can shift back to published service at his election after the final resolution of his complaint. If provision of unpublished service to a home telephone is all that a telephone company is obligated to do in order to satisfy such a complaint, then there would be very little incentive for the telephone company to initiate corrective actions against abusive callers. Therefore, we are of the opinion that the provision of unpublished service to the complainant in this case (with its attendant increased costs, inconvenience and questionable effectiveness) was not an adequate response by Telco to this complaint.<sup>1</sup>

<sup>1</sup> Upon the filing of an informal complaint, the Commission will give consideration to a request by Complainant for a refund of the difference between the published and unpublished charges by defendant during the period pertinent to this complaint.

12. We must also consider whether Telco acted properly after it was on actual notice, in 1971, that an October, 1970 interstate telephone call from Federated was made that was clearly abusive and thus in violation of the tariffs. We attach hereto a written transcript of that call. This call was made "in a manner reasonably to be expected to frighten, abuse, torment or harass another." (section 2.2.2 of AT&T's Tariff FCC No. 263) Telco listened to a recording of this call in June, 1971. However, according to Telco's formal answer, the action it took concerning this call was as follows:

Defendant recognized the abusive nature of the call which had been recorded \* \* \* and Defendant contacted the Credit Manager of Federated Credit Corporation and made that company aware of pertinent tariff provisions and the necessity that Federated Credit Corporation conform with such provision.

In view of the wording of this Telco statement, we wrote a letter to Telco on May 17, 1973 and requested full details as to how this alleged "contact" was made, when it was made, who made it and with whom, and specifically in what way and by what means was Federated made fully aware of the tariffs and the necessity to conform therewith. In Telco's letter of June 4, 1973 to us, it appears that, contrary to the implications in the above-quoted statement, no contact was made by Telco with Federated after Telco listened to the recording of the abusive call; that the above-quoted statement was intended to refer to the fact that a representative of Telco telephoned Federated's Credit Manager on or about March 23, 1971 and reviewed the proper use of the service for debt collection purposes and emphasized that improper calling constituted a tariff violation. Thus, Telco has admitted that the statement in its Answer was not intended to indicate that contact was made with Federated's Credit Manager after Telco heard the recording of the abusive call. It is now clear that Telco relied entirely upon a prior contact with Federated but that after hearing the recording of the abusive call, Telco took no further steps whatsoever to require Federated to submit to Telco any explanation of how or why this particular abusive call was made or what individual made it, or to submit to Telco any proof that Federated had taken positive and reasonably adequate steps to prevent such calls in the future either to complainant or to anyone else. We conclude that Telco, after listening to the recorded abusive call, should have promptly suspended Federated's service upon written notice and should have continued such suspension until such time as Federated submitted to Telco a full and adequate showing in writing that Federated would abide by the tariffs of Telco. Telco's failure to take such steps was a gross failure to enforce properly its tariffs prohibiting abusive calls.

13. Finally, we need to consider whether Telco acted properly in its examination and treatment of its own business toll records associated with Federated's account. Clearly, the best evidence in this case by which Telco could determine the frequency and number of calls being made to complainant by Federated was its own toll records. Telco's actions raise serious questions as to whether Telco failed to make a timely and adequate check of its business toll records upon receipt of the informal complaint herein and whether Telco erred in destroying certain business toll records that appeared to be material, relevant, and pertinent to the informal complaint. We served the initial informal complaint on Telco on or about December 8, 1970. On January 14, 1971, Telco advised it was investigating the matter. However, in its April 6, 1971 letter to us Telco stated that a review of the business toll records associated with Federated's account from October, 1970 through April 6, 1971 failed to disclose any calls by Federated to complainant's home telephone number during that period and that records prior to October, 1970 had not been retained. Telco stated that the pre-October, 1970 records were destroyed pursuant to Telco's long-standing practice that records of toll calls are retained for only six months past in the regular course of its business and in accordance with applicable Commission Rules and Regulations. Inasmuch as a majority of the alleged abusive calls to complainant's home were made during the period January, 1970 through October, 1970, the materiality and relevance of any business toll records associated with Federated's account existing during such period should have been obvious to Telco upon receipt of the informal complaint in December, 1970. However, notwithstanding the fact that Telco had the informal complaint at that time and notwithstanding that, on January 14, 1971 Telco wrote us stating the matter was being investigated, it is clear from Telco's April 6, 1971 letter that Telco did not take any steps in December, 1970 or January, 1971 to preserve and ascertain the content of toll records existing prior to October, 1970. A prompt check of such toll records in December, 1970 would have covered the period for at least six months prior to December, 1970, i.e., June to December. We cannot emphasize too strongly that it is the duty of the carriers under our jurisdiction, upon being served by us with an informal or formal complaint, to examine promptly and preserve all records then in its possession that are relevant and material to a resolution of the questions raised by the complaint until such time as the complaint is resolved. Telco has failed in this duty and we conclude that, in this respect, Telco did not take reasonable steps to assure the enforcement of its tariffs prohibiting abusive telephone calls.

14. In addition to the foregoing, Telco reveals in its responsive pleading to the formal complaint that the toll records

from October, 1970 to April 6, 1971 were also destroyed. In our letter of May 17, 1973, to Telco, we question why this was done in view of the pendency of the unresolved informal complaint. In its June 4, 1973 letter Telco stated that the October, 1970 to April 6, 1971 toll records were destroyed because they revealed no calls by Federated to complainant and because Telco was told that the abusive calls had ceased when complainant changed to unpublished service in 1970. Telco further stated that its normal practice is to retain customer records for whatever period is necessary when such records are in any respect material, relevant or pertinent to judicial, administrative, or other proceedings. However, it is clear that Telco failed in this case to follow its normal practices. The toll records for the period October, 1970 to April 6, 1971 were material, relevant and pertinent to the pending informal complaint served on Telco by this Commission. It was the duty of Telco to retain these records until the complaint was resolved. This is particularly true since Telco claims that the toll records from October, 1970 to April, 1971 showed no calls from Federated to complainant notwithstanding that the abusive call recorded by complainant was made in October, 1970. This discrepancy has not been explained by Telco. We conclude therefore that Telco failed in its duty to take reasonable steps to assure enforcement of its tariffs by destroying the toll records for the period from October, 1970 to April, 1971 before resolution of the informal complaint herein.

15. To summarize the foregoing, we find and conclude that Telco failed to fulfill its obligations under the Act (a) by failing to investigate promptly and fully the informal complaint of Mr. Malter which we served upon Telco in December, 1970; (b) by destroying pertinent records of toll calls during the six-month period prior to December, 1970; (c) by providing unpublished service and relying thereon for satisfaction, in whole or in part, of the informal complaint; (d) by failing to take prompt action to assure compliance with the tariffs upon hearing the tape recording of the unlawfully abusive telephone call made in October, 1970 and (e) by destroying pertinent toll records after April, 1971 before there was final resolution of the informal complaint.

16. In the light of the foregoing findings and conclusions, the question properly before us is to determine what action, if any, we should require Telco to take at this time with respect to past violation of its tariffs by Federated. The undisputed evidence in this case is that at least one abusive call was made to complainant by Federated. Complainant alleges that there were more and we believe that the circumstantial evidence supports this contention. The relief requested by complainant is that we issue a show cause order as to why Telco should not forthwith terminate the service of Federated, or that we initiate for-

mal hearings looking toward eventual termination of such service. We interpret this request to mean that complainant is seeking permanent termination of Federated's service for all time rather than any termination or suspension of service for a temporary period. We believe that any action by us looking toward permanent deprivation of all telephone service to Federated would be unwarranted. In our opinion, a customer who has been found by a carrier to be utilizing telephone service to make abusive debt collection calls should be afforded a reasonable opportunity to make a showing, if it can, that it has discontinued such unlawful use and has taken appropriate steps to assure that there will be no such unlawful use in the future, before such customer is permanently deprived of telephone service. We do not mean to say that the carrier should not suspend the service on a temporary basis upon learning of such unlawful usage. To the contrary, the proper procedure in any case where the carrier learns of such unlawful usage is for the carrier to suspend the service forthwith upon written notice explaining the reasons therefor and requiring the customer, as a condition to restoring service, to submit in writing to the carrier a full and complete showing that the customer has discontinued such unlawful practice and that appropriate steps have been taken to give reasonable assurance that such practices will not occur in the future. Upon such a showing, the carrier should restore service to the customer. If the customer is unable to make such a showing, the carrier would then be justified in continuing to deny service to such customer.

17. Finally, we shall address the question of whether the complainant violated the interstate tariffs of defendant in recording the October, 1970 call without the "beep tone" and, if so, whether it is appropriate for us to consider such recording, or a transcript thereof, as evidence herein.

18. In one of its pleadings Telco alleges that plaintiff's recording was in violation of the tariffs and that, prior to March, 1971, defendant discussed the substance of this requirement with complainant's attorney. However, in another pleading Telco states that it "denies that it sought to imply that the conversation recorded without a beep tone in violation of applicable tariffs would or would not be admissible as evidence in a hearing."

19. The "beep tone" requirements to which telephone users are subject are set forth in section 2.6.4(D) of AT&T's Tariff F.C.C. No. 263. The pertinent text of these requirements is as follows:

(1) Long distance message telecommunications service furnished by the Telephone Company is not represented as adapted to the recording of telephone conversations. However customer-provided recording equipment may be used in connection with long distance message telecommunications service subject to the following conditions:

Connection of customer-provided voice recording equipment with facilities of the

Telephone Company for the recording of two-way telephone conversations is permitted only by means of a direct electrical connection through a connecting arrangement furnished, installed and maintained by the Telephone Company, which contains a recorder tone device automatically producing a distinctive recorder tone that is repeated at intervals of approximately fifteen seconds \* \* \*

20. Although Telco makes the bare allegation in its pleadings that complainant's action in making the recording without the "beep tone" was a tariff violation, we note that Telco did not invoke the procedures set forth in the tariffs that are required to be followed whenever a violation of the "beep tone" tariff requirements comes to the attention of the carrier. These procedures are set forth in section 2.6.7 of the AT&T's Tariff F.C.C. No. 263 and the full text thereof is as follows:

#### 2.6.7 VIOLATION OF REGULATIONS

Where any customer-provided equipment is used with long distance message telecommunications service in violation of any of the provisions in 2.6.1 through 2.6.6, the Telephone Company will take such immediate action as necessary for the protection of the network, and will promptly notify the customer of the violation. The customer shall discontinue such use of the equipment or correct the violation and shall confirm in writing to the Company within 10 days, following the receipt of written notice from the Company, that such use has ceased or that the violation has been corrected. Failure of the customer to discontinue such use or to correct the violation and to give the required written confirmation to the Telephone Company within the time stated above shall result in suspension of the customer's service until such time as the customer complies with the provisions of this tariff.

21. Thus, if Telco was of the view that complainant had violated the "beep tone" tariff requirements, Telco was obligated to take the steps set forth above in section 2.6.7 and any failure on the part of Telco to do so would subject it to the monetary forfeitures prescribed in section 203 of the Act, 47 U.S.C. 203. Defendant did not take steps, i.e., of providing the 10-day written notice to complainant or for requiring a written confirmation from complainant or of suspending service for failure to give written confirmation. Accordingly, Telco's position in this case on the question of whether or not the recording violated its tariffs appears to be somewhat ambivalent.

22. We are of the opinion that there was no tariff violation by complainant in recording this particular call without a "beep tone" and that Telco acted correctly in not invoking the procedures of section 2.6.7 which apply to such violation. We are here dealing with a type of telephone call that is flatly forbidden by the tariffs of Telco and probably by section 223 of the Act. More specifically, the interstate tariffs, which constitute defendant's offer of service to Federated and all other users and which set forth all of the terms and conditions of such offer, state (a) that the service is furnished "in accordance with the regulations" specified in the tariff; (b) that one of the regulations is that the service

is furnished "subject to the conditions that there will be no abuse or fraudulent use of the service"; and (c) that the following types of calls constitute "abuse or fraudulent" use of that service:

(A) the use of service or facilities of the Telephone Company to transmit a message or to locate a person or otherwise to give or obtain information, without payment of the charge applicable for service;

(B) the obtaining, or attempting to obtain, or assisting another to obtain or to attempt to obtain, long distance message telecommunications service, by rearranging, tampering with, or making connection with any facilities of the Telephone Company, or by any trick, scheme, false representation, or false credit device, or by or through any other fraudulent means or device whatsoever, with intent to avoid the payment, in whole or in part, of the regular charge for such service;

(C) the use of service or facilities of the Telephone Company for a call or calls, anonymous or otherwise, in a manner reasonably to be expected to frighten, abuse, torment, or harass another;

(D) the use of profane or obscene language;

(E) the use of the service in such a manner as to interfere unreasonably with the use of the service by one or more other customers.

All users are charged with the knowledge of these provisions and are presumed to accept them as a condition to obtaining the service offered by defendant.

23. Furthermore section 223 of the Act provides as follows:

Whoever—(1) in the District of Columbia or in interstate or foreign communication by means of telephone—

(A) makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent;

(E) makes a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number;

(C) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

(D) makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number; or

(2) knowingly permits any telephone under his control to be used for any purpose prohibited by this section, shall be fined not more than \$500 or imprisoned not more than six months, or both. 47 U.S.C. 223

All users are also charged with the knowledge of these prohibitions in the use of defendant's service.

24. We would be concerned with the justness and reasonableness of any tariff filed with us that would have to be construed as requiring an innocent party to a call that is violative of either the "abuse or fraudulent" use prohibitions of the tariff or section 223 of the Act, to transmit the "beep tone" in every case to the offending party before the call could be recorded by such innocent party. It would appear prima facie unreasonable to require a "beep tone" in a case, for example, of an anonymous caller making calls proscribed by the tariffs or section 223 where a recording of such calls is desirable to identification or tracing or

proof of content of the message but where the transmission of the "beep tone" would effectively thwart any such efforts. Moreover, as a practical matter, such recordings may often constitute the only reliable evidence upon which valid determination may be made by the carrier in carrying out its duty to enforce its tariffs or evidence upon which criminal convictions under section 223 could be obtained. This is particularly important in cases such as the present complaint where business toll records were destroyed by the carrier that appear relevant and material to contentions that the tariff is being violated and that the carrier is not doing its duty, and where the parties give conflicting statements to the carrier as to the frequency, existence and nature of the calls.

25. We are of the opinion that the tariffs of Telco should be construed as imposing the "beep tone" requirements only with respect to telephone calls that are made in accordance with the fundamental terms of the service offering made to the public by the carrier; and that such requirements do not apply whenever a person, without the consent of the carrier and contrary to its published rules, takes control of the facilities of the carrier and uses such facilities to obtain a communication service that is outside the scope of the service actually offered to the public by the carrier. Furthermore, we believe that any person who makes a call that is clearly prohibited by the tariffs or by some statutory provision such as section 223 of the Act, should be considered as waiving any rights he may have under the tariffs to receive the "beep tone" warning of the recordation of any such prohibited call. For these reasons, we conclude that complainant did not violate defendant's tariffs as we construe them herein.

26. We recognize that the presently effective tariffs do not contain express language that unambiguously provides for the foregoing exemptions from the "beep tone" requirements and we believe that AT&T should make appropriate revisions in the tariffs to allow therefor. Accordingly, we are directing the Chief, Common Carrier Bureau, to institute informal proceedings with AT&T to obtain such revisions.

27. As to whether we may use complainant's recording as evidence herein, we think it is clear that we may do so. Even if we had found that the recording was in violation of the "beep tone" tariff requirement we could, under the rules of evidence evolved in the Federal Courts, consider the recording for the purposes of this case. *Ferguson v. U.S.*, 307 F. 2d 787 (10th Cir. 1962), opinion withdrawn on other grounds 329 F. 2d 923 (1964); *Battaglia v. U.S.*, 349 F. 2d 556 (9th Cir. 1965) cert. denied 382 U.S. 955 (1965).

28. In view of the foregoing and in consideration of the fact that this is a case of first impression, *It is ordered*, That Telco shall, within 30 days from the release date hereof, obtain a full and complete written showing from Federated that Federated has discontinued the practices evidenced by the October, 1970 abusive telephone call and that

Federated has taken reasonable steps to assure that abusive calls will not be made in the future by Federated to any person; and that within 10 days after receipt of such statement from Federated, Telco shall certify in writing to the Commission that Federated is in compliance with Telco's tariff schedules or that Telco has suspended interstate and foreign service for failure of such compliance.

29. This action shall serve as notice to other carriers and to other debt collection users of the interstate telephone network that we will expect all carriers to suspend service in the manner set forth above whenever there is unlawful use of the telephone for debt collection purposes and that failure to do so will subject such carriers to the penalties and forfeitures prescribed by the Act.

30. *It is further ordered*, That complainant's request for relief is granted to the extent indicated above and is otherwise denied.

Adopted: December 19, 1973.

Released: January 3, 1974.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>2</sup>

[SEAL] VINCENT J. MULLINS,  
Secretary.

TRANSCRIPT OF TAPE RECORDED TELEPHONE CONVERSATION BETWEEN RICHARD MALLER OF WESTBROOK, MAINE, AND EMPLOYEE OF FEDERATED CREDIT CORPORATION OF READING, MASSACHUSETTS, IN OCTOBER 1970

[NOTE: The first portion of the telephone conversation was not recorded. At times the conversation was inaudible.]

\* \* \* \* \*

MALLER: \* \* \* how do I know?  
CREDIT: (inaudible) \* \* \* and you're telling me where to go? I'll buy and sell you guys.  
MALLER: What's your name?  
CREDIT: You've got it, Adam. What, are you deaf too?  
MALLER: Who do you work for?  
CREDIT: Oh, you gotta be kidding.  
MALLER: No, I ain't kidding.  
CREDIT: You got a cement block in between your ears.  
MALLER: Who do you work for?  
CREDIT: [986 98].  
MALLER: Who do you work for?  
CREDIT: Well who the hell do you think I work for?  
MALLER: Would you mind telling me?  
CREDIT: [Beneficial Finance].  
MALLER: Who?  
CREDIT: Idiot.  
MALLER: Who do you work for?  
CREDIT: I work for the Federated Credit Corporation. Okay? Write it down so you can write it in to your lawyer and maybe we can talk sense into your lawyers.  
MALLER: Well I hope you can, buddy.  
CREDIT: You haven't even got a dime to pay—uh—to go to a lawyer. Who the hell are you kidding?  
MALLER: I don't need—I don't need a dime. I can go to legal aid.  
CREDIT: Legal aid. Well, maybe they'll pay your bills for you, too.  
MALLER: No, they won't pay my bills for me.

<sup>2</sup> Commissioner Reid concurring in the result; Commissioner Wiley dissenting.

CREDIT: Somebody's gotta pay them. You might as well go down to court \* \* \* and mail it.

MALLER: Look, do you realize that I have a wife \* \* \*

CREDIT: (overlap) \* \* \* when he gets paid when they take out so much \* \* \*

MALLER: I have a wife that's under psychiatric treatment and has been that way for 3 years and if you make her any worse, buddy, you are in trouble.

CREDIT: When are you gonna pay the bill? You gotta \* \* \*

MALLER: Do you understand that?

CREDIT: When are you gonna mail it?

MALLER: I'm threatening you now.

CREDIT: You're threatening me.

MALLER: If you put her over the brink, you will have had it, and believe me, I know this.

CREDIT: Don't give me that baloney; you owe us the money and when are you gonna mail it?

MALLER: Do you understand?

CREDIT: When are you gonna mail it.

MALLER: Do you understand what I said?

CREDIT: Nobody will listen to you, I want a know when I'm gonna get my money.

MALLER: She was under psychiatric treatment and if you want to talk to the psychiatrist \* \* \*

CREDIT: Who needs a \* \* \* you're the one that needs a psychiatrist.

MALLER: Not me, mister You do.

CREDIT: Mail in your money and you won't get another phone call.

MALLER: Any time you want the books, they're right here waitin' for you.

CREDIT: Yeah. Listen, when are you gonna mail the money? If you mail the money in we won't have to call you and won't have to go through the hassle \* \* \*

MALLER: I will mail the money when I get it, and until I get it I will not mail it and I don't care how many times you call or how many times you write.

CREDIT: (overlap) \* \* \* six months to dig in your pockets to mail us some dough. Big man!

MALLER: Do you understand?

CREDIT: Real big man.

MALLER: Well, if you had my problems you'd see how big you are.

CREDIT: What's that?

MALLER: You'd probably be in Augusta if you had my problems.

CREDIT: I'd be in Augusta?

MALLER: Yeah.

CREDIT: That's your problem.

MALLER: Yeah, with my problems.

CREDIT: When are you gonna mail the dough in, I'll get off your back.

MALLER: I have a retarded son that I'm trying to keep alive and a wife I'm trying to keep alive and, buddy, I bet you couldn't even stand anything like that.

CREDIT: When are you gonna mail in the dough?

MALLER: I will not mail it in until I get it.

CREDIT: When are you gonna get it?

MALLER: I do not know.

CREDIT: What do you mean you don't know?

MALLER: I make below 90 bucks a week and most of that goes on medicine.

CREDIT: Aw, don't gimme that crap, will ya?

MALLER: You wants, you wants come down?

CREDIT: (inaudible) \* \* \* bull shit \* \* \* that's just \* \* \*

MALLER: Are you up in Reading, Mass.?

CREDIT: Who the hell are you kidding?

MALLER: Are you in Reading, Mass.?

CREDIT: I'm in Reading, Mass.

MALLER: All right, why don't you drive down here tomorrow?

CREDIT: What do you mean, drive down?

Why don't you \* \* \*

MALLER: It'll take you an hour and—uh—  
an hour at the most to get here.

CREDIT: Yeah.

MALLER: Would you mind?

CREDIT: Will you have a check ready for  
me?

MALLER: No, I will not have a check ready,  
but I'll let you, I'll sit down and go over my  
finances with you.

CREDIT: No man, I got my own problems.  
See, I don't have to listen to yours.

MALLER: If you're man enough, why don't  
you come down and sit down and talk it over  
with me?

CREDIT: (overlap) \* \* \* 75 bucks and I'll get  
off your back. It's as easy as that. Now dig  
down and pay us 5 bucks and we're off your  
back for a few months.

MALLER: Look, I'm no longer gonna talk  
to ya. You don't wanta talk sense so I'll  
see ya.

CREDIT: Listen to reason \* \* \*

MALLER: Good-bye. Good-bye.

CREDIT: Listen to reason \* \* \*

[FR Doc.74-3135 Filed 2-6-74;8:45 am]

## STANDARD BROADCAST APPLICATIONS READY

### Availability for Processing

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on March 12, 1974, the standard broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to § 1.227(b)(1) and § 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on March 11, 1974, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on March 11, 1974. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.571(c) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to section 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

Adopted: January 31, 1974.

Released: February 4, 1974.

FEDERAL COMMUNICATIONS  
COMMISSION,  
VINCENT J. MULLINS,  
Secretary.

### APPENDIX

BP-19487 New, Buena Vista, Va.  
WANV, Inc.  
Req: 1270 kHz, 1 kW, Day.

BP-19505 New, Sedona, Ariz.  
Tabback Broadcasting Co.  
Req: 1470 kHz, 5 kW, Day.  
BP-19550 KDXU, St. George, Utah  
Julie P. Miner  
Has: 1450 kHz, 250 W, 1 kW-LS, U.  
Req: 890 kHz, 10 kW, DA-N, U.  
BP-19553 New, Gladwin, Mich.  
Gladwin Broadcasting Co.  
Req: 1350 kHz, 1 kW, DA, Day.

[FR Doc.74-3133 Filed 2-6-74;8:45 am]

[Docket Nos. 19925 and 19926]

## WOLVERINE RADIO CO., INC. AND PATTEN CORP.

### Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Wolverine Radio Company, Inc., Midland, Mich., Docket No. 19925, File No. BPH-8349, Requests: 93.5 MHz, #228; 3 kW(H); 3 kW(V); 300 feet; Patten Corp., Midland, Mich., Docket No. 19926, File No. BPH-8461, Requests: 93.5 MHz, #228; 3 kW(H); 3kW(V); 194 feet, for construction permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications which are mutually exclusive in that they seek the same channel in the same community.

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services (1 mV/m or greater in the case of FM) in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which, if either, of the applications should be granted.

5. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a writ-

ten appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

6. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: January 23, 1974.

Released: January 24, 1974.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

[FR Doc.74-3136 Filed 2-6-74;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### WASTE MANAGEMENT ACTIVITIES AT HANFORD RESERVATION

#### Notice of Hearing

CROSS-REFERENCE: For a document concerning a joint hearing to be held between the Environmental Protection Agency and the Atomic Energy Commission concerning waste management activities, see FR Doc. 74-3319, *supra*.

## FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder  
License No. 1364]

ALEX A. BASTIDAS

### Order of Revocation

On January 21, 1974, Alex A. Bastidas, 136-30 Sanford Avenue, Flushing, New York 11355 voluntarily surrendered his Independent Ocean Freight Forwarder License No. 1364 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(f) (dated 9/15/73);

It is ordered, That Independent Ocean Freight Forwarder License No. 1364 of Alex A. Bastidas be and is hereby revoked effective January 21, 1974, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Alex A. Bastidas.

AARON W. REESE,  
Managing Director.

[FR Doc.74-3141 Filed 2-6-74;8:45 am]

## JAPAN LINE LTD. 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 NW., 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 27, 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.

**JAPAN LINE, LTD.**

**KAWASAKI KISEN KAISHA, LTD.**

**MITSUI O.S.K. LINES, LTD.**

**NIPPON YUSEN KAISHA, LTD.**

**SHOWA SHIPPING Co., LTD.**

**YAMASHITA-SHINNIHON STEAMSHIP Co., LTD.**

**Notice of agreement filed by:**

Charles F. Warren, Esq., 1100 Connecticut Ave. NW., Washington, D.C. 20036.

Agreement No. 10116, entered into by the six Japanese flag carriers, named above, covers an arrangement for the pooling and division of revenue on cargo movements of these carriers under their approved containership arrangements (Agreements Nos. 9718, 9731 and 9835), originating and/or terminating in the trades, eastbound and westbound, between Japanese ports and ports in California, Oregon and Washington, including OCP cargo as authorized by applicable conference agreements.

The revenues will be pooled and distributed as between the carriers in accordance with the terms, conditions and allocated shares of participation in the Japan/Washington-Oregon and the Japan/California trades, respectively, and shall exclude revenues on minibridge movements, transshipment cargo moving outside the trades, mail and bulk liquid cargo in deep tanks.

The term of the agreement shall be for a period of three years from the date of approval by the Federal Maritime Commission and the Japanese Ministry of Transport, whichever is later, and shall

terminate on December 31st of the third year following the later approval.

Dated: February 4, 1974.

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY AND UNIVERSAL MARITIME SERVICE CORP.**

**Notice of agreement filed by:**

Francis A. Mulhern  
Deputy General Counsel  
The Port Authority of New York and New Jersey  
One World Trade Center  
New York, N.Y. 10048

Agreement No. T-2884, as amended, between The Port Authority of New York and New Jersey (Port Authority) and Universal Maritime Service Corp. (UMS) provides for the lease of certain facilities at the Brooklyn-Port Authority Piers, New York, N.Y., for use by UMS as a marine terminal facility. As compensation, UMS will pay the Port Authority an amount based on revenue tonnage with stated minimum and maximum payments per annum.

Dated: February 4, 1974.

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY AND UNIVERSAL MARITIME SERVICE CORP.**

**Notice of agreement filed by:**

Francis A. Mulhern  
Deputy General Counsel  
The Port Authority of New York and New Jersey  
One World Trade Center  
New York, N.Y. 10048

Agreement No. T-2885, as amended, between The Port Authority of New York and New Jersey (Port Authority) and Universal Maritime Service Corp. (UMS) provides for the lease of certain facilities at the Brooklyn-Port Authority Piers, New York, N.Y., for use by UMS as a marine terminal facility. As compensation, UMS will pay the Port Authority an amount based on revenue tonnage with stated minimum and maximum payments per annum.

Dated: February 4, 1974.

**SAN DIEGO UNIFIED PORT DISTRICT AND FIESTA CRUISES, INC.**

**Notice of agreement filed by:**

Joseph D. Patello, Esquire  
San Diego Unified Port District  
3165 Pacific Highway  
San Diego, California 92112

Agreement No. T-2799-1, between the San Diego Unified Port District (San Diego) and Fiesta Cruises, Inc. (Fiesta), modifies the basic agreement which provides for the one-year lease to Fiesta of terminal space, with the accompanying nonexclusive and nonpreferential right of access at the Broadway Pier, of the Port of San Diego, for use in connection with boat operations to and from Ensenada, Mexico and other excursion and water business. The purpose of the modification is to reduce the area of the leased premises by 434 square feet and to decrease the monthly rental by \$42.00.

By Order of the Federal Maritime Commission.

Dated: February 4, 1974.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc.74-3140 Filed 2-6-74;8:45 am]

**FEDERAL RESERVE SYSTEM**

**CHASE MANHATTAN CORP.**

**Order Denying Acquisition of Dial Financial Corporation**

The Chase Manhattan Corp., New York, New York, a bank holding company within the meaning of the Bank Holding Company Act of 1956, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Dial Financial Corp., Des Moines, Iowa ("Dial"). Dial through its subsidiaries engages in the activities of making direct consumer installment loans, secured and unsecured, to individuals (in most instances, by direct customer contact, in some instances, by mail); selling credit life, and credit health and accident insurance policies to those individuals; underwriting (in Missouri only), or re-insurance of, such insurance; selling to those individuals insurance on property (other than automobiles) in which a subsidiary of Dial has a security interest; purchasing installment sales finance contracts from retailers; and providing data processing services, including computerized general accounting services, computerized billing services, and computerized delinquent list preparation, and the use of computer time, to its subsidiaries and other consumer credit companies.

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (38 FR 26832). The time for filing comments and views has expired; and the Board has considered all comments received in light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, a multi-bank holding company, is, based upon domestic deposits, the largest banking organization in New York State, and the second largest nationally. Applicant controls The Chase Manhattan Bank, N.A., New York, New York ("Bank"), and six other commercial banks which, collectively hold \$16.4 billion of domestic deposits, representing 15 percent of total deposits in commercial banks in New York State. Applicant's total consolidated assets amount to \$30.8 billion; assets of Bank represent 99 percent (\$30.4 billion) of this total. During the four-year period ending December 31, 1972, Applicant's consolidated assets increased by 60 percent, consolidated net income by 50 percent, domestic and foreign deposits by 50 percent, and total equity capital by 23

<sup>1</sup> Deposit data as of June 30, 1973.

<sup>2</sup> Data as of December 31, 1972.

percent. Applicant has acquired a number of firms during this period, including four commercial banks and a mortgage company. Bank has acquired during this period a substantial mortgage company and a large factoring company. Applicant's nonbanking activities include mortgage banking, commercial financing, and the provision of investment advice and economic information. It appears that Applicant is one of the leading financial institutions in the United States and is experiencing significant growth, both through acquisitions and *de novo* expansion.

Dial is a profitable enterprise and one of the nation's major consumer finance companies. It maintains 461 offices in 33 States.<sup>5</sup> Dial held, as of December 31, 1972, total gross receivables of \$308.6 million and ranked as the twenty-first largest independent finance company in the nation. Ninety-three percent of Dial's total volume of receivables outstanding represents direct cash loans to individuals on an installment basis. In addition to engaging in certain insurance sales and underwriting activities, Dial has developed a data processing system linking its branch offices to a computer center ("SWIFT"). Dial has aggressively marketed SWIFT to other consumer finance companies, and, as of December 31, 1972, nine consumer finance companies, including Dial, operating more than 5,000 consumer finance offices, approximately 25 percent of the total number of consumer finance offices in the United States, utilized or had contracted to utilize SWIFT. Only two other corporations compete with Dial in this line of commerce, and Dial apparently is the leading supplier in the market for such computer services.

The 1970 Amendments to the Act require that the Board, in acting on an application under section 4(c)(8), consider whether the performance of a particular activity by an affiliate of a bank holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." This balancing test necessitates a positive showing of public benefits, outweighing the "possible" adverse effects of any proposed acquisition, before an application may be approved. Applicant must bear this burden.

The relevant service line to be considered in evaluating the competitive effects of this proposal is the making of personal installment loans. As noted, about 93 percent of Dial's outstandings were in this service line at year-end, 1972. Applicant, through its banking subsidiaries, makes personal installment loans in various local markets in New York State. The Board has previously considered whether consumer finance companies compete with commercial

banks in the area of personal loans to individuals, and has concluded that such competition does exist.<sup>6</sup> Dial presently does not operate any office in the local markets served by Applicant's subsidiary banks. However, Dial does solicit moderate-sized personal loans by mail and, as of December 31, 1972, thereby held receivables of approximately \$143,000 deriving from the service areas of Applicant's subsidiary banks. The competition existing between Applicant and Dial that would be eliminated upon consummation of the proposed transaction would be only slight.

With respect to the question of whether consummation of the proposal would eliminate any significant competition in the future, the Board finds that Dial and Applicant are aggressive expansion-minded concerns. Dial opened 25 *de novo* offices in 1972, and, in late 1973, estimated that it would open a total of 37 such offices in 1973. Irrespective of the instant proposal, Dial contemplates opening 35 to 40 new offices in 1974. With offices in Pennsylvania, Connecticut, Massachusetts, New Hampshire, and Rhode Island, and no office in New York State, Dial is considered one of the most likely potential entrants into the various local markets in New York State. A recent increase in the maximum loan limit for consumer finance companies in New York State enhances the probability of such entry.

Bank is considered one of the leading retail banks in the nation and operates 185 branch offices in New York State, having opened eight such offices in 1972. Bank also opened 15 branch offices abroad in 1972 and has announced plans to open 30 consumer finance-type offices in the United Kingdom.<sup>7</sup> As of December 31, 1972, Bank ranked as the second largest consumer lender in the New York City market,<sup>8</sup> having made 6.6 percent of the total personal loans outstanding in the market, and ranked as the fourth largest supplier of check credit, a form of personal loan, in that market, with an estimated share of 12 percent. Applicant has demonstrated its ability to establish a wide network of offices, to penetrate distant markets, and to compete successfully in consumer loan markets.

Applicant thus possesses the resources and expertise to enter the industry outside of New York State either *de novo* or through a foothold acquisition and, absent the proposed acquisition, may be expected to do so. Start-up costs and risks involved in such entry are easily manageable by an organization possessing the resources commanded by Applicant.

<sup>5</sup> Order dated August 3, 1973, Denying Acquisition of Public Loan Co. by Bankers Trust Corp., New York, New York, 38 FR 21822 (1973), 59 Federal Reserve Bulletin 694, 695 (1973).

<sup>6</sup> "Local Banking on an International Scale," "Business Week" 106, 107 (September 15, 1973).

<sup>7</sup> This market is approximated by the five boroughs of New York City plus Nassau and Westchester Counties.

It thus appears likely that Applicant would, absent this proposal, expand to compete with Dial in the future, either *de novo* or through means of a foothold entry. On the basis of the facts of record it also appears likely that Dial would, absent this proposal, expand to compete with Applicant in the future. Chase Manhattan Bank is an important source of personal installment loans in the New York City market; and while Dial does not have a large share of personal installment loans in major metropolitan areas, it does have estimated market shares in smaller metropolitan areas and rural markets ranging from 3.1 to more than 16.0 percent. With respect to any individual market the Board cannot determine that such entry is probable or that any such market is so concentrated that the elimination of the possibility of such entry would have substantially adverse effects; however, irrespective of the effect on particular markets, it is clear to the Board that consummation of the proposal would eliminate a substantial possibility that Applicant and Dial would compete in the future. The elimination of such potential competition constitutes an adverse factor under section 4(c)(8) weighing against approval of the application.

In addition to the above possible adverse effects of this proposal, Congress has required the Board to consider under section 4(c)(8) whether bank holding company acquisitions create a danger of undue concentration of resources. Congress has pointed to the dangers involved, particularly those involving concentration of power relating to money and credit, and has directed the Board to consider all reasonable ramifications when applying this aspect of the standards of section 4(c)(8). It is the Board's judgment that approval of this application, involving acquisition, by one of the nation's largest bank holding companies, of a major consumer finance company with a large national network of offices and a commanding position in the market for provision of data processing services to the industry, involves the issue of concentration in credit-granting resources that was within the intent of Congress in enacting the 1970 Amendments. While the matter is not free of doubt and is one on which reasonable differences of judgment may occur, the Board has concluded that, at a minimum, this factor weighs against approval of the application.

Applicant has made an attempt to meet its burden of establishing public benefits which outweigh the adverse effects noted above. One such public benefit is said to be an expansion of the financial services offered by Dial to include the making of small business loans, farm loans, and first and second mortgage loans. The record does not show to what extent such services are presently competitively unavailable in the markets served by Dial, but it does appear that many consumer finance companies are diversifying into the provision of a wider range of financial services. Dial, which has demonstrated its ability to respond

<sup>8</sup> Data as of December 7, 1973.

to competitive challenges, would appear to be likely to so diversify irrespective of its affiliation with Applicant.

Nor would it appear likely that affiliation with Applicant would make credit and capital more readily available to Dial. From 1965 to 1972, while the amount of consumer loans originated by the consumer finance industry increased by 48 percent, the amount of personal loans originated by Dial increased 103 percent. Such increase was 15.8 percent in 1972, while loans originated by the industry increased by only 10.9 percent. In 1972, Dial's return on investment was 15 percent, comparing favorably with an industry average of 12 percent. The majority of Dial's short term borrowings come from the issuance of commercial paper, and such paper carries the highest rating. As of year-end 1972, Dial had only utilized \$4.5 million of its outstanding lines of credit of \$61 million. It thus does not appear that affiliation with Applicant may reasonably be expected to significantly increase the availability of capital or reduce Dial's cost of funds.

Applicant has cited as a public benefit its plans to open 150 *de novo* offices of Dial in the next three years. However, irrespective of the proposed affiliation, it appears that Dial would plan to open a substantial number of new offices each year. In view of this capability absent the transaction, the Board does not view the proposed expansion as a significant public benefit arising from consummation of the proposal.

Applicant has also proposed to implement an experimental program under which personal loans would be made with interest rates reflecting the degree of credit risk assumed. It has proposed a modest program affecting 10 percent of the accounts at 10 percent of the offices of Dial. The Board regards reduction in rates in the consumer finance industry as being an appreciable public benefit. However, it appears that Dial has already instituted such a program on a limited basis without Applicant's aid and that Dial possesses the financial resources to expand the program if market conditions are favorable. Applicant's proposal is not considered substantially different in effect from the policy implicit in action already taken by Dial.

While the proposed acquisition would clearly lead to some public benefits, there is little indication that the above or other claimed benefits are not likely to be obtained in the absence of the acquisition. Accordingly, the Board concludes that overall public benefits asserted by Applicant do not outweigh the above-described adverse effects.

Based upon the foregoing and other considerations reflected in the record,<sup>7</sup> the Board concludes that the public interest factors the Board is required to consider under section 4(c)(8) do not

outweigh the probable adverse effects, and that the application should be denied.

Accordingly, the application is hereby denied.

By order of the Board of Governors,<sup>8</sup> effective January 30, 1974.

[SEAL] CHESTER B. FELDBERG,  
Secretary of the Board.  
[FR Doc.74-3110 Filed 2-6-74;8:45 am]

#### FOUNTAIN VALLEY BANKETTE CORP.

##### Formation of Bank Holding Company

Fountain Valley Bankette Corp., Security, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 90 percent or more of the voting shares of Bank of Fountain Valley, Security, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than February 25, 1974.

Board of Governors of the Federal Reserve System, January 29, 1974.

[SEAL] THEODORE E. ALLISON,  
Assistant Secretary of the Board.  
[FR Doc.74-3108 Filed 2-6-74;8:45 am]

#### UNITED TENNESSEE BANCSHARES CORP.

##### Proposed Acquisition of United Tennessee Life Insurance Co.

United Tennessee Bancshares Corp., Memphis, Tennessee, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of United Tennessee Life Insurance Company, Phoenix, Arizona. Notice of the application was published on:

Date	Newspaper	City and State
Oct. 9, 1973	Arizona Weekly Gazette.	Phoenix, Ariz.
Oct. 3, 1973	Nashville Banner.....	Nashville, Tenn.
Oct. 4, 1973	Nashville Tennessean.....	Do.
Sept. 27, 1973	Memphis Press-Scimitar.	Memphis, Tenn.
Oct. 1, 1973	Johnson City Press-Chronicle.	Johnson City, Tenn.
Do.....	Paris Post-Intelligencer.	Paris, Tenn.
Do.....	Elizabethton Star.....	Elizabethton, Tenn.

Applicant states that the proposed subsidiary would engage in the activities of a reinsurer for life and disability in-

<sup>8</sup> Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Bucher, and Holland. Voting against this action: Governors Daane and Sheehan.

surance coverages in connection with extensions of consumer credit by its lending subsidiaries. Applicant states that this activity would not include the reinsurance of life and disability insurance in connection with first mortgage real estate loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System Washington, D.C. 20551, not later than February 27, 1974.

Board of Governors of the Federal Reserve System, January 30, 1974.

[SEAL] THEODORE E. ALLISON,  
Assistant Secretary of the Board.

[FR Doc.74-3109 Filed 2-6-74;8:45 am]

#### INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

##### CONSOLIDATION COAL CO., ET AL.

Electric Face Equipment Standard; Notice of Opportunity for Public Hearing Regarding Applications for Initial Permits

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. 4352-000, Consolidation Coal Co., Franklin No. 25 Mine, Mine ID No. 33 00963 0, New Athens, Ohio.

(2) ICP Docket No. 4353-000, Energy Coal Corp., Mine No. 2, Mine ID No. 44 03534 0, Grundy, Virginia.

(3) ICP Docket No. 4354-000, Black Diamond Fuel Co., Mine No. 6, Mine ID No. 44 00382 0, Conaway, Virginia.

(4) ICP Docket No. 4355-000, Buck Creek Coal Co., Inc. Mine No. 5, Mine ID No. 15 00994 0, Colson, Kentucky.

(5) ICP Docket No. 4363-000, Double "O" Coal Co., Mine No. 1, Mine ID No. 15 02782 0, Rockhouse, Kentucky.

(6) ICP Docket No. 4364-000, Maple Leaf Coal Co., Mine No. 2, Mine ID No. 44 01923 0, Haysi, Virginia.

<sup>7</sup> Dissenting Statement of Governors Daane and Sheehan filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of New York.

(7) ICP Docket No. 4365-000, Karst-Robbins Coal Co., Inc. Mine No. 3, Mine ID No. 15 02263 0, Louellen, Kentucky.

(8) ICP Docket No. 4367-000 Karst-Robbins Coal Co., Inc., Mine No. 2, Mine ID No. 15 01997 0, Louellen, Kentucky.

(9) ICP Docket No. 4371-000, C.S. & S Coal Co., Mine No. 1, Mine ID No. 44 01618 0, Home Creek, Virginia.

(10) ICP Docket No. 4372-000, Triple-T Coal Co., Mine No. 1, Mine ID No. 44 00546 0, Grundy, Virginia.

(11) ICP Docket No. 4373-000, Buchanan County Coal Corp., Mine No. 7, Mine ID No. 44 03471 0, Big Rock, Virginia.

(12) ICP Docket No. 4374-000, Buchanan County Coal Corp., Mine No. 8, Mine ID No. 44 01748 0, Big Rock, Virginia.

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 on or before February 22, 1974. 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.

FEBRUARY 4, 1974.

[FR Doc.74-3092 Filed 2-6-74;8:45 am]

#### DUKE COAL CO., ET AL.

#### Electric Face Equipment Standard; Notice of Opportunity for Public Hearing Regarding Applications for Initial Permits

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. 4346-000, Duke Coal Co., Mine #6, Mine ID No. 46 01991 0, Prenter, West Virginia.

(2) ICP Docket No. 4347-000, Robinson-Phillips Coal Co. Angus #4 Mine, Mine ID No. 46 02858 0, Caretta, West Virginia.

(3) ICP Docket No. 4348-000, Robinson-Phillips Coal Co. Indian #7 Mine, Mine ID No. 46 02824 0, Fanrock, West Virginia.

(4) ICP Docket No. 4349-000, Robinson-Phillips Coal Co. Mine #55, Mine ID No. 46 02821 0, Baileysville, West Virginia.

(5) ICP Docket No. 4350-000, Coal Processing Corp., Dixiana Mine, Mine ID No. 44 00285 0, Norton, Virginia.

(6) ICP Docket No. 4351-000, Premium Coal Co., Bonnie Mine, Mine ID No. 44 01250 0, Richlands, Virginia.

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 on or before February 22,

1974. 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.

FEBRUARY 1, 1974.

[FR Doc.74-3091 Filed 2-6-74;8:45 am]

#### EDDIE COAL CO., INC., ET AL.

#### Electric Face Equipment Standard; Notice of Opportunity for Public Hearing Regarding Applications for Initial Permits

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. 4323-000, Eddie Coal Co., Inc., Mine #14, Mine ID No. 15 01554 0, Elkhorn City, Kentucky.

(2) ICP Docket No. 4324-000, Trace Fork Coal Co., Mine #10, Mine ID No. 46 03862 0, Premier, West Virginia.

(3) ICP Docket No. 4325-000, Trace Fork Coal Co., Mine #4, Mine ID No. 46 00731 0, Premier, West Virginia.

(4) ICP Docket No. 4326-000, Pine Coal Corp., Mine #1, Mine ID No. 15 01367 0, Daisy, Kentucky.

(5) ICP Docket No. 4327-000, Cane Branch Coal Co., Mine #1, Mine ID No. 15 02324 0, Frew, Kentucky.

(6) ICP Docket No. 4328-000, Branch Mining and Land Co., Inc., Ace Mine, Mine ID No. 15 00950 0, Cumberland, Kentucky.

(7) ICP Docket No. 4329-000, J. & H. Coal Co., Inc., Mine #17, Mine ID No. 46 01824 0, Masontown, West Virginia.

(8) ICP Docket No. 4330-000, Indian Ridge Coal Co., Mine #4, Mine ID No. 46 02118 0, Hanover, West Virginia.

(9) ICP Docket No. 4331-000, Indian Ridge Coal Co., Mine #2, Mine ID No. 46 01975 0, Hanover, West Virginia.

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 on or before February 22, 1974. 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.

FEBRUARY 1, 1974.

[FR Doc.74-3090 Filed 2-6-74;8:45 am]

#### NATIONAL SCIENCE FOUNDATION ADVISORY PANEL FOR BIOCHEMISTRY Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Biochemistry to be held at 9 a.m. on February 22 and 23, 1974, in Room 321 at 1800 G Street, N.W., Washington, D.C. 20550.

The purpose of the Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of P.L. 92-463.

For further information concerning this Panel, contact Dr. Roy Repaske, Program Director, Biochemistry Program, Room 329, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,  
Assistant Director  
for Administration.

JANUARY 22, 1974.

[FR Doc.74-3142 Filed 2-6-74;8:45 am]

#### ADVISORY PANEL FOR POLITICAL SCIENCE

#### Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Political Science to be held at 9 a.m. on February 22, 1974, in Room 621 at 1800 G Street, NW., Washington, D.C. 20550.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of P.L. 92-463.

For further information concerning this Panel, contact Dr. G. R. Boynton, Program Director, Political Science Program, Room 205-A, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,  
Assistant Director  
for Administration.

JANUARY 25, 1974.

[FR Doc.74-3143 Filed 2-6-74;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

**BBI, INC.**

### Notice of Suspension of Trading

JANUARY 28, 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 29, 1974 through February 7, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.74-3084 Filed 2-6-74; 8:45 am]

[811-1854]

## BAY STATE GROWTH FUND, INC.

### Proposal To Terminate Registration

JANUARY 29, 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 Bay State Growth Fund, Inc., c/o Culverwell & Co., Inc., 1500 Main Street, Springfield, Massachusetts 01115 ("Fund"), registered under the Act as a closed-end, diversified management investment company, has ceased to be an investment company.

Fund was organized as a Massachusetts corporation on March 11, 1969, and registered under the Act by filing a Notification of Registration on form N-8A with the Commission on May 5, 1969.

The Commission's records indicate that Fund obtained its initial capital from the issuance of 20,000 shares of common stock to 15 persons who purchased such shares for investment in a private offering. No additional shares were issued and no public offering was ever made.

At a special meeting held on October 26, 1971, Fund's shareholders approved the winding up and dissolution of Fund. Thereafter, Fund ceased business operations, sold its portfolio securities, discharged its obligations, and distributed its remaining assets in cash to its shareholders in cancellation of all issued and outstanding shares. A Certificate of Dissolution was filed by Fund

with the Secretary of State of Massachusetts on February 9, 1972. Fund has been dissolved and has ceased to exist except for the limited purposes specified in the Massachusetts Corporation Law.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion or upon application, finds 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 25, 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 should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Fund at the address set forth above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following February 25, 1974, 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.74-3086 Filed 2-6-74; 8:45 am]

[70-5438]

## GRANITE STATE ELECTRIC CO. AND NEW ENGLAND ELECTRIC SYSTEM

### Proposed Increase in Authorized Shares and Sale of Common Stock by Subsidiary Company to Holding Company

JANUARY 29, 1974.

Notice is hereby given that New England Electric System, 20 Turnpike Road, Westborough, Massachusetts 01581 ("NEES"), a registered holding company, and its electric utility subsidiary company, Granite State Electric Company 20 Turnpike Road, Westborough, Massachusetts 01581 ("Granite"), have filed an application-declaration with this Commission pursuant to the Public Util-

ity Holding Company Act of 1935 ("Act"), designating sections 6(b), 9(a), and 10 of the Act as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Granite proposes to increase its capital stock by the authorization of 10,000 additional shares of common stock of the aggregate par value of \$1,000,000. Such shares are proposed to be issued and sold at the price of \$100 per share as fixed by Granite's Board of Directors. NEES, the sole common stockholder, proposes to acquire such shares for a cash consideration of 1,000,000. Upon such authorization, issue, and sale, Granite will have outstanding 60,400 shares of common stock of an aggregate par value of \$6,040,000.

The proceeds from the issue and sale of the additional common stock will be applied towards the payment of short-term notes. As of January 14, 1974, Granite had outstanding \$8,400,000 of short-term notes payable.

The expenses related to the proposed transactions are estimated at \$4,200 of which Granite and NEES will pay \$4,000 and \$200, respectively. It is stated that the New Hampshire Public Utilities Commission has jurisdiction over the proposed issue and sale of common stock by Granite. It is also stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 26, 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 application-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 applicants-declarants 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 application-declaration, as filed or as it may be amended, may be granted and 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.74-3085 Filed 2-6-74; 8:45 am]

[70-5447]

#### NARRAGANSETT ELECTRIC CO.

##### Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

JANUARY 29, 1974.

Notice is hereby given that The Narragansett Electric Company, 280 Melrose Street, Providence, Rhode Island 02901 ("Narragansett"), an electric utility subsidiary company of New England Electric System ("NEES"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6 (b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Narragansett proposes to issue and sell \$10,000,000 aggregate principal amount of its First Mortgage Bonds, Series J, --%, to mature not more than 30 years from March 1, 1974. Such bonds will be sold pursuant to the competitive bidding requirements of Rule 50, and the interest rate (which shall be a multiple of  $\frac{1}{8}$  of 1 percent) and the price exclusive of accrued interest (which shall be not less than 100 percent nor more than 102.75 percent of the principal amount) will be determined by the competitive bidding. The bonds will be issued under the First Mortgage Indenture and Deed of Trust dated as of September 1, 1944, between Narragansett and Rhode Island Hospital Trust National Bank, Trustee, as heretofore supplemented and amended and as to be further supplemented by a Ninth Supplemental Indenture to be dated as of March 1, 1974, which may include a prohibition until March 1, 1979, against refunding the bonds with the proceeds of funds borrowed at an effective interest cost lower than that of the Series J Bonds. Narragansett will decide on both the maturity and refundability of the bonds after the date of public invitation for proposals and will notify prospective bidders not later than the second full business day prior to the time of the bidding.

As of January 15, 1974, Narragansett had outstanding \$8,000,000 of short-term bank notes. The proceeds from the sale of the bonds will be applied towards the payment of then outstanding short-term notes evidencing borrowings made for capitalizable expenditures or to reimburse the treasury therefor.

The application states that the Department of Business Regulation of Rhode Island has jurisdiction over the issue and sale of the bonds, and that no other state commission and no federal

commission, other than this Commission, has jurisdiction over the proposed transaction. The fees and expenses to be paid by Narragansett are estimated at \$85,000, including service fees, at cost, of New England Power Service Company, a wholly-owned subsidiary company of NEES, of \$30,000. The fees of counsel for the underwriters are to be paid by the successful bidders and will be supplied by amendment.

Notice is further given that any interested person may, not later than February 25, 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 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. 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 applicant 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 application, as filed or as it may be amended, may be granted 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.74-3088 Filed 2-6-74; 8:45 am]

[812-3555]

#### NATIONAL INVESTORS CORP.

##### Filing of Application for Order Exempting Sale by Open-end Company of Its Shares at Other Than Public Offering Price

JANUARY 30, 1974.

Notice is hereby given that National Investors Corporation, 65 Broadway, New York, New York 10006 ("Applicant"), a Maryland corporation registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) thereof a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price described in the prospectus in exchange for

substantially all of the assets of Hicks Investment Co. ("Hicks"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that Hicks was incorporated in Colorado as a dry goods business and engaged in that business until January 1972, at which time it went out of that business and became engaged primarily in the business of investing and reinvesting its funds. All of the outstanding stock of Hicks is owned of record and beneficially by ten persons, and Applicant asserts that Hicks is exempted from registration under the Act by reason of the provisions of section 3(c)(1) thereof.

On November 16, 1973, Applicant and Hicks entered into an Agreement and Plan of Reorganization ("Agreement") whereby substantially all of the cash and securities owned by Hicks, with a value of approximately \$1,595,356 as of November 16, 1973, are to be transferred to Applicant in exchange for shares of Applicant's capital stock which have been registered under the Securities Act of 1933. Pursuant to the Agreement, the number of shares of Applicant to be issued to Hicks is to be determined by dividing the aggregate market value of the assets of Hicks to be transferred to Applicant (subject to certain adjustments as set forth in detail in the application) by the net asset value per share of Applicant, both to be determined as of the valuation time as defined in the Agreement. If the valuation under the Agreement had taken place on November 16, 1973, when the net asset value of Applicant's stock was \$8.21 per share, Hicks would have received 194,319 shares of Applicant's stock.

Applicant undertakes that it will not consummate the proposed transaction unless at least 50% of the market value of the assets of Hicks to be acquired by the Applicant, determined as of the valuation time as defined in the Agreement, consists of equity securities which the Applicant, subject to investment conditions and considerations, intends to retain after the acquisition thereof.

When received by Hicks, the shares of Applicant are to be distributed to the stockholders of Hicks. Applicant states that it has been advised that the stockholders of Hicks have no present intention of redeeming or otherwise transferring any of Applicant's shares following the proposed transaction.

Applicant represents that no affiliation exists between Hicks or its officers, directors, or stockholders and Applicant or its officers or directors, and that the Agreement was negotiated at arm's-length by the two companies.

Section 22(d) of the Act, in pertinent part, prohibits a registered investment company from selling any redeemable security issued by it to any person except to or through a principal underwriter for distribution or at a current public offering price as described in the prospectus. The public offering price of Applicant's

shares is net asset value plus varying sales charges depending upon the amount purchased and owned.

Section 6(c) of the Act permits the Commission, upon application, to exempt a transaction from any provision of the Act if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 22, 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. At any time after said date, as provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application 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. 74-3087 Filed 2-6-74; 8:45 am]

[File No. 500-1]

**PATTERSON CORP.**

**Notice of Suspension of Trading**

JANUARY 29, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Patterson Corp. 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 30, 1974 through February 8, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc. 74-3083 Filed 2-6-74; 8:45 am]

[File No. 500-1]

**U.S. FINANCIAL INC.**

**Notice of Suspension of Trading**

JANUARY 28, 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 29, 1974 through February 7, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc. 74-3081 Filed 2-6-74; 8:45 am]

[File No. 500-1]

**WESTGATE CALIFORNIA CORP.**

**Notice of Suspension of Trading**

JANUARY 29, 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 percent 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 30, 1974 through February 8, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc. 74-3089 Filed 2-6-74; 8:45 am]

**SEC REPORT COORDINATING GROUP**

**Notice of Establishment**

I, Ray Garrett, Jr., Chairman of the Securities and Exchange Commission with the concurrence of the members of

the Commission have established an advisory committee under the Federal Advisory Committee Act to be designated as the SEC Report Coordinating Group (Advisory), described hereinafter, and hereby certify that I have considered the establishment of this Committee and, with the concurrence of the members of the Commission, find the creation of this committee to be in the public interest in connection with the performance of duties imposed on the Commission under the Federal securities laws particularly the Securities Exchange Act of 1934 and the Securities Investor Protection Act of 1970.

The Advisory committee is established to advise the Commission in eliminating unnecessary duplication in the reporting requirements imposed on broker-dealers by self-regulatory organizations or the Commission in connection with regulatory purposes under the Federal securities laws, particularly the Securities Exchange Act of 1934 and the Securities Investor Protection Act of 1970, and in promoting uniformity in the financial and operational reporting by broker-dealers, consistent with the public interest and the protection of investors. In particular, the committee shall review forms, reports or questionnaires required of broker-dealers by the Commission or self-regulatory organizations, forwarded to the committee by the Commission and offer recommendations as to whether:

1. The report serves an appropriate and necessary regulatory purpose.
2. The data is available elsewhere or may be obtained in a less burdensome manner.
3. Standard classifications, definitions, and reporting formats have been adhered to, and whether new ones should be established.
4. The report has a fixed expiration date, or whether a mechanism has been established to periodically review its usefulness.
5. The required retention period, if any, is appropriate.

The Advisory committee is also established to bring to the attention of the Commission on a continuing basis areas where the committee believes reporting requirements imposed on broker-dealers can be reduced, eliminated or made less burdensome without impairing the flow of information needed for sound regulatory programs and the protection of investors and the public. Included in such recommendations shall be indications as to whether whole or partial exemption, or reduced requirements may appropriately be applied to smaller broker-dealers who, because of the manner in which their business is conducted or because of other threshold requirements imposed, do not create a risk of loss to the public or other broker-dealers and do not otherwise endanger the safety of customers' funds and securities.

Finally, the advisory committee at a later date, shall be asked to advise and assist the Commission in the development of a uniform key regulatory report designed to be the basic reporting tool of the Commission and the securities industry and to replace a number of forms currently in use.

The Committee shall conduct its operations in accordance with Section 10 of the Federal Advisory Committee Act.

The Committee shall operate on a continuing basis until terminated by action of the Commission upon a finding that its continuance is no longer in the public interest subject to Section 14(a)(2) of the Federal Advisory Committee Act. Pursuant to Section 14(a)(2) of the Federal Advisory Committee Act, the advisory committee shall terminate two years from the date of its establishment, unless prior to such date, the advisory committee is renewed in accordance with the Federal Advisory Committee Act.

The committee shall submit its reports and recommendations to the Securities and Exchange Commission.

The Securities and Exchange Commission shall provide any necessary support services required by the committee.

The duties of the committee shall be solely advisory and shall extend only to submitting reports and recommendations to the Securities and Exchange Commission and to reviewing materials submitted to it by the Commission. Determinations of action to be taken and policy to be expressed with respect to the recommendations of the advisory committee shall be made solely by the Commission.

The estimated annual operating costs in dollars and man years of the committee are as follows:

Dollar Costs—\$4,000 travel and miscellaneous expenses for Commission personnel per year on a continuing basis.

Man years—one man-year per year for Commission personnel on a continuing basis.

The advisory committee shall meet at such intervals as are necessary to carry out its functions. It is estimated that this shall not require meetings more frequently than at weekly intervals.

The Charter of the Report Coordinating Group (Advisory) shall be filed with me 30 days from the date hereof and with the House Committee on Interstate and Foreign Commerce and with the Senate Committee on Banking, Housing, and Urban Affairs. A copy of this Charter shall be furnished to the Library of Congress and a copy shall be furnished to the Office of Public Information of the Commission and will be available for public inspection.

[SEAL] RAY GARRETT, Jr.,  
Chairman, Securities and  
Exchange Commission.

JANUARY 22, 1974.

[FR Doc.74-3080 Filed 2-6-74;8:45 am]

## TARIFF COMMISSION

[337-33]

### CERTAIN DISPOSABLE CATHETERS AND CUFFS THEREFOR

#### Notice of Hearing

On January 30, 1974, the U.S. Tariff Commission rescheduled to March 12, 1974, the public hearing to be held in connection with investigation No. 337-33,

Certain Disposable Catheters and Cuffs Therefor. The Hearing will be held at 10:00 a.m. E.D.T. in the Hearing Room of the U.S. Tariff Commission Building, 8th and E Streets, N.W., Washington, D.C. Requests for appearances at the hearing should be received by the Secretary of the Tariff Commission, in writing, at his office in Washington, D.C. 20436, not later than noon, Thursday, March 7, 1974. It is requested that pre-hearing briefs be filed with the Secretary by March 5, 1974.

Notice of postponement of the originally scheduled hearing was published in the FEDERAL REGISTER on September 19, 1973 (38 FR 26244), and notice of the institution of the investigation and the ordering of the postponed hearing was published in the FEDERAL REGISTER on August 15, 1973 (38 FR 22083).

Issued: February 4, 1974.

By order of the Commission.

[SEAL] KENNETH R. MASON,  
Secretary.

[FR Doc.74-3127 Filed 2-6-74;8:45 am]

[337-32]

### CYLINDER BORING MACHINES AND BORING BARS AND COMPONENTS THEREOF

#### Notice of Dismissal of Investigation

On the basis of a request from all parties appearing in this investigation, the Tariff Commission (Commissioners Leonard and Young dissenting) on January 30, 1974, dismissed investigation 337-32, regarding alleged unfair methods of competition and unfair acts in the importation and sale of certain cylinder boring machines and boring bars the construction features of which are alleged to be embraced within the claims of U.S. Patents Nos. 3,260,136 and 3,273,423. Notice of the institution of the investigation was published in the FEDERAL REGISTER of January 24, 1973 (38 FR 2360).

By order of the Commission:

Issued: February 1, 1974.

[SEAL] KENNETH R. MASON,  
Secretary.

[FR Doc.74-3126 Filed 2-6-74;8:45 am]

[TEA-F-58]

### PETITION OF NINA FOOTWEAR CO., INC., FOR A DETERMINATION

#### Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962 on behalf of Nina Footwear Co., Inc., Long Island City, New York, the United States Tariff Commission, on January 31, 1974, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles

like or directly competitive with footwear for women (of the types provided for in items 700.45 and 700.55 of the Tariff Schedules of the United States) produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

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 within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, N.W., 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: February 1, 1974.

[SEAL] KENNETH R. MASON,  
Secretary.

[FR Doc.74-3124 Filed 2-6-74;8:45 am]

[337-L-58]

### VARIABLE DISPLACEMENT FLOWER HOLDERS

#### Filing Written Views

On February 28, 1973, the United States Tariff Commission issued notice of the receipt of a complaint under section 337 of the Tariff Act of 1930, filed by McDermott & Green, Inc., Industrial Center Building, Sausalito, California, alleging unfair methods of competition and unfair acts in the importation and sale of variable displacement flower holders (38 FR 5955, March 5, 1973). Interested parties were given until April 16, 1973, to file written views pertinent to the subject matter of a preliminary inquiry into the allegations of the complaint. To enable still additional parties to file such written views, the Commission will consider written views filed on or before the close of business on March 18, 1974.

By order of the Commission:

[SEAL] KENNETH R. MASON,  
Secretary.

JANUARY 31, 1974.

[FR Doc.74-3125 Filed 2-6-74;8:45 am]

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[V-73-10]

#### STANLEY WORKS

##### Grant of Variance

I. *Background.* The Stanley Works, New Britain, Conn. 06050, made application pursuant to section 6(d) of the

Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and 29 CFR 1905.11, for a variance from 29 CFR 1910.144, concerning safety color code for marking physical hazards. Notice of the application was published in the FEDERAL REGISTER on February 8, 1973 (38 FR 3645). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were permitted to request a hearing on the application for a variance. No comments and no request for a hearing have been received.

II. *Facts.* The Stanley Works uses in the following places of employment a safety color code that has been in effect since June 26, 1944, and amended in 1953, 1956, and 1966:

Stanley Air Tools  
700 Beta Drive  
Cleveland, Ohio 44143

Berry Doors  
Division of The Stanley Works  
2400 East Lincoln Road  
Birmingham, Michigan 48012

Stanley Door Operating Equipment  
Route 6  
Corner Hyde Road  
Farmington, Conn. 06032

Eagle Square Mfg. Co.  
Shaftsbury, Vermont 05262

Farmington River Power Co.  
P.O. Box 276  
Poquonock, Connecticut

Magnetite, Inc.  
6120 Binney Street  
Omaha, Nebraska 68104

Stanley Judd  
Division of The Stanley Works  
Chattanooga, Tennessee

Stanley Judd  
Division of The Stanley Works  
Wallingford, Connecticut

Prestressed Concrete of Colorado, Inc.  
5801 Pecos Street  
Denver, Colorado 80221

Stanley Hardware Division  
195 Lake Street  
New Britain, Conn. 06050

Stanley, Incorporated  
Pulaski, Tennessee

Stanley Industrial Components  
33 Stafford Avenue  
Forestville, Conn. 06010

Stanley Industrial Hardware  
100 Curtis Street  
New Britain, Conn. 06053

Stanley Power Tools  
West New Bern Station  
Neuse Road  
New Bern, North Carolina 28560

Stanley Steel Division  
65 Burrill Street  
New Britain, Conn. 06053

Stanley Tools Division  
600 Myrtle Street  
New Britain, Conn. 06053

Stanley Strapping Systems  
1300 Corbin Avenue  
New Britain, Conn. 06053

Stanley Strapping Systems  
855 North Parkside Drive  
Pittsburg, California

Stanley Tools (Atha) Div.  
140 Chapel Street  
Newark, New Jersey

Stanley-Wetty, Inc.  
P.O. Box 25  
Royersford, Pennsylvania 19468

The Stanley Works (Main Office)  
195 Lake Street  
New Britain, Conn. 06050

The Stanley Works  
320 Valley Drive  
Crocker Industrial Park  
Brisbane, California 94005

Volkert Allentown  
Queen City Airport Industrial Park  
Allentown, Pennsylvania 18103

Volkert Stampings Division  
222-34 96th Avenue  
Queens Village, New York 11429

A copy of the Code was made part of the application for a variance and is available for inspection and copying at the Office of Standards, Occupational Safety and Health Administration, U.S. Dept. of Labor, Room 240, 1726 M St., NW., Washington, D.C. 20210.

The applicant contends that The Stanley Works Safety Color Code is equivalent to one complying with 29 CFR 1910.144. The Color Code System provides identification for all hazard areas, piping systems, and equipment of the applicant in which hazardous materials are stored or transported. It is stated that to institute a change would only confuse employees with different color combinations and could lead to accidents.

III. *Decision.* The purpose of the requirements in 29 CFR 1910.144 is to alert employees to physical hazards by clearly marking the hazards with identifying colors. The purpose is achieved by means of a color coding system, the main characteristics of which are visibility and intelligibility of colors and their meanings, and consistency in the use of colors. The Stanley Works Safety Color Code serves the same purpose of alerting employees to physical hazards by the use of specified colors and color combinations. Some colors are used for the same purposes under both this code and § 1910.144. For example, red is the basic color for the identification of fire protection in § 1910.144 as well as in The Stanley Works Safety Color Code, and green is used to designate safety in both schemes. For the designation of some other hazards the two systems require different colors.

Such differences, however, do not affect the effectiveness of The Stanley

Works Code, as a means of communication so long as the Code uses consistently colors of good visibility. The Stanley Works Safety Color Code does this. In addition, the Code is complete and in some hazard areas more specific than required by § 1910.144.

It is concluded, accordingly, that The Stanley Works Safety Color Code will afford employees protection equivalent to that which would prevail if The Stanley Works were to comply with the requirements of § 1910.144. Therefore,

IV. *Order.* It is ordered, pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 and in Secretary of Labor's Order No. 12-71 (36 FR 8754), that The Stanley Works be, and it is hereby, authorized to continue to use its Safety Color Code as amended in 1966, and attached to its application for variance, at all the worksites listed above, in lieu of complying with the requirements of § 1910.144, subject to the following conditions: (1) The Stanley Works shall give notice to affected employees of the terms of this variance, and of its Safety Color Code, by the same means required to be used to inform them of the application for the variance; and (2) the Stanley Works shall train all employees as to the standard colors and color combinations used in its Safety Color Code and the hazards that they designate.

*Effective date.* This order shall become effective on February 7, 1974, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, D.C., this 1st day of February, 1974.

JOHN STENDER,  
Assistant Secretary of Labor.

[FR Doc.74-3144 Filed 2-6-74; 8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 439]

### ASSIGNMENT OF HEARINGS

FEBRUARY 4, 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 February 7, 1974.

MC-125820 Sub 7, Elk Valley Freight Line, Inc., is continued to April 9, 1974, at the Hyatt House of Birmingham, 901 Twenty-First Street North, Birmingham, Ala.

MC-F-11723, Cox & Shay, Inc.—Merger—Mary Ellen Stidham, N. M. Stidham, A. E. Mankins (Inex Mankins, Executrix), and James Mankins, d.b.a. Eagle Trucking Company, now assigned February 25, 1974, will be held in Room 5A-15-17, New Federal Bldg., 1100 Commerce Street, Dallas, Tex.

MC-C-8096, The Squaw Transit Company—Investigation and Revocation of Certificates—now assigned March 4, 1974, will be held in Room 3469, Federal Building, 333 West 4th Street, Tulsa, Okla.

No. 35908, Oklahoma Intrastate Rail Freight Rates and Charges, 1973, now assigned March 7, 1974, will be held in Room 4214, Federal Office Bldg., and Courthouse, 200 Northwest 4th St., Oklahoma City, Okla.

MC 65660 Sub 7, Warner & Smith Motor Freight, Inc., now assigned March 18, 1974, will be held in Courtroom No. 9, 9th Floor U.S. Courthouse, 700 Grant St., Pittsburgh, Pa.

MC-C-8065, Quality Drug Stores, Inc.-V-Eastern Freight Ways, Inc., MC-C-8066, Quality Drug Stores, Inc.-V-Preston Trucking Company, Inc., and MC-C-8068, Quality Drug Stores, Inc.-V-Hermann Forwarding Company, now assigned March 4, 1974, at Harrisburg, Pa., will be held at the Utilities Commission, North Office Building, North Street and Commonwealth Avenue.

MC-217 Sub 16, Point Transfer, Inc., MC-8600 Sub 31, Werner Continental, Inc., MC-13569 Sub 27, The Lake Shore Motor Freight Co., MC-14552 Sub 50, J. V. Mc-Nicholas Transfer Co., & MC-138286 Sub 2, John F. Scott Co., now assigned March 4, 1974, will be held in Courtroom No. 9, 9th Floor, U.S. Courthouse, 700 Grant St., Pittsburgh, Pa.

MC 107496 Sub-904, Ruan Transport Corporation, now assigned March 4, 1974, at Chicago, Ill., is cancelled and transferred to Modified Procedure.

MC-151 Sub 49, Lovelace Truck Service, Inc., application dismissed.

MC-124211 Sub 232, Hilt Truck Line, Inc., and MC-138144, Sub 2, Fred Olson Co., Inc., now assigned February 11, 1974, at Chicago, Ill., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.74-3168 Filed 2-6-74;8:45 am]

[Ex Parte No. 293 (Sub-No. 1)]

### NORTHEASTERN RAILROAD INVESTIGATION

#### Notice of Assignment of Hearing

FEBRUARY 4, 1974.

The hearings in the above-entitled proceeding are assigned to commence as shown below.

Persons desiring to testify at these hearings who have not heretofore noti-

fied the Rail Services Planning Office need only make their interest known to the Administrative Law Judge or the counsel for the Rail Services Planning Office on the first day of the hearing.

An evening session commencing at 7:00 p.m. will be held on the first day scheduled at each city (except Washington, D.C.) for the convenience of persons unable to attend during the day. Evening sessions on other days may be held at the discretion of the Administrative Law Judge.

Hearings will continue daily, if necessary, to afford all interested persons an opportunity to present their evidence. Hearings at each city will be closed at the discretion of the Administrative Law Judge when he is satisfied that no additional persons are present and desirous of testifying.

Monday, March 11, 1974—Baltimore, Md., 9:30 a.m. and 7:00 p.m., Local Time, Room G-30, Federal Building, 31 Hopkins Plaza.

Monday, March 11, 1974—Chicago, Ill., 9:30 a.m. and 7:00 p.m., Local Time, Room 204-A, Everett McKinley Dirksen Building, 219 S. Dearborn St.

Monday, March 11, 1974—Philadelphia, Pa., 9:30 a.m. and 7:00 p.m., Local Time, U.S. Customs Courtroom, 3rd Floor, U.S. Customs House, 2nd and Chestnut St.

Monday, March 11, 1974—Indianapolis, Ind., 9:30 a.m. and 7:00 p.m., Local Time, State Office Building, 100 N. Senate Avenue.

Monday, March 11, 1974—St. Louis, Mo., 9:30 a.m. and 7:00 p.m., Local Time, Moot Court Room, St. Louis University Law School, 3642 Lindell Blvd.

Monday, March 11, 1974—Hartford, Conn., 9:30 a.m. and 7:00 p.m., Local Time, Rm. 148-149, Conference Room, State Department of Transportation, 24 Wolcott Hill Rd., Wethersfield, Conn.

Monday, March 11, 1974—Green Bay, Wis., 9:30 a.m. and 7:00 p.m., Local Time, City Council Chamber, City Hall, 100 N. Jefferson St.

Monday, March 11, 1974—New York, N.Y., 9:30 a.m. and 7:00 p.m., Local Time, Room 305, Federal Building, 26 Federal Plaza.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.74-3167 Filed 2-6-74;8:45 am]

[Notice No. 18]

### 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 27, 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-74683. By order of January 30, 1974, the Motor Carrier Board approved the transfer to Modern Moving & Storage, Inc., Fayetteville, N.C., of a portion of the operating rights in Certificate No. MC-74443 issued August 28, 1953 to Warren Bros., Inc., Raleigh, N.C., authorizing the transportation of household goods between Raleigh, N.C., and points within 50 miles thereof, on the one hand, and, on the other, points in Florida, Maryland, Pennsylvania, New York and the District of Columbia. Vaughn S. Winborne, 1108 Capital Club Bldg., Raleigh, N.C. 27601, attorney for applicants.

No. MC-FC-74913. By order of January 29, 1974, the Motor Carrier Board approved the transfer to South Iowa Refrigerated, Inc., Leon, Iowa, of Permit No. MC-123550 issued to Ronald E. Gillespie, Lamoni, Iowa, authorizing the transportation of: Inedible packinghouse by-products, from Lamoni, Iowa to specified points in Missouri, and return. Larry D. Knox, attorney, Hubbell Bldg., Des Moines, Iowa 50309.

No. MC-FC-74946. By order of February 1, 1974, the Motor Carrier Board approved the transfer to Robert J. Ecklund, doing business as Ecklund Trucking, Kiester, Minn., of the operating rights in Certificates No. MC-114362, MC-114362 (Sub-No. 9), MC-114362 (Sub-No. 11) and MC-114362 (Sub-No. 13) issued March 27, 1967, April 17, 1967, October 14, 1970 and November 17, 1971 respectively to H. A. Pierce and R. E. Schuster, a partnership, doing business as Pierce-Schuster Truck Lines, Freeborn, Minn., authorizing the transportation of various commodities from and to specified points and areas in Minnesota, Iowa, Wisconsin, South Dakota, Wyoming, North Dakota, Nebraska, Michigan and Montana. F. H. Kroeger, 2288 University Ave., St. Paul, Minn. 55114, representative for applicants.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.74-3173 Filed 2-6-74;8:45 am]

[Notice No. 10]

**MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS**

FEBRUARY 1, 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<sup>1</sup> 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 on or before March 11, 1974. 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 2253 (Sub-No. 66), filed December 12, 1973. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, N.C. Highway 150, East, Cherryville, N.C. 28021. Applicant's representative: J. S. McCallie, P.O. Box 697, Cherryville, N.C. 28021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen single strength orange juice*, from Spartanburg, S.C., to Detroit, Mich.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at Spartanburg, S.C., to provide service from North Carolina, Florida, Georgia, and South Carolina, to Detroit, Mich. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Charlotte, N.C.

No. MC 2860 (Sub-No. 141) (Correction), filed December 6, 1973, published in the FEDERAL REGISTER issue of January 24, 1974, and republished as corrected this issue. 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: *Containers, and container ends, and accessories, materials, equipment, and supplies* used in the manufacture, sale, and distribution of containers (except commodities in bulk), from Albany, N.Y., to Columbus and Worthington, Ohio.

NOTE.—The purpose of this republication is to correct the commodity description to include supplies used in the manufacture, sale and distribution of containers (except commodities in bulk). Applicant states that the requested authority can be tacked with its existing authority at Albany, N.Y., to provide a through service from the Middle Atlantic territory to Columbus and Worthington, Ohio. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 25399 (Sub-No. 10) (Clarification), filed June 11, 1973, published in the FEDERAL REGISTER issue of August 30, 1973, republished as corrected in the FR issue of October 17, 1973, and in third publication as clarified this issue. Applicant: A-P-A TRANSPORT CORP., 2100 85th Street, North Bergen, N.J. 07047. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, house-

<sup>1</sup> Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

hold goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and commodities requiring special equipment), between points in Middlesex County, N.J., and Philadelphia, Pa., commercial zone as defined by the Commission, on the one hand, and, on the other, points in Salem, Atlantic, Cumberland, and Cape May Counties, N.J.

NOTE.—Applicant indicates that the requested authority can be tacked at points in Middlesex County, N.J., and Philadelphia, Pa., and points in its commercial zone as defined by the Commission, to provide service between points in New Jersey, New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, and Pennsylvania. The purpose of this republication is to clarify applicant's tacking possibilities. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Philadelphia, Pa.

No. MC 29886 (Sub-No. 304), filed December 27, 1973. Applicant: DALLAS AND MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled commodities*, weighing less than 15,000 pounds, from Nunda, N.Y., to points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, and Wisconsin, restricted against tacking with any existing authority.

NOTE.—Common control has been approved in Docket No. MC-F-4796. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Chicago, Ill.

No. MC 29886 (Sub-No. 305), filed January 7, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles* weighing 15,000 pounds or more, from points in Franklin County, Pa., to points in Alabama, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia and Wisconsin.

NOTE.—Common control was approved in MC-F-4796. 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 30844 (Sub-No. 492), filed January 7, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125

Commercial Street, P.O. Box 5000, Waterloo, Iowa 50702. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Bldg., Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, frozen and non-frozen, and *non-edible foods* (except commodities in bulk), from Logansport, Ind., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

**NOTE.**—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 33641 (Sub-No. 110), filed January 2, 1974. Applicant: IML FREIGHT, INC., 2175 South 3270 West, Salt Lake City, Utah 84110. Applicant's representative: Carl L. Steiner, 39 South La Salle 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, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Blackfoot and the Firth, Idaho, as off route points in connection with applicant's regular route between Afton, Wyo., and Pocatello, Idaho.

**NOTE.**—If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 35045 (Sub-No. 14), filed December 6, 1973. Applicant: HORNE HEAVY HAULING, INC., 1124 De Kalb Avenue NE., Atlanta, Ga. 30307. 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: (1) *Electrostatic precipitators, parts and related materials*, from Little Rock, Ark., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, and (2) *return of damaged or refused shipments*.

**NOTE.**—Applicant holds contract carrier authority in MC 134797, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 42487 (Sub-No. 813), filed October 23, 1973. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: E. T. Liipfert, Suite 1100, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of un-

usual value, Classes A and B explosives, livestock, green hides, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the terminal site of Consolidated Freightways Corporation of Delaware located in Montgomery Township (Orange County), N.Y., as an off-route point in connection with carrier's regular route authority.

**NOTE.**—Common control was approved in MC-F-7000 and MC-F-11737. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 43475 (Sub-No. 57), filed December 26, 1973. Applicant: GLENDENNING MOTORWAYS, INC., 1665 West County Road C, St. Paul, Minn. 55113. Applicant's representative: James L. Nelson, 325 Cedar Street, St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, from Duluth, Minn., to Appleton and Sheboygan, Wis., and (2) *returned shipments* 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 either St. Paul or Duluth, Minn.

No. MC 51146 (Sub-No. 352), filed January 2, 1974. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Charles W. Singer, 327 South La Salle Street, Suite 1000, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignin, liquor, and lignin pitch* (except commodities in bulk), from Oconto Falls and Green Bay, Wis., to points in Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and West Virginia.

**NOTE.**—Common control was approved in MC-F-10380 and MC-F-11307. Applicant states that the requested authority can be tacked with its existing authority in Sub-No. 204 at Green Bay, Wis., to provide a through service from Appleton, Neenah, Menasha, Oshkosh, Fond du lac, Waupun, and West Bend, Wis., and Chicago, Ill., to the destination points named above. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 51146 (Sub-No. 353), filed January 2, 1974. Applicant: SCHNEIDER TRANSPORT, INC., 2661 S. Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products*, from Green Bay, Eau Claire and Chippewa Falls, Wis., to points in New Mexico, Colorado, Kansas, Oklahoma, and Texas.

**NOTE.**—Common control has been approved in Docket No. MC-F-10280 and MC-F-11307.

Applicant states that the requested authority can be tacked in Sub-No. 204, at Green Bay, Wis., to provide a through service from Appleton, Neenah, Menasha, Oshkosh, Fond du lac, Waupun and West Bend, Wis., and Chicago, Ill., to the destination points named above. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 52598 (Sub-No. 5), filed December 26, 1973. Applicant: SIOUX CITY REFRIGERATED EXPRESS, INC., P.O. Box 1054, Friend, Nebr. 68359. Applicant's representative: David R. Parker, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wheels, wheel rims, and related mounting hardware, hubs and clamps*, from the plantsites and facilities of Peterson Manufacturing Company located at or near Plainfield, Ill., to points in Montana, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, and Wisconsin and (2) *commodities* used in the manufacture, sale and distribution of the commodities described in (1) above, from points in Montana, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, and Wisconsin, to the plantsites and facilities of Peterson Manufacturing Company located at or near Plainfield, Ill., restricted against commodities in bulk, in tank vehicles, and further restricted to shipments originating at or destined to the plantsites and facilities of Peterson Manufacturing Company, and restricted to a transportation service to be performed under a continuing contract or contracts with Peterson Manufacturing Company.

**NOTE.**—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 52704 (Sub-No. 112), filed December 28, 1973. Applicant: GLENN McLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, Ala. 36862. Applicant's representative: Archie B. Gulbreth, 1252 West Peachtree Street NW., Suite 246, Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal*, except in bulk, and *lighter fluid (naphtha distillate)*, *hickory chips*, *fireplace logs*, and *vermiculite*, other than crude, except in bulk, when moving in mixed shipments with charcoal, from the plantsite of Kingsford Company at or near Burnside, Ky., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

**NOTE.**—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 59075 (Sub-No. 2), filed January 2, 1974. Applicant: BRAUNSTEIN EXPRESS CO., INC., 124 West 36th Street, New York City, N.Y. 10018. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought

to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, on hangers, and in cartons, (1) from the facilities of Uneeda Terminal Corp., Hoboken, N.J., to points in Nassau and Suffolk Counties, N.Y., and points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, N.J., and (2) from Nassau and Suffolk Counties, N.Y., to the facilities of Uneeda Terminal Corp., Hoboken, N.J.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 59098 (Sub-No. 7), filed December 21, 1973. Applicant: KNAPP'S EXPRESS, INC., 37 Emerson Street, Ridgefield Park, N.J. 07660. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings*, and *equipment, materials, and supplies* used in the installation of floor coverings (except in bulk), from New York, N.Y., to points in Suffolk County, N.Y.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at New York, N.Y., to provide a through service from points in New Jersey to points in Suffolk County, N.Y. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 59583 (Sub-No. 140) (CORRECTION), filed December 13, 1973, published in the FEDERAL REGISTER issue of January 24, 1974, and republished as corrected this issue. Applicant: MASON AND DIXON LINES, INC., Eastman Road, P.O. Box 969, Kingsport, Tenn. 37662. 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 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 which because of size or weight require the use of special equipment), serving the plant site of Charlotte Pipe and Foundry Company, at or near Bakers, N.C., as an off-route point in connection with applicant's regular route operations.

NOTE.—The purpose of this republication is to correct the applicant's proposed authority as a regular route which was previously published as an irregular route. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 61396 (Sub-No. 264), filed December 21, 1973. Applicant: HERMAN BROS., INC., 2565 St. Mary's Avenue, 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: *Liquified petroleum gas*, in bulk, in tank vehicles, from the site of

the terminal of Northern Propane Gas Company, located at or near Rosemount, Minn., to points in Wisconsin, Iowa, North Dakota, South Dakota, Minnesota, and the upper peninsula of Michigan.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Omaha, Nebr.

No. MC 61592 (Sub-No. 316), filed January 2, 1974. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, Iowa 52722. Applicant's representative: E. A. DeVine (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods* and (2) *materials, equipment, and supplies* used in the preparation and distribution of frozen foods, (1) from the plantsites and facilities utilized by Kitchens of Sara Lee located at or near New Hampton, Iowa, Deerfield and Chicago, Ill., to points in Oklahoma, Texas, Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia; and (2) from points in Oklahoma, Texas, Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia, to the plantsites and facilities utilized by Kitchens of Sara Lee located at or near New Hampton, Iowa, Deerfield and Chicago, Ill.

NOTE.—Common control was approved in Docket Nos. MC-107409, MC-F-10387, and MC-F-10697. 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 63417 (Sub-No. 59), filed January 4, 1974. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., 1814 Hollins Road NE., P.O. Box 2888, Roanoke, Va. 24001. Applicant's representative: Nancy Pyeatt, 420 Executive Bldg., 1030 15th St., NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Nichols, S.C., to Sumter, S.C., and points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, and Texas.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Richmond, Va., or Washington, D.C.

No. MC 65802 (Sub-No. 54), filed January 2, 1974. 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), be-

tween points in Washington and Oregon, on the one hand, and, on the other, ports of entry on the United States-Canada International Boundary line located at or near Blaine, Lyden, Sumas, and Oroville, Wash., restricted to shipments originating at or destined to points in the Yukon Territory of Canada.

NOTE.—Applicant holds contract carrier authority in MC 136438 Sub 1, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 71074 (Sub-No. 7), filed January 2, 1974. Applicant: WAREHOUSE TRANSPORT, INC., 211 Plainfield Street, Springfield, Mass. 01107. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses and in connection therewith the *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk) between Springfield and Chicopee, Mass., East Hartford, Conn., and Cranston, R.I., on the one hand, and, on the other, points in Vermont on and west of Vermont Highway 100 and points in New York on and east of a line beginning at Clayton, N.Y., thence south along New York Highway 12 to its junction with New York Highway 8, thence south along New York Highway 8 to its junction with New York Highway 17, thence east along New York Highway 17 to its junction with Interstate Highway 84, and on and north of Interstate Highway 84 to the New York-Connecticut State Boundary line under a continuing contract or contracts with The Great Atlantic & Pacific Tea Co., Inc.

NOTE.—Common control was approved in MC-F-10235. If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., Boston, Mass., or Providence, R.I.

No. MC 71459 (Sub-No. 40), filed December 27, 1973. Applicant: O.N.C. FREIGHT SYSTEMS, a Corporation, 2800 West Bayshore Road, Palo Alto, Calif. 94303. Applicant's representative: Roland Rice, 1111 E St. NW., Suite 618, Perpetual Bldg., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over alternate 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), (A) Between Las Cruces, N. Mex., and (1) Pasco, Wash., and (2) Maryhill, Wash., in connection with carrier's authorized regular route operations, serving no intermediate points, and serving junctions of (a) Interstate 80N and U.S. Highway 97, (b) Interstate Highway 80 and U.S. Highway 89, and (c) Interstate Highway 40 and U.S. Highway 85 for purposes of joinder only: From Las Cruces, over U.S. Highway 85 (Interstate 25) to junction New

Mexico Highway 44, thence over New Mexico Highway 44 to junction U.S. Highway 550, thence over U.S. Highway 550 to junction U.S. Highway 160, thence over U.S. Highway 160 to junction U.S. Highway 666, thence over U.S. Highway 666 to junction U.S. Highway 163, thence over U.S. Highway 163 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction U.S. Highway 89 (Interstate 15), thence over U.S. Highway 89 (Interstate 15), to junction Interstate Highway 80N, thence over Interstate Highway 80N to junction (1) U.S. Highway 395, thence over U.S. Highway 395 to Pasco, and return over the same route, and (2) over the above described route to junction Interstate Highway 80N and U.S. Highway 395, thence over Interstate Highway 80N to junction U.S. Highway 97, thence over U.S. Highway 97 to Maryhill, and return over the same route; (B) Between Flagstaff, Ariz., and junction Interstate Highway 40 and U.S. Highway 85, in connection with carrier's authorized regular route operations, serving no intermediate points and serving the termini for purposes of joinder only: From Flagstaff over Interstate Highway 40 to junction U.S. Highway 85, and return over the same route; (C) Between junction U.S. Highway 395 and Interstate Highway 80 and junction Interstate Highway 80 and U.S. Highway 89, in connection with carrier's authorized regular route operations, serving no intermediate points and serving termini for purposes of joinder only: From junction U.S. Highway 395 and Interstate Highway 80, over Interstate Highway 80 to junction U.S. Highway 89, and return over the same route; and (D) Between Phoenix, Ariz., and Reno, Nev., in connection with carrier's authorized regular route operations, serving no intermediate points: From Phoenix over U.S. Highway 89 to junction U.S. Highway 95, thence over U.S. Highway 95 to junction Alternate U.S. Highway 95, thence over Alternate U.S. Highway 95 to junction Interstate Highway 80, thence over Interstate Highway 80 to Reno, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 72997 (Sub-No. 23), filed December 26, 1973. Applicant: LIBERTY TRUCKING COMPANY, a Corporation, 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: *General commodities*, between Madison and Lodi, Wis., serving all intermediate points: (1) From Madison over U.S. Highway 12 to its junction with Dane County Trunk "P" at or near Springfield Corners, thence north along Dane County Trunk "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.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison or Lodi, Wis.

No. MC 75281 (Sub-No. 6), filed January 2, 1974. Applicant: RIGHTER TRUCKING COMPANY, INCORPORATED, 1238 Meadowbrook Lane, Cape Girardeau, Mo. 63701. Applicant's representative: Billy J. Oxford (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Ground silica*, in bags, from Tamms, Ill., to points in Florida.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Memphis, Tenn.

No. MC 76449 (Sub-No. 17), filed December 17, 1973. Applicant: NELSON'S LERSBURG, Pa. 17061. Applicant's representative: John W. Frame, 2207 Old Gettysburg Road, P.O. Box 626, Camp Hill, Pa. 17011. 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, and commodities contaminating to other lading), (1) Between Sunbury, Pa., and Bloomsburg, Pa., serving all intermediate points: From Sunbury, Pa., over Pennsylvania Highway 147 to its junction with Pennsylvania Highway 54; thence in an easterly direction over Pennsylvania Highway 54 to its junction with Pennsylvania Highway 44 to its junction with Pennsylvania Highway 254 at Jerseytown, Pa., thence continuing on Pennsylvania Highway 254 to its junction with Pennsylvania Highway 487 at or near Benton, Pa.; thence in southerly direction over Pennsylvania Highway 487 to its junction with U.S. Highway 11 at Bloomsburg, Pa., and return over the same route; (2) Between Northumberland, Pa., and Shickshinny, Pa., serving all intermediate points: From Northumberland, Pa., over U.S. Highway 11 to Shickshinny, Pa., and return over the same route; (3) Between Bloomsburg, Pa., and Millville, Pa., serving all intermediate points: From Bloomsburg, Pa., over Pennsylvania Highway 42 to Millville, Pa., and return over the same route; (4) Between Milton, Pa., and Jerseytown, Pa., serving all intermediate points: From Milton, Pa., over Pennsylvania Highway 254 to Jerseytown, Pa., and return over the

same route; (5) Between Danville, Pa., and Turbotville, Pa., serving all intermediate points: From Danville, Pa., over Pennsylvania Highway 54 to its junction with Pennsylvania Highway 44 and thence westerly to Turbotville, Pa., over Pennsylvania Highway 44, and return over the same route; (6) Between Berwick, Pa., and Sybertsville, Pa., serving all intermediate points:

From Berwick, Pa., over U.S. Highway 11 to its junction with Pennsylvania Highway 93, and thence southwesterly over Pennsylvania Highway 93 to Sybertsville, Pa., and return over the same route; (7) Between Sunbury, Pa., and Frackville, Pa., serving all intermediate points: From Sunbury, Pa., over Pennsylvania Highway 61 to its junction with Pennsylvania Highway 890, thence southerly over Pennsylvania Highway 890 to its junction with Pennsylvania Highway 225 near Trevorton, Pa., thence easterly over Pennsylvania Highway 225 to Shamokin, Pa., thence over Pennsylvania Highway 61 to Frackville, Pa., and return over the same route; (8) Between Sunbury, Pa., and Mt. Carmel, Pa., serving all intermediate points: From Sunbury, Pa., over Pennsylvania Highway 61 to Paxinos, Pa., thence over Pennsylvania Highway 487 to its junction with Pennsylvania Highway 54 at Elysburg, Pa., thence south over Pennsylvania Highway 54 to its junction with Pennsylvania Highway 61 near Mt. Carmel, Pa., and thence easterly over Pennsylvania Highway 61 to Mt. Carmel, Pa., and return over the same route; (9) Between Sunbury, Pa., and Shamokin, Pa., serving all intermediate points: From Sunbury, Pa., over Pennsylvania Highway 61 to Shamokin, Pa., and return over the same route; (10) Between Paxinos, Pa., and Elysburg, Pa., serving all intermediate points: From Paxinos, Pa., over Pennsylvania Highway 487 to Elysburg, Pa., and return over the same route; (11) Between Ashland, Pa., and Frackville, Pa., serving all intermediate points:

From Ashland, Pa., over Pennsylvania Highway 54 to Shenandoah, Pa., thence southerly over Pennsylvania Highway 924 to Frackville, Pa., and return over the same route; (12) Between Danville, Pa., and Elysburg, Pa., serving all intermediate points: From Danville, Pa., over Pennsylvania Highway 54 to Elysburg, Pa., and return over the same route; (13) Alternate route serving between Herndon, Pa., and Sunbury, Pa.: From Herndon, Pa., over Pennsylvania Highway 147 to Sunbury, Pa., and return over the same route, for operating convenience only; and (14) Between all points on Interstate Highway 80 at or near Milton, Pa., and its junction with Pennsylvania Highway 93 near Nescopek, Pa.: From Milton, Pa., over Interstate Highway 80 to junction Pennsylvania Highway 93, thence over Pennsylvania Highway 93 to Nescopek, Pa., and return over the same route, serving (1) through (14) above (except 13), off-route points in Pennsylvania in connection with the above-described regular routes as follows:

Aristes, Beaverdale, Bloomingdale, Brandonville, Buckhorn, Catawissa, Central, Centralia, Clarkstown, Coles Creek, Conyngham, Divide, Elk Grove, Excelsior, Fairmount Springs, Fern Glen, Gordon, Gowen City, Greenbrier, Harveyville, Helfenstein, Hetlerville, Hobby, Huntington Mills, Jonestown, Lairds-ville, Lavelle, Line Mountain, Locust Gap, Lola, Mable, Mainville, Marion Heights, Mausdale, McEwinsville, Mifflinville, Millgrove, Mocanaqua, Mooresburg, New Columbus, Newlin, North Mountain, Numidia, Nuremberg, Oneida, Ottawa, Pine Summit, Pitman, Potts Grove, Rebuck, Ringtown, Rock Glen, Rough & Ready, Rupert, Sereno, Shepp-ton, Shumans, Slabtown, Snyderstown, Strawberry Ridge, Sybertsville, Tom-hicken, Unityville, Waller, Wapwallopen, Weishample, and Zions Grove.

NOTE.—The purpose of this application is to convert the applicant's identical irregular route authority in Sub-No. 7 and in Sub-No. 8, to regular route authority. If a hearing is deemed necessary, the applicant requests it be held at Harrisburg, Pa.

No. MC 83539 (Sub-No. 386), filed December 26, 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) *Agricultural and forest implements, plows, and planters*, and (2) *parts* for the items in (1) above, from Mableton, Ga., to points in the United States including Alaska but excluding Hawaii.

NOTE.—Common control was approved in Docket No. MC-F-9241. 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 100666 (Sub-No. 264), filed December 26, 1973. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 3535 NW. 58th, 280 National Foundation Life, Oklahoma City, Okla. 73112. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Particleboard*, from points in Monroe County, Ala., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Applicant states that the requested authority can be tacked (1) in Sub-No. 63, at the plant and warehouse sites of Dierks Forests, Inc., at Broken Bow, Okla., (2) in Sub-No. 67, at Duke, Okla., (3) in Sub-No. 101, at the plant site or storage facilities of International Paper Company at or near Gifford, Ark., (4) in Sub-No. 102, at Briar, Ark., (5) in Sub-No. 106, at Aeme, Tex., (6) in Sub-No. 178, at Miami, Okla., and (7) in Sub-No. 190, at Diboll, Tex., to serve points in Colorado and New Mexico, (8) in Sub-No. 39, at Craig, Okla. to serve points in Colorado, (9) in Sub-No. 216, at the plant site of the Permaner Corp. in Calhoun County, Ark., to serve points in the United States, and (10) in Sub-No. 159, at points in Monroe County, Ala. to provide a through service from Albu-

querque, N. Mex., to points in Florida. If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Shreveport, La.

No. MC 102616 (Sub-No. 889), filed January 2, 1974. Applicant: COASTAL TANK LINES, INC., 215 East Waterloo Road, Akron, Ohio 44319. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except Petrochemicals), in bulk, in tank vehicles, from Huntington, Ind., to points in Ohio, Michigan, and Illinois.

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 Chicago, Ill.

No. MC 102616 (Sub-No. 890), filed January 2, 1974. Applicant: COASTAL TANK LINES, INC., 215 East Waterloo Road, Akron, Ohio 44319. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Diesel fuel*, in bulk, in tank vehicles, from (1) Huron, Ohio, to points in Arkansas, Georgia, Illinois, Indiana, Kentucky, Michigan, Missouri, Tennessee, Texas, Virginia, and West Virginia; and (2) from Atlanta, Ga.; Charleston, W. Va.; Dallas, and Houston, Tex.; Detroit, and Grand Rapids, Mich.; Fort Wayne, and Indianapolis, Ind.; Little Rock, Ark.; Louisville, Ky.; Memphis, and Nashville, Tenn.; Peoria, Ill.; Roanoke, Va.; and St. Louis, Mo., to Huron, Ohio.

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 Cleveland, or Cincinnati, Ohio.

No. MC 103051 (Sub-No. 296), filed January 2, 1974. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Savannah, Ga., to points in Alabama, Florida, North Carolina, South Carolina, and Tennessee.

NOTE.—Dual operations and common control were approved in MC-F-11001. Applicant states that the requested authority can be tacked with its existing authority at Savannah, Ga.: (1) In the lead certificate, on petroleum products, in bulk, in tank vehicles, and on liquid aqua ammonia, in bulk, in tank vehicles to provide a through service from points in Montgomery County, Ala., and Ketona, Ala., respectively to points in North Carolina, South Carolina, and Florida; (2) in the lead certificate on chemicals (except hydrofluoric acid, such as naval stores as are chemicals, crude tall oil, sulphate, black liquor skimmings, and liquid alum), in bulk, in tank or hopper type vehicles, in Sub-No. 168, on commodities, in bulk (except petroleum products, salt cake, cement, naval stores, liquid sugar, and blends thereof, corn

syrum and vegetable oil), and in Sub-No. 203, on phosphate rock, diammonium phosphate, superphosphate, phosphoric acid, and superphosphoric acid, to provide a through service from Atlanta, Ga.; points in Muscogee County, Ga.; and points in Hamilton County, Fla., respectively, to points in North Carolina and South Carolina; (3) in Sub-No. 189, on dimethyl-terephthalate and terephthalic acid, in bulk, and in Sub-Nos. 217 and 230, on chemicals, in bulk, to provide a through service from the plantsite of Amoco Chemicals Corporation located at or near Decatur, Ala., points in Robertson County, Tenn., and LaVerne, Tenn., respectively, to points in Florida; and (4) in Sub-No. 249, on latex, in bulk, in tank vehicles, to provide a through service from points in Broward County, Fla., to points in North Carolina and Tennessee. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 103993 (Sub-No. 780) (Amendment), filed October 15, 1973, published in the FEDERAL REGISTER issue of December 6, 1973, and republished as amended this issue. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Buildings, building panels, building parts, and materials, accessories, and supplies* used in connection with the installation, erection, and construction of buildings, building panels, and building parts, from the plantsite and storage facilities of Butler Manufacturing Company at Birmingham, Ala., to points in the United States (except Alaska, Hawaii, and Alabama), and damaged, rejected, and returned shipments of the above described commodities, from the destination territory named above, to the plantsite and storage facilities of Butler Manufacturing Company at Birmingham, Ala.

NOTE.—Common control was approved in MC-F-10057. Applicant states that the requested authority can be tacked with its Sub-No. 21 on buildings at the facilities of Butler Manufacturing Company at Birmingham, Ala., to provide a through service from points in Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, Wisconsin, and West Virginia, to points in the United States (except Alaska, Hawaii, and Alabama). The purpose of this republication is to indicate applicant's tacking possibilities. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Chicago, Ill.

No. MC 103993 (Sub-No. 781) (Amendment), filed October 15, 1973, published in the FEDERAL REGISTER issue of December 6, 1973, and republished as amended this issue. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Buildings, building panels, building parts and materials, accessories and supplies* used in connection with the installation, erection and construction of

buildings, building panels and building parts, from the plantsite and storage facilities of Butler Manufacturing Company at Galesburg, Ill., to points in the United States (except Alaska, Hawaii, and Illinois), and *damaged, rejected or returned shipments* of the above commodities from said destination states, to the plantsite and storage facilities of Butler Manufacturing Company at Galesburg, Ill.

**NOTE.**—Common control was approved in Docket No. MC-F-10057. Applicant states that the requested authority can be tacked with its existing authority in Sub-Nos. 21 and 334 on buildings, and building sections, panels, materials, parts and accessories, at the facilities of Butler Manufacturing Company at Galesburg, Ill., to provide a through service from points in Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, Wisconsin, and West Virginia, to points in the United States (except Alaska, Hawaii, and Illinois). The purpose of this republication is to indicate applicant's tacking possibilities. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 103993 (Sub-No. 795), filed December 7, 1973. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Ave., Elkhart, Ind. 46514. Applicant's representative: James B. Buda (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Clay County, Miss., to points in the United States (except Alaska and 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, the applicant requests it be held at Chicago, Ill.

No. MC 106497 (Sub-No. 90), filed January 2, 1974. Applicant: PARKHILL TRUCK CO., a Corporation, P.O. Box 912, Business Route I-44 East, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight requires the use of special equipment, and related machinery, tools, parts, materials and supplies moving in connection therewith; (2) *self-propelled articles*, each weighing 15,000 pounds or more, and related machinery, tools, parts, materials and supplies moving in connection therewith, restricted to commodities which are transported on trailers; and (3) *commodities*, which do not require the use of special equipment, when moving in mixed loads and on the same bill of lading with commodities named in (1) or (2) above, between Indiana, Illinois, Kansas, Ohio, Tennessee, Kentucky, Missouri, Oklahoma, and Iowa, on the one hand, and, on the other, North Carolina, South Carolina, Alabama, Mississippi, Georgia, Florida, Virginia, Kentucky, and Tennessee.

**NOTE.**—Common control may be involved. Applicant states that the requested authority can be tacked (1) in Sub-Nos. 4 and 29, at points in Illinois, Indiana, Iowa, Kansas, Kentucky, Missouri, and Oklahoma, to provide service between points in Arkansas, Colorado, Louisiana, New Mexico, Texas, and Wyoming, on the one hand, and, on the other, points in North Carolina, South Carolina, Alabama, Mississippi, Georgia, Florida, Virginia, Kentucky, and Tennessee, and (2) by combining Sub-No. 4 and Sub-No. 29 with Sub-No. 48, tack at Wyoming to provide service between Oregon and Washington, 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 either Atlanta, Ga., or Nashville, Tenn.

No. MC 107002 (Sub-No. 441), filed October 29, 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: (1) *Chemicals, vegetable oil and vegetable oil products*, in bulk, in tank vehicles, from Oakdale, La., to points in Alabama, Florida, and Mississippi, and (2) *Liquid papermill and pulp-mill products, by products, and derivatives*, in bulk, in tank vehicles, from Bastrop, La., to points in Alabama and Mississippi.

**NOTE.**—Applicant states that the requested authority can be tacked with (1) of the above at (1) Cordova, Ala., to serve points in Tennessee and Georgia, (2) the site of Dixie Pine Line, Dempolis, Ala., to serve points in Tennessee and Georgia, (3) Fox, Ala., to serve New Albany, Ind., and Pauline, Kans., and points in Georgia, Kentucky, North Carolina, South Carolina, Arkansas, Tennessee, Oklahoma, Illinois, Ohio, and Texas, on and east of U.S. Highway 281, (4) points in Mississippi to serve points in Georgia, Tennessee, Alabama, and Arkansas, (5) Pclayune, Miss., to serve points in Arkansas, Connecticut, Georgia, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Oklahoma, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin, (6) Albertville, Ala., to serve points in Georgia, Tennessee, North Carolina, and South Carolina, (7) the site of Dixie Pipe Line, Opelika, Ala., to serve points in Georgia, (8) points in Washington County, Miss., to serve points in Arkansas, Georgia, Illinois, Indiana, Kentucky, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia, (9) Rogerslacy and Crupp, Miss., to serve points in Georgia, Tennessee, and Arkansas, (10) the site of Spencer Chemical Corporation, Vicksburg, Miss., to serve Arkansas, Georgia, and Tennessee, (11) the site of Mississippi Chemical Corporation, Yazoo City, Miss., to serve points in Arkansas, Georgia, and Tennessee, (12) the site of Coastal Chemical Corporation, Pascagoula, Miss., to serve points in Arkansas, Georgia, and Tennessee, (13) Nesbitt, Miss., to serve points in Arkansas, Tennessee, Missouri, and Kentucky, (14) the site of Mid-South Chemical Company, Friars Point, Miss., to serve points in Tennessee on and west of U.S. Highway 45E, (15) points in Warren County, Miss., to serve points in Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York,

North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, (16) Clarksdale, Cleveland, and Marks, Miss., to serve points in Arkansas and Tennessee, (17) Mobile, Ala., to serve points in Georgia, Arkansas, Michigan, Tennessee, and Texas, (18) Monsanto Chemical Co., Anniston, Ala., to serve points in St. Louis, Missouri-East St. Louis Commercial Zone, points in Carter, Greene, Hawkins, Johnson, Sullivan, and Washington Counties, Tenn., and points in North Carolina, West Virginia, Arkansas, and Kentucky, (19) McIntosh, Ala., to serve points in Arkansas, Georgia, North Carolina, Ohio, South Carolina, and Tennessee, (20) Anniston, Ala., to serve points in Georgia, North Carolina, South Carolina, Tennessee, and Virginia, (21) Huntsville, Ala., to serve points in Georgia and Tennessee, (22) points in Alabama to serve points in South Carolina and Tennessee, (23) LeMoyné, Ala., to serve points in Georgia, North Carolina, South Carolina, Tennessee, Arkansas, Illinois, Indiana, and Iowa, (24) Bay Minette, Ala., to serve Burlington, Iowa, and points in Georgia, Illinois, Indiana, Ohio, Kentucky, Tennessee, New York, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, and Texas, (25) Tupelo, Miss., to serve points in Arkansas, Missouri, and Tennessee, (26) Hattiesburg, Miss., to serve points in Arkansas, Georgia, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, (27) Decatur, Ala., to serve points in Georgia, Indiana, Kentucky, North Carolina, South Carolina, Tennessee, and Texas, (28) the plant site of LiFerKo, Inc., at or near Madison, Ala., to serve points in Georgia and Tennessee, (29) Naheola, Ala., to serve points in Georgia and Tennessee, (30) the site of Amoco Chemicals Corp., Decatur, Ala., to serve Georgia, Kentucky, Illinois, Indiana, North Carolina, Ohio, South Carolina, and Tennessee, (31) Vicksburg, Miss., to serve points in Arkansas, Georgia, Kentucky, and Texas, (32) Canton, Hattiesburg, Meridian, and New Albany, Miss., to serve points in Arkansas and Tennessee, (33) points in Monroe County, Miss., to serve points in Arkansas, Georgia, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, (34) the plant site of American Mineral Spirits Company, Birmingham, Ala., to serve points in Georgia, (35) Port Birmingham, Ala., to serve points in Georgia and Tennessee, (36) McComb, Miss., to serve points in Arkansas, Georgia, Tennessee, and Texas, (37) Lynn Park, Ala., to serve points in Kentucky, (38) points in Jackson, and Harrison Counties, Miss., to serve points in Arkansas, Georgia, Illinois, Indiana, Kansas, Kentucky, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, (39) Louisville, Miss., to serve points in Arkansas, and Tennessee on, west and south of U.S. Highways 27 and 70, (40) Hamilton, Miss., to serve points in Arkansas, Georgia, and Tennessee, (41) Dothan, Ala., to serve points in New York, (42) River Falls, Ala., to serve points in Georgia, South Carolina, and Tennessee, (43) Tuscaloosa, Ala., to serve points in Georgia, North Carolina, South Carolina, and Tennessee, (44) Pensacola, Fla., to serve Memphis, and Nashville, Tenn., and points in Georgia, (45) points in Union County, Miss., to serve Memphis, Tenn., (46) Friars Point, Miss., to serve points in Arkansas, (47) Hazlehurst, Miss., to serve points in Arkansas and Wisconsin, (48) Greenville, Miss., to serve points in Arkansas, (49) the site of Hayden Newport Chemical Corp., Pensacola, Fla., to serve points in Texas, (50) Panama City, Fla., to serve points in Georgia, (51) Santa Rosa County, Fla., to serve points in Arkansas, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia, (52) West

Point, Miss., to serve points in Tennessee, (53) the site of Coastal Chemical Corp., Eufaula, Ala., to serve points in Georgia, (54) Yazoo City, Miss., to serve points in Texas, (55) the site of Allied Chemical Corp., Greenville, Miss., to serve points in Oklahoma, Tennessee, and Texas, (56) Friars Point, Miss., to serve points in Arkansas, Missouri, and Tennessee; and with (2) above on those commodities consisting of chemicals or vegetable oils may be tacked at (1) Fox, Ala., to serve points in Arkansas, Georgia, Kentucky, North Carolina, Oklahoma, South Carolina, and Tennessee, (2) points in Mississippi to serve points in Florida, Georgia, and Tennessee, (3) Pfcayune, Miss., to serve points in Arkansas, Connecticut, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Oklahoma, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin, (4) Hazlehurst, Miss., to serve points in Arkansas and Wisconsin, (5) the site of Monsanto Chemical Co., Anniston, Ala., to serve St. Louis, Mo., and points in Arkansas, Kentucky, North Carolina, and West Virginia, (6) McIntosh, Ala., to serve points in Arkansas, Florida, North Carolina, Georgia, Ohio, South Carolina, and Tennessee, (7) Mobile, Ala., to serve Panama City, and Cantonment, Fla., and points in Arkansas, Florida, Georgia, and Tennessee, (8) Bay Minette, Ala., to serve Burlington, Iowa, and points in Illinois, Indiana, Ohio, Kentucky, Tennessee, New York, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, and Texas, (9) LeMoyne, Ala. to serve points in Arkansas, Florida, Georgia, North Carolina, South Carolina, and Tennessee, (10) Vicksburg, Miss., to serve points in Arkansas, Georgia, and Kentucky, (11) Hattiesburg, Miss., to serve points in Arkansas, Florida, Georgia, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, (12) Jackson, Miss., to serve points in Tennessee, (13) Louisville, Miss., to serve points in Arkansas, and Tennessee, (14) Decatur, Ala., to serve points in Florida, Georgia, Indiana, Kentucky, North Carolina, South Carolina, Tennessee, and Texas, (15) Hamilton, Miss., to serve points in Arkansas, Florida, Georgia, and Tennessee, (16) Dothan, Ala., to serve points in New York, (17) River Falls, Ala., to serve points in Florida, Georgia, South Carolina, and Tennessee, and (18) points in Harrison and Jackson Counties, Miss., to serve points in Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or New Orleans, La.

No. MC 107002 (Sub-No. 442) (ANNOTATION), filed October 29, 1973, published as No. MC-107002 (Sub-No. 441) in the FEDERAL REGISTER issue of January 24, 1974, and republished, in part, as annotated this issue. 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.

NOTE.—The sole purpose of this notice is to indicate the correct Sub-Number assigned to this proceeding as No. MC-107002 (Sub-No. 442) in lieu of No. MC-107002 (Sub-No. 441) which was previously published in error.

No. MC 107002 (Sub-No. 448), filed January 2, 1974. 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 Sta-

tion, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible lard*, in bulk, in tank vehicles, from Tupelo, Miss., to points in Texas.

NOTE.—Applicant states that the requested authority can be tacked at Tupelo, Miss., to provide a through service from points in Alabama to points in Texas. If a hearing is deemed necessary, the applicant requests it be held at either Jackson, Miss., or Memphis, Tenn.

No. MC 107012 (Sub-No. 195), filed January 7, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Appliances*, from Searcy, Ark., to points in California, Utah, Arizona, Colorado, New Mexico, Nebraska, Kansas, Oklahoma, Texas, Louisiana, Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, Virginia, South Carolina, and North Carolina and (2) *returned or damaged shipments* of the commodity specified above, from the destination points specified in (1) above, to Searcy, Ark.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Memphis, Tenn.

No. MC 107012 (Sub-No. 196), filed January 7, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Lakeland, Fla., and points in Lee County, Miss., to points in the United States (except Washington, Oregon, Idaho, Nevada, California, Arizona, Wisconsin, Illinois, Missouri, Indiana, Michigan, Ohio, Alaska, and Hawaii).

NOTE.—Common control and dual operations may be involved. The purpose of this application is to eliminate an Arkansas gateway. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107403 (Sub-No. 876), filed January 2, 1974. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry resins*, in bulk, from Houston, Tex., to points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia.

NOTE.—Common control was approved in MC-F-10612. 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 107403 (Sub-No. 878), filed January 7, 1974. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from the plantsite and facilities of Dow Chemical Company at Midland, Mich., Hanging Rock, Ohio, Pevely, Mo., and Channahon Township (Will County), Ill., to points on and east of U.S. Highway 85, restricted to shipments originating at the plantsite and storage facilities of Dow Chemical Company.

NOTE.—Common control was approved in MC-F-10612. 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 107496 (Sub-No. 928), filed December 26, 1973. Applicant: RUAN TRANSPORT CORPORATION, Third at Keosauqua Way, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in bulk, from Grand Island, Nebr., to points in Oklahoma; (2) *fly ash*, in bulk, in tank vehicles, from Bartonville, and East Peoria, Ill., to Clarksville, Mo.; (3) *liquefied petroleum gas*, from the site of the terminal of Northern Propane Gas Co. at or near Rosemount, Minn., to points in Wisconsin, Iowa, North Dakota, South Dakota, Minnesota, and the Upper Peninsula of Michigan; (4) *liquid oxygen, liquid nitrogen, and liquid argon*, from Waukesha, Wis., Chicago and Morris, Ill., and Albion, Mich., to points in Minnesota, Illinois, North Dakota, South Dakota, and Wisconsin; (5) *phosphatic materials*, in bulk, from Topeka, Kans., to points in Minnesota and South Dakota; and (6) *liquid fertilizer*, in bulk, in tank vehicles, (a) from Doniphan, Nebr., and Kansas City, Mo., to points in Kansas, and (b) from Kansas City, Mo., and Kansas City, Kans., to points in Nebraska.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority on (1) above in Sub-No. 110 at Grand Island, Nebr., to provide a through service from points in Nebraska to points in Oklahoma; on (2) above in Sub-Nos. 685 and 708 at Bartonville and East Peoria, Ill., to provide a through service from Indianapolis, Ind., and Milwaukee, Wis., to Clarksville, Mo.; on (3) above in the lead certificate at Dubuque, Bettendorf, and Burlington, Iowa, to serve points in Illinois; in Sub-No. 258 at points in Pennington County, S. Dak., to serve points in Montana, Wyoming, and Nebraska; in Sub-No. 412 at Cantril, Iowa, to serve points in Missouri, and in Sub-No. 110 at Council Bluffs and Sioux City, Iowa, to serve points in Nebraska and Kansas; on (4) above in Sub-Nos. 234, 361, and 471 at the E. Dubuque, Mapleton, and Niota, Ill., plantsites to serve

points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, Ohio, Tennessee, Utah, Wyoming, and Wisconsin; on (5) above in Sub-No. 289, on liquid fertilizer, at Springfield and Willmar, Minn., to serve points in North Dakota, and Wisconsin, and on dry fertilizer materials at Pine Bend, Minn., to serve points in North Dakota, and Wisconsin; and on (6) above in Sub-No. 61, on liquid fertilizer, at LaPlatte, Nebr., to provide a through service from Kansas City, Mo., and Kansas City, Kans., to points in Illinois, Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin; on liquid fertilizer in Sub-No. 110 at Military and Lawrence, Kans., to serve points in Iowa, Missouri, and Nebraska; at Herman, Nebr., to provide a through service from Kansas City, Mo., and Kansas City, Kans., to points in Minnesota; and at LaPlatte, Nebr., to provide a through service from Kansas City, Mo., and Kansas City, Kans., to points in Colorado; and in Sub-No. 319 on fertilizer, at Fremont, Nebr., to provide a through service from Kansas City, Mo., and Kansas City, Kans., to points in Minnesota, North Dakota, South Dakota, Illinois, Iowa, Kansas, and Missouri. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Omaha, Nebr.

No. MC 107576 (Sub-No. 24), filed December 17, 1973. Applicant: SILVER WHEEL FREIGHTLINES, INC., 1321 SE. Water Avenue, Portland, Oreg. 97214. Applicant's representative: Kenneth G. Thomas, 620 SW. Fifth Avenue, Suite 1010, Portland, Oreg. 97204. 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, from the facilities of Missouri Beef Packers, Inc., located at or near Boise, Idaho, to points in Idaho, Oregon, and Washington.

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 Portland, Oreg.

No. MC 110563 (Sub-No. 124), filed January 3, 1974. 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: *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 Certificate* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Omaha, Nebr., Sioux City, Iowa, and Fargo, N. Dak., to points in Florida, Georgia, North Carolina, South Carolina, Tennessee, and Alabama, restricted to traffic originating at the plantsites and warehouse facilities utilized by Flavorland Industries, Inc., at or near the above points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, Omaha, Nebr., or Des Moines, Iowa.

No. MC 112107 (Sub-No. 7), filed January 4, 1974. Applicant: NEW ENGLAND MOTOR FREIGHT, INC., 520 Main Street, Wallington, N.J. 07057. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Cable, wire, and empty reels*, Serving Trenton, N.J., as an off-route point in connection with applicant's authorized regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 112595 (Sub-No. 55), filed January 2, 1974. Applicant: FORD BROTHERS, INC., Box 727, Ironton, Ohio 45638. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from Midland, Mich., Hanging Rock, Ohio, Pevely, Mo., and Channahon Township (Will County), Ill., to points on and east of U.S. Highway 85, and restricted to traffic originating at the named origins and destined to the named destination area.

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 Detroit, Mich., or Washington, D.C.

No. MC 112750 (Sub-No. 305), filed December 26, 1973. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments* (except currency and negotiable securities) as are used in the business of banks and banking institutions, (1) between Quincy, Ill., and Fort Madison, Iowa; (2) between Chicago, Ill., and Evansville, Ind.; and (3) between points in Hartford County, Conn., and Portland, Maine, under contract with banks and banking institutions.

NOTE.—Applicant holds common carrier authority in MC 111729 and subs thereunder, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112822 (Sub-No. 308), filed December 26, 1973. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, and *advertising materials and articles* distributed or used by wholesale or retail suppliers, marketers, or distributors of petroleum products when moving in the same vehicle

and at the same time with petroleum products, in containers, from Ponca City, Okla., to Alabama, Florida, Georgia, Iowa, Illinois, Louisiana, Minnesota, Mississippi, North Carolina, South Carolina, Tennessee, 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 Houston or Dallas, Tex.

No. MC 112822 (Sub-No. 309), filed December 26, 1973. Applicant: BRAY LINES INCORPORATED, 1401 N. Little St., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and canned goods*, from the plantsite and warehouse facilities of Skyland Foods at or near Delta, Colo., to points in Idaho, Utah, Wyoming, South Dakota, Nebraska, Kansas, Minnesota, Wisconsin, Iowa, Illinois, Missouri, Arkansas, Mississippi, and Louisiana.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Oklahoma City, Okla.

No. MC 112822 (Sub-No. 312), filed January 7, 1974. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from (1) points in Washington, Idaho, Oregon, and California, to the plantsite and warehouse facilities of John Inglis Company at or near Ogden, Utah; and (2) from the plantsite and warehouse facilities of John Inglis Company at or near Ogden, Utah, to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Texas, 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 San Francisco or Los Angeles, Calif.

No. MC 113362 (Sub. No. 265), filed January 2, 1974. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: James R. Ellsworth, 4500 N. State Line Road, Texarkana, Ark. 75501. 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, from Amarillo, Tex., to North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Maine, Vermont, New Hampshire,

Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, West Virginia, Virginia, and Maryland, restricted to shipments originating at plantsite and facilities utilized by John Morrell & Co.

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 Amarillo, Tex.

No. MC 113410 (Sub-No. 84), filed January 7, 1974. Applicant: DAHLEN TRANSPORT, INC., 1680 Fourth Avenue, Newport, Minn. 55055. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in bulk, in tank vehicles, from points in Dakota, Hennepin, Ramsey, Scott, and Washington Counties, Minn., to points in Iowa, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan; (2) *petroleum products*, in bulk, in tank vehicles, from the Port of Entry on the International Boundary Line between the United States and Canada located near Noyes, Minn., to points in Minnesota; (3) *molten sulfur*, in bulk, in tank vehicles, (a) from Pine Bend, Minn., to points in Iowa, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan and (b) from Superior, Wis., to points in Minnesota and the Upper Peninsula of Michigan; and (4) *resin*, in bulk, in tank vehicles, from Minneapolis, Minn., to points in Iowa, Minnesota, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan.

NOTE.—Common control was approved in MC-F-6554. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn., or Chicago, Ill.

No. MC 113843 (Sub-No. 199), filed December 26, 1973. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. 60603. 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 hides and commodities in bulk), from the plant sites and storage facilities of Farmland Foods, Inc., located at or near Carroll, Iowa, to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Maryland, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the above origin and destined to the named destinations.

NOTE.—Common control may be involved. Applicant states that the requested author-

ity cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113678 (Sub-No. 532), filed December 26, 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: *Bakery goods* (except frozen), from the plantsite of Interbake Foods Inc., located at or near Richmond, Va., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at the above named plantsite.

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 113678 (Sub-No. 533), filed December 26, 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: *General commodities* (except those of unusual value, Classes A and B explosives, and those requiring special equipment) which are at the time moving on bills of lading of freight forwarders under Part IV of the Interstate Commerce Act, from the facilities of ABC Freight Forwarding Corp., Midland Forwarding Corp., and Trans-National Transport (Division of National Carloading), at New York, N.Y.; Boston, Mass.; Newark, N.J.; Chicago, Ill.; and points in their commercial zones, 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 New York, N.Y.; Washington, D.C.; or Denver, Colo.

No. MC 113678 (Sub-No. 534), filed December 26, 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: (1) *Charcoal, charcoal briquettes, charcoal lighter fluid, wood chips, grill liner, and fireplace logs*; (a) from the plantsites of Husky Industries at or near Jacksonville and Ocala, Fla., to points in South Carolina, North Carolina, Tennessee, Kentucky, Virginia, West Virginia, Washington, D.C., Maryland, Delaware, Ohio, Pennsylvania, and New York; and (b) from the plantsite of Keeter Charcoal plant at or near Branson, Mo., to points in Colorado, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Arkansas, Louisiana, Wisconsin, Illinois, Indiana, Kentucky, Tennessee, and Mississippi; and (2) *fly ash and activated carbon*, from the plantsite of Husky Industries at or near Romeo, Fla.,

to points in South Carolina, North Carolina, Tennessee, Kentucky, Virginia, West Virginia, Washington, D.C., Maryland, Delaware, Ohio, Pennsylvania, and New York, restricted to the transportation of shipments originating at the above named origins and destined to the above-named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113828 (Sub-No. 211), filed December 28, 1973. Applicant: O'BOYLE TANK LINES, INCORPORATED, P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Norfolk, Va., to points in New Jersey, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Tennessee, Georgia, West Virginia, and Kentucky.

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 114004 (Sub-No. 136), filed January 2, 1974. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, in sections, when mounted on wheeled undercarriages*, from Henderson and High Point, N.C., to points in the United States including Alaska, but excluding Hawaii.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C., or Washington, D.C.

No. MC 114312 (Sub-No. 27), filed January 7, 1974. Applicant: ABBOTT TRUCKING, INC., Route 3, Box 74, Delta, Ohio 43515. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed*, from Chicago, Ill., to points in Michigan.

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 114552 (Sub-No. 93), filed December 26, 1973. Applicant: SENN TRUCKING COMPANY, a Corporation, P.O. Box 220, Newberry, S.C. 29108. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Scott County, Miss., to points in Alabama,

Connecticut, Delaware, Georgia, Florida, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Maine.

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 Columbia, S.C., Atlanta, Ga., or Monroe, La.

No. MC 114632 (Sub-No. 66), filed December 20, 1973. Applicant: APPLE LINES, INC., 212 SW. Second, Madison, S. Dak. 57042. Applicant's representative: Robert Gisvold, 1000 First National Bank Building, Minneapolis, Minn. 55402. 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 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), from the plantsite of Madison Foods, Inc., located at or near Madison, Nebr., to points in Indiana, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, North Dakota, South Dakota, and Wisconsin, restricted to the transportation of traffic originating at the above named origin and destined to the above named destination points.

NOTE.—Applicant holds contract carrier authority in MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 114632 (Sub-No. 67), file December 26, 1973. Applicant: APPLE LINES, INC., P.O. Box 507, Madison, S. Dak. 57042. Applicant's representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite or warehouse facilities of Western Potato Service, Inc., near Grand Forks, N. Dak., to points in Iowa, Minnesota, Kansas, Missouri, Nebraska, South Dakota, Oklahoma, Illinois, Indiana, Michigan, and Wisconsin, restricted to traffic originating at the named origin and destined to the points named above.

NOTE.—Applicant holds contract carrier authority in MC 129706 therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 115093 (Sub-No. 13), filed December 26, 1973. Applicant: MERCURY MOTOR EXPRESS, INC., 704 W. Kennedy Blvd., P.O. Box 23406, Tampa, Fla. 33622. Applicant's representative: Clayton R. Byrd (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transport-

ing: *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 their size or weight require special equipment), (1) Between Spartanburg, S.C., and Greensboro, N.C.: From Spartanburg over U.S. Highway 221 to junction Interstate Highway 85, thence over Interstate Highway 85 to Greensboro, and return over the same route, serving the terminal points and the intermediate point of Charlotte, N.C., for joinder only; (2) Between Columbia, S.C., and Princeton, W. Va.: (a) From Columbia, over U.S. Highway 21 to junction Interstate Highway 77, thence over Interstate Highway 77 to junction U.S. Highway 460, thence over U.S. Highway 460 to Princeton; (b) From Columbia over U.S. Highway 21 to Princeton; and (c) From Columbia over U.S. Highway 21 to Elkin, N.C., thence over North Carolina Highway 268 to junction U.S. Highway 601, thence over U.S. Highway 601 to junction U.S. Highway 52, thence over U.S. Highway 52 to Wytheville, Va., thence over U.S. Highway 21 to Princeton, and return over the same routes, serving the terminal points for joinder only, serving Charlotte, N.C., and the junction of U.S. Highway 21 and South Carolina Highway 9 for joinder only, and serving all intermediate points in Virginia and off-route points in Virginia as presently authorized in carrier's regular-route operations; (3) Between Wytheville, Va., and Christianburg, Va., over Interstate Highway 81, serving all intermediate points; (4) Serving Fort Lawn, S.C., as an intermediate point for purposes of joinder only in connection with applicant's otherwise authorized regular route over South Carolina Highway 9 between Bennettsville, S.C., and Columbus, Ga.; and (5) Serving Columbia, S.C., as intermediate point for purposes of joinder only in connection with applicant's otherwise authorized regular routes over U.S. Highway 1 between New Haven, Conn., and Key West, Fla., restricted to the transportation of traffic moving between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those points in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Florida and Georgia.

NOTE.—Applicant indicates the purpose of this application and related petition is to amend gateway requirements. If a hearing is deemed necessary, the applicant requests it be held at either Tampa, Fla., or Washington, D.C.

No. MC 115331 (Sub-No. 355), filed January 2, 1974. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 N. Geyer Rd., St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from the plant site and storage facilities of Dow Chemical

Company located at Pevely, Mo., and Channahon Township, (Will County), Ill., to points on and east of U.S. Highway 85, restricted to shipments originating at said plant sites and storage 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 Washington, D.C.

No. MC 115654 (Sub-No. 24), filed December 3, 1973. Applicant: TENNESSEE CARTAGE COMPANY, INC., P.O. Box 1193, Nashville, Tenn. 37203. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery, confectionery products, chocolate, and related chocolate items* (except in bulk), in vehicles equipped with mechanical refrigeration, between Nashville, Tenn., and Birmingham, Ala., on the one hand, and, on the other, points in Alabama on and north of U.S. Highway 80; (1) restricted to traffic having a prior or subsequent movement by rail or truck, and (2) restricted to pool car or pool truck distribution service.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority in Subs 5 and 15 at Nashville, Tenn., to provide a through service from points in Alabama to points in Kentucky. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Birmingham, Ala.

No. MC 115831 (Sub-No. 14), filed December 28, 1973. Applicant: TIDE-WATER TRANSIT COMPANY, INC., P.O. Box 189, Kinston, N.C. 28501. Applicant's representative: J. Ruffin Bailey, P.O. Box 2246, Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in Chatham County, Ga., to points in North Carolina.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C.

No. MC 116014 (Sub-No. 66), filed December 3, 1973. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets, skids, bases, boxes, crating, veneer, baskets, staves, barrel heads, cardboard cartons, nails, lumber, metal bending, barrel headliners, and barrel crosspieces*, (1) between points in Alabama, Georgia, Mississippi, North Carolina, South Carolina, Virginia, Kentucky and Tennessee, on the one hand, and, on the other, points in Wisconsin, Michigan, Illinois, Indiana, Ohio, Missouri, Pennsylvania, Delaware, Maryland, the District of Columbia, and West Virginia; (2) between points in Kentucky, on the one

hand, and, on the other, points in Alabama, Georgia, Mississippi, North Carolina, South Carolina, Virginia, and Tennessee; and (3) between points in Tennessee, on the one hand, and, on the other, points in North Carolina, South Carolina, and Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 116045 (Sub-No. 41), filed January 2, 1974. Applicant: NEUMAN TRANSIT CO., INC., P.O. Box 38, Rawlins, Wyo. 82301. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from McKinley and Valencia Counties, N. Mex., to points in 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 Denver, Colo.

No. MC 117815 (Sub-No. 221), filed January 2, 1974. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Appleton, Wis., to points in Illinois, Indiana, and Michigan, restricted to shipments originating at the named origin and destined to the named destinations.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 118142 (Sub-No. 60), filed January 2, 1974. Applicant: M. BRUENGER & CO., INC., 6330 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confections*, (a) from the plantsite and storage facilities of Charms Company, Inc., at Freehold, N.J., to Los Angeles, Calif., and Portland, Oreg., and points in Missouri, Kansas, Nebraska, Colorado, Louisiana, Texas, and Oklahoma; and (b) from the plantsite and manufacturing facilities of James Company, Inc., at Covington, Tenn., to points in Tennessee, Arkansas, and Mississippi.

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 118989 (Sub-No. 102), filed December 26, 1973. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Appli-

cant'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: *Glassware, caps, covers and closures for glass containers, and paper cartons*, from Plainfield, Ill., to points in Milwaukee County, 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 Chicago, Ill., or Milwaukee, Wis.

No. MC 119656 (Sub-No. 25), filed January 4, 1974. Applicant: NORTH EXPRESS, INC., 219 E. 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: *Pressed fireplace logs*, from Monticello, Ind., to points in Michigan, Illinois, Ohio, Pennsylvania, and Kentucky.

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 119702 (Sub-No. 43), filed January 8, 1974. Applicant: STAHLY CARTAGE CO., a Corporation, P.O. Box 486, 130A Hillsboro Ave., Edwardsville, Ill. 62025. Applicant's representative: Jeff S. Wohlford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, (1) from the plantsite and storage facilities of the Dow Chemical Company, at Pevely, Mo.; and (2) from points in Channahon Township, Will County, Ill., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, and Wisconsin, restricted to shipments 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 St. Louis, Mo., Chicago, Ill., or Washington, D.C.

No. MC 119789 (Sub-No. 192), filed January 2, 1974. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, 1612 East Irving Blvd., Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy and confectionery and related products* (except in bulk), and (2) *advertising matter, premium and display materials*, when shipped in the same vehicle with commodities described in (1) above, in vehicles equipped with mechanical refrigeration, from Hackettstown, N.J., to points in Arizona, Arkansas, California, Kansas, Louisiana, Missouri, Texas, and Utah.

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 New York, N.Y., or Washington, D.C.

No. MC 124073 (Sub-No. 9), filed December 26, 1973. Applicant: ROY S. SARGEANT, INC., Bakers Mill Road, Vienna, N.J. 07880. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared dough, hors d'oeuvres, and cooked and uncooked, breaded and unbreaded, portion controlled seafood* in the same vehicle, from the plantsite of Glidden-Durkee Division of SCM Corporation located at or near Thorofare, N.J., to Nashua and Manchester, N.H.; Burlington, Vt.; Buffalo, Jamestown, Rochester, Newark, Newburgh, New York, Olean, Norwich, Syracuse, Schenectady, Albany, Troy, Kingston, Monticello, Utica, Milton, Ithaca, Rome, Poughkeepsie, Farmingdale, Mineola, Floral Park, and Rockville Center, N.Y.; Waterbury, Hartford, Hamden, New Haven, Stamford, Bridgeport, Norwich, Meriden, Wallingford, Danbury, and Wethersfield, Conn.; Woonsocket, Pawtucket, Providence, and Tiverton, R.I.; Springfield, Pittsfield, Boston, Worcester, Southboro, Fall River, Ludlow, Brighton, Brockton, Chicopee, Everett, Medford, Norton, Raynham, and Watertown, Mass.; Manassas, Alexandria, Winchester, Norfolk, Richmond, and Roanoke, Va.; Charleston and St. Claire, W. Va.; Washington, D.C., and Baltimore, Md., under a continuing contract or contracts with Glidden-Durkee Division of SCM Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 124211 (Sub-No. 239) (AMENDMENT), filed November 12, 1973, published in the FEDERAL REGISTER issue of January 3, 1974 and republished as amended this issue. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, Downton Station, Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Accelerators, chemicals, latex, plastics, plastic materials and products, preservatives, rubber, rubber materials and products*, and (2) *commodities* used in the production, distribution and sale of those commodities described in (1) above, between points in Dade County, Fla., Jefferson and Marshall Counties, Ky., Baltimore County, Md., Essex and Worcester Counties, Mass., Salem County, N.J., Catawba and Mecklenburg Counties, N.C., Davidson County, Tenn., and Kanawha County, W. Va., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to amend the applicant's territorial description by deleting Towson County, Md., as an origin point. Applicant states that the authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 124211 (Sub-No. 240), filed December 28, 1973. Applicant: HILT TRUCK LINE, 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 vehicle, over irregular routes, transporting: (1) *Iron and steel, and iron and steel articles*, except in bulk, from Kokomo, Ind., to points in Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin; (2) *returned and rejected shipments of iron and steel and iron and steel articles, and refractory products and supplies*, except in bulk, from the destination states named in (1) above, to Kokomo, Ind.; and (3) *vegetables, potatoes, potato products, and poultry products*, from Grand Forks, N. Dak., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, Tennessee, and Wisconsin.

NOTE.—Common control was approved in MC-F-11887. Applicant states that the requested authority can be tacked in part (1) at Nance County, Nebr., to provide a through service from Kokomo, Ind., to points in California; and part (3) at Sioux City, Iowa, on frozen potatoes and potato products, to provide a through service from Grand Forks, N. Dak., to points in Colorado. If a hearing is deemed necessary, applicant requests it be held at either Indianapolis, Ind., or Chicago, Ill.

No. MC 124211 (Sub-No. 242), filed December 26, 1973. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D. T. S., Omaha, Nebr. 68101. Applicant's representative: Thomas Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (A) Regular routes: (1) *Meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *Foodstuffs* (except commodities in bulk), serving the plant and storage facilities utilized by Platte Valley Packing Co., Division of National Foods, Inc., located in Dawson County, Nebr., and points in Lancaster and Madison Counties, Nebr., as intermediate and off-route points in connection with carrier's presently authorized regular route operations, (2) *Commodities*, as are dealt in and used by manufacturers and distributors of paint, paint materials, and plumbing supplies (except commodities in bulk), serving the sites of the plant and warehouses of William H. Harvey Company at or near Omaha, Nebr., as an intermediate and off-route points in connection with carrier's presently authorized regular route operations, (B) Irregular routes: (3) *Paper, and fiberboard boxes*, from Montgomery, Ill., to Lincoln, Nebr.

NOTE.—Common control has been approved in Docket No. MC-F-11887. Applicant states that the requested authority can be tacked in (B3) at Lincoln, Nebr., in Sub-Nos. 109

and 112, to provide a through service in the transportation of boxes, from Montgomery Ill., to points in Nebraska, California, Louisiana, Texas, and Sioux City, Iowa. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 125254 (Sub-No. 26), filed January 2, 1974. Applicant: DONALD L. MORGAN, doing business as MORGAN TRUCKING CO., 1201 5th Street, P.O. Box 714, Muscatine, Iowa 52761. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by food business houses (except in bulk), from Iowa City and Muscatine, Iowa, to points in Wisconsin, restricted to shipments originating at the named origins and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 125785 (Sub-No. 24), filed January 2, 1974. Applicant: SATURN EXPRESS, INC., 7860 F Street, Omaha, Nebr. 68127. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Edible corn products, potato chips, pretzels, and dried beef jerky*, between Omaha, Nebr., on the one hand, and, on the other, points in Terre Haute, Ind. and (2) *edible corn products*, from Jeffersonville, Ind., to points in Kansas and Nebraska, restricted to a transportation service to be performed under a continuing contract with Kitty Clover Division, Fairmont Foods Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 126487 (Sub-No. 2), filed January 2, 1974. Applicant: GADLINE TRANSPORT LIMITED, 1023 Queen Street East, Toronto, Ontario, Canada. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins, splits, pelts, bellies, pieces, and by-products thereof*, including gluestock, between the Ports of Entry on the International Boundary line between the United States and Canada located on or near the Niagara, St. Lawrence, Detroit, and St. Clair Rivers, on the one hand, and, on the other, points in Arkansas, Colorado, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 126844 (Sub-No. 25), filed December 26, 1973. Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main

Road, Vineland, N.J. 08360. Applicant's representative: Jacob P. Billig, 1126 16th Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and storage facilities of Banquet Foods Corporation located at or near Wellston, Ohio, to points in New Jersey, Pennsylvania, Massachusetts, Maryland, Rhode Island, New York, Delaware, Connecticut, District of Columbia and Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 126899 (Sub-No. 71), filed December 26, 1973. Applicant: USHER TRANSPORT, INC., P.O. Box 3051, 3925 Old Benton Road, Paducah, Ky. 42001. Applicant's representative: William P. Whitney, Jr., 703-706 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *related advertising materials*, from Dubuque, Iowa, to points in Illinois, Indiana, Wisconsin, and the lower peninsula of Michigan, and *empty malt beverage containers* on return.

NOTE.—Applicant states that the requested authority can be tacked (1) in Sub-No. 28, at Detroit, Mich., to serve Hopkinsville, Ky., (2) in Sub-No. 38, at LaCrosse and Sheboygan, Wis., to serve points in Ohio, (3) in Sub-No. 40, at Detroit, Mich., to serve points in Owensboro and Paducah, Ky., (4) in Sub-No. 42, at Milwaukee, Wis., to serve Columbus, Ohio, (5) in Sub-No. 46, at LaCrosse, and Sheboygan, Wis., to serve Newport, Ky., (6) in pending Sub-No. 64, at Detroit, Mich., to serve Memphis, Tenn., and (7) in pending Sub-No. 66, at Milwaukee, Wis., to serve Lima and Tiffin, Ohio. If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 127042 (Sub-No. 132), filed December 18, 1973. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98—Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potatoes and potato products*, from Plover, Wis., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—Common control was approved in MC-F-11806. 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.

No. MC 127042 (Sub-No. 135), filed January 2, 1974. Applicant: HAGEN,

INC., 3232 Highway 75 North, P.O. Box 98—Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boxes*, from Aurora, Ill., to points in Iowa, Kansas, Minnesota, Missouri, and Nebraska.

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 127042 (Sub-No. 136), filed January 4, 1974. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98—Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food-stuffs* (except in bulk), from the plant-site and warehouse facilities of Western Potato Service, Inc., at Grand Forks, N. Dak., to points in South Dakota, Wyoming, Nebraska, Kansas, Iowa, Minnesota, Wisconsin, Missouri, and Illinois.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 127042 (Sub-No. 138), filed December 21, 1973. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98—Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (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*, as described in Section A 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 Kansas City, Kans., to points in Illinois, Iowa, Minnesota, and Wisconsin, restricted to traffic originating at the named origin and destined to the named destination points.

NOTE.—Common control was approved in MC-F-11806. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 127505 (Sub-No. 61), filed January 2, 1974. Applicant: RALPH H. BOELK, doing business as R. H. BOELK TRUCK LINES, Route 2, Mendota, Ill. 61342. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonfrozen food-stuffs* (except meats, meat products, meat by-products, and dairy products), (a) from Planview, Minn., and Bloomer and Manitowoc, Wis., to points in Illinois, Indiana, Kentucky, Ohio, and points in Iowa and Missouri

on and east of U.S. Highway 61 and (b) from Kenville County, Minn., to points in Illinois, Indiana, Kentucky, Michigan, Ohio, Wisconsin points on and east of U.S. Highway 51, and Iowa and Missouri points on and east of U.S. Highway 61, restricted to traffic originating at the above-named origins and destined to the above-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.

No. MC 127834 (Sub-No. 97), filed January 2, 1974. Applicant: CHEROKEE HAULING & RIGGING, INC., 540-42 Merritt Avenue, Nashville, Tenn. 37203. Applicant's representative: M. Bryan Stanley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, building panels, building parts, and materials, accessories, and supplies* used in connection with the installation, erection, and construction of buildings, building panels, and building parts, from Portland, Tenn., to points in Texas, Oklahoma, Missouri, Iowa, Minnesota, and all points thereof.

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 Nashville, Tenn.

No. MC 127834 (Sub-No. 99), filed December 10, 1973. Applicant: CHEROKEE HAULING AND RIGGING, INC., 540-42 Merritt Avenue, Nashville, Tenn. 37203. Applicant's representative: M. Bryan Stanley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight requires the use of special equipment, and *related machinery, tools, parts, materials, and supplies* moving in connection therewith; (2) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, materials, and supplies* moving in connection therewith (restricted to commodities which are transported on trailers); and (3) *commodities* which do not require the use of special equipment, when moving in mixed loads and on the same bill of lading with commodities named in (1) and (2) above, between points in that part of Tennessee on and west of U.S. Highway 27 and on and east of U.S. Highway 45, on the one hand, and, on the other, points in Kentucky, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Arkansas, and Missouri.

NOTE.—Applicant states that the requested authority can be tacked in Sub-No. 10 at Nashville and Springfield, Tenn., to provide a through service from those destination states named above, to points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, and

the District of Columbia. If a hearing is deemed necessary, the applicant requests it be held at either Memphis or Nashville, Tenn.

No. MC 127867 (Sub-No. 12), filed December 14, 1973. Applicant: TRANSOL COMPANY, a Corporation, 116 Forest Avenue, Des Moines, Iowa 50314. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Solvents and chemicals*, in bulk, in tank vehicles, and (2) *solvents and chemicals*, in containers, when moving at the same time, and on the same vehicle as the commodities described in (1) above, from Joliet, Ill., and Midland and Wyandotte, Mich., to Des Moines, Bettendorf, and Council Bluffs, Iowa, under a continuing contract, or contracts with Barton Naphtha Corp., Barton Solvents, Inc., and Barton Solvents Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Omaha, Nebr.

No. MC 128375 (Sub-No. 107), filed December 26, 1973. Applicant: CRETE CARRIER CORPORATION, 1444 Main, P.O. Box 249, Crete, Nebr. 68333. Applicant's representative: Ken Adams, P.O. Box 81228, Lincoln, Nebr. 68501. 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 Arlington, Tex., on the one hand, and, on the other, points in Arizona, Colorado, New Mexico, Kansas, Oklahoma, Texas, Missouri, Arkansas, and Louisiana under contract with Amway Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 128383 (Sub-No. 47), filed December 17, 1973. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19078. 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., Clarence E. Hancock Airport, Onondaga County, N.Y., the Greater Buffalo International Airport, Erie County, N.Y., Metropolitan Airport, Detroit, Mich., O'Hare International Airport, Chicago, Ill., and ports of entry on the International Boundary Line between the United States and Canada located in Michigan and New York, restricted to the transportation of traffic having a prior or subsequent movement by air or moving in a substitute for air service. Note: Duplicating authority may be involved.

Applicant states that the requested authority can be tacked (1) at John F. Kennedy International Airport to serve LaGuardia 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., Dulles International Airport, Fairfax and Loudoun Counties, Va., Weir Cook Airport, Indianapolis, Ind., Hopkins Airport, Cleveland, Ohio, Vandalia Airport, Dayton, Ohio, points in Delaware, southern New Jersey, Allegheny, Erie, Pike, Washington, and Wyoming Counties, Pa., and southeast Pennsylvania, (2) tacked at O'Hare International Airport to serve Weir Cook Airport at Indianapolis, Ind., (3) tacked at John F. Kennedy International Airport, in pending authority to serve Douglas Municipal Airport, Charlotte, N.C., Hartsfield International Airport, Atlanta, Ga., Miami International Airport, Miami, Fla., Logan International Airport, Boston, Mass., the Greater Cincinnati Airport, Cincinnati, Ohio, points in South Carolina, Maryland, North Carolina, and Washington, D.C., and (4) tacked at either Detroit Metropolitan Airport or Chicago O'Hare International Airport with pending authority to serve Cleveland Hopkins Airport, the Greater Cincinnati Airport, Kansas City International Airport, and the Greater Pittsburgh Airport. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 128527 (Sub-No. 45), filed January 2, 1974. Applicant: MAY TRUCKING COMPANY, A Corporation, P.O. Box 398, Payette, Idaho 83661. Applicant's representative: C. Marvin May (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock and poultry feed supplements and feed*, between the plantsite of Moorman Mfg. Co. of California, located at or near Fruitland, Idaho, on the one hand, points in Washington, Oregon, Utah, Nevada, Montana, Arizona and on the other, 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 Boise, Idaho.

No. MC 129974 (Sub-No. 11), filed November 27, 1973. Applicant: THOMPSON BROS., INC., P.O. Box 457, Toronto, S. Dak. 57268. Applicant's representative: F. H. Kroeger, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, conduit, vinyl siding, mouldings, valves, fittings, compounds, joint sealer, bonding cement, and accessories, and materials* used in the installation thereof (except commodities in bulk), from the plant site and storage facilities of Certain-Teed Products Corporation located at or near McPherson, Kans., to points in Colorado, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska,

North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming, under a continuing contract or contracts with Certain-Teed Products Corporation of Valley Forge, Pa.

NOTE.—Applicant presently holds common carrier authority in MC 124408 Sub 1 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 13250 (Sub-No. 125), filed January 2, 1974. 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) *Commodities*, the transportation of which because of size or weight require the use of special equipment and *related machinery, tools, parts, materials, and supplies* moving in connection therewith; (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, materials, and supplies* moving in connection therewith, restricted to commodities which are transported on trailers; and (3) *commodities* which do not require the use of special equipment, when moving in mixed loads and on the same bill of lading with commodities named in (1) or (2) above, between points in Kentucky, Tennessee, Missouri, Illinois, Indiana, Kansas, and Oklahoma, on the one hand, and, on the other, points in Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia.

NOTE.—Applicant states that the requested authority can be tacked with its existing size and weight authority, on (1) above (a) in Sub-No. 79 at points in Oklahoma and Tennessee to provide service between points in New Mexico, Texas, Arkansas, and Louisiana, on the one hand, and, on the other, (a1) points in Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia; (b) with the combined authority in Sub-Nos. 79 and 45 at points in Texas, Kansas, Oklahoma, and Tennessee to provide service between points in Arizona, California, Colorado, and Utah, on the one hand, and, on the other, points mentioned in (a1) above; (c) with the combined authority in Sub-Nos. 45, 62, and 79 at points in Arizona, Colorado, Utah, Texas, Oklahoma, and Tennessee to provide service between Idaho and Nevada, on the one hand, and, on the other, points mentioned in (a1) above; (d) with the combined authority in Sub-Nos. 45, 107, and 79 at points in Utah, Texas, Oklahoma, and Tennessee to provide service between points in Oregon and Washington, on the one hand, and, on the other, points mentioned in (a1) above; and for self-propelled articles with the combined authority in Sub-Nos. 62, 76, 107, and 115, at points in Oklahoma, Tennessee, Texas, Kansas, Colorado, Utah, and Arizona to provide service as indicated in (a), (b), (c), and (d) above. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 133119 (Sub-No. 42), filed January 2, 1974. Applicant: HEYL TRUCK LINES, INC., 235 Mill St., Akron, Iowa 51001. Applicant's repre-

sentative: Roger Heyl (same address as applicant). 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 packing-houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Amarillo, Tex., to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, and Wisconsin, restricted to transportation of traffic originating at the facilities of, or utilized by John Morrell & Co. at or near Amarillo, Tex.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority (1) in Sub 16 at Cherokee, Iowa, Wichita, Kans., Omaha, Nebr., and Worthington, Minn., to provide through service for the transportation of subject commodities from Amarillo, Tex., to ports of entry on the International Boundary line between the United States and Canada located in Michigan and New York; (2) in Sub-No. 19 pending at Fargo and West Fargo, N. Dak., to provide a through service for the transportation of subject commodities from Amarillo, Tex., to the ports of entry on the International Boundary line between the United States and Canada located in New York; and (3) in Sub-No. 20 pending at points in Iowa, Minnesota, Illinois, Indiana, South Dakota, and Nebraska to provide a through service and transportation of the subject commodities from Amarillo, Tex., to the ports of entry on the International Boundary line located on the United States-Canada boundary line. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 133566 (Sub-No. 33), filed January 7, 1974. 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: *Foodstuffs* in vehicles equipped with mechanical temperature controls (except commodities in bulk), from the facilities utilized by Green Giant, Inc., located at or near Belvidere, Ill., to points in Indiana, Michigan, Ohio, Pennsylvania, Kentucky, West Virginia, and Vineland, N.J., restricted to traffic originating at the 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 Minneapolis, Minn., or Washington, D.C.

No. MC 133566 (Sub-No. 34), filed January 7, 1974. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: William L. Slover, 1224 17th St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery, and related*

items; and premiums and advertising materials when moving with the above named items, from the plantsite and storage facilities of Charms Company, at Freehold, N.J., to points in Ohio, Michigan, Indiana, Illinois, Wisconsin, Minnesota, Missouri, Kansas, Nebraska, and Kentucky, restricted to traffic originating at the above named facilities and excluding commodities in bulk.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or Washington, D.C.

No. MC 133655 (Sub-No. 65), filed January 2, 1974. Applicant: TRANSNATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, Tex. 79105. Applicant's representative: Neil DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. 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 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 points in Gray County, Tex., to points in Memphis, Tenn., Pittsburgh, Pa., and points in Mississippi, Louisiana, Arkansas, Oklahoma, Kansas, Missouri, Kentucky, Ohio, Indiana, Illinois, Michigan, Wisconsin, Iowa, Minnesota, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, and Washington.

NOTE.—Common control was approved in MC-51146 and MC-F-10280. 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 133666 (Sub-No. 10), filed January 2, 1974. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Ave. S., Wheaton, Minn. 56296. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from the terminal of Northern Propane Gas Company at or near Rosemount, Minn., to points in North Dakota, South Dakota, Wisconsin, Iowa, and the Upper Peninsula of Michigan.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 133993 (Sub-No. 1), filed December 21, 1973. Applicant: SAND MOUNTAIN AUTO AUCTION, INC., U.S. Highway 431, Boaz, Ala. 35957. Applicant's representative: John P. Carlton, 601 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used automobiles*, in truck-away

service, (1) from the facilities of Sand Mountain Auto Auction, Inc., at or near Boaz, Ala., to points in North Carolina and South Carolina; (2) from points in Tennessee, Mississippi, Florida, Georgia, Kentucky, Texas, Louisiana, Arkansas, North Carolina, and South Carolina to the facilities of Sand Mountain Auto Auction, Inc., at or near Boaz, Ala.; and (3) between the facilities of Sand Mountain Auto Auction, Inc., at or near Boaz, Ala., on the one hand, and, on the other, points in Illinois and bounded by a line beginning at the intersection of U.S. Highway 24 and the Illinois-Indiana State Boundary line, thence along U.S. Highway 24 to the intersection thereof with Illinois State Highway 47, thence along Illinois State Highway 47 to the intersection thereof with the Illinois-Wisconsin State line, thence along the Illinois-Wisconsin State Boundary line to Lake Michigan, thence along Lake Michigan to the Illinois-Indiana State Boundary line, thence along the Illinois-Indiana State Boundary line to point of beginning; all points in the Chicago commercial zone not lying within that portion of Illinois described above; and Gary, Hammond, and East Chicago; Indiana; Ann Arbor, Detroit, and Flint, Mich.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority in its lead certificate at Boaz, Ala., in (2) to provide a through service from points in Tennessee, Mississippi, Florida, Georgia, Kentucky, Texas, Louisiana, and Arkansas to points in North Carolina and South Carolina; and in (3) at Boaz, Ala., to provide a through service from points in Tennessee, Mississippi, Florida, Georgia, Kentucky, Texas, Louisiana, and Arkansas to points in Illinois. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Atlanta, Ga.

No. MC 134323 (Sub-No. 59), filed December 16, 1973. Applicant: JAY LINES, INC., 720 N. Grand Street, Amarillo, Tex. 79105. Applicant's representative: Mr. Gailyn Larson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials or products, liquid or other than liquid, plastic film or sheeting, and plastic cloth* (except in bulk), from points in Bergen, Camden, Middlesex, Somerset, and Union Counties, N.J., to points in Arizona, Idaho, Louisiana, New Mexico, Oklahoma, Tennessee, Oregon, and Washington, under a continuing contract with Union Carbide Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Lincoln, Nebr.

No. MC 134349 (Sub-No. 9), filed December 26, 1973. Applicant: B. L. T. CORPORATION, 405 Third Avenue, Brooklyn, N.Y. 11215. 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: *Such commodities* as are dealt in or used in the operations of retail department stores, between points in the

New York, N.Y., Commercial Zone, on the one hand, and, on the other, points in Iowa, Illinois, Texas, Maryland, Virginia, and the District of Columbia, under contract with Lucky Stores, Inc., and its affiliate, Tanne Apparel, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 134599 (Sub-No. 98), filed December 26, 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: *Rubber and rubber products, plastic or rubber coated cloth or fabric, adhesives, expanded plastic or rubber materials, mattress cores or forms, and raw materials and supplies* used in the manufacture and production thereof (except commodities in bulk and which because of size or weight require special handling or special equipment), between Elkhart and Mishawaka, Ind., and Stoughton, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), 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 134922 (Sub-No. 59), filed December 21, 1973. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: L. C. Cypert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copper cable, copper rod, copper wire, aluminum cable, aluminum rod, aluminum wire, steel cable and steel wire*, from Carrollton, Ga. and Hawesville, Ky., to points in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Little Rock, Ark.

No. MC 135032 (Sub-No. 7), filed January 2, 1974. Applicant: HIAWATHA PRODUCE COMPANY, a Corporation, 4195 West Fourth Street, Winona, Minn. 55987. Applicant's representative: Allan B. Torhorst, 217 East Jefferson Street, P.O. Box 190, Burlington, Wis. 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsites and facilities utilized by Kitchens of Sara Lee located at or near Deerfield and Chicago, Ill., to points in Wisconsin, Minnesota, North Dakota, and South Dakota.

NOTE.—Applicant holds contract carrier authority in Docket No. MC-133709, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135032 (Sub-No. 8) filed January 3, 1974. Applicant: HIAWATHA PRODUCE COMPANY, a Corporation, 4195 West Fourth Street, Winona, Minn. 55987. Applicant's representative: Allan B. Torhorst, 217 East Jefferson Street, P.O. Box 190, Burlington, Wis. 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsites and facilities utilized by the Kitchens of Sara Lee located at or near New Hampton, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, Missouri, Oklahoma, and Texas.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135425 (Sub-No. 7), filed January 4, 1974. Applicant: CYCLES LIMITED, P.O. Box 5715, Jackson, Miss. 39208. 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: *Such commodities* as are manufactured or sold by a manufacturer of paint and paint products, and *materials, supplies, and equipment* used in the conduct of such business between Baltimore, Md., on the one hand, and, on the other, points in the United States (except Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, Montana, Idaho, Oregon, Washington, Alaska, and Hawaii), under contract or contracts with Baltimore Paint and Chemical Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135797 (Sub-No. 20), filed December 17, 1973. Applicant: J. B. HUNT TRANSPORT, INC., 833 Warner Street SW., Atlanta, Ga. 30310. Applicant's representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings*, from the plantsite of Jet Stream Plastics, Ralph Jones Co., Inc., at Siloam Springs, Ark., to points in Alabama, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, 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 Atlanta, Ga., or Little Rock, Ark.

No. MC 135874 (Sub-No. 30), filed January 2, 1974. Applicant: LTL PER-

ISHABLES, INC., 132nd & "Q" Streets, 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*, requiring refrigeration, from New Prague, Minn., to points in Nebraska, South Dakota, Iowa, Illinois, and Wisconsin.

NOTE.—Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 135874 (Sub-No. 31), filed January 2, 1974. Applicant: LTL PERISHABLES, INC., 132nd & "Q" Streets, 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*, in mechanically refrigerated vehicles, from Kansas City, Kans., and Kansas City, Mo., and their respective Commercial Zones to points in Iowa, Minnesota, Wisconsin, North Dakota, South Dakota, and Nebraska.

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, the applicant requests it be held at either Kansas City, Mo., or Kansas City, Kans.

No. MC 136008 (Sub-No. 18), filed January 2, 1974. Applicant: JOE BROWN COMPANY, INC., 20 Third Street NE., P.O. Box 1669, Ardmore, Okla. 73401. Applicant's representative: Rufus H. Lawson, 2400 Northwest 23rd St., P.O. Box 75124, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Light weight aggregate*, from the plantsites of TXI, at Dallas and Eastland, Tex., to points in Oklahoma, with the following exceptions: (1) (a) the plantsite of Day Block Company, located at Ardmore, Okla.; (b) the plantsite of Shawnee Concrete Block & Brick Co., located at Shawnee, Okla.; (c) the plantsite of Ada Block Company, located at Ada, Okla.; and (d) the plantsite of Oklahoma Brick Corp., located at or near (approximately 3½ miles northwest of) Union City, Okla., and (2) (a) the plantsite of Thomas Concrete Products Co., located at Oklahoma City, Okla.; and (b) the plantsite of Commanche Concrete Products Company, located at Lawton, Okla.

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 Oklahoma City, Okla., or Dallas, Tex.

No. MC 136008 (Sub-No. 19), filed December 28, 1973. Applicant: JOE BROWN COMPANY, INC., 20 Third Street NE., P.O. Box 1669, Ardmore, Okla. 73401. Applicant's representative: Rufus H. Lawson, 2400 Northwest 23rd Street, P.O. Box 75124, Oklahoma City, Okla. 73107. Authority sought to operate as a *common*

*carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from points in Johnston and Pontotoc Counties, Okla., to points in Colorado, New Mexico, Texas, Kansas, and Louisiana.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 136161 (Sub-No. 7), filed January 2, 1974. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, Ill. 61362. Applicant's representative: E. Stephen Heisley, 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: *Shower bath stalls and parts and accessories therefore*, from the plantsite and warehouse facilities utilized by Powers Fiat Corporation at or near Monroe, Ohio, to points in the United States in and east of New Mexico, Colorado, Wyoming, and Montana.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 136211 (Sub-No. 21), filed December 28, 1973. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., 210 St. Mary's Drive, Suite G, 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 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 points in Illinois, on and within a line beginning at the Missouri-Illinois State Boundary 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 Boundary line at Chester, Ill., and *returned or rejected shipments* of the above described commodities from the above destination points to the above specified origin, under contract with The Singer Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 136318 (Sub-No. 17), filed January 2, 1974. Applicant: COYOTE TRUCK LINE, INC., 395½ B West Fleming Drive, Morgantown, N.C. 28655. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*,

by motor vehicle, over irregular routes, transporting: *New upholstered chairs*, from Lock Haven, Pa., to Santa Ana, Calif., under contract with B. P. John Furniture Company, A Division of Consolidated Foods Corporation, Santa Ana, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif. or Washington, D.C.

No. MC 136375 (Sub-No. 2), filed December 28, 1973. Applicant: DONCO CARRIERS, INC., 641 N. Meridan, P.O. Box 75354, Oklahoma City, Okla. 73107. Applicant's representative: Wm. L. Peterson, Jr., 401 N. Hudson, Suite 200, P.O. Box 917, Oklahoma City, Okla. 73101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets*, from Auburn, Nebr., to points in Arizona, Arkansas, California, Colorado, Idaho, Louisiana, Minnesota, Montana, New Mexico, Nevada, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming, under a continuing contract with Triangle Pacific Cabinet Corporation.

NOTE.—Applicant holds common carrier authority in MC-138469, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.; Omaha, Nebr.; or Washington, D.C.

No. MC 136601 (Sub-No. 3), filed December 17, 1973. Applicant: WILLIAM L. MAYS AND RAYMOND F. MAYS, doing business as RAYMOND F. MAYS & SON, P.O. Box 237, Blue Ridge, Va. 24064. Applicant's representative: R. Cameron Rollins, 321 E. Center Street, Kingsport, Tenn. 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stone, gravel, crushed rock, and sand*, from Gray Stone Quarry at or near Henderson, N.C., to Bracey, Va., under contract with Vulcan Materials Company, Knoxville, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Washington, D.C.

No. MC 136899 (Sub-No. 11), filed December 26, 1973. Applicant: HIGGINS TRANSPORTATION LTD., 824 Valley View Drive, Richland Center, Wis. 53581. 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 irregular routes, transporting: (1) *Plastic pipe and conduit and materials, supplies, tools, and fittings* used in the installation of plastic pipe and conduit, from Madison, Wis., to points in the United States (except Alaska and Hawaii); (2) *materials, equipment, and supplies* which are used or useful in the manufacture, sale, production, installation, or distribution of the commodities named in Part (1), from points in the United States (except Alaska and Hawaii), to Madison, Wis.; (3) *food processing equipment, continuous processing lines, quick chill tunnels, and thermal oxidizers*, from Lodi, Wis.,

to points in the United States (except Alaska and Hawaii); (4) *fiberglass, plastic, rubber, stainless steel, wood, and steel products*, from Madison, Wis., to points in the United States (except Alaska and Hawaii); (5) *materials, equipment, and supplies* which are used or useful in the manufacture, sale, production, installation, or distribution of the commodities named in Part (3), from points in the United States (except Alaska and Hawaii), to Lodi, Wis.; and (6) *materials, equipment, and supplies* that are used or useful in manufacture, sale, production, installation, or distribution of the commodities named in Part (4), from points in the United States (except Alaska and Hawaii), to Madison, 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 or Milwaukee, Wis.

No. MC 138359 (Sub-No. 2), filed January 4, 1974. Applicant: LENNEMAN TRANSPORT, INC., 116 Erie Street South, Hutchinson, Minn. 55350. Applicant's representative: Robert P. Sack, 33 E. Wentworth, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silo unloading equipment consisting of augers, gear boxes, fabricated steel parts, and other materials used in the installation of silo unloading equipment*, from Plainfield, Ill., to Appleton, Hutchinson, Marshall, Osakis, and Starbuck, Minn., under contract with Rockite Silo Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, or St. Paul, Minn.

No. MC 138514 (Sub-No. 7), filed January 2, 1974. Applicant: ARCTICARE TRANSPORT, INC., 307 Hartford Pike, Shrewsbury, Mass. 01545. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs*, from Portland, Caribou, Presque Isle, Washburn, and Easton, Maine, to points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Maine.

No. MC 138546 (Sub-No. 1), filed December 26, 1973. Applicant: HANNA TRUCKING CO., INC., 349 Main Street, Brookville, Pa. 15825. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Armstrong County, Pa., to points in Erie, Chautauqua, and Niagara Counties, N.Y.,

under continuing contract with The Sheridan Coal Sales Company, Inc.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 138636 (Sub-No. 1) (AMENDMENT), filed August 30, 1973, published in the FEDERAL REGISTER issue of October 31, 1973, and republished as amended this issue. Applicant: WALTER H. VAN TASSEL, doing business as VAN TASSEL MOVING & STORAGE, R.F.D. #4, Watertown, N.Y. 13601. Applicant's representative: Alan F. Wholstetter, 1700 K St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Jefferson, St. Lawrence, Franklin, Oswego, and Lewis Counties, N.Y., restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—The purpose of this amendment is to indicate the correct title and address description from TASSEL MOVING & STORAGE, to VAN TASSEL MOVING & STORAGE, and from New York, N.Y., to Watertown, N.Y. If a hearing is deemed necessary, applicant requests it be held at Watertown, N.Y.

No. MC 138745 (Sub-No. 2), filed January 2, 1974. Applicant: ADDINGTON BROS. TRUCKING, INC., Route 2, Sandy Hook, Ky. 41171. Applicant's representative: Robert H. Kinker, 711 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump or self unloading vehicles, from points in Boyd, Carter, Elliott, Floyd, Johnson, Lawrence, Martin, and Morgan Counties, Ky., to the barge loading facilities in Lawrence County, Ohio, restricted to the transportation of shipments having an immediately subsequent movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lexington, Ky., or Cincinnati, Ohio.

No. MC 139024 (Sub-No. 2), filed January 7, 1974. Applicant: MASON AND DERRICK, INC., doing business as BAR SAND & GRAVEL, P.O. Box 25, 1105 South 3rd Street, Sedro Woolley, Wash. 98284. Applicant's representative: George R. LaBissoniere, 130 Andover Park East, Seattle, Wash. 98188. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk feed mixtures*, from Mt. Vernon, Wash., to points in Montana, Nevada, Idaho, Oregon, California, and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 139030 (Sub-No. 1), filed December 26, 1973. Applicant: J AND D, INC., doing business as J AND D TRANSPORT, 7020 88th Avenue, Kenosha, Wis. 53140. Applicant's representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fermented malt beverages*, in containers, from Columbus, Ohio, Detroit, Mich., Fort Wayne, Ind., and Minneapolis, and St. Paul, Minn., to Kenosha, Wis., and return of *empty malt beverage containers*.

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 Milwaukee, Wis.

No. MC 139154 (Sub-No. 2), filed December 17, 1973. Applicant: RICHARDS TRANSPORT, LTD., 2 Prospect Place, Regina, Saskatchewan, Canada. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, from the ports of entry on the International Boundary line between the United States and Canada, located in Montana and North Dakota, to points in Montana, Wyoming, North Dakota, South Dakota, Nebraska, Minnesota, and Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak., Billings, Mont., or St. Paul, Minn.

No. MC 139232, filed January 2, 1974. Applicant: LARRY C. COOK, doing business as MASSANUTTEN SAND AND STONE COMPANY, Route 2, Woodstock, Va. 22664. Applicant's representative: Frank B. Hand, Jr., P.O. Box 446, Winchester, Va. 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and aggregates*, in bulk, from points in Franklin County, Pa., to points in Virginia, and Hardy County, W. Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139249 (Sub-No. 2), filed January 8, 1974. Applicant: WALTER R. McLAUGHLIN, Oak Lane and Ashbourne Roads, Cheltenham, Pa. 19012. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automated data processing media and business papers, reports, and records* (except cash letters), no single shipment to exceed ten pounds in weight; between the facilities of National Cash Register Data Processing Center in West Windsor Township, Mercer County, N.J., on the one hand, and, on the other, points in Bucks, Delaware, Montgomery, and Philadelphia Counties, Pa., under contract or continuing contracts with per-

sons who operate savings and loan institutions.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 139280 (Sub-No. 3), filed January 4, 1974. Applicant: BUTANE GAS & ELECTRIC CO., INC., 313 North Wood Street, Gilmer, Tex. 75644. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in tank vehicles, (1) between Carthage, Gilmer, Hawkins, Ore City, Poyner, and Tyler, Tex., on the one hand, and on the other, points in Gibsland, Lake Charles, and Shreveport, La., and (2) between Carthage, Gilmer, Hawkins, Ore City, Poyner, and Tyler, Tex., on the one hand, and, on the other, points in Bethel, Broken Bow, Hugo, and Idabel, Okla.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Shreveport, La.

No. MC 139302 (Sub-No. 2), filed January 4, 1974. Applicant: KREUGER TRUCKING CO., INC., 1580 William Street, Buffalo, N.Y. 14206. Applicant's representative: Christian G. Koelbl, III, 1800 One M & T Plaza, Buffalo, N.Y. 14203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Bethlehem Steel Corporation, at Lackawanna, N.Y., to points in the Lower Peninsula of Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139303 (Sub-No. 2), filed December 26, 1973. Applicant: VJ TRUCKING COMPANY, a Corporation, 102 Centerville National Bank Building, Centerville, Iowa 52544. Applicant's representative: Robert F. Holz, Jr., 400 Empire Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rock, sand, and gravel*, from the quarries of Mott Quarries, Inc., located near Cincinnati (Appanoose County); Promise City (Wayne County); and Plano (Appanoose County), Iowa, to points in Missouri, under contract with Mott Quarries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 139312 (Sub-No. 1), filed November 28, 1973. Applicant: JOE H. TIDWELL AND LEONARD LEVERETT, a Partnership, doing business as NORTHEAST TRUCK BROKERS, 804 North Cage Street, P.O. Box 826, Pharr, Tex. 78577. Applicant's representative: Joe T. Lanham, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used clothing, used rags,*

*and used burlap*, from New York, N.Y., points in Bergen County, N.J., Nassau and Suffolk Counties, N.Y., and points in Maryland, Pennsylvania, Connecticut, Massachusetts, Ohio, Michigan, Illinois, and Wisconsin, to Nogales, Ariz., McAllen, Tex., and points in Texas along the International Boundary line between the United States and the Republic of Mexico.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Brownsville, Houston, or Dallas, Tex.

No. MC 139344 (Sub-No. 2), filed January 8, 1974. Applicant: NORMAN MICHELSON, Highway 150 North, Independence, Iowa 50644. Applicant's representative: Carl E. Munson, 469 Fischer Building, 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.

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 Des Moines or Dubuque, Iowa.

No. MC 139351 (Sub-No. 2), 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 Alameda, Contra Costa, Fresno, Los Angeles, Merced, Orange, San Joaquin, San Mateo, Santa Clara, and Stanislaus Counties, Calif., to points in Mesa County, Colo., under a continuing contract or contracts with City Market, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Salt Lake City, Utah.

No. MC 139361, filed December 26, 1973. Applicant: SPAETH TRANSFER, INC., P.O. Box 97, Manette Station, Bremer-ton, Wash. 98310. Applicant's representative: John H. Loidhamer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, restricted to the transportation of traffic having a prior or subsequent movement beyond said points in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in Clallam, Jefferson, Grays Harbor, Mason, Thurston, Pierce, and Kipsap Counties, Wash.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle or Olympia, Wash.

No. MC 139396, filed December 28, 1973. Applicant: MITCHELL & SON, INC.,

1940 Carolyn Lane, Pearl, Miss. 39208. 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: (1) *Office furniture*, crated and uncrated, from Carlstadt, N.J., to points in the United States (except Hawaii and Alaska); and (2) *returned shipments, and materials, supplies, and equipment* used in the manufacture and sale of office furniture (except in bulk), from points in the United States (except Alaska and Hawaii) to Carlstadt, N.J., under a continuing contract with Designcraft.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 139401, filed December 26, 1973. Applicant: EARL W. NORRIS, 3654 Gertrude Street, Omaha, Nebr. 68147. Applicant's representative: Same as above. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed or scrap automotive or vehicular bodies, or agricultural implements of scrap therefrom* (except when required to move in dump or tank vehicles), between points in Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, and Lake and Porter Counties, Ind., under continuing contract with Midland Auto Crusher, Inc., located at Omaha, Nebr.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 139406, filed December 21, 1973. Applicant: JOHN ZACHER, doing business as ZACHER TRUCK SERVICE, 929 West Waterford, Milwaukee, Wis. 53221. Applicant's representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Replacement motor vehicles and parts thereof*, dispatched to replace wrecked or damaged or disabled motor vehicles, when moved by tow-truck or wrecker equipment, between points in Wisconsin and Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 139419, filed January 2, 1974. Applicant: RICHARDS TRANSPORT, LTD., # 2 Prospect Place, Regina, Saskatchewan, Canada. 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: (1) *Agricultural machinery and equipment and related parts and accessories*; and (2) *self propelled skid steer loaders, attachments, and related parts and accessories*, from the plantsite and facilities of Clark Equipment Company—Melrose Division

at Bismarck, N. Dak., to the ports of entry on the International Boundary line between the United States and Canada located on the North Dakota-Saskatchewan border.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak., or Billings, Mont.

#### MOTOR CARRIER OF PASSENGER(S)

No. MC 1515 (Sub-No. 189), filed November 16, 1973. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative: A. P. Carr, 1400 West Third Street, Cleveland, Ohio 44113. 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 Greenville, S.C., and Atlanta, Ga., over Interstate Highway 85 serving all intermediate points, including access and egress to and from points on U.S. Highway 29 over available access roads: From Greenville, S.C., over Interstate Highway 85 to Atlanta, Ga., and return over the same route; (2) Between New Orleans, La., and Baton Rouge, La., via Interstate Highway 10 serving all intermediate points: From New Orleans, La., over Interstate Highway 10 to Baton Rouge, La., and return over the same route; (3) Between the interchange of the Ohio Turnpike (Interstate Highway 80) and Ohio State Route 14 (Exit No. 13) and Sea World of Ohio for purpose of joinder, serving no intermediate points: From the junction of the Ohio Turnpike and Ohio State Route 14 (Exit No. 13) over Ohio State Route 14 to junction Ohio State Route 43, thence over Ohio State Route 43 to Sea World of Ohio and return over the same route serving no intermediate points; Restricted to seasonal operations from approximately May 15th to September 15th of each year and at other times when special events are conducted at Sea World of Ohio; and (4) Between Newark, N.J., and the junction of New Jersey State Route 21 and Main Avenue in Passaic, N.J., serving no intermediate points, as an alternate route for operating convenience only: From Newark over New Jersey State Route 21 to junction Main Avenue in Passaic, N.J., and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 61016 (Sub-No. 38), filed December 28, 1973. Applicant: PETER PAN BUS LINES, INC., 1776 Main Street, Springfield, Mass. 01103. Applicant's representative: Frank Daniels, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, in round trip sightseeing and pleasure tours, beginning and ending at points in Hampden and

Hampshire Counties, Mass. (except points in Hampden and Hampshire Counties, as specified in Sub Nos. 21 and 31), and extending 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 Springfield, Mass., or Hartford, Conn.

No. MC 115116 (Sub-No. 27), filed December 28, 1973. Applicant: SUBURBAN TRANSIT CORP., 750 Somerset Street, New Brunswick, N.J. 08901. Applicant's representative: Michael J. Marzano, 17 Academy Street, Newark, N.J. 07102. 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 junction Somerset County Highway 518 and U.S. Highway 206 in Montgomery Township, N.J., and junction Somerset County Highway 514 and John F. Kennedy Boulevard in Franklin Township (Somerset County), N.J.: From junction Somerset County Highway 518 and U.S. Highway 206 in Montgomery Township, N.J., over U.S. Highway 206 to junction Somerset County Highway 514 in Hillsborough Township, N.J., thence over Somerset County Highway 514 to junction John F. Kennedy Boulevard in Franklin Township (Somerset County), N.J., and return over the same route, serving all intermediate points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 138053 (Sub-No. 3), filed December 5, 1973. Applicant: YELLOW CAB OF BOCA RATON, INC., 2150 N.W. First Place, Boca Raton, Fla. 33432. Applicant's representative: Richard B. Austin, Palm Coast II Building, Suite 214, 5255 N.W. 87th Ave., Miami, Fla. 33166. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in nine passenger (including driver) limousines as part of a totally pre-arranged or packaged combined air and ground transportation movement, restricted to traffic having a prior or subsequent movement by air, between Miami International, Fort Lauderdale/Hollywood International and Palm Beach International Airports, Fla., on the one hand, and, on the other, all points in Florida.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Miami or Fort Lauderdale, Fla.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.74-3047 Filed 2-6-74; 8:45 am]

**DEPARTMENT OF TRANSPORTATION**

National Highway Traffic Safety Administration

**LOWER CONTROL ARM—FORD MOTOR COMPANY VEHICLES**

Public Proceeding: Defects Investigations and Determinations

Pursuant to sections 112 and 113 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1401, 1402), the National Highway Traffic Safety Administration determined, on December 5, 1973, that a defect relating to motor vehicle safety does not exist in the "lower control arm" of 1965-69 full-size Ford and Mercury passenger cars, the 1967-69 Thunderbird, and the 1969 Continental Mark III.

The National Highway Traffic Safety Administration has decided, in accord-

ance with the policy directive regarding defect investigations and determinations published November 4, 1973 (38 FR 31460), to provide interested persons an opportunity to submit their views regarding this matter at a public proceeding to be held on February 20, 1974, at the Department of Transportation Headquarters, 400 Seventh Street SW., Washington, D.C. The proceeding will be held in room 6200 and will begin at 10 a.m.

Interested persons are invited to present their views orally, in writing, or both. A transcript of the proceeding will be made and exhibits may be presented. However, cross-examination of witnesses will not be permitted. Persons wishing to make oral presentations are requested to notify Mrs. Nancy Martus, Office of Defects Investigation, National Highway Traffic Safety Administration, Washington, D.C. 20590, Tel. (202) 426-2850, be-

fore the close of business (4:15 p.m.) on February 18, 1974.

The agency has determined, based on its investigative file, which contains test reports, interview statements, and other information, that the probable cause of control arm failure is cumulative damage fatigue resulting from severe impact-type events during the service life of the arm. The agency's investigative file is available for public inspection in its Technical Reference Division, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590, between 7:45 a.m. and 4:15 p.m.

(Sec. 112, 113, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1401, 1402), delegation of authority at 49 CFR 1.51.)

Issued on February 4, 1974.

ROBERT L. CARTER,  
Acting Administrator.

[FR Doc.74-3242 Filed 2-6-74; 8:45 am]

**CUMULATIVE LIST OF PARTS AFFECTED—FEBRUARY**

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during February.

<b>1 CFR</b>	Page	<b>9 CFR—Continued</b>	Page	<b>18 CFR</b>	Page
305.....	4846	PROPOSED RULES:		141.....	4473
310.....	4846	201.....	4667	260.....	4473
<b>3 CFR</b>		381.....	4113	PROPOSED RULES:	
PROCLAMATIONS:		<b>10 CFR</b>		Ch. I.....	4671
4262.....	4061	210.....	4466	<b>19 CFR</b>	
4263.....	4659	211.....	4450, 4466	PROPOSED RULES:	
PRESIDENTIAL DOCUMENTS OTHER		212.....	4450, 4466, 4784	1.....	4580
THAN PROCLAMATIONS AND EXEC-		PROPOSED RULES:		<b>20 CFR</b>	
UTIVE ORDERS:		2.....	4582	405.....	4661
Memorandum of Dec. 20, 1973.....	4463	31.....	4583	PROPOSED RULES:	
<b>5 CFR</b>		32.....	4583	146.....	4785
752.....	4063	50.....	4582	416.....	4115, 4483
930.....	4064	211.....	4592	<b>21 CFR</b>	
<b>6 CFR</b>		<b>12 CFR</b>		19.....	4076, 4760
Rulings.....	4665	339.....	4756	121.....	4077
150.....	4064, 4557	PROPOSED RULES:		130.....	4078
152.....	4065, 4557, 4558	206.....	4487	135b.....	4475, 4759
<b>7 CFR</b>		545.....	4594	135c.....	4759
68.....	4749	563b.....	4594	135e.....	4475
660.....	4749	<b>13 CFR</b>		135f.....	4475
723.....	4558	101.....	4468	141e.....	4570
724.....	4560, 4563	<b>14 CFR</b>		148e.....	4570
726.....	4565	39.....	4074, 4075, 4756, 4757	PROPOSED RULES:	
862.....	4750	71.....	4075, 4570	128c.....	4113
907.....	4465	97.....	4075	600.....	4113
1421.....	4566	232.....	4469	610.....	4113
1475.....	4567	PROPOSED RULES:		640.....	4113
PROPOSED RULES:		71.....	4485, 4581, 4667	<b>23 CFR</b>	
26.....	4640	207.....	4670	765.....	4078
910.....	4067	208.....	4670	<b>24 CFR</b>	
980.....	4580	212.....	4670	0.....	4089
1011.....	4483	214.....	4670	203.....	4089
<b>9 CFR</b>		<b>16 CFR</b>		207.....	4089
71.....	4465	4.....	4661	220.....	4089
78.....	4465	13.....	4469, 4758	300.....	4661
361.....	4568	302.....	4852	1914.....	4090, 4091
381.....	4466	1500.....	4469	1015.....	4092, 4093
335.....	4067	PROPOSED RULES:		1931.....	4094
381.....	4568	302.....	4855		

<b>24 CFR—Continued</b>	<b>Page</b>	<b>32A CFR</b>	<b>Page</b>	<b>43 CFR</b>	<b>Page</b>
PROPOSED RULES:		Ch. VI:		421.....	4755
1272.....	4484	DPS Reg. 1.....	4478	PROPOSED RULES:	
<b>26 CFR</b>		<b>33 CFR</b>		3300.....	4105
12.....	4476	110.....	4478	<b>45 CFR</b>	
301.....	4476	117.....	4479	205.....	4733
PROPOSED RULES:		<b>38 CFR</b>		602.....	4664
1.....	4482	PROPOSED RULES:		PROPOSED RULES:	
301.....	4482	3.....	4673	233.....	4114
<b>27 CFR</b>		110.....	4484	<b>47 CFR</b>	
47.....	4760	117.....	4485	0.....	4571
<b>28 CFR</b>		<b>39 CFR</b>		73.....	4571, 4574
0.....	4080	447.....	4081	83.....	4578
19.....	4736	<b>40 CFR</b>		PROPOSED RULES:	
<b>29 CFR</b>		52.....	4081, 4082, 4662	73.....	4117, 4586, 4592, 4670, 4671
102.....	4080	180.....	4663	<b>49 CFR</b>	
520.....	4478	401.....	4532	1.....	4082
570.....	4478, 4760	426.....	4760	85.....	4083
1952.....	4661	PROPOSED RULES:		571.....	4087, 4578, 4664
PROPOSED RULES:		52.....	4116, 4485	573.....	4578
1928.....	4536	120.....	4485	575.....	4087
2201.....	4674	180.....	4486, 4487	1033.....	4087,
<b>30 CFR</b>		401.....	4487		4088, 4479, 4579, 4665, 4781, 4783
PROPOSED RULES:		402.....	4487	1085.....	4784
260.....	4108	405.....	4117	PROPOSED RULES:	
<b>31 CFR</b>		408.....	4708	174.....	4668
341.....	4661	410.....	4628	571.....	4116, 4670
<b>32 CFR</b>		<b>41 CFR</b>		575.....	4116
888d.....	4477	15-60.....	4760	1057.....	4488, 4787
1466.....	4571	101-18.....	4663	1310.....	4787
1472.....	4571	<b>42 CFR</b>		<b>50 CFR</b>	
		50.....	4730	28.....	4665
		57.....	4770, 4775, 4778		

## FEDERAL REGISTER PAGES AND DATES—FEBRUARY

<i>Pages</i>	<i>Date</i>
4055-4455.....	Feb. 1
4057-4549.....	4
4551-4649.....	5
4661-4741.....	6
4743-4857.....	7

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PART II



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## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Recommendations and  
Miscellaneous Statements

Title I—General Provisions  
 CHAPTER III—ADMINISTRATIVE  
 CONFERENCE OF THE UNITED STATES  
 PART 305—RECOMMENDATIONS OF THE  
 ADMINISTRATIVE CONFERENCE OF  
 THE UNITED STATES

PART 310—MISCELLANEOUS  
 STATEMENTS

Miscellaneous Amendments

The Administrative Conference of the United States was established by 5 U.S.C. 571-576 to study the efficiency, adequacy and fairness of the administrative procedure used by administrative agencies in carrying out administrative programs, and to make recommendations for improvement to administrative agencies, collectively or individually, to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 574(1)).

The Administrative Conference of the United States at its Tenth Plenary Session held December 18-19, 1973, adopted three Recommendations and one formal Statement. Recommendation 73-4 proposes changes in the administration of the antidumping law by the Department of the Treasury. Recommendation 73-5 proposes elimination of the categorical "military or foreign affairs function" exemption from APA rulemaking requirements and its replacement by a modified exemptive provision. Recommendation 73-6 advocates that in appropriate cases "generic" proceedings be used for the resolution of environmental issues in licensing proceedings. The Statement is addressed to the proposal of the American Bar Association for amending the Administrative Procedure Act, 5 U.S.C. 551-559, to improve the definitions of "rule" and "order" so as to distinguish more clearly between the nature of rule-making and the nature of adjudication. (The text of the American Bar Association proposals to which the Statement is directed is published in the Administrative Law Review, Volume 24, number 4 (1972)).

1. Part 305 of Title I, Chapter III, CFR is amended to add the following sections:

- Sec.  
 305.73-4 Administration of the Antidumping Law by the Department of the Treasury (Recommendation No. 73-4).  
 305.73-5 Elimination of the "Military or Foreign Affairs Function" Exemption From APA Rulemaking Requirements (Recommendation No. 73-5).  
 305.73-6 Procedures for Resolution of Environmental Issues in Licensing Proceedings (Recommendation No. 73-6).  
 AUTHORITY: 5 U.S.C. 571-576.

§ 305.73-4 Administration of the Antidumping Law by the Department of the Treasury (Recommendation No. 73-4).

The antidumping law (19 U.S.C. 160, et. seq. (1971)) is designed to prevent foreign manufacturers from selling their products in the United States market at prices less than those charged abroad—

at "less than fair value" (LTFV)—if such price discrimination "injures" domestic competitors. Whenever LTFV sales and resulting injury appear, the antidumping law requires the imposition of a duty equal to the amount of the price discrimination.

(a) *The Decisional Process*—(1) *Field investigation*. When Treasury receives credible information that a foreign manufacturer is engaged in LTFV sales injuring domestic industry, it initiates an investigation to determine whether such sales are in fact occurring in the United States market. The information is given to a case handler of the United States Customs Service in Washington. He in turn refers it to a Customs representative with jurisdiction over the country whose producers are being investigated, for inquiry into the prices at which the items in question are being sold in the home market, and in the United States. This Customs representative—along with all other officials involved in the administration of the antidumping law—is an impartial investigator, rather than a prosecutor seeking to establish that a violation has occurred. Although much relevant information must be kept confidential, the present practice denies the American producers even the opportunity of learning from the Customs representative the manner in which the investigation is being conducted and offering suggestions for additional inquiry.

(i) Present Treasury practice is to institute a country-wide foreign investigation of the subject product, even when the information as to possible dumping pertains only to a single exporter in that country. In this investigation, a substantial sample of the sales of those firms responsible for sixty percent of the exporting country's shipments of that product to the United States is examined. If sufficient LTFV sales are found (and if injury has resulted to domestic producers) a Finding of Dumping will issue which is applicable to all manufacturers of the specified product in the exporting country, except those who bear the considerable burden of showing that they have made no LTFV sales whatever. The effect of this finding is to require assessment of an antidumping duty on LTFV sales.

(2) *Agency review and decision*. The information assembled in the field investigation is transmitted to the case handler in Washington. He holds informal meetings with each of the interested parties separately, in which he discloses relevant, nonconfidential information, as well as his own tentative views of the merits. Both during and after the meeting, each party may present argument and evidence to the case handler. The case handler then prepares a detailed report, which includes a proposed tentative decision for publication in the FEDERAL REGISTER by the Assistant Secretary for Enforcement, Tariff and Trade Affairs, and Operations. This report is forwarded (sometimes with changes made by the case handler's superiors) to the Commissioner of Customs. On the basis of the report, the Commissioner of Customs prepares a Memorandum for the Assistant

Secretary recommending a tentative decision, with supporting documents that include a background paper which is what might be termed the final "institutional" version of the case handler's report. After reviewing the Memorandum, the Assistant Secretary causes a tentative decision embodying his views to be published in the FEDERAL REGISTER. This tentative decision may take one of three forms: A "Withholding of Appraisal Notice," a "Notice of Tentative Negative Determination," or a "Notice of Tentative Discontinuance of Antidumping Investigation." Only the "Withholding of Appraisal Notice" is a tentative affirmative decision; while it does not stop shipments from entering the United States, it renders all subsequent shipments subject to an antidumping duty should a Finding of Dumping issue. Thereafter, interested parties have an opportunity for briefing and argument before the Assistant Secretary. Treasury then issues its final decision on whether LTFV sales have occurred.<sup>1</sup>

(i) The Commissioner's Memorandum to the Assistant Secretary is currently unobtainable. Moreover, both the tentative and the final decision are extremely general and provide neither a meaningful explanation of the basis of the determination nor usable precedent. Parties' knowledge of the disposition of material issues comes mainly from informal discussions with the case handler.

(b) *Role of the Tariff Commission*. The current statutory scheme requires that Treasury complete its investigation and render an affirmative LTFV determination before the Tariff Commission can consider the other issue relevant to a dumping finding—whether domestic producers have been, or are likely to be, injured. In the recent past, the Tariff Commission frequently has found no in-

<sup>1</sup> A "Withholding of Appraisal Notice" expires three months after publication in the FEDERAL REGISTER. During this period, the matter is considered by the Tariff Commission, and a final Finding of Dumping will issue if injury is found. However, the foreign exporters may agree to an extension of time of up to three additional months. See 19 CFR 153.34(b) (1973). In these instances, the matter is not immediately referred to the Tariff Commission upon publication of the "Withholding of Appraisal Notice." Rather, the procedures described in the text are followed. An extension of time is agreed to in the overwhelming majority of cases. Because the Tariff Commission, in the absence of an agreement to an extension of time, must act within three months of publication of the "Withholding of Appraisal Notice," and cannot act until a final LTFV determination is on the record, the final affirmative LTFV decision is issued simultaneously with the "Withholding of Appraisal Notice" when no extension has been agreed upon, even though the hearing before the Assistant Secretary remains to be held. See 19 CFR 153.34(a), 153.35, and 153.37 (1973). In such circumstances, what is at issue in the hearing is the withdrawal of the "final" affirmative LTFV decision. Thus, for purposes of this recommendation, a "final decision" issued under the three-month procedure is considered a "tentative decision." As indicated, this procedure is rarely used.

jury despite the presence of LTFV sales, thereby rendering Treasury's considerable expenditures in resolving the LTFV issue unproductive. In many of those instances, the dispositive issues of injury (left until last) was much the simpler of the two. There is also some factual overlap between the two issues. This rigid statutory bifurcation of the decisional process between Treasury and the Tariff Commission causes inefficient utilization of valuable agency resources, and prevents a preliminary injury determination by the Tariff Commission that may be desirable.

(c) *Judicial review.* Before a Finding of Dumping can issue, there must have been determinations both that LTFV sales by foreign manufacturers were occurring, and that American competitors have been, or are likely to be, injured thereby. However, judicial review of the Finding of Dumping, and of the underlying affirmative determinations of LTFV sales and injury, is not specifically authorized by statute until after assessment of an antidumping duty on a particular shipment of the affected product. 19 U.S.C. 169 (1971). The assessment itself may raise complicated issues, but generally these are not directly related to the LTFV and injury determinations. Despite active cooperation of Customs officials to expedite the assessment, the delay in obtaining judicial review of the Finding of Dumping sometimes has proven quite extended.

RECOMMENDATION

A. Any interested party should be given an opportunity to confer with the Customs representative, in the presence of the foreign exporters under investigation if they choose to attend. This conference normally should be held in the foreign country prior to the completion of the representative's report. He should apprise the participants of the methods he has employed to compile and verify data, and should receive suggestions for possible additions and refinements.

B. Those exporters whose sales have been subjected to the standard sampling, and as to whom no LTFV sales have been found, should be specifically excluded from the Finding of Dumping.

C. Upon publication of the tentative decision in the FEDERAL REGISTER, the Memorandum of the Commissioner of Customs to the Assistant Secretary for Enforcement, Tariff and Trade Affairs, and Operations, including all supporting documents, should be made available at cost of reproduction, subject to deletion of confidential material and its replacement by a nonconfidential summary where feasible. This will allow more precise focusing on contested issues in later proceedings before the Assistant Secretary.

D. Both the tentative and the final decision should contain a statement of findings and conclusions and the reasons or bases therefor, on all material issues of fact or law presented. A more revealing tentative decision will greatly facilitate each party's presentation before the Assistant Secretary for Enforcement, Tariff and Trade Affairs, and Operations. Both decisions, if so detailed, will provide a reviewing court with authoritative documents enumerating the bases of the determination from which appeal is taken, and will constitute a body of precedent on the subject.

E. The present bifurcation of the decisional process between the Department of the Treasury and the Tariff Commission, established in 1954, is, from the standpoint of administrative procedure, unnecessary and inefficient. At a minimum, section 160 of Title 19, United States Code, should be amended to enable Treasury and the Commission to coordinate their efforts, so that the injury investigation may be conducted either prior to, or simultaneously with, the LTFV investigation, as the circumstances warrant. Such amendment would enable the Tariff Commission to make a preliminary determination of likelihood of injury before issuance of a Withholding of Appraisal Notice by Treasury.

F. Section 169 of Title 19, United States Code, should be amended so as to allow appeal to the courts immediately after issuance of the Finding of Dumping.

EDITORIAL NOTE: The following separate statement is published pursuant to the requirements of 5 U.S.C. 575(a)(1).

*Separate Statement of Malcolm S. Mason*

It is disappointing that, apparently on grounds of convenience in administration, the Conference approves as it does in paragraph B of this Recommendation, the imposition of a sanction on four exporters who are not shown to have violated the rule against dumping (and indeed may be victims of dumping by competing exporters in their own country) merely because six strangers of the same nationality have violated. Realistically, this imposes a discriminatory presumption that remains a heavy economic burden even though dumping duties may in fact still be avoided. It is not generally, and should not be, our legal practice to impute guilt by nationality this way without proof of conspiracy or other stronger grounds.

§ 305.73-5 Elimination of the "Military or Foreign Affairs function" exemption from APA rulemaking requirements (Recommendation No. 73-5).

(a) The basic principle of the rulemaking provisions of the Administrative Procedure Act—that an opportunity for public participation fosters the fair and informed exercise of rulemaking authority—is undercut by various categorical exemptions in 5 U.S.C. 553(a). More than 25 years' experience with rulemaking under the APA has shown some of these broad exemptions to be neither necessary nor desirable. The Administrative Conference has previously recommended elimination of the exemptions for matters "relating to public property, loans, grants, benefits, or contracts" (Recommendation 69-8, October 22, 1969). Since rules on those subjects may bear heavily on nongovernmental interests, the Conference concluded that their categorical exemption from generally applicable procedural requirements was unwise. For similar reasons, the breadth of the present exemption for all rules which involve a "military or foreign affairs function" is unwarranted.

(b) As with the earlier Recommendation, elimination of the categorical exemption for military or foreign affairs functions would not diminish the power of the agencies to omit APA rulemaking

procedures when their observance is found to be impracticable, unnecessary, or contrary to the public interest, or when other exemptions contained in section 553 are applicable, such as those for "general statements of policy" or for rules relating to "agency management or personnel." In addition, the present Recommendation would retain limited exemptive provisions specially directed to the needs of military and foreign affairs rulemaking.

RECOMMENDATION

(1) The APA's categorical exemption for "military or foreign affairs function" rulemaking should be eliminated.

(2) Two aspects of special concern in the military and foreign affairs areas should be dealt with by modified exemptive provisions in place of the present categorical one:

(a) Rulemaking in which the usual procedures are inappropriate because of a need for secrecy in the interest of national defense or foreign policy should be exempted on the same basis now applied in the freedom of information provision, 5 U.S.C. 552(b)(1). That is, section 553(a) should contain an exemption for rulemaking involving matters specifically required by Executive order to be kept secret in the interest of national defense or foreign policy.

(b) Some of the agencies affected by elimination of the categorical exemption issue numerous rules for which public procedures would be inappropriate or unnecessary. Such agencies would find it burdensome to make case-by-case findings that the usual procedures are "impracticable, unnecessary, or contrary to the public interest" under section 553(b)(B). Repeal of the categorical exemption for "military or foreign affairs functions" should not be construed to discourage use of the implicit power to apply the section 553(b)(B) exemption on an advance basis to narrowly drawn classes of military or foreign affairs rulemaking. It is therefore recommended that repeal of the exemption be accompanied by statutory clarification of the agencies' power to prescribe by rule specified categories of rulemaking exempt by reason of section 553(b)(B), provided that the appropriate finding and a brief statement of reasons are set forth with respect to each category. Though it would not be mandatory, agencies should consider using notice-and-comment procedures for adoption of the exemptive rule itself. Statutory amendment should also amplify the existing section 553(b)(B) standards for exemption by including specific reference to the national interest in the military-foreign affairs area.<sup>2</sup>

(3) Wholly without statutory amendment, agencies already have the authority to use the generally applicable APA procedures for rulemaking when formulating rules of the exempt types. They are urged to do so, wherever appropriate, in matters now excluded by the "military or foreign affairs function" exemption.

APPENDIX

Section 553(a) and the relevant part of 553(b), amended in accordance with this recommendation, might read as follows:

Sec. 553. *Rule making.* (a) This section applies, according to the provisions thereof, except to the extent that there is involved—

(1) A matter pertaining to a military or

<sup>2</sup> An Appendix to this recommendation sets forth suggested language to effect the changes recommended by paragraph (2).

foreign affairs function of the United States specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; or

(2) A matter relating to agency management or personnel (or to public property, loans, grants, benefits, or contracts).<sup>3</sup>

(b) \* \* \*

Except when notice or hearing is required by statute, this subsection does not apply—

(B) When the agency for good cause finds that notice and public procedure thereon would be impracticable, unnecessary, or contrary to the public interest (including national interest factors if a military or foreign affairs function is involved). The agency shall incorporate in each rule issued in reliance upon this provision either (i) the finding and a brief statement of reasons therefor, or (ii) a statement that the rule is within a category of rules established by a specified rule which has been previously published and for which the finding and statement of reasons have been made.

**§ 305.73-6 Procedures for resolution of environmental issues in licensing proceedings (Recommendation No. 73-6).**

(a) The new environmental legislation, especially the National Environmental Policy Act, has imposed on licensing agencies responsibility to consider environmental values in licensing that involves major Federal action significantly affecting the environment. The new responsibility has created new difficulties and has exacerbated old problems for the agencies.

(b) The nature, complexity and sheer number of the issues to be considered make it desirable that the agencies, in appropriate cases, treat generically issues common to more than one proceeding. In addition to promoting agency efficiency, such treatment will permit more effective presentations by interested organizations which may lack the necessary resources for appearances in all the individual cases in which the same generic issue is present. It is especially important, given the wide public interest in environmental issues, that the public be given adequate notice of the generic proceeding and of the issues being considered.

**RECOMMENDATION**

A. *Generic proceedings.* 1. Each licensing agency should analyze the activities subject to its jurisdiction to identify environmental issues common to more than one application and appropriate for across-the-board treatment. Issues so identified should be made the subject of "generic" proceedings, with the conclusions published and binding in subsequent cases as set forth in paragraph 3.

2. Each licensing agency should exercise discretion consistent with its governing statute to define the format of such a generic proceeding. Opportunity should be afforded for the presentation of oral testimony and cross-examination where required by law or where the agency considers it desirable for the development of an adequate record relevant to the particular issues.

3. Each licensing agency should select such form of procedure as will enable it ordinarily

<sup>3</sup> Recommendation 69-8 proposes the deletion of the bracketed phrase.

to apply generic decisions in subsequent licensing proceedings (a) without departure except where special local circumstances justify individualized treatment, and (b) without reexamination except where changed circumstances, e.g., material information not previously available to the agency, or a change in applicable law, raise a substantial question as to the continuing validity of the decision. Where the agency determines to reexamine the generic decision in whole or in part, it should consider the advisability of suspending final disposition of the licensing proceeding pending the conclusion of a new generic proceeding, and should, in any event, provide to affected interests adequate notice and opportunity to participate in the reexamination.

4. The agency should recognize a duty to reexamine generic decisions from time to time, as, for example, where technology is changing, or where currently available information indicates the need for modification.

5. The giving of binding effect to generic decisions creates potentially serious problems for the general public, who will not ordinarily be aware of the existence of a proceeding. Accordingly, the agency must be careful to structure requirements of notice in such a way as to ensure that persons in areas likely to be affected by future licenses and environmental groups who have exhibited interest in related problems receive adequate notice.

B. *Public information.* 1. Each licensing agency should make it a standard practice to disclose and make available to the public at the earliest practicable date all of the basic studies, reports and other documents, not excepted by law or privileged against disclosure, upon which the application or any recommendation or position of the agency or its staff is based and which the agency may reasonably anticipate will be sought to be obtained during the proceeding; and the agency should require applicants to follow a similar practice at the time an application is filed.

2. Environmental statements should be drafted in terms understandable to laymen and regulations for license applications should stress as a major goal provision of information to the public on environmental questions.

EDITORIAL NOTE: The following separate statements are published pursuant to the requirements of 5 U.S.C. 575(a)(1).

*Separate Statement of Kenneth Culp Davis*

Recommendation 73-6 may be the least distinguished recommendation the Administrative Conference has adopted. It tells agencies what their practices should be, without a report of what those practices are or why they are what they are. It is unsupported by a factual study either of the subject matter of the recommendation or of a representative portion of that subject matter.

Even though the provisions of 73-6 that I regarded as most objectionable were deleted from the proposal during the plenary session, I should like to explain why I joined a substantial minority of the Conference in voting against the adopted version. My principal reason is that each of the three main provisions is based on uninformed thinking in the abstract rather than on a careful study of the relevant facts and the relevant law, as I shall now show.

One main thrust of 73-6 is toward more

rulemaking ("generic proceedings") under the National Environmental Policy Act. Yet the Conference had no information whatsoever about the extent of rulemaking under NEPA. For all that the Conference knew, the rulemaking might in fact be excessive instead of deficient.

If the Conference had known how far the agencies have responded to the prodding of the Council on Environmental Quality to engage in more rulemaking (see CEQ 1972 Ann. Rep., page 228), its recommendation might have been the opposite: It might have commended the agencies for doing more rulemaking under NEPA than they have done apart from NEPA. At all events, the recommendation was based on factual guesses and not on information about agencies' practices.

Without facts about hearings, lack of hearings, or kinds of hearings under NEPA, the Conference favors "oral testimony and cross-examination." The push is indeed gentle, but it is unmistakably for such procedure and not against it. Yet the only factual report the Conference had before it was about the Atomic Energy Commission, whose procedure is governed by a unique statute requiring trial-type hearings even in absence of issues of fact or of policy. If the Conference had had facts about licensing procedures for housing projects, oilwell drilling, pipelines, grazing, waterway structures, and use of national forests, its mild push might have been in the opposite direction: It might have quoted with approval from Professor Walter Gellhorn, 48 A.B.A.J. 243, that "some of this country's gravest administrative deficiencies stem from lawyer-induced overreliance on courtroom methods to cope with problems for which they are unsuited." With no information as to whether hearings are held in 95 percent of NEPA cases or in only 5 percent, and with no information as to whether hearings that are held are public meetings or involve oral testimony and cross-examination, the Conference has thrown its weight on the side of trial procedures, whether or not the governing statute requires a hearing. The position is quite the opposite of that of the courts, as the Conference did not know but should have known. The courts generally hold in NEPA cases that public meetings suffice, without oral testimony subject to cross-examination, even when a statute requires a hearing. E.g., *Citizens Airport Committee v. Volpe*, 351 F. Supp. 52 (E.D.Va. 1972) (airport approval); *Keith v. Volpe*, 352 F. Supp. 1324 (C.D. Calif. 1972) (highway approval). See ch. 28, on "The National Environmental Policy Act," and more particularly section C, on "Procedural Problems Relating to Party Participation and Right To Be Heard," in K. Davis, *Administrative Law Cases-Text-Problems* (5th ed. 1973) 598-602.

The recommendation that in subsequent licensing proceedings an agency should "ordinarily" neither depart from nor reexamine its "generic decisions" seems directly contrary to the holding in *Calvert Cliffs Coordinating Committee v. Atomic Energy Commission*, 449 F.2d 1109

(D.C. Cir. 1971), that an AEC rule could not govern a licensing proceeding because "NEPA mandates a case-by-case balancing judgment on the part of federal agencies." 449 F.2d at 1123. The law of the Calvert Cliffs case may "ordinarily" apply; the Conference had before it no legal analysis to the contrary. Nor did the Conference have before it any study of such relevant legal questions as (a) whether an agency may make "generic decisions" binding even when they are not binding under the law of res judicata, (b) what agencies that are subject to NEPA lack a statutory grant of power to make rules having force of law, (c) whether an agency lacking such a statutory grant of power may legally refuse in a subsequent proceeding to reexamine a "generic decision," or (d) what procedure, if any, an agency may use in a "generic proceeding" that will allow it to refuse to reexamine its conclusions in a subsequent proceeding. Acting without studies of such questions seems to me to be a headlong jump into the darkness.

My principal assertion is not that the positions the Conference has taken in 73-6 are unsound but that they are unsupported by needed studies of the facts and the law. Of the 45 recommendations the Conference has made in its first six years, I have voted for almost all, and this is the only one that has seemed to me to be based on insufficient understanding. A record of 44 out of 45 is fairly good, but are my standards too high if I insist that 45 out of 45 should be based on studies of the relevant facts and the relevant law?

*Separate Statement of David Sive*

During several of the meetings of the Committee on Licenses and Authorizations at which we considered the matters involved in Recommendation 73-6, I indicated my disagreement with several details of both the Recommendation itself and the Committee's supporting statement.

It is my view that:

1. The re-examination permitted of agency generic decisions should be less restricted than the Recommendation suggests;

2. The Recommendation should more clearly mandate—as it did in an earlier Committee draft—earliest possible disclosure by the concerned agency of environmental reports. On the other hand, I want to emphasize my agreement with the substance of each principal aspect of the Recommendation. Some comments were made in the plenary session debate to the effect that certain aspects of the Recommendation should have received longer and deeper study, and that consideration by the Committee might have been too heavily based upon Professor Murphy's excellent study of the licensing activities of the Atomic Energy Commission. It is, of course, correct that the subject matter of Recommendation 73-6 could have received longer study. It is also true that any matter of the nature of those which come before the Conference or any of its Committees can be studied for three, five or even ten years without enabling the Conference, the

Committee or its consultants to state definitively at the end of such period: "This concludes all helpful study of the subject matter."

Recommendation 73-6 was considered thoroughly and at length by the Conference Committee, whose membership reflected broad agency representation and considerable experience in dealing with environmental problems. The Recommendation was circulated for comment to all agencies likely to be affected, and comments from nearly all those agencies were received and considered. While several of the agencies expressed doubt that generic proceedings would be helpful in their licensing proceedings, there was sufficient favorable response to the major points of the Recommendation to justify our conclusion that the Recommendation was broadly pertinent to federal licensing activities which affect the environment. Of course, nothing in the Recommendation calls for any agency to employ generic proceedings where in the agency's judgment such proceedings are inappropriate.

We must bear in mind that environmental law is a rapidly evolving field. The National Environmental Policy Act is itself a relatively new statute, and the problems it poses for many agencies cannot await post mortem analysis. I think it is no ground for criticism that this Recommendation attempts to extrapolate from an admittedly limited body of experience in order to provide guidance for agencies in dealing with these problems in the future. The Administrative Conference was created to provide an advisory body whose membership is "specially informed by knowledge and experience with respect to Federal administrative procedure." 5 U.S.C. 573(b) (6). The members are entitled and expect to rely on their knowledge and experience in evaluating any proposal before them and did so in this case. It seems to me that by using such expertise to act with a promptness that permits affected agencies to profit from the recommendation instead of from their own mistakes, the Conference is doing precisely what its statutory charter intended.

2. Part of 310 of Title I, Chapter III, CFR is amended to add the following section:

Sec.  
310.3 Statement of The Administrative Conference on ABA Resolution No. 1 Proposing to Amend the Definition of "Rule" in the Administrative Procedure Act.

AUTHORITY: 5 U.S.C. 571-576.

§ 310.3 Statement of the Administrative Conference on ABA Resolution No. 1 proposing to amend the definition of "Rule" in the Administrative Procedure Act<sup>4</sup>.

The Conference agrees with Resolution No. 1, calling for improved defini-

<sup>4</sup>For the original Conference action on this and other ABA Resolutions to amend the APA, see 1972-73 Report of the Administrative Conference of the United States, pp. 49-53; also reprinted at 38 FR 16839.

tions of "rule" and "order" so as to distinguish more clearly between the nature of rulemaking and the nature of adjudication; it endorses the recommendation of the ABA that the words "or particular" and the entire second clause be deleted from the definition of "rule" in the Administrative Procedure Act. The Conference endorses this proposal upon the express understanding that—

(a) A matter may be considered to be of "general applicability" even though it is directly applicable to a class which consists of only one or a few persons if the class is open in the sense that in the future the number of members of the class may be increased. Thus, for example, smoke emission standards for a particular area are of general applicability even though at the time of their issuance they may, as a practical matter, be applicable to only one plant. On the other hand, a rate established for a single company on the basis of the capital requirements and credit rating of that company, and applicable only to that company, would be a matter of particular applicability and an order rather than a rule.

(b) A matter may be of "particular applicability" (and therefore an order) even though it is applicable to several persons, if the agency clearly specifies an intention to limit its applicability to the particular persons concerned.

(c) The deletion of the second clause does not imply a determination that the agency statements therein listed are not rules, but rather that they may be either rules or orders, depending upon their applicability and effect. If such statements become orders under the revised definition and are required by statute to be determined on the record after opportunity for agency hearing, the Conference believes that in the absence of a specific determination by Congress to the contrary they should be treated in the same manner as suggested for ratemaking in the second from the last paragraph of this Recommendation, and that amendments of the Act necessary to achieve these results should accompany the proposed redefinition of "rule."

(d) The proposed change in the definition of "rule" does not affect the precedential value of an agency's decision in a matter or particular applicability if the agency decides to proceed on a case-by-case basis rather than by rulemaking.

(e) This change is not intended to affect recommendations previously made which urge—

(1) The use of notice-and-comment procedures when considering issues of general applicability that may arise in the context of an adjudicatory proceeding (Recommendation 71-6);

(2) The use of trial-type or similar procedures when considering issues of specific fact in the context of a rule-making proceeding (Recommendation 72-5); and

(3) Articulation and continual review of agency policies through rules, precedents and policy statements (Recommendation 71-3).

In endorsing the proposed redefinition, the Conference does not imply that a formal proceeding fixing the permissible rates of a specific enterprise—the agency activity principally affected—should be treated in all respects like other formal adjudication. To the contrary, we believe that ratemaking, like initial licensing, should receive special treatment with respect to the separation of functions requirements of 5 U.S.C. 554(d), as set forth in the Conference Statement concerning ABA Resolution No. 3; that ratemaking should not be subject to the mandatory initial decision requirement of 5 U.S.C. 557(b) and should continue to be governed by the provision of 5 U.S.C. 556(d) authorizing agencies to require that evidence be submitted in writ-

ing. Amendments of the Act necessary to achieve these results should accompany the proposed redefinition of "rule."

The question of appropriate procedures for informal adjudication is a subject deserving further study. Meanwhile, we recommend that agencies continue, despite the reclassification, to give informal action of particular applicability and future effect at least the same procedural protections that are now in fact accorded.

The principal purpose of the suggested changes is definitional and prospective rather than operational and retrospective. That is, they are intended to provide a clearer definitional structure that will facilitate proper allocation of procedures with respect to legislation adopted

in the future or new activities undertaken under existing law; they are not aimed at the correction of what are thought to be existing abuses. Accordingly, to the extent any agency believes that activities currently conducted as rule-making would be adversely affected by the conversion which the ABA proposal would effect, it would not be inconsistent with the Conference's Statement to propose special procedural provisions therefor, so long as the integrity of the definition of "rule" (as here set forth) is not affected.

Dated: January 29, 1974.

RICHARD K. BERG,  
*Executive Secretary.*

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PART III



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## FEDERAL TRADE COMMISSION

Consumer Product Safety  
Commission



Requirements  
Under the Flammable Fabrics Act for  
Children's Sleepwear, Sizes 0-6X

## Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

## SUBCHAPTER C—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

## PART 302—RULES AND REGULATIONS UNDER FLAMMABLE FABRICS ACT

## Children's Sleepwear, Sizes 0-6X; Labeling and Advertising Requirements Under Standard DOC FF 3-71

This Consumer Product Safety Commission document promulgates a Flammable Fabrics Act regulation, 16 CFR 302.19, that establishes labeling and advertising requirements for items subject to Standard DOC FF 3-71. The latter, which is the Standard for the Flammability of Children's Sleepwear, applies to sleepwear in sizes 0 through 6X and to fabric and related material intended or promoted for use in children's sleepwear in sizes 0 through 6X. Violators of the regulation promulgated herein, 16 CFR 302.19, are subject to the sanctions provided under the Flammable Fabrics Act (15 U.S.C. 1191-1204).

Some principal features of 16 CFR 302.19 are as follows:

1. The labeling provisions expand the existing labeling requirements found in section 5 of Standard DOC FF 3-71 and require, among other things, that an item covered by the Standard that is known to have its flame resistance qualities adversely affected by any agent or treatment be labeled to so indicate. An item manufactured between July 29, 1972 (the effective date of Standard DOC FF 3-71) and July 29, 1973, that is not in compliance with the Standard shall, prior to introduction into interstate commerce, be labeled to indicate its noncompliance. If the item is so packaged that the label is not readily visible, the package itself must be prominently labeled with the required information.

2. The advertising provisions require that advertisements for noncomplying item manufactured between July 29, 1972 (the effective date of the Standard), and July 29, 1973, indicate that the product being sold is flammable.

**Background.** The Standard for the Flammability of Children's Sleepwear, DOC FF 3-71, was issued by the Secretary of Commerce on July 29, 1971 (36 FR 14062), pursuant to the Flammable Fabrics Act, and was amended by him on July 21, 1972 (37 FR 14624).

On August 9, 1972 (37 FR 16003), the Federal Trade Commission, having authority at that time to enforce flammability standards promulgated by the Secretary of Commerce, proposed a regulation (16 CFR 302.19) prescribing labeling, advertising, and recordkeeping requirements for items subject to Standard DOC FF 3-71.

Subsequently, on May 14, 1973, functions under the Flammable Fabrics Act were transferred to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1231; 15 U.S.C. 2079(b)).

**CODIFICATION NOTE:** The regulations being amended herein (Part 302), although appearing in the CFR under Title 16, Chapter I—Federal Trade Commission, are now the responsibility of the Consumer Product Safety Commission due to the transfer of statutory authority explained above. Until CPSC revises and transfers these regulations to Title 16, Chapter II—Consumer Product Safety Commission, it shall amend them in Chapter I.

**Response to proposal and CPSE decisions thereon.** In response to the regulation (16 CFR 302.19) proposed by FTC on August 9, 1972 (37 FR 16003), comments were received from two retailers, three associations of retailers, one association of importers, eight manufacturers of products subject to Standard DOC FF 3-71, four associations of manufacturers of such products, three consumers, and one State government agency. The three consumers and the State government agency favor the proposal. The rest state one or more objections. The principal issues raised by those objecting and the Consumer Product Safety Commission's decisions thereon are as follows:

**A. Labeling provisions.** 1. A manufacturer and two associations of manufacturers suggest that proposed § 302.19(b) (1) be changed to allow to be stated in positive terms, labeling statements relating to care of the item to prevent deterioration of the flame resistance of the item.

The Commission finds that proposed § 302.19(b) (1) would not preclude the use of positively stated instructions, provided such instructions are accurate and can be understood and followed by consumers. Accordingly, changing the regulation as suggested is unnecessary.

2. A manufacturer and an association of manufacturers question the necessity for the requirement in proposed § 302.19(b) (2) that any item subject to Standard DOC FF 3-71 that has been initially tested under 4(d) (4) thereof after one washing must bear a permanent label with instructions to wash the item before wearing it. They contend that after the initial washing such a label has no further utility.

The Commission finds that since the requirement for a permanent label for such items is prescribed by 5(a) of the Standard, § 302.19(b) (2) should prescribe likewise for consistency between the regulation and the Standard.

3. Standard DOC FF 3-71 is applicable to children's sleepwear in sizes 0 through 6X manufactured since July 29, 1972; however, the Standard provides that noncomplying items subject to the Standard and manufactured between July 29, 1972, and July 29, 1973, may be sold if bearing a label indicating such noncompliance.

Proposed § 302.19(c) provides that any noncomplying item subject to the Standard and manufactured, imported, or otherwise marketed or handled during the 12 months following July 29, 1972, the effective date of the Standard, must bear a label stating "Flammable (Does

Not Meet U.S. Department of Commerce Standard DOC FF 3-71). Should not be worn near sources of fire."

An association of retailers suggests that this labeling statement be modified by substituting the word "Caution" for the word "Flammable" and adding language to the effect that sale of the garment is legal.

Since the labeling statement in proposed § 302.19(c) is identical to that required for such items by 5(b) of Standard DOC FF 3-71, the Commission finds that the suggested change should not be adopted.

4. A manufacturer, two associations of manufacturers, and two associations of retailers suggest that proposed § 302.19(d) be changed to allow labels bearing information required by § 302.19 to contain other information, representations, or disclosures provided such other material is separate from and does not interfere with or detract from the information required by § 302.19.

The Commission finds that this suggestion is in agreement with the intent of proposed § 302.19(d). The provision has been changed accordingly and appears below in § 302.19(b) (7).

5. Three associations of manufacturers suggest that proposed § 302.19(e) be changed so that the required labeling of samples, swatches, or specimens used to promote the sale of items subject to Standard DOC FF 3-71 can appear on cards or other promotional materials accompanying such samples, swatches, or specimens as an alternative to appearing on attached labels.

An association of retailers states that all promotional samples, swatches, and specimens should be exempt from the labeling requirements of proposed § 302.19.

The Commission finds that such promotional samples, swatches, and specimens should provide the required information and that such information should either be on the sample, swatch, or specimen or should be on attached promotional material. Section 302.19(b) (6) below so provides.

6. Two manufacturers state that they occasionally promote the sale of items to be manufactured in compliance with Standard DOC FF 3-71 by means of sample swatches or garments consisting of fabrics not meeting the Standard and used only to illustrate the color or appearance of the item being promoted. They suggest that such samples not be subject to the labeling requirements in proposed § 302.19(d) but instead be labeled to show they are for illustrative purposes only and are not to be worn.

The Commission finds this suggestion to be in the interest of consumers and manufacturers. Accordingly, § 302.19(b) (6) below so provides.

7. A retailer and an association of manufacturers state that the requirement of proposed § 302.19(h) that every piece of fabric sold to consumers for conversion into children's sleepwear must be accompanied with a label containing the infor-

mation required by § 302.19 is unnecessary because few if any consumers would actually sew such labels into garments they make.

Another association of retailers requests an exemption from the requirement of proposed § 302.19(h) for any remnant, "off-grade," or "second quality" fabric subject to Standard DOC FF 3-71 that measures 10 yards or less, pointing out that such items are exempted from care-labeling regulations by the Federal Trade Commission.

The Commission finds that in the interest of protecting young children from dangerously flammable sleepwear the labeling requirements of § 302.19 must apply as broadly as possible to items subject to the Standard. Accordingly, the subject provisions appear below in § 302.19(b)(4) without substantial change.

8. On July 27, 1973, the Health Research Group, a nonprofit organization engaged in research related to health, including product safety, and two individuals petitioned the Consumer Product Safety Commission to promulgate a regulation prescribing various requirements for labeling and advertising of children's sleepwear. In support, the petitioners submitted information indicating that student groups conducting a survey of 163 retail stores in 12 States during April-July 1973 found 147 selling items of children's sleepwear complying with Standard DOC FF 3-71 and 138 selling children's sleepwear items not complying with the Standard. At least 56 of the stores indicated they intended to continue to sell noncomplying children's sleepwear after July 29, 1973, the closing date for the manufacture of noncomplying items subject to the Standard.

The petitioners requested promulgation of a regulation requiring all persons selling children's sleepwear at retail to place conspicuous hang-tags not smaller than 2 by 3 inches on unpackaged items of noncomplying children's sleepwear and to place labels not smaller than 1½ by 2½ inches on all packages of noncomplying items of children's sleepwear in accordance with .5(b) of Standard DOC FF 3-71 and proposed § 302.19 (c) and (f), if such noncomplying items have not been so labeled and packaged by the manufacturer.

Section 302.19(b)(3) below requires that any noncomplying item of children's sleepwear subject to the Standard and offered for sale to consumers must bear a prominent, permanent, conspicuous, and legible label indicating that the item does not meet the Standard (§ 302.19(b)(3) below is substantially similar to proposed § 302.19(c)).

Section 302.19(b)(5) below requires that when any noncomplying item of children's sleepwear subject to the Standard is offered for sale to consumers and the required label is not readily visible to prospective purchasers, the package itself must also be prominently, conspicuously, and legibly labeled with the required information (§ 302.19(b)(5) below is substantially similar to proposed § 302.19(f)).

Section 302.19(d) below prohibits any person subject to the Flammable Fabrics Act from selling any item of children's sleepwear subject to the Standard that does not comply with the provisions of § 302.19 (§ 302.19(d) below is substantially similar to proposed § 302.19(j)).

The effect of these three requirements is to impose on the retailer an obligation to affix appropriate labels to individual items and packages of noncomplying children's sleepwear subject to Standard DOC FF 3-71 if those labels have not been affixed by the manufacturer. Section 302.19 below does not require the use of a hang-tag and does not prescribe a minimum size for package labels, as requested by the Health Research Group. Nevertheless, the Commission concludes that § 302.19 as promulgated below substantially grants the requests of these petitioners.

9. On August 22, 1973, the Connecticut Citizen Research Group petitioned the Commission to require dealers who offer children's sleepwear for sale to consumers in retail stores to separate physically items complying with the Standard from those that do not and to identify displays of complying and noncomplying items by clear and conspicuous signs. Proposed § 302.19 does not indicate that retailers would be required to so segregate children's sleepwear. Accordingly, interested parties have not had an opportunity to comment on such a requirement. Section 302.19 below therefore contains no such requirement.

Elsewhere in this issue of the FEDERAL REGISTER, however, the Commission is proposing amendments to § 302.19 that include a requirement that retailers separate and identify displays of children's sleepwear as described above.

B. Advertising requirements. 1. A retailer and an association of retailers question the authority of the Commission to promulgate regulations concerning the advertising of items subject to Standard DOC FF 3-71. They question the provisions of proposed § 302.19(g) that require certain disclosures to be made in advertisements for noncomplying items subject to the Standard.

As stated above under "Background," functions under the Flammable Fabrics Act were transferred to the Consumer Product Safety Commission by the Consumer Product Safety Act (Pub. L. 92-573, sec. 30(b), 86 Stat. 1231; 15 U.S.C. 2079(b)), effective May 14, 1973. Section 5 of the Flammable Fabric Act (sec. 5, 67 Stat. 113-14, as amended 81 Stat. 571; 15 U.S.C. 1194) authorizes and directs the Commission to prescribe regulations necessary and proper for the administration and enforcement of the Flammable Fabrics Act. Accordingly, the Consumer Product Safety Commission has the authority and the responsibility for promulgating regulations relating to advertisements for items subject to standards issued under the Flammable Fabrics Act.

2. Proposed § 302.19(g)(1) would require advertisements for noncomplying items subject to Standard DOC FF 3-71

and offered for sale by mail order or under circumstances where the customer, in the ordinary course of dealing, does not have an opportunity to inspect the label before purchasing, to disclose the statement "Flammable (Does Not Meet U.S. Department of Commerce Standard DOC FF 3-71.) Should not be worn near sources of fire." Proposed § 302.19(g)(2) would require all other advertisements for noncomplying items subject to the Standard to disclose the statement "Flammable—Read the Label."

A retailer comments that the requirements of proposed § 302.19(g) are applicable only to noncomplying items manufactured during the 12 months following July 29, 1972 (the effective date of the Standard), and states that these requirements could create confusion among customers because advertisements for noncomplying items manufactured before July 29, 1972, would not be required to contain any disclosure relating to flammability. He states that the provisions of proposed § 302.19(g)(2) could cause some consumers to believe erroneously that because advertisements for items of children's clothing not subject to the Standard and those items of sleepwear that comply with the Standard contain no disclosure about flammability, such clothing is not flammable or will not burn.

An association of retailers states that the proposed § 302.19(g)(2) requirements are unnecessary because consumers will be able to inspect any item subject thereto before purchasing and will be able to see from the label or packaging of such items that they do not comply with the Standard. The association also requests clarification of the types of advertising proposed § 302.19(g) covers.

A retailer, a manufacturer, and an association of manufacturers state that deadlines for submission of advertising copy to the various mass media and to printers of catalogs and other forms of direct mail advertising would make compliance with proposed § 302.19(g) impossible in some cases and difficult in others.

Regarding these suggestions that proposed § 302.19(g) requirements would be a source of consumer confusion, the Commission notes that noncomplying items of children's sleepwear not subject to Standard DOC FF 3-71 have not been manufactured for more than 12 months; that little if any advertising is expected to be published for such items after § 302.19 becomes effective; and that no data or other evidence were given in support of the consumer-confusion suggestion.

The Commission finds that such consumer confusion is unlikely, that the provisions of proposed § 302.19(g) are sufficiently clear to describe the types of advertisements covered, and that for their protection consumers should be given the widest possible notice of the flammability characteristics of noncomplying items subject to the Standard and offered for sale.

Accordingly, provisions similar to those in proposed § 302.19(g) are promulgated below in § 302.19(c). Section 302.19 shall become effective March 11, 1974. Accordingly, § 302.19(c) shall not be applicable to any catalog or other advertisement printed, published, broadcast, or otherwise disseminated or submitted in its final form to any publisher, printer, or advertising medium in conformance with regularly established production or advertising deadlines before the effective date of § 302.19.

**C. Recordkeeping requirements.** Fifteen comments express one or more objections to the recordkeeping requirements in proposed § 302.19(k). Since the recordkeeping requirements in the proposal were not drafted to make specific and detailed provisions for the sampling plan that was incorporated into the amended Standard, the Commission finds that they are inappropriate. Accordingly, elsewhere in this issue of the FEDERAL REGISTER, the Commission is proposing requirements (§ 302.19(e)) for recordkeeping by persons subject to the Flammable Fabrics Act who market or handle items of children's sleepwear in sizes 0 through 6X.

**D. Additional definition.** Although no comments were received regarding the definitions in proposed § 302.19(a), the Commission finds that an addition should be made to § 302.19(a) to incorporate by reference the definitions in Standard DOC FF 3-71. This will further reduce the possibility of conflict between provisions of § 302.19 and Standard DOC FF 3-71. The addition appears below as § 302.19(a)(5). Section 302.19 has also been reorganized and changed for clarity.

**Conclusion and promulgation.** Having considered the comments received and other pertinent information and material, the Consumer Product Safety Commission concludes that the proposed regulation, with the changes discussed above, should be adopted as set forth below.

Accordingly, pursuant to provisions of the Flammable Fabrics Act (sec. 5, 67 Stat. 112-13, as amended 81 Stat. 571; 15 U.S.C. 1194), and under authority vested in the Consumer Product Safety Commission by the Consumer Product Safety Act (Public Law 92-573, sec. 30(b), 86 Stat. 1231; 15 U.S.C. 2079(b)), the following new section is added to 16 CFR Part 302:

**§ 302.19 Children's sleepwear, sizes 0-6X; labeling and advertising requirements under Standard DOC FF 3-71.**

(a) **Definitions.** For the purposes of this section, the following definitions apply:

(1) "Standard" means the Standard for the Flammability of Children's Sleepwear (DOC FF 3-71) promulgated by the Secretary of Commerce in the FEDERAL REGISTER of July 29, 1971 (36 FR 14062), and amended by him in the FEDERAL REGISTER of July 21, 1972 (37 FR 14624).

(2) "Children's sleepwear" means "children's sleepwear" as defined in .1(a)

of the Standard; that is, "any product of wearing apparel up to and including size 6X, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Diapers and underwater are excluded from this definition."

(3) "Item" means "item" as defined in .1(c) of the Standard; that is, "any product of children's sleepwear, or any fabric or related material intended or promoted for use in children's sleepwear."

(4) "Marketing or handling" or "marketed or handled" means any one or more of the transactions set forth in section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

(5) The definitions of terms set forth in .1 of the Standard shall also apply to this section.

(b) **Labeling.** (1) Where any agent or treatment is known to cause deterioration of flame resistance or otherwise enhances the flammability characteristics of an item, such item shall be prominently, permanently, conspicuously, and legibly labeled with precautionary care and treatment instructions to protect the item from such agent or treatment.

(2) If the item has been initially tested under .4(d)(4) of the Standard after one washing and drying, it shall be prominently, permanently, conspicuously, and legibly labeled with instructions to wash before wearing.

(3) Any item manufactured, imported, or otherwise marketed or handled that is not in compliance with the Standard and that was manufactured between July 29, 1972, and July 29, 1973, shall, prior to introduction into commerce, be prominently, permanently, conspicuously, and legibly labeled with the statement "Flammable (Does Not Meet U.S. Department of Commerce Standard DOC FF 3-71). Should not be worn near sources of fire."

(4) Where any fabric or related material intended or promoted for use in children's sleepwear is sold or intended for sale to the ultimate consumer for the purpose of conversion into children's sleepwear, each bolt, roll, or other unit shall be labeled with the information required by this section. Each item of fabric or related material sold to an ultimate consumer must be accompanied by a label, as prescribed by this section, that can by normal household methods be permanently affixed by the ultimate consumer to any item of children's sleepwear made from such fabric or related material.

(5) Where items required to be labeled in accordance with paragraph (b) (2), (3), and (4) of this section are marketed at retail in packages, and the required label is not readily visible to prospective purchasers, the packages must also be prominently, conspicuously, and legibly labeled with the required information.

(6) Samples, swatches, or specimens used to promote or effect the sale of items subject to the Standard shall be labeled

in accordance with this section with the information required by this section, except that such information may appear on accompanying promotional materials attached to fabric samples, swatches, or specimens used to promote the sale of fabrics to garment manufacturers. This subparagraph (6) shall not apply, however, to samples, swatches, or specimens prominently, permanently, conspicuously, truthfully, and legibly labeled with the statement "Flammable. Sample only. Not for use or resale. Does not meet Standard for the Flammability of Children's Sleepwear, DOC FF 3-71."

(7) The information required on labels by this section shall be set forth separately from any other information appearing on the same label. Other information, representations, or disclosures not required by this section but placed on the same label with information required by this section, or placed on other labels elsewhere on the item, shall not interfere with the information required by this section. No person, other than the ultimate consumer, shall remove or mutilate, or cause or participate in the removal or mutilation of, any label required by this section to be affixed to any item.

(c) **Advertisements.** (1) All advertisements for noncomplying items of children's sleepwear manufactured between July 29, 1972 (the effective date of the Standard), and July 29, 1973, that are subject to the Standard and that are being offered for sale to consumers through direct mail, catalogs, telephone solicitation, or under any other circumstances where the consumer in the ordinary course of dealing is not afforded an opportunity to inspect the label before receiving the item, shall contain a clear and conspicuous disclosure of the statement "Flammable (Does Not Meet Standard for the Flammability of Children's Sleepwear, DOC FF 3-71). Should not be worn near sources of fire."

(2) All other advertisements for noncomplying items subject to the Standard shall contain a clear and conspicuous disclosure of the statement "Flammable—Read the Label."

(d) **Compliance with this section.** No person subject to the Flammable Fabrics Act shall manufacture, import, distribute, or otherwise market or handle any item subject to the Standard, including samples, swatches, or specimens used to promote or effect the sale thereof, which is not in compliance with this § 302.19.

**Effective date.** The regulation promulgated herein shall become effective March 11, 1974.

(Sec. 5, 67 Stat. 112-13, as amended 81 Stat. 571; 15 U.S.C. 1194)

Dated: January 30, 1974.

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

[FR Doc. 74-2898 Filed 2-6-74; 8:45 am]

## CONSUMER PRODUCT SAFETY COMMISSION

[ 16 CFR Part 302 ]

### CHILDREN'S SLEEPWEAR IN SIZES 0 THROUGH 6X

#### Proposed Recordkeeping and Other Requirements for Items Subject to Standard DOC FF 3-71

Published elsewhere in this issue of the FEDERAL REGISTER is a Flammable Fabrics Act regulation, 16 CFR 302.19, promulgated by the Consumer Product Safety Commission, that prescribes labeling and advertising requirements for items of children's sleepwear, sizes 0 through 6X, that are subject to the Standard for the Flammability of Children's Sleepwear (DOC FF 3-71).

*Purpose of this proposal.* The Consumer Product Safety Commission proposes to amend 16 CFR 302.19 to add requirements for:

1. Recordkeeping by persons subject to the Flammable Fabrics Act who market or handle items of children's sleepwear subject to Standard DOC FF 3-71;
2. Labeling of each item subject to the Standard to identify the production unit in which the item was produced;
3. Testing for guarantee purposes under the Standard; and
4. Displaying items of children's sleepwear, sizes 0 through 6X, when those items are offered for sale to consumers in retail establishments.

*Commission's responsibility.* Functions under the Flammable Fabrics Act were transferred to the Consumer Product Safety Commission, effective May 14, 1973; by section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)). Accordingly, section 5 of the Flammable Fabrics Act (15 U.S.C. 1194) authorizes and directs the Consumer Product Safety Commission to promulgate regulations for the enforcement and administration of the Flammable Fabrics Act.

*Provisions of this proposal.* The Standard for the Flammability of Children's Sleepwear (DOC FF 3-71), as amended July 21, 1972 (37 FR 14624), prescribes a sampling plan to be used by a manufacturer of items subject to the Standard to determine whether any given portion of his production could be acceptable under the Standard. Section 4(b) (2) and (3) of the Standard and section 5 of the Flammable Fabrics Act authorize CPSC to require by regulation that manufacturers, importers, and other persons (such as converters) initially introducing items subject to the Standard into commerce maintain records of all testing performed in accordance with the sampling procedures prescribed in the Standard. Proposed § 302.19(e) below prescribes those recordkeeping requirements.

Generally, proposed § 302.19(e) requires that persons initially introducing items subject to the Standard into commerce must maintain records to establish a line of continuity through the process of manufacture of each production unit of the items to the sale and delivery of the finished items, and from

the specific finished items back to the manufacturing records. Proposed § 302.19(e)(1) prescribes general requirements for records that must be maintained for both fabric production units and garment production units. Proposed § 302.19(e)(2) contains additional recordkeeping requirements applicable only to fabric production units. Proposed § 302.19(e)(3) and (4) contains additional recordkeeping requirements applicable only to garment production units.

The records required for every production unit must relate that unit to a production unit identification number, letter, or date, or combination thereof, that is required to be placed on a permanent, accessible, and legible label on all items in accordance with proposed § 302.19(b)(8) below.

Proposed § 302.19(f) prescribes recordkeeping requirements for persons subject to the Flammable Fabrics Act who market or handle items subject to Standard DOC FF 3-71 but who do not introduce those items into commerce. Those persons would be required to maintain records for 3 years to:

1. Identify the items marketed or handled;
2. Identify the source of those items;
3. Establish the date those items were received;
4. Identify the purchaser of those items, except ultimate retail purchasers; and
5. Establish the date of sale to purchasers, except the date of sale to ultimate retail purchasers.

On July 27, 1973, the Health Research Group and two individuals petitioned CPSC to promulgate a regulation establishing requirements for labeling and advertising of children's sleepwear, sizes 0 through 6X, so that consumers could distinguish between items complying with Standard DOC FF 3-71 and non-complying items and could make knowledgeable buying decisions. On August 22, 1973, the Connecticut Citizen Research Group petitioned CPSC to require dealers offering children's sleepwear for sale to consumers in retail establishments to separate physically items complying with the Standard from noncomplying items and to identify by conspicuous signs displays of complying and noncomplying items.

As stated above, CPSC has promulgated (in this issue of the FEDERAL REGISTER) 16 CFR 302.19, a regulation for the labeling and advertising of items of children's sleepwear, sizes 0 through 6X, that are subject to the Standard. Proposed § 302.19(d) below facilitates identification of complying and non-complying items of children's sleepwear, sizes 0 through 6X. It requires dealers offering such items for sale to consumers in retail establishments to segregate items complying with Standard DOC FF 3-71 from noncomplying items and to post clear and conspicuous signs at the location of the merchandise to identify displays of such complying and non-complying items.

Proposed § 302.19(g) below prescribes

the testing required for issuing continuing guarantees under section 8 of the Flammable Fabrics Act (15 U.S.C. 1197) for items subject to the Standard.

Also proposed below is a revision of the heading of § 302.19 to reflect the proposed additions and a redesignation of existing § 302.19(d) as § 302.19(h) to provide for a logical sequence of provisions.

*Proposal.* Pursuant to provisions of the Flammable Fabrics Act (sec. 5, 67 Stat. 112-13, as amended 81 Stat. 571; 15 U.S.C. 1194), and under authority vested in the Consumer Product Safety Commission by the Consumer Product Safety Act (Public Law 92-573, sec. 30(b), 86 Stat. 1231; 15 U.S.C. 2079(b)), the Commission proposes to amend 16 CFR 302.19 (promulgated elsewhere in this issue of the FEDERAL REGISTER) by revising the section heading, adding paragraph (8) to paragraph (b), redesignating paragraph (d) as (h), and adding paragraphs (d), (e), (f), and (g), as follows:

**§ 302.19 Children's sleepwear, sizes 0-6X; labeling, advertising, recordkeeping, retail display, and guarantees under Standard DOC FF 3-71.**

(b) *Labeling.* \* \* \*

(8) Every manufacturer, importer, or other person (such as a converter) initially introducing items subject to the Standard into commerce shall assign to each item a unit identification (number, letter, or date, or combination thereof) sufficient to identify and relate to the fabric production unit or garment production unit of which the item is a part. Such unit identification shall be designated in such a way as to indicate that it is a production unit identification under the Standard.

(i) Each garment subject to the Standard shall bear a label with minimum dimensions of 0.5 inch (1.3 centimeters) by 0.75 inch (1.9 centimeters) containing the appropriate garment production unit identification for that garment in black letters at least one-sixth of an inch (0.4 centimeter) in height against a solid white background. The label containing the garment production unit identification must be constructed and affixed to the garment in such a manner as to remain attached to the garment throughout the intended period of use of the garment and must be readily visible to prospective purchasers.

(ii) The fabric production unit identification shall appear in black letters at least one-sixth of an inch (0.4 centimeter) in height against a solid white background on each label that relates to such fabric and is required by the Textile Fiber Products Identification Act (15 U.S.C. 70-70k) and the regulations thereunder or by the Wool Products Labeling Act of 1939 (15 U.S.C. 68-68j) and the regulations thereunder. When the information required by the Textile Fiber Products Identification Act or by the Wool Products Labeling Act of 1939 appears on an invoice used in lieu of labeling, the fabric production unit identification required by this section may

be placed clearly, conspicuously, and legibly on the same invoice in lieu of labeling.

(d) *Segregation of complying and noncomplying items by retailer.* (1) Every person who sells items of children's sleepwear, sizes 0 through 6X, at retail stores or other establishments open to the general public where goods are offered for sale shall:

(i) Display the items complying with the Standard, and for which the seller has documentary evidence of such compliance, so that no other merchandise is intermingled with those items; and

(ii) Identify such complying items with at least one sign, with black letters at least one inch (2.5 centimeters) in height against a solid white background, bearing the statement "Fire Retardant. Complies With Standard for the Flammability of Children's Sleepwear (DOC FF 3-71)."

(2) All other items of children's sleepwear, sizes 0 through 6X, shall be displayed at a separate location within the store and identified with at least one sign, with black letters at least one inch (2.5 centimeters) in height against a solid white background, bearing the statement "Flammable. Does Not Meet Standard for the Flammability of Children's Sleepwear (DOC FF 3-71)."

(3) No items of children's sleepwear, sizes 0 through 6X, that comply with the Standard, and for which the seller has documentary evidence of such compliance, shall be placed within 36 inches (91 centimeters) of any other items of children's sleepwear, sizes 0 through 6X, when displayed for sale to consumers.

(e) *Records—manufacturers, importers, or persons initially introducing items into commerce—*(1) *General.* Every manufacturer, importer, or other person (such as a converter) initially introducing into commerce items subject to the Standard, irrespective of whether guarantees are issued under paragraph (g) of this section, shall maintain written and physical records as hereinafter specified. The records required must establish a line of continuity through the process of manufacture of each production unit of articles of children's sleepwear, or fabrics or related materials intended or promoted for use in children's sleepwear, to the sale and delivery of the finished items and from the specific finished item to the manufacturing records. Such records shall show with respect to such items:

(i) Details, description, and identification of any and all sampling plans engaged in pursuant to the requirements of the Standard. Such records must be sufficient to demonstrate compliance with such sampling plan(s) and must relate the sampling plan(s) to the actual items produced, marketed, or handled. This requirement is not limited by other provisions of this paragraph (e).

(ii) Garment production units or fabric production units of all garments or fabrics marketed or handled. The records must relate to an appropriate produc-

tion unit identification on or affixed to the item itself in accordance with paragraph (b)(8) of this section, and the production unit identification must relate to the garment production unit or fabric production unit.

(iii) Test results and details of all tests performed, both prototype and production, including char lengths of each specimen tested, average char length of the samples required to be tested, details of the sampling procedure employed, name and signature of person conducting tests, date of tests, and all other records necessary to demonstrate compliance with the test procedures and sampling plan specified by the Standard or authorized alternate sampling plan.

(iv) Disposition of all failing or rejected items. Such records must demonstrate that the items were retested and reworked in accordance with the Standard prior to sale or distribution and that such retested or reworked items comply with the Standard, or otherwise show the disposition of such items.

(v) Fiber content and manufacturing specifications relating the same to prototype and production testing and to the production units to which applicable.

(vi) Data and test results relied on as a basis for inclusion of different colors or different print patterns of the same fabric as a single fabric or garment production unit under 4(b)(1) of the Standard.

(vii) Data and test results relied on as a basis for reduced laundering of fabric or garments during test procedures under 4(d)(4) of the Standard and any guarantees issued or received relating to laundering as well as details of the laundering procedure utilized.

(viii) Identification, composition, and details of application of any flame retardant treatments employed. All prototype and production records shall relate to such information.

(ix) Date and quantity of each sale or delivery of items subject to the Standard and the name and address of the purchaser or recipient relating such sale to the production unit or other unit identification.

(2) *Fabrics.* In addition to the information specified in paragraph (e)(1) of this section, the written and physical records maintained with respect to each fabric production unit shall include (i) finished fabric samples sufficient to repeat the fabric sampling procedure required by 4(b) of the Standard for each production unit marketed or handled and (ii) records to relate the samples to the actual fabric production unit. Upon the written request of any duly authorized employee of the Commission, samples sufficient for the sampling and testing of any production unit in accordance with 4(b) of the Standard shall be furnished from these records within the time specified in that written request.

(3) *Garments—prototype testing.* In addition to the records specified in paragraph (e)(1) of this section, the following written and physical records shall be maintained with respect to the garment

prototype testing required by the Standard:

(i) Specification, fiber content, and details of construction on all seams, fabrics, threads, stitches, and trims used in each garment style or type upon which prototype testing was performed, relating the same to such garment style or type and to all production units to which such prototype testing is applicable.

(ii) Samples sufficient to repeat the prototype tests required by 4(b) of the Standard of all fabrics, seams, threads, stitches, and trims used in such prototype testing, relating such samples to the records required by paragraph (e) of this section including the information required by paragraph (e)(3)(i). Upon the written request of any duly authorized employee of the Commission, samples sufficient for the testing of any prototype specimens identical to those specimens that were actually tested pursuant to the Standard shall be furnished from these records within the time specified in the written request.

(iii) A complete untested garment from each style or type of garment marketed or handled.

(iv) Remains of all physical specimens tested in accordance with the prototype testing required by 4(b) of the Standard, relating such samples to the records required by paragraph (e) of this section including information required by paragraph (e)(3)(i).

(4) *Garments—production testing.* In addition to the records required by paragraph (e)(1) of this section, written and physical records shall be maintained and shall show with respect to each garment production unit:

(i) Source and fabric production unit identification of all fabrics subject to testing used in each garment production unit.

(ii) Identification and appropriate reference to all prototype records and prototype tests applicable to each production unit.

(iii) Any guaranty relied upon to demonstrate that the fabric utilized in such garments meets the laundering requirements of the Standard.

(iv) Data sufficient to show that tested samples were selected from the production unit at random from regular production.

(v) Written data that will enable the Commission to obtain and test garments under any applicable compliance market sampling plan.

(5) *Record retention requirements.* The records required by paragraph (e) of this section shall be maintained for 3 years, except that records relating to prototype testing shall be maintained for so long as they are relied upon as demonstrating compliance with the prototype testing requirements of the Standard and shall be retained for 3 years thereafter.

(f) *Records—persons not subject to paragraph (e) of this section.* Any person not subject to paragraph (e) of this section who markets or handles items subject to the Standard shall keep and maintain for 3 years records to show the

identity of items marketed or handled, the identity of purchasers (other than ultimate retail purchasers), and the date of sale (other than the date of sale to ultimate retail purchasers).

(g) *Tests for guaranty purposes.* Reasonable and representative tests for the purpose of issuing a guaranty under section 8 of the Flammable Fabrics Act (15 U.S.C. 1197) for items subject to the Standard shall be those tests performed pursuant to any sampling plan or authorized alternative sampling plan engaged in pursuant to the requirements of the Standard.

(h) *Compliance with this section.* No person subject to the Flammable Fabrics Act shall manufacture, import, distribute, or otherwise market or handle any item subject to the Standard, including samples, swatches, or specimens used to promote or effect the sale thereof, which is not in compliance with this § 302.19.

(Sec. 5, 67 Stat. 112-13, as amended 81 Stat. 571; 15 U.S.C. 1194)

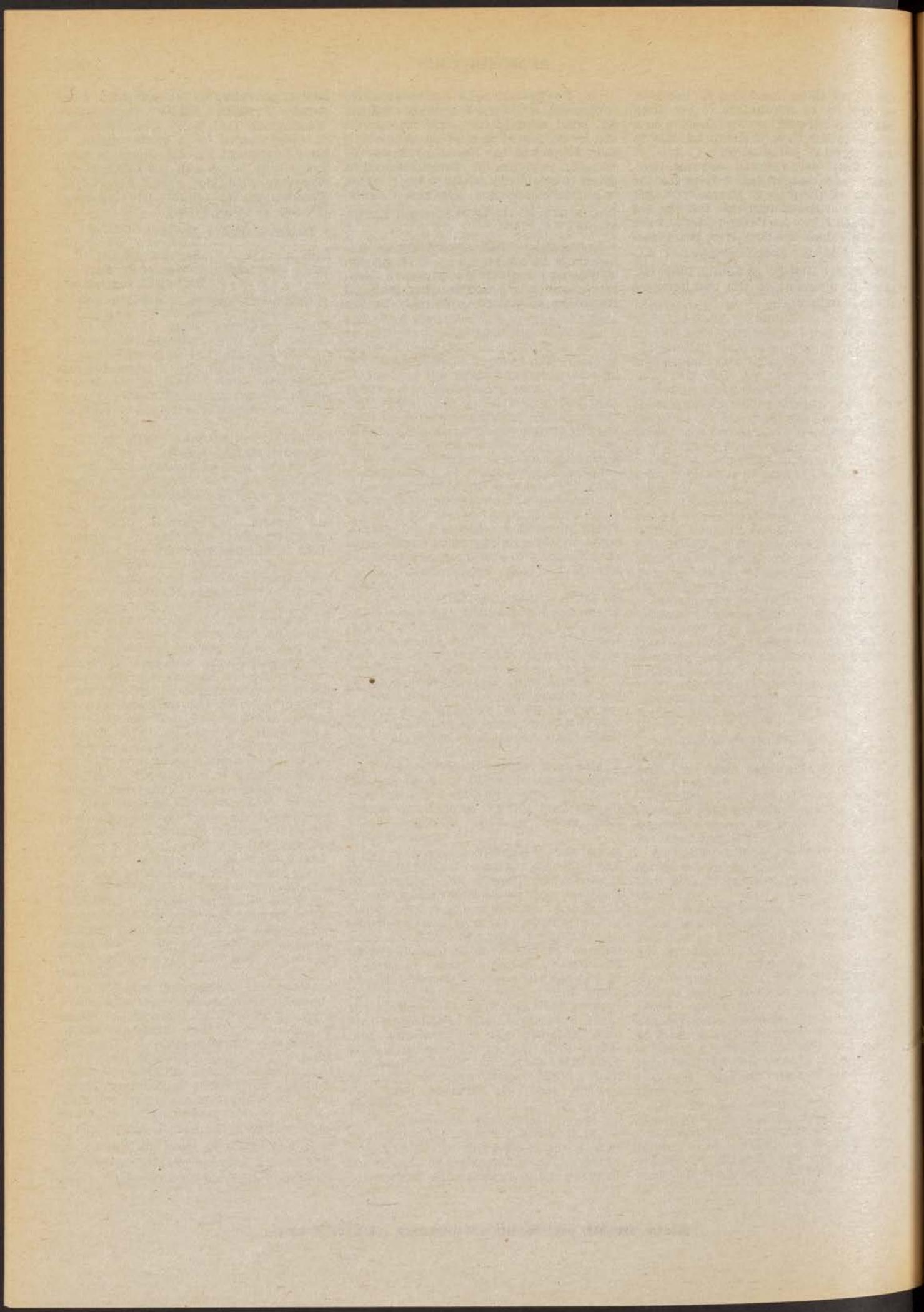
Interested persons are invited to submit, on or before March 11, 1974, written comments regarding this proposal. Comments and any accompanying material should be submitted, preferably in five

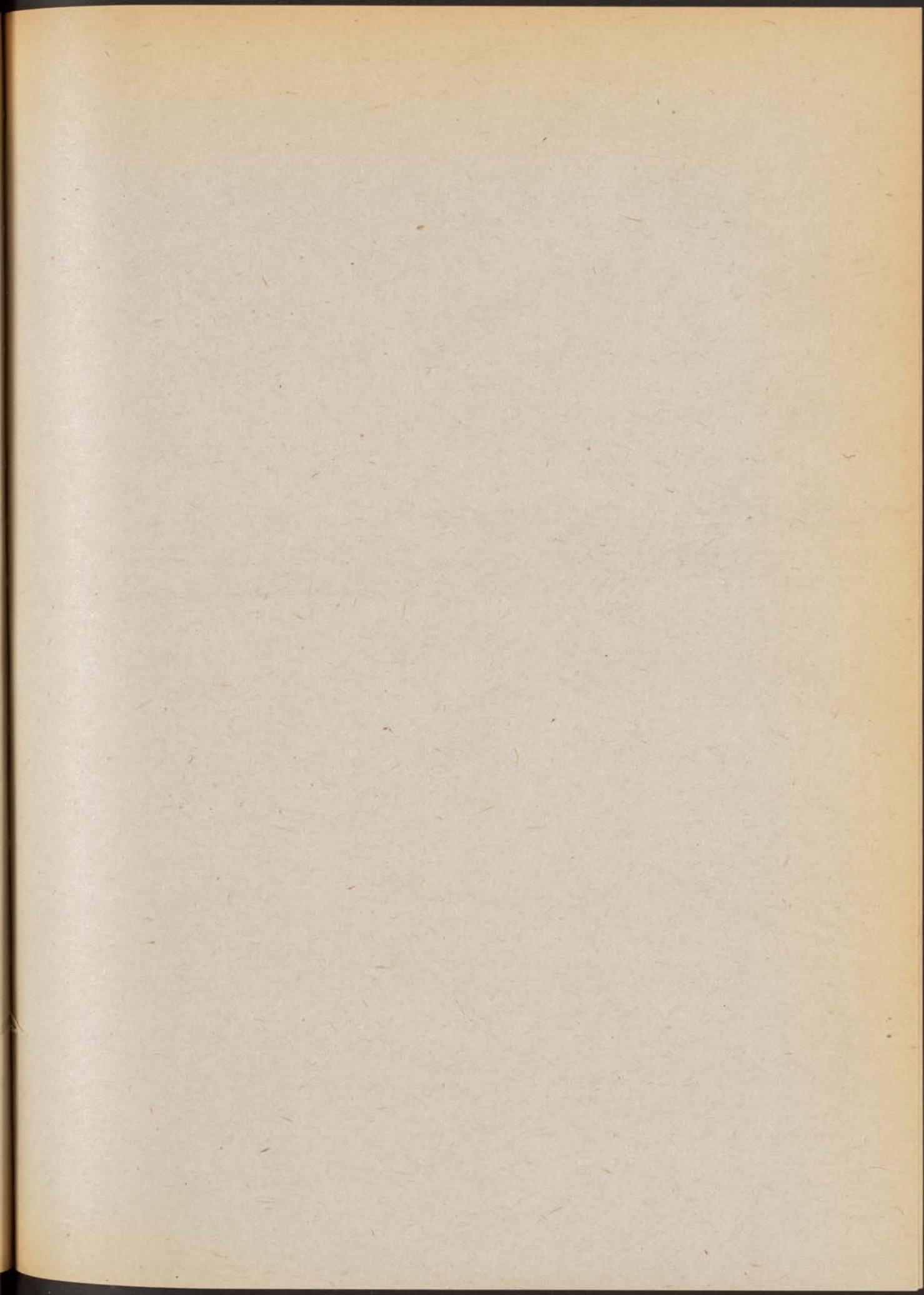
copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, 10th floor, 1750 K Street NW., Washington, D.C., during working hours Monday through Friday.

Dated: January 30, 1974.

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

[FR Doc.74-2899 Filed 2-6-74;8:45 am]









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Title 43—Public Lands: Interior (Parts 1-999)-----	\$2. 85
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