federal register

MONDAY, MARCH 11, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 48

Pages 9419–9528

PART I

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federal register

Area Code 202 Phone 523–5240

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

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

Rules and Regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

Section 213.3199(k) is amended to show the change in the headnote to properly reflect the new name. Section (1) is amended to show extension of coverage to include positions at GS–9 as excepted under Schedule A.

Effective on March 11, 1974, § 213.3199 (k) is amended as set out below.

§ 213.3199 Temporary Boards and Commissions.

* * * * *

(k) *American Revolution Bicentennial Administration.* (1) Positions in grades GS–9 through 15, other than those primarily concerned with administrative and internal management matters.

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

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

[FR Doc.74–5629 Filed 3–8–74;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regs. G & U]

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

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

Credit in Connection With Insurance Premium Funding Programs

§ 207.108 Applicability of Margin Requirements to Credit in connection with Insurance Premium Funding Programs.

(a) The Board has been asked numerous questions regarding purpose credit in connection with insurance premium funding programs. The inquiries are included in a set of guidelines in the format of questions and answers which follow. A glossary of terms customarily used in connection with insurance premium funding credit activities is included in the guidelines. Under a typical insurance premium funding program, a borrower acquires mutual fund shares for cash, or takes fund shares which he already owns, and then uses the loan value (currently 40 percent as set by the Board) to buy insurance. Usually, a funding company (the issuer) will sell both the fund shares and the insurance through either independent broker/dealers or subsidiaries or affiliates of the issuer. A typical plan may run for 10 or 15 years with annual insurance premiums due. To illustrate, assuming an annual insurance premium of $300, the participant is required to put up mutual fund shares eqivalent to 250 percent of the premium or $750 ($750×40 percent loan value equals $300 the amount of the insurance premium which is also the amount of the credit extended).

(b) These guidelines also (1) clarify an earlier 1969 Board interpretation to show that the public offering price of mutual fund shares (which includes the front load, or sales commission) may be used as a measure of their current market value when the shares serve as collateral on a purpose credit throughout the day of the purchase of the fund shares, and (2) relax a 1965 Board position in connection with accepting purpose statements by mail. It is the Board's view that when it is clearly established that a purpose statement supports a *purpose* credit then such statement executed by the borrower may be accepted by mail, provided it is received and also executed by the lender before the credit is extended.

§ 221.122 Applicability of Margin Requirements to Credit in connection with Insurance Premium Funding Programs.

For text of this interpretation, see § 207.108 of this subchapter.

Questions and answers in connection with the credit provisions in § 207.4(f) Regulation G, and § 221.3(x) Regulation U, as they apply to the combined purchase of mutual fund shares and insurance (usually referred to as "insurance premium funding program" and sometimes referred to herein as "program") February 1974 Board of Governors of the Federal Reserve System.

1. Q: At what price may mutual fund shares be valued when they serve as collateral for an extension of credit in connection with an insurance premium funding program?

A: The fund shares may be valued at no higher than the public offering price throughout the day of purchase of the fund shares. At any other time, the fund shares may be valued at no higher than the redemption price.

2. Q: A program provides for an annual insurance premium of $300 and interest charged in advance in the amount of $24 for a total extension of credit of $324. What is the collateral requirement?

A: $810. The collateral requirement may be determined (and proved) by applying the following formula:

Extension of credit×collateral requirement percentage=collateral requirement×maximum loan value=extension of credit

or

$324×250%=$810×40%=$324

(the 250% collateral requirement percentage is determined by the 40% *special* maximum loan value)

3. (a) Q: Using the example in question number 2, assume that fund shares are purchased on the same day the credit of $324 is extended. On what basis may the fund shares be valued?

A: The fund shares may be valued at no higher than the public offering price. Accordingly, the customer would purchase fund shares with a public offering price of at least $810.

(b) Q: Assume instead that under the program arrangements the fund shares are already in or are deposited in the account. The shares may have been purchased prior to the actual date of the extension of credit, either in a lump amount, say a month or so earlier, or as might apply in a monthly investment plan. On what basis may the fund shares be valued?

A: The fund shares may be valued at no higher than the redemption price. Accordingly, the customer would have to deposit in his account, if the shares are not already in the account, fund shares with a net asset value of at least $810.

4. Q: Is the addition of interest to the outstanding debt in a program treated as a new extension of credit which must be margined?

A: The margin regulations do not require that interest added to a debt be treated as a new extension of credit if the amount of the credit is not otherwise increased. By contrast, interest charged in advance on new debt forms part of the new credit.

The following illustrates the first few years of a 10-year program commencing July 1, 1970 that provides for annual insurance premium loans of $300 each with interest at the rate of 8% per annum.

In Illustration A, interest is charged in advance, whereas in Illustration B, interest is added at the end of each year. The illustrations do not include service charges, custodial fees or administration fees which would, of course, be considered in an actual program.

ILLUSTRATION A.—Interest charged in advance

Date		Annual extension of credit	Total debt
July 1, 1970	Insurance premium	$300.00	
	Interest ($300×8%)	24.00	
	Collateral with a value of $810 is required for this amount based on initial margin requirements		$324.00
July 1, 1971	Interest on total prior debt ($324×8%)		25.92
	Make computation to determine whether there is any excess collateral, based on initial margin requirements and valued at redemption price of fund shares, on this amount		349.92
	(No additional collateral required even though the account is in a so-called restricted status but above program's minimum collateral requirements.)		
	New extension of credit:		
	Insurance premium	300.00	
	Interest thereon	24.00	
	Collateral with a value of $810 is required for this amount based on initial margin requirements; any excess collateral based on initial margin requirements may be applied toward this collateral requirement		324.00
	Total		673.92
July 1, 1972	Interest on total prior debt ($673.92×8%)		53.91
	Make computation to determine whether there is any excess collateral, based on initial margin requirements and valued at redemption price of fund shares, on this amount		727.83
	(No additional collateral required even though account may be in a so-called restricted status, but above program's minimum collateral requirements.)		
	New extension of credit:		
	Insurance premium	300.00	
	Interest thereon	24.00	
	Collateral with a value of $810 is required for this amount based on initial margin requirements; any excess collateral based on initial margin requirements may be applied toward this collateral requirement		324.00
	Total		1,051.83

ILLUSTRATION B.—*Interest added at end of each year*

Date		Total debt
July 1, 1970	Insurance premium—collateral with a value of $750 is required for this amount based on initial margin requirements	$300.00
July 1, 1971	Interest ($300×8%)	24.00
	Make computation to determine whether there is any excess collateral, based on initial margin requirements and valued at redemption price of fund shares, on this amount	324.00
	New extension of credit: Insurance premium—collateral with a value of $750 is required for this amount based on initial margin requirements; any excess collateral based on initial margin requirements may be applied toward this collateral requirement	300.00
	Total	624.00
July 1, 1972	Interest ($624×8%)	49.92
	Make computation to determine whether there is any excess collateral, based on initial margin requirements and valued at redemption price of fund shares, on this amount	673.92
	New extension of credit: Insurance premium—collateral with a value of $750 is required for this amount based on initial margin requirements; any excess collateral based on initial margin requirements may be applied toward this collateral requirement	300.00
	Total	973.92

5. Q: Using Illustration A in answer to question number 4 wherein interest is charged in advance, assume mutual fund shares with a redemption value in the amount of $1,050 were in the account and collateralized an extension of credit as of July 1, 1971 in the amount of $349.92. What is the amount of excess collateral based on initial margin requirements, if any, which could be applied against the July 1, 1971 extension of credit in the amount of $324?

A: $175.20. Proof:

$349.92×250%=$874.80×40%=$349.92

Redemption value of fund shares	$1,050.00
Amount that would be needed to maintain initial collateral requirements	874.80
Excess collateral based on initial requirements	175.20
This excess collateral could support new credit in the amount of ($175.20×maximum loan value 40%)	70.80

6. Q: Same as question number 5 except that the mutual fund shares in the account have a redemption value of $700.00 on July 1, 1971. What is the amount, if any, of the excess collateral based on initial margin requirements?

A: There is no excess collateral in the account. In fact, the account is in a so-called restricted status in the amount of $174.80.

Proof:

$349.92×250%=$874.80−$700.00=$174.80

7. (a) Q: Same as question number 6. Assume the program prospectus requires, for maintenance purposes, that fund shares pledged as collateral must always have a redemption value at least equal to 150% of debt. On July 1, 1971 with a debt of $349.92 and fund shares with a redemption value of $700.00, did the customer's account have any excess collateral based on maintenance requirements?

A: Yes. The account had excess collateral based on maintenance requirements in the amount of $175.12.

Proof:

$349.92×150%=$524.88

$700.00−$524.88=$175.12

(b) Q: May the excess collateral based on maintenance requirements in the amount of $175.12 be applied to margin the July 1, 1971 extension of credit in the amount of $324?

A: No. Only excess collateral based on initial margin requirements may be applied against a new extension of credit.

8. (a) Q: Using Illustration A in the answer to question number 4 wherein interest is charged in advance, assume mutual fund shares with a redemption value of $2,000.00 were in the account and collateralized the extension of credit as of July 1, 1971 in the amount of $349.92. What is the amount of excess collateral based on initial margin requirements, if any, which could be applied against the July 1, 1971 extension of credit?

A: $1,125.20. Proof:

$394.92×250%−$874.80×40=$349.92

$2,000.00−$874.80=$1,125.20.

(b) Q: Would this excess collateral based on initial margin requirements be sufficient to margin the July 1, 1971 extension of credit in the amount of $324?

A: Yes. The collateral requirement on the new extension of credit would be $810 ($324×250%=$810×40%=$324) and would leave excess collateral based on initial margin requirements in the amount of $315.20 ($1,125.20−$810.00=$315.20).

(c) Q: Could the excess collateral based on initial requirements computed as of July 1, 1971, in the amount of $315.20 be preserved and applied against a subsequent extension of credit, presumably at the time of the next anniversary of the program on July 1, 1972?

A: No. Regulations G and U do not provide for the recapture of previously computed excess collateral. The account must be refigured as of any given point in time based upon the redemption value of the mutual fund shares and the debt in the account on such date. Prior computations of the amount of excess collateral are irrelevant.

9. Q: A participant's account is in a so-called restricted status. The participant purchases mutual fund shares on a monthly investment basis in an amount intended to equal 1/12 of 250% of the amount of the annual premium. Assuming the anniversary date in his program is July 1, may he be assured that fund shares purchased between July 1, 1972 and June 30, 1973, for example, will be sufficient to margin his July 1, 1973 extension of credit?

A: Not necessarily. Unless such fund shares purchased between July 1, 1972 and June 30, 1973 have been deposited in a separate (for Regulation U purposes) or escrow (for Regulation G purposes) account for the purpose of being deposited into the customer's loan account as collateral to margin the July 1, 1973 extension of credit, the regular loan account would include the shares purchased in a monthly investment plan. Thus, the participant may find when the account is refigured that it is in a so-called restricted status with insufficient excess collateral in the account to markin the new extension of credit. The account may be restricted for a number of reasons. The redemption value of the fund shares serving as collateral in the account may have fallen; or the fund shares purchased on a monthly investment plan might not be sufficient to margin the July 1, 1973 extension of credit. Unless the redemption value of such fund shares purchased during the preceding 12-month period is equal to at least 250% of the new credit at the time it is extended on July 1, 1973, additional fund shares must be supplied to properly collateralize the July 1, 1973 extension of credit. (Of course, the customer would be required to supply no more than is needed to support the new extension of credit.)

Illustration

On 7/1/73 the account stands as follows:

Redemption value of fund shares in account, including shares purchased within the latest year under monthly investment plan	$3,500

Previous debt	2,000
New extension of credit	324
Initial collateral requirement:	
(Debt) $2,000 × (initial collateral requirement percentage) 250% = (initial collateral requirement)	$5,000
Less: Redemption value of fund shares in account	3,500
Amount of restriction—based on initial collateral requirement	$1,500

Therefore, additional fund shares in the amount of $810 ($324×250%) must be supplied to margin a new extension of credit (net offering price may be used if fund shares are purchased on the same day as the extension of credit).

The account would then stand as follows:

Value of fund shares	$4,310
Total debt	2,324
Initial collateral requirement $2,324 ×250%=	5,810

Account would still be in a so-called restricted status based on initial margin requirements but Regulations would not require customer to supply additional margin.

Maintenance collateral requirements:

$2,324×150%=	$3,486

Account would be above program maintenance requirements.

10. Q: A program issuer analyzes customers' accounts a month or so prior to the anniversary date of the programs to determine whether there is any excess collateral based on initial margin requirements in the accounts and whether additional fund shares will be required to margin the forthcoming extensions of credit. Must the issuer refigure each account when the credit is extended?

A: Yes. A preliminary computation would not necessarily assure that a forthcoming extension of credit will be margined properly. For example, even though the account may appear to be margined properly and have sufficient excess collateral at the time of the preliminary analysis, a decline in the value of the fund shares before the credit is extended could cause the customer's account to become restricted, or have insufficient excess collateral in the account to margin the new extension of credit entirely. Accordingly, the analysis would have to be updated on the basis of the current market value of the fund shares in the account when the credit is extended.

If the preliminary analysis took into consideration any and all anticipated charges incidental to the account and the redemption price of the fund shares did not decline between the time of the analysis and the date of the extension of credit, of course, no further adjustment of the account would be required at that time.

11. Q: A prospectus furnished to the participant describes a program which provides for only the *annual* acquisition of insurance on credit and does not include a feature permitting insurance premiums to be paid with cash, for example (to prevent lapsing). The participant's account is in a so-called restricted status. At the time of the scheduled annual review of the program, the participant finds that he is unable to purchase sufficient fund shares to collateralize a new extension of credit based on the insurance premium for a full year. May the issuer allow the participant to renew the insurance portion of his program for less than one year, and thereby extend new credit on a quarterly or semi-annual basis, still applying the special maximum loan value set forth in the regulations on whatever fund shares may be available?

A: No. The special maximum loan value provision set forth in Regulations G and U is available only for an extension of purpose credit provided for in a program registered with the Securities and Exchange Commission under the Securities Act of 1933 (15 U.S.C. 77). Accordingly, the frequency of the extensions of credit must conform with the program.

12. Q: May an issuer accept by mail a purpose statement in connection with a program, provided the participant has properly completed that part of the statement which he is required to complete?

A: Yes. Since all credit in connection with such programs is purpose credit, a face-to-face meeting between the issuer and the participant for the purpose of accepting such statement is not essential.

Glossary

For the purpose of these guidelines the following terms are intended to represent terminology commonly used in connection with insurance premium funding programs as well as Regulations G and U and have the following meanings:

Collateral requirement—Expressed in dollars, the collateral requirement, in the form of mutual fund shares valued at either the public offering price or the redemption price, is the sum of the amount of the extension of credit (the debt) × the collateral requirement percentage.

Collateral requirement percentage—This is determined by dividing the maximum loan value percentage into 100% (100% ÷ 40% special maximum loan value = 250% collateral requirement percentage).

Excess collateral—The amount of collateral in an account, valued at redemption price, in excess of the minimum required to meet either initial or maintenance margin requirements.

Initial margin requirement—In the case of insurance premium funding credit, a customer puts up margin in the form of mutual fund shares. The amount of the requirement is determined by taking the amount of the extension of credit × the collateral requirement percentage.

Maintenance margin requirement—This is the minimum value of mutual fund shares in an account, valued at redemption price, pledged to secure the extension of credit which must be maintained at all times under contract with the issuer, not because of a Board requirement. The amount of maintenance margin, sometimes referred to as minimum equity requirement, is set forth by the lender in the prospectus.

Maximum loan value—The maximum loan value is the maximum amount of credit which the lender may extend on mutual fund shares. A special maximum loan value of 40% is set forth in the margin regulations by the Board of Governors of the Federal Reserve System.

Prospectus—This is the abbreviated form of the Registration Statement on the insurance premium funding program security required to be filed by the issuer in accordance with the Securities Act of 1933. The prospectus must be presented to each prospective participant in the program.

Public offering price—This represents the total cost to the investor in mutual fund shares and includes the sales commission or front load, sometimes referred to as the asked price.

Redemption price—This is usually the net asset value of mutual fund shares which the investor would receive if he liquidated such fund shares. (Some broker/dealers, it is understood, may impose a small service charge upon liquidation if, for example, the fund shares were not purchased through them). The actual per share value is arrived at by dividing the net assets of the fund by the total number of shares outstanding. The redemption price is sometimes referred to as the bid price.

Restricted account—An account in which the debt exceeds the maximum loan value of the collateral. In connection with an insurance premium funding program, it may also be defined as an account in which the collateral requirement exceeds the redemption value of the fund shares in the account.

Interprets and applies 12 CFR 207.4(f) and 12 CFR 221.3(x).

By order of the Board of Governors, February 27, 1974.

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

[FR Doc.74-5369 Filed 3-8-74;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 74-140]

PART 541—DEFINITIONS

PART 545—OPERATIONS

Amendments Relating to Flexible Payment Loans

The Federal Home Loan Bank Board, by Resolution No. 73-1511, dated October 17, 1973, proposed amendments to § 541.14, paragraph (a) of § 545.6-1, and paragraph (a) of § 545.6-12 of the rules and regulations for the Federal Savings and Loan System (12 CFR 541.14, 545.6-1 (a), and 545.6-12(a)) to permit Federal associations to make loans which are repayable on a "flexible payment" basis. Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on October 23, 1973 (38 FR 29233-35), with an invitation for interested persons to submit written comments by November 19, 1973. On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board considers it desirable to adopt the proposed amendments with the changes discussed herein.

Presently, § 541.14 defines "installment loan" and "partially-amortized monthly installment loan". The amendments add a definition of "flexible payment loan" as new paragraph (c) of said section. A flexible payment loan must be a loan secured by a single-family dwelling which the borrower either occupies or intends to occupy as his principal residence. Section 545.10 defines the term "single-family dwelling" to mean "a structure designed for residential use by one family, or a unit designed for residential use by one family, the owner of which unit owns an undivided interest in the underlying real estate. The term also includes property, owned in common with others, which is necessary or contributes to the use and enjoyment of such structure or unit." Flexible payment loans must be repaid in monthly installments and the loan agreement must describe the payment schedule. No amortization of principal is required during an initial period (not to exceed five years) of the loan term, but required

payments during such period must be sufficient to pay the interest. The annual interest rate during such initial period may only be increased pursuant to a subsequently negotiated agreement—such as an assumption of the loan by a third party. Further, the amount of the first required payment after the end of the initial period must be fixed at the beginning of the loan term, and no required payment after the end of such initial period shall be more, but may be less, than said first required payment. In addition, the required payments after the end of the initial period must be sufficient to retire the entire debt, interest and principal, within the remainder of such term.

The definition of "flexible payment loan" which was adopted by the Board differs from the proposed definition in several respects. First, the proposal would have defined a flexible payment loan as a loan secured by a "home or combination of home and business property" meeting certain qualifications. Upon further consideration, the Board believes that flexible payment loans should be limited to single family dwellings which will be used as a borrower's principal residence. Second, the proposal would have permitted a Federal association to make flexible payment loans having interest-only periods of up to 8 years. Upon further consideration, the Board believes that an interest-only period of no longer than 5 years will provide Federal associations with sufficient flexibility commensurate with prudent loan standards. Third, the proposal would have prohibited a Federal association from requiring a flexible payment borrower to pay more than 15 percent of the original loan principal in any one year. The Board believes that the reduction of the maximum length of the interest-only period 8 years to 5 years makes the 15 percent limitation unnecessary and therefore did not adopt it. Fourth, the amendments replace the proposed fixed interest rate requirement with the requirements that (1) the annual interest rate not be increased during the "initial period" of the loan term except pursuant to a subsequently negotiated agreement, and that (2) the "amount of the first payment after the end of the initial period of the loan term * * * [be] fixed at the beginning of such term and no other required payment shall be more, but may be less, than such payment." Fifth, the proposal would have required Federal associations to set forth the "complete payment schedule" in an agreement evidencing a flexible payment loan. The Board now believse that a "description" of the payment schedule in the loan agreement will provide the borrower with adequate information. For example, the loan agreement might state that the borrower is required to pay $200 per month for the first five years and $230 per month thereafter until the end of the loan term.

Section 545.6–1 sets forth the conditions under which a Federal association may make real estate loans. Similarly, § 545.6–12(a) requires that payments on real estate loans which are repayable on a monthly installment basis begin within specified periods of time. The proposal would have changed the 24-month period specified in said § 545.6–12(a) to 36 months to make it consistent with § 545.6–1(b) and (c). The proposal would also have made a number of changes in §§ 545.6–1(a) and 545.6–12(a) so that the conditions set forth in those sections apply to "flexible payment loans" as well as to "monthly installment loans". The Board adopted these provisions of the proposal without change.

Among the conditions set forth in § 545.6–1(a) are several relating to the authority of Federal associations to make loans in excess of 80 percent of the value of security property. One such condition is that a Federal association may not make over-80-percent loans in excess of 30 percent of its assets. Similarly, over-90-percent loans in excess of 10 percent of an association's assets are prohibited. The proposal would have permitted Federal associations to make over-80-percent and over-90-percent loans on a flexible payment basis, but would have limited the amount of such loans to 5 percent of an association's assets. Further, the proposal would have required said 5 percent limitation to be considered as part of, and not in addition to, the above-mentioned 30 percent and 10 percent limitations. The Board adopted the proposed percentage-of-assets limitations on flexible payment loans without change.

The proposal also would have amended § 545.6–1(a) to make clear that Federal associations may make combination permanent and construction loans on "homes and combination of homes and business property" (including "single-family dwellings"), except "loans to 100 percent of value" under § 545.6–1(a)(6), and may add the terms thereof—for a combined maximum term of 31 years and 6 months. In addition, the proposal would have authorized Federal associations to make such combination permanent and construction loans which are repayable on a flexible payment basis and to add the terms of such loans. The Board adopted the provisions of the proposal concerning combination permanent and construction loans as proposed except that the amendments clarify the frequency with which interest must be paid on construction loans. Former § 545.6–1(a)(3)(ii) (which is deleted by these amendments) provided that interest on construction loans must be paid "at least semiannually" and said provisions was inadvertantly omitted from proposed new § 545.6–1(a)(7), "Construction loans".

Section 545.6–1(a)(6) describes two kinds of loans on which Federal associations may lend up to 100 percent of the value of the security property: (i) loans made under the Housing Opportunity Allowance Program (HOAP loans), and (ii) loans which are partially insured or guaranteed by an agency or instrumentality of a State whose full faith and credit is pledged in support of such insurance or guarantee. Although there are numerous outstanding HOAP loans, new HOAP loans are no longer being made. The Board therefore considers it desirable to delete paragraph (i) of § 545.6–1(a)(6) and to redesignate paragraph (ii) thereof as § 545.6–1(a)(6). Said paragraph (a)(6)(i) relates only to the *authority* of Federal associations to make HOAP loans; the other regulations relating to HOAP loans which are set forth in Part 527 of the rules and regulations for the Federal Home Loan Bank System (12 CFR 527) remain unchanged.

Accordingly, the Federal Home Loan Bank Board hereby amends §§ 541.14, 545.6–1 and 545.6–12 as set forth below.

Since all of the amendments to §§ 541.14, 545.6–1(a) and 545.6–12(a) were either afforded public procedure or delete obsolete provisions, the Board hereby finds that notice and public procedure are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendments for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendments would in the opinion of the Board likewise be unnecessary because said amendments either relieve restriction or delete obsolete provisions, the Board hereby provides that said amendments shall become effective as hereinbefore set forth.

1. Section 541.14 is amended by adding a new paragraph (c).

§ 541.14 Installment loan; partially-amortized monthly installment loan; flexible payment loan.

* * * * *

(c) *Flexible payment loan.* The term "flexible payment loan" means any loan meeting the following requirements:

(1) The loan is secured by a single-family dwelling as to which the borrower has executed a written certification stating that such borrower is actually occupying the property as his principal dwelling or that he in good faith intends to do so;

(2) The loan is repayable in monthly payments;

(3) Each required payment during an initial period, not to exceed five years, is not less than one-twelfth of the annual interest rate times the unpaid principal balance of the loan, and such rate is not increased during such initial period unless pursuant to a subsequently negotiated agreement;

(4) The amount of the first required payment after the end of such initial period of the loan term is fixed at the beginning of the loan term, and no required payment after the end of such initial period shall be more, but may be less, than the first required payment after the end of such initial period;

(5) The required payments after the end of such initial period of the loan term are sufficient to retire the debt, interest and principal, within the remainder of the loan term; and

(6) The loan agreement describes the payment schedule.

2. Amend § 545.6–1 as follows: (a)(1) and (a)(6) are revised; (a)(3)(ii) is re-

voked and (a)(3)(iii) is redesignated as (a)(3)(ii); redesignate (a)(4)(viii) and (a)(5)(iv) as (a)(4)(ix) and (a)(5)(v) respectively and add new (a)(4)(viii) and (a)(5)(iv) respectively; add a new (a)(7).

§ 545.6–1 Lending powers under sections 13 and 14 of Charter K.

* * * * *

(a) *Homes or combination of homes and business property*—(1) *Monthly installment loans; flexible payment loans.* Subject to the limitations of § 545.6–7, monthly installment loans and flexible payment loans may be made on homes or combination of homes and business property for an amount not in excess of 75 percent of the value thereof, repayable monthly within 30 years or, if an insured or guaranteed loan, within the period acceptable to the insuring or guaranteeing agency: *Provided,* That when the members of such an association have authorized loans to be made for an amount exceeding 75 percent of the value, such loans may be made up to the percentage of value authorized by the members but not in excess of:

(i) 80 percent of the value, if the loan is not an insured or guaranteed loan;

(ii) The maximum percentage of the value acceptable to the insuring agency, if an insured loan;

(iii) 80 percent of the value, plus the amount guaranteed if a guaranteed loan.

* * * * *

(3) *Loans without full amortization.* Any loan of a type that such an association may make on a monthly installment basis may also be made without full amortization of principal, but with interest payable at least semiannually, for an amount not in excess of 50 percent of the value of the security and for a term of not more than 5 years: *Provided,* That except as to loans made pursuant to paragraph (a)(3)(ii) of this section the requirements of this paragraph with respect to semiannual payment of interest and the limitations of this subparagraph with respect to maximum percentage or other amounts and maximum terms of loans shall not be applicable to insured or guaranteed loans: *Provided further,* That, when the members of such association have authorized loans to be made without full amortization for an amount exceeding 50 percent of the value, such loans may be made up to the percentage of value authorized by the members but not in excess of:

* * * * *

(ii) 80 percent of the value and for a term of not more than 18 months, if such loan is made for the purpose of facilitating the trade-in or exchange of home or combination of home and business properties: *Provided,* That, with regard to loans made pursuant to this paragraph (a)(3)(ii), the aggregate amount which such an association may invest in such loans shall not at any time exceed 5 percent of such association's assets; and the term "first liens" includes the assignment of the whole of the beneficial interest in a trust having a corporate trustee whereunder real estate held in the trust can be subjected to the satisfaction of the obligation or obligations secured with the same priority as a first mortgage, a first deed of trust, or a first trust deed in the jurisdiction where the real estate is located.

(4) *Loans in excess of 80 percent of value.* The limitation of 80 percent set forth in (a)(1)(i) of this section shall be 90 percent in the case of any monthly installment loan or flexible payment loan with respect to which the following requirements are met:

* * * * *

(vii) The aggregate of the principal amount of any such loan and of the association's investment in the principal amount of all other loans under this paragraph and paragraph (a)(5) of this section (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 30 percent of the association's assets;

(viii) The aggregate of the principal amount of the association's investment in flexible payment loans under this subparagraph and paragraph (a)(5) of this section (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 5 percent of the association's assets, which 5 percent shall be included in the 30 percent of assets limitation set forth in paragraph (a)(4)(vii) of this section; and

(ix) In the case of a loan purchased by a Federal association from other than a Federal association, each certification required by paragraphs (a)(4)(iv), (v), and (vi) of this section shall contain a statement that the certification is made for the purpose of inducing a Federal savings and loan association to purchase the loan.

(5) *Loans in excess of 90 percent of value.* The limitation of 80 percent set forth in paragraph (a)(1)(i) of paragraph (a)(1) of this section shall be 95 percent in the case of any monthly installment loan or flexible payment loan with respect to which requirements set forth in paragraphs (a)(4)(i), (iii), (iv), (v), (vi), and (ix) of this section are met and with respect to which the following additional requirements are met:

* * * * *

(ii) The aggregate of the principal amount of any such loan and of the association's investment in the principal amount of all other loans made under this subparagraph (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 90 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 10 percent of the association's assets:

(iii) The aggregate of the principal amount of any such loan and of the association's investment in the principal amount of all other loans under this paragraph and paragraph (a)(4) of this section (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 30 percent of the association's assets;

(iv) The aggregate of the principal amount of the association's investment in flexible payment loans under this paragraph and paragraph (a)(4) of this section (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 5 percent of the association's assets, which 5 percent shall be included in the 10 percent of assets limitation set forth in paragraph (a)(5)(ii) of this section and in the 30 percent of assets limitation set forth in paragraph (a)(5)(iii) of this section; and

(v) Either—

(*a*) That as long as the unpaid balance of such a loan is in excess of an amount equal to 90 percent of the value or purchase price of the real estate security, whichever is less, determined at the time the loan was made, that portion of the unpaid balance of such loan which is in excess of an amount equal to 80 percent of such value or purchase price of the real estate security is guaranteed or insured by a mortgage insurance company which has been determined to be a "qualified private insurer" by the Federal Home Loan Mortgage Corporation; or

(*b*) The association establishes and maintains a specific reserve with respect to such loan equal to one percent of the unpaid principal balance thereof until the unpaid principal balance has been reduced to an amount not in excess of 90 percent of the value or purchase price of the real estate security, whichever is less, determined at the time the loan was made.

(6) *Loans to 100 percent of value.* The limitation of 80 percent set forth in paragraph (a)(1)(i) of this section shall be 100 percent in the case of any loan other than a flexible payment loan which is made on the security of a home located within the association's regular lending area if at least that portion of such loan which exceeds 80 percent of the value of the security property is insured or guaranteed by an agency or instrumentality of a State whose full faith and credit is pledged to the support of such insurance or guarantee.

(7) *Construction loans.* If the members of an association have authorized loans on homes or combination of homes

and business property to be made without full amortization in excess of 50 percent of the value thereof, such loans may be made for the purpose of construction up to 80 percent of the value thereof and for a term of not more than 18 months and with interest payable at least semiannually without regard to any requirement of this part for amortization of principal prior to the end of the term. Monthly installment loans and flexible payment loans under paragraph (a)(1) of this section, other installment loans under paragraph (a)(2) of this section, loans without full amortization under paragraph (a)(3) of this section, loans in excess of 80 percent of value under paragraph (a)(4) of this section and loans in excess of 90 percent of value under paragraph (a)(5) of this section may each be combined into a single loan with a loan for the purpose of construction meeting the requirements of this paragraph, and the term of the permanent loan shall be considered to begin at the end of the term allowed for construction.

* * * * *

3. Paragraph (a) of § 545.6–12 is revised to read as set forth below.

§ 545.6–12 Loan payments.

(a) *Payments on monthly installment loans and flexible payment loans.* Payments on all monthly installment loans and flexible payment loans, other than construction loans, insured loans, and guaranteed loans, shall begin not later than 60 days after the advance of the loan. Insured loans and guaranteed loans may be repayable upon terms acceptable to the insuring or guaranteeing agency. The Board hereby approves for use by any Federal association a loan plan whereby payments on any monthly installment loan or flexible payment loan which includes construction may begin not later than 36 months after the date of the first advance, but not later than 18 months if the loan is secured by real estate consisting solely of one or more homes or combination of home and business property; interest shall be payable at least semiannually until regular periodic payments become due.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[FR Doc.74–5488 Filed 3–8–74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 74–GL–3]

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

Correction of Control Zone Description

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to correct a discrepancy in the description of the Glenview, Illinois control zone.

The present control zone description is not complete and does not conform to the area shown on the aeronautical charts. The zone shown on the charts is the correct and desired zone.

Since this correction is minor in nature and is in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedures Act is unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective immediately as hereinafter set forth:

In § 71.181 (39 FR 354) the Glenview, Illinois control zone is amended by deleting "within two miles each side of the Northbrook VOR 071° radial" and inserting in place "two miles north and four miles south of the Northbrook VOR 071° radial".

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

Issued in Des Plaines, Illinois, on February 14, 1974.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.74–5447 Filed 3–8–74;8:45 am]

[Airspace Docket No. 73–GL–55]

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

Designation of Transition Area

On Page 35015 of the FEDERAL REGISTER dated December 21, 1973, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Fostoria, Ohio.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., April 25, 1974.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (48 U.S.C. 1655,(c)))

Issued in Des Plaines, Illinois, on February 14, 1974.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In § 71.181 (38 FR 435), the following transition area is added:

FOSTORIA, OH

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Fostoria Metropolitan Airport (41°11'30" N., 83°23'50" W.) excluding that portion that overlies the Tiffin, Ohio transition area.

[FR Doc. 74–5448 Filed 3–8–74;8:45 am]

[Airspace Docket No. 73–GL–52]

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

Designation of Transition Area

On Page 35016 of the FEDERAL REGISTER dated December 21, 1973, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at North Vernon, Indiana.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., April 25, 1974.

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

Issued in Des Plaines, Illinois, on February 14, 1974.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In § 71.181 (38 FR 435), the following transition area is added:

NORTH VERNON, IND.

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the North Vernon Municipal Airport (latitude 39°02'30" N., longitude 35°36'45" W.) and within 3.5 miles either side of a 220° bearing from the airport extending from the 5 mile radius area to 7.5 miles SW of the airport.

[FR Doc.74–5449 Filed 3–8–74;8:45 am]

[Airspace Docket No. 74–NW–02]

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

Revocation of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Port Angeles, Washington Control Zone.

The United States Coast Guard will discontinue the weather observations at Port Angeles Coast Guard Air Station, Port Angeles, Washington, on or about March 1, 1974. Since weather observation is prerequisite for the designation of Control Zone, the discontinuance of the observations requires revocation of the Port Angeles Control Zone.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended as follows:

In § 71.171 (39 FR 354) delete the following Control Zone:

Port Angeles, Washington.

Effective date. This amendment shall be effective 0901 G.m.t. March 1, 1974.

(Sec. 307(a), Federal Aviation Act of 1958 (49 United States Code 1348); sec.

6(c), Department of Transportation Act (49 United States Code 1655(c)))

Issued in Seattle, Washington, on February 28, 1974.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc. 74-5450 Filed 3-8-74;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-837, Amdt. 24]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Liability Limitations

Correction

In FR Doc. 74-5039, appearing at page 8319 in the issue for Tuesday, March 5, 1974, in § 221.176(a), the first two paragraphs under the heading "Advice to Passengers on Limitations of Liability" should be changed to read as follows:

Airline liability for death or personal injury may be limited by the Warsaw Convention and tariff provisions in the case of travel to or from a foreign country.

Liability for loss delay or damage to baggage is limited as follows unless a higher value is declared and an extra charge is paid: (1) For most international travel (including domestic portions of international journeys) to approximately $9.07 per pound for checked baggage and $400 per passenger for unchecked baggage; (2) for travel wholly between U.S. points, to $500 per passenger for most carriers. Special rules may apply to valuable articles.

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart M—Organization

WASHINGTON HEADQUARTERS; RELOCATION OF FDA INFORMATION CENTER

The Commissioner of Food and Drugs is amending Part 2—Administrative Functions, Practices, and Procedures (21 CFR Part 2) to reflect the new address for the FDA Information Center.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 2 is amended in § 2.171 by revising the last sentence therein to read as follows:

§ 2.171 **Washington headquarters.**

* * * * *

Current locations and addresses of these units may be obtained from the Food and Drug Administration, Information Center (HFC-19), 5600 Fishers Lane, Rockville, MD 20852.

Effective date. This order shall be effective March 11, 1974.

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a).)

Dated: February 27, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-5515 Filed 3-8-74;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

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

BENOMYL

Correction

In FR Doc. 74-4389 appearing on page 7420 in the issue of Tuesday, February 26, 1974, delete the ninth line of the first paragraph and insert in lieu thereof the following:

"myl (methyl 1-(butylcarbamoyl)-2-)".

SUBCHAPTER C—DRUGS

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

Amprolium; Correction

In FR Doc. 73-26948 appearing at page 34996 in the issue of Friday, December 21, 1973, the following correction is made in § 135e.6(f), the table, under the column heading, "Limitations," opposite item 2: In the second line, "0.05% to 0.05%" is changed to read "0.05% to 0.5%."

Dated: March 4, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-5514 Filed 3-8-74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 720—APPRAISAL

Subpart B—The Appraisal Function

Part 720, Subpart B, was originally published at 38 FR 31828 on November 19, 1973.

Sections 720.203 (b)(1)(2) and (c) provided that § 720.203 would be applicable to any highway or highway related project in which Federal funds will participate in any part of the cost of the project. The revision that follows changes "cost of the project" to "right-of-way costs of the project." The purpose of the change is to make application of § 720.203 consistent with §§ 720.201, .202, and .204.

In 23 CFR Part 720, Subpart B, § 720.203 is amended by revising subsections (b) and (c) as follows:

"(b) *Applicability.* (1) Except as provided in paragraph (b)(2) of this section, the provisions of this section are applicable to all State highway departments or other political subdivisions of a State which acquire real property for any highway or highway related project in which Federal funds will participate in any part of the right-of-way costs of the project.

"(2) The provisions of this section are not applicable to those programs and projects specifically excluded by law or by agreement with the Federal Highway Administration (FHWA).

"(c) *Qualifications.* It is the responsibility of the State highway department to establish qualifications required of all appraisers and reviewing appraisers used by it or its political subdivisions in connection with acquisition of real property for any highway or highway related project in which Federal funds will participate in any part of the right-of-way costs of the project. Such qualifications shall be consistent with the criteria for establishing the qualifications of appraisers and reviewing appraisers shown in Appendix I of this section."

Effective date: March 4, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.74-5498 Filed 3-8-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER [FEDERAL HOUSING ADMINISTRATION], DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER NATIONAL HOUSING ACT

[Docket No. R-74-256]

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

CORRECTION

Part 232, Section 232.6 of Title 24 of the Code of Federal Regulations is amended to correct an erroneous reference. The amendment is as follows:

In 24 CFR section 232.6, change the reference to "section 612(a)(1)" to "section 604(a)(1)".

(Sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Effective date. This amendment is effective as of March 8, 1974.

SHELDON B. LUBAR,
Assistant Secretary for Housing Production and Mortgage Credit.

[FR Doc.74-5539 Filed 3-8-74;8:45 am]

CHAPTER IX—OFFICE OF INTERSTATE LAND SALES REGISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-74-228]

PART 1710—LAND REGISTRATION

Exemptions and State Filings

On October 1, 1973, the Department of Housing and Urban Development published for public comment proposed

amendments to §§ 1710.13 and 1710.26, Part 1710, Chapter IX, Title 24 of the Code of Federal Regulations, published in the FEDERAL REGISTER on Septmeber 4, 1973 at 38 FR 23865.

Careful consideration has been given to all comments and certain suggestions have been adopted in whole or in part as reflected in these amendments to Part 1710 of Chapter IX. These are described in detail in the following paragraphs.

Section 1710.13 provides for regulatory exemptions. The amendment to this Section would exempt from the Act the sale or lease of fewer than fifty lots in a subdivision platted of record in which ninety-five percent of developer's sales consists of lots upon which there are residential, commercial or industrial buildings, or upon which the developer is obligated to construct such buildings within 2 years, or which are being sold or leased to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings.

Several comments were received with respect to the fact that OILSR counts the total number of lots in the subdivision for the purpose of determining jurisdiction under the Act even though the individual sales of some of the lots may be exempt. Some of the comments discussed the legislative history of the Act and alleged that OILSR did not have the authority to require the registration of the undeveloped lots in a subdivision of more than fifty lots if the number of non-exempt lots did not exceed fifty. The statutory definition of the term is " 'subdivision' means any land which is divided or proposed to be divided into fifty or more lots * * *". It is OILSR's position that the amendment merely clarifies the language of the statute which does not refer to fifty or more non-exempt lots.

Objections were raised to the use of a five percent limitation on the basis that the limitation is too small and requested a larger limitation. Other comments suggested that the sale of less than fifty non-exempt lots in any subdivision should be exempt. Some comments suggested that in the process of arriving at the five percent figure the regulation should include all types of exemptions and not be limited as proposed. The express purpose of the exemption as proposed is to provide relief for a builder-oriented sales program. The numerical limitation imposed is consistent with this purpose.

Some of the comments alleged that registration was not necessary in the public interest and that in terms of cost benefits registration should not be required. The Act requires that the consumer be given a Property Report on the sale of non-exempt lots. We can find no basis upon which to formulate a policy which eliminates the protection of the Act for purchasers of such lots due to the cost of registration.

Some of the comments suggested that it is unclear when to measure the five percent criterion. The criterion is based upon the recorded and platted lots in the subdivision and should be measured in this context. The sequence of the sale of such lots is incidental to the qualification for this exemption.

The proposed amendment included a statement that the contract must "unconditionally obligate" the seller to construct the building within two years. A comment was received on this statement and OILSR has revised the Regulation to delete the word "unconditionally."

One comment suggested that the amendment be revised to clarify that platting of record be made a specific condition of the exemption. It is OILSR's position that the amendment requires that the subdivision be platted of record before the exemption would apply. This requirement will assist the states in controlling this type of development and will give the lot purchaser the protection afforded by the State and local platting laws. The emphasis on recorded plats is consistent with OILSR's policy of encouraging effective State subdivision control laws.

Section 1710.26 deals with the acceptance of materials filed with the State authorities listed in that Section. The amendment would limit OILSR's acceptance of materials filed with the four States to filings for subdivisions located within those States. This action is designed to assist the States in dealing with the problem of subdivision control and to make their function in this regard more efficient.

The most frequent comment was that the limitation would result in the duplication of material filed with the States and OILSR and that it would create an undue burden and excessive costs. In response to these comments the final form of the Regulation has been revised to allow those subdivisions already registered under this Section of the previous Regulations to continue their operations by filing in the acceptable states as provided in those Regulations.

Some of the comments suggested that in lieu of limiting filings in these States, OILSR should adopt addendums to be used with the state filings and this would further uniformity. Additionally some of the comments stated that the limitation would create duplication of the materials in that a Property Report and a public offering statement would be required to be given to the purchaser. OILSR's position on this matter is that the states would accept developer filings made with OILSR in satisfaction of basic state disclosure requirements, subject to specific additions that a given state might require. This would not only free state personnel for the important function of day-to-day scrutiny of developer operations, but also assure the availability of consistent information for the consumer. OILSR has repeatedly urged the states to take up the regulatory role and to accept developer's filings with OILSR for the purposes of full disclosure. This policy also applies to the comments that the state laws are more regulatory in nature than the Interstate Land Sales Full Disclosure Act. The regulatory provisions of a state's law will be reflected in the disclosure in the developer's filing with OILSR. For example, if a state law requires that release clauses be included in the blanket encumbrance this would be disclosed in Parts V and VI of the Statement of Record and in paragraph 5 of the Property Report. If the developer is required to post a bond or to comply with substantive requirements before he can sell in a state then the developer would be required to amend his filing with OILSR so that the Statement of Record and Property Report will disclose his compliance with the State's substantive requirements.

Some of the comments alleged that the amendment is arbitrary, discriminatory and meaningless and that there is no basis for the distinction of in-state and out-of-state projects. One comment went further and stated that the writer had no knowledge of any state regulation which distinguishes between in-state and out-of-state subdivisions and then noted that some states do distinguish between such projects and that it is sometimes harder to register an out-of-state project. A state has the power to pass laws to effectively regulate and police subdivisions located within its boundaries while a state can only regulate subdivisions located in other states by preventing the developer from selling until he complies with the state's requirements for the lots to be offered in that state. The state would have no means of regulating or controlling the development of the remaining lots in the subdivision, unless the developer voluntarily decides to offer the remainder of the lots within that state.

Two letters of comment recommended the adoption of the amendments as proposed.

The amendments to §§ 1710.13 and 1710.26 of Part 1710, Chapter IX of 24 CFR read as follows:

1. Section 1710.13 is amended to add the following new paragraph (c) and to revise the last portion of that section to read as follows:

§ 1710.13 Regulatory exemptions.

* * * * *

(c) The sale or lease of lots in a subdivision, provided that the number of such sales or leases is less than fifty lots and not more than five percent of the developer's total lots in the subdivision platted of record, and provided further: that the other lot sales are exempt because they are sales of lots upon which there are residential, commercial, or industrial buildings, or upon which the developer is obligated to construct such buildings within two years, or which are being sold or leased to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial or industrial buildings thereon.

The foregoing exemptions are available where the particular factual circumstances of the sale or lease meet the express requirements of the exemption provision unless the method of disposition is adopted for the purpose of evasion of the Act. No formal written decision is required, but an exemption advisory

opinion pursuant to § 1710.15 may be obtained if desired.

2. Section 1710.26 is revised to read as follows:

§ 1710.26 State filings—acceptable filings.

With the exception noted in the last paragraph of this Section and with respect to subdivisions located within and filed with the State authorities in one of the States listed below, the Secretary has determined that material initially filed with and allowed to become effective by the authorities in that State may be accepted pursuant to § 1710.25:

(a) California.

(b) Florida, except as to material filed with State authorities prior to enactment of Section 478, Florida statutes, effective August 1, 1967.

(c) Hawaii, except as to material filed with State authorities prior to the enactment of Act 223, Session laws of Hawaii 1967.

(d) New York.

Material filed with one of the above States for a subdivision located outside of that State will not be acceptable as a Statement of Record for the purposes of this part unless some of the lots to be offered in the subdivision are filed and effective with the state and the Office of Interstate Land Sales Registration prior to April 1, 1974. The developers of such subdivisions may continue to file amendments and consolidations in accordance with the procedures for state filings.

Effective date. These amendments are effective on April 1, 1974.

(Section 7(d) of the Department of Housing and Urban Development Act 79 Stat. 670, 42, U.S.C. 3535(d), 1419, 82 Stat. 593 (15 U.S.C. 1718), Secretary's delegation of authority published at 37 FR 5071, March 9, 1972)

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.74-5541 Filed 3-8-74;8:45 am]

Title 29—Labor

CHAPTER XII—FEDERAL MEDIATION AND CONCILIATION SERVICE

PART 1430—FEDERAL MEDIATION AND CONCILIATION SERVICE ADVISORY COMMITTEES

Establishment, Continuation, Operation and Termination

On November 2, 1973, there was published in the FEDERAL REGISTER (38 FR 30283) a notice of proposed rulemaking to add a new Part 1430 to Chapter XII of Title 29 of the Code of Federal Regulations. The proposed amendment to Chapter XII adding a new Part 1430 contains the Federal Mediation and Conciliation Service's uniform guidelines and management controls concerning the establishment, continuation, operation and termination of its advisory committees, as required by section 8(a) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770). All comments submitted with respect to the proposed amendment were given due consideration.

As a result of comments received, the following changes are made:

1. Paragraphs (a) and (e) of § 1430.7 are deleted.

2. Paragraph (b) of § 1430.7 is revised and redesignated as paragraph (a), with additional wording to reflect conformity with the Freedom of Information Act (5 U.S.C. 552).

3. Paragraphs (c) and (d) are redesignated as paragraphs (b) and (c) respectively.

Accordingly, with these changes and revisions, the proposed rules are adopted as set forth below.

Signed at Washington, D.C., this 4th day of March 1974.

W. J. USERY, Jr.,
National Director.

Sec.
1430.1 Scope and purpose.
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AUTHORITY: Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App.), unless otherwise noted.

§ 1430.1 Scope and purpose.

(a) This part contains the Federal Mediation and Conciliation Service's regulations implementing section 8(a) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, (5 U.S.C. App.)), which requires each agency head to establish uniform guidelines and management controls for the advisory committees. These regulations supplement the Government-wide guidelines issued jointly by the Office of Management and Budget and the Department of Justice, and should be read in conjunction with them.

(b) The regulations provided under this part do not apply to statutorily created or established advisory committees of the Service, to the extent that such statutes have specific provisions different from those promulgated herein.

§ 1430.2 Definitions.

For the purposes of this part:

(a) The term "Act" means the Federal Advisory Committee Act;

(b) The term "advisory committee" means any committee, board, commission, counsel, conference, panel, task force, or other similar group, or any subgroup or subcommittee thereof which is:

(1) Established by statute or reorganization, plan, or

(2) Established or utilized by the President, or

(3) Established or utilized by one or more agencies or officers of the Federal Government in the interest of obtaining advice or recommendations for the President or one or more agencies of the Federal Government, except that such term excludes:

(i) The Advisory Commission on Intergovernmental Relations;

(ii) The Commission on Government Procurement, and

(iii) Any committee which is composed wholly of full-time officers or employees of the Federal Government.

(c) The term "agency" has the same meaning as in 5 U.S.C. 552(1);

(d) The term "committee management officer" means the Federal Mediation and Conciliation Service employee or his delegee, officially designated to perform the advisory committee management functions delineated in this part;

(e) The term "Service" means the Federal Mediation and Conciliation Service;

(f) The term "OMB" means the Office of Management and Budget;

(g) The term "Director" means the Director of the Federal Mediation and Conciliation Service;

(h) The term "secretariat" means the OMB Committee Management Secretariat.

§ 1430.3 Establishment of advisory committees.

(a) *Guidelines for establishing advisory committees.* The guidelines in establishing advisory committees are as follows:

(1) No advisory committee shall be established if its functions are being or could be performed by an agency or an existing committee;

(2) The purpose of the advisory committee shall be clearly defined;

(3) The membership of the advisory committee shall be fairly balanced in terms of the points of view represented and the committee's functions;

(4) There shall be appropriate safeguards to assure that an advisory committee's advice and recommendations will not be inappropriately influenced by any special interests; and

(5) At least once a year, a report shall be prepared for each advisory committee, describing the committee's membership, functions, and actions.

(b) *Advisory committees established by the Service not pursuant to specific statutory authority.* (1) Advisory committees established by the Service not pursuant to specific statutory authority may be created by the Director after consultation with the secretariat.

(2) When the Director determines that such an advisory committee needs to be established, he shall notify the secretariat of his determination and shall inform the secretariat of the nature and purpose of the committee, the reasons why the committee is needed, and the inability of any existing agency or committee to perform the committee's functions.

(3) After the secretariat has determined that establishment of such a committee is in conformance with the Act and has so informed the Director, the

Director shall prepare a certification of the committee, stating the committee's nature and purpose, and that it is established in the public interest. That certification shall be published in the FEDERAL REGISTER.

(c) *Advisory committees created pursuant to Presidential directive.* Advisory committees established by Presidential directive are those created pursuant to Executive Order, executive memorandum, or reorganization plan. The Director shall create such committees in accordance with the provisions of the Presidential directive and shall follow the provisions of this part, to the extent they are not inconsistent with the directive.

(d) *Advisory committees created pursuant to specific statutory authority.* The Director shall create advisory committees established pursuant to specific statutory authority in accordance with the provisions of the statute and shall follow the provisions of this part, to the extent they are not inconsistent with the statute: *Provided, however,* That the Director need not utilize the procedures described in paragraph (b) of this section.

(e) *Advisory committees established by persons outside the Federal Government, but utilized by the Service to obtain advice or opinion.* In utilizing such committees, the Director shall follow the provisions of this part and the requirements of the Act. Such committees, to the extent they are utilized by the Service, shall be considered, for the purposes of this part, to be advisory committees established by the Service.

§ 1430.4 Filing of advisory committee charter.

(a) *Filing charter with Director.* Before an advisory committee takes any action or conducts any business, a charter shall be filed with the Director, the standing committees of Congress with legislative jurisdiction over the Service, and the Library of Congress. Except for a committee in existence on the effective date of the Act, or when authorized by statute, Presidential directive, or by the secretariat, such charter shall be filed no earlier than 30 days after publication of the committee's certification in the FEDERAL REGISTER.

(b) *Charter information.* A charter shall contain the following information:

(1) The committee's official designation;

(2) The committee's objectives and scope of activity;

(3) The period of time necessary for the committee to carry out its purposes;

(4) The agency or official to whom the advisory committee reports;

(5) The agency responsible for providing necessary support;

(6) A description of the committee's duties;

(7) The estimated number and frequency of committee meetings;

(8) The estimated annual operating costs in dollars and man-years;

(9) The committee's termination date, if less than two years; and

(10) The date the charter is filed.

(c) *Preparation and filing of initial charter.* Responsibility for preparation of the initial committee charter shall be with the head of the appropriate program within the Service, in cooperation with the committee management officer. The Director of Administration shall have responsibility for assuring the appropriate filings of such charters.

§ 1430.5 Termination of advisory committees.

(a) All nonstatutory advisory committees including those authorized, but not specifically created by statute, shall terminate no later than 2 years after their charters have been filed, unless renewed as provided in § 1430.6.

(b) The charter of any committee in existence on the date the Act became effective (January 5, 1973) shall terminate no later than January 5, 1975, unless renewed, as provided in § 1430.6.

(c) Advisory committees specifically created by statute shall terminate as provided in the establishing statute.

§ 1430.6 Renewal of advisory committees.

(a) Renewal of advisory committees not created pursuant to specific statutory authority.

(1) The Director may renew an advisory committee not created pursuant to specific statutory authority after consultation with the secretariat.

(2) When the Director determines that such an advisory committee should be renewed, he shall so advise the secretariat within 60 days prior to the committee's termination date and shall state the reasons for his determination.

(3) Upon concurrence of the secretariat, the Director shall publish notice of the renewal in the FEDERAL REGISTER and cause a new charter to be prepared and filed in accordance with the provisions of § 1430.3.

(b) Renewal of advisory committees established pursuant to specific statutory authority. The Director may renew advisory committees established pursuant to specific statutory authority through the filing of a new charter at appropriate 2-year intervals.

(c) No advisory committee shall take any action or conduct any business during the period of time between its termination date and the filing of its renewal charter.

§ 1430.7 Application of the Freedom of Information Act to advisory committee functions.

(a) Subject to 5 U.S.C. 552, the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, and other documents which are made available to or are prepared for or by an advisory committee shall be available to the public.

(b) Advisory committee meeting conducted in accordance with § 1430.7 may be closed to the public when discussing a matter that is of a 5 U.S.C. 552(b) nature, whether or not the discussion centers on a written document.

(c) No record, report, or other document prepared for or by an advisory committee may be withheld from the public unless the Office of the General Counsel determines that the document is properly within the exemptions of 5 U.S.C. 552(b). No committee meeting, or portion thereof, may be closed to the public unless the Office of the General Counsel determines in writing, prior to publication of the meeting in the FEDERAL REGISTER that such a closing is within the exemptions of 5 U.S.C. 552(b).

§ 1430.8 Advisory committee meetings.

(a) *Initiation of meetings.* (1) Committee meetings may be called by:

(i) The Director or the head of the office most directly concerned with the committee's activities;

(ii) The agency officer referred to in paragraph (a)(1)(i) of this section, and the committee chairman, jointly; or

(iii) The committee chairman, with the advance approval of the officer referred to in paragraph (a)(1)(i) of this section.

(2) The Service's committee management officer shall be promptly informed that a meeting has been called.

(b) *Agenda.* Committee meetings shall be based on agenda approved by the officer referred to in paragraph (a)(1) of this section. Such agenda shall note those items which may involve matters which have been determined by the Office of the General Counsel as coming within the exemptions to the Freedom of Information Act, 5 U.S.C. 552(b).

(c) *Notice of meetings.* (1) Notice of advisory committee meetings shall be published in the FEDERAL REGISTER at least 7 days before the date of the meeting, irrespective of whether a particular meeting will be open to the public. Notice to interested persons shall also be provided in such other reasonable ways as are appropriate under the circumstances, such as press release or letter. Responsibility for preparation of FEDERAL REGISTER and other appropriate notice shall be with the officer referred to in paragraph (a)(1) of this section.

(2) Notice in the FEDERAL REGISTER shall state all pertinent information related to a meeting and shall be published at least 7 days prior to a meeting.

(d) *Presence of agency officer or employee at meetings.* No committee shall meet without the presence of the officer referred to in paragraph (a)(1) of this section, or his delegate. At his option the officer or employee may elect to chair the meeting.

(3) *Minutes.* Detailed minutes shall be kept of all committee meetings and shall be certified by the chairman of the advisory committee as being accurate.

(f) *Adjournment.* The officer or employee referred to in paragraph (a)(1) of this section may adjourn a meeting at any time he determines it in the public interest to do so.

(g) *Public access to committee meetings.* All advisory committee meetings shall be open to the public, except when the Office of the General Counsel determines, in writing, and states his reasons therefor prior to FEDERAL REGISTER notice, that a meeting, or any part thereof,

is concerned with matters related to the exemptions provided in the Freedom of Information Act, 5 U.S.C. 552(b). In such instances, those portions of a committee meeting which come within the section 552(b) exemptions may be closed to the public.

(h) *Public participation in committee procedures.* Interested persons shall be permitted to file statements with advisory committees. Subject to reasonable committee procedures, interested persons may also be permitted to make oral statements on matters germane to the subjects under consideration at the committee meeting.

§ 1430.9 Agency management of advisory committees.

Consistent with the other provisions of this part, the Service's advisory committee management officer shall:

(a) Exercise control and supervision over the establishment, procedures, and accomplishments of advisory committees established by the Service;

(b) Assemble and maintain the reports, records, and other papers of advisory committees, during their existence;

(c) Carry out, with the concurrence of the Office of the General Counsel, the provisions of the Freedom of Information Act, as those provisions apply to advisory committees;

(d) Have available for public inspection and copying all pertinent documents of advisory committees which are within the purview of the Freedom of Information Act; and

(e) When transcripts have been made of advisory committee meetings, provide for such transcripts to be made available to the public at actual cost of duplication, except where prohibited by contractual agreements entered into prior to January 5, 1973, the effective date of the Federal Advisory Committee Act.

[FR Doc.74-5518 Filed 3-8-74;8:45 am]

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

PART 1915—SAFETY AND HEALTH REGULATIONS FOR SHIP REPAIRING

CFR Correction

In the July 1, 1973 edition of the CFR volume containing Title 29, Parts 1900 to End, §§ 1915.75, 1915.82, and 1915.91 were misprinted. They should read as set forth below: §§ 1915.75 (page 591), 1915.82 (page 593), and 1915.91 (page 595) were inadvertently misprinted. They should read as set forth below:

§ 1915.75 Powder actuated fastening tools.

(a) *General precautions.* (1) Powder actuated fastening tools shall be tested each day before loading to ensure that the safety devices are in proper working condition. Any tool found not to be in proper working order shall be immediately removed from service until repairs are made.

(2) Powder actuated fastening tools shall not be used in an explosive or flammable atmosphere.

(3) All tools shall be used with the type of shield or muzzle guard appropriate for a particular use.

(4) Fasteners shall not be driven into very hard or brittle materials, such as cast iron, glazed tile, surface hardened steel, glass block, live rock, face brick or hollow tile.

(5) Fasteners shall not be driven into soft materials unless such materials are backed by a substance that will prevent the pin or fastener from passing completely through and creating a flying missile hazard on the opposite side.

(6) Unless a special guard, fixture or jig is used, fasteners shall not be driven directly into materials such as brick or concrete within 3 inches of the unsupported edge or corner, or into steel surfaces within ½ inch of the unsupported edge or corner. When fastening other material, such as 2 x 4 inch lumber to a concrete surface, fasteners of greater than $\frac{7}{32}$ inch shank diameter shall not be used and fasteners shall not be driven within 2 inches of the unsupported edge or corner of the work surface.

(7) Fasteners shall not be driven through existing holes unless a positive guide is used to secure accurate alignment.

(8) No attempt shall be made to drive a fastener into a spalled area caused by an unsatisfactory fastening.

(9) Employees using powder actuated fastening tools shall be protected by eye protection equipment in accordance with the requirements of § 1915.81 (a) and (b).

(b) *Instruction of operators.* Before employees are permitted to use powder actuated tools, they shall have been thoroughly instructed by a competent person with respect to the requirements of paragraph (a) of this section and the safe use of such tools as follows:

(1) Before using a tool, the operator shall inspect it to determine that it is clean, that all moving parts operate freely and that the barrel is free from obstructions.

(2) When a tool develops a defect during use, the operator shall immediately cease to use it and shall notify his supervisor.

(3) Tools shall not be loaded until just prior to the intended firing time and the tool shall not be left unattended while loaded.

(4) The tool, whether loaded or empty, shall not be pointed at any person, and hands shall be kept clear of the open barrel end.

(5) In case of a misfire, the operator shall hold the tool in the operating position for at least 15 seconds and shall continue to hold the muzzle against the work surface during disassembly or opening of the tool and removal of the powder load.

(6) Neither tools nor powder charges shall be left unattended in places where they would be available to unauthorized persons.

§ 1915.82 Respiratory protection.

(a) *General.* (1) All respiratory protective equipment required by these regulations shall carry the U.S. Bureau of Mines approval for the use for which it is intended. Respiratory protective equipment shall be used only for the purpose intended and no modifications of the equipment shall be made.

(2) Respiratory protective equipment shall be inspected regularly and maintained in good condition. Gas mask canisters and chemical cartridges shall be replaced as necessary so as to provide complete protection. Mechanical filters shall be cleaned or replaced as necessary so as to avoid undue resistance to breathing.

(3) Respiratory protective equipment which has been previously used shall be cleaned and disinfected before it is issued by the employer to another employee. Emergency rescue equipment shall be cleaned and disinfected immediately after each use.

(4) Employees required to use respiratory protective equipment approved for use in atmospheres immediately dangerous to life shall be thoroughly trained in its use. Employees required to use other types of respiratory protective equipment shall be instructed in the use and limitations of such equipment.

(5) When an air line respirator is used, the air line shall be fitted with a pressure regulating valve and a filter which will remove oil, water, and rust particles. The air intake shall be from a source which is free from all contaminants, such as the exhaust from internal combustion engines.

(6) In all cases when an employee is stationed outside a compartment, tank or space as a tender or safety man for men working inside in an atmosphere immediately dangerous to life, the tender shall have immediately available for emergency use respiratory protective equipment equivalent to that required for the men in the compartment. When a tender is stationed outside a compartment for men working inside in an atmosphere not immediately dangerous to life, the tender shall wear respiratory protective equipment equivalent to that required for the men in the compartment if he is exposed for prolonged periods to the same concentration of atmospheric contaminants.

(b) *Protection in atmospheres immediately dangerous to life.* (1) Atmospheres immediately dangerous to life are those which contain less than 16.5 percent oxygen, or which by reason of the high toxicity of the contaminant, as in fumigation, or high concentration of the contaminant, as with carbon dioxide, would endanger the life of a person breathing them for even a short period of time.

(2) In atmospheres immediately dangerous to life the only approved types of respiratory protective equipment are the following:

(i) Self-contained breathing apparatus, in which the wearer carries with him

a supply of oxygen, air, or an oxygen generating material.

(ii) Hose mask with blower, in which a hand or motor operated blower supplies air at high volume and low pressure through a large diameter hose through which the wearer can draw air in case the blower fails.

(iii) If there is known to be more than 16 percent oxygen and less than 2 percent gas by volume, a gas mask equipped with a canister approved for the particular type gas involved.

NOTE: A gas mask offers absolutely no protection in an atmosphere deficient in oxygen.

(3) Work in atmospheres immediately dangerous to life shall be performed only in an emergency, as when rescuing a man who has been overcome or when shutting off a source of contamination that cannot otherwise be controlled. When an employee enters such an atmosphere he shall be provided with and use an adequate, attended life line.

(4) In the vicinity of each vessel in which there is a danger of employees being exposed to an atmosphere immediately dangerous to life the employer shall have on hand and ready for use respiratory protective equipment approved for such use. When such equipment is required, one or more persons shall be thoroughly trained in the use of the equipment.

(c) *Protection against gaseous contaminants not immediately dangerous to life.* (1) Gaseous contaminants not immediately dangerous to life are gases present in concentrations that could be breathed for a short period without endangering the life of a person breathing them, but which might produce discomfort and possible injury after a prolonged single exposure or repeated short exposures.

(2) When employees are exposed to a gaseous contaminated atmosphere not immediately dangerous to life, they shall be protected by respiratory protective equipment approved for use in the type and concentration of the gaseous contaminant as follows:

(i) In high or unknown concentrations, a hose mask or an air line respirator. The use of either a hose mask or an air line respirator in lower concentrations is permissible.

(ii) In concentrations of ammonia of less than 3 percent, or of other gases less than 2 percent, by volume, a canister type gas mask equipped with the proper type of canister. Different canisters are approved for specific use against the following gases or groups of gases: acid gases, hydrocyanic acid gas, chlorine gas, organic vapors, ammonia gas, carbon monoxide, or combination of the above.

(iii) In low concentrations (less than 0.1 percent by volume), a chemical cartridge respirator equipped with the type of cartridge approved for use against the particular gases or groups of gases listed in subdivision (ii) of this subparagraph.

(d) *Protection against particulate contaminants not immediately dangerous to life.* (1) When employees are exposed to unsafe concentrations of particulate contaminants, such as dusts and fumes, mists and fogs or combinations of solids and liquids, they shall be protected by either air line or filter respirators, except as otherwise provided in the regulations of this part.

(2) Filter respirators shall be equipped with the proper type of filter. Different filters are approved for specific protection against groups of contaminants, as follows:

(i) Pneumoconiosis-producing dust and nuisance dust filters which provide respiratory protection against pneumoconiosis-producing dusts, such as aluminum, cellulose, cement, charcoal, coal, coke, flour, gypsum, iron ore, limestone and wood.

(ii) Toxic dust filters which provide respiratory protection against toxic dusts that are not significantly more toxic than lead, such as arsenic, cadmium, chromium, lead, manganese, selenium, vanadium, and their compounds.

(iii) Mist filters which provide respiratory protection against pneumoconiosis-producing mists, chromic acid mists, and nuisance mists.

(iv) Fume filters which provide respiratory protection against fumes (solid dispersoids or particulate matter formed by the condensation of vapors, such as those from heated metals and other substances).

(v) Filters which provide respiratory protection against combinations of two or more of the contaminants described in subdivisions (i) through (iv) of this subparagraph.

(e) *Protection against combinations of gaseous and particulate contaminants not immediately dangerous to life.* (1) When employees are exposed to combinations of gaseous and particulate contaminants not immediately dangerous to life, as in spray painting, they shall be protected by respiratory protective equipment approved for use in the type and concentration of the contaminants, as follows:

(i) In high or unknown concentrations, a hose mask or an air line respirator. The use of either a hose mask or an air line respirator is permissible in lower concentrations.

(ii) In concentrations of gaseous contaminants of less than 2 percent by volume, a canister type gas mask with a combination canister approved for the particular type of gaseous contaminant as specified in paragraph (c)(2) of this section and a filter for the particular type of particulate contaminant as specified in paragraph (d)(1) of this section.

(iii) In low concentrations of gaseous contaminants (less than 0.1 percent by volume) a respirator equipped with the type of cartridge and filter as specified in subdivision (ii) of this subparagraph.

Subpart J—Ship's Machinery and Piping Systems

§ 1915.91 Ship's boilers.

(a) Before work is performed in the fire, steam, or water spaces of a boiler where employees may be subject to injury from the direct escape of a high temperature medium, such as steam, or water, oil, or other medium at a high temperature entering from an interconnecting system, the employer shall insure that the following steps are taken:

(1) The isolation and shutoff valves connecting the dead boiler with the live system or systems shall be secured, blanked, and tagged indicating that employees are working in the boiler. This tag shall not be removed nor the valves unblanked until it is determined that this may be done without creating a hazard to the employees working in the boiler, or until the work in the boiler is completed Where valves are welded instead of bolted at least two isolation and shutoff valves connecting the dead boiler with the live system or systems shall be secured, locked, and tagged.

(2) Drain connections to atmosphere on all of the dead interconnecting systems shall be opened for visual observation of drainage.

(3) A warning sign calling attention to the fact that employees are working in the boilers shall be hung in a conspicuous location in the engine room. This sign shall not be removed until it is determined that the work is completed and all employees are out of the boilers.

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Wisconsin Plan

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

The State of Wisconsin submitted on October 11, 1972, a plan pursuant to Part 1902 requesting approval of the plan by the Assistant Secretary of Labor for Occupational Safety and Health. The plan was submitted for National Office review on January 22, 1973, and on January 31, 1973, a notice was published in the FEDERAL REGISTER (38 FR 3019) concerning the submission of the plan and the fact that the question of its approval was in issue before the Assistant Secretary.

The plan designates the Department of Industry, Labor and Human Relations as the agency responsible for administering and enforcing the plan throughout the State. It defines the covered occupational safety and health issues as defined by the Secretary of Labor in § 1902.2(c)(1) of this chapter. Wisconsin plans to adopt Federal standards as adopted and revised through October 18, 1972 by June 1974. Wisconsin will however, retain the State electrical code unless it is found to be not at least as effective as Subpart S of 29 CFR Part 1910. Additional Federal standards will be adopted generally within 6 months following promulgation

by the Secretary of Labor. The State will also re-adopt State occupational safety and health standards to the extent that such standards exceed Federal standards. The State has provided assurances that any product standard will be required by compelling local conditions and not unduly burden interstate commerce.

The plan further includes proposed legislation which has been introduced in the Wisconsin legislature during the 1974 legislative session amending Title XIII, Chapter 101 and related provisions of the Wisconsin statutes to bring them into conformity with the requirements of Part 1902. The proposed legislation is accompanied by a statement of the Governor's support for it and an opinion from the State Attorney General that it meets the requirements of the Occupational Safety and Health Act of 1970 and is consistent with the Constitution and laws of the State. The plan sets out goals for bringing it into full conformity with Part 1902 upon enactment of the proposed legislation.

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

Written comments concerning the plan were submitted by the Milwaukee Construction Industry Safety Council; Allied Industrial Workers of America; Standing Committee on Occupational Safety and Health, American Federation of Labor and Congress of Industrial Organizations (AFL–CIO); Richard Ginnold, University of Wisconsin, School for Workers; Wisconsin State AFL–CIO; and Madison Fire Department.

An informal hearing was requested by the Allied Industrial Workers of America; Standing Committee on Occupational Safety and Health AFL–CIO; Richard Ginnold, University of Wisconsin School for Workers; Wisconsin State AFL–CIO; American Federation of State, County and Municipal Employees Local #76; Journeymen Plumbers and Gas-Fitters Union Local #75; Milwaukee County Labor Council AFL–CIO; Beloit Central Labor Council; Bridge, Structural and Ornamental Iron Workers Local #8; International Brotherhood of Electrical Workers Local #890; Appleton Federation of Labor Unions, Committee on Legislation; Rock County Building Trade Council; Eau Claire Area Council AFL–CIO; Manitowoc Building and Construction Trades Council; Two Rivers Federation of Labor; United Steelworkers of America Local #6499; Ozaukee County Trades and Labor Council; Madison Federation of Labor; Marathon County Labor Council; Dodge County Central Labor Council; and Mark Lewis Traurnicht.

Based on these requests as well as review of the plan by the Occupational Safety and Health Administration, an informal hearing was held September 12, 1973 (38 FR 23021) on the question of whether substantive rights provided in the Federal law could effectively be provided under State regulatory authority without specific enactment into law.

2. *Issues.* Pursuant to the public comments, the testimony at the informal hearing, and discussions with the staff of the Office of Regional Programs of the Occupational Safety and Health Administration, the State submitted several revised State plan supplements with amended legislation. These supplements include a letter dated March 6, 1973 to Tom Levenhagen, United States Department of Labor, Regional Office, from Charles Hagberg, Administrator, Wisconsin Department of Industry, Labor and Human Relations clarifying the penalty procedures; a revised plan document submitted September 12, 1973; and amendments to that revised document including a letter from the State Attorney General on the enforcement program, submitted to the United States Department of Labor, Office of Regional Programs, January 29, 1974.

In light of the modifications which the State has made in response to the public comments, the testimony at the informal hearing and discussions with the staff of the Office of Regional Programs, no significant objections to the plan remain outstanding. However, in view of the extent of the proposed legislative changes and to clarify some of the procedures of the Wisconsin program, it is considered appropriate to discuss the major issues raised during the approval process.

(a) Development enabling legislation. Both the public comments and much of the testimony at the informal hearing sought to defer a decision on approval of the Wisconsin plan until after passage of enabling legislation. Under the provisions of section 18 of the Act and § 1902.2(b) of this chapter, the Assistant Secretary will approve a plan, under certain conditions, even though it does not fully meet the criteria set forth in § 1902.3 of this chapter, if he finds there is a reasonable expectation that the State will meet the criteria within the indicated 3-year period. Such "reasonable expectation" is necessarily based on factors peculiar to the State plan under review. Among such factors would be the starting point from which the State must develop to fully meet the criteria, such as existing legal authority, resources, and history of prior commitment to an occupational safety and health program. Absent evidence to the contrary, it is reasonable to assume that a State with substantial existing authority and commitment can fulfill its remaining commitments within the 3-year period and can assure continuing and developing occupational safety and health protection to employees before and after passage of necessary legislative amendments. Wisconsin has extensive existing legislative authority which includes provisions for the adoption of Federal standards; right of entry for workplace inspections; civil penalties against employers for violation of standards; and administrative and judicial review of contested cases. The State also has present authority to adopt administrative rules on inspection procedures including inspections in response to employee complaints; procedures for granting permanent and temporary variances from standards; and employer recordkeeping and reporting requirements. In addition, the State has an inspection force of 47 safety specialists and 4 industrial hygienists to carry out its own enforcement program. Accordingly, there is "reasonable expectation" that the State will meet the requirements of the regulations within the prescribed period and its plan may be approved as a developmental plan.

(b) The major legislative amendments that have been proposed by the State are as follows:

(1) *Definitions.* The proposed legislation now defines a serious violation and an imminent danger situation in a manner consistent with Federal requirements. By adding these definitions to its law instead of defining them only in the plan narrative as originally proposed. Wisconsin will have the requisite legal authority to meet the requirements of § 1902.4(c)(2) (vii) and (xi) of this chapter. In addition, the legislation specifically provides the employee right to seek a mandamus action against the State in an imminent danger situation where the State fails to act, by making existing Wisconsin mandamus provisions available.

(2) *Employee and employer rights.* Specific authority to assure employees and employers of the right to accompany State compliance officers during their inspections of a workplace is included in the proposed legislation as is a provision prohibiting discharge or discrimination against an employee as required in § 1902.4(c)(2)(v) of this chapter. Confidentiality of trade secrets is also protected in the proposed legislation.

(3) *Enforcement procedures.* Several public comments which discussed the previous Wisconsin enforcement program expressed concern about those procedures which provided for court reduction of penalties or for settlement of cases after the Commissioners had made a decision as to a violation. Such a procedure would have allowed a collateral attack on the Department's order even where an employer had not contested the citation or penalty and would have excluded employees from participation in such cases. Because of this problem of collateral attack and the need to preserve the employees' right to participate in contested cases, Wisconsin's proposed legislation has been revised.

Under the proposed legislation as revised the Department would have the specific authority to assess all penalties set forth in the penalty provisions of the law. In addition, under the proposed legislation, if a employer fails within 15 working days to contest an order or penalty of the Department, such order or penalty becomes final and is not subject to further court review. These revisions, as stated in an opinion from the State

Attorney General, included in the January 29, 1974 plan supplement, assure that when an order assessing a penalty becomes final, i.e., it is not contested, or there has been a final Commission or judicial determination on the validity of the Department's order, it cannot be reopened in any action to collect the amount of the penalty under Chapter 288.02 of the Wisconsin Statutes. At that stage of the proceeding, neither the Attorney General nor the courts would have the discretion to change the penalty amount.

(4) *Penalty provisions.* Wisconsin's proposed legislation also revises the State's penalty provisions to reflect the same types of violations and penalty levels as are provided in the Federal program. This revision clarifies and codifies Wisconsin's earlier proposal to use one basic penalty provision and then to promulgate administrative regulations to meet the Federal requirements.

(5) *Administrative review.* Under the proposed legislation an employee as well as an employer would be able to contest a citation, penalty and the reasonableness of the abatement date. The Federal program only allows employee contests of the abatement period. (See Kentucky decision, 38 FR 20323 for approval subject to evaluation of similar State provision). Some concern was expressed in the public comments about the status of employees as parties under Wisconsin's procedures. Under the proposed revision a contest by an employee would automatically confer party status on that employee. Where an employer contests and an employee seeks to participate, he is also considered a party to the proceeding in accordance with the opinion of the State Attorney General submitted with the January 29, 1974 plan revision.

(c) Administrative regulations:

As noted in the approval decision, Wisconsin will promulgate administrative rules in a number of areas. These rules are set out in the revised plan supplement and include the following subjects; prohibition against advance notice; regulation for employer recording and reporting of occupational injuries and illnesses; procedures for the promulgation of standards, granting of variances, and employee complaints about violation of standards; posting requirements; regulations protecting employees from exposure to toxic materials; procedures to counteract imminent danger; and procedures for informal conferences to review citations and proposed penalties. Under Wisconsin's law, these code rules are subject to review and approval or disapproval by the legislative committee for review of administrative rules and by the legislature as a whole whenever the committee suspends an administrative rule in accordance with Chapter 13.56 of Wisconsin Statutes. Wisconsin has provided assurances in the plan revision submitted on January 29, 1974, that if the Department is unable to promulgate, or there is a recision of an administrative code rule or standard as specified in the plan, the Department shall propose legislation to seek inclusion of the rule or standard in Chapter 101 of the Wisconsin Statutes.

(d) Occupational health:

Wisconsin presently has only 4 industrial hygienists in its program. However, the Division of Health, in the revised plan supplement filed on January 29, 1974, states that it is cognizant of Federal manpower ratios for industrial hygienists and will request the necessary funds and allocate positions for industrial hygienists over the developmental period of the plan. With the increased number of industrial hygienists some will be available for the State's on-site consultation program.

3. *Decision.* After careful consideration of the Wisconsin plan, as amended and clarified, the record of the informal hearing, and comments submitted regarding the plan, the plan is hereby approved under section 18 of the Act and Part 1902.

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

Pursuant to § 1902.20(b)(1)(iii) of Title 29, Code of Federal Regulations, the exercise of Federal enforcement authority in Wisconsin will not be diminished. Present priorities for Federal enforcement will continue at least until the State enabling legislation is enacted, State standards are promulgated and certain administrative regulations, including those for review of contested cases, are adopted. Evaluations of the State plan, as implemented, will be made on a continuing basis to assess the appropriate level of Federal enforcement activity. Federal enforcement authority will continue to be exercised to the degree necessary to assure occupational safety and health protection to employees in the State of Wisconsin. Part 1952 is amended by adding a new Subpart AA, effective upon signature, reading as follows:

Subpart AA—Wisconsin

Sec.

AUTHORITY: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667).

§ 1952.330 Description of the plan.

(a) The plan identifies the Wisconsin Department of Industry, Labor and Human Relations as the agency responsible for administering the plan throughout the State. The Department will be responsible for promulgating and enforcing occupational safety and health standards and deciding contested cases subject to judicial review. The Section of Occupational Health and the Section of Radiation Protection in the Wisconsin Department of Health and Social Services will carry out occupational health and industrial radiation responsibilities in terms of inspections and follow-up surveys but not enforcement, as specified in the plan. These Sections will follow all prescribed requirements of the plan in carrying out their responsibilities. The agreements between the Department of Industry, Labor and Human Relations and the Sections of the Department of Health and Social Services are included in the plan.

(b) The State program will protect all employees within the State including those employed by the State and its political subdivisions. Public employees are to be granted the same protections as are afforded employees in the private sector. The State plan does not include domestic servants, employees of the Federal government, or employees whose working conditions are regulated by Federal agencies other than the United States Department of Labor.

(c) The plan and the proposed enabling legislation provide that the State agency will have full authority to administer and to enforce all laws, rules, and orders protecting employee safety and health in all places of employment in the State. The proposed legislation will cover agricultural employees and provides employer and employee representatives an opportunity to accompany inspectors and call attention to possible violations before, during and after inspections; protection of employees against discharge or discrimination; authority to adopt standards for the protection of employees against new and unforeseen hazards; adequate safeguards to protect trade secrets; prompt notice to employers and employees of alleged violations of standards and abatement requirements; effective sanctions against employers; the right to review by employers and employees of alleged violations, abatement periods and proposed penalties with an opportunity for employee participation as parties in any review proceeding initiated by employers; and procedures for prompt restraint or elimination of imminent danger situations.

(d) Existing legislation and proposed administrative regulations include procedures for permanent and temporary variances; notice to employees of their protections and obligations; inspections in response to complaints; and notice to employees or their representatives when no compliance action is taken as a result of a complaint, including procedures for informal review. The plan also proposes to supplement existing legislation through administrative rules to assure prompt and effective standard-setting procedures and for furnishing information to employees on hazards, precautions, symptoms and emergency treatment.

(e) The State intends to promulgate Federal standards covering all of the issues contained in 29 CFR Parts 1910 and 1926 including ship repairing, shipbuilding, shipbreaking and longshoring as State standards. The State will also readopt State occupational safety and health standards to the extent that such standards exceed Federal standards, and retain the Wisconsin electrical code un-

less it is found to be not at least as effective as Subpart S of 29 CFR Part 1910. In the case of product standards the State has provided assurances that any State product standards will be required by compelling local conditions and not unduly burden interstate commerce.

(f) The plan includes a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970 and is consistent with the Constitution and laws of Wisconsin. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 upon enactment of the proposed legislation by the State legislature. Personnel are currently employed under a merit system and the State will conduct training and education programs for employers and employees, including an on-site consultation program consistent with the criteria set out in the Washington plan decision (38 FR 2421).

§ 1953.331 Where the plan may be inspected.

A copy of the plan may be inspected and copied during normal business hours at the following locations; United States Department of Labor, Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room 800, 1726 M Street NW., Washington, D.C. 20210; Assistant Regional Director, Occupational Safety and Health Administration, Department of Labor, Room 1201, 300 South Wacker Drive, Chicago, Illinois 60606; and the Department of Industry, Labor and Human Relations, Division of Industrial Safety and Building, 201 E. Washington Avenue, Madison, Wisconsin 53702.

§ 1953.332 Level of Federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) of this chapter, the present level of Federal enforcement in Wisconsin will not be diminished. Among other things, the United States Department of Labor will continue to investigate catastrophes and fatalities, investigate valid complaints under section 8(f) of the Occupational Safety and Health Act of 1970, continue its target industry and target health programs and inspect a cross-section of all industries on a random basis at least until the enabling legislation is enacted, standards are promulgated under the plan, and certain other administrative regulations, including those for review of contested cases, are adopted. Thereafter, Federal enforcement activity will continue to be exercised to the degree necessary to assure occupational safety and health protection to employees in the State of Wisconsin and evaluations of the State plan, as implemented, will be made on a continuing basis to assess the appropriate level of Federal enforcement activity.

§ 1953.333 Developmental schedule.

(a) Adopt Federal standards as State standards by June 1974.

(b) Adoption of administrative code rules on advance notice, recordkeeping, standards-setting procedures, variances, complaints, posting requirements, employee exposure to toxic materials, imminent danger procedures, and informal conferences by September 1974;

(c) Statistical information program by March 1975;

(d) Maritime standards by June 1975;

(e) Arthur Anderson management system implementation June 1, 1975 or within 15 months of receipt of grant funds;

(f) Increase occupational health staff by August 1975 or 18 months from plan approval and receipt of grant funds;

(g) Enabling legislation to be enacted by October, 1975;

(h) Implementation of total enforcement program April, 1976;

(i) On-site consultation program, April, 1976;

(j) Wisconsin Code Supplement, April 1976;

(k) Increase safety division staff by July 1, 1976 or two years from plan approval and receipt of grant funds; and

(l) Equal employer and employee representation on advisory code committees February, 1977.

Signed at Washington, D.C. this 1st day of March, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-5492 Filed 3-8-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS

PART 35—STATE AND LOCAL ASSISTANCE

Subpart B—Program Grants

Correction

In FR Doc. 74-4485 appearing at page 7785 in the issue of Thursday, February 28, 1974, make the following changes:

1. The effective date in the last paragraph of the preamble (page 7785, column 3), now reading February 25, 2974, should read February 28, 1974.

2. In § 35.505(c), the first line following subparagraph (4) should be initially capitalized.

SUBCHAPTER E—PESTICIDE PROGRAMS

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

Benomyl

Correction

In FR Doc. 74-4388 appearing on page 7422 in the issue of Tuesday, February 26, 1974, in the eighth line of the first paragraph, the first word in the parenthesis "mthyl", should read "methyl".

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, AMENDMENT TO CHAPTER

PART 3-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 3-4.54—Procurement Clearance of Audiovisual Materials and Contracts for Public Affairs Services

Chapter 3, Title 41, Code of Federal Regulations, is amended as set forth below. The purpose of this amendment is to make the procedures for prior clearance and methods of contracting for the procurement of audiovisual materials applicable to contracts for public affairs services.

It is the general policy of the Department of Health, Education, and Welfare to allow time for interested parties to take part in the rule making process. However, the amendment herein involves a change in internal administrative procedures. Therefore, the public rule making process is deemed unnecessary in this instance.

1. The title of the Subpart is changed to read as shown above.

2. Section 3-4.5400 is hereby deleted and the following is substituted in lieu thereof:

§ 3-4.5400 Scope of subpart.

This subpart provides for prior clearances and methods of contracting for the procurement of audiovisual materials and/or contracts for public affairs services in excess of $2,500. Chapter 1-121 of the General Administration Manual sets forth supplementary requirements for review of audiovisual materials intended for use with the public and contracts for public affairs services. The term "audiovisual materials," as used in this subpart, refers not only to the completed product but also to all steps and techniques leading to the realization of the completed product. The term includes motion pictures, video tapes, slide shows, film strips, audio recordings, exhibitry, or similar materials; design, layout, preparation of scripts, filming or taping, sound recording, editing, fabrication, or other activities leading to the acquisition or creation of audiovisual materials regardless of intended use.

The term "contract for public affairs services" as used in this subpart, refers to contracts designed to reach the public with information about Departmental activities and/or programs. Examples of such activities include the following:

(a) Printing, other than printing services performed by the Government Printing Office or the Department.

(b) Editorial services including speech writing and publications development.

(c) Graphics, including art, layout, charts and similar materials.
(d) Photography and photo services.
(e) Public affairs consultation.
(f) Communication planning and/or strategy development.
(g) Communications research and evaluation services, including automatic data processing services, related to these research and evaluation activities.
(h) Miscellaneous or collateral services such as preparation of mats and plates, clipping services, editorial tracking services, public affairs indexes and polls, and similar activities.

Instructions relating to motion picture films obtained with grant funds are contained in Chapter 1–450 of the HEW Grants Administration Manual. Also, consultant contracts in support of any of the activities described in this Subpart are subject to the approval requirements of Chapter 8–15 of the General Administration Manual.

3. Section 3–4.5401 is deleted and the following is substituted in lieu thereof:

§ 3–4.5401 Responsibility.

No procurement action for acquisition of audiovisual materials or the contracting for public affairs services shall be initiated without first obtaining proper clearances and approvals set forth below. The Office of the Assistant Secretary for Public Affairs, Office of the Secretary (ASPA–OS), has been designated as the office of primary responsibility for review and approval of all audiovisual materials and contracts for public affairs services. Requests for the procurement of audiovisual materials and contracts for public affairs services shall be submitted to ASPA–OS for review and approval (or disapproval).

4. Paragraphs (a), (b), and (c), of Section 3–4.5402 are hereby deleted and the following is substituted in lieu thereof:

§ 3–4.5402 Clearance for procurement.

(a) Clearances shall apply to contracts dealing, in whole or in part, with development of audiovisual materials whether for public information, education or training purposes and to contracts for public affairs services.

(b) All requests for approval of audiovisual materials and contracts for public affairs services shall be submitted on a HEW Form 524A, Request for Audiovisual Material, or a Form 524B, Request for Public Affairs Services Contract. Requests for audiovisual material or public affairs services contract will be submitted to ASPA–OS for review and approval prior to initiating any procurement action.

(c) Each request shall include the name of the assigned project officer. Failure to assign a project officer whose experience in audiovisual materials or public affairs services is suitable to the project will constitute sufficient reason for disapproval of the project.

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

Effective Date: This amendment shall be effective on March 11, 1974.

Dated: March 4, 1974.

THOMAS S. MCFEE,
Acting Deputy Assistant Secretary for Administration and Management.

[FR Doc.74–5503 Filed 3–8–74;8:45 am]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 60—EDUCATIONAL BROADCASTING FACILITIES PROGRAM

Priorities and Closing Date for Fiscal Year 1974

Notice of proposed rulemaking was published in the FEDERAL REGISTER on December 26, 1973 (38 FR 35237) setting forth proposed priorities to govern the award of grants for fiscal year 1974 under the Educational Broadcasting Facilities Program (45 CFR Part 60) and a proposed closing date for receipt of applications.

1. A number of comments were submitted to the Office of Education in response to the proposed priorities. Most concerned the proposed preference for funding additional equipment for existing stations, rather than for the construction of new stations which was accorded the highest priority in FY's 1972 and 1973. Comments were received both in favor of and in opposition to this proposed shift in priorities.

Most significantly, both the Corporation for Public Broadcasting and the Public Broadcasting Service endorsed the shift in priorities reflected in the December 26, 1973 proposal in the FEDERAL REGISTER and indicated their view that the proposed ordering of priorities was preferable to that applied in prior fiscal years.

The Public Broadcasting Service, with a membership of approximately 244 noncommercial educational television stations located throughout the United States and its territories, stated, in a letter of January 25, 1974:

On behalf of our member stations, PBS fully supports the decision by HEW to revise grant priorities toward the expansion and improvement of the production and transmission capabilities of existing public television stations. Such a change in priorities is consistent with PBS' long held view that system growth must be carefully controlled and that priorities should be established in favor of improving, in particular, the production capabilities of existing stations.

Likewise, the Corporation for Public Broadcasting while cautioning against a rigid application of the priorities to the field of *radio* which might prejudice the provision of full-service radio stations, stated that the proposed priorities "are basically sound and consistent with our view of system needs."

The proposed reordering of priorities reflects a determination by the Department of Health, Education, and Welfare that more equipment to meet minimum production and reproduction requirements is needed by stations if they are to provide effective local programming for the broadest educational uses. To continue to prefer the construction of new stations, which require disportionate amounts of money, would preclude the effective meeting of these needs.

In view of these considerations, it has been determined that for fiscal year 1974 the priorities published in the FEDERAL REGISTER notice of December 26, 1973 should be made final.

2. One comment, from the Association of Public Radio Stations, requested that the office of Education set aside a proportion of the Educational Broadcasting Facilities program appropriation in a special fund to assist public radio stations to purchase channel logging recorders with time code generators and tape stock in order to comply with the requirements of section 399(b) of the Communications Act of 1934, as added by Pub. L. 93–84, concerning the retention of audio recordings. The letter proposed that such a special fund be administered outside of the priority structure and be exempted from local matching requirements.

Channel logging recorders and related equipment needed to meet the requirements of section 399(b) of the Act constitute broadcasting facilities eligible for grant assistance. To the extent that such facilities are included in applications for support submitted to the Office of Education, they will be reviewed on the basis of priorities set forth in this notice. However, the statute does not authorize the Department of Health, Education, and Welfare to establish a separate fund for these facilities as proposed in the comment.

3. In order to give applicants sufficient time to submit applications on the basis of a final rule, the closing date of January 30, 1974 previously published at 38 FR 35237 is extended to March 25, 1974.

(Catalog of Federal Domestic Assistance No. 13.413, Educational Broadcasting Facilities (Public Broadcasting))

Dated: March 4, 1974.

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

Sec.
1. Scope.
2. Closing date.
3. Project summary.
4. Complete applications; operating budget.
5. Limit on applications.
6. FCC and FAA filing.
7. Prior grantees.
8. Funding emphases.
9. Awards schedule.
10. Further information.

AUTHORITY: Part IV of title III of the Communications Act of 1934, as amended (47 U.S.C. 390–99); 45 CFR Part 60.

Section 1. Scope.

This temporary rule establishes a closing date for receipt of applications and priorities and procedures to govern educational broadcasting facilities grants for fiscal year 1974 awarded under Part IV of Title III of the Communications Act of 1934, as amended (47 U.S.C. 390–99) and 45 CFR Part 60 (47 U.S.C. 390, 392 (d), 394; 45 CFR 60.1).

Sec. 2. Closing date.

In order to be assured of consideration applications must be received by the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. 20202 (mailing address: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202), on or before March 25, 1974.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

In order for any pending application to receive consideration for Fiscal Year 1974 funding, applicants must submit a statement to that effect by the established closing date to the Director, Educational Broadcasting Facilities Program, U.S. Office of Education, Washington, D.C. 20202.

Applicants wishing to amend their application to add new exhibits or addenda which do not change the amount of the Federal assistance requested may submit them directly to the Director, Educational Broadcasting Facilities Program.

Applicants wishing to amend their original submission to increase or decrease the amount of the Federal assistance requested must submit such amendments to the U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202.

Sec. 3. Project summary.

Applicants will be required to prepare a project summary of the application summarizing essential data and the project justification. (47 U.S.C. 392(a), 45 CFR 60.5).

Sec. 4. Complete applications; operating budget.

Only complete or substantially complete applications filed on or before the closing date will be accepted for filing. It is emphasized that an application must contain information with respect to the proposed operating budget of the applicant, since particular stress in evaluation will be placed upon the adequacy of such budget to provide program services on a scale consistent with the purposes of the Act and regulations. (47 U.S.C. 392(a); 45 CFR 60.5, 60.8, 60.9(e)(3)).

Sec. 5. Limit on applications.

Only one application in radio and one in television by any single applicant in a single State (other than a State radio or television agency which may be permitted to file additional applications upon approval of the Commissioner) will be accepted for filing. Applicants may by the closing date withdraw a pending application and replace it with a new application. Applicants with more than one application on file must indicate by the closing date which application or applications are to be withdrawn. (47 U.S.C. 392(d); 45 CFR 60.12).

Sec. 6. FCC and FAA filing.

Applicants whose projects require filing for operational authority with the FCC (and the FAA) are urged to recognize and resolve problems related to such authorization as soon as possible. Applications with problems relating to FAA and/or FCC approval which cannot be resolved within a reasonable period of time following the cut-off date established in section 2 will be subject to deferral until the following fiscal year. (45 CFR 60.6).

Sec. 7. Prior grantees.

Applicants who have received grant awards in a given fiscal year may file applications under the foregoing provisions in the next fiscal year. However, in determining grant awards among competitive applications having the same priority, the lapse of time between grant awards to an applicant may be taken into account. (47 U.S.C. 392(d), 394).

Sec. 8. Funding emphases.

In order to provide adequately for required expansion and improvement of individual stations within the national television system, it is anticipated that the largest portion of television funds will be used for expansion and improvement projects. In radio, the initial funding emphasis will be on the activation of new stations and the expansion of existing low powered stations where substantial audiences remain unserved. In the light of this program emphasis, priorities which are set forth in Appendix A will be assigned to applications, in accordance with the provisions of Appendix B. (47 U.S.C. 392(d), 394; 45 CFR 60.12(a)(2), 60.13).

Sec. 9. Awards schedule.

In order to allow for evaluation and priority interrelation of new applications with those which are pending, at least two-thirds (67 percent) of the appropriation will not be obligated until after the submission deadline. (45 CFR 60.12).

Sec. 10. Further information.

Further information with respect to the Educational Broadcasting Facilities Program including program bulletins and application forms and instructions (for pending as well as for new applications) may be obtained from the Director, Educational Broadcasting Facilities Program, U.S. Office of Education, 400 Maryland Avenue SW., Washington, DC 20202. (47 U.S.C. 390–99; 45 CFR 60.1–60.22).

APPENDIX A—PROJECT PRIORITIES

In evaluation of applications the Educational Broadcasting Facilities Program will consider the criteria in 45 CFR 60.13. Subject to these criteria, projects will be funded in the order of the priorities and sub-priorities listed below, except as provided in the limitations described in paragraphs 3, 4, and 5 of Appendix B.

PRIORITY

A. Projects to provide stations with first state-of-the-art reproduction capability. This refers to color capability of a videotape recorder and film chain, stereo capability of an audio turntable and tape recorder and other associated radio or television apparatus.

B. Projects to provide local stations with first state-of-the-art "live" production capability (i.e., first studio color cameras, stereo apparatus) where this need can be justified by proven production requirements to meet identified community needs.

C. Projects to acquire transmitter/antenna apparatus necessary to increase power or otherwise extend station coverage where the in-state population to be served increases substantially, or which are necessary to provide improved signal (including color, SCA, or stereo signals) for larger population groupings, and provide comparability with commercial station coverage.

D. Projects to acquire apparatus for the interconnection of stations in a State network (or a particular geographical region across State lines) where applicant ownership or interconnection facilities can be fully justified as advantageous in comparison with leasing of interconnection services.

PRIORITY II

A. Proposals to activate new stations in areas currently without a public broadcasting station with appropriate local or State license, to serve populations of 500,000 or more. Proposals to activate the first broadcasting station in a State.

B. Proposals to activate new stations in areas currently without a public broadcasting station under appropriate local or State license, to serve populations between 250,000 and 500,000.

C. Projects to provide production capability for stations providing program services beyond their local requirements for distribution over national, regional, and statewide interconnection. (To qualify in this category, a project justification must be verified by production commitment from recognized national, regional, or State network program clients supporting such production need, the applicant must demonstrate the inability of presently owned apparatus to meet pro-

duction requirements, and the apparatus requested may not exceed the reasonable requirements of the verified production commitments.)

D. Projects to acquire transmitter/antenna apparatus necessary to increase power or otherwise extend or improve station coverage where the increase in population does not justify inclusion in Category IC.

PRIORITY III

A. Projects to activate new stations in areas currently without a public broadcasting station under appropriate local or State license where population to be served is less than 250,000.

B. Projects to augment production and reproduction capabilities of local stations beyond the basic or initial capability. Such proposals will require documentation of local live production requirements in excess of existing capability.

PRIORITY IV

A. Projects to activate second (or more) public broadcasting stations in areas already served by such a station under appropriate local or State license.

B. Projects to equip auxiliary studios at other than the main studio.

(47 U.S.C. 392(d), 394; 45 CFR 60.12)

APPENDIX B—ASSIGNMENT OF PRIORITIES TO APPLICATIONS

1. Upon receipt of application (or amendment to a pending application), it will be accorded the priority of the lowest component in the project.

For example, an application to secure the stations first color VTR's (Priority IA) and to relocate a new, more powerful transmitter which significantly increases the audience (Priority IC), and also requests matching funds for the 5th and 6th color cameras (Priority IIIB) would be assigned a priority of IIIB.

2. To avoid low priority rating, applicants should limit their requests to apparatus to meet their most immediate needs at the priority level which in their judgment will qualify within limitations of available funds in relation to the national backlog of needs for equipment.

3. To the extent permitted by categorical allowances, projects will be funded in the order of listed priorities.

Proportions of total available funds to be awarded in the various priority categories will be determined, with the counsel of national advisors, after the total requests are known following cut-off date for submission of applications. It will be an administrative objective to achieve a fair distribution of funds over the major priority categories consistent with the pattern of needs reflected in the FY 1974 applications.

4. Where projects have identical priorities, preference will be given to those having the earlier date of filing, with reasonable allowance for the relative population groupings being served.

5. The order of funding according to the priority structure may be affected by consideration of geographical equity or the State maximum limitation.

(47 U.S.C. 392 (b) and (d), 394.)

[FR Doc.74-5502 Filed 3-8-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 74-166]

PART 73—RADIO BROADCAST SERVICES

Station Identification Requirements; Correction

The Commission's Order, FCC 74-166, in the above-entitled proceeding, adopted February 13, 1974, released February 19, 1974, and published in the FEDERAL REGISTER on February 22, 1974 (39 FR 6707), is corrected to reinsert the word *"Channel"* at the beginning of paragraph (c). As corrected, § 73.1201(c) reads as follows:

§ 73.1201 Station identification.

* * * * *

(c) *Channel*—(1) *General.* Except as otherwise provided in this paragraph, in making the identification announcement the call letters shall be given only on the channel identified thereby.

* * * * *

Released: February 27, 1974.

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

[FR Doc.74-5504 Filed 3-8-74;8:45 am]

[FCC 74-206]

PART 76—CABLE TELEVISION SERVICES

Memorandum Opinion and Order Relative to Obligations of Cable Television Systems

1. In the year and a half since our adoption of the *Cable Television Report and Order*, 36 FCC 2d 143, we have had cause to be concerned whether our existing cable television rules provide adequate procedures for accurate collection of fees from cable television systems. Administration of our cable television fee schedule[1] has pointed up problems in verifying systems' computations of annual fees. We thus find a need to codify record keeping requirements for cable television systems.

2. Our fee schedule requires a cable television system to count its subscribers on a quarterly basis in order to compute its annual fee, but does not specify how the system must preserve the raw information of the count.[2] Though most cable operators apparently make good faith efforts to compute their fees properly, indications are that they use widely varying methods of defining and counting subscribers. And without a method of preserving the underlying data, our enforcement program cannot function properly. At a bare minimum, systems must keep their records internally consistent.

3. We therefore find that a record keeping requirement is in the public interest. In this regard, we do not believe that the rule will impose any serious burdens upon cable television systems. Systems have the required information already; the rule just states that they must maintain it and make it available to the Commission.

4. Section 76.306's requirement that cable operators retain records of their subscriber counts for Commission inspection is designed to aid Commission personnel in verifying the annual fee computations which the rules already require. As indicated in paragraph 2, we are concerned not that cable systems deliberately are falsifying subscriber counts but rather that they are not maintaining sufficient information to permit meaningful field checks. Accordingly, § 76.306 would neither specify any particular form for subscriber count information nor require cable systems to record information which they otherwise do not maintain. Instead, it provides only that they must retain for three years any subscriber records which they keep in the normal course of business.[3] Cable systems thus may comply with the rule simply by keeping on hand and making available their customary subscriber records—e.g., billing slips, customer history accounts, or the like. The rule does not require cable systems to institute any new record keeping procedures and therefore should not present any hardship. Nor does it require systems to open up their offices and files for physical inspections; they need only "submit" the records to an authorized Commission representative in any reasonable and convenient way.

5. Cable systems must retain records of all subscribers, however, whether paying or non-paying. Our cable rules and our fee schedule apply to all subscribers, regardless of their financial relationship with a system; any other approach would ignore the fact that subscribers have the same impact for regulatory purposes whether or not they pay for service.

6. The new rule thus should not cause any undue inconvenience, since it does not require cable operators to produce material which they do not normally maintain. Through greater disclosure we hope to encourage a greater interaction between the Commission and the cable industry.

7. We find that prior notice of rulemaking would not be appropriate or in the public interest here, since speedy adoption of the rule is essential. We will mail out the forms for fee computations shortly, and cable systems must file their Form 326-A computations of annual fees by April 1, 1974. Accordingly, any delay in implementing the rule would make our enforcement effort nugatory for the coming year, since cable systems would not be required to have any means by which we could audit or validate their subscriber counts. See, e.g., *Arizona State*

[1] This was adopted as part of our general schedule of fees for all services which the Commission regulates, in our *Report and Order in Docket No. 18802*, FCC 70-694, 23 FCC 2d 880.

[2] Section 1.1116 of the Rules provides that:

An annual fee shall be paid by each CATV system on or before April 1 of each year for the preceding calendar year. The fee for each system shall be equal to the number of its subscribers times 30 cents. The number of subscribers shall be determined by averaging the number of subscribers on the last day of each calendar quarter. (See § 1.1102(c).)

[3] Where a cable system does not keep records in the normal course of its business, it thus need not maintain or submit any records under § 76.306. We expect this type of situation to be quite rare, however, since most systems keep records either for their own internal purposes or for tax and regulatory authorities. We note that at least one state regulatory authority, the New York State Commission on Cable Television, has decided to adopt just such record keeping requirements.

Department of Public Welfare v. *HEW*, 449 F. 2d 456 (9th Cir.), *cert. den.*, 405 U.S. 919 (1971). Moreover, prompt adoption of the rule will facilitate cable systems' retention of records by clarifying their obligations. *Buckeye Cablevision, Inc.* v. *FCC*, 387 F. 2d 220 (D.C. Cir., 1967).

8. Authority for the rule amendment adopted herein is contained in sections 2, 4(i) and (j), 303, 307, 308, and 309 of the Communications Act of 1934, as amended.

Accordingly, *It is ordered*, That effective April 12, 1974, Part 76 of the Commission's rules and regulations is amended as set forth in the attached Appendix.

(Secs. 2, 4, 303, 308, 309, 48 Stat., as amended, 1064, 1066, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 154, 303, 307, 308)

Adopted: February 27, 1974.

Released: March 5, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX

Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 76.306 is added to read as follows:

§ 76.306 Records of subscribers.

Every cable television system shall retain all records, in whatever form maintained, which it keeps of the subscribers, paying and non-paying, whom it serves during the last month of each quarter of operation. (See § 1.1101(f)). Every cable television system shall submit such records upon request by an authorized representative of the Commission, and shall retain such records for a period of three years.

[FR Doc.74-5542 Filed 3-8-74;8:45 am]

[Docket No. 19605; FCC 74-196; 10358]

PART 97—AMATEUR RADIO SERVICE

Report and Order

In the matter of amendment of Part 97 to allow the compensation in certain instances of control operators of stations operating in the Amateur Radio Service and modification of the logging requirements regarding third party communications.

1. On October 11, 1972, the Commission released a notice of proposed rule making in the above captioned matter. The notice was published in the FEDERAL REGISTER on February 5, 1973, (37 FR 22002) and requested comments be filed by interested parties by December 20, 1972, and reply comments by January 3, 1973. Comments were received from the following individuals and organizations: Robert G. Farricy, the Los Angeles Disaster C. D. Radio Council, Paul Schuett, the North Carolina FM Repeater Association, Inc., Pioneer Valley Repeater Association, Inc., the American Radio Relay League, Inc. (ARRL), Explorer Port 65, B.S.A., and Sam McCluney.

2. Our notice looked toward the amendment of Part 97 in two areas. First, we proposed to permit regular control operators of an amateur radio station meeting certain specified criteria to receive compensation for their work. The intent was to provide a basis for the ARRL to compensate their employees for work performed in operating station W1AW. Heretofore, these employees were permitted to receive compensation without jeopardizing their amateur radio license under a special waiver authorized in the notice. Secondly, we proposed to modify or delete § 97.103(b)(3) concerning the requirements for recording third party traffic handling data in an Amateur Radio station log.

3. All but one of the comments filed regarding the compensation of control operators supported our purposed rule. Both the ARRL and the Pioneer Valley Repeater Association Inc., took the position that stations which could meet the criteria set forth in our notice were providing a valuable service to a very large segment of amateur licenses and that reasonable compensation would insure continuance of such activities. On the other hand, Sam McCluney took the position that there should not be any paid amateurs and that our proposed rule "using reasonable measures to maximize coverage" was vague. In addition, the Los Angeles Disaster C. D. Radio Council filed a comment which asked that we extend our proposed rule regarding compensation to RACES control operators.

4. Under the terms of our Notice, if an amateur station could meet three criteria, the control operator of that station would be allowed to receive compensation. The criteria proposed were (1) the station must be operated at least 40 hours per week (2) on all the allocated high frequency amateur bands using reasonable measures to maximize coverage (3) according to a published schedule. The Commission finds that it is desirable in the public interest to have at least one amateur station transmitting bulletins, informational matter, and telegraphy practice on a regular basis as a service to all amateur radio operators. This finding is in fact consistent with the purpose of § 97.91 (b) and (d). The Commission recognizes that it is impractical to operate such a station for a substantial period of time using only volunteer control operators.

5. We are adopting the rules essentially as proposed in our Notice. However, we are making certain editorial changes to clarify our intent and the permissible extent of the compensation. Subparagraph (b)(1) has been amended to clearly indicate that the station must operate for at least 40 hours per week with telegraphy practice and bulletin transmissions. A general provision has also been added to indicate that a control operator may receive compensation only for the period during which the station is transmitting telegraphy practice and bulletins. Compensation may not be accepted for operating the station for other amateur radiocommunication. In their comments, the American Radio Relay League requested the additional requirement of operation in the MF (medium frequency) 160 meter band. We find the ARRL requested additional requirement of operation in the 160 meter frequency band acceptable, and it will be adopted. We reject the argument that the rule is vague. Specifically to the phrase "using reasonable measures to maximize coverage", we find that it is sufficiently precise, within the context of this proceeding, to inform all parties as to what is required. The rules adopted herein, while intended primarily for W1AW, do not preclude the compensation of control operators at other amateur radio stations operated in compliance with the rule requirements.

6. We find that our proposed rule on the compensation of control operators as set forth in the attached appendix to our notice, is not only justified but will enhance the Amateur Radio Service by insuring that material of interest solely to amateurs will continue to be adequately disseminated. The suggestion by the Los Angeles Disaster C.D. Radio Council is not being adopted. We do not wish at this time to express a view as to the wisdom of compensating control operators of RACES stations. Such a question is very broad and involves many aspects requiring more thorough consideration than is available in this limited docket and would be better considered eventually in Docket 19723.

7. With regard to our proposed logging requirements, several of the comments stated that it was difficult to comply with the third party logging requirements and suggested various ways to modify § 97.103(b)(3) to make it easier for the licensee to comply with it. The Commission has some difficulty understanding the rationale of the comments which stated that it was more difficult to comply with the present third party logging rule than it was to comply with the old rule. Instead of requiring each station to maintain an actual copy of the third party message as was the case with the old rule, we now only require a notation of the message content and the names of the participants, i.e. the control operators of the amateur stations involved and the names of all parties to the third party message.

8. The Commission finds that there is a continuing need for the information required by § 97.103(d)(3) particularly with the proliferation of the use of phonepatch and autopatch facilities. The information contained in amateur station logs is the only way in which the Commission can obtain an accurate assessment of the extent and nature of third party traffic. The Commission believes this logging requirement at worst to be only a slight burden to the licensee, especially in light of the acceptability of automatic logging. Accordingly, the Commission will not modify or delete § 97.103(d)(3).

[4] Commissioner Reid concurring in the result.

9. We find that attached amendments to the rules are necessary, desirable and in the public interest. Authority for adoption of these amendments is contained in section 4(i) and 303 of the Communications Act of 1934, as amended.

10. Because the rules adopted herein relieve restrictions on the operation of Amateur Radio Stations, and the procedural and effective date provisions of (5 U.S.C. 553(d)(1)) do not apply, *it is ordered* that these rules are effective March 12, 1974.

11. It is further ordered, that this proceeding is terminated.

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

Adopted: February 27, 1974.

Released: March 4, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT A. MULLINS,
Secretary.

APPENDIX

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 97.112 the present text is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 97.112 No remuneration for use of station.

* * * * *

(b) Control operators of a Club Station may be compensated when the club station is operated primarily for the purpose of conducting amateur radiocommunication to provide telegraphy practice transmissions intended for persons learning or improving proficiency in the International Morse Code, or to disseminate information bulletins consisting solely of subject matter having direct interest to the Amateur Radio Service provided:

(1) The station conducts telegraphy practice and bulletin transmission for at least 40 hours per week;

(2) The station schedules operations on all allocated medium and high frequency amateur bands using reasonable measures to maximize coverage.

(3) The schedule of normal operating times and frequencies is published at least 30 days in advance of the actual transmissions. Control operators may accept compensation only for such periods of time during which the station is transmitting telegraphy practice or bulletins. A control operator shall not accept any direct or indirect compensation for periods during which the station is transmitting material other than telegraphy practice or bulletins.

[FR Doc.74-5657 Filed 3-7-74;3:17 pm]

[1] Commissioner Wiley concurring in the result.

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

PART 152—COST OF LIVING COUNCIL PHASE IV PAY REGULATIONS

Exemption of Fastener Products

The purpose of this amendment is to exempt prices charged for fastener products as described in the Standard Industrial Classification Manual, 1972 edition, under Industry Number 3452 (Bolts, Nuts, Screws, Rivets, and Washers) by the manufacturers of such products and to add a parallel exemption in the pay regulations.

There are three primary reasons for exempting fastener products as described in the SIC Manual under Industry Number 3452 from the Phase IV price regulations. First, the industry is highly competitive, which tends to moderate price increases. Second, the industry is currently operating at capacity and is unable to meet domestic demand. The exemption of fastener products will help moderate shortages in traditional product lines. In recent years, there has been strong competition from imports, particularly the lower quality and lower profit products. However, because of the realignment of foreign currencies and other factors imports have fallen sharply. Exemption will contribute to incentives to expand production of standard fasteners previously obtained largely from foreign markets. Third, exemption will permit the industry sufficient pricing flexibility to compete for steel, the major material input, which is in short supply.

Under §§ 150.11(e) and 150.161(b), a firm with revenues in its most recent fiscal year from the sale of exempt items remains subject to the profit margin constraints and reporting provisions of the Phase IV program unless it derived both less than $50 million in annual sales or revenues from the sale or lease of nonexempt items and 90 percent or more of its sales and revenues from the sale of exempt items or exempt sales.

In addition to the exemption from price controls, the Council has also exempted pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment in the fastener products manufacturing industry. The exemption is set forth in new § 152.40t. The exemption is inapplicable to any such employee who receives an item of incentive compensation, or who is a member of an executive control group. The exemption is also inapplicable to any such employee whose duties and responsibilities are not of a type exclusively performed in or related to the fastener products manufacturing industry and whose pay adjustments are historically related to the pay adjustments of employees performing such duties outside the industry and are not related to the pay adjustments of other employees that are within the exemption. The exemption is further inapplicable to employees who are part of an appropriate employee unit where 25 percent or more of the members of such unit are not engaged on a regular and continuing basis in the operation of an establishment in the fastener products manufacturing industry or in support thereof. In cases of uncertainty of application, inquiries concerning the scope or coverage of the pay exemption should be addressed to the Administrator, Office of Wage Stabilization, P.O. Box 672, Washington, D.C. 20044.

As with all exemptions from Phase IV controls, firms subject to this amendment remain subject to review for compliance with appropriate regulations in effect prior to this exemption. A firm affected by this amendment will be held responsible for its pre-exemption compliance under all phases of the Economic Stabilization Program. A first affected by this exemption alleged to be in violation of stabilization rules in effect prior to this exemption is subject to the same compliance actions as a non-exempt firm. These compliance actions include investigations, issuance of notices of probable violation, issuance of remedial orders requiring rollbacks or refunds and possible penalty of $2,500 for each stabilization violation.

The Council retains the authority to reestablish price and wage controls over the industry exempted by these amendments if price or wage behavior is inconsistent with the policies of the Economic Stabilization Program. The Council also has the power, under §§ 150.162 and 152.6, to require firms to file special or separate reports setting forth information relating to the Economic Stabilization Program in addition to any other reports which may be required under the Phase IV controls program.

Because the purpose of these amendments is to grant an immediate exemption from the Phase IV price and pay regulations, the Council finds that publication in accordance with normal rule making procedure is impractical and that good cause exists for making these amendments effective in less than 30 days. Interested persons may submit written comments regarding these amendments. Communications should be addressed to the Office of the General Counsel, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508.

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

In consideration of the foregoing, Parts 150 and 152 of Title 6 of the Code of Federal Regulations are amended as set forth herein, effective March 7, 1974.

Issued in Washington, D.C., on March 7, 1974.

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

1. In 6 CFR Part 150, § 150.54 is amended to add a new paragraph (tt) to read as follows:

§ 150.54 **Certain price adjustments.**

* * * * *

(tt) *Fastener products.* Prices charged by manufacturers of fastener products for fastener products as described in the Standard Industrial Classification Manual, 1972 edition, under Industry Number 3452 are exempt.

2. In 6 CFR Part 152, Subpart D is amended by adding thereto a new § 152.40t to read as follows:

§ 152.40t **Fastener products manufacturing industry.**

(a) *Exemption.* Pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment in the fastener products manufacturing industry or in support of such operation are exempt from and not limited by the provisions of this title.

(b) *Establishment in the fastener products manufacturing industry.* For purposes of this section, "Establishment in the fastener products manufacturing industry" means an establishment classified in the Standard Industrial Classification Manual, 1972 edition, under Industry Number 3452 (Bolts, Nuts, Screws, Rivets, and Washers) and primarily engaged in the manufacture of any product listed under such Industry Number.

(c) *Covered employees.* For purposes of this section, an employee is considered to be engaged on a regular and continuing basis in the operation of an establishment in the fastener products manufacturing industry or in support of such operation only if such employee is employed at an establishment in the fastener products manufacturing industry and only if such employee is employed by the firm which operates such establishment.

(d) *Limitation.* The exemption provided in paragraph (a) of this section shall not be applicable to—

(1) An employee who receives an item of incentive compensation subject to the provisions of §§ 152.124, 152.125, or 152.126.

(2) An employee who is a member of an executive control group (determined pursuant to § 152.130).

(3) Employees whose occupational duties and responsibilities are of a type not exclusively performed in or related to the fastener products manufacturing industry and whose pay adjustments are—

(i) Historically related to the pay adjustments of employees performing such duties outside the fastener products manufacturing industry; and

(ii) Not related to pay adjustments of another unit of employees engaged on a regular and continuing basis in the operation of an establishment in the fastener products manufacturing industry or in support of such operation within the meaning of paragraph (c) of this section.

(4) Employees who are members of an appropriate employee unit if 25 percent or more of the employees who are members of such unit are not engaged on a regular and continuing basis in the operation of an establishment in the fastener products manufacturing industry or in support of such operation.

(e) *Effective date.* The exemption provided in this section shall be applicable to pay adjustments with respect to work performed on and after March 7, 1974.

[FR Doc.74-5657 Filed 3-7-74;3:17 pm]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—SCHOOL LUNCH PROGRAM

[Amdt. 1]

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Clinic Evaluation Costs

The regulations governing the operation of the Special Supplemental Food Program for Women, Infants and Children (WIC Program) are amended to authorize additional uses of WIC Program funds.

The regulations now authorize expenditures for administrative costs and for the special supplemental foods. This amendment will add an additional category, clinic evaluation costs, which will be funded by the Food and Nutrition Service. Expenditures will be controlled by the requirement that the chief medical officer of the State agency certify that the expenditures are necessary to provide services and material essential to the medical evaluation of the benefits to the target population from the supplemental foods. This official must also certify that these expenditures are reasonable in amount.

Although the policy of the Department is to publish a notice of proposed rulemaking and allow thirty days for interested persons to comment before issuing final regulations for Food and Nutrition Service programs, it is determined that such action is impractical, unnecessary and contrary to the public interest. The material from participating local agencies is the basis for the entire medical evaluation effort. Authorizing the use of WIC Program funds for clinic evaluation costs—the local agency costs of providing evaluative materials—is essential to insure that local agencies will be able to provide the needed materials. This authorization must become effective as soon as possible because approved local agencies are beginning actual program operations and require the authority to expend funds for clinic evaluation costs.

1. In § 246.2, paragraph (b) is revised and new paragraphs (d–1) and (g–1) are added as follows:

§ 246.2 **Definitions.**

* * * * *

(b) "Administrative costs" means those direct and indirect costs, except food costs and clinic evaluation costs, necessary to support WIC program operations and authorized under an approved cost allocation plan as described in Office of Management and Budget Circular A–87.

* * * * *

(d–1) "Clinic evaluation costs" means those costs specified in § 246.4(d) which are incurred by a local agency to provide data and other material for the medical evaluation.

* * * * *

(g–1) "Food costs" means the costs of supplemental foods provided, either directly or by voucher, to participants for home consumption, but such costs shall not exceed the vendor's customary price for such food delivered to the State agency, the local agency or the participant, whichever is the first recipient.

* * * * *

2. Section 246.4 is revised to read as follows:

§ 246.4 **Use of Funds.**

(a) Federal funds made available to any State agency for the WIC Program for any fiscal year may be used by the State agency for administrative costs and for food costs and by local agencies for administrative costs, for food costs and for clinic evaluation costs. The use of WIC Program funds in any fiscal year shall be in accordance with budgets submitted by State and local agencies and approved by FNS.

(b) The use of WIC Program funds for administrative costs shall be subject to the following conditions:

(1) The formula, if any, for allocating such funds between the State agency and local agencies shall be determined by the State agency;

(2) The amount expended for any fiscal year by the State agency and its local agencies shall not exceed ten per centum of the combined administrative and food costs incurred (exclusive of clinic evaluation costs). Administrative costs in excess of those which can be paid from WIC Program funds may be funded from any source other than FNS.

(c) The use of WIC Program funds for food costs shall be in accordance with the method or delivery system for making supplemental foods available as prescribed by the State agency (or the local agency whenever the State agency authorizes the design of such method or delivery system by the local agency) and approved by FNS.

(d) The use of WIC Program funds for clinic evaluation costs shall be subject to the following conditions:

(1) The expenditures shall be limited to: (i) the appropriate portion of the wages and salaries of the competent professionals who determine the medical need of eligible persons for the supplemental foods and who collect data and

other material requested for use by FNS or its designee in the medical evaluation; (ii) the appropriate portion of the wages and salaries of local agency employees who prepare such data and other material for submission to FNS or its designee; (iii) the costs of any supplies consumed by the local agency in order to provide the requested data and other material to FNS or its designee; and (iv) the expenses of shipping or mailing such data and other material as directed by FNS or its designee.

(2) The chief medical officer of the State agency shall certify that the costs incurred by the local agency and the portion of wages and salaries allocated to clinic evaluation costs are reasonable and that these costs were necessarily incurred to provide the data and other material requested by FNS or its designee for the medical evaluation.

(e) WIC Program funds shall not be used for any purposes by or on behalf of a local agency until a WIC Program agreement has been executed between the State agency and the local agency.

(f) Upon demand by FNS, the State agency shall promptly return to FNS any unobligated WIC Program funds. A pro rata amount of funds for administrative costs shall accompany any returned funds for food costs.

Effective date: This amendment shall become effective on March 11, 1974.

Signed at Washington, D.C., on March 6, 1974.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.74-5558 Filed 3-8-74;8:45 am]

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

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 1]

PART 775—FEED GRAINS

Subpart—Feed Grain Program for Crop Years 1974–1977

APPORTIONMENT OF 1974 NATIONAL FEED GRAIN ALLOTMENT

This amendment is part of a new subpart issued to govern the Feed Grain Program for the crop years 1974–1977. Section 775.4 proclaiming the 1974 national allotment for feed grains was issued December 27, 1973 (FR 38-35294). This regulation is issued for the purpose of apportioning the national allotment to States and State allotments to their respective counties.

Pursuant to section 105(b)(2) of the Agricultural Act of 1949, as amended by the Agriculture and Consumer Protection Act of 1973, Pub. L. 93-86, 87 Stat. 221, 231 (1973), the Secretary is required to establish State, county and farm feed grain allotments on the basis of the feed grain allotments established for the preceding crop (for 1974 on the basis of the feed grain bases established for 1973) adjusted to the extent deemed necessary to establish a fair and equitable apportionment base for each State, county and farm.

Section 105(b)(2) of the Act also provides that not to exceed 1 per centum of the State feed grain allotment may be reserved for apportionment to new feed grain farms on the basis of the following factors: suitability of land for production of feed grains, the extent to which the farm operator is dependent on income from farming on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable feed grain allotments.

The determinations contained in §§ 775.5 and 775.6 were made on the basis of the latest available statistics of the Federal Government.

Section 775.5 and 775.6 are amended, effective with respect to the 1974 crop, to provide as follows:

Sec.
775.5 Establishment of the 1974 State feed grain allotments.
775.6 Establishment of the 1974 county feed grain allotments.

AUTHORITY: §§ 775.5 and 775.6 issued under Section 105, 63 Stat. 1054, as amended; 87 Stat. 231 (7 U.S.C. 1441 note).

§ 775.5 Establishment of the 1974 State feed grain allotments.

The 1974 State feed grain allotments have been established by apportioning the national feed grain allotment to the States on the basis of each State's feed grain base established for 1973, adjusted for (a) the administrative transfer of farms between States, (b) decreases resulting from farms no longer engaged in agricultural production, farms dropped from the eminent domain pool, farms losing allotment for failure to plant, and farms voluntarily relinquishing their allotment, and (c) increases resulting from acreage allocated to old feed grain farms from the national feed grain pool. State feed grain allotments are available for inspection in State and county ASCS offices.

§ 775.6 Establishment of the 1974 county feed grain allotments.

The 1974 county feed grain allotments have been established by apportioning each State's feed grain allotments (less reserves of not to exceed 1 per centum of the State feed grain allotment for new farms and reserves for appeals and corrections) among the counties in the various States on the basis of each county's feed grain base established for 1973, adjusted for (a) the administrative transfer of farms between counties, (b) acreage allocated to new farms from the State reserve, (c) acreage removed from farms no longer engaged in agricultural production, farms dropped from the eminent domain pool, farms losing allotment for failure to plant, and farms voluntarily relinquishing their allotment, and (d) such other relevant factors as determined necessary by the State committee to establish a fair and equitable apportionment base for the county. County feed grain allotments are available for inspection in the county ASCS offices.

Effective date: This amendment shall be effective on March 8, 1974.

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

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

[FR Doc.74-5500 Filed 3-8-74;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1472—WOOL

Subpart—Payment Program for Shorn Wool and Unshorn Lambs (Pulled Wool) (1974–1977)

PROGRAM OPERATIONS

Sec.
1472.1401 General.
1472.1402 Administration.
1472.1403 Announcement of price support level.
1472.1404 Definitions.

SHORN WOOL

1472.1405 Price support payments.
1472.1406 Eligibility for payments.
1472.1407 Marketing within a specified marketing year.
1472.1408 Computation of payment.
1472.1409 Prepartaion of application.
1472.1410 Contents of sales documents.
1472.1411 Report of purchases of unshorn lambs.

UNSHORN LAMBS (PULLED WOOL)

1472.1421 Price support payments.
1472.1422 Elibility for payments.
1472.1423 Computation of payment.
1472.1424 Preparation of application.
1472.1425 Contents of sales documents and scale tickets.
1472.1426 Report of purchases of unshorn lambs.

GENERAL PROVISIONS

1472.1441 Filing application for payment.
1472.1442 Signature of applicant.
1472.1443 Joint applicants.
1472.1444 Disability.
1472.1445 Payment.
1472.1446 Deductions for promotion.
1472.1447 Setoff.
1472.1448 Liens on sheep or wool.
1472.1449 Requests for reconsideration and appeals.
1472.1450 Assignments.
1472.1451 Records and inspection thereof.
1472.1452 Violations of program.
1472.1453 Forms.
1472.1454 Authorization by Executive Vice President, CCC or other official.
1472.1455 Expiration of time limitations.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, sec. 5, 62 Stat. 1072, secs. 702–708, 68 Stat. 910–912, as amended, secs. 401–403, 72 Stat. 994–995, sec. 151, 75 Stat. 306, sec. 201, 79 Stat. 1188, 82 Stat. 996, sec. 301, 84 Stat. 1362, sec. 1 (7), 87 Stat. 224; 15 U.S.C. 714b, 714c, 7 U.S.C. 1781–1787, as amended.

PROGRAM OPERATIONS

§ 1472.1401 General.

This subpart sets forth the policies, procedures, and requirements governing price support payments for shorn wool and unshorn lambs (pulled wood) for the 1974, 1975, 1976, and 1977 marketing years by the Commodity Credit Corporation (referred to in this subpart as "CCC").

§ 1472.1402 Administration.

The program will be carried out by the Agricultural Stabilization and Conservation Service (referred to in this subpart as "ASCS") under the general supervision and direction of the Executive Vice President of CCC. In the field, the program will be administered through the ASCS State and county offices. ASCS State and county offices do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements thereto unless the power to modify or waive is expressly included in the pertinent provisions.

§ 1472.1403 Announcement of price support level.

In accordance with section 703 of the National Wool Act of 1954, as amended by the Agricultural Act of 1970 (Public Law 91-524), and the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86), for each of the four marketing years 1974, 1975, 1976, and 1977, the support price for shorn wool shall be 72 cents per pound, grease basis, and the Secretary of Agriculture shall establish and announce a support price level for pulled wool which he determines will maintain normal marketing practices for pulled wool. Such support price levels shall be announced, to the extent practicable, sufficiently in advance of each marketing year as will permit producers to plan their production for such marketing year.

§ 1472.1404 Definitions.

As used in the regulations in this subpart and in the forms and documents related thereto, the following terms shall have the meaning assigned to them in this section.

(a) "Financing agency" means any bank, trust company, or Federal lending agency. It also includes any other financing institution which customarily makes loans or advances to finance production of sheep, lambs, or wool.

(b) "Joint producers" means two or more producers who are joint owners of shorn wool or unshorn lambs, or who are producers of shorn wool or unshorn lambs under a caretaking agreement pursuant to which one producer owns the sheep or lambs and the other producer furnishes labor in connection with lamb or wool production in return for which he is entitled to share either in the wool or lambs produced or in the proceeds from the sale of such wool or lambs.

(c) "Joint owners" means two or more persons who own the wool or lambs in question, regardless of the special nature of their relationship or how it came into being, and shall include owners in common.

(d) "Lamb" means a young ovine animal which has not cut the second pair of permanent teeth. The term includes animals referred to in the livestock trade as lambs, yearlings, or yearling lambs.

(e) "Liveweight" is the weight of live lambs which a producer purchases or sells. In the event the price for the lambs is based on weight, the weight actually used in determining the total amount payable shall be considered the liveweight.

(f) "Local shipping point" means the point at which the producer delivers his wool to a common carrier for further transportation, or if his wool is not delivered to a common carrier, the point at which he delivers it to his marketing agency or a purchaser. The term "common carrier" includes any carrier that serves the public in transporting goods for hire whether or not he is required to be licensed by some Government authority to do so.

(g) "Marketing agency" with reference to shorn wool means a person who sells a producer's wool for his account, and with reference to lambs, it means a commission firm, auction market, pool manager, or any other person who sells a producer's lambs for his account.

(h) "Marketing year" means the period beginning January 1 and ending the following December 31, both dates inclusive.

(i) "Person" means an individual, partnership, association, business trust, corporation, or any organized unincorporated group of individuals, and includes a State and any subdivision thereof.

(j) "Producer" of shorn wool means a person who either owns, individually or jointly, the sheep or lambs from which the wool is shorn or is a joint producer of the wool under a caretaking agreement as described in paragraph (b) of this section. "Producer" of lambs means a person who either owns the lambs, individually or jointly, or is a joint producer of the lambs under a caretaking agreement as described in paragraph (b) of this section.

(k) "Sales document" means the account of sale, bill of sale, invoice, and any other document evidencing the sale by the producer of shorn wool or unshorn lambs.

(l) "Slaughterer" means a commercial slaughterer, that is, a person who slaughters for sale as distinguished from a person who slaughters for home consumption.

(m) "Specified marketing year" is the marketing year as to which the Department of Agriculture has announced that marketings of shorn wool and unshorn lambs by a producer during that year will entitle him to a payment under this program.

(n) "Unshorn lambs" means lambs which have never been shorn.

SHORN WOOL

§ 1472.1405 Price support payments.

(a) *General.* Price support on shorn wool will be furnished for each specified marketing year in accordance with the provisions of this subpart by means of payments to the producer on the shorn wool he markets in that marketing year. Payments will not be made on marketings of the pelts of sheep or lambs or on the marketings of wool removed from such pelts.

(b) *Rate of payment.* At the end of a specified marketing year and after the Department of Agriculture has determined the national average price for shorn wool received by producers in that marketing year, the Department will announce the rate of payment under this subpart. The rate of payment will be the percentage of the national average price per pound received by producers in a specified marketing year which is required to bring such national average price up to the support price for shorn wool.

§ 1472.1406 Eligibility for payments.

Before payments under this subpart can be approved pursuant to any application for payment covering any lot or lots of wool, the following requirements must be satisfied:

(a) Except as provided in § 1472.1444, the applicant must be the producer, and in the case of a joint application each applicant must be a producer, of the shorn wool which must have been marketed during the specified marketing year.

(b) The wool must have been shorn in the United States. If wool is shorn from imported sheep or lambs while they are held in quarantine in connection with their importation, such wool is not considered to have been shorn in the United States. For the purpose of this program, shorn wool is deemed to include murrain and other wool removed from dead sheep and other off wools such as black wool, tags, and crutchings.

(c) The producer, or in the case of joint producers at least one of the producers, must have owned the wool at the time of shearing and must have owned in the United States the sheep or lambs from which the wool was shorn for not less than 30 days at any time prior to the filing of the application. Ownership of wool or animals as used in this paragraph does not include the ownership which in some States is held by a person having a security interest, such as a mortgage or other lien. If sheep or lambs are imported into the United States, the 30-day period of required ownership shall begin after their importation and, if they were quarantined in connection with such importation, the period shall begin after their release from quarantine.

(d) Beneficial interest in the wool must always have been in the producer from the time the wool was shorn up to the time of its sale. A producer has beneficial interest in wool (1) when he owns

it and has not authorized any other person to sell or otherwise dispose of it, or (2) when he has, by transfer of legal title to such other person or otherwise, authorized another person to sell or otherwise dispose of the wool but continues to be entitled to the proceeds from any such sale or other disposition thereof. Such beneficial interest is not changed by a mortgage or other lien on the wool.

(e) The applicant shall either report purchases of unshorn lambs as required by § 1472.1411 (a)(1) or (b)(1), or make the statement provided for in § 1472.1411 (a)(2) or (b)(2).

(f) Payments will not be made on the marketing of wool shorn from imported sheep or lambs if the permit for the importation of the sheep or lambs or a communication connected with such permit, issued by the Animal and Plant Health Inspection Service of this Department, states that the importation is for slaughter.

(g) Payments under this subpart shall only be made on bona fide marketings in a specified marketing year.

§ 1472.1407 Marketing within a specified marketing year.

(a) Marketing shall be deemed to have taken place in a specified marketing year if, pursuant to a sale or contract to sell in the process of marketing, the last of the following three events, in whatever order they occur, was completed in that marketing year: (1) Title passed to the buyer; (2) the wool was delivered to the buyer (physically or through documents which transfer control to the buyer); and (3) the last of the factors (price per pound, weight, etc.) needed to determine the total purchase price payable by the buyer is known to the applicant's marketing agency, or is known to the applicant, if he markets directly. In addition, the full amount due the producer in connection with the marketing of his wool must be paid to him in cash, merchandise, or services rendered before the producer may include it in his application for payment.

(b) A promissory note or other promise to pay, as well as a check not honored for any reason, shall not be considered a payment to the producer unless the Deputy Administrator, Programs, ASCS, makes a determination that (i) the producer acted in good faith in the marketing of his wool, (ii) the wool was not returned to the producer, (iii) the producer was not aware and did not suspect that the document tendered in payment for the wool was not worth its face value at the time he accepted the document as payment for the wool, and (iv) the producer has made a diligent effort to obtain payment for his wool from the purchaser. This determination shall be deemed to constitute a determination that the acceptance of such a document as payment for the wool is consistent with the purposes of the National Wool Act. Notwithstanding the provisions of this paragraph (b), the price utilized for the purpose of computing the net sales proceeds pursuant to § 1472.1408 shall not exceed the fair market value of the wool as determined by CCC.

(c) A sale by one producer to another shall not constitute a bona fide marketing unless (1) the selling producer usually markets his wool in that way, or (2) the buying producer is also engaged in the business of buying and selling wool and buys the wool in the course of that business. An exchange of wool between the producers thereof or a sale of wool conditioned on the acquisition by the selling producer from the buyer of the same wool or other wool shall not constitute a bona fide marketing. A sale of wool by a producer to a person not previously engaged in the business of buying wool also shall not constitute such a marketing unless evidence is submitted to the satisfaction of CCC that there was a bona fide sale. Any document representing a sale, transfer, or other arrangement with respect to the wool which is fictitious or not legally binding or solely a scheme or device for obtaining a price support payment shall not constitute evidence of a bona fide marketing. Examples of such schemes are sales of wool wherein a part or all of the purchase price is returned to the purchaser in the form of money, merchandise, or otherwise either directly from the seller or through other persons.

(d) The exchange of wool for merchandise or services (for instance, shearing) will be considered a marketing, provided a definite price for the wool is established by the parties to the exchange. Such price, or whatever other price CCC determines is the fair market value for such wool, whichever is lower, shall be utilized for the purpose of computing the net sales proceeds pursuant to § 1472.1408 upon which payment under this subpart is based.

(e) Delivery of wool on consignment to a marketing agency to be sold for the producer's account does not constitute a marketing, whether or not a minimum sales price is guaranteed or an advance against the prospective sales price is given by the consignee, except that the wool is deemed marketed if the marketing agency has guaranteed a minimum sales price, is unable to sell the wool for more, and with the producer's consent takes it over at the minimum sales price. The producer shall be deemed to have consigned the wool when he transfers to a marketing agency title to his wool and provides that such agency shall market the wool and that he shall be entitled to the proceeds of such marketing.

§ 1472.1408 Computation of payment.

(a) The amount of the payment due to a producer shall be computed by applying the rate of payment to the net sales proceeds for the wool marketed during the specified marketing year. The resultant amount shall be reduced, on account of the purchase by the producer of unshorn lambs, by an amount resulting from multiplying the liveweight of such lambs reported in his application for payment by the announced rate of payment on unshorn lambs during said marketing year. If the amount of the reduction exceeds the payment computed on the shorn wool marketed, the liveweight of lambs which corresponds to the excess amount shall be carried forward and used to reduce payments on unshorn lambs marketed or slaughtered or shorn wool marketed in the current or future years.

(b) Except as provided in § 1472.1410 (a)(6) with respect to a guaranteed minimum sales price, the net sales proceeds shall be determined by deducting from the gross sales proceeds of the wool all marketing expenses, such as any charges paid by or for the account of the producer for transportation, handling (including commissions), grading, scouring, or carbonizing. The figure so arrived at will express the net proceeds received by the producer at his farm, ranch, or local shipping point. Charges for wool bags or storage, as well as any other charges not directly related to the marketing of the wool, such as interest on advances, shall not be considered marketing charges.

(c) All applications filed by a producer in the same county office for payments due on wool marketed during the specified marketing year shall be considered together for the purpose of determining the total net amount of payment due him. All such applications filed in different county offices may be considered together in determining such total payment.

§ 1472.1409 Preparation of application.

(a) *Preparation.* The application for payment on the sale of shorn wool shall be prepared on Form CCC–1155, "Application for Payment (National Wool Act)." Marketing agencies may assist producers in filling out applications by inserting the information on sales of shorn wool and sending the sales documents to the appropriate ASCS county office, but the producer must sign the application and is responsible for the requirements as to the time and manner of filing his application. If the producer paid marketing charges not shown on the sales document, such charges shall be considered with the marketing charges shown on the sales document in arriving at the net proceeds.

(b) *Supporting documents.* The application shall be supported by the original sales document covering the wool sold.

(c) *Original sales document retained.* If the applicant does not wish the original sales document to remain within the ASCS county office, he may submit a photostat, carbon, or other copy of the original document. However, he must show the original document to the ASCS county office where the statements on the copy will be confirmed by comparison with the original. The original sales document will be appropriately stamped or marked to indicate that it had been used in support of an application for payment under this program and will be returned to the applicant, who shall retain it in accordance with § 1472.1451.

(d) *Practice of issuing carbon or photostat copies.* If it is the practice of the person or firm preparing the sales document to furnish a carbon or photostat copy to the seller in place of the original, the producer may submit that copy in support of his application, provided the copy bears a signature, in accordance with § 1472.1410(a)(10), of the person or of the representative of the firm preparing the original sales document. Such copy shall be treated as an original for the purposes mentioned in this section.

(e) *Lost or destroyed sales document.* If the original sales document has been lost or destroyed, the applicant may submit a copy, certified by the buyer or the applicant's marketing agency, and such certified copy shall be treated as an original for the purposes mentioned in this section.

§ 1472.1410 Contents of sales documents.

The sales documents attached to each application for an incentive payment must contain a final accounting and meet the requirements of paragraph (a) or (b) of this section, for the wool covered by the sales document. Contracts to sell as well as tentative or pro forma settlements will not be acceptable as sales documents meeting such requirements. Except as provided in § 1472.1444, sales documents must cover wool sold by the producer.

(a) *Sales other than at farm, ranch, or local shipping point.* Each sales document, except a document covering an outright sale at the producer's farm, ranch, or local shipping point, must be prepared by the purchaser or the applicant's marketing agency and must contain at least the following information:

(1) Name and address of seller.

(2) Date of sale. In case the producer's shipment to a marketing agency is sold in parts within a marketing year, the date when final settlement is made within that marketing year for the wool that was sold within the marketing year may be shown on the sales document as the date of sale instead of the various dates on which the sales actually took place.

(3) Net weight of wool sold. If the wool was sold as scoured or carbonized wool, the original grease weight must be shown as well as the scoured or carbonized weight.

(4) Except as otherwise provided in subparagraph (5) of this paragraph, the gross sales proceeds or sufficient information from which the gross sales proceeds can be determined.

(5) Marketing deduction, if any (see § 1472.1408(b)), except as otherwise provided in this subparagraph. The marketing deductions may be itemized or they may be shown on the sales document as a composite figure for all marketing charges with an explanation of what services are included in that figure. If it is the practice of a marketing agency to show, on the sales document, only the net proceeds after marketing deductions, the gross sales proceeds and the amount of the marketing deductions need not be shown, provided the sales document contains a statement reading substantially as follows: "The net sales proceeds after marketing deductions shown herein were computed by deducting from the gross sales proceeds charges for the following marketing services: _____. Details of these charges will be furnished on request." All the services for which deductions are made shall be enumerated in the blank space indicated. If a sales document shows charges without specifying their nature, they will be considered marketing charges and thus diminish the net proceeds on which the incentive payment is computed. Association dues are to be considered marketing deductions if they include compensation for marketing services.

(6) Net proceeds after marketing deductions. If a sales document contains a figure for net proceeds after marketing deductions, computed for a location other than the producer's farm, ranch, or local shipping point, the person preparing the sales document shall show thereon the name of the location for which the net proceeds have been computed. If a marketing agency has guaranteed a minimum sales price for the wool, is unable to sell the wool for a higher price, and therefore settles with the producer on the basis of such guaranteed minimum price, the sales document should be on the basis of that guaranteed minimum price regardless of a lower price at which the agency may sell the wool. In such a case, the marketing agency may indicate on the sales document that the price is the guaranteed minimum sales price.

(7) Additional deductions, such as charges for bags, storage, interest, association dues which do not include compensation for marketing services, or other charges not directly related to the marketing of the wool.

(8) Amount paid to the seller.

(9) Name and address of the purchaser or marketing agency, whichever issues the sales document.

(10) Signature. The sales document must bear a handwritten signature by or on behalf of the person or firm issuing the sales document. Acceptable signatures will consist of at least one initial or name by which the person is generally known, followed by his last name in full. A carbon impression or facsimile of a handwritten signature is not acceptable.

(11) A sales document issued by a marketing agency and covering sales made on various dates within a specified marketing year shall contain a statement that the wool was marketed during the marketing year.

(12) A sales document covering wool exchanged for merchandise or services (§ 1422.1407(d)), shall contain a clear statement that the transaction is an exchange rather than a cash sale.

(b) *Sales at farm, ranch, or local shipping point.* Each sales document covering an outright sale at the producer's farm, ranch, or local shipping point, and attached to an application for incentive payment shall be prepared by the purchaser and must contain at least the following information:

(1) Name and address of seller.

(2) Date of sale.

(3) Net weight of wool sold. If the wool was sold as scoured or carbonized wool, the original grease weight must be shown as well as the scoured or carbonized weight.

(4) Net amount received by the seller for the wool at his farm, ranch, or local shipping point.

(5) Any applicable nonmarketing deductions, such as charges for bags, storage, interest, association dues which do not include compensation for marketing services, or other charges not directly related to the marketing of the wool.

(6) Name and address of the purchaser.

(7) Signature. The sales document must bear a handwritten signature by or on behalf of the person or firm issuing the sales document. Acceptable signatures will consist of at least one initial or name by which the person is generally known, followed by his last name in full. A carbon impression or facsimile of a handwritten signature is not acceptable.

(8) A sales document covering wool exchanged for merchandise or services (§ 1472.1407(d)), shall contain a clear statement that the transaction is an exchange rather than a cash sale.

§ 1472.1411 Report of purchases of unshorn lambs.

(a) *Report on actual basis.* (1) If the application includes wool removed in the first shearing of lambs purchased unshorn, and the applicant is able to identify the lambs from which such wool was shorn, he shall report the number and liveweight of such lambs at time of purchase, including those from which wool was removed after death.

(2) If the applicant knows that his application does not include any wool which was removed in the first shearing of lambs purchased unshorn, he shall state that there are no purchases of unshorn lambs related to the sale of such wool.

(b) *Report on "first in, first out" basis.* (1) If an applicant does not know whether the application includes wool removed in the first shearing from lambs purchased unshorn, or he knows that such wool is included but he is unable to identify the lambs from which such wool was shorn, he shall report on a "first in, first out" basis, that is, in chronological order, the number and liveweight at the time of purchase of a quantity of lambs purchased unshorn equal to the number of sheep and lambs from which wool was shorn and included in the application. This reporting of purchased lambs shall be continued in applications for the current and subsequent marketing years for payments on shorn wool and for payments on unshorn lambs until the applicant has accounted for all lambs purchased unshorn on or after April 1, 1956, not reported in previous applications. However, he need not report those lambs with respect to which he can show no application has been made for a payment for the 1956 or a subsequent marketing year on their sale or on the sale of wool shorn from them.

(2) If the application for payment on the sale of shorn wool is made after an applicant has accounted for the total purchases of unshorn lambs, he shall state that there are no purchases of unshorn lambs related to such sale.

(c) *Imported lambs.* If purchased lambs which the applicant is required to report were imported, the liveweight required to be reported shall be the liveweight of the lamb at the time of import, or if they were quarantined in connection with the importation, at the time of release from quarantine. For the purpose of reporting imported lambs, whether they were purchased or raised by the producer they shall be treated as if they had been purchased by him. Any report in an application of purchased lambs and their liveweights as required by this paragraph shall be deemed to include lambs both purchased and raised by the producer.

(d) *Additional information.* The applicant shall furnish any additional details requested by ASCS State and county offices concerning any report made pursuant to this section.

UNSHORN LAMBS (PULLED WOOL)

§ 1472.1421 Price support payments.

(a) *Level of payments.* For each marketing year, price support will be furnished on pulled wool at such level, in relationship to the support price for shorn wool, as the Secretary determines will maintain normal marketing practices for pulled wool, by means of payments to the producer in accordance with this subpart on live unshorn lambs that are sold or moved to slaughter in a specified marketing year. Payments will not be made on the sale of the pelts of sheep or lambs or wool removed from such pelts.

(b) *Rate of payment.* The rate of payment will be 80 percent of the difference between the national average price per pound received by producers for shorn wool during a specified marketing year and the support price per pound of shorn wool multiplied by the average weight of wool per hundredweight of animals (5 pounds). The exact rate of payment will be determined and announced, after the end of that marketing year, as a specified amount per hundredweight of live animals.

§ 1472.1422 Eligibility for payments.

Before payments under this program can be approved pursuant to an application covering any lot or lots of lambs, the following requirements must be satisfied:

(a) Except as provided in § 1472.1444, the applicant must be the producer, and in the case of a joint application each applicant must be a producer, of the lambs.

(b) The producer, or in the case of joint producers at least one of the producers, must have owned the lambs for 30 days or more in the United States and title must have passed to the buyer within the specified marketing year. If a slaughterer is to qualify for a payment, he must have owned the lambs for 30 days or more in the United States prior to their moving to slaughter and they must have moved to slaughter within the specified marketing year. Ownership of lambs, as used in this paragraph, does not include the ownership which in some States is held by a person having a security interest, such as a mortgage or other lien. If lambs are imported into the United States, the 30-day period of required ownership shall begin after their importation and, if they were quarantined in connection with such importation, the period shall begin after their release from quarantine.

(c) The lambs must never have been shorn at the time of sale, or, in the case of an application by a slaughterer, at the time of moving to slaughter.

(d) The applicant shall either report purchases of unshorn lambs as required by § 1472.1426 (a)(1) or (b)(1), or make the statement provided for in § 1472.1426 (a)(2) or (b)(2).

(e) Payments will not be made on the marketing of imported lambs if the permit for the importation of the lambs or a communication connected with such permit, issued by the Animal and Plant Health Inspection Service of this Department, states that the importation is for slaughter.

(f) Payments under this subpart shall only be made on bona fide marketings in a specified marketing year.

§ 1472.1423 Computation of payment.

(a) The amount of the payment due to an applicant shall be computed by applying the rate of payment to the liveweight of the lambs sold or moved to slaughter during the specified marketing year, reduced, on account of the purchase or importation by the applicant of unshorn lambs, by the liveweight of such lambs reported in his application for payment. If the amount of the reduction exceeds the liveweight of the unshorn lambs sold or moved to slaughter during said marketing year, such excess liveweight shall be carried forward and used to reduce payments on unshorn lambs marketed or slaughtered or shorn wool marketed in the current or future years.

(b) All applications filed by a producer in the same county office for payments due on unshorn lambs marketed or moved to slaughter during the specified marketing year shall be considered together for the purpose of determining the total net amount of payment due him. All such applications filed in different county offices may be considered together in determining such total payment.

§ 1472.1424 Preparation of application.

(a) *Preparation.* The application for payment on the sale or slaughter of unshorn lambs shall be made on Form CCC-1155, "Application for Payment (National Wool Act)."

(b) *Supporting documents.* The application for payment on the sale of unshorn lambs shall be supported by the original sales documents covering the sale. The application for payment on the slaughter of unshorn lambs shall be supported by the scale ticket covering the movement to slaughter.

(c) *Original sales document retained.* If the applicant does not wish the original sales document to remain with the ASCS county office, he may submit a photostat, carbon, or other copy of the original document. However, he must show the original document to the ASCS county office where the statements on the copy will be confirmed by comparison with the original. The original sales document will be appropriately stamped or marked to indicate that it had been used in support of an application for payment under this program and will be returned to the applicant. He will be required to retain it in accordance with § 1427.1451.

(d) *Practice of issuing carbon or photostat copies.* If it is the practice of the person or firm preparing the sales document to furnish a carbon or photostat copy to the seller in place of the original, the applicant may submit that copy in support of his application, provided the copy bears a signature in accordance with § 1472.1425(a)(6), of the person or the representative of the firm preparing the original sales document. Such copy shall be treated as an original for the purposes mentioned in this section.

(e) *Lost or destroyed sales document.* If the original sales document or scale ticket has been lost or destroyed, the applicant may submit a copy, certified by the person who issued the original, and such certified copy shall be treated as an original for the purposes mentioned in this section.

§ 1472.1425 Contents of sales documents and scale tickets.

(a) *Sales documents.* Each sales document supporting an application must cover lambs sold by the producer except as provided in § 1472.1444, must be issued by the purchaser or the producer's marketing agency, and must show the following:

(1) Name and address of seller.

(2) Date of sale.

(3) Number of unshorn lambs sold. If the sales document does not clearly identify the animals as lambs that had never been shorn at the time of sale, the person issuing the sales document shall add a statement to that effect. If the sales document refers to the animals as "unshorn lambs," this will indicate that the lambs were never shorn. If the document issued in connection with the sale of unshorn lambs also covers the sale of other animals, the person preparing the sales document shall clearly indicate therein the number and the liveweight of unshorn lambs included in the sale.

(4) Liveweight of unshorn lambs sold. If the weight is not determined by scales, this weight may be an estimated weight agreed to by the purchaser and the producer.

(5) Name and address of the purchaser or marketing agency, whichever issues the sales document.

(6) Signature. The sales document must bear a handwritten signature by or on behalf of the person or firm issuing

the sales document. Acceptable signatures will consist of at least one initial or name by which the person is generally known, followed by his last name in full. A carbon impression or facsimile of a handwritten signature is not acceptable.

(b) *Scale tickets.* The scale ticket supporting an application must cover unshorn lambs moved to slaughter by the applicant and must show the information normally appearing on scale tickets issued by stockyards (that is, date, number of head, classification(s), weight by classification, scale ticket number, if any, place of weighing, and name of weighter).

§ 1472.1426 Report on purchases of unshorn lambs.

(a) *Report on actual basis.* (1) If the application is based on the sale or slaughter of lambs purchased unshorn and the applicant is able to identify such lambs, he shall report the number of lambs purchased and their liveweight at the time of purchase.

(2) If the applicant knows that his application is not based on the sale or slaughter of any lambs purchased unshorn, he shall state that there are no purchases of unshorn lambs related to the sale or slaughter of such lambs.

(b) *Report on "first in, first out" basis.* (1) If an applicant does not know whether the application is based on the sale or slaughter of lambs purchased unshorn, or he knows that such lambs are included but he is unable to identify such lambs, he shall report on a "first in, first out" basis, that is, in chronological order, the number and liveweight at the time of purchase of a quantity of lambs purchased unshorn equal to the number of lambs on which his application is based. This reporting of purchased lambs shall be continued in applications for the current and subsequent marketing years for payments on unshorn lambs and shorn wool until the applicant has accounted for all lambs purchased unshorn on or after April 1, 1956, not reported in previous applications. However, he need not report those lambs with respect to which he can show no application has been made for a payment for the 1956 or a subsequent marketing year on their sale or on the sale of wool shorn from them.

(2) If the application for payment on the sale or slaughter of unshorn lambs is made after an applicant has accounted for the total purchases of unshorn lambs, he shall state that there are no purchases of unshorn lambs related to such sale or slaughter.

(c) *Imported lambs.* If purchased lambs which the applicant is required to report were imported, the liveweight required to be reported shall be the liveweight of the lambs at the time of import, or, if they were quarantined in connection with the importation, at the time of release from quarantine. For the purpose of reporting imported lambs, whether they were purchased or raised by the producer, they shall be treated as if they had been purchased by him. Any report in an application of purchased lambs and their liveweight as required by this paragraph shall be deemed to include lambs both purchased and raised by the producer.

(d) *Additional information.* The applicant shall furnish any additional details requested by ASCS State and county offices concerning any report made pursuant to this section.

GENERAL PROVISIONS

§ 1472.1441 Filing application for payment.

(a) *Place of filing.* Applications for payment shall be filed by the applicant with the ASCS county office serving the county where the headquarters of the producer's farm, ranch, or feed lot, as the case may be, is located. If the producer has more than one farm, ranch, or feed lot, with headquarters in more than one county, seperate applications for payment shall be filed with the ASCS county office serving each such headquarters covering only the wool or lambs produced at each such farm, ranch, or feed lot, except that: (1) If the producer sells his entire clip of wool in a single sale or if his entire clip is sold for his account by one marketing agency, he may file his application(s) for payment on shorn wool in any one of those ASCS county offices, or (2) if the producer includes in one sale unshorn lambs that were ranged, pastured, or fed in more than one county, he may file his application(s) for payment on such lambs in any one of those ASCS county offices. In the event the producer conducts all his business transactions from his residence or office, and his farm or ranch has no other headquarters, his office or residence may be considered the farm or ranch headquarters.

(b) *Time of filing.* An application for payment shall be filed as soon as possible after completion of the sales of shorn wool or unshorn lambs for the specified marketing year, or in the case of slaughter, as soon as possible after the last of the lambs moved to slaughter in the specified marketing year, but in no event shall an application be filed later than 3 years after the end of the specified marketing year.

(c) *Withdrawal or amendment of application for payment on shorn wool.* (1) An applicant may request permission from the ASC county committee to withdraw an application for payment on shorn wool which constitutes the full first shearing of purchased unshorn lambs when, as a result of such application containing the necessary report of purchases of unshorn lambs on an "actual basis," there is excess liveweight carried forward which would be used to reduce payments in the current or future marketing years. An applicant may also request permission to amend his application by omitting sales of those lots of wool constituting the full first shearing of purchased unshorn lambs reported on an "actual basis." These requests must be accompanied by such supporting evidence as may be required by the ASC county committee. If the application was signed jointly by two or more producers, the request for withdrawal or amendment must be signed by each such producer. To be considered a full shearing, the wool must constitute the complete fleece, and not merely tags, clippings, trimmings around the eyes, or other off-wools.

(2) If the ASC county committee is satisfied that the conditions described in paragraph (c)(1) of this section exist, the committee may grant the request. If the applicant has filed additional shorn wool applications in other ASCS county offices, his request may be granted only if it is determined that such additional applications do not include any wool removed in the full first shearing of the lambs which will not be reported as a result of the withdrawal or amendment.

§ 1472.1442 Signature of applicant.

No payment will be made unless an application for payment on shorn wool or unshorn lambs is signed. Each person who signs an application for payment in a representative or fiduciary capacity as agent, attorney-in-fact, officer, executor, etc., must be properly authorized to sign in such capacity.

§ 1472.1443 Joint applicants.

When the applicant for a shorn wool payment is a joint producer of the wool, all of the joint producers (except those who sign a release as provided below in this section) must sign any application based on the sale of such wool regardless of whether the wool was divided among such producers prior to sale or was sold without division. When the applicant for a payment of unshorn lambs is a joint producer of the lambs, all of the joint producers (except those who sign a release as provided below in this section) must sign any application based on the sale of such lambs regardless of whether the lambs were divided among such producers prior to sale or were sold without division. CCC will not be responsible for a division among the applicants of a payment made to all of them jointly. When the application shows such joint production, and one or more of the joint producers refuse to join in the application, if each such joint producer signs a form prescribed by CCC releasing CCC from any obligation to make a payment to him, CCC shall make payment of the amount due the remaining joint producers who sign the application. Such release(s) shall be attached to the application. When any joint producer is entitled to join in an application but fails to do so, and the application does not show his interest as a joint producer, he shall have no claim against CCC for any portion of the payment made pursuant to the application.

§ 1472.1444 Disability.

(a) If a producer who is otherwise eligible to receive a payment under this subpart dies, disappears, or is declared incompetent, before marketing the shorn wool or unshorn lambs or before filing an application, his successors or representatives authorized to receive payment in the order of precedence set forth in Part 707 of this title may complete the eligibility requirements and make application

for such payment on Form CCC–1155. The applicant shall also file Form ASCS–325, "Aplication for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent," in accordance with Part 707 of this title.

(b) If a producer who earned a payment under this subpart and filed an application therefor dies, disappears, or is declared incompetent, either before CCC has issued a draft in payment or after CCC has issued a draft in payment but before the draft is negotiated, his successors or representatives authorized to receive such payment in the order of precedence set forth in Part 707 of this title may apply therefor on Form ASCS–325, in accordance with Part 707 of this title.

(c) If an Indian who is incompetent earned a payment under this subpart, an application therefor may be filed on his behalf by the Superintendent of the Indian Field Service of the reservation on which the Indian resides or by the authorized representative of such Superintendent. Such application for payment will be filed in the ASCS county office where the headquarters of the Indian's farm or ranch is located.

(d) In all other cases of disability, including bankruptcy dissolution, payments will be made to a representative only in accordance with specified directions issued by CCC.

§ 1472.1445 Payment.

(a) Payment will be made under this subpart after the ASCS county office has reviewed the application and attached supporting documents and has approved payment in whole or in part, and after the appropriate rate of payment for the specified marketing year has been announced by the Department of Agriculture.

(b) Payments under this subpart shall be made only on the basis of the net sales proceeds received for schorn wool and on the liveweight of lambs sold or moved to slaughter. No payment shall be made on that part of any sale which has been cancelled or on the basis of prices or weights which have been fraudulently increased for the purpose of obtaining higher payments. No payment shall be made on sales to a wool growers association (as distinguished from a cooperative marketing association) by its producer-members on the basis of net sales proceeds in excess of the fair market value of the wool (grease basis) as determined by CCC.

(c) If it is determined by the ASCS State or county office that an applicant knowingly made a false statement in his application, including his failure to report accurately purchases of unshorn lambs, no payment shall be made to him with respect to such application.

(d) If CCC subsequently determines that available evidence does not sustain the applicant's right to all or any part of a payment made, the amount of the payment not so sustained shall immediately become due and repayable to CCC, and CCC may, without limitation upon any of the Government's rights in the matter, deduct such amount from any other payment due the applicant under this subpart. If the right to such amount becomes involved in a lawsuit between the Government and the applicant or his assignee, he or his assignee shall have the burden of proving that he was entitled to such amount.

(e) If the ASCS county office rejects in whole or in part an application for payment on shorn wool or unshorn lambs, or, after a payment has been made, determines that the available evidence does not sustain the applicant's right to the payment or any part thereof, the ASCS county office shall mail a notice to the applicant, or, in the case of a joint application, to each applicant, that the application has been rejected, specifying the reason therefor, or that the available evidence does not sustain the applicant's right to the payment or any part thereof, as the case may be.

§ 1472.1446 Deductions for promotion.

If the Department of Agriculture has approved deductions for an advertising and sales promotion program in accordance with section 708 of the National Wool Act of 1954, as amended, the rate of such deductions for the specified marketing year will be announced and the appropriate deduction will be made from each payment due under this subpart for such specified marketing year.

§ 1472.1447 Setoff.

If the county office records show that the producer is indebted to CCC, to any other agency within the U.S. Department of Agriculture, or to any other agency of the United States, such indebtedness will be set off against the payment due to the producer in accordance with Part 1408 of this chapter.

§ 1472.1448 Liens on sheep or wool.

If a producer grants a lien on his sheep, lambs, or wool, such lien shall not be deemed to extend to payments made to the producer pursuant to this subject.

§ 1472.1449 Requests for reconsideration and appeals.

Any applicant who is notified that his application has been rejected in whole or in part or that any other action has been taken by the ASCS county office which unfavorably affects a payment to him may obtain reconsideration and review of the determination in accordance with Part 780 of this title. In the request for reconsideration, the applicant shall identify the application by number and date. When a joint application is involved, the request for reconsideration and review may be filed by all applicants jointly or by any of the applicants, in which case it shall be considered a request in behalf of all the joint applicants.

§ 1472.1450 Assignments.

(a) *Form.* An assignment of a payment due or to become due under this subpart on shorn wool or on unshorn lambs may be given to a financing agency or a wool marketing agency as security for cash advanced or to be advanced on sheep, lambs, or wool. The assignees shall not reassign such payment. One assignment may cover payments due or to become due on the sale of shorn wool or unshorn lambs or both. An assignment may only include payments due or to become due for a specified marketing year and must include all payments due and to become due for that specified marketing year on the commodity or commodities for which payment is being assigned. The assignment shall be executed by the producer or in the case of joint producers by all such producers, on Form CCC–1157, "Assignment of Payment Under the National Wool Act of 1954," and shall be null and void unless it is freely made and is either executed in the presence of an attesting witness, who shall not be an employee or agent of, or by consanguinity of marriage related to, the assignee, or acknowledged before a notary public, a member of the ASC county committee, the ASCS county executive director, or a designated employee of such committee.

(b) *Payment.* CCC will make payment pursuant to an accepted assignment unless the ASCS county office is furnished evidence that the assignment is released by the assignee.

§ 1472.1451 Records and inspection thereof.

(a) The applicant for a payment under this subpart, as well as his marketing agency and any other person who furnishes evidence to such applicant for use in connection with the application, shall maintain books, records, and accounts pertaining to the marketing of the commodity on which the application is based, for 3 years following the end of the specified marketing year during which the marketing took place. The applicant shall maintain books, records, and accounts pertaining to the production of wool, sheep, and lambs and the shearing thereof, with respect to which he applies for payment, for 3 years following the end of the specified marketing year during which the marketing took place. The applicant shall also maintain books, records, and accounts showing the purchases of lambs on or after April 1, 1956, for 3 years following the end of the specified marketing year during which any part of the wool shorn from such lambs has been marketed or during which any such lambs have been marketed, as the case may be. If the applicant is required to report purchases of unshorn lambs on a "first in, first out" basis, he shall maintain such books, records, and accounts of such lambs for 3 years following the end of the specified marketing year for which such lambs are to be reported.

(b) If an application is based on the sale of wool shorn from imported sheep or lambs, or on the sale of imported lambs, or if lambs required to be reported as purchased unshorn were imported, the books, records, and accounts required by paragraph (a) of this section to be maintained by the applicant

shall show the details of such importation, including the date of arrival of the lambs in the United States and the liveweight on such date, and if the lambs were quarantined, the date when they were released from quarantine and their liveweight on such date.

(c) With respect to any application for payment filed after the end of the specified marketing year, instead of maintaining the books, records, and accounts for the time specified in paragraph (a) of this section, such books, records, and accounts shall be maintained for 3 years following the date on which the application is filed.

(d) At all times during regular business hours, CCC shall have access to the premises of the applicant, of his marketing agency, and of the person who furnished evidence to an applicant for use in connection with the application, in order to inspect, examine, and make copies of the books, records, and accounts, and other written date as specified in paragraphs (a), (b), and (c) of this section.

§ 1472.1452 Violations of program.

(a) Whoever issues a false sales document or otherwise acts in violation of the provisions of this program so as to enable an applicant to obtain a payment to which he is not entitled, shall become liable to CCC for any payment which CCC may have made in reliance on such sales document or as a result of such other action.

(b) The issuance of a false sales document or the making of a false statement in an application for payment or other document, for the purpose of enabling the applicant to obtain a payment to which he is not entitled, will subject the person issuing such document or making such statement to liability under applicable Federal civil and criminal statutes.

§ 1472.1453 Forms.

(a) Form CCC–1155, "Application for Payment (National Wool Act)," Form CCC–1157, "Assignment of Payment Under the National Wool Act of 1954," Form ASCS–325, "Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent," and other forms issued by the U.S. Department of Agriculture for use in connection with this program may be obtained from ASCS county offices.

§ 1472.1454 Authorization by Executive Vice President, CCC, or other official.

If the applicant is unable to furnish the documentary evidence of sale required in this subpart, the Executive Vice President, CCC, or the Deputy Administrator, Programs, ASCS, may authorize the submission of any other evidence which establishes to the satisfaction of the authorizing official the information required by §§ 1472.1410 and 1472.1425.

§ 1472.1455 Expiration of time limitations.

Whenever the final date for filing an application falls on a Saturday, Sunday, national holiday, or State holiday, or on any other day on which the appropriate ASCS State or county office is not open for the transaction of business during normal working hours, the time for filing the application shall be extended to the close of business on the next working day. If filing is by mail, it shall be considered timely if it is postmarked by midnight of such next working day.

NOTE: The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date. This subpart shall become effective on March 11, 1974.

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

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

[FR Doc.74–5501 Filed 3–8–74;8:45 am]

Proposed Rules

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

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Notice of Proposed Changes in Customs Region IX

In order to promote efficient management within the Customs Service, it is proposed to transfer jurisdiction over the Customs station at Crane Lake, Minnesota, from the Duluth, Minnesota, Customs port of entry to the International Falls/Ranier, Minnesota, Customs port of entry, and jurisdiction over the Customs station at Ely, Minnesota, from the Duluth, Minnesota, Customs port of entry to the Grand Portage, Minnesota, Customs port of entry.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), it is hereby proposed to transfer the jurisdiction over the Customs station at Crane Lake, Minnesota, from the Duluth, Minnesota, Customs port of entry to the International Falls/Ranier, Minnesota, Customs port of entry, and jurisdiction over the Customs station at Ely, Minnesota, from the Duluth, Minnesota, Customs port of entry to the Grand Portage, Minnesota, Customs port of entry.

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To ensure consideration of such communications, they must be received on or before April 10, 1974.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

Approved February 27, 1974.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc.74-5496 Filed 3-8-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

[9 CFR Part 201]

CUSTOM FEEDLOTS—PACKERS ENGAGING IN THE ACTIVITY OR PRACTICE OF CUSTOM FEEDING LIVESTOCK

Extension of Time To File Comments

On January 17, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 2104 *et seq.*) advising interested parties that the Packers and Stockyards Administration was considering amending the regulations (9 CFR 201.1 *et seq.*) promulgated under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 *et seq.*), by amending § 201.2 of said regulations to include a new paragraph (m) defining the term "custom feedlot" and by adding a new regulation § 201.70a clarifying the applicability of the Act and the regulations with respect to packers engaging in the activity or practice of custom feeding livestock.

That notice provided that written data, views or arguments concerning the proposed amendment should be filed in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before March 18, 1974.

Pursuant to a request from interested parties, the time for filing written data, views or arguments concerning the proposed amendments is hereby extended to and including April 1, 1974.

Done at Washington, D.C., March 6, 1974.

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

[FR Doc.74-5559 Filed 3-8-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

United States Coast Guard

[33 CFR Part 117]

[CGD 74-58]

COOSAW RIVER, S.C.

Proposed Drawbridge Operation Regulations

At the request of the South Carolina State Highway Department the Coast Guard is amending the regulations for the U.S. Highway 21 swingspan across the Coosaw River (Whale Branch) near Lobeco, South Carolina. This change would require that the draw open on signal from 6 a.m. to 8 p.m., Monday through Friday, providing at least 24 hours notice is given. All other times the draw may remain closed to the passage of vessels. Present regulations require that the draw open on signal from 6 a.m. to 8 p.m., Monday through Saturday, and if at least 24 hours notice is given at all other times. From November 1972 through October 1973, there were 2 openings for the passage of a tug and barge, both on December 19, 1972. This change is being considered because of limited use of this stretch of the Coosaw River by vessels. The Seaboard Coast Line railroad bridge will continue to operate under the present regulations because of the large number of openings presently required due to a boat launching ramp located nearby.

Interested persons, may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Seventh Coast Guard District (oan), Room 1018, Federal Building, 51 S.W. 1st Avenue, Miami, Florida 33130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before April 12, 1974, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising subparagraph (8) of paragraph (h) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(h) * * *

(8) *Coosaw River (Whale Branch).* (i) The draw of the Seaboard Coast Line

Railroad bridge, mile 5.3, shall open on signal from 6 a.m. to 8 p.m., Monday through Saturday. At all other times the draw shall open on signal if at least 24 hours notice is given.

(ii) The draw of the U.S. Highway 21 bridge, mile 7.0, shall open on signal from 6 a.m. to 8 p.m. if at least 24 hours notice is given. At all other times the draw need not open for the passage of vessels.

* * * * *

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

Dated: March 5, 1974.

R. I. PRICE,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.74-5538 Filed 3-8-74;8:45 am]

[33 CFR Part 117]

[CGD 74 61]

TENNESSEE RIVER, TENN.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the bridges across the Tennessee River at Market Street in Chattanooga and the Southern Railroad bridge approximately 6½ miles downstream at Hixon to require that the draws shall open on signal when the vertical clearance is 50 feet or less. The draws are presently required to open on signal when the vertical clearance is 47 feet or less. This change is being considered due to an increase in marine traffic and an increase in the size of tows and towboats. The time required for notice would be increased from 2 hours to 8 hours in the interest of economy to the bridge owner. This requirement is not expected to unreasonably obstruct navigation due to the increase in the time the draw will be tended during periods of high water. The requirement that a vessel returning within 4 hours shall have the draw open on signal is to prevent unnecessary delay. The requirement that a second 8 hour notice be given if the vessel is 1 hour late is due to the fact that running time from either the Nickajack Lock or the Watts Bar Lock should not exceed 8 hours, and the draw tender should not be kept on duty because of unreasonably delayed vessels.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander, Second Coast Guard District (oan), Federal Building, 5120 Market Street, St. Louis, Missouri 63103. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Second Coast Guard District.

The Commander, Second Coast Guard District, will forward any comments received before April 12, 1974, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by: (1) Deleting subparagraph (3) of paragraph (g) of § 117.560, and (2) revising subparagraph (2) of paragraph (g) of § 117.560 to read as follows:

§ 117.560 **Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.**

* * * * *

(g) * * *

(2) Tennessee River, Tennessee: Market Street bridge at Chattanooga, and Southern Railroad bridge approximately 6½ miles downstream at Hixon. When the vertical clearance beneath the draw spans of these bridges is 50 feet or less the draw shall open on signal. When the vertical clearance beneath the draw is more than 50 feet at least 8 hours advance notice is required. Whenever any vessel that requires the opening of the draw will return through the draw within 4 hours and informs the draw tender of the probable time of its return, the draw tender shall return ½ hour before the time specified and the draw shall be promptly opened on signal for the passage of the vessel on the return trip without further advance notice. When a vessel has given advance notice and fails to arrive within one hour of the arrival time specified, whether upbound or downbound, a second 8 hours notice shall be required. Gauges of a type acceptable to the Coast Guard shall be installed on both sides of each bridge to indicate the minimum clearance. Notices of these regulations shall be posted at the Nickajack and Watts Bar Locks on the Tennessee River.

* * * * *

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

Dated: March 5, 1974.

R. I. PRICE,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.74-5537 Filed 3-8-74;8:45 am]

[46 CFR Part 151]

[CGD 73-271 PH]

BULK DANGEROUS CARGOES

Inspection of Barges

The Coast Guard is considering amending the bulk dangerous cargoes regulations to standardize the inspection requirements of all unmanned barges carrying dangerous cargoes in bulk.

Written comments. Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council, U.S. Coast Guard Headquarters (G-CMC/82), Room 8234, 400 Seventh Street, SW, Washington, D.C. 20590 (Telephone 202-426-1477). Each person submitting comments should include his name and address, identify the notice (CGD 73-271), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8234, Department of Transportation, Nassif Bldg., 400 Seventh Street, SW, Washington, D.C. Copies will be furnished upon payment of fees prescribed in 49 CFR 7.81.

Public hearing. The Coast Guard will hold a hearing on April 15, 1974 at 9:30 a.m. in Conference Room 8334, Department of Transportation, Nassif Bldg., 400 Seventh Street, SW, Washington, D.C. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to attend the hearing notify the Executive Secretary at least ten days in advance of the time needed for his presentation. Written summaries or copies of oral presentations are encouraged.

Closing date for comments. All communications received before April 30, 1974, will be evaluated before final action is taken on this proposal. The proposed regulations may be changed in the light of comments received.

Section 151.01-25 paragraph (c) allows barges constructed in conformance with applicable regulations in Parts 36, 38, 39, 40, and 98 of Chapter I at the time of their construction or conversion to continue operation and to be certificated without complying with Subchapter O except for operating requirements. Such barges continue to be inspected under regulations in those parts, whereas similar barges built since the effective date of Subchapter O have different inspection requirements. For example, safety relief valves are required to be lifted by either liquid, gas or vapor pressure at least once every four years on barges certificated under Parts 38, 39 and 98. Part 151 requires safety relief valves to be tested by bench testing or other suitable means biennially. Discrepancies of this nature were not intended and the inspection requirements for all unmanned barges carrying cargoes regulated by Subchapter O, regardless of their dates of construction, should be as required by § 151.04 of Subchapter O.

In addition to making the interval between tests of safety relief valves uniform, the effect of this proposal would be to require biennial testing or inspection of:

Tank externals (visual examination)
Cargo hose (visual examination and 1½ hydrostatic test)

Quick closing valves (operating the emergency shutoff)
Excess flow valves (visual examination or testing)
Pressure vacuum relief valves (visual examination)

These requirements are not seen as an additional burden as a thorough and prudent inspection for certification under existing regulations would include the aforementioned tests and inspections even though they are not specifically required by the regulations.

In consideration of the foregoing it is proposed to amend Subchapter O of Title 46 of the Code of Federal Regulations as follows:

1. In § 151.01–25 paragraph (c) would be revised to read as follows:

§ 151.01–25 Existing barges.

(c) Barges constructed in conformance with applicable regulations in Parts 36, 38, 39, 40 and 98 of Chapter I at the time of their construction or conversion may continue to operate and to be certificated without complying with Subchapter O except for operating and inspection requirements. Such barges must meet the inspection and operating requirements of subparts 151.04, 151.05 and 151.45 of this subchapter.

(Sec. 201, 86 Stat. 424; 46 U.S.C. 391a; 46 CFR 1.46(o)(4))

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.74–5536 Filed 3–8–74;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74–SO–20]

Proposed Designation of Transition Area

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Homerville, Ga., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received by April 10, 1974 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Homerville transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Homerville Airport (latitude 31°03'00" N, longitude 82°46'30" W); within 3 miles each side of the 310° bearing from the Homerville RBN (latitude 31°03'17" N, longitude 82°46'16" W), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations at Homerville Airport. A prescribed instrument approach procedure to this airport is proposed in conjunction with the designation of this transition area.

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

Issued in East Point, Ga., on February 28, 1974.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.74–5451 Filed 3–8–74;8:45 am]

[14 CFR Part 121]

[Docket No. 13569; Notice No. 74–10]

TRANSPORT OF ANIMALS ABOARD AIRCRAFT

Stowage of Containers

The Federal Aviation Administration is considering amending Part 121 of the Federal Aviation Regulations to require that cargo containers housing live animals for carriage by air in the cargo compartments of aircraft be secured in the cargo compartment in such a fashion as to prevent shifting, to assure continuous air flow around the container, and be protected from the hazards of shifting of other cargo.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before May 10, 1974, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This notice of proposed rule making was prompted by the recommendations made by the Committee on Government Operations of the United States House of Representatives in a report entitled "Problems in Air Shipment of Domestic Animals" (House Report 93–746; December 21, 1973). That report was the result of a study conducted by the Special Studies Subcommittee of the 93rd Congress into the treatment of pets and other live animals when being transported by air.

The primary recommendation made by the Committee was that the Department of Agriculture, the Civil Aeronautics Board, and the Federal Aviation Administration form an interagency committee to identify existing problems and develop corrective regulations, standards, and methods of enforcement of those regulations and standards. It was further recommended that the FAA include inspections of animal handling procedures as part of its current spot-checks of aircraft cargo. This notice is a first step in carrying out the Committee's recommendations to the FAA.

A review of the reports of death or injury to animals being transported by air in cargo compartments indicates that conditions were found to exist, in many instances, that may have contributed to the danger. In some instances, animal containers were not secured, permitting the container to shift during flight and ground operations. In other instances, other cargo in the compartment was not always tied down securely, creating a risk that shifting bags or boxes might crush an animal container or block off the animal's air supply.

In light of the foregoing, the FAA has concluded that, while other measures to establish a program for the humane carriage of animals are in the planning or research stage, it can go forth with this limited proposal to assure that animal containers are secured in cargo compartments to prevent shifting or tumbling during aircraft movements, to require that webbing or other means be provided to prevent other cargo from coming in contact with animal containers, and to require that animal containers be stored in cargo compartments so that ventilation areas of the containers are not obstructed.

This amendment is proposed under the authority of sections 313(a) and 601(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421(a)), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Part 121 of the Federal Aviation Regulations by adding a new § 121.288, immediately after § 121.287, to read as follows:

§ 121.288 Stowage of containers in cargo compartments for transporting live animals.

No certificate holder may carry a live animal in a container located in the cargo compartment unless the container:

(a) Is securely attached to the cargo compartment;

(b) Is isolated from other cargo in the compartment by use of webbing, partitions, or other means adequate to prevent physical contact with other cargo

under all normally anticipated flight and ground conditions; and

(c) Is located in the cargo compartment in such a manner as to assure that ventilation areas of the container are not obstructed.

Issued in Washington, D.C., on February 28, 1974.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.74-5446 Filed 3-8-74;8:45 am]

Federal Railroad Administration

[49 CFR Part 231]

[Docket SA-3]

BOX AND OTHER HOUSE CARS

Proposed Safety Appliance Standards

The Federal Railroad Administration (FRA) is considering amendment of Part 231, Railroad Safety Appliance Standards. The proposed amendment would extend the period within which roof running boards must be removed from box and other house cars built after April 1, 1966 or under construction prior to that date and placed in service before October 1, 1966, in accordance with §§ 231.1, 231.27, 231.28 of the Safety Appliance Standards (49 CFR 231.1, 231.27 and 231.28). The time period allowed for the removal of running boards and related modifications on these cars expires April 1, 1974.

On November 21, 1973, the Association of American Railroads (AAR) filed a petition requesting a four year extension of this time period to April 1, 1978 (FRA Pet. No. 88). After carefully reviewing the petition, FRA believes that additional time should be allowed but that the four year extension requested by the AAR is not justified and would result in unnecessary repetitive "shopping" of cars, first for periodic inspections under § 215.25 of the FRA Freight Car Safety Standards (49 CFR 215.25) and again for removal of running boards. Accordingly, FRA proposes to amend § 231.1 to require removal of running boards and related modifications on these cars when they receive their initial periodic inspection under § 215.27 pursuant to a program approved by the Administrator under § 215.25(c) of the FRA Freight Car Safety Standards (49 C.F.R. 215.27, 215.25 (c)). Since all cars are required to be initially inspected by January 1, 1977, all running boards would likewise have to be removed by that date. The Freight Car Safety Standards were issued on November 12, 1973 and became effective January 1, 1974 (38 FR 32224).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify written data, views, or comments. Communications should identify the regulatory docket number and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before March 22, 1974 will be considered by the Federal Railroad Administrator before taking final action on the proposed rule. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. The proposals contained in this notice may be changed in light of the comments received. Because the period allowed for removal of running boards expires on April 1, 1974, the final rule in this proceeding may be issued before and become effective on that date.

In consideration of the foregoing, it is proposed to amend § 231.1 as follows:

§ 231.1 Box and Other House Cars (Does not include cars with roofs 16 feet 10 inches or more of top of rail).

NOTE: After initial inspection under § 215.25 of this chapter or December 31, 1976, whichever occurs first, cars of this type built on or before April 1, 1966, or under construction prior to that date and placed in service before October 1, 1966, must be equipped as nearly as possible with the same compliment of safety appliances, depending upon type, as specified in § 231.27 for box and other house cars without roof hatches, or in § 231.28 for box and other house cars with roof hatches. Cars built after April 1, 1966, or under construction prior thereto and placed in service after October 1, 1966, must be equipped, depending upon type, as specified in § 231.27 for box and other house cars without roof hatches, or in § 231.28 for box and other house cars with roof hatches.

* * * * *

This notice is issued under the authority of the Safety Appliance Acts (Sections 2, 4, and 6, 27 Stat. 531, as amended, Section 1 and 3, 32 Stat. 943, as amended, Section 1–6, 36 Stat. 298–299, as amended, Section 6(e)(f) 80 Stat. 939; (45 U.S.C. 2, 4, 6, 8, 10, 11–16, 49 U.S.C. 1655).

Issued in Washington, D.C., on March 7, 1974.

JOHN W. INGRAM,
Administrator.

[FR Doc.74-5672 Filed 3-8-74;8:45 am]

Hazardous Materials Regulations Board

[49 CFR Parts 172, 173, 177, 178, 179]

[Docket No. HM-115; Notice No. 74-3]

CRYOGENIC LIQUIDS

Notice of Proposed Rulemaking

Correction

In FR Doc. 74-4520 appearing at page 7950 in the issue of Friday, March 1, 1974, in § 178.338-1(d)(2)(ii), the last line of the definition of I', now reading "to the jacket axis, inches;", should read "to the jacket axis, inches [4];".

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 170]

FARM WORKERS DEALING WITH PESTICIDES

Proposed Health and Safety Standards

The Environmental Protection Agency proposes this Part 170 as standards and procedures governing worker protection requirements for pesticides and herein restates existing and enforceable harvest entry standards and other requirements for the handling of pesticide products which have been on the labels of pesticide products for many years.

Background Information and Basis For The Proposed Standards. Prior to October 21, 1972, pesticide products were subject to regulation under the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"; 7 U.S.C. 135 et seq.) and were required to be properly registered with this Agency. Before a pesticide was registered by the Agency, products were reviewed and evaluated with respect to usefulness and the risks they posed to man, beneficial animals, and the environment. This evaluation of risks included consideration of potential hazards to pesticide applicators and others including farm workers who might come in contact with the product during transportation, storage, or after the product had been applied. After an evaluation of these risks, determinations were made as to directions for use, warning statements, and restrictions, including entry times, necessary to protect man and the environment.

It has long been recognized that many pesticide products present a potential hazard, and that use of such products without adherence to label warnings, precautions, and directions may result in actual injury. Concern for the protection of all persons, including farm workers, who might be exposed to pesticides during and after application has been an integral part of the FIFRA registration process for many years. Restrictions against workers entering treated fields have been required for many pesticide products. These restrictions range from label requirements specifying a permissible field reentry time to requirements for protective clothing and warnings against unnecessarily exposing workers to the risks posed by pesticides. Since pesticide products on the market vary widely in toxicity and formulations, label requirements by EPA have been established on a chemical and crop basis, as determined to be necessary.

The 1972 Amendments to the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA as amended"; 7 U.S.C. 136 et seq.) retain the pesticide registration and labeling scheme of FIFRA. The statute broadens Federal pesticide regulatory authority by making it "unlawful for any person to use any registered pesticide in a manner inconsistent with its labeling" (7 U.S.C. 136j(a)(2)(G)).

These provisions are consistent with the broad purpose of the new Act to protect man and the environment from unreasonable adverse effects of pesticides. A primary focus of the statutory authority to regulate pesticides under FIFRA as amended is the protection of persons occupationally exposed to pesticides. This goal was expressly stated in the legislative history of the Act.

> The Committee believes there can be no question about the matter, but takes this occasion to emphasize that the bill [The Federal Environmental Pesticides Control Act of 1972 (FEPCA)] requires the Administrator to require that the labeling and classification of pesticides be such as to protect farmers, farm workers and others coming into contact with pesticides or pesticide residues. (Hearing of Senate Commerce Committee, Subcommitte on Agricultural and Forestry, Report No. 92-838, June 7, 1972).

The July 31, 1973 "Federal Register" Notice. Pursuant to its authority under FIFRA as amended to provide protection for farmworkers exposed to pesticides, on July 31, 1973 a notice was published in the FEDERAL REGISTER (38 FR 20361) notifying interested parties of the intent of EPA to hold public hearings on the subject of farm worker protection and proposing certain standards in this area. The schedule of hearings was amended by further notices in the FEDERAL REGISTER on August 31 and October 12, 1973. (38 FR 21694; 38 FR 23556) Hearings at 13 locations throughout the United States have been completed in an attempt to obtain as much meaningful information as possible to permit sound determinations on these and other issues.

The July 31 proposal and notice of hearings was intended to elicit to the fullest, available information for eventual rule making. In this regard issues and proposal were framed in a manner such as to stimulate controversy rather than complacency. Now that additional and extensive evidence is available from the hearings and written comments, EPA believes itself to be in a position to propose standards reflecting new information.

The initial proposal suggested intervals following the application of pesticides to crops during which time workers could not enter treated fields to perform work which would result in extensive and intimate contact with plant surfaces. These proposed re-entry intervals for the least toxic pesticides prohibited field workers from entry to treated fields until the spray had dried or the dust had settled. A re-entry interval of 3 days was established for agricultural pesticides which are highly toxic (as determined by Title 40 CFR Ch. III 162.8). Longer intervals were proposed for 12 organophosphorus pesticides on specified crops. The proposed standards set forth protective clothing requirements for persons whose duties required them to enter treated fields prior to expiration of the re-entry interval. The July 31 Federal Register notice also included a general prohibition against applying pesticides in a manner that would directly or indirectly expose unprotected persons.

On June 29, 1973, the Occupational Safety and Health Administration of the Department of Labor (OSHA) pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 et seq.) published in the FEDERAL REGISTER Emergency Temporary Standards for Exposure to Organophosphorus Pesticides (38 FR 17214). At the same time OSHA gave notice of its intention to hold a series of public hearings with regard to these standards.

Summary of Findings Based on the Hearing Record. At the 13 hearings held by EPA and the 4 hearings held by OSHA, testimony was presented or submitted (in order of the volume of testimony) by representatives of state regulatory, research and extension agencies, growers and grower organizations, pesticide manufacturers and manufacturer organizations, the academic community, field workers and public interest groups. A review of the record of these hearings in part reveals:

1. The primary scientific basis for associating the persistence and toxicity of pesticide residues with potential injury to farmworkers is the evidence concerning reported experiences of growers, manufacturers, farm workers and unions and states.

2. Most injuries and illnesses among farmworkers which are reported and which are recognized to be pesticides-related have resulted from substantial and prolonged contact with treated foliage and other plant surfaces in the production of tree fruits, grapes, tobacco, cotton and other crops.

3. The principal hand labor operations requiring contact with treated foliage and other plant surfaces include harvesting, fruit thinning, summer pruning, propping and placement of irrigation pipes. In addition, "scouting" to determine the pest situation and the need for treatment may result in considerable contact with treated foliage.

4. Present labelling restrictions prohibit the harvest of treated crops prior to the expiration of the preharvest intervals, set in connection with establishment of tolerances and registration, and are generally adhered to by growers.

5. Protective clothing requirements for impermeable garments proposed in the July 31 Notice are impractical under normal agricultural working conditions, including heat prostration, which could constitute greater risk than direct exposure to pesticides.

6. The problems involving injury and illness which are reported and which are recognized as resulting from exposure to treated crops have arisen largely from the arid areas of the western United States. Accordingly, specific restrictions could best be determined on a state-by-state basis thus avoiding the imposition of inappropriate restrictions on growers and farm workers in geographic areas which may not have re-entry problems.

7. A degree of self-regulation is practiced by many growers. This may include restricting field worker entry from 12-24 hours following treatment with the more toxic pesticides.

Applicability and Enforcement of Existing Standards. Prior to the proposal of July 31 federal regulatory activity aimed at protection of persons exposed to pesticides included the requirement that products bear labeling with directions for use, warnings and cautions which would be adequate, if complied with, to prevent injury to man and the environment. Such labeling includes requirements for protective clothing to be worn by applicators and by persons who must enter treated fields immediately after application and requirements specifying equipment to be used by such persons.

Labeling restrictions also exist to prevent illegal contamination of feed and food. Prior to registration of pesticides for use on crops, tolerances or other clearances under the Food, Drug and Cosmetic Act (68 Stat. 514; 21 U.S.C. 346a) are established to cover any residues which can reasonably be expected to remain on food or feed at harvest. In order that residues at harvest not exceed the tolerance set for a given pesticide on a given crop, a minimum period of time is established prior to harvest during which a pesticide may not be applied. This interval is known as the "preharvest interval" (PHI). For example, a label for a parathion product bearing directions for use on apples must include a PHI statement such as "Do not apply within 14 days of harvest."

The validity of existing pre-harvest intervals established to meet tolerance requirements for use of a given pesticide on a given crop is not in issue in this proposal. These PHI's as they presently appear on product labels will remain the basis for achieving acceptable tolerance residues on pesticide-treated food crops as well as the legally enforceable standard with respect to harvest entry times without protective clothing for those presently registered pesticides enumerated in § 170.6.

EPA requirements and precautions for proper pesticide use, including farmworker re-entry times, are contained on the labels of a number of presently registered pesticide products. These label use restrictions are presently enforceable by law with both civil and criminal penalties for misuse under sections 12 and 14 of FIFRA as amended (7 U.S.C. Sec. 136j(a)(2)(G), 136l(a)). Labeling includes not only material affixed to the pesticide container, but all other instructional material accompanying the product in the channels of trade. Independent of the standards herein proposed, the Agency will continue to enforce current label requirements including directions for use and precautionary statements designed to protect farmworkers.

Establishment of Additional Standards. Consistent with its statutory mandate under FIFRA as amended to protect man and the environment from unreasonable adverse effects of pesticides, EPA has determined to revise and expand its standards relating to protection of farmworkers based upon current knowledge. EPA is sponsoring a number of research projects from which the first new data is expected to be available in early 1975 and there will be continuous review of these standards thereafter. The standards attached herewith are published as proposed rule making to allow for further comment on the entry issue. Upon promulgation of these standards, product labeling which does not comply to all provisions of these standards will have to be amended. Registrants affected will be

notified of necessary action by notice of the Agency's Registration Division. Included in this proposal are the following general provisions:

1. No pesticide shall be applied while any person not involved in the application is in the fields being treated. Likewise, no person should be exposed to direct spray or drift in any adjacent field.

2. The entry interval for fields treated with registered pesticides is twelve hours with certain exceptions. This is to prevent unnecessary exposure to pesticides immediately after treatment. If under special circumstances, it is necessary to enter fields within expiration of the appropriate post-application period, clothing at least as protective as indicated in the regulations must be worn.

3. Unprotected workers are not to be allowed to enter fields within 48 hours after treatment with any one or more of a group of pesticides identified in § 170.6 of this part. There is evidence that certain of these pesticides have produced toxic effects in unprotected workers who have entered fields too soon after application. Other pesticides in the group are sufficiently similar in chemical, physical, and toxicological characteristics to suggest that they might also produce such effects under similar conditions. This interval was chosen because workers who have entered fields the day following treatment have been affected; moreover, with the exception of certain situations in California, no such cases have been reported among workers who remained out of the treated fields for forty-eight hours or more. California has established longer re-entry intervals to protect workers from the special problems that have occurred in some parts of that State and we expect other States to take similar action if evidence indiactes similar problems.

Persons who must enter fields within 48 hours after treatment with any one of the pesticides identified in § 170.6 of this Part must wear protective clothing.

Persons who enter fields treated with any of the indicated pesticides who will have contact with foliage for at least ½ hour before expiration of the applicable harvest entry time but after 48 hours must wear protective clothing.

4. If not wearing protective clothing, workers harvesting crops are not permitted in fields treated with one or more of the pesticides listed in § 170.6 until expiration of the indicated harvest time. These acceptable harvest entry times should provide adequate protection for harvest workers, without causing inconvenience to the workers or growers as existing label restrictions prohibit harvest for this period of time.

5. If workers must enter treated fields prior to expiration of the required intervals, growers are obligated to explain the type and date of treatment, and the type of clothing required to be worn.

Further Restrictions by States. State agencies have responsibilities for the control of pesticides under State laws. The California Department of Food and Agriculture has under State law established re-entry intervals and other requirements for certain pesticide uses based on special problem situations arising within that State. Those intervals and other restrictions set by California in many cases exceed those set by this Agency. When special situations exist which require re-entry intervals to protect workers in addition to those set by this Agency, the responsible State agencies are encouraged to establish such additional restrictions as warranted by available data. Such more restrictive State standards may, after proper rulemaking be adopted by this Agency as the applicable and enforceable Federal standards for that State. State agencies should report such information and actions to EPA so that consideration may be given to the need for additions or changes in the national standards. EPA will cooperate with State agencies in the evaluation of local problems and encourage compliance with State restrictions which are more stringent than those set forth above.

Period for Comment. Any person may file written comments on this proposal on or before April 12, 1974. The Agency intends to promulgate standards in final form as soon thereafter as possible so that all proposed standards will be in effect for the 1974 growing season, as are the presently effective standards. Such comments should be submitted in duplicate to the Agency Hearing Clerk, Mrs. Betty J. Billings, 10th Floor, Waterside Mall–East Tower, 401 M Street, SW, Washington, D.C. 20460.

All written comments received will be made available for public inspection at the above address.

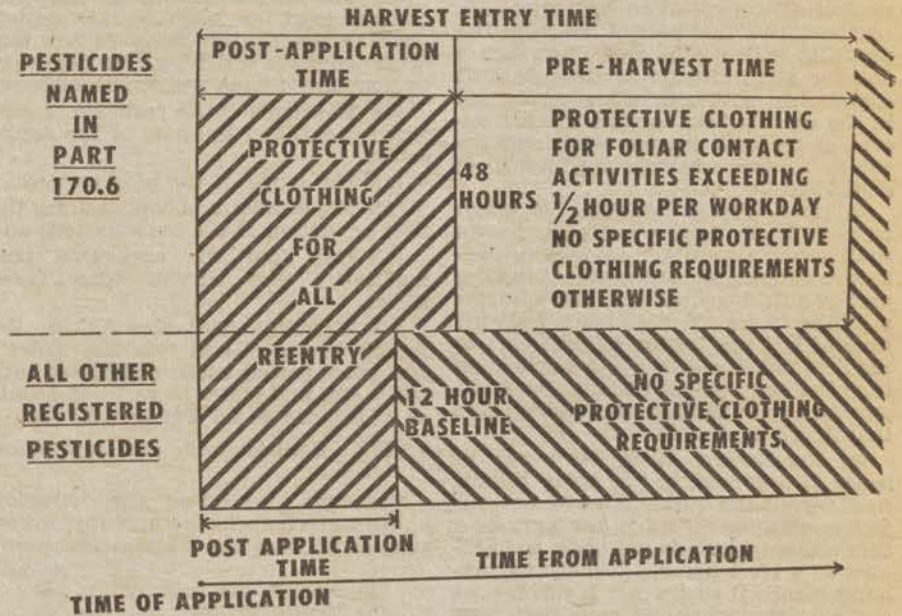
(Authority: 86 Stat. 973)

JOHN R. QUARLES, Jr.,
Acting Administrator.

MARCH 5, 1974.

Appendix: To promote understanding of the proposed farmworker protection standards for agricultural pesticides, the following graphic display is provided:

DISPLAY OF PROPOSED FARM WORKER STANDARDS



PART 170—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR FARM WORKERS DEALING WITH PESTICIDES

§ 170.1 General.

This part contains occupational safety and health standards for farm workers performing hand labor operations in fields after ground (other than insertion), aerial or other type of application of any pesticide.

§ 170.2 Definitions.

(a) The term "pesticide" means any substance or mixture of substances within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973). Any such term herein also includes any experimental use pesticide, unless conditions in the experimental use permit are stricter, in which case the permit restrictions apply.

(b) The term "post application time" means the period of time immediately following the application of a pesticide on a field that has been set for any such pesticide as provided for in § 170.3(b).

(c) The term "pre-harvest time" means the period of time between the end of the post application time and the harvest entry time insofar as pesticides enumerated in § 170.6 are concerned.

(d) The term "harvest entry time" means the period of time in days, each day of 24 hours, that must lapse after a field is treated with a pesticide, enumerated pursuant to § 170.6, before any farm worker, not wearing protective clothing, may be permitted to enter the field to harvest any crop.

(e) The term "farm worker" or "worker" means any person or persons

engaged in agricultural hand labor in the field. It also includes any child under the age of 12 who might be in the field at any time for any reason.

(f) The term "field" means any treated land area, or part thereof, upon which one or more pesticides are used for agricultural purposes, all as specified by this part.

(g) The term "protective clothing" means at least a clean hat with a brim, a clean long sleeved shirt and long legged trousers or a coverall type garment, all of closely woven fabric covering the body, including arms and legs, shoes to entirely cover both feet, clean socks and clean fingerless gloves covering the back and front of hands and wrists.

§ 170.3 General standards.

(a) *Application.* No owner or lessee of any field, or any other person, shall permit the spraying, application or other use of a pesticide on any part of a field unless all workers, and other persons, other than the applicator of the pesticide, another person engaged in the application or an authorized federal, state or local official designated to observe or supervise the application, have first been removed from that part of the field. The pesticide shall not be applied in such a manner as to directly or through drift expose any worker or other person not in the specific field, or part thereof, except as for such persons knowingly involved in the pesticide application as stated herein.

(b) *Post-application time.* No owner or lessee of any field, or any other person shall permit any worker not wearing protective clothing as defined, to enter any part of a field treated with any pesticide until the expiration of 12 hours from the time of last application in that part of the field unless a longer post-application time has been assigned to that pesticide, pursuant to § 170.6 hereof, in which case that time is applicable.

(c) *Pre-harvest time.* No owner or lessee of any field, or any other person, shall permit any worker not wearing protective clothing to enter any part of a field treated with any pesticide, enumerated in § 170.6 hereof, during any preharvest time if such entry involves contact with any foliage for more than one-half hour.

(d) *Harvest entry time.* No owner or lessee, or any other person, shall permit any worker not wearing protective clothing to enter any part of a field treated with a pesticide enumerated in § 170.6 for the purposes of harvesting any crop, prior to the expiration of the harvest entry times prescribed in § 170.100 et seq. Where a field is treated with more than one pesticide, entry into the field shall be prohibited until expiration of the longest of the applicable harvest entry times.

§ 170.4 State standards, labels and exemptions.

(a) If the label for a pesticide bears restrictions against workers entering treated fields which are more stringent than those set forth above, the label restrictions shall apply.

(b) Nothing herein shall prevent a State from setting more restrictive entry standards for workers for all operations in fields where pesticides are or have been applied.

(c) Mosquito control. The restrictions against entering treated fields shall not apply following application as part of mosquito abatement and control activities.

§ 170.5 Warnings.

(a) When workers are expected to be working in the vicinity of a field treated or to be treated with a pesticide, timely warning to such workers shall be given. The warning shall be given by posting warning signs both at the usual points of entrance to the field, and on bulletin boards at points where the workers usually assemble for instructions. Where any person has reason to believe that a farm worker is unable to read, he shall give the farm worker oral warning and make reasonable effort to ensure understanding of such warning. Posted signs shall be maintained for the duration of the applicable entry time, and upon the expiration of the time, should be removed immediately.

(b) The following warnings shall include at least the following information given in the English language and any other language which may be necessary to communicate the warning to workers;

(1) The name of the pesticide or pesticides used, and the date of the application.

(2) The name of the crop treated;

(3) The location and boundaries of the field or section of the field treated; and

(4) The date the applicable post application and harvest entry times expire.

(c) Warnings shall also include the legend "Danger" and "Do Not Enter", and, when posted, shall be displayed with letter size and styles so as to be legible at a distance of no less than 25 feet.

§ 170.6 Pesticide with post application time.

Pesticides containing the following active ingredients have a post application time of at least the interval indicated:

	Hours
(a) Ethyl Parathion	48
(b) Methyl Parathion	48
(c) Guthion	48
(d) Demeton	48
(e) Ozodrin	48
(f) Phosalone	48
(g) Carbophenothion	48
(h) Metasystox-R	48
(i) EPN	48
(j) Bidrin	48
(k) Calecron/Fundal	48
(m) Endrin	48
(n) Ethion	48

§ 170.100 Specific harvest entry times after application for purposes of harvest.

Pesticides containing the following active ingredients of at least the interval shown.

§ 170.101 Methyl Parathion—O,O-Dimethyl O-p-Nitrophenyl Phosphorothioate.

Crop	*Harvest interval (days)*
(a) Alfalfa	15
(b) Apples	14
(c) Apricots	14
(d) Artichokes	7
(e) Barley	15
(f) Beans (Dry)	15
(g) Beans (green & lima)	15
(h) Beets	15
(i) Black-eyed peas	15
(j) Broccoli	7
(k) Brussels sprouts	7
(l) Cabbage	10
(m) Carrots	15
(n) Cauliflower	7
(o) Celery	15
(p) Cherries	15
(q) Collards	10
(r) Corn	12
(s) Cotton	7
(t) Cucumbers	15
(u) Eggplant	15
(v) Gooseberries	15
(w) Grapes	14
(x) Grass (hay or pasture)	15
(y) Hops	15
(z) Kale	10
(aa) Kohlrabi	7
(bb) Lettuce	21
(cc) Melons	7
(dd) Mustard Greens	10
(ee) Nectarines	14
(ff) Oats	15
(gg) Onions	15
(hh) Pasture (irrigated)	7
(ii) Peaches	14
(jj) Peanuts	15
(kk) Pears	14
(ll) Peppers	15
(mm) Plums	14
(nn) Potatoes	5
(oo) Prunes	14
(pp) Pumpkins	10
(qq) Rice	15
(rr) Rutabagas	7
(ss) Rye	15
(tt) Sorghum	21
(uu) Soybeans	20
(vv) Spinach	14
(ww) Squash	15
(xx) Strawberries	14
(yy) Sugar beets	20
(zz) Sunflower	30
(aaa) Sweet potatoes	5
(bbb) Tobacco	15
(ccc) Tomatoes	10
(ddd) Turnips	7
(eee) Vetch	15
(fff) Wheat	15

§ 170.102 Ethyl Parathion—O,O-diethyl O-p-Nitrophenyl Phosphorothioate.

Crop	*Harvest entry time (days)*
(a) Alfalfa	15
(b) Apples	14
(c) Apricots	14
(d) Artichokes	7
(e) Avocados	21
(f) Barley	15
(g) Beans	7
(h) Beets	15
(i) Blackberries	15
(j) Blackeyed peas	15
(k) Blueberries	14
(l) Boysenberries	15
(m) Broccoli	7
Brussels sprouts	7
(n) Cabbage	7
(o) Carrots	15
(p) Cauliflower	7
(q) Celery	15
(r) Cherries	14
(s) Citrus:	
Grapefruit	14
Kumquats	14
Lemons	14
Limes	14
Oranges	14
Tangelos	14
Tangerines	14

Crop	Harvest entry time (days)
(t) Clover	15
(u) Collards	7
(v) Corn:	
Field	12
Sweet	12
(w) Cotton	7
(x) Cowpeas	15
(y) Cranberries	15
(z) Cucumbers	15
(aa) Currants	30
(bb) Dewberries	15
(cc) Eggplants	15
(dd) Endive (escarole)	21
(ee) Figs	30
(ff) Garlic	15
(gg) Gooseberries	15
(hh) Grapes	14
(ii) Grass (Hay)	15
(jj) Grass (pasture)	7
(kk) Hops	15
(ll) Kale	7
(mm) Kohlrabi	7
(nn) Lettuce (head)	7
(oo) Lettuce (bibb leaf)	7
(pp) Loganberries	15
(qq) Mangoes	21
(rr) Melons	7
(ss) Mustard greens	7
(tt) Nectarines	14
(uu) Oats	15
(vv) Okra	21
(ww) Onions	15
(xx) Peaches	14
(aaa) Peanuts	15
(bbb) Pears	14
(ccc) Peas	10
(ddd) Pecans	15
(eee) Peppers	15
(fff) Pineapples	7
(ggg) Plums	14
(hhh) Potatoes	5
(iii) Prunes	14
(jjj) Pumpkins	10
(kkk) Quinces	14
(lll) Radishes	15
(mmm) Raspberries	15
(nnn) Rutabagas	7
(ooo) Sorghum	12
(ppp) Soybeans	20
(qqq) Spinach	14
(rrr) Squash:	
Summer	15
Winter	15
(sss) Strawberries	14
(ttt) Sugar beets	15
(uuu) Sweet potatoes	15
(vvv) Swiss chard	21
(www) Tobacco	15
(xxx) Tomatoes	10
(yyy) Turnips	7
(zzz) Vetch	15
(aaaa) Wheat	15

§ 170.103 Guthion-O,O-Dimethyl S-[(4-oxo-1, 1,2,3-Benzotriazin-3(4H)-yl) Methyl.

Crop	Harvest entry time (days)
(a) Alfalfa	14
(b) Apples	7
(c) Apricots	21
(d) Artichokes	30
(e) Barley	30
(f) Beans (snap)	7
(g) Beans (dry)	30
(h) Blackberries	14
(i) Blueberries	14
(j) Broccoli	15
(k) Brussel sprouts	7
(l) Cabbage	21
(m) Cauliflower	15
(n) Celery	14
(o) Cherries	15
(p) Citrus	7
(q) Clover	14
(r) Black-eyed peas	7
(s) Cotton	2
(t) Crabapples	7
(u) Cranberries	21
(v) Cucumbers	3
(w) Filberts	7
(xy) Reserved.	
(z) Loganberries	14
(aa) Nectarines	21
(bb) Oats	30
(cc) Onions (dry)	28
(dd) Onions (green)	7
(ee) Peaches	21
(ff) Pears	7
(gg) Pecans	21
(hh) Peppers	14
(ii) Plums	15
(jj) Potatoes	7
(kk) Prunes	15
(ll) Quinces	7
(mm) Raspberries	14
(nn) Rye	30
(oo) Soybeans	45
(pp) Spinach	14
(qq) Strawberries	5
(rr) Sugarcane	30
(ss) Tobacco	6
(tt) Tomatoes	14
(uu) Walnuts	21
(vv) Wheat	30

§ 170.104 DEMETON—O,O-diethyl O (and S)-2-(ethylthio)ethyl phosphorothioate).

Crop	Harvest entry time (days)
(a) Alfalfa	21
(b) Alfalfa (seed crop)	15
(c) Almonds	21
(d) Apples	30
(e) Apricots	30
(f) Barley	21
(g) Beans	21
(h) Broccli	21
(i) Brussel sprouts	21
(j) Cabbage	21
(k) Cauliflower	21
(l) Celery	28
(m) Clover	21
(n) Cotton	21
(o) Eggplant	7
(p) Filberts	40
(q) Grapefruit	21
(r) Grapes	21
(s) Hops	21
(t) Lemons	21
(u) Lettuce	21
(v) Muskmelons	21
(w) Nectarines	30
(x) Oats	21
(y) Oranges	
(z) Reserved.	
(aa) Peaches	30
(bb) Pears	21
(cc) Peas	21
(dd) Pecans	21
(ee) Pepper	3
(ff) Plums	30
(gg) Potatoes	21
(hh) Prunes	30
(ii) Sorghum	35
(jj) Strawberries	21
(kk) Sugar beets	30
(ll) Tomatoes	3
(mm) Walnuts	21
(nn) Wheat	21

§ 170.105 Azordrin—Dimethyl Phosphate of 3-Hydroxy-N-Methyl-Cis-Crotonamide.

Crop	Harvest entry time (days)
(a) Cotton	21
(b) Sugar Cane	30
(c) Tobacco	5

§ 170.106 Phosalone-O,O-Diethyl S[(6-chloro-2-oxobenzoxazolin-3-yl)-Methyl] Phosphorodithioate.

Crop	Harvest entry time (days)
(a) Apples	14
(b) Grapes	14
(c) Pears	14

§ 170.107 Carbophenothion-S-[[(p-Chlorophenyl)thio]methyl] O,O-diethyl hosphorodithioate.

Crop	Harvest entry time (days)
(a) Alfalfa	28
(b) Almonds	7
(c) Apples	30
(d) Apricots	30
(e) Beans (dry)	21
(f) Beans (succulent) snap lima	7
(g) Beets	21
(h) Cantaloupes	5
(i) Cherries	30
(j) Citrus:	
Grapefruits	30
Lemons	30
Oranges	30
Limes	30
Tangelos	30
Tangerines	30
(k) Clover	28
(l) Corn	21
(m) Crabapples	30
(n) Cucumbers	7
(o) Eggplants	7
(p) Figs	7
(q) Grapes	30
(r) Nectarines	30
(s) Olives	60
(t) Peaches	30
(u) Pears	30
(v) Peas	7
(w) Peppers	7
(x) Pimentos	7
(y) Plums	30
(z) Prunes	30
(aa) Quinces	30
(bb) Sorghum	21
(cc) Soybeans	7
(dd) Spinach	21
(ee) Squash (summer)	7
(ff) Strawberries	3
(gg) Sugar beets	14
(hh) Tomatoes	7
(ii) Watermelons	5

§ 170.108 Ethion-O,O,O′,O′-Tetraethyl S,s′-Methylene Bisphosphoro dithioate.

Crop	Harvest entry time (days)
(a) Apples	20
(b) Beans	2
(c) Corn (field)	50
(d) Cucumbers	3
(e) Eggplants	2
(f) Grapes	15
(g) Grapefruit	30
(h) Lemons	21
(i) Limes	21
(j) Melons	2
(k) Nectarines	30
(l) Oranges	30
(m) Peaches	30
(n) Pears	30
(o) Peppers	21
(p) Plums	21
(q) Prunes	21
(r) Sorghum	30
(s) Strawberries	2
(t) Squash (summer)	2
(u) Tangelos	21
(v) Tangerines	21
(w) Tomatoes	2

§ 170.109 EPN-O-Ethyl O- (p-Nitrophenyl) Phenyl Phosphonothioate.

Crop	Harvest entry time (days)
(a) Almonds	21
(b) Apples	21
(c) Apricots	21
(d) Beans	21
(e) Cherries	21
(f) Citrus:	
Grapefruit	30
Kumquats	30
Lemons	30
Limes	30
Oranges	30
Tangelos	30
Tangerines	30
(g) Corn	14
(h) Grapes	21
(i) Nectarines	21
(j) Peaches	21
(k) Pears	14
(l) Pecans	21
(m) Plums	21
(n) Soybeans	21
(o) Sugar beets	21
(p) Tomatoes	3
(q) Walnuts	21

§ 170.110 Metasystox R, S- [2-(Ethylsulfinyl)Ethyl] O,O-Dimethyl Phosphorodithioate.

Crop	Harvest entry time (days)
(a) Blackberries	30
(b) Broccoli	21
(c) Brussel Sprouts	2
(d) Cabbage	2
(e) Cantaloupes	14
(f) Cauliflower	2
(g) Corn	14
(h) Cotton	14
(i) Cucumbers	14
(j) Muskmelons	14
(k) Pears	30
(l) Potatoes	7
(m) Pumpkins	14
(n) Raspberries	30
(o) Squash: Summer—winter	14
(p) Sugar beets	30
(q) Turnips	14
(r) Watermelons	7

§ 170.111 Endrin, Hexacholorepoxyoctahydro-endo, endo-dimethamonophthalene.

Crop	Harvest entry time (days)
(a) Barley	45
(b) Cotton	5
(c) Apples	30
(d) Oats	45
(e) Rye	45
(f) Sugarcane	45
(g) Wheat	45

§ 170.112 Bidrin, dicrotophos, 3-(dimethoxyphosphinyloxy-N,N dimethyl-cis-crotonamide.

Crop	Harvest entry time (days)
(a) Cotton	30
(b) Soybeans	30

§ 170.113 Galecron/Fundal, chlordimeform hydrochloride.

Crop	Harvest entry time (days)
(a) Apples	14
(b) Broccoli	14
(c) Brussel sprouts	14
(d) Cabbage	14
(e) Cauliflower	14
(f) Cotton	21
(g) Nectarines	21
(h) Peaches	21
(i) Pears	28
(j) Plums	21
(k) Prunes	21
(l) Walnuts	21

[FR Doc.74-5349 Filed 3-8-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2 and 83]

[Docket No. 19946; FCC 74-193]

SHIP STATIONS

Proposal Relating to Frequencies

1. In accordance with a request from the Department of Transportation (U.S. Coast Guard) and as concurred in by the Interdepartment Radio Advisory Committee (IRAC), the notice of proposed rulemaking in the above-captioned matter is hereby given.

2. In this notice of proposed rulemaking we are proposing amendment of Parts 2 and 83, as follows:

Part 83: (a) to include the frequency 157.1 MHz on a basis such that it will be available to all ship stations authorized by the Commission to employ very high frequencies (VHF); its use will be limited to communications with the United States Coast Guard;

(b) to require, on a mandatory basis, that the frequency 157.1 MHz be available in VHF equipments (transceivers) which are first installed aboard ship [six months from effective date of rule amendment];

(c) to designate 156.3 MHz, in addition to its current usage as the intership safety frequency, as the VHF marine frequency to be used for search and rescue (SAR) communications at the scene of an SAR incident.

Part 2: to reflect in the Table of Frequency Allocations the change in status of the frequency 157.1 MHz from Government to both Government and non-Government and to include the conditions of use applicable thereto.

3. Under this proposal, the VHF ship station licensee would be required (see § 83.106) to fit the frequencies 156.8, 156.3 and 157.1 MHz, one or more working frequencies, and all other frequencies necessary for the service of that vessel. While we are not proposing that 157.1 MHz be installed aboard vessels which are currently fitted with VHF, we anticipate that many of these vessels will install 157.1 MHz because of the added convenience in contacting the U.S. Coast Guard. The frequency 157.1 MHz will be limited in usage to communications with U.S. Coast Guard coast stations or intership with U.S. Coast Guard ship stations. Further, use of 157.1 MHz by vessels to call and to communicate with the Coast Guard is expected to substantially reduce the number of such communications now being made on 156.8 MHz. While reduction of the loading on 156.8 MHz is highly desirable, we would stress that the Commission is not proposing or amending its rules to permit a ship station to shift its receiver watch from 156.8 MHz to 157.1 MHz. When a Coast Guard station, either ship or coast station, desires to contact a non-Government ship station, the Coast Guard may choose to originate the call on 157.1 MHz, however, if a reply is not received from the called vessel, the Coast Guard will then repeat the call on 156.8 MHz.

4. With regard to the proposed change of 156.3 MHz, under the current rules a distress call is originated on 156.8 MHz and all communications pertinent thereto are then carried out on 156.8 MHz. During the period of such emergency, other calls which are appropriate to 156.8 MHz must be held in abeyance. If, on the other hand, the distress traffic which follows the distress call were shifted to another frequency, the routine use of 156.8 MHz could continue. Accordingly, in order that such an arrangement may be implemented, we are proposing that the intership safety frequency 156.8 MHz be designated, additionally, as the VHF marine frequency for search and rescue (SAR) communications at the scene of an SAR incident.

5. The proposed amendments to the rules, as set forth in this notice and appendix, are issued pursuant to authority contained in sections 4(i) and 303 (c), (e) (g) and (r) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before April 12, 1974, and reply comments on or before April 22, 1974. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: February 27, 1974.

Released: March 6, 1974.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS, *Secretary.*

APPENDIX

Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

1. In § 2.106, the Table of Frequency Allocations is amended to add Footnote "(US——)" to the band 157.0375–157.1875 MHz to read as follows:

§ 2.106 Table of Frequency Allocations.

Worldwide		Region 2		United States		Federal Communications Commission					
Band (MHz)	Service	Band (MHz)	Service	Band (MHz)	Allocation	Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of stations	SERVICES
*		*		*		*	*		*		*
				157.0375–157.1875 US——	G				157.100	U.S. Coast Guard liaison frequency.	
*		*		*		*	*		*		*

2. In § 2.106, Footnote US—— is added in numerical order to the subparagraph "U.S. Footnotes," to read as follows:

US—— The frequency 157.100 MHz is the primary frequency for liaison communications between ship stations and stations of the United States Coast Guard.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.106(b), paragraphs (b)(3), (b)(4) and (b)(5) are designated (b)(4), (b)(5) and (b)(6), respectively; a new paragraph (b)(3) is added; and the note following (b)(6) is deleted, to read as follows:

§ 83.106 Required frequencies for radio telephony.

* * * * *

(b) Each ship station equipped with radiotelephony to work in the authorized bands between 156 and 162 MHz shall be able to transmit and receive Class F3 emission on:

(1) The Distress, Safety and Calling frequency 156.800 MHz;

(2) The primary Intership Safety frequency 156.300 MHz;

(3) The primary frequency for liaison communication with the United States Coast Guard, 157.100 MHz;

(4) One or more working frequencies; and

(5) All other frequencies necessary for its service;

(6) Exceptionally, however, single or dual channel equipment which otherwise conforms to the technical requirements of this part, may be used solely for navigational communications on a ship's bridge, on a frequency designated for such navigational purposes, in those cases where such ships have no requirement for other VHF communications.

2. In § 83.351, paragraph (a) is amended to add condition of use (73) opposite 156.300 MHz and to insert the frequency 157.100 MHz and associated particulars; and paragraph (b) is amended to add subparagraphs (6) and (73), to read as follows:

§ 83.351 Frequencies available.

(a) * * *

Carrier frequency (kHz)	See section—	Conditions of use
(MHz)		
*	*	*
156.300	83.106, 83.359	34, 40, 44, 34.
*	*	*
157.100	83.106, 83.359	6, 83, 40, 41
*	*	*

(b) * * *

* * * * *

(6) Limited to communication with ship stations, aircraft stations, or coast stations, all of which are operated by the United States Coast Guard.

* * * * *

(73) The frequency 156.300 MHz is also available for use by ship stations for search and rescue (SAR) communications at the scene of an SAR incident. When control of the scene of action of an SAR incident is under the control of a coast station of the United States Coast Guard, 156.300 MHz may be employed by ship stations to communicate with that control station.

3. Section 83.359 is amended to read as follows:

§ 83.359 Frequencies in the band 156–162 MHz available for assignment.

The frequencies listed in the following table are available for assignment to stations as indicated. Except as provided in § 83.351 (b)(24) and (b)(55), these frequencies are not authorized for communication with stations on board aircraft. The limitations applicable to the respective frequencies are set forth in § 83.351 (a) and (b).

Channel designator	Frequency (MHz)		Points of communication
	Ship	Coast	
			Distress, safety, and calling
*	*	*	* * * * *
			Intership safety
06	156.300	156.300	(a) Intership and search and rescue (SAR) at the scene of an SAR incident.
			Port operations
*	*	*	* * * * *
			Navigational
*	*	*	* * * * *
			Liaison U.S. Coast Guard
22	157.100	157.100	Ship, aircraft and coast stations of the U.S. Coast Guard.
			Environmental
*	*	*	* * * * *
			State Control
*	*	*	* * * * *
			Commercial
*	*	*	* * * * *
			Noncommercial
*	*	*	* * * * *
			Public correspondence
*	*	*	* * * * *

[FR Doc.74-5546 Filed 3-8-74;8:45 am]

[47 CFR Part 61]

[Docket No. 19947; FCC 74-198]

INTERNATIONAL SERVICES

Leased Channel Rates; Notice of Inquiry and Proposed Rulemaking

1. In *WUI, Inc., Leased Channel Rates Between Honolulu and Hong Kong*, 44 F.C.C. 2d—, FCC 73-1272, released December 7, 1973, we indicated that we would examine in a subsequent proceeding the desirability of adopting alternatives to the practice of reviewing, on a route-by-route basis, the lawfulness of Pacific Basin leased channel [1] rates. This arose from our concern as to whether the public interest in reasonable and nondiscriminatory leased channel rates in the Pacific could be efficiently advanced by an approach which would involve less difficulties and expenditures of time, both on the part of the industry and the Commission, than adherence to a route-by-route approach.

2. The route-by-route approach in the Pacific area to leased channel rate regulation appears to have developed as a result of the several Pacific carriers competing among themselves for the leased channel business of the Government and other large users. Since orders for service tend to be for single circuits, or circuits over a specific route, the carriers vie to obtain the order by lowering the rate, with the successful bidder thereafter filing a tariff revision to reflect the lowered rate. Such carriers seek either to justify the new rate under § 61.38 of our rules (47 CFR § 61.58) or to obtain a waiver of such section, which requires that a detailed cost justification as well as other data be submitted with a tariff revision. While the largest number of such revisions have come in the Pacific, others have occurred on Middle East and South American routes. A detailed examination of the new rate and its justification is frequently urged by the objections of competing carriers to the proposed change. This process involves a considerable amount of time and effort, not only on the part of the carriers but also on the part of the Commission, which could be devoted to other matters should another approach to leased channel ratemaking be developed.[2]

3. Both in the Pacific and elsewhere, the largest single customer for voice/data leased channel service has been the United States Government, both for military and civilian agencies.[3] Because of the nature of the service, the remaining customers generally are organizations which have need for large amounts of communications with particular overseas points. Unlike public telegraph and telex users, therefore, the relatively few customers for leased channel service are better able to bargain with the carriers in connection with the rates and other aspects of the service. For example, the Department of Defense put out bids for service, and the carriers generally compete among themselves to win the award, in the process frequently cutting the rates or offering other ancillary advantages. This situation suggests that in the leased channel areas, detailed rate regulation, designed to compensate for unequal bargaining positions between a carriers and its customers, may be both unnecessary and inappropriate.

4. Indeed, the evidence we have before us suggests that we may be near the point where the carriers are bidding for service with rates which reflect little or no return on capital. In such cases, our concern is not to protect the leased channel users from unduly high rates, but rather to assure ourselves that the leased channel rates are not so low as to result in cross-subsidization by other services or undue discrimination.[4]

5. In *WUI, Inc.* above we accepted the argument of WUI that its proposed lowered rate for Hawaii/Hong Kong leased channel service was within a discernible area pattern between Hawaii and Far East points, and also noted that there already existed something of an area rate pattern between Mainland United States and non-U.S. Pacific points. In that decision, we considered the possibility, pending the outcome of this proceeding, of an area ratemaking approach for Pacific leased channel rates although we did not articulate its rationale. Area ratemaking is not new either to this or other regulatory Commission; it exists with respect to leased channel rates between the United States and the greater portion of Western Europe; and it exists in part today with respect to the overseas telegraph message service and overseas telex service.[5] In all of these instances, we have consistently maintained that cost is the basic criterion of the lawfulness of rates, but have recognized that the lawfulness of an individual rate may turn on more than the particular costs attributable to the route in question. Thus, we have recognized that not only may other ratemaking factors be involved, but we have allowed route cost to be merged with estimated costs of other routes to develop a uniform charge, where it appears that such an approach had merit which overrode the principle that each route should bear a rate directly related to the costs of providing service over such a route. Moreover, the cost of communications satellite services, which contribute an increasingly significant part of overseas transmission services, are to some degree insensitive to distance [6] and the unit costs of distance-sensitive cables are dropping dramatically so that they are becoming a smaller and smaller component of total costs. When we issued our recent decision in connection with the Hawaii-Hong Kong rate reduction cited above, we had in mind essentially the area ratemaking approach for the Pacific Basin. However, we are now of the view that any inquiry should not confine itself to Pacific Basin rates, but should consider all international leased channel service.

6. On the other hand, it should also be recognized that area ratemaking poses certain distinct hazards of its own. Perhaps the most elementary is the intrinsic danger of undue cross-subsidy between routes or other forms of unlawful discrimination. Another danger lies in the possibility that the aggregation of all area costs will obscure inefficiency or stimulate or impede the growth of traffic on the basis of improperly or imperfectly recognized cost and demand factors. Nevertheless, we believe the potential advantages warrant close exploration of the issue on the basis of industry submissions and staff analysis.

7. We note, however, that in dynamic markets, especially such as exist presently in the overseas telecommunications field, where demand and cost characteristics are constantly changing, service categories and rate structures, especially uniform ones, can soon become obsolete. This in turn might encourage inefficient carrier investment, block service to customers who could be served profitably, thwart consumer choice and the development of new communications uses, and

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[1] "Leased channel" service is the international equivalent of what is known domestically as "private line" service. In international service, the bulk of the service is voice grade channels for voice/record use, which permits the customer the flexibility of using whatever portion of the full voice grade bandwidth he wishes for derivation of telegraph grade circuits. This type of leased channel service is offered from the Mainland principally by the international record carriers. Leased channels of greater and lesser capacity are also offered.

[2] The provision of leased channel service has become, within the recent past, a more and more important aspect of the international record carriers' operations. Whereas in 1961 leased channel service revenues accounted for only about 10 percent of total international record revenues, for 1970 they accounted for almost 25 percent. By December 31, 1973 the U.S. overseas record carriers had 873 equivalent voice grade circuits in operation for all services from the U.S. Mainland to all destinations. 574 of these, or 66 percent of the total, were voice/record leased circuits. In the Pacific Basin alone, the U.S. record carriers had 206 circuits for all services out of the Mainland, 163 of which were voice/record leased circuits, or 79 percent of the Pacific total.

[3] As of June 30, 1973, the U.S. Government was taking slightly more than 25 percent of all leased channel circuits provided by the record carriers. At the same time, however, the U.S. Government was responsible for almost 50 percent of the IRC's total leased channel revenues.

[4] Preliminary analysis suggests that the industry as a whole is earning a rate of return on leased channel service well below that for overall operations. For the years 1970-72 a rough calculation shows the IRC's earned in the neighborhood of 6 percent on such service, whereas overall earnings for the record industry as reported by it and developed by the staff, produced a significantly higher return.

[5] See also the leading case on the propriety of such an approach, Permian Basin Area Rate Cases, 309 U.S. 727 (1968).

[6] Note, however, that unit costs of satellite transmission are decidedly sensitive to the loading factor inasmuch as the total volume of traffic flowing through a particular earth station serving a particular area has a market effect on the unit costs of such traffic. To a lesser extent this is true of routes, insofar as earth station and satellite capacity is allocated to a particular route.

even retard the introduction of new technology. In truly competitive international private line markets there would be a constant industry probing into the changing character of the market; such probing might result in extended consumer choice to meet the new demand characteristics. This suggests that it may be appropriate to treat leased channel service differently from other services for ratemaking purposes; it may be that all the necessary ingredients are present to warrant cutting leased channel service free from cost of service rate of return regulation, and to permit the carriers to set their rates for the service solely on the basis of ordinary competitive considerations. In such a regime, of course, the expense and investment attributable to leased channel services would have to be separated and with respect to such investment and expenses the carriers could not look to this Commission for any particular authorized level of earnings or return.

8. Of course, there are dangers and pitfalls which must be carefully examined before a determination can be made with confidence whether the public interest would be served by removing leased channel services from the traditional form of rate regulation. These dangers and difficulties include the complex and to some extent judgmental allocation efforts which must be made to properly separate costs. Before such a departure from the present approach could be adopted, we would need to be satisfied that there truly is a competitive market and that the absence of regulation would not lead to increases in the price of the leased channel service to an unreasonable and unjustifiable level. Furthermore, if there is really a competitive market for leased channel service which would operate to keep the rates therefor even lower than they now are, we would have to consider whether the carriers' operating results in this respect would dispose them against rate reductions in their other services which might otherwise be justified.

9. We do not at this point know whether the de-regulation of leased channel service would, on balance, serve or disserve the public interest and we are accordingly calling on the parties named herein, and any other interested member of the public, to express their views and provide such data as is deemed pertinent to the issues presented. We would be particularly interested in any views as to the desirability, feasibility, and possible structuring of any pilot or experimental program in rate de-regulation which might permit both industry and the Commission to collect and evaluate data under actual operating conditions prior to any final determination of this matter.

10. Each respondent herein shall, irrespective of the proposal it makes, give a complete rationale for its view, indicating the disadvantages as well as the advantages with respect to the theoretical and practical aspects of any particular approach to ratemaking. In connection with approaches other than de-regulation, each respondent shall indicate the manner of determining the reasonableness of rate levels, that is, whether rates should be established on a fully-allocated or other cost basis (whether a route-by-route, area, or other approach is taken), other considerations which should enter into the determination of rate levels, and the cost components, (including the method of compositing cable, satellite and other media) and manner of their derivation.

11. We are not herein, however, concerned at this time with the relationship of voice/grade leased channel rates with channels of other than voice grade bandwidth such as telegraph grade or wideband. Moreover, we stress that we are not herein contemplating any change in our policy regarding integration of Hawaii/Mainland leased channel rates with the domestic rate pattern. These rates are to be considered herein but will also be treated separately in another context. Nor are we concerned in this proceeding with setting rate levels, a separate and highly complex issue more adequately explored in a separate proceeding. It should therefore be obvious that this proceeding will not result in a prescription of rates or even Commission approval of carrier initiated rates except insofar as a methodology of ratemaking is involved. The respondents should therefore concentrate their comments on questions of ratemaking principles and not on particular dollar amounts, although reference to specific amounts by way of illustration or comparison is perfectly appropriate. While we are not necessarily convinced at this time that Section 61.38 of the Rules or any other section of the rules requires modification to accommodate any different ratemaking approach, we are nevertheless prepared to consider appropriate modifications of the rules.

12. A word should be said about the framework in which we are undertaking this study. It is not our purpose herein to establish principles by which price competition between the carriers will be eliminated or even reduced since such competition is one of the most important reasons for the existence of more than one carrier. Nor does our action herein in any way affect the obligations imposed on the carriers in other Commission decisions to adjust their rates in the future to reflect the lower costs of modern, high capacity facilities.[7] Rather it is our sole purpose herein to explore the merits of various approaches to ratemaking for leased channel service.

13. Finally, by discussing area ratemaking and de-regulation, we do not intend to imply that we are, at this juncture, inclined to adopt either approach; on the contrary, we are simply of the view that the subject of international leased channel ratemaking is ripe for review and analysis. Accordingly, we encourage all participants to suggest any other approach (including retention of the present one) which they believe would best serve the public interest. It may be, for example, that some combination of the area and route-by-route approach is most appropriate to the present situation.

14. Accordingly, *it is ordered*, Pursuant to sections 4(i), 4(j), 201, 204, 205 and 403 of the Communications Act, that an Inquiry and Notice of Proposed Rule Making is hereby instituted to determine the appropriate ratemaking approach for international leased channel service and the points or areas to which this approach should apply;

15. *It is further ordered*, That no later than May 14, 1974, all parties should submit written comments addressed to the following points:

1. Should some or all leased channels for international service (including the off-shore points) be freed from traditional rate of return/cost of service regulation? If so, how, and to what extent should such services be regulated, or should the rates for these services be allowed to seek their own level on a competitive basis?

2. If leased channel rates are to continue to be regulated on the traditional rate of return/cost of service approach, should such rates be set on the basis of:

(a) route-by-route cost factors;
(b) area-wide cost factors;
(c) a combination of (a) and (b) above;
(d) fully allocated or incremental costs;
(e) compositing principles; or
(f) some other approach(es) to ratemaking.

3. What changes, if any, in the provisions of § 61.38 of the rules, or any other provision thereof, are necessary or desirable to effectuate the recommendations submitted in response to questions 1 and 2 above?

In accordance with § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments and replies shall be furnished the Commission. Responses will be available for public inspection during business hours in the Commission's Docket Reference Room at its headquarters in Washington, D.C.

16. *It is further ordered*, That reply comments shall be submitted no later than June 14, 1974 and shall be served on all parties who submitted initial comments. All relevant and timely comments and replies will be considered by the Commission. In reaching its decision in this proceeding the Commission may, in addition to the specific comments invited by this notice and any replies thereto, take into account other relevant information before it; and

17. *It is further ordered*, That American Telephone and Telegraph Co.; French Cable Corp.; Hawaiian Telephone Co.; ITT World Communications Inc.; RCA Global Communications, Inc.; TRT Telecommunications Corp. and Western Union International, Inc. are hereby made parties to this proceeding.

Adopted: February 27, 1974.

Released: March 6, 1974.

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

[FR Doc.74-5545 Filed 3-8-74;8:45 am]

[7] E.g., AT&T (TAT-5) 13 F.C.C. 2d 235 (1968); Transpac II, 43 F.C.C. 2d 505 (1973).

[47 CFR Part 73]

[Docket No. 19667; FCC 74-215]

MAINTENANCE OF PROGRAM RECORDS

Memorandum Opinion and Order and Second Further Notice of Proposed Rule Making

In the matter of petition for rulemaking to require broadcast licensees to maintain certain program records, Docket No. 19667, RM-1475.

1. The Commission has before it petitions for reconsideration of its First Report and Order in this proceeding (39 FR 1763, published January 14, 1974), filed by Capitol Broadcasting Company, Inc. ("Capitol") and by the National Broadcasting Company, Inc. ("NBC"). The National Citizens Committee for Broadcasting ("NCCB") has filed an opposition to Capitol's petition. NBC has also filed a petition seeking partial stay of the newly adopted rules.

2. The two petitions for reconsideration raise notably different questions regarding the rules we adopted to permit the public inspection of television station program logs. In essence, the new rules allow such inspection unless good cause for refusing to do so exists and sets up certain procedural requirements such as the need for a prior appointment, assumption of cost by the inspecting party and various others. It also specifies what to do when a written log is not prepared. Capitol seeks modification of the newly adopted procedures for public inspection of television station program logs to require that more information be provided by those requesting access to the logs. NBC's petition deals only with the use of an automatic tape logging process which does not provide a written log.[1] As indicated in the First Report and Order, it was our desire to explore the subject of automatic logging in its relation to public access, and this document is intended to provide formal Notice of our intent to consider rules in this area. This document also serves to respond to the petitions for reconsideration. Finally, it responds to questions that have been raised about what logs are to be available when the rule becomes effective on March 1, 1974. We shall respond to these questions before turning to the other matters before us.

3. As adopted, the rule becomes effective on March 1, 1974. Several parties have wondered whether all of the logs 45 days old or older to which the rule applies would become available at that time or whether the rule applied only to the logs for some lesser period. The answer is simple: the logs inspectable on March 1, 1974, are those for the entire two-year retention period, except for those less than 45 days old. In other words, the logs from March 1, 1972, to January 15, 1974, would be those to which the rule applies when the rule first becomes effective. By way of clarification, it might also be mentioned that any change in ownership would not affect the situation, so the assignee or transferee would assume responsibility for the entire two-year retention period of logs even though it has not held the station for that entire period.

4. Capitol filed a brief petition seeking changes only in certain of the procedural aspects of inspection. In its view, those changes would bring benefits by more closely identifying the inspecting party, by better protecting the original logs, and by more clearly indicating the representative capacity of the inspecting party. NCCB objected at length, arguing that these requirements could vitiate the purposes of the rule and possibly lead to intimidation of the party wishing to inspect. While we do not accept the basis for all of NCCB's objections, we have not been persuaded by Capitol's petition that these changes would serve any useful purpose.

5. Capitol seeks a written request to inspect the logs. If the required information were supplied in full orally, such a requirement would not appear to offer any real benefit, unless the Commission were prepared to follow Capitol's urging and require the much more extensive showing it seeks and even more importantly to specify a mandatory one-week notice period. If a one-week period were used, there could very well be a need for written proof of service, but the need for a mandatory one-week delay has not been established. The point of adopting a provision requiring an appointment was to accommodate the needs of the public without undue disruption to the broadcaster. The idea was that the inspection could take place at a mutually convenient time and place and the station could have time to assemble the logs for inspection. There is no reason to conclude that a minimum of a week is required under ordinary circumstances for this purpose, and as NCCB points out, access to the regular station public file requires no advance appointment at all. Since the prior appointment procedure appears to provide adequate protection against undue disruption, the need for one-week delay has not been established. Accordingly, we shall not make the requested change in the rule.

6. Capitol urges us to require that the inspecting party indicate with particularity the logs it wishes to inspect. While knowing in advance might be of assistance to the station in preparing for the inspection, NCCB contends that it may not always be possible to provide such information. NCCB's point is that a sampling of logs is what is desired, with apparently such further examination as would then seem appropriate. If the logs had to be specified in advance, this latter step would not be possible. Our problem with this requirement has to do with this limiting effect. If a list were provided, the likely result would be that the party would be limited to the logs specified. Since the original list could not be based on knowledge of what the logs contain, such a restriction on further inquiry would not be in keeping with the purpose of the rule. Moreover, it in any event could be defeated by a request to see all of the logs for the two-year period. Even though we shall not follow Capitol's request by adopting this change, we do urge parties desiring to inspect to cooperate in the process by listing the logs desired if that is at all possible.

7. Finally, Capitol desires much more identification than name, address, organization and general purpose of the examination as the rule now requires. Capitol wants a list of the organization's officers and directors, its purpose and the general composition of its membership. Also, if the inspecting party is not an officer of the organization, Capitol wants a requirement that a written authorization from the organization must be provided. On the other hand, NCCB fears that such requirements could lead to intimidation and to an effort to discourage members of the public from exercising their right to examine the logs. In support of this view, it cites the Commission's approach to identification requirements for those wishing to look at the station's public file and its rejection of expanding such identification requirements.

8. The approach followed in the log inspection rule regarding identification represented a compromise. It called for providing more information than in the case of examining the public file, but it avoided requirements that could lend themselves to abuse. Thus, if a licensee were to have a basis for deciding whether there is good cause for refusing an inspection request, it needed to know more than just the name and address of the party. The organization represented and the purpose of inspection were also relevant to the exercise of licensee judgment about good cause, as in refusing the request of a competitor, for example. On the other hand, knowledge of the officers, membership and purpose of an organization is not necessary to enable a licensee to exercise its judgment, but a requirement that this information be provided has a real potential for intimidation, whether intended or not. Under such circumstances, establishing such a requirement could only work at cross-purposes with the intent of the rule. As to requiring a written authorization for non-officers of an organization, any such requirement would serve no purpose, as an individual does not need to be a member of an organization in order to have access to the logs. In information gathering, as distinguished from negotiations with local groups as takes place from time to time, the representative capacity of the person is not a vital matter. Nor could an organization's not having given its authorization work to deprive the person of his rights simply as a member of the public. Therefore, we deny these proposed changes as well.

9. NBC, in its two pleadings, is concerned with only one provision of the new rules. That is the requirement in the Note to Section 73.674(c) that stations not having a written log shall update and certify their pre-logs (operating sche-

[1] The rules require that logs be kept but allow use of automatic equipment even if the log exists in tape form rather than in written form.

dules). As the only licensee known to be using an automatic tape recording system for logging, NBC expresses concern that the requirement will vitiate the benefits its automatic logging system is intended to provide. It states that if it had to go to the effort of updating and certifying, it would have no reason to continue using its automatic logging. Such a result it sees as being contrary to the portions of the Commission's rules authorizing automatic logging. This leads NBC to ask a stay of the March 1 date until the Commission shall have explored the question of automatic logging as it said it would in its Report and Order. NBC also asks to be relieved from what it sees as a burdensome requirement of updating and certification. Instead, it would make its pre-logs available, and upon a showing of good cause, it would up-date them.

10. As indicated before, we wish to explore automatic logging, and comments on this point are requested. As to NBC's petitions, the question is, what shall be done in the interim? The fact that automatic logging is permitted, does not in itself answer all questions which are involved. Otherwise, the inevitable result would be that the choice of equipment would be the sole determinant of public access. Or, if in response NBC's urgings are followed, the industry would have two categories of parties, NBC and everyone else. Virtually all other stations are keeping logs in the traditional written form,[2] and the work involved is essentially that required of NBC. The only effort for NBC would result from a decision to pursue both methods at once. NBC is not obliged to stop its automatic logging. At most, the stay could only affect the interim period before action is taken as a result of the Further Notice. Since we expect to reach our conclusions promptly, there will be no long-term impact on NBC. At the most, it may have to temporarily utilize the same procedures as do most other stations. This involves no extra cost as such (unless it does both at once) and the only real effect is to delay such savings as are provided by automatic logging. We cannot find that the burden thus imposed on NBC would be so great as to require us to create a special exception and to devise special rules to govern good cause showings. Needless to say, NBC's views will be considered in arriving at our conclusions regarding the subject of the Further Notice. In the meantime, since the impact on NBC has not been shown to be of such magnitude as to require the special relief which has been sought, its petitions will be denied.[3]

11. We invite comments on all pertinent aspects of television automatic logging. In addition to the views of licensees and of individuals desiring to inpect logs, we seek information from equipment manufacturers and others who can offer guidance on the technologies involved. Should we adopt special rules when automatic logging is used? If so, should there be different rules depending on the type of system which is employed? How can we best provide for technological improvement consistent with the goals of the inspection rule and the dialogue it is intended to foster? In advance of the comments received, we shall not specify any particular rule provisions, but commenting parties should use the present rule as a starting point and offer guidance on whether to change it and if so, how.

12. Accordingly, pursuant to authority contained in sections 4(i), 303 (g), (j) and (r) of the Communications Act of 1934, as amended, the amendment of the Commission's rules as described above is proposed.

13. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before April 12, 1974, and reply comments on or before April 22, 1974. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

14. In accordance with the provisions of § 1.419 of the Rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. These will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, NW., Washington, D.C.

15. *It is ordered*, That the Petition for Reconsideration filed by Capitol Broadcasting Company, Inc., is denied.

16. *It is further ordered*, That the Petition for Reconsideration and the Petition for Partial Stay of Effective Date As to Stations With Automatic Logging Facilities, filed by the National Broadcasting Company, are granted to the extent indicated and in all other respects are denied.

Adopted: February 27, 1974.

Released: March 4, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[4]
VINCENT J. MULLINS,
Secretary.

[FR Doc.74-5547 Filed 3-8-74;8:45 am]

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[2] Equipment also exists which provides a printed-out log with the same information as the hand written log. Obviously, parties using this equipment need no special relief as such logs serve the same purpose as traditional logs.

[3] It is not our intention, however, to impose any unnecessary burden on NBC. Accordingly, for those two NBC stations already using automated logging we see no need for immediate updating of the operating schedules for the period prior to March 1, 1974 on the mere assumption that inspection might take place and that examination of the pre-logs and/or the tape logs will not satisfy the person making the inspection. We see no problem with the station's waiting until a request is made before updating those particular pre-logs, even if this produces some minor delay in which the inspection takes place. NBC would be given an opportunity to demonstrate that good cause existed for not honoring such a request on the grounds that the pre-logs and the taped logs were sufficient for the purposes for which inspection was sought and the expense that would be incurred in going back to update the pre-logs would be excessive under the circumstances. For the period beginning March 1, 1974 the operating schedules of all NBC stations, including those two now using taped automatic logging, will need to be certified and made available for public inspection upon request in the same manner as those of all other stations.

[47 CFR Part 76]

[Docket No. 19948; FCC 74-207]

CABLE TELEVISION SYSTEMS

Obligations Regarding Public Inspection Files, Records of Subscribers, and Permit System Inspections

1. In the time since our adoption of the *Cable Television Report and Order*, 36 FCC 2d 143, we have had cause to be concerned whether our existing cable television rules provide adequate procedures for public participation in our processes. Many members of the public apparently wish to comment on applications for certificates of compliance or requests for special relief,[1] but have difficulty in obtaining copies of filings. We thus find a need to codify public inspection file requirements for cable television systems.

2. To be sure, § 76.13(a)(7) of the rules requires an application for a certificate of compliance to represent that it is available locally "for public inspection."[2] It does not clearly state whether it requires the system to keep the application or related papers on file after grant of a certificate, however, and does not by its terms apply to petitions for special relief.[3] Requiring cable systems to maintain a public inspection file merely follows our policy for broadcast licensees[4] and is necessary for similar reasons. If the public is to play an informed role in the regulation of cable television, it must have at least basic

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[4] Commissioner Reid concurring in the result.

[1] Sections 76.13, 76.7 of the Commission's rules.

[2] Section 76.13(a)(7) of the rules provides that:

(a) For a cable television system not operational prior to March 31, 1972 (other than systems that were authorized to carry one or more television signals prior to March 31, 1972, but did not commence such carriage prior to that date), an application for certificate of compliance shall include:

(7) A statement that a copy of the complete application has been served on the franchising authority, and that if such application is not made available for public inspection by the franchising authority, the applicant will provide for public inspection of the application at any accessible place (such as a public library, public registry for documents, or an attorney's office) in the community of the system at any time during regular business hours;

[3] At least in theory, a system therefore could request waiver of an obligation in its certificate of compliance the day after the certificate was granted, without making its petition available for public inspection or comment.

[4] Section 1.526.

information about a local system's operations and proposals. And as we noted in promulgating the public inspection file rules for broadcast licensees, "our primary purpose in the present proceeding is to make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in a dialogue . . . we seek to enhance the effectiveness of this policy by making practically accessible to the public information to which it is entitled." *First Report and Order in Docket No. 14864*, FCC 65–273, 4 RR 2d 1664, 1667–68. Accordingly, we believe that a similar requirement for cable television systems would be appropriate.

3. A related problem is physical inspection of system facilities. Since our technical standards are now partially applicable to older systems and fully applicable to newer ones,[5] we will be taking an affirmative role in policing systems' compliance. Though Commission personnel have not discovered any difficulty in obtaining access to system facilities, we nevertheless wish to clarify cable operators' obligations to allow reasonable inspections.

4. We therefore believe that these requirements are in the public interest. In this regard, we do not believe that the rules would impose any serious burdens upon cable television systems. Systems have the required information already; the rules just state the circumstances under which they must make it available to the public.

5. Section 76.305 follows both the general thrust and specific language of the public inspection file requirement for broadcast licensees. To be sure, the Commission already maintains on public file all documents which the rule requires a cable television system to place in its public inspection file. But as we noted in promulgating a similar rule for broadcast licensees:

> The information is already a matter of public record available at the Commission's offices in Washington. We do but recognize the fact that the existence hundreds, and in some cases thousands, of miles away of a voluminous public file is of little practical value in providing interested persons with the kind of information needed * * *.[6]

The public has a real need for ready access to systems' filings. Certification renewals are too infrequent to provide the public with the same "dialogue" as license renewals. The public thus needs accurate and accessible information about a cable television system's status before this Commission. Section 76.305 will do this at little cost to cable systems.

6. Section 76.305(a)(1) thus would require cable television systems to keep on public file all documents relevant to the acquisition of franchises and other local or state authorizations. Our rules already require a franchise to state that it was granted "as part of a full public proceeding affording due process."[7] The public cannot comment on the presence of absence of the required proceeding however, if it does not have access to the relevant documents. Accordingly, they must be part of the public inspection file. We are aware, of course, that many local authorities already require these documents to be available for public inspection; but since § 76.305(b) would allow a cable system to locate its public inspection file in a "public registry," the requirement will be unnecessary at worst.

7. Similarly, § 76.305(a)(2) would require cable systems to keep on file applications for certificates of compliance and all related material. As noted in paragraph 2, our present rules do not explicitly require a cable system to keep an application on file after it is granted. The application contains many crucial representations, however, as to a system's plans for signal carriage, franchise obligations, and access cablecasting. Accordingly, the public can evaluate a system's performance only by referring to its application for certification. And as discussed before, its "existence hundreds, and in some cases thousands, of miles away" is hardly useful. Moreover, applications for certification may be remote in temporal as well as spatial terms. Since a certificate can be valid for as long as fifteen years, the public may need to locate an application almost a generation after its initial filing.

8. Section 76.305(a)(3) would set similar standards for show cause proceedings and waivers requests. Our present rules do not explicitly require cable systems to keep any public records at all of these proceedings. The public has a very real interest, however, in both show cause and waiver petitions.[8] Members of the public may wish to support or oppose a show cause petition or a waiver request. But they cannot participate unless they have access to the relevant documents.

9. Section 76.305(a)(4), (5), (6) simply would consolidate and codify our existing rules. Thus, § 76.305(a)(4) merely clarifies a cable system's obligation to keep a Form 325[9] on file after a certificate of compliance has issued; since a Form 325 contains vital information about a cable system's operations, the public needs it in order to measure a cable system's performance. Similarly, § 76.305(a)(5) repeats present § 76.305(a) virtually verbatim, except that it requires a system to list all signals carried, rather than just all additional signals carried. And § 76.305(a)(6) merely restates present § 76.305(b).

10. Section 76.305(b) attempts to strike a reasonable balance between hardship for a cable system and convenience for the public in location of the public inspection file. Accordingly, it requires a cable television system to keep the file where it ordinarily transacts business—a location which presumably is familiar and accessible to the public.[10] Similarly, § 76.305(b) requires that the file be available only during "regular business hours," in order to avoid imposing an undue hardship on cable systems.

11. Section 76.305(c) would specify varying periods of retention for the different types of documents to which § 76.305(a) applies. A cable system thus must keep applications for franchises, certificates of compliance, and petitions for special relief on file for the duration the of its initial and renewal certification, since the public may wish to inquire into a system's statements years after they originally are made. Systems must keep copies of a Form 325 for only two years, however, since the information is updated annually and does not contain significant representations. And the new rule reduces the retention period for signal carriage records from two years to one year; this more limited time seems appropriate in light of the new obligation to make a Form 325 available, however, since the two documents contain very similar information.

12. Finally, § 76.307 would establish cable operators' obligation to allow authorized Commission representatives to inspect their systems' physical facilities. We believe that the rule will be useful to both Commission employees and cable operators by defining the appropriate personnel and time for an inspection.

13. The new rules thus would impose on cable systems some, but not all, of the record keeping procedures which broadcast licensees have borne for years. The rules should not cause any undue inconvenience, since they do not require most cable operators to produce material which they do not normally maintain. Through greater disclosure we hope to encourage a greater interaction between the Commission, the public, and the cable industry.

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[5] Section 76.605.

[6] 4 RR 2d at 1667.

[7] Section 76.31(a)(1) of the rules provides that:

(a) In order to obtain a certificate of compliance, a proposed or existing cable television system shall have a franchise or other appropriate authorization that contains recitations and provisions consistent with the following requirements:

(1) The franchisee's legal, character, financial, and other qualifications, and the adequacy and feasibility of its construction arrangements, have been approved by the franchising authority as part of a full public proceeding affording due process;

[8] For example, in *Columbia Television Company, Inc.*, FCC 73–903——FCC 2d——, we held that a system's dual-rate structure violated the rules—a decision which might have concerned local citizens.

[9] Section 76.401 of the rules. As with the other contents of an application for a certificate of compliance, the present rules do not specify how long a Form 325 must be kept on public file. See paragraph 2, *supra*.

[10] We contemplate requiring additional locations, however, where a member of the public demonstrates that the location of the public inspection file in fact is inconvenient—e.g., a multiple systems operator with one office for all operations in a number of states. Conversely, where a cable television operator shows that it maintains several business offices in close proximity to each other, we will waive the requirement that it maintain a public inspection file at each one.

14. Authority for the proposed rule making instituted herein is contained in sections 4(i), 303 and 403 of the Communications Act of 1934, as amended.

15. All interested persons are invited to file written comments on the rule making proposals on or before April 12, 1974, and reply comments on or before April 22, 1974. In reaching a decision in this matter, the Commission may take into account any other relevant information before it, in addition to the comments invited by this notice.

16. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

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

APPENDIX

Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

A. Part 76—Cable Television Service

1. § 76.305 is deleted.

2. Section 76.305 is added to read as follows:

§ 76.305 Records to be maintained locally by cable television systems for public inspection.

(a) *Records to be maintained.* Every cable television system shall maintain for public inspection a file containing the following:

(1) A copy of every application for a local and/or state franchise or other authorization and all exhibits, letters and other documents tendered for filing as part thereof, all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the applicant and the franchising authority pertaining to the application after it has been tendered for filing, and copies of all documents pertaining thereto issued by the franchising authority. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the applicant, after making the reference, so states.

(2) A copy of every application for a certificate of compliance and all exhibits, letters and other documents tendered for filing as part thereof, all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the Commission and the applicant pertaining to the application after it has been tendered for filing, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto, which according to the provisions of §§ 0.451–0.461 of this chapter are open for public inspection at the offices of the Commission. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the applicant, after making the reference, so states.

If an opposition to the application is filed and duly served upon the applicant, a statement that such opposition has been filed shall appear in the local file together with the name and address of the party filing the opposition.

(3) A copy of every petition for special relief filed by or against the system pursuant to § 76.7 of this part and all exhibits, letters and other documents tendered for filing as part thereof, all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the Commission and the system pertaining to the petition after it has been tendered for filing, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto, which according to the provisions of §§ 0.451–0.461 of this chapter are open for public inspection at the offices of the Commission. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the system, after making the reference, so states. If an opposition to the petition is filed and duly served by or upon the system, a statement that such opposition has been filed shall appear in the local file together with the name and address of the party filing the opposition.

(4) A copy of every Form 325 and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the system and the Commission pertaining to the reports after they have been filed, and all documents incorporated therein by reference which according to the provisions of §§ 0.451–0.461 of this chapter are open for public inspection at the offices of the Commission. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the system, after making the reference, so states.

(5) A record of all television signals carried. Such record shall also include the call letters and location of each such station whose signal is carried pursuant to §§ 76.57 (b), 76.59 (b), (c), (d), 76.6 (b), (c), (d), or (e) or 76.63(a) (as it refers to § 76.61 (b), (c), (d), or (e), the date and specific starting and ending time of such carriage, and the names of the programs scheduled to be shown.

(6) A copy of all records which are required to be kept by § 76.205(c) (origination cablecasts by candidates for public office); § 76.251(a)(11) (public access channels, educational access channels, leased access channels); § 76.306 (records of subscribers); § 76.311(f) (equal employment opportunities).

(b) *Location of records.* The public inspection file shall be maintained at the office which the cable television system maintains for the ordinary collection of subscriber charges, resolution of subscriber complaints, and other business or at any other accessible place in the cable system's community (such as a public registry for documents or an attorney's office). The public inspection file shall be available for public inspection at any time during regular business hours.

(c) *Period of retention.* The records specified in paragraphs (a)(1), (2), (3) shall be retained so long as a certificate of compliance or renewal thereof is outstanding. The records specified in paragraph (a)(4) shall be retained for two years. The records specified in paragraph (a)(5) shall be retained for one year after an amendment to such record is placed in the public inspection file. The records specified in paragraph (a)(6) shall be retained for the periods specified in §§ 76.205(c), 76.251(a)(11), 76.306, and 76.311(f) of this chapter.

3. Section 76.307 is added to read as follows:

§ 76.307 System inspection.

The operator of a cable television system shall make the system, its public inspection file, and its records of subscribers available for inspection upon request by any authorized representative of the Commission at any reasonable hour.

[FR Doc.74-5548 Filed 3-8-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210]

[No. 34178 (Sub-No. 2)]

ACCOUNTING FOR INCOME TAXES

Interperiod Tax Allocation (Deferred Taxes)

This proceeding is being instituted on our own motion to consider revisions to the uniform systems of accounts for all modes of transportation regulated by this Commission. These revisions contemplate adoption by the Commission of the comprehensive interperiod tax allocation method of accounting for income taxes.

Historically, our regulations have required the flow through method of accounting for income taxes to be used in the carriers' accounts and reflected in reports filed with the Commission. The terminology "flow through" and "interperiod tax allocation" has significance in determination of annual income tax expense as reported in the carriers' financial statements. The actual liability for income taxes currently payable is not affected.

Under the flow through method income tax expense is the actual amount payable based on taxable income reported in the tax return for the period. Because provisions in the Internal Revenue Code and the various State codes do not necessarily agree with the accounting rules prescribed by the Commission, certain items may be included in taxable income and accounting income in different accounting periods. These "timing differences" originate in one period and reverse in one or more subsequent periods. The objective then of interperiod allocation of income taxes is to match the income tax expense reported in an income statement for a specific period with the revenues and expenses reported for that period.

The last time the Commission considered the interperiod tax allocation method was 1962. By the decision of February 1, 1963, in Docket No. 34178 (318 I.C.C. 803), the Commission reaffirmed that the actual income taxes payable for each year based on the effective tax regulations for the year shall be used as the proper expense for accounting and ratemaking purposes.

Since that time the accounting profession has concluded that interperiod tax allocation is the preferred method of accounting for income taxes because it results in a better matching of income and expense for financial reporting purposes

than does the flow through method. Consequently, many carriers practice interperiod tax allocation when preparing financial statements to stockholders. This leads to a difference in reporting net income between Commission reports and stockholders reports and tends to confuse users of financial statements.

The use of the flow through method over interperiod tax allocation represents one of the most significant exceptions to generally accepted accounting principles in the Commission's accounting rules. The adoption of this proposal for interperiod tax allocation would serve to align the Commission's accounting rules for financial reporting purposes with generally accepted accounting principles without compromising regulatory responsibilities. In fact, this proposal is not a substitute, but a complement to the present accounting and reporting requirements since the integrity of financial data now generated is preserved. In addition, the use of interperiod tax allocation in financial statements filed with the Commission especially by those carriers who use it in their financial statements to stockholders will tend to lessen the problems confronted by the users of financial statements thereby improving financial reporting in general.

To accomplish the intention of this proposal, the following substantive changes to the uniform systems of accounts are necessary:

1. Definitions relating to accounting for income taxes would be added.

2. An instruction prescribing and explaining interperiod tax allocation would be added.

3. An account entitled "Accumulated deferred income tax credits" would be added to the deferred credit section of the balance sheet.

4. The existing income tax expense account for ordinary income would be modified to include all taxes (Federal, state and other) currently accruable for income tax return purposes, and new accounts would be added to implement interperiod tax allocation. These additional accounts will appear in the same sequence as currently provided for income tax expenses for ordinary income and extraordinary and prior period items.

To supplement the changes in the uniform systems of accounts a schedule would be added to the annual reports to provide an analysis of the "Accumulated deferred income tax credits" account. A pro forma schedule is attached.

Upon adoption of this proposal, interperiod tax allocation shall be applied retroactively for those carriers already practicing such accounting in financial statements to stockholders, and applied prospectively for all other carriers.

It is intended that the proposed revisions to the accounting rules become effective immediately upon adoption by the Commission and would be reflected in the books of accounts for the year beginning January 1, 1974.

Upon consideration of the above described matters and good cause appearing therefor:

It is ordered, That a proceeding be, and it is hereby, instituted under the authority of sections 20, 204, 313 and 412 of the Interstate Commerce Act and pursuant to sections 553 and 559 of the Administrative Procedure Act with a view to adopting the proposed regulations set forth in Appendices A through J of this Notice, and for the purpose of taking such other and further action as the facts and circumstances may justify and require.

It is further ordered, That all carriers subject to the Interstate Commerce Act be, and they are hereby, made respondents in this proceeding.

It is further ordered, That no oral hearing be scheduled for the receiving of testimony in this proceeding unless a need therefor should later appear, but that respondents or any other interested parties may participate in this proceeding by submitting for consideration written statements of fact, views, and arguments on the subjects mentioned above, or any other subjects pertaining to this proceeding.

It is further ordered, That any interested persons wishing to submit statements of facts, arguments, and other representations on the proposed modification in the uniform systems of accounts shall file an original and 15 copies of such representations with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before April 5, 1974, and that all such statements will be considered as evidence of record in this proceeding.

It is further ordered, That written material or suggestions submitted shall be made available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C., during regular business hours.

And it is further ordered, That statutory notice of the institution of this proceeding be given to all respondents and to the general public by mailing a copy of this order to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by posting 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, Division of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

Accumulated deferred income tax credits

(1) In column (a) are listed the particulars which most often cause a differential between taxable income and pretax accounting income. Other particulars which cause such a differential should be listed under the caption "Other."
(2) Indicate in column (b) the beginning of the year balance of accumulated deferred tax credits (debits) applicable to each particular in column (a).
(3) Indicate in column (c) the net change in account, "Accumulated deferred income tax credits," for the net tax effect of timing differences originating and reversing in the current accounting period.
(4) The total of net credits (charges) for the current year in column (c) should agree with the contra charges (credits) to account, "Provision for deferred taxes, and account," Provision for deferred taxes—extraordinary and prior period items, for the current year.
(5) Indicate in column (d) any adjustments, as appropriate, including adjustments to eliminate or reinstate deferred tax effects (credits or debits) due to applying or recognizing a loss carryforward or a loss carryback.
(6) Indicate in column (e) the cumulative total of columns (b), (c), and (d). The total of column (e) must agree with the balance in account, "Accumulated deferred income tax credits."

Line No.	Particulars	Beginning of year balance	Net credits (charges) for current year	Adjustments	End of year balance
	(a)	(b)	(c)	(d)	(e)
1	Accelerated depreciation, sec. 167 I.R.C.; Guideline lives pursuant to Rev. Proc. 62-21				
2	Accelerated amortization of facilities sec. 168 I.R.C.				
3	Accelerated amortization of rolling stock, sec. 184 I.R.C.				
4	Amortization of rights of way, sec. 185 I.R.C.				
5	Other (specify)				
6					
7					
8					
9	Investment tax credit				
10	Totals				

APPENDIX A

No. 34178 (Sub-No. 2)

AMEND PART 1201—UNIFORM SYSTEM OF ACCOUNTS FOR RAILROAD COMPANIES

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Instructions" amend line item "1–11 Accounting for the Investment Tax Credit" to read:

1–11 Accounting for income taxes.

Under "Income Accounts" the following revisions are made:

After line item "532 Railway tax accruals" add:

533 Provision for deferred taxes.

Amend line item "590 Federal income taxes on extraordinary and prior period items" to read:

590 Income taxes on extraordinary and prior period items.

After line item "590 Income taxes on extraordinary and prior period items" add:

591 Provision for deferred taxes—extraordinary and prior period items.

Under "General Balance Sheet Accounts" add the following immediately after line item "758 Accrued depreciation; leased property":

786 Accumulated deferred income tax credits.

REGULATIONS PRESCRIBED

Under (ii) Definitions add definition 21 as follows:

* * * * *

20. * * *

21. (a) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(b) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(c) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(d) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(e) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(f) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(g) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(h) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(j) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

GENERAL INSTRUCTIONS

The title and text of instruction 1–11 "Accounting for the investment tax credit" are amended to read:

1–11 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition 21(e)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 532, "Railway tax accruals".

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions 21 (g) and (e)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdiction.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 532, "Railway tax accruals," or account 590, "Income taxes on extraordinary and prior period items," as applicable, and charge account 760, "Federal income taxes accrued" with the amount of investment tax credit utilized in the current accounting period.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 533, "Provision for deferred taxes" or account 591, "Provision for deferred taxes—extraordinary and prior period items," as applicable, and shall credit account 786, "Accumulated deferred income tax credits," with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 533, "Provision for deferred taxes".

Note A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

Note B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or requests an interpretation from the Commission.

INCOME ACCOUNTS

The text of account 532, "Railway tax accruals" is amended by revising paragraph (c) and deleting paragraph (d). As amended the text reads as follows:

* * * * *

(c) Accruals for all income taxes which are estimated to be payable and which are applicable to ordinary income (see instruction 1–11) shall be included in this account. See texts of account 590, "Income taxes on extraordinary and prior period items," account 606, "Other credits to retained income," and account 616, "Other debits to retained income," for recording other income tax consequences.

Note A: * * *

* * * * *

After the text of account 532, "Railway tax accruals" the following new account number, title and text are added:

533 Provision for deferred taxes.

(a) This account shall include the tax effect of all timing differences (see definitions 21 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 1–11(d)).

The text of account 570, "Extraordinary items (net)" is amended by revising paragraph (c) to read:

* * * * *

(c) Income tax consequences of charges and credits to this account shall be recorded in account 590, "Income taxes on extraordinary and prior period items" and account 591, "Provision for deferred taxes—extraordinary and prior period items," as applicable.

The text of account 580, "Prior period items (net)" is amended by revising paragraph (c) to read:

* * * * *

(c) Income tax consequences of charges and credits to this account shall be recorded in account 590, "Income taxes on extraordinary and prior period items" and account 591, "Provision for deferred taxes-extraordinary and prior period items," as applicable.

The title and text of account 590, "Federal income taxes on extraordinary and prior period items" is revised to read:

590 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 570, "Extraordinary items (net)" and 580, "Prior period items (net)." The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 591, "Provision for deferred taxes-extraordinary and prior period items."

After the text of account 590, "Income taxes on extraordinary and prior period items," the following new account number, title and text are added:

591 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 570, "Extraordinary items (net)" and 580, "Prior period items (net)". (See instruction 1–11.)

Account 599, "Form of income statement" is revised as follows:

After line item 532, "Railway tax accruals" add:

533 Provision for deferred taxes.

Amend line item 590, "Federal income taxes on extraordinary and prior period items" to read:

590 Income taxes on extraordinary and prior period items.

After line item 590, "Income taxes on extraordinary and prior period items" add:

591 Provision for deferred taxes—extraordinary and prior period items.

GENERAL BALANCE SHEET ACCOUNTS

The text of account 784 "Other deferred credits" is revised by deleting paragraph (b).

After the text of account 785 "Accrued depreciation; leased property," the following new account number, title and text are added:

786 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 533, "Provision for deferred taxes," and account 591, "Provision for deferred taxes-extraordinary and prior period items," representing the net tax effect of material timing differences (see definitions 21 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 1-11).

(c) This account shall be concurrently debited with amounts credited to account 533, "Provision for deferred taxes," representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) The unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

Note: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in accounts 713, "Other current assets," and 763, "Other current liabilities," as appropriate.

Account 799, "Form of general balance sheet statement," is revised by adding line item 786 after line item 785, "Accrued depreciation; leased property" to read:

786 Accumulated deferred income tax credits.

APPENDIX B

No. 34178 (Sub-No. 2)

AMEND PART 1202—UNIFORM SYSTEM OF ACCOUNTS FOR ELECTRIC RAILWAYS

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "Operating Expenses" amend instruction "01-16 Accounting for the Investment Tax Credit" to read:

01-16 Accounting for income taxes.

Under "Income Accounts" the following revisions are made:

After line item "215 Taxes assignable to transportation operations" add:

215-5 Provision for deferred taxes.

After line item "290 Income taxes on extraordinary and prior period items" add:

291 Provision for deferred taxes—extraordinary and prior period items.

Under "General Balance Sheet Accounts" add the following after line item "446 Other unadjusted credits":

447 Accumulated deferred income tax credits.

DEFINITIONS

Section "00-2 Definitions" is amended by adding the following definitions immediately after the definition for "Time of retirement":

* * * * *

"Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

"Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

"Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

"Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

"Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

"Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

"Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transations which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

"Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

"Interperiod tax allocation" means the process of apportioning income taxes among periods.

"Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

OPERATING EXPENSES, GENERAL INSTRUCTIONS

The title and text of instruction "01-16 Accounting for the investment tax credit" are amended to read:

01-16 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definitions) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 215, "Taxes assignable to transportation operations."

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 215, "Taxes assignable to transportation operations", or account 290, "Income taxes on extraordinary and prior period items," as applicable, and charge account 435-1, "Taxes accrued" with the amount of investment tax credit utilized in the current accounting period.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 215-5, "Provision for deferred taxes" or account 291, "Provision for deferred taxes—extraordinary and prior period items," as applicable, and shall credit account 447, "Accumulated deferred income tax credits" with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 215-5, "Provision for deferred taxes".

Note A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

Note B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or request an interpretation from the Commission.

INCOME INSTRUCTIONS AND ACCOUNTS

Instruction "03-6 Form of income statement" is revised by adding line items 215-5 and 291 as follows:

After line item "215 Taxes assignable to transportation operations" add:

215-5 Provision for deferred taxes.

After line item "290 Income taxes on extraordinary and prior period items" add:

291 Provision for deferred taxes—extraordinary and prior period items.

The test of account "215 Taxes assignable to transportation operations" is amended by revising paragraph (c) and deleting paragraph (e). As amended the text reads as follows:

(b) * * *

(c) Accruals for all income taxes which are estimated to be payable and which are applicable to ordinary income (see instruction

01-16) shall be included in this account. See texts of account 290, "Income taxes on extraordinary and prior period items," account 306, "Other credits to earned surplus," and account 317, "Other debits to earned surplus," for recording other income tax consequences.

(b) * * *

Note A: * * *

* * * * *

After the text of account "215 Taxes assignable to transportation operations" the following new account number, title and text are added:

215-5 Provision for deferred taxes.

(a) This account shall include the tax effect of all timing differences (see definitions) originating and reversing in the current accounting period.

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 01-16(d)).

The text of account "270 Extraordinary items (net)" is amended by revising paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 290, "Income taxes on extraordinary and prior period items" and account 291, "Provision for deferred taxes-extraordinary and prior period items," as applicable.

* * * * *

The text of account "280 Prior period items (net)" is amended by revising paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 290, "Income taxes on extraordinary and prior period items" and account 291, "Provision for deferred taxes—extraordinary and prior period items," as applicable.

The text of account "290 Income taxes on extraordinary and prior period items" is revised to read:

290 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 270, "Extraordinary items (net)" and 280, "Prior period items (net)". The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 291, "Provision for deferred taxes—extraordinary and prior period items".

After the text of account "290 Income taxes on extraordinary and prior period items" add the following new account number, title and text:

291 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 270, "Extraordinary items (net)" and 280, "Prior period items (net)". (See instruction 01-16).

GENERAL BALANCE SHEET

Instruction "05-7 Form of general balance sheet statements" is revised by adding line item 447 immediately after line item "446 Other unadjusted credits", as follows:

447 Accumulated deferred income tax credits.

GENERAL BALANCE SHEET ACCOUNTS

The text of account "446 Other unadjusted credits" is revised by deleting paragraph (b).

After the text of account "446 Other unadjusted credits" add the following new account number, title and text:

447 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 215-5, "Provision for deferred taxes" and account 291, "Provision for deferred taxes—extraordinary and prior period items", representing the net tax effect of material timing differences (see definitions) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 01-16).

(c) This account shall be concurrently debited with amounts credited to account 215-5, "Provision for deferred taxes" representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

Note: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in accounts 413, "Other current assets", and 436, "Other current liabilities", as appropriate.

APPENDIX C

No. 34178 (Sub-No. 2)

AMEND PART 1203—UNIFORM SYSTEM OF ACCOUNTS FOR EXPRESS COMPANIES

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Instructions" amend line item "1-18 Accounting for the Investment Tax Credit" to read:

1-18 Accounting for income taxes.

Under "Balance Sheet Account Classifications" add the following after line item "242 Deferred Credits":

243 Accumulated deferred income tax credits.

Under "Income Accounts" the following revisions are made:

After line item "813 Other income taxes" add:

820 Provision for deferred taxes.

821 Provision for deferred taxes.

After line item "931 Income taxes on extraordinary and prior period items" add:

940 Provision for deferred taxes—extraordinary and prior period items.

941 Provision for deferred taxes—extraordinary and prior period items.

DEFINITIONS

In part (i) "Definitions", after the text of definition 40 "Used", add the following:

* * * * *

41. (a) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(b) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(c) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(d) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(e) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently.

(f) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(g) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(h) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(i) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(j) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

GENERAL INSTRUCTIONS

Instruction "1-2 Accounting scope", paragraph (d), is amended by adding the following:

After line item "242 Deferred credits" add:

243 Accumulated deferred income tax credits

After line item "813 Other income taxes" add:

815 Provision for deferred taxes

After line item "931 Income taxes on extraordinary and prior period items" add:

932 Provision for deferred taxes—extraordinary and prior period items

Instruction "1-18 Accounting for the investment tax credit" is amended by revising the title and text to read:

1-18 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition 41(e)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax

return purposes shall be charged to account 810, Income taxes on ordinary income.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions 41 (g) and (e)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 810, Income taxes on ordinary income, or account 930, Income taxes on extraordinary and prior period items, as applicable, and charge account 215, Income taxes accrued, with the amount of investment tax credit utilized in the current accounting period.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 820, Provision for deferred taxes or account 940, Provision for deferred taxes—extraordinary and prior period items, as applicable, and shall credit account 243, Accumulated deferred income tax credits with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 820, Provision for deferred taxes.

Note A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

Note B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or request an interpretation from the Commission.

BALANCE SHEET ACCOUNT CLASSIFICATIONS

The text of account "242 Deferred credits" is revised by deleting paragraph (d).

After the text of account "242 Deferred credits" add the following new account number, title and text:

243 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 820, Provision for deferred taxes and account 940, Provision for deferred taxes—extraordinary and prior period items, representing the net tax effect of material timing differences (see definitions 41 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 1–18).

(c) This account shall be concurrently debited with amounts credited to account 820, Provision for deferred taxes representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

Note: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in accounts 119, Other current assets, and 219, Other current liabilities, as appropriate.

Account "299 Form of balance sheet" is amended by adding the following after line item "242 Deferred credits":

243 Accumulated deferred income tax credits.

INCOME ACCOUNTS

After the text of account "813 Other income taxes" the number and title for new control account 820, and the number, title and text for new account 821 are added to read:

820 Provision for deferred taxes.

821 Provision for deferred taxes.

(a) This account shall include the tax effect of all timing differences (see definitions 41 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 1–18(d).)

The text of account "911 Extraordinary items (net)" is amended by revising paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 930, Income taxes on extraordinary items, and account 940, Provision for deferred taxes—extraordinary and prior period items, as applicable.

* * * * *

The text of account "921 Prior period items (net)" is amended by revising paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 930, Income taxes on extraordinary items, and account 940, Provision for deferred taxes—extraordinary and prior period items, as applicable.

* * * * *

The text of account "931 Income taxes on extraordinary and prior period items" is revised to read:

931 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 910, Extraordinary items (net) and 920, Prior period items (net). The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 940, Provision for deferred taxes—extraordinary and prior period items.

Following the text of account "931 Income taxes on extraordinary and prior period items," the title for control account "940, Provision for deferred taxes—extraordinary and prior period items," and the title and text for account "941, Provision for deferred taxes—extraordinary and prior period items" are added to read:

940 Provision for deferred taxes—extraordinary and prior period items.

941 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 910, Extraordinary items (net) and 920, Prior period items (net). (See instruction 1–18.)

Account "999 Form of Income Statement" is revised as follows:

After line item "810 Income taxes on ordinary income" add:

820 Provision for deferred taxes.

After line item "930 Income taxes on extraordinary and prior period items" add:

940 Provision for deferred taxes—extraordinary and prior period items.

APPENDIX D

No. 34178 (Sub-No. 2)

AMEND PART 1204—UNIFORM SYSTEM OF ACCOUNTS FOR PIPELINE COMPANIES

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Instructions" amend instruction "1–12 Accounting for the Investment Tax Credit" to read:

1–12 Accounting for income taxes.

Under "Balance Sheet Accounts" add the following after line item "63 Other noncurrent liabilities":

64 Accumulated deferred income tax credits.

Under "Income Accounts" the following revisions are made:

Line item "670 Federal income taxes on ordinary income" is revised to read:

670 Income taxes on ordinary income.

After line item "670 Income taxes on ordinary income" add:

671 Provision for deferred taxes.

Amend line item "695 Federal income taxes on extraordinary and prior period items" to read:

695 Income taxes on extraordinary and prior period items.

After line item "695 Income taxes on extraordinary and prior period items" add:

696 Provision for deferred taxes—extraordinary and prior period items.

DEFINITIONS

After the text of definition 29 "Straight-line method" add the follow definitions:

30. (a) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(b) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(c) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(d) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(e) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in

which they enter into the determination of pretax accounting income. Timing differences originate in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(f) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(g) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent different does not result in a "tax effect" as that term is used in this definition.

(h) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(i) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(j) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

GENERAL INSTRUCTIONS

Instruction "1-12 Accounting for the investment tax credit" is amended by revising the title and text to read:

1-12 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition 30(e)) occur beween pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 670, Income taxes on ordinary income.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions 30 (g) and (e)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 670, Income taxes on ordinary income, or account 695, Income taxes on extraordinary and prior period items, as applicable, and charge account 56, Taxes payable, with the amount of investment tax credit utilized in the current accounting period.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 671, "Provision for deferred taxes" or account 696, "Provision for deferred taxes—extraordinary and prior period items," as applicable, and shall credit account 64, Accumulated deferred income tax credits with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 671, "Provision for deferred taxes".

Note A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

Note B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or request an interpretation from the Commission.

BALANCE SHEET ACCOUNTS

The text of account "63 Other noncurrent liabilities" is amended by deleting paragraph (b).

After the text of account "63 Other noncurrent liabilities" the following new account number, title and text are added:

64 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 671, Provision for deferred taxes and account 696, Provision for deferred taxes—extraordinary and prior period items, representing the net tax effect of material timing differences (see definitions 30 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 1-12).

(c) This account shall be concurrently debited with amounts credited to account 671, Provision for deferred taxes representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

Note: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in accounts 19, Other current assets, and 58, Other current liabilities, as appropriate.

OPERATING EXPENSES

The text of account "580 Pipeline taxes," paragraph (a), is amended by deleting the reference to Federal income taxes. As amended the text reads:

580 Pipeline taxes.

(a) This account shall include accruals for taxes of all kinds, excepting income taxes (see definition 30(a)), relating to carrier property, operations, privileges and licenses.

(b) * * *

INCOME ACCOUNTS

The title of account "670 Federal income taxes on ordinary income" is amended by deleting the reference to Federal. Also, the text of this account is amended by revising paragraph (a) and deleting paragraph (c). As amended, the text reads:

670 Income taxes on ordinary income.

(a) This account shall be debited with the monthly accruals for all income taxes which are estimated to be payable and which are applicable to ordinary income (see instruction 1-12). See the texts of account 695, Income Taxes on Extraordinary and Prior Period Items, account 710, Other Credits to Retained Income, and account 720, Other Debits to Retained Income, for recording other income tax consequences.

(b) * * *

After the text of account "670 Income taxes on ordinary income" the following new account number, title and text are added:

671 Provision for deferred taxes.

(a) This account shall include the tax effect of all timing differences (see definitions 30 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 1-12(d)).

The text of account "680 Extraordinary items (net)" is amended by revising paragraph (c) to read:

* * * * *

(c) Income tax consequences of charges and credits to this account shall be recorded in account 695, Income Taxes on Extraordinary and Prior Period Items, or account 696, Provision for Deferred Taxes—Extraordinary and Prior Period Items, as applicable.

The text of account "690 Prior period items (net)" is amended by revising paragraph (c) to read:

* * * * *

(c) Income tax consequences of charges and credits to this acount shall be recorded in account 695, Income Taxes on Extraordinary and Prior Period Items, or account 696, Provision for Deferred Taxes—Extraordinary and Prior Period Items, as applicable.

The title and text of account "695 Federal income taxes on extraordinary and prior period items" is revised to read:

695 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 680, Extraordinary items (net) and 690, Prior period items (net). The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 696, Provision for deferred taxes—extraordinary and prior period items.

After the text of account "695 Income taxes on extraordinary and prior period items" the following new account number, title and text are added:

696 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 680, Extraordinary items (net) and 690, Prior period items (net). (See instruction 1–12).

Account "797 Form of Balance Sheet Statement" is revised by adding the following after line item "63 Other Noncurrent Liabilities":

64 Accumulated Deferred Income Tax Credits.

Account "798 Form of Income Statement" is revised as follows:

Amend line item "670 Federal income taxes on ordinary income" to read:

670 Income taxes on ordinary income.

After line item "670 Income taxes on ordinary income" add:

671 Provision for deferred taxes.

Amend line item "695 Federal income taxes on extraordinary and prior period items" to read:

695 Income taxes on extraordinary and prior period items.

After line item "695 Income taxes on extraordinary and prior period items" add:

696 Provision for deferred taxes—extraordinary and prior period items.

APPENDIX E

No. 34178 (Sub-No. 2)

AMEND PART 1205—UNIFORM SYSTEM OF ACCOUNTS FOR REFRIGERATOR CAR LINES

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "Income and Balance Sheet Accounts Instructions" amend instruction "42 Accounting for the Investment Tax Credit" to read:

42 Accounting for income taxes.

Under "Income Accounts Texts" the following revisions are made:

After line item "532 Car line tax accruals" add:

532–5 Provision for deferred taxes.

Amend line item "590 Federal income taxes on extraordinary and prior period items" to read:

590 Income taxes on extraordinary and prior period items.

After line item "590 Income taxes on extraordinary and prior period items" add:

591 Provision for deferred taxes—extraordinary and prior period items.

Under "General Balance Sheet Accounts Texts" add the following after line item "784 Other deferred credits":

785 Accumulated deferred income tax credits.

GENERAL INSTRUCTIONS

Instruction "2 Definitions" is amended by adding the following definitions after the text of definition (y) "Value of salvage":

(z) (1) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(2) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(3) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(4) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(5) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(6) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(7) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determinaion of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(8) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(9) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(10) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

INCOME AND BALANCE SHEET ACCOUNTS INSTRUCTIONS

The title and text of instruction "42 Accounting for the investment tax credit" is amended to read:

42 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition (z)(5)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 532 "Car line tax accruals".

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions (z) (7) and (5)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 532 "Car line tax accruals" or account 590 "Income taxes on extraordinary and prior period items", as applicable, and charge account 760 "Federal income taxes accrued" with the amount of investment tax credit utilized in the current accounting period.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 532–5 "Provision for deferred taxes" or account 590 "Provision for deferred taxes—extraordinary and prior period items", as applicable, and shall credit account 785 "Accumulated deferred income tax credits" with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 532–5 "Provision for deferred taxes".

Note A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

Note B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or request an interpretation from the Commission.

INCOME ACCOUNTS TEXTS

The third paragraph of the text of account "532 Car line tax accruals" is revised to read:

* * * * *

This account shall be debited with the monthly accruals for all income taxes which are estimated to be payable and which are applicable to ordinary income (see instruction 42). See texts of account 590 "Income taxes on extraordinary and prior period items", account 606, "Other credits to retained income", and account 616, "Other debits to retained income", for recording other income tax consequences. Details pertaining to the tax consequences of other unusual and significant items shall be submitted to the Commission for consideration and decision as to proper accounting.

Note A: * * *

* * * * *

After the text of account "532 Car line tax accruals" the following new account number, title and text are added:

532–5 Provision for deferred taxes.

(a) This account shall include the tax effect of all timing differences (see definitions (z) (7) and (5)) originating and reversing in the current accounting period.

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 42(d)).

The text of account "570 Extraordinary items (net)" is amended by revising paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 590, "Income taxes on extraordinary and prior period items", and account 591, "Provision for deferred taxes—extraordinary and prior period items", as applicable.

* * * * *

The text of account 580, "Prior period items (net)" is amended by revising paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 590, "Income taxes on extraordinary and prior period items", and account 591, "Provision for deferred taxes—extraordinary and prior period items", as applicable.

The title and text of account 590, "Federal income taxes on extraordinary and prior period items" are revised to read:

590 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary and are recorded in accounts 570, "Extraordinary items (net)", and 580, "Prior period items (net)". The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 591, "Provision for deferred taxes—extraordinary and prior period items".

After the text of account "590 Income taxes on extraordinary and prior period items" the following new account number, title and text are added:

591 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 570 "Extraordinary items (net)" and 580 "Prior period items (net)". (See instruction 42.)

Account "599 Form of income statement" is amended as follows:

After line item "532 Car line tax accruals" add:

532–5 Provision for deferred taxes.

Amend line item "590 Federal income taxes on extraordinary and prior period items" to read:

590 Income taxes on extraordinary and prior period items.

After line item "590 Income taxes on extraordinary and prior period items" add:

591 Provision for deferred taxes—extraordinary and prior period items.

GENERAL BALANCE SHEET ACCOUNTS

The text of account "784 Other deferred credits" is amended by deleting paragraph (b).

After the text of account "784 Other deferred credits" the following new account number, title and text are added:

785 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account "532–5 Provision for deferred taxes" and account "591 Provision for deferred taxes—extraordinary and prior period items", representing the net tax effect of material timing differences (see definitions (z) (7) and (5)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 42).

(c) This account shall be concurrently debited with amounts credited to account "532–5 Provision for deferred taxes" representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

Note: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in accounts "713 Other current assets", and "763 Other current liabilities", as appropriate.

Account "799 Form of general balance sheet statement" is amended by adding the following after line item "784 Other deferred credits":

785 Accumulated deferred income tax credits.

APPENDIX F

No. 34178 (Sub-No. 2)

AMEND PART 1206—UNIFORM SYSTEM OF ACCOUNTS FOR COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

LIST OF DEFINITIONS, INSTRUCTIONS AND ACCOUNTS

Under "Definitions," after a line item "1–40 Used" add:

1–41 Terminology relative to accounting for income taxes.

Under "Instructions" amend line item "2–32 Accounting for the investment tax credit" to read:

2–32 Accounting for income taxes.

Under "Balance Sheet Accounts," after line item "2450 Other deferred credits" add:

2460 Accumulated deferred income tax credits.

Under "Income Accounts" the following revisions are made:

After line item "8000 Income taxes on ordinary income" add:

8040 Provision for deferred taxes.

After line item "9050 Income taxes on extraordinary and prior period items" add:

9060 Provision for deferred taxes—extraordinary and prior period items.

DEFINITIONS

After the text of definitions "1–40 Used" add the following new definitions:

1–41 Terminology relative to accounting for income taxes.

(a) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(b) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(c) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(d) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(e) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(f) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(g) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(h) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(i) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(j) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

INSTRUCTIONS

The title and text of instruction "2–32 Accounting for the investment tax credit" is amended to read:

2–32 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition 1–41(e)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 8000, Income taxes on ordinary income.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions 1–41 (g) and (e)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 8000, Income taxes on ordinary income, or account 9050, Income taxes on extraordinary and prior period items, as applicable, and charge account 2120, Taxes accrued, with the amount of investment tax credit utilized in the current accounting period.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 8040, Provision for deferred taxes or account 9060, Provision for deferred taxes—extraordinary and prior period items, as applicable, and shall credit account 2460, Accumulated deferred income tax credits with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 8040, Provision for deferred taxes.

Note A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

Note B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or request an interpretation from the Commission.

BALANCE SHEET ACCOUNTS

The text of account "2450 Other deferred credits" is revised by deleting paragraph (b).

After the text of account "2450 Other deferred credits," the following new account number, title and text are added:

2460 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 8040, Provision for deferred taxes and account 9060, Provision for deferred taxes—extraordinary and prior period items, representing the net tax effect of material timing differences (see definitions 1–41 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 2–32).

(c) This account shall be concurrently debited with amounts credited to account 8040, Provision for deferred taxes representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

Note: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in accounts 1190, Other current assets, and 2180, Other current liabilities, as appropriate.

Account "2999 Form of balance sheet statement" is amended by adding the following after line item "2450 Other Deferred Credits":

2460 Accumulated Deferred Income Tax Credits.

INCOME ACCOUNTS

The text of account "8000 Income taxes on ordinary income" is revised by amending paragraph (a) (1) and deleting paragraph (a) (3). As amended the text reads:

(a) (1) This account shall be debited with the monthly accruals for all income taxes which are estimated to be payable and which are applicable to ordinary income (see instruction 2–32). See text of account 9060, Income taxes on extraordinary and prior period items.

(2) * * *

(b) * * *

* * * * *

After the text of account "8000 Income taxes on ordinary income" the following new account number, title and text are added:

8040 Provision for deferred taxes

(a) This account shall include the tax effect of all timing differences (see definitions 1–41 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 2–32(d)).

The text of account "9010 Extraordinary items (net)" is amended by revising paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 9050, Income taxes on extraordinary and prior period items and 9060, Provision for deferred taxes—extraordinary and prior period items, as applicable.

* * * * *

The text of account "9030 Prior period items (net)" is amended by revising paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 9050, Income taxes on extraordinary and prior period items, and 9060, Provision for deferred taxes—extraordinary and prior period items, as applicable.

The text of account "9050 Income taxes on extraordinary and prior period items" is amended to read:

9050 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 9010, Extraordinary items (net) and 9030, Prior period items (net). The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 9060, Provision for deferred taxes—extraordinary and prior period items.

After the text of account "9050 Income taxes on extraordinary and prior period items" the following new account number, title and text are added:

9060 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in account 9010, Extraordinary items (net) and 9030, Prior period items (net). (See instruction 2–32).

Account "9999 Form of income statement" is amended as follows:

After line item "8000. Income taxes on ordinary income" add:

8040. Provision for deferred taxes.

After line item "9050. Income taxes on extraordinary and prior period items" add:

9060. Provision for deferred taxes—extraordinary and prior period items.

APPENDIX G

No. 34178 (Sub-No. 2)

AMEND PART 1207—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

DEFINITIONS

After the text of definition "38 Used" the following are added:

39. (a) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(b) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(c) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(d) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(e) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(f) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(g) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(h) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(i) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(j) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

INSTRUCTIONS

The text of instruction "31 Income taxes" is amended to read as follows:

31. Income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition 39(e)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 8700—Income taxes on ordinary income.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions 39 (g) and (e)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 8700—Income taxes on ordinary income, or account 8850—Income taxes on extraordinary and prior period items, as applicable, and charge account 2121—Accrued Federal income taxes, with the amount of investment tax credit utilized in the current accounting period.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 8740—Provision for deferred taxes, or account 8851—Provision for deferred taxes—extraordinary and prior period items, as applicable, and shall credit account 2420—Accumulated deferred income tax credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 8740—Provision for deferred taxes.

Note A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

Note B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or request an interpretation from the Commission.

CLASS I AND CLASS II MOTOR CARRIERS, CHART OF ACCOUNTS

BALANCE SHEET—LIABILITIES AND EQUITY

Under the heading "Class II accounts", after line item "2410 Deferred credits" add:

2420 Accumulated deferred income tax credits

Under the heading "Class I accounts", after line item "2412 Other deferred credits", add:

2420 Accumulated deferred income tax credits

OTHER INCOME AND EXPENSES

Under the heading "Class II accounts", after line item "8700 Income taxes on ordinary income", add:

8740 Provision for deferred taxes

Under the heading "Class I accounts", after line item "8730 Other income taxes" add:

8740 Provision for deferred taxes.

After line item "8850 Income taxes on extraordinary and prior period items", add:

8851 Provision for deferred taxes—extraordinary and prior period items.

CLASS I AND CLASS II MOTOR CARRIERS BALANCE SHEET ACCOUNT EXPLANATIONS

The text of account "2412 Other deferred credits" is revised by deleting paragraph (b).

After the text of account "2412 Other deferred credits," the following new account number, title and text are added:

2420—Accumulated deferred income tax credits (classes I and II).

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 8740—Provision for deferred taxes, and account 8851—Provision for deferred taxes—extraordinary and prior period items, representing the net tax effect of material timing differences (see definitions 39 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 31(e)).

(c) This account shall be concurrently debited with amounts credited to account 8740—Provision for deferred taxes, representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

Note: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in accounts 1163—Other current assets; other, and 2181—Other current liabilities, as appropriate.

OTHER INCOME AND EXPENSE ACCOUNT EXPLANATIONS

The text of account "8700 Income taxes on ordinary income" is amended by deleting paragraph (e).

After the text of account "8730—Other income taxes," the following new account number, title and text are added:

8740—Provision for deferred taxes (Classes I and II).

(a) This account shall include the tax effect of all timing differences (see definitions 39 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 31(d.)

The text of account "8800—Extraordinary items" is revised by amending paragraph (a). As revised the text reads:

8800—Extraordinary Items (Classes I and II).

(a) Class I carriers may use this account as a control account for accounts 8810, 8820, 8850 and 8851.

* * * * *

The text of account "8810—Extraordinary items (net)" is amended by revising paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 8850—Income taxes on extraordinary and prior period items, and account 8851—Provision for deferred taxes—extraordinary and prior period items, as applicable.

* * * * *

The text of account "8820—Prior period items (net)" is amended by revising paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 8850—Income taxes on extraordinary and prior period items, and account 8851—Provision for deferred taxes—extraordinary and prior period items, as applicable.

* * * * *

The text of account "8850—Income taxes on extraordinary and prior period items" is revised to read:

8850—Income taxes on extraordinary and prior period items (Class I).

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 8810—Extraordinary items (net), and 8820—Prior period items (net). The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 8851—Provision for deferred taxes—extraordinary and prior period items.

After the text of account "8850 Income taxes on extraordinary and prior period items" the following new account number, title and text are added:

8851—Provision for deferred taxes—extraordinary and prior period items (Class I).

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 8810—Extraordinary items (net), and 8820—Prior period items (net). (See instruction 31).

APPENDIX H

No. 34178 (Sub-No. 2)

AMEND PART 1208—UNIFORM SYSTEM OF ACCOUNTS FOR MARITIME CARRIERS

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Instructions" amend line item "12 Accounting for the investment tax credit" to read:

12 Accounting for income taxes.

Under "Balance sheet accounts" add the following after line item "556 Premium on funded debt":

563 Accumulated deferred income tax credits.

Under "Income accounts" the following revisions are made:

Amend line item "989 Federal income taxes on ordinary income" to read:

989 Income taxes on ordinary income.

After line item "989 Income taxes on ordinary income" add:

989–5 Provision for deferred taxes.

Amend line item "998 Federal income taxes on extraordinary and prior period items" to read:

998 Income taxes on extraordinary and prior period items.

After line item "998 Income taxes on extraordinary and prior period items" add:

999 Provision for deferred taxes—extraordinary and prior period items.

GENERAL INSTRUCTIONS

Instruction "1 Definitions" is amended by adding the following after the text of definition (i) "Shipping property":

(j) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(k) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(l) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(m) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(n) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(o) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(p) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(q) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(r) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(s) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

The title and text of instruction "12 Accounting for the investment tax credit" are revised to read:

12 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition (n)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 989, "Income taxes on ordinary income".

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions (p) and (n)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 989, "Income taxes on ordinary income," or account 998, "Income taxes on extraordinary and prior period items," as applicable, and charge account 440, "Accrued taxes payable" with the amount of investment tax credit utilized in the current accounting period.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 989–5, "Provision for deferred taxes" or account 999, "Provision for deferred taxes—extraordinary and prior period items," as applicable, and shall credit account 563, "Accumulated deferred income tax credits" with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 989–5, "Provision for deferred taxes".

Note A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

Note B: A carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or request an interpretation from the Commission.

BALANCE SHEET ACCOUNTS

After the text of account "556 Premium on funded debt" the following new account number, title and text are added:

563 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 989–5, "Provision for deferred taxes" and account 999, "Provision for deferred taxes—extraordinary and prior period items", representing the net tax effect of material timing differences (see definition (p) and (n)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 12).

(c) This account shall be concurrently debited with amounts credited to account 989–5, "Provision for deferred taxes" representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

Note: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in accounts 199, "All other current assets," and 479, "Other current liabilities," as appropriate.

The text of account "564 Miscellaneous deferred credits" is amended by deleting paragraph (b).

INCOME ACCOUNTS

The text of account "955 Taxes; miscellaneous", paragraph (a), is amended by deleting the reference to Federal income taxes. As amended the text reads:

955 Taxes; miscellaneous.

(a) This account shall include all taxes other than income taxes, sales taxes, and taxes computed on basis of payrolls such as old age benefits, unemployment compensation, and similar social security taxes.

(b) * * *

The title and text of account "989 Federal income taxes on ordinary income" is revised to read:

989 Income taxes on ordinary income.

(a) This account shall be debited with the monthly accruals for all income taxes which are estimated to be payable and which are applicable to ordinary income (see instruction 12). See text of account 599, "Earned surplus; unappropriated" and 998, "Income taxes on extraordinary and prior period items" for recording other income tax consequences.

(b) Details pertaining to the tax consequences of other unusual and significant items and also cases where the tax consequences are disproportionate to the related amounts included in the income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

After the text of account "989 Income taxes on ordinary income" the following new account number, title and text are added:

989–5 Provision for deferred taxes.

(a) This account shall include the tax effect of all timing differences (see definitions (p) and (n)) originating and reversing in the current accounting period.

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the de-

ferred method of accounting for the investment tax credit. (See instruction 12(d)).

The text of account "990 Extraordinary items (net)" is amended by revising paragraph (c) to read:

* * * * *

(c) Income tax consequences of charges and credits to this account shall be recorded in account 998, "Income taxes on extraordinary and prior period items" and account 999, "Provision for deferred taxes—extraordinary and prior period items", as applicable.

The text of account "994 Prior period items (net)" is amended by revising paragraph (c) to read:

* * * * *

(c) Income tax consequences of charges and credits to this account shall be recorded in account 998, "Income taxes on extraordinary and prior period items" and account 999, "Provision for deferred taxes—extraordinary and prior period items", as applicable.

The title and text of account "998 Federal income taxes on extraordinary and prior period items" are revised to read:

998 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 990, "Extraordinary items (net)" and 994, "Prior period items (net)". The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 999, "Provision for deferred taxes—extraordinary and prior period items".

After the text of account "998 Income taxes on extraordinary and prior period items" the following new account number, title and text are added:

999 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 990, "Extraordinary items (net)" and 994, "Prior period items (net)". (See instruction 12).

FINANCIAL STATEMENTS

Section "2000 Balance sheet statement" is amended by adding the following after line item "556 Premium on funded debt":

563 Accumulated deferred income tax credits.

Section "2001 Income statement" is revised as follows:

Amend line item "989 Federal income taxes on ordinary income" to read:

989 Income taxes on ordinary income.

After line item "989 Income taxes on ordinary income" add:

989-5 Provision for deferred taxes.

Amend line item "998 Federal income taxes on extraordinary and prior period items" to read:

998 Income taxes on extraordinary and prior period items.

After line item "998 Income taxes on extraordinary and prior period items" add:

999 Provision for deferred taxes—extraordinary and prior period items.

APPENDIX I

No. 34178 (Sub-No, 2)

AMEND PART 1209—UNIFORM SYSTEM OF ACCOUNTS FOR INLAND AND COASTAL WATERWAYS CARRIERS

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Instructions" amend line item "13 Accounting for the Investment Tax Credit" to read:

13 Accounting for income taxes.

Under "Balance Sheet Accounts", after line item "232 Other deferred credits" add:

233 Accumulated deferred income tax credits.

Under "Income Accounts" the following revisions are made:

After line item "532 Income taxes on ordinary income" add:

533 Provision for deferred taxes.

After line item "590 Income taxes on extraordinary and prior period items" add:

591 Provision for deferred taxes—extraordinary and prior period items.

GENERAL INSTRUCTIONS

Instruction "2 Definitions" is amended by adding the following after the text of definition "(hh) Value of salvage":

(ii) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(jj) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(kk) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(ll) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(mm) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(nn) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(oo) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes, and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(pp) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(qq) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(rr) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

The title and text of instruction "13 Accounting for the Investment Tax Credit" are amended to read:

13 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition (mm)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraph (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 532, "Income taxes on ordinary income".

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definition (oo) and (mm)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 532, "Income taxes on ordinary income", or account 590, "Income taxes on extraordinary and prior period items", as applicable, and charge account 206, "Accrued taxes", with the amount of investment tax credit utilized in the current accounting period.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 533, "Provision for deferred taxes" or account 591, "Provision for deferred taxes—extraordinary and prior period items", as applicable, and shall credit account 233, "Accumulated deferred income tax credits" with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 533, "Provision for deferred taxes".

Note A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax

credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

Note B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or request an interpretation from the Commission.

BALANCE SHEET ACCOUNTS

The text of account 232, "Other deferred credits" is revised by deleting paragraph (d).

After the text of account 232, "Other deferred credits" the following new account number, title and text are added:

233 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 533, "Provision for defererd taxes—extraordinary and prior period items", representing the net tax effect of material timing differences (see definitions (oo) and (mm)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 13).

(c) This account shall be concurrently debited with amounts credited to account 533, "Provision for deferred taxes" representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

Note: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in accounts 116, "Other current assets", and 209, "Other current liabilities," as appropriate.

BALANCE SHEET STATEMENT

Account 299, "Form of balance sheet statement" is amended by adding the following after line item 232, "Other deferred credits":

233 Accumulated deferred income tax credits.

INCOME ACCOUNTS

The text of account 532, "Income taxes on ordinary income" is amended by deleting paragraph (b).

After the text of account 532, "Income taxes on ordinary income" the following new account number, title and text are added:

533 Provision for deferred taxes.

(a) This account shall include the tax effect of all timing differences (see definitions (oo) and (mm)) originating and reversing in the current accounting period.

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 13(d)).

The text of account 570, "Extaordinary items (net)" is amended by revising paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be recorded in account 590, "Income taxes on extraordinary and prior period items", and account 591, "Provision for deferred taxes—extraordinary and prior period items", as applicable.

* * * * *

The text of account 580, "Prior period items (net)" is amended by revising paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be recorded in account 590, "Income taxes on extraordinary and prior period items", and account 591, "Provision for deferred taxes—extraordinary and prior period items", as applicable.

* * * * *

The text of account 590, "Income taxes on extraordinary and prior period items" is amended to read:

590 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are reported in accounts 570, "Extraordinary items (net)" and 580, "Prior period items (net)." The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 591, "Provision for deferred taxes—extraordinary and prior period items."

After the text of account 590, "Income taxes on extraordinary and prior period items," the following new account number, title and text are added:

591 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for current accounting period for income taxes deferred currently or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 570, "Extraordinary items (net)" and 580, "Prior period items (net)." (See instruction 13.)

Account 599, "Form of income statement" is revised as follows:

After line item 532, "Income taxes on ordinary income" add:

533 Provision for deferred taxes.

After line item 590, "Income taxes on extraordinary and prior period items" add:

591 Provision for deferred taxes—extraordinary and prior period items.

APPENDIX J

No. 34178 (Sub-No. 2)

AMEND PART 1210—UNIFORM SYSTEM OF ACCOUNTS FOR FREIGHT FORWARDERS

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Instructions" amend line item "8 Accounting for the Investment Tax Credit" to read:

8 Accounting for income taxes.

Under "General Balance Sheet Accounts," after line item "231 Other deferred credits" add:

232 Accumulated deferred income tax credits.

Under "Income Accounts" the following revisions are made:

After line item "431 Income taxes on ordinary income" add:

432 Provision for deferred taxes.

After line item "450 Income taxes on extraordinary and prior period items" add:

451 Provision for deferred taxes—extraordinary and prior period items.

GENERAL INSTRUCTIONS

Instruction "2 Definitions" is amended by adding the following after the text of definition "(n) Premium":

(o) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(p) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(q) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(r) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(s) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(t) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(u) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another periods and direct entries to other stockholders' carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(v) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(w) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(x) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

The title and text of instruction "8 Accounting for the investment tax credit" is amended to read:

8 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition (s)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 431, "Income taxes on ordinary income".

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions (u) and (s)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 431, "Income taxes on ordinary income," or account 450, "Income taxes on extraordinary and prior period items," as applicable, and charge account 204, "Accrued taxes," with the amount of investment tax credit utilized in the current accounting period.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 432, "Provision for deferred taxes" or account 451, "Provision for deferred taxes—extraordinary and prior period items," as applicable, and shall credit account 232, "Accumulated deferred income tax credits" with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 432, "Provision for deferred taxes."

Note A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

Note B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or request an interpretation from the Commission.

GENERAL BALANCE SHEET INSTRUCTIONS

Instruction "28 Form of general balance sheet statement" is amended by adding the following after the line item "231 Other deferred credits":

232 Accumulated deferred income tax credits.

GENERAL BALANCE SHEET ACCOUNTS

The text of account "231 Other deferred credits" is amended by deleting paragraph (d).

After the text of account "231 Other deferred credits" the following new account number, title and text are added:

232 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 432, "Provision for deferred taxes" and account 451, "Provision for deferred taxes—extraordinary and prior period items", representing the net tax effect of material timing differences (see definitions (u) and (s)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 8.)

(c) This account shall be concurrently debited with amounts credited to account 432, "Provision for deferred taxes" representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

Note: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in accounts 109, "Other current assets" and 209, "Other current liabilities," as appropriate.

INCOME INSTRUCTIONS

Instruction "63 Form of income statement" is revised as follows:

After line item "431 Income taxes on ordinary income" add:

432 Provision for deferred taxes.

After line item "450 Income taxes on extraordinary and prior period items" add:

451 Provision for deferred taxes—extraordinary and prior period items.

INCOME ACCOUNTS

The text of account "431 Income taxes on ordinary income" is revised by deleting paragraph (b).

After the text of account "431 Income taxes on ordinary income" the following new account number, title and text are added:

432 Provision for deferred taxes.

(a) This account shall include the tax effect of all timing differences (see definitions (u) and (s)) originating and reversing in the current accounting period.

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 8(d).)

The text of account "435 Extraordinary items (net)" is revised by amending paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be recorded in account 450, "Income taxes on extraordinary and prior period items," and account 451, "Provision for deferred taxes—extraordinary and prior period items," as applicable.

* * * * *

The text of account "440 Prior period items (net)" is revised by amending paragraph (b) to read:

* * * * *

(b) Income tax consequences of charges and credits to this account shall be recorded in account 450, "Income taxes on extraordinary and prior period items," and account 451, "Provision for deferred taxes—extraordinary and prior period items," as applicable.

The text of account "450 Income taxes on extraordinary and prior period items" is revised to read:

450 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 435, "Extraordinary items (net)" and 440, "Prior period items (net)". The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 451, "Provision for deferred taxes—extraordinary and prior period items".

After the text of account "450 Income taxes on extraordinary and prior period items" the following new account number, title and text are added:

451 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 435, "Extraordinary items (net)" and 440, Prior period items (net)." (See instruction 8).

[FR Doc.74-5550 Filed 3-8-74;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 STATE

[Public Notice 416]

DRAFT CONVENTION RELATING TO THE DISTRIBUTION OF PROGRAMME-CARRYING SIGNALS TRANSMITTED BY SATELLITE

Notice of Meeting

A diplomatic conference, sponsored jointly by United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Intellectual Property Organization (WIPO) will be held in Brussels, May 6 to 21, 1974. This diplomatic conference has been called to adopt a convention relating to the distribution of programme-carrying signals transmitted by satellite. The purpose of the convention is to protect programme-carrying signals transmitted by satellite from unauthorized distribution by requiring contracting states to prevent distribution of such signals on or from their territory by any distributor for whom the signals are not intended.

Although this is a foreign affairs function of the United States, it is considered appropriate to provide an opportunity for public comment on the proposed convention in the formulation of the United States position for this diplomatic conference.

A meeting sponsored by the Bureau of Economic and Business Affairs, Department of State, will be held to receive comments, at which members of the Advisory Committee on International Intellectual Property (International Copyright Panel) will be present on April 11, 1974, from 10:00 a.m. to 12:00 p.m. in Room 1408, Department of State, Washington, D.C. Comments submitted at this meeting or to the Department will be made available to the International Copyright Panel. The Panel will advise on the formulation of the United States position for the diplomatic conference and in its deliberations will consider all expressed views and comments.

Comments or requests for background information on material should be addressed to the Bureau of Economic and Business Affairs, Office of Business Practices, Room 3331, Department of State, Washington, D.C. 20520. Such communications must be received in the Department on or before April 11, 1974 for consideration.

Members of the public who desire to attend the meeting should come to the 2201 C Street entrance for admission and direction to the conference room.

Date: March 6, 1974.

ROBERT J. BUSHNELL,
Acting Director,
Office of Business Practices.

[FR Doc.74-5681 Filed 3-8-74;8:45 am]

DEPARTMENT OF THE TREASURY

Fiscal Service

(Dept. Circ. 570, 1973 Rev., Supp. No. 11)

HERITAGE INSURANCE CO.

Surety Companies Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $166,000.00 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated:

Heritage Insurance Company of America
Lincolnwood, Illinois
Illinois

Certificates of Authority expire on June 30 each year, unless sooner revoked, and new Certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Government Financial Operations, Audit Staff, Washington, D.C. 20226.

Dated: March 4, 1974.

JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.74-5495 Filed 3-8-74;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON REFORM OF THE INTERNATIONAL MONETARY SYSTEM

Notice of Meeting

Notice is hereby given that the Advisory Committee on Reform of the International Monetary System will meet at the Treasury Department in Washington, D.C., on March 15, 1974.

The meeting is called for the purpose of considering the basic issues involved in the current international negotiations for the reform of the international monetary system.

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that this meeting is for the purpose of considering matters falling within one or more of the exemptions to public disclosure set forth in 5 U.S.C. 552(b) and that the public interest requires such meeting be closed to public participation.

Dated: March 7, 1974.

[SEAL] PAUL A. VOLCKER,
Under Secretary for Monetary Affairs.

[FR Doc.74-5686 Filed 3-8-74;9:54 am]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

DRAFT ENVIRONMENTAL STATEMENT FOR PROPOSED KLAMATH STRAITS DRAIN ENLARGEMENT, KLAMATH PROJECT, OREGON-CALIFORNIA

Notice of Public Hearing

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed enlargement of the Klamath Straits Drain, a feature of the Klamath Project, Oregon-California. The statement (INT DES 74-18) was transmitted to the Council on Environmental Quality on February 26, 1974, and was made available to the public on March 5, 1974.

The 10-mile-long Klamath Straits Drain is located about 14 miles south of the city of Klamath Falls, Oregon. The drain conveys excess water from the Lower Klamath Lake area of Siskiyou County, California, and Klamath County, Oregon, to the Klamath River. It serves the lower Klamath National Wildlife Refuge and nearby agricultural lands. The draft environmental statement concerns a proposal to increase the capacity of the drain, by enlarging it and constructing two additional pumping plants, to permit more effective control of water levels in the wildlife refuge and enhance drainage of the agricultural lands.

A public hearing will be held on April 10, 1974, in the Favell Museum, West Main Street and Riverside Drive, Klamath Falls, Oregon, to receive views and comments from interested individuals and organizations concerning the draft environmental statement. The hearing will begin at 10 a.m. and will continue until all persons desiring to comment have been heard.

Individuals and representatives of organizations desiring to present their views at the hearng should contact the Project Manager, Klamath Project Office, Bureau of Reclamation, P.O. Box R, Klamath Falls, Oregon 97601 (telephone 503–882–7761). Requests for scheduling of oral presentations will be accepted until 4 p.m., April 5, 1974. Insofar as practicable, speakers will be scheduled according to the time preferences indicated in their letter or telephone requests.

The time permitted for oral presentations at the hearing may be limited to 10 minutes per speaker, depending on the number of presentations scheduled. Speakers will not be permitted to trade or consolidate their scheduled times to make longer individual presentations. However, the person presiding at the hearing may allow additional oral comments by anyone after all scheduled speakers have been heard. Written statements by persons who desire to supplement their oral presentations and by those unable to attend the public hearing may be submitted to the Project Manager through April 17, 1974, for inclusion in the hearing record.

Copies of the draft environmental statement are available for public examination at the Mid-Pacific Regional Office of the Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, and the Klamath Project Office, Bureau of Reclamation, Washburn Way and Joe Wright Road, Klamath Falls, Oregon 97601. Single copies of the statement may be obtained without charge by writing to the Regional Director, Bureau of Reclamation, at the address given above for the Mid-Pacific Regional Office.

Dated: March 5, 1974.

G. G. STAMM,
Commissioner of Reclamation.

[FR Doc.74–5499 Filed 3–8–74;8:45 am]

Office of the Secretary

[Order No. 2508, Amdt. 104]

DELEGATION OF AUTHORITY

Delegation of Authority to Commissioner With Respect to Specific Legislation

Section 30 of Order 2508, as amended, is further amended by the addition under paragraph (a) of a new subparagraph to read as follows:

Sec. 30. *Authority under specific acts.* (a) In addition to any authority delegated elsewhere in this order, the Commissioner of Indian Affairs, except as provided in paragraph (b) of this section, is authorized to perform the functions and exercise the authority vested in the Secretary of the Interior by the following acts or portions of acts or any acts amendatory thereof:

* * * * *

(58) Section 207 of Title II of the Highway Safety Act of 1973 (87 Stat. 285) which considers the Secretary of the Interior as "State" and "Governor of a State" and an Indian tribe as a "political subdivision of a State" for the purpose of providing funds for carrying out highway safety programs on Indian reservations.

ROGERS C. B. MORTON,
Secretary of the Interior.

FEBRUARY 28, 1974.

[FR Doc.74–5497 Filed 3–8–74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FEDERAL SEED ACT

Notice for Labeling and Advertising Alta and Kentucky 31 Tall Fescue Seed

Sections 201.12 and 201.36b of the regulations (7 CFR Part 201, as amended) under the Federal Seed Act (7 U.S.C. 1551 et seq.) provide, in part, that variety names in labeling and advertising subject to the Act shall be confined to variety names determined in accordance with § 201.34 of the regulations under the Act.

In the 1940's, the Department of Agriculture concluded that "Alta" and "Kentucky 31" were indistinguishable and therefore a single variety of tall fescue. The names were considered synonyms and have been used interchangeably in the labeling and advertising of seed. Information now available indicates that "Alta" and "Kentucky 31" are two separate varieties with separate origins and distinguishing plant characteristics.

The Alta variety of tall fescue was released in Oregon in 1940. It is reported to have originated from seed imported from Germany in 1907 and 1909. This seed was planted at Pullman, Washington. In 1918, selections from the plantings at Pullman, Washington, were established at Corvallis, Oregon. The Alta variety evolved as an ecotype selection from the plantings at Corvallis.

The Kentucky 31 variety was released by the Kentucky Agricultural Experiment Station in 1942. It is an ecotype selected by the Kentucky Agricultural Experiment Station in 1931 from a mountain farm in Menifee County, Kentucky. It is reported to be a result of natural selection occurring from a field seeded prior to 1875.

Current research shows that the variety Kentucky 31 is later to flower and mature, more resistant to crown rust, and withstands closer mowing under turf usage than the variety Alta.

Therefore, "Alta" and "Kentucky 31" tall fescue shall be considered separate and distinct varieties and the two variety names may no longer be used interchangeably in labeling and advertising subject to the Federal Seed Act.

Effective date. This notice shall become effective September 1, 1974.

Done at Washington, D.C., on: March 6, 1974.

JOHN C. BLUM,
Deputy Administrator Regulatory Programs.

[FR Doc.74–5557 Filed 3–8–74;8:45 am]

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE

Notice of Public Meeting

Pursuant to the provisions of section 10(a)(2) of Public Law 92–463, notice is hereby given of a meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The committee will meet in the auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m., local time, on March 19, 1974.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the committee includes the receipt and review of market supply and demand information incidental to consideration of the need for modification of current grade and size limitations applicable to domestic and export shipments of the named fruits and container and pack requirements for export shipments.

The names of committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813–682–3103.

Dated: March 7, 1974.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc.74–5670 Filed 3–8–74;8:45 am]

Forest Service

ROCK CREEK ADVISORY COMMITTEE

Notice of Meeting

The Rock Creek Advisory Committee will meet at 7 p.m. on March 26, 1974. Meeting place will be in Drummond, Montana, in the basement of the Catholic Church.

The purpose of this meeting is to discuss the preparation of planning alternatives for the Medicine Lake/East Fork Planning Unit on the Deerlodge National Forest. The Committee will be working on and/or reviewing criteria used to evaluate land capabilities and suitabilities within the planning unit.

The meeting will be open to the public. Any member of the public who wishes to

do so shall be permitted to file a written statement with the Committee before or after the meeting. To the extent that time permits, the Committee Chairman may permit interested persons to present oral statements at the meeting.

General participation by members of the public in Committee meetings, or the questioning of Committee members or other participants shall not be permitted unless approved by the majority of Committee members.

Dated: March 1, 1974.

GEORGE M. SMITH,
Forest Supervisor,
Deerlodge National Forest.

[FR Doc.74-5519 Filed 3-8-74;8:45 am]

Rural Electrification Administration

SOUTHERN MARYLAND ELECTRIC COOPERATIVE, INC.

Final Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Statement in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with existing and proposed loan applications from Southern Maryland Electric Cooperative, Inc., Hughesville, Maryland. These loan applications, together with funds from other sources, will include financing for approximately 22.3 miles of 230 kV transmission line with a switching station at one terminal and a 230 kV to 69 kV stepdown substation at the other terminal.

Additional information may be secured by request submitted to Mr. David H. Askegaard, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The final Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., Room 4310 or at the borrower's address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 1st day of March, 1974.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc.74-5494 Filed 3-8-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COUNCIL ON LIBRARY RESOURCES INC., ET AL.

Applications for Duty-Free Entry of Scientific Articles

Correction

In FR Doc. 74-4591 appearing on page 7601, the docket number of the last application, that of Florida A&M University, now reading "74-00293-77040", should read "74-00293-33-77040".

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

COAL MINE HEALTH RESEARCH ADVISORY COUNCIL

Notice of Meeting

Pursuant to Public Law 92-463, the Director, Center for Disease Control announces the meeting dates and other required information for the following National Advisory body of the National Institute for Occupational Safety and Health which is scheduled to assemble during the month of March 1974.

Committee name	Date/time/place	Type of meeting and/or contact person
Coal Mine Health Research Advisory Council.	Mar. 28, 1974, 1:30 to 5:30 p.m. Mar. 29, 1974, 8 a.m. to 12 noon, Camelot Room, Barkley Americana Hotel, Greater Cincinnati Airport, Cincinnati, Ohio.	Open—Mar. 28 and on Mar. 29 to 10:45 a.m. Closed—remainder of meeting. Contact: Dr. Raymond T. Moore, NIOSH, room 3-50, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code: 301-443-2100.

Purpose: The Council is charged with advising the Secretary, Department of Health, Education, and Welfare on matters involving or relating to coal mine health research, including grants and contracts for such research.

Agenda: From 1:30 p.m. on March 28 to 10:45 a.m. on March 29, the Council will be open for discussion of progress reports on second round medical examinations under the Federal Coal Mine Health and Safety Act of 1969, dust characterization of mines included in the National Coal Study, progress report on autopsy program and population studies, overview of coal mine health research at Cincinnati, and pulmonary function determination cooperative program. From 10:45 a.m. on March 29 through the end of the meeting, the Council will review research grant applications and will not be open to the public, in accordance with the determination by the Director, Center for Disease Control, pursuant to the provisions of Public Law 92-463, section 10(d).

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: March 4, 1974.

DAVID J. SENCER,
Director,
Center for Disease Control.

[FR Doc.74-5493 Filed 3-8-74;8:45 am]

Food and Drug Administration

[DESI 6566]

INJECTABLE PREPARATION CONTAINING METHOCARBAMOL

Follow-up Notice

The Food and Drug Administration published a notice in the FEDERAL REGISTER of June 25, 1970 (35 FR 10394) regarding the efficacy of the following drug:

Robaxin Injectable containing 100 milligrams methocarbamol per milliliter (NDA 11-790); marketed by A. H. Robins Co., 1407 Cummings Drive, Richmond, VA 23220.

Other drugs were also included in the notice of June 25, 1970. They have been or will be the subject of other notices.

The June 25, 1970 notice stated that the above-listed drug was regarded as possibly effective and lacking substantial evidence of effectiveness for its labeled indications.

Based on the information submitted by the manufacturers of skeletal muscle relaxant drugs and a review of available evidence, the Commissioner of Food and Drugs concludes that the injectable form of methocarbamol is less-than-effective (probably effective) for the indication described below.

The other less-than-effective indications (possibly effective) for this dosage form have been reclassified as lacking substantial evidence of effectiveness.

Accordingly, the previous notice is amended to read as follows, insofar as it pertains to the drug listed above.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that:

1. The injectable form of methocarbamol is less-than-effective probably effective) for the indication described below. The probably effective evaluation is based upon the need for further studies to characterize the toxic potential of this form of the drug, e.g., the possibility of hemolysis.

2. The drug lacks substantial evidence of effectiveness for all other indications.

B. *Marketing status.* 1. Until May 10, 1974, the holder of any approved new drug application for a drug classified in paragraph A above as lacking substantial evidence of effectiveness is requested to submit a supplement to his application, as needed, to provide for revised labeling which deletes those indications for which substantial evidence of effectiveness is lacking. Such a supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to do so may result in a proposal to withdraw approval of the new drug application.

2. If any identical, similar, or related product is on the market without an

approved new drug application, its labeling shall be revised to delete those claims for which substantial evidence of effectiveness is lacking as described in paragraph A–2 above. Failure to delete such indications and to put the revised labeling into use by May 10, 1974 will cause the product to be subject to regulatory proceedings.

3. Labeling revised pursuant to this notice should furnish adequate information for safe and effective use of the drug, and recommend use of the drug for the less-than-effective (probably effective) indication as follows:

INDICATION

The injectable form of methocarbamol is indicated as an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute, painful musculo-skeletal conditions. The mode of action of this drug has not been clearly identified, but may be related to its sedative properties. Methocarbamol does not directly relax tense skeletal muscles in man.

C. *Submission of data.* Any data submitted in response to this notice to support indications for which the drug is classified as other than effective must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 FR 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

Communications forwarded in response to this notice should be identified with the reference number DESI 6566, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852.

Supplements (identify with NDA number): Office of Scientific Evaluation (HFD–100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Manager (HFD–101), Bureau of Drugs.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed and are subject to this notice. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (HFD–300), 5600 Fishers Lane, Rockville, Maryland 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and the Administrative Procedure Act (5 U.S.C. 554), and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: March 1, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74–5512 Filed 3–8–74;8:45 am]

[DESI 6566; Docket No. FDC–D–686; NDA 11–011]

ORAL AND INJECTABLE PREPARATIONS CONTAINING ORPHENADRINE CITRATE; ORAL PREPARATIONS CONTAINING METHOCARBAMOL

Follow-up Notice

The Food and Drug Administration published an announcement in the FEDERAL REGISTER of June 25, 1970 (35 FR 10394) regarding the efficacy of the following drugs:

1. Robaxin Tablets containing 500 milligrams methocarbamol (NDA 11–011); and

2. Robaxin-750 Tablets containing 750 milligrams methocarbamol (NDA 11–011); both marketed by A. H. Robins Co., 1407 Cummings Drive, Richmond, Va. 23220.

3. Norflex Tablets containing 100 milligrams orphenadrine citrate (NDA 12–157); and

4. Norflex Injectable containing 60 milligrams orphenadrine citrate per 2 milliliters (NDA 13–055); both marketed by Riker Laboratories Inc., Subsidiary of 3M Company, 19901 Nordhoff Street, Northridge, CA 91324.

A notice covering the injectable form of methocarbamol appears elsewhere in this issue of the FEDERAL REGISTER (p. 9486).

Other drugs were also included in the notice of June 25, 1970. They have been or will be the subject of other notices.

The June 25, 1970 notice stated that the above listed drugs were regarded as possibly effective and lacking substantial evidence of effectiveness for their labeled indications.

Based on information submitted by the manufacturers of skeletal muscle relaxant drugs and a review of available evidence, the Commissioner of Food and Drugs finds it appropriate to amend the announcement of June 25, 1970 insofar as it pertains to the drugs listed above, as set forth below.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. Orphenadrine citrate, in both oral and injectable forms and the oral form of methocarbamol are effective for the indication described in the labeling conditions below.

2. These drugs lack substantial evidence of effectiveness for all other indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Orphenadrine citrate preparations are in tablet form suitable for oral administration or sterile solution suitable for intramuscular-intravenous administration, and methacarbamol preparations are in tablet form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations, and the labeling bears adequate information for safe and effective use of the drug(s). The "Indication" is as follows:

INDICATION

(*Name of drug*) is indicated as an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute, painful musculo-skeletal conditions. The mode of action of this drug has not been clearly identified, but may be related to its sedative properties. (*Name of drug*) does not directly relax tense skeletal muscles in man.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled *Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study*, published in the FEDERAL REGISTER July 14, 1970 (35 FR 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1)(i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a)(3)(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

C. *Notice of opportunity for a hearing.* Notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto providing for indications lacking substantial evidence of effectiveness referred to in paragraph A–

2 of this notice on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn.

On or before April 10, 1974 the applicant(s) and any other interested person may file with the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, Maryland 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within the specified time will constitute an election by him not to avail himself of the opportunity for a hearing. No extension of time may be granted.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s) which have not been supplemented to delete the indication(s) lacking substantial evidence of effectiveness.

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, on or before April 10, 1974, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claim(s) involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order making findings and conclusions on such data and withdrawing approval of application(s) not supplemented to delete the claim(s) involved.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after April 10, 1974, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

All identical, related, or similar drug products, not the subject of an approved new drug application, are covered by the application(s) reviewed and are subject to this notice. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write the Food and Drug Administration, Bureau of Drugs, Office of Compliance (HFD–300), 5600 Fishers Lane, Rockville, Maryland 20852.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6566, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (HFD–100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Generic Drug Staff (HFD–107), Office of Scientific Evaluation, Bureau of Drugs.

Request for Hearing (identify with Docket Number): Hearing Clerk, (HFC–20), Room 6–86, Parklawn Building.

Requests for the Academy's report: Drug Efficacy Information Activity (HFD–8), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Manager (HFD–101), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and the Administrative Procedure Act (5 U.S.C. 554) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: March 1, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74–5565 Filed 3–8–74;8:45 am]

Health Resources Administration

NATIONAL ADVISORY COUNCIL ON REGIONAL MEDICAL PROGRAMS

Cancellation of Meeting

In FR Doc. 74–2325 appearing at page 3706 in the issue for Tuesday, January 29, 1974, the March 12–13 meeting of the "National Advisory Council on Regional Medical Programs" has been cancelled.

Dated: March 5, 1974.

KENNETH M. ENDICOTT,
Administrator, Health Resources Administration.

[FR Doc.74–5513 Filed 3–8–74;8:45 am]

Office of the Secretary

BOARD OF ADVISORS TO THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Notice of Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), that the next meeting of the Board of Advisors to the Fund for the Improvement of Postsecondary Education will be held on March 18, 1974, beginning at 9 a.m. at Key Bridge Marriott, Rosslyn, Virginia. The meeting will be for the sole purpose of considering and formulating advice to the Director of the Fund regarding the approval or disapproval of proposals submitted to the Fund under the Special Focus Program entitled: Approaches to Competency-Based Learning.

The meeting will not be open to the public, since these proposals are exempt from mandatory disclosure under 5 U.S.C. 552(b) (4) and (6) to the extent that they contain trade secrets, commercial or financial information obtained from a person and privileged or confidential, and to the extent that disclosure of the documents and the discussions thereon would constitute a clearly unwarranted invasion of personal privacy.

A summary of the proceeding of the meeting and a roster of members may be obtained from the Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue SW., Room 3139,

Washington, D.C. 20202, telephone 202–245–8091.

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

VIRGINIA B. SMITH,
Director, Fund for the Improvement of Postsecondary Education.

[FR Doc.74–5505 Filed 3–8–74;8:45 am]

OFFICE OF MANAGEMENT

Statement of Organization, Functions and Delegations of Authority

Part 2 (Office of Education) section 2–B, Organization and Functions, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare published in the FEDERAL REGISTER on November 21, 1973, at 38 FR 32154, is hereby amended as follows:

The statement under the heading Office of Management, is deleted and a new statement is added as follows:

OFFICE OF MANAGEMENT

The Office of Management plans, directs, and coordinates the activities of all segments of the Office having to do with management planning and evaluation; and administrative and business management.

Finance Division: Plans, develops, and executes an integrated system of financial policy, procedure, and standards for operations; operates a central system of transaction accounting, reporting, and certification of the availability of funds.

Contracts and Grants Division: Provides contract management policy and procedure and directs the negotiation and administration of contracts and discretionary grants awarded by all components of the Office of Education; inventories, maintains accountability, and manages utilization of Government property held by contractors/grantees.

Personnel and Training Division: Provides personnel management policy and procedures and interpretation of Civil Service Commission and departmental personnel standards for all elements of the Office of Education. Services rendered include: Position classification; employment and placement screening and referral; employee relations and services; personnel action processing and records maintenance; and employee development and training.

General Services Division: Performs administrative services in areas such as mail, procurement, property, office space, equipment, printing, travel, routine public inquiries, committee management, and agent cashier.

Management Systems and Analysis Division: Develops policies, plans, and goals for organizational structure, management systems, and manpower allocation and utilization; conducts management studies and manpower analysis; coordinates development of management information systems and data processing systems; evaluates and reports on the overall effectiveness of Office of Education organization and management; provides ADP systems analysis and programming services, monitors contracts providing computer programming support, and maintains liaison with the Data Management Center on computer operations and services for the Office of Education; and directs the preparation and execution of the administrative budget of the Office of Education.

Dated: March 4, 1974.

THOMAS S. MCFEE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.74–5506 Filed 3–8–74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD–162]

FEDERAL COORDINATING OFFICER

Appointment

Notice of Appointment, dated February 4, 1974, and published February 13, 1974 (39 FR 5526), appointing Paul T. Cain as Federal Coordinating Officer for certain disasters under the authorities of section 201 of the Disaster Relief Act of 1970 (Public Law 91–606, 84 Stat. 1744), is hereby amended to include the following disasters:

State	Disaster No.	Declaration date
Maryland: Vice Alfred A. Hahn, appointed May 6, 1972 (37 FR9591, May 12, 1972)	309	Aug. 17, 1971
Virginia: Vice Alfred A. Hahn, appointed July 13, 1972 (37 FR 14014, July 15, 1972)	339	June 23, 1972
West Virginia: Vice Richard E. Sanderson, appointed July 6, 1972 (37 FR 13659, July 12, 1972)	344	July 3, 1972
West Virginia: Vice Richard E. Sanderson, appointed Aug. 25, 1972 (37 FR 17783, Aug. 31, 1972)	349	Aug. 23, 1972
Virginia: Vice Alfred A. Hahn, appointed Nov. 3, 1972 (37 FR23756, Nov. 8, 1972)	58	Oct. 7, 1972
Virginia: Vice Alfred A. Hahn, appointed Oct. 13, 1972 (37 FR 22418, Oct. 19, 1972)	359	Oct. 10, 1972

Dated: March 5, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

[FR Doc.74–5534 Filed 3–8–74;8:45 am]

[Docket No. NFW–160; FDAA–418–DR]

LOUISIANA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Louisiana, dated February 23, 1974, and published March 1, 1974 (39 FR 7977), is hereby amended to include the following parishes among those parishes determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 23, 1974:

The Parishes of:

Franklin Ouachita

Dated: March 1, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.74– 5535 Filed 3–8–74;8:45 am]

[Docket No. NFD–161; FDAA–417–DR]

MONTANA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Montana, dated January 29, 1974, and published February 4, 1974 (39 FR 4497), is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 29, 1974:

The County of: Mineral

Dated: March 5, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.74–5533 Filed 3–8–74;8:45 am]

Office of the Assistant Secretary for Housing Management

[Docket No. D–74–272]

DIRECTOR AND DEPUTY DIRECTOR, HONOLULU INSURING OFFICE

Redelegation of Authority Regarding College Housing Program and Rehabilitation Loan Program; Correction

The redelegation to Director and Deputy Director, Honolulu Housing Office, published at 38 FR 34355, December 13, 1973, is corrected by changing "A,1" in the introductory paragraph to read "A,1–5." (Secretary's delegation of authority to redelegate published at 36 FR 5005, March 16, 1971)

Effective date. This correction to the redelegation of authority is effective as of October 30, 1973.

ROBERT C. ODLE, Jr.,
Acting Assistant Secretary for Housing Management.

[FR Doc.74–5540 Filed 3–8–74;8:45 am]

ATOMIC ENERGY COMMISSION

CONSUMERS POWER CO.

[Construction Permit Nos. 81 and 82]

Notice and Order for Prehearing Conference

On January 23, 1974, the Atomic Energy Commission (Commission) published in the FEDERAL REGISTER (39 Fed. Reg. 2619) a "Notice of Hearing on Order to Show Cause" (Notice of Hearing), to consider whether the activities under construction permit Nos. 81 and 82, is-

sued to Consumers Power Company for Midland Plant, Units 1 and 2, should not be suspended pending a demonstration by the licensee of its compliance with the AEC's quality assurance regulations. Specifically, the Commission's "Notice of Hearing" indicated that a hearing would be held before an Atomic Safety and Licensing Board (Board) on the issues framed in the Order to Show Cause issued on December 3, 1973, by the Director of Regulation to the licensee concerning quality assurance compliance in the construction of its Midland, Michigan, Plant, Units 1 and 2. These issues to be decided by the Board are:

1. Whether the licensee is implementing its quality assurance program in compliance with the Commission's regulations; and

2. Whether there is reasonable assurance that such implementation will continue throughout the construction process.

The Commission's "Notice of Hearing" further indicated that should either of the foregoing issues be decided adversely to the licensee, the Board shall determine whether the construction permit shall be modified, suspended or revoked, or whether other action is warranted by the record.

The "Notice of Hearing" ordered that the parties to the hearing shall be the regulatory staff, the licensee, the Sierra Club petitioners, and the Dow Chemical Company. In addition, the "Notice of Hearing" provided that any person whose interest may be affected by the proceeding, who wishes to participate as a party to the proceeding, must file a written petition, under oath or affirmation, for leave to intervene in accordance with the provisions of 10 CFR 2.714.

On February 11, 1974, Bechtel Power Corporation and Bechtel Associates Professional Corporation lodged with the Commission a Petition to Intervene.

The "Notice of Hearing" provided that any person who does not wish, or is not qualified to become a party to the proceeding, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. No requests for permission to make a limited appearance have been received.

Finally the "Notice of Hearing" stated that the hearing shall be held at a time and place specified by the Board.

Pursuant to the Commission's "Notice of Hearing" and the authorization therein for the Board to set a time and place for hearing, notice is hereby given that a prehearing conference will be held at 10 a.m., on Thursday, March 28, 1974, in Room 1743, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Chicago, Illinois. All members of the public are entitled to attend this prehearing conference, any subsequent prehearing conference, and the evidentiary hearing to be held in this proceeding. Such evidentiary hearing will be scheduled at a later date, and public notice thereof will be given.

The prehearing conference to be held on Thursday, March 28, 1974, will be conducted in accordance with § 2.752 of the Commission's Rules of Practice, 10 CFR 2.752, which provides for prehearing conferences.

The prehearing conference will consider the simplification, clarification and specification of the issues in this proceeding, the steps necessary for identification of other issues, if any, and the establishment of a schedule for further action in this proceeding.

In addition, the prehearing conference will consider the matters set forth in § 2.752(a) (2), (3), (4) and (6) of the Commission's Rules of Practice, 10 CFR 2.752(a) (2), (3), (4) and (6).

Finally, the prehearing conference will consider the Petition to Intervene, filed by Bechtel Power Corporation and Bechtel Associates Professional Corporation (Petitioners). The parties to this proceeding, along with the Petitioners, are directed to be prepared for oral argument respecting the Petition, should the Board conclude such argument is necessary.

The prehearing conference to be held on March 28, 1974, will not be for the purpose of receiving evidence, nor will there be an opportunity for the presentation of statements by members of the public who desire to make limited appearances in this proceeding. Limited appearance statements will be received in the discretion of the Board on the initial day of commencement of evidentiary hearing.

It is so ordered.

ATOMIC SAFETY AND LICENSING BOARD,
MICHAEL L. GLASER,
Chairman.

MARCH 4, 1974.

[FR Doc.74-5490 Filed 3-8-74;8:45 am]

[Docket Nos. 50-424, 50-425, 50-426, 50-427]

GEORGIA POWER CO.

Notice of Environmental Hearing

In the matter of Alvin W. Vogtle Nuclear Plant, Units 1, 2, 3 & 4.

By motion dated February 12, 1974, the Applicant Georgia Power Company, requested the Atomic Safety and Licensing Board (the Board) to schedule a separate environmental hearing as soon as practicable after issuance of the AEC's Final Environmental (Impact) Statement.

This motion was made pursuant to the Commission's recently published proposed amendments [1] to 10 CFR Parts 2 and 50, which would permit certain "preconstruction activities" prior to the issuance of a construction permit for a power reactor, but only after the "NEPA" [2] review had been completed and an appropriate environmental public hearing had been held, and a decision rendered embodying all the findings required for issuance of a construction permit with respect to the NEPA aspects of the construction permit proceeding.[3]

The AEC Regulatory Staff did not oppose this Motion. In fact, in view of the Commission's statement that the proposed amendments relating to "Preconstruction Activities" should be used as interim guidance, the Staff noted that the Final Environmental Statement will be published by March 8, 1974, and urged the Board to promptly schedule an environmental hearing after consultation with counsel for both Applicant and Staff. Such consultation having taken place by telephone, and taking into consideration certain conflicts in the Board's schedule and certain events taking place in Augusta the week of April 8–12, it was agreed that the best date for a hearing would be April 9–10, and that Atlanta would be the most practical location with accommodations for all concerned.

Accordingly, the Applicant's Motion to Schedule Hearing on Environmental Issues is *granted*. The hearing will commence on April 9, 1974 at 9:30 a.m., local time, in the Fulton County Courthouse, Court Room 701, 7th floor, 136 Pryor Street, Atlanta, Georgia 30303.

It is so ordered.

Issued at Washington, D.C. this 5th day of March, 1974.

For the Atomic Safety and Licensing Board.

THOMAS W. REILLY,
Chairman.

[FR Doc.74-5524 Filed 3-8-74;8:45 am]

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[1] See AEC's Statement of Considerations, proposed amendments to regulations, and notice entitled "Preconstruction Activities," 39 FR 4582, February 5, 1974.

[2] National Environmental Policy Act of 1969, P.L. 91-190. See also Appendix D to 10 CFR Part 50.

[3] For environmental issues to be determined in this proceeding, see Commission's April 27, 1973 "Notice of Hearing on Application for Construction Permits" (published in 38 F.R. 10751, May 1, 1973) and 10 CFR Part 50, Appendix D.

[1] *Domestic Phase-On Reconsideration* Order 69-7-105, decided July 21, 1969.

CIVIL AERONAUTICS BOARD

[Docket 26143; Order 74-2-101]

ALASKA AIRLINES, INC. AND WIEN AIR ALASKA, INC.

Order To Show Cause

Correction

In FR Doc. 4870, appearing on page 7978, in the issue for Friday, March 1, 1974, add the order number to the docket number in brackets to read as set forth above.

[Docket 26480; Order 74-3-26]

PAN AMERICAN WORLD AIRWAYS, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of March, 1974. In the matter of the tariffs and practices thereunder of Pan American World Airways, Inc., regarding common fares within Hawaii for Canada-Hawaii GIT passengers.

In the Transpacific Route Investigation, Docket 16242, the Board established a new route structure for United States carriers operating between the mainland and Hawaii.[1] The Board determined,

inter alia, that it was in the public interest to grant the mainland-Hawaii carriers authority to serve Hilo, Hawaii in addition to Honolulu on their Hawaiian routes, provided certain safeguards were instituted to compensate the intra-Hawaiian carriers for revenues lost over the Honolulu-Hilo sector. To effectuate this finding, the Board attached the following common-fare provision to the certificates of those mainland-Hawaii carriers who elected to accept the new authority, including the certificate of Pan American World Airways, Inc. (Pan American) for Route 117:

"The holder's authority to serve Hilo, Hawaii, shall be contingent upon its filing and keeping on file with the Board tariffs providing for common fares for persons and their accompanied baggage to and from all points in the State of Hawaii receiving service from a certificated air carrier, for all classes of service which the holder offers * * *."

Recent tariff filings have raised several questions as to whether the mainland—Hawaii carriers are complying with the common fare-requirements as established by the Board. Most recently, by tariff revisions which became effective February 1, 1974,[2] Pan American and Air Canada established joint Canada—Hawaii group inclusive-tour (GIT) fares [3] which prohibit the use of the Hawaiian common-fare privilege. This prohibition was effectuated by placing the GIT fares' applicability under the governing provisions of Rule 249 of Tariff C.A.B. No. 142. Paragraph (F) of that rule provides that Rule 322—Hawaii Common Fares—will *not* apply in connection with the subject GIT fares.

Aloha Airlines, Inc. (Aloha) and Hawaiian Airlines, Inc., (Hawaiian) have filed a joint complaint against the tariff requesting suspension and investigation unless appropriate amendments are made so as to provide for use of the Hawaiian common fare. In support thereof, the complainants allege that the tariff is unlawful in that it violates the provisions of Pan American's certificate for Route 117; that the Board has repeatedly enunciated its intention to adhere to imposition of the common-fare requirement as a prerequisite for authority to serve Hilo; and that the international character of the joint GIT fare neither alters the situation nor relieves Pan Ameircan from its long-standing certificate obligation.

Pan American and Air Canada have answered the complaint requesting that it be dismissed as both irrelevant and untimely. The respondents allege, *inter alia*, that Aloha and Hawaiian have failed to show that the tariff in any way violates the rate-making standards of section 1002 of the Federal Aviation Act of 1958; that Pan American has been granted a temporary suspension of its obligation to serve Hilo through May 9, 1975; and that since Pan American is not presently providing service to Hilo, it is not obligated to provide the common fare. Furthermore, the respondents claim that the Board's modification of the subject tariff at this time would be a violation of Article 13 of the U.S.-Canada Air Transport Agreement insofar as it would exceed the stipulated period for notification of tariff dissatisfaction, and that absorption of revenue dilution from the common fare would render the GIT fares uneconomic for Pan American.

The Board does not agree with Pan American's argument that its service suspension at Hilo relieves it from the certificate obligation to provide Hawaiian common fares.[4] Although it is true that Pan American has been permitted to suspend service at Hilo, it nonetheless continues to enjoy the authority to serve that point. As noted *supra*, it is Pan American's authority to serve Hilo which requires the carrier to provide for common fares, not whether or not it is presently providing service.[5]

Moreover, were the Board to accept Pan American's interpretation that its present service suspension at Hilo relieves it of its obligation to participate in Hawaiian common fares, then Pan American would be free to prohibit the use of the common fare in all its joint fares with numerous domestic carriers as well as discontinue the granting of the common-fare privilege to all mainland-Hawaii fares published in Pan American's Local Passenger Fares Tariff, C.A.B. No. 194. It appears readily apparent to us that such an interpretation would produce considerable financial hardship for the intra-Hawaiian carriers as well as be in significant contradiction to the Board's initial intent in imposing the condition [6]

Upon consideration of the subject tariff filing, the complaints and answer thereto, and all other relevant matters, the Board tentatively concludes that the joint Canada-Hawaii GIT tariff under consideration herein places a substantial restriction upon the availability of common fares to Hawaiian points. In this situation, a significant question is raised as to whether Pan American is in compliance with the terms, conditions and limitations attached to the service authorized in its certificate. The Board, therefore, will direct all interested parties to show cause why Pan American should not revise its tariffs and practices so as to provide Hawaiian common fares to GIT passengers pursuant to its certificate of public convenience and necessity for Route 117.

The Board further finds, upon a tentative basis, that no evidentiary hearing is required, by statute or otherwise, to resolve the issues herein on the basis of the record before it and in consideration of such matters as may be presented by interested parties in response to this order. It appears that the Board will then be in a position to issue a final order herein, including an order directing Pan American to conform its tariffs and practices so as to make it possible for joint Canada-Hawaii GIT passengers to obtain common-faring privileges within Hawaii regardless of Pan American's service suspension at Hilo.

In view of the bearing of this question and the application of the answer thereto upon other mainland-Hawaii carriers and intra-Hawaiian carriers, a copy of this order will be served upon each of them so as to provide all interested parties the opportunity to be heard through the filing of comments herein.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly sections 204(a), 401, and 403, thereof;

IT IS ORDERED THAT:

1. All interested parties, and particularly Pan American World Airways, Inc., and Air Canada, are hereby directed to show cause why the Board should not make final its tentative findings and conclusions herein and, upon the basis of such findings and conclusions, order Pan American World Airways, Inc. to conform its tariffs and practices thereunder to Condition (5) of its certificate of public convenience and necessity for Route 117 and to hold out and participate in the granting of common-faring privileges to joint Canada-Hawaii GIT passengers regardless of whether authority to suspend service at Hilo, Hawaii has been granted by the Board. All responses and comments submitted pursuant to this order shall be filed within 20 days after the service of this order;

2. Copies of this order shall be served upon Air Canada, Aloha Airlines, Inc., Hawaiian Airlines, Inc. and Pan American World Airways, Inc. which are hereby made parties to this proceeding; and

3. Copies of this order shall also be served upon American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc. and Western Air Lines, Inc.

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[2] Revisions to Joint Passenger Fares Tariff No. HJ-4, C.A.B. No. 211 issued by Airline Tariff Publishers, Inc., Agent.

[3] The fares are applicable between Honolulu, on the one hand, and Quebec City, Montreal, Ottawa, Toronto, London and Windsor, on the other, on services connecting at Los Angeles.

[4] Pan American's temporary service suspension at Hilo was originally granted by Order 71-5-45, dated May 11, 1971, for two years and extended through May 9, 1975 by Order 73-5-42, dated May 9, 1973.

[5] As the Board determined in suspending a similar group-fare tariff to Hawaii, the common-fare provision is applicable regardless of the Hawaiian destination. In summarizing its position, the Board stated: "while the proposed fares apply only to Honolulu and not Hilo, the certificate conditions are tied to service authority at Hilo and we do not believe the carriers should be permitted to circumvent these requirements by naming only Honolulu as a Hawaiian destination." (Order 71-9-113, dated September 29, 1971).

[6] As it regards the proponent carriers' argument that the instant tariff may not be altered since the period provided in the Canada-U.S. Air Transport Agreement for the protest of the fares has expired, we would note that this order does not challenge, *per se*, the lawfulness (discrimination or reasonableness) of the GIT fares, but rather directs the carriers to show cause why they should not conform their tariffs and practices to Pan American's certificate conditions. This distinction essentially removes the matter from the purview of the terms of the bilateral agreement, since U.S. certificate considerations are purely a domestic issue over which the Board has full regulatory authority under Title IV of the Federal Aviation Act of 1958.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-5555 Filed 3-8-74;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1974

Additions to Procurement List

Notice of proposed additions to Procurement List 1974, November 29, 1973 (38 FR 33038), was published in the FEDERAL REGISTER on January 24, 1974 (39 FR 2848), and February 6, 1974 (39 FR 4684).

Pursuant to the above notices the following services are added to Procurement List 1974.

SERVICES

INDUSTRIAL CLASS 7331

Mailing—U.S. Department of Health, Education, and Welfare, for following offices only:
Office of the Secretary—Washington, D.C. (RF)
National Institutes of Health—Bethesda, Md. (RF)
Center for Disease Control—Bethesda, Md. (RF)
Health Services Administration—Rockville, Md. (RF)
Health Resources Administration—Rockville, Md. (RF)

PRICE

List of prices available from the Department of Health, Education, and Welfare.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.74-5526 Filed 3-8-74;8:45 am]

PROCUREMENT LIST 1974

Addition to Procurement List

Notice of proposed addition to Procurement List 1974, November 29, 1973 (38 FR 33038) was published in the FEDERAL REGISTER on August 17, 1973 (38 FR 22252).

Pursuant to the above notice the following service is added to Procurement List 1974.

SERVICE

INDUSTRIAL CLASS 7641

Furniture Rehabilitation (RF)—Sacramento, California plus 60-mile radius excluding San Joaquin County.

PRICE

List of prices available from GSA, FSS, Region 9.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.74-5527 Filed 3-8-74;8:45 am]

PROCUREMENT LIST 1974

Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed addition of the following services to Procurement List 1974, November 29, 1973 (38 FR 33038).

SERVICES

INDUSTRIAL CLASS 7641

Furniture Rehabilitation:
Seattle, Washington plus 30 mile radius.
Auburn, Washington plus 30 mile radius.
Tacoma, Washington plus 30 mile radius.
(Including McChord Air Force Base and Fort Lewis.)

Comments and views regarding these proposed additions may be filed with the Committee on or before April 10, 1974. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.74-5528 Filed 3-8-74;8:45 am]

PROCUREMENT LIST 1974

Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed additions of the following commodities to Procurement List 1974, November 29, 1973 (38 FR 33038).

COMMODITIES

Class 7510

Binder, Looseleaf:
7510-281-6180
7510-187-6489

Class 7520

Stand, Calendar Pad:
7520-139-4286
7520-139-4335
7520-139-4337

Comments and views regarding these proposed additions may be filed with the Committee on or before April 10, 1974. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.74-5529 Filed 3-8-74;8:45 am]

FEDERAL MARITIME COMMISSION

[General Order 29]

MILITARY SEALIFT PROCUREMENT SYSTEM

RFP 900 First Cycle Uniform Capacity Utilization Factor

On December 2, 1972, the Commission promulgated its final rules in Docket 72-43 (General Order 29) whereby it established the standards by which it would determine the level below which rates quoted pursuant to Military Sealift Procurement System for the transportation of Military cargo by common carriers subject to its jurisdiction become "detrimental to the Commerce of the United States" within the meaning of section 18(b)(5) of the Shipping Act, 1916.[1]

General Order 29, 46 CFR 549.5(b)(1), states that "at least 30 days prior to the bidding date for any future request for proposal (RFP) cycle, * * * the Commission will establish a uniform capacity utilization factor for each Military Sealift Command (MSC) trade route to be employed by all carriers in that trade in arriving at their cargo unit costs." For RFP-700, second cycle, and RFP-800, first cycle, the Commission decided to use actual utilization and did not determine UCUFs.

In an effort to establish the UCUF for RFP-900, first cycle, the Commission on November 5, 1973 requested data from the carriers involved in the Military Sealift Procurement System. This data, which was based on the carriers historical[2] performance within the specific trade areas defined by MSC as military trade routes,[3] was confined to cargo movements alone. This data was evaluated and analyzed by the FMC staff in order to establish the UCUF.

Separate utilization factors were computed for containerized cargo and breakbulk cargo. Capacities and utilization data for the container part of combination vessels were included in the container utilization factor, while breakbulk cargo data for the breakbulk part of combination vessels were included in the breakbulk utilization factor.

In some isolated cases the carriers kept records in such a manner that the data supplied to the staff was very nearly unusable in the form presented. Breakbulk data was requested in bale cubic feet for capacity and stowed measurement tons for utilization. The two breakbulk carriers on Route Index 06 maintain company records for inbound cargo on a pay ton basis and not stowed measurement tons. To keep the data consistent, the round voyage breakbulk utilization factor for that Route Index was based entirely on the number of pay tons carried.

For breakbulk vessels carrying containers the carriers supplied both a standard on-deck capacity and the actual number of containers carried. In those instances where the actual carriage exceeded the standard on-deck capacity it was assumed the excess was carrier below deck. The breakbulk capacity was reduced for such below deck

[1] 46 USC § 817(b)(5).
[2] The period covered by the data was January 1, 1973 to December 31, 1973.
[3] Exclusive of Interport Routes (e.g. Hawaii to Japan).

carriage and the standard on-deck container capacity was increased.

Where only one carrier responded with data for a specific MSC trade route, we believe that it is improper to issue a UCUF on that trade route as it would specifically reveal significant operating data to possible competitors. For those routes the notation "use actual utilization" will be replace a UCUF number.

All percentages computed for purposes of establishing the UCUF have been rounded to the nearest five percent.

Notice is hereby given that pursuant to 46 CFR 549.5(b)(1), the Commission has adopted for RFP 900, first cycle the UCUFs contained in Appendices A and B of this notice.

By the Commission February 27, 1974.

FRANCIS C. HURNEY,
Secretary.

APPENDIX A.—*Uniform capacity utilization factor by MSC route index and zone container carriers*

Trade route		Zone	UCUF
			Percent
01	A	U.S. West Coast to Hong Kong and Mid-Pacific Island, Korea, Ryukyus, Taiwan, and Philippines.	80
01	B	U.S. West Coast to Republic of Vietnam	80
01	C	U.S. West Coast to Thailand	90
01	D	U.S. West Coast to Pacific Straits and Indonesia	70
01	E	U.S. West Coast to Japan	80
04		U.S. East Coast to United Kingdom and Erie	80
05		U.S. East Coast to Continental Europe	80
06	A	U.S. East Coast to Western Mediterranean	80
06	B	U.S. East Coast to Central Mediterranean	80
06	C	U.S. East Coast to Eastern Mediterranean	80
08	A	U.S. East Coast to Hong Kong and Mid-Pacific Island Korea, Ryukyus and Philippines.	85
08	B	U.S. East Coast to Republic of Vietnam	(1)
08	C	U.S. East Coast to Thailand	(1)
08	D	U.S. East Coast to Pacific Straits and Indonesia	(1)
08	E	U.S. East Coast to Japan	85
10		U.S. Gulf Coast to United Kingdom and Erie	(1)
11		U.S. Gulf Coast to Continental Europe	90
12		U.S. Gulf Coast to Mediterranean Area	(1)
14	A	U.S. Gulf Coast to Hong Kong, Korea, Mid-Pacific Island, Philippines, Ryukyus, Taiwan.	(1)
14	B	U.S. Gulf Coast to Republic of Vietnam	(1)
14	C	U.S. Gulf Coast to Thailand	(1)
14	D	U.S. Gulf Coast to Pacific Straits and Indonesia	(1)
14	E	U.S. Gulf Coast to Japan	(1)
28		U.S. West Coast to Canal Zone	(1)
37		U.S. East Coast to Dominican Republic	(1)
39		U.S. East Coast to Canal Zone	(1)

[1] Use Actual Utilization.

APPENDIX B.—*Uniform capacity utilization factor by MSC route index and zone breakbulk carriers*

Trade route		Zone	UCUF
			Percent
01	A	U.S. West Coast to Hong Kong, Korea, Mid-Pacific Islands, Philippines, Ryukyus, and Taiwan.	70
01	B	U.S. West Coast to Republic of Vietnam	70
01	C	U.S. West Coast to Thailand	75
01	D	U.S. West Coast to Pacific Straits and Indonesia	60
01	E	U.S. West Coast to Japan	70
06	A	U.S. East Coast to Western Mediterranean	[2] 40
06	B	U.S. East Coast to Central Mediterranean	[2] 40
06	C	U.S. East Coast to Eastern Mediterranean	[2] 40
07	A	U.S. East Coast to Gulf of Aden—Aquaba Range	55
07	B	U.S. East Coast to Gulf of Oman—Arabian Gulf	55
07	C	U.S. East Coast to West Pakistan—Cape Comorin Range	50
07	D	U.S. East Coast to Ceylon—Burma Range	50
08	A	U.S. East Coast to Hong Kong, Korea, Mid-Pacific Islands, Philippines, Ryukyus, Taiwan.	50
08	B	U.S. East Coast to Republic of Vietnam	[2] 50
08	C	U.S. East Coast to Thailand	[2] 60
08	D	U.S. East Coast to Pacific Straits and Indonesia	(1)
08	E	U.S. East Coast to Japan	50
10		U.S. Gulf Coast to United Kingdom and Erie	(1)
11		U.S. Gulf Coast to Continental Europe	80
12		U.S. Gulf Coast to Mediterranean Area	(1)
13		U.S. Gulf Coast to South Asia and Middle East Area	(1)
14	A	U.S. Gulf Coast to Hong Kong, Korea, Mid-Pacific Islands, Philippines, Ryukyus, Taiwan.	[2] 70
14	B	U.S. Gulf Coast to Republic of Vietnam	[2] 70
14	C	U.S. Gulf Coast to Thailand	[2] 60
14	D	U.S. Gulf Coast to Pacific Straits and Indonesia	(1)
14	E	U.S. Gulf Coast to Japan	70
39		U.S. East Coast to Canal Zone	(1)
43		U.S. Gulf Coast to Canal Zone	(1)
44		U.S. Great Lakes to South Asia and Middle East Area	(1)
47	A	U.S. West Coast to Gulf of Aden—Aquaba Range	(1)
47	B	U.S. West Coast to Gulf of Oman—Arabian Gulf	(1)
47	C	U.S. West Coast to West Pakistan—Cape Comorin Range	55
47	D	U.S. West Coast to Ceylon-Burma Range	55

[1] Use Actual Utilization.
[2] The breakbulk utilization factor established for this route index is based on a pay ton rather than a stowed measurement ton basis.
[3] States Marine International, Inc. failed to respond with second cycle data so the UCUFs were computed disregarding their carriage during second half 1973. Inquiries at MSC revealed that States Marine International's military cargo carriage during the second half of 1973 was insignificant.

[FR Doc.74-5426 Filed 3-8-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-8620]

ARIZONA PUBLIC SERVICE CO.

Filing of Rate Schedule

MARCH 4, 1974.

Take notice that on February 6, 1974, Arizona Public Service Company (Arizona) tendered for filing FPC Rate Schedule No. 50, relating to a Wholesale Power Supply Agreement containing various automatic escalation clauses. This filing accounts for a purported total yearly estimated increase of $6,783.

Arizona requests that the notice requirement of § 35.11 of the Commission's regulations be waived for this filing and that the current escalations be permitted to become effective at the beginning of each billing month. Arizona states that the reasons for these requests are the impossibility of anticipating an escalation prior to the end of a month and the elimination of multiplicity of monthly filings.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5469 Filed 3-8-74;8:45 am]

[Docket No. CI74-199, et al.]

BARBER OIL EXPLORATION, INC., ET AL.

Order Amending Order

MARCH 1, 1974.

By order entitled "Order Consolidating Proceedings, Granting Interventions, and Fixing Date For Hearing", issued January 10, 1974, the Commission set for hearing three applications filed by Barber Oil Exploration, Inc., in Docket No. CI74-199, Florida Gas Exploration Company in Docket No. CI74-209, and MAPCO Inc. in Docket No. CI74-277, for certificate authorization pursuant to § 2.75 of the Commission's General Policy and Interpretations to sell natural gas in interstate commerce to Panhandle Eastern Pipeline Company.

In Ordering paragraph (H) of the above-mentioned order the Commission established a date for the issuance of the Administrative Law Judge's Initial Decision as well as the dates for briefs on exceptions and replies thereto.

We deem it appropriate to change the above-mentioned procedural dates to

provide for a more orderly procedure and the better administration of the Natural Gas Act.

The Commission orders:

Paragraph (H) of the above-mentioned order in Barber Oil Exploration, Inc., *et al.*, Docket No. CI74–199, *et al.*, issued January 10, 1974, is amended to read as follows:

(H) The Administrative Law Judge's decision shall be rendered on or before April 22, 1974. All briefs on exceptions shall be due on or before April 26, 1974, and replies thereto shall be due on or before May 8, 1974.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–5484 Filed 3–8–74;8:45 am]

[Docket No. E–8551]

BLACK HILLS POWER AND LIGHT CO.

Application

MARCH 4, 1974.

Take notice that on December 18, 1973, Black Hills Power and Light Company (Applicant), filed an application pursuant to Section 204 of the Federal Power Act for authority to issue short-term unsecured promissory notes (Notes) on or before October 31, 1974, in an amount not to exceed $5,550,000 outstanding at any one time. The interest rate of borrowing from various institutions will be the prime interest rate of the lender in effect at the time of each borrowing. Any notes issued pursuant to such short-term borrowing commitments will, in any event, mature in less than one year or October 31, 1975, whichever date shall be earlier.

Proceeds from the Notes will be used to carry out the Applicant's construction program through October 31, 1974, and to maintain an adequate working cash position.

Any person desiring to be heard or to make any protest with reference to such application should, on or before March 26, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons desiring to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc. 74–5464 Filed 3–8–74;8:45 am]

[Docket Nos. E–8629, E–8630, E–8631, and E–8632]

CONNECTICUT LIGHT & POWER CO. ET AL.

Termination of Contracts

MARCH 4, 1974.

Take notice that on February 21, 1974, Connecticut Light and Power (CL&P), Hartford Electric Company (HELCO), and Western Massachusetts Electric Company (WMECO) tendered for filing four notices of termination of rate schedules.

The companies state that the filing is in accordance with Part 35 of the Commission's regulations. The companies assert that three of the contracts between CL&P, HELCO, and WMECO, terminated according to their terms. The companies further assert that the contract between CL&P, HELCO, WMECO, and the United Illuminating Company also terminated according to its terms.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before March 14, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. The above filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–5472 Filed 3–8–74;8:45 am]

[Docket No. RP72–157]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FPC Gas Tariff

MARCH 4, 1974.

Take notice that Consolidated Gas Supply Corporation (Consolidated), on February 25, 1974, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause for rates to be effective April 6, 1974. Consolidated states that the proposed rate increase would generate $9.6 million annually in additional jurisdictional revenues.

Consolidated states that the PGA filing was triggered by rate increases filed by Transcontinental Gas Pipe Line Corporation and Texas Gas Transmission Corporation (Texas Gas) for effectiveness April 1, 1974 and Texas Eastern Transmission for effectiveness April 6, 1974. Consolidated states that Texas Gas has included in its filing the increased severance tax of the State of Louisiana. Consolidated states that Commission Order No. 500 directs that such increased severance tax be included in the deferred account and therefore included in the pipeline companies' regular PGA filings. According to Consolidated, Texas Gas has requested relief to include the severance tax in its April 1, 1974 rates. Consolidated states that it will revise its rates, if necessary, to reflect the rates ultimately approved by the Commission.

Consolidated is requesting a waiver of the 45-day notice requirement contained in its PGA Clause since it did not receive the supplier's increased rates in sufficient time for itself to make a timely filing and further asks for a waiver of any other of the Commission's rules and regulations in order to permit the proposed rates to go into effect on April 6, 1974.

Consolidated states that copies of this filing were served upon its jurisdictional customers, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure, (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Persons presently parties to this proceeding need not file additional petitions to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–5465 Filed 3–8–74;8:45 am]

[Docket No. RP74–50–4]

FLORIDA GAS TRANSMISSION CO. AND GARDINIER, INC.

Petition for Temporary and Permanent Extraordinary Relief

MARCH 5, 1974.

Take notice that on February 27, 1974, Gardinier, Inc. (Gardinier) filed a petition for temporary and permanent extraordinary relief from the curtailment provisions of Florida Gas Transmission Company's (Florida Gas) FPC Gas Tariff, Original Volume No. 1. The petition, which includes supporting affidavits, requests that the Commission issue an order requiring Florida Gas to deliver to it during the remainder of 1974 and each year thereafter, 127,830 therms of natural gas per day under its pre-

ferred interruptible contract in addition to the 22,500 therms of natural gas per day under its firm service contract.

In support of its petition for emergency relief, Gardinier states that it operates a fertilizer plant located at Tampa, Florida, and purchases all of its natural gas for that facility from Florida Gas in the proportions of 22,500 therms per day under a direct sale firm contract and quantities in a range of 74,800–168,000 therms per day pursuant to a direct sale preferred interruptible contract. It alleges a need for an assured gas supply of 150,330 therms per day for use in its ammonia and ammoniated phosphates plants to maintain essential production of vitally necessary fertilizer products. Although it is possible to use No. 2 (diesel) fuel oil, if available, as an alternate fuel in the primary reformers of the ammonia plant, Gardinier asserts that such cannot be done without significant loss of ammonia production and severe damage to production facilities. Gardinier further asserts that heating equipment in the ammoniated phosphates plants is not designed for utilization of alternate fuel and can operate satisfactorily only on natural gas or propane. Gardinier states that its request for relief does not include a supply of natural gas for its phosphoric acid and triple superphosphate plants since No. 6 Bunker C fuel oil can be used, though its availability in adequate quantities is speculative.

Gardinier avers that the one hundred precent curtailment of Gardinier's interruptible gas supply as proposed by Florida Gas' curtailment plan would have a substantial adverse effect upon the Nation's economy. More than 99 percent of the output of its ammonia plant is used for fertilizer, or in the production thereof, during a period when fertilizer is in critically short supply. Gardinier also alleges that the curtailment procedures in Florida Gas' tariff are not consonant with the priorities of deliveries enunciated in Commission Order No. 467–B, issued March 2, 1973, and that its operations would enjoy a higher priority under the Order 467–B service categories.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before March 11, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's Rules. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–5468 Filed 3–8–74;8:45 am]

[Docket No. E–8633]

GEORGIA POWER CO.

Proposed Amendment to Contract

MARCH 4, 1974.

Take notice that on February 21, 1974, Georgia Power Company (Georgia) tendered for filing a proposed amendment to a contract between Georgia and Tennessee Valley Authority (TVA), dated January 16, 1974.

Georgia states that the filing is in accordance with Part 35 of the Commission's regulations and that the proposed changes consist of the addition of new substations and changes in monthly rentals at other substations.

Georgia asserts that copies of the amended rate schedule have been mailed to TVA.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 14, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–5471 Filed 3–8–74;8:45 am]

[Docket No. RP72–140]

GREAT LAKES TRANSMISSION CO.

Proposed Change in Rates Under Purchased Gas Adjustment Clause Provisions

FEBRUARY 28, 1974.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on February 14, 1974, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1.

Great Lakes alleges that the cost of gas purchased by it under Gas Purchase Contracts with its sole supplier, TransCanada Pipeline Limited, has increased as a result of currency conversion for the three months ended January 31, 1974 averaging 100.92 United States cents for 100 Canadian cents. Great Lakes requested an effective date of April 1, 1974 for the filing.

Great Lakes states that copies of the filing have been served on all Great Lakes' customers and the Public Service Commissions of Michigan and Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 13, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–5466 Filed 3–8–75;8:45 am]

[Docket No. E–8055]

IDAHO POWER CO.

Filing of Power Contract

MARCH 4, 1974.

Take notice that on January 31, 1974, Idaho Power Company filed in the above docket executed copies of the agreement dated August 31, 1973, between Idaho and California-Pacific Utilities Company.

Idaho states the filing of the subject contract is in compliance with ordering paragraph (B) of the Commission's order issued in the above-designated proceeding on January 31, 1974.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. The above filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–5482 Filed 3–8–74;8:45 am]

[Docket No. RP73–43]

MID LOUISIANA GAS CO.

Proposed Change in Rates

MARCH 4, 1974.

Take notice that Mid Louisiana Gas Company (Mid Louisiana), on February 19, 1974, tendered for filing as a part of First Revised Volume No. 1 of its FPC Gas Tariff, Seventh Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment to Mid Louisiana's Rate Schedules G–1, SG–1, I–1 and E–1; that the revised tariff sheet and supporting information are being filed forty-five (45) days prior to the effective date of April 6, 1974 to coincide with a major rate increase by United Gas Pipe Line Company (United), one of Mid Louisiana's gas suppliers and that the filing is being made in accordance with section 19 of Mid Louisiana's FPC Gas Tariff and in compliance with Commission Order Nos. 452 and 452–A; and that copies of the filing were served on interested customers and state commissions.

Mid Louisiana states that United has informed it that United will file on February 15, 1974, a modification of the original 39.99¢ rate applicable to Mid Louisiana in Docket No. RP 74–20 substituting a 45.79¢ rate. Mid Louisiana asserts that its Seventh Revised Sheet No. 3a reflects this modification.

Mid Louisiana also states that this filing reflects the January 1, 1974 increase in the Louisiana gas severance tax applicable to certain contracts with these suppliers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–5462 Filed 3–8–74;8:45 am]

[Docket No. E–8130]

MIDDLE SOUTH SERVICES, INC.

Filing of Rate Schedule Revisions

MARCH 1, 1974.

Take notice that on February 4, 1974, Middle South Services, Inc. filed in the above docket revised service schedules MSS–1 and MSS–2, to be effective July 2, 1973.

Middle South states the submittal for filing of the above revised schedules is in compliance with the order of the Commission issued in the above-entitled proceeding on January 7, 1974.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before March 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. The above filing is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–5473 Filed 3–8–74;8:45 am]

[Docket No. E–7625]

MISSISSIPPI POWER CO.

Filing of Revised Tariff Sheets

MARCH 1, 1974.

Take notice that on October 29, 1973, Mississippi Power Company filed in the above docket First Revised Sheet No. 10 and First Revised Sheet 10–A–Appendix A to its FPC Electric Tariff original Volume No. 1.

Mississippi states the submittal for filing of the subject revised tariff sheets is in compliance with Commission Opinion No. 665, issued in the above-entitled proceeding on September 27, 1973.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before March 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. The above filing is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–5474 Filed 3–8–74;8:45 am]

[Docket No. RP71–125]

NATURAL GAS PIPELINE CO. OF AMERICA

PGA Filing To Track Pipeline Supplier Rate Increases

MARCH 1, 1974.

Take notice that on February 20, 1974, Natural Gas Pipeline Company of America (Natural), tendered for filing proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1.

Natural states that the filing is made pursuant to the provisions of section 18 of Natural's FPC Gas Tariff, Third Revised Volume No. 1. Natural further states that such changes are intended to track increased cost of gas purchased from Colorado Interstate Gas Company (CIG) and United Gas Pipeline Company (United), pipeline suppliers to Natural. As to the purchases from CIG, Natural proposes an effective date of April 1, 1974. For the purchases from United, Natural proposes an effective date of April 6, 1974.

Natural asserts that copies of this filing are being mailed to its jurisdictional customers and to the interested state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 725 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 13, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–5470 Filed 3–8–84;8:45 am]

[Docket No. E–8251]

NEW ENGLAND POWER CO.

Order Permitting Intervention and Denying Petition To Reject

MARCH 4, 1974.

By our order of February 7, 1974, in the above docket, we denied New England Power Company's (NEPCO) request that a proposed amendment to its rate schedule R–7 be given a January 1, 1974, effective date. That order also instituted an investigation pursuant to section 206 of the Federal Power Act to determine if this proposed amendment is in the public interest and if it should be given prospective effect. On February 19, 1974, Congressman Torbert H. Macdonald filed a petition to protest, for leave to intervene, and for rejection of request to amend application for rate increase. The participation of this petitioner may be in the public interest and will not unduly interfere with the proceeding established in this docket. We shall, therefore, permit Congressman Macdonald to intervene.

With regard to Congressman Macdonald's request that the Commission reject NEPCO's request to make effective the proposed amendment to its rate schedule, the Commission has, as noted above, already taken action which is consistent with such a request. Any objections that Congressman Macdonald may have to the possible future acceptance of NEPCO's proposed amendment may be advanced in the investigation instituted by the Commission's February 7 order. Accordingly, Congressman Macdonald's petition to reject shall be denied.

The Commission finds:

(1) Participation by Congressman Macdonald in this proceeding may be in

the public interest and good cause exists for permitting such intervention.

(2) Congressman Macdonald's petition to reject should be denied.

The Commission orders:

(A) Congressman Macdonald is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in his petition to intervene, and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it may be aggrieved because of any order or orders issued by the Commission in this proceeding.

(B) Congressman Macdonald's petition to reject is denied.

(C) The Secretary of the Commission shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-5477 Filed 3-8-74;8:45 am]

[Doc. Nos. RP71-119, RP74-31-1, *et al.*,[1] RP74-31-3, RP74-31-19]

PANHANDLE EASTERN PIPE LINE CO., ET AL.

Order Amending Order Granting Temporary Extraordinary Relief, Granting Additional Temporary Extraordinary Relief, Setting Matters for Hearing, Granting Interventions, and Prescribing Procedures

MARCH 1, 1974.

By order issued November 6, 1973, in Docket No. RP71-119, we accepted and made effective as of November 1, 1973, revised tariff sheets tendered by Panhandle Eastern Pipe Line Company (Panhandle). Those revised tariff sheets contain Panhandle's proposed curtailment plan which conformed to the curtailment procedures contained in the Commission's Statement of Policy, issued in Docket No. R-469, Order No. 467-B.

Numerous petitions for extraordinary relief have been filed by Panhandle's customers. The Commission by order issued on December 13, 1973, in Docket Nos. RP74-31-1, *et al.* granted temporary extraordinary relief to many of the petitioners alleging that irreparable injury would ensue unless immediate relief was granted.

E. I. Du Pont De Nemours and Company (DuPont) was among those petitioners afforded temporary extraordinary relief in the aforementioned December 13, 1973, order. DuPont on January 28, 1974, filed a motion pursuant to § 1.12 of the Commission's rules of practice and procedure requesting that the aforementioned order be modified enabling it to increase the takes provided for therein on a daily basis. The modification requested by DuPont is not intended to increase the overall temporary emergency allotment that was provided for in the latter order. However, DuPont alleges that it requires greater flexibility in its takes on a daily basis to up-grade the efficiency of plant operation which includes the conservation of natural gas. DuPont, therefore, requests that the aforementioned order be modified to provide with 480 Mcf per day on an *average* so that a maximum of 14,400 Mcf per 30-day month is provided with a daily maximum not to exceed 960 Mcf. The request made by DuPont appears to be in the public interest.

On January 29, 1974, Brockway Glass Company, Inc. ("Brockway"), filed a petition for permanent, extraordinary relief[2] through October 31, 1974, from natural gas curtailments imposed under the 467-B curtailment plan of Panhandle at Brockway's Lapel, Indiana plant. Brockway, a direct sale customer of Panhandle, states that due to the Federal Government's regulations allocating petroleum supplies its contracted supplies of oil will be terminated on February 1, 1974, and its plant will be forced to shut down operations on or about February 3, 1974, with substantial irreparable injury to its employees, itself, and the public, unless relief from Panhandle's curtailments is granted by then. Accordingly, Brockway has moved for immediate, temporary relief pending Commission action on its request for permanent relief. Brockway has pledged itself to exercise due diligence to obtain oil supplies and to use oil as an alternate fuel to the fullest extent possible.

Brockway seeks a total of 803,930 Mcf of gas from Panhandle during the months of February through October, 1974, in order to continue operations and avoid irreparable injury. Brockway states that such volumes are within the 4,500 Mcf per day specified as Panhandle's maximum delivery obligation under the contract between Brockway and Panhandle.

In the event that Brockway is forced to shut-down its Lapel, Indiana plant due to an insufficiency of fuel oil to offset projected gas shortage, it is alleged that 475 employees whose $4,000,000 in wages contribute significantly to the income of a town with a population of 1,400 will be out of work. Additionally, Brockway asserts that a $20,000,000 plant will be made idle and that it would face a loss of 1.5 to 1.7 million dollars income per month.

Brockway's petition will be set for formal hearing and, in view of the allegations of irreparable injury to the community and the company, we will grant Brockway the extraordinary relief it requests on a temporary basis pending a determination of the appropriateness of its petition on the merits after formal hearing. Brockway will be required at this hearing to show all the efforts it has undertaken to acquire supplies of fuel oil, including its endeavors to obtain an allotment from the Federal Energy Office and the results of such efforts.

The Commission will permit Brockway the volumes that it requests on a temporary basis through October 1974, only to the extent that it absolutely requires these volumes because of its inability to acquire off-setting volumes of fuel oil and only to the extent that the volumes do not exceed the minimum requirements reflected in their petition for extraordinary relief.

Several petitions to intervene in the matter relating to Brockway's petition for extraordinary relief in Docket No. RP71-31-19 have been filed with the Commission.[3] The petitioners seeking intervention in the latter docket have already been permitted to intervene in the proceeding relating to a permanent curtailment plan for Panhandle in Docket No. RP71-119. Since many of the parties in the latter docket may also wish to participate herein, they shall also be deemed parties in Docket No. RP74-31-19 with all the attendant rights attached thereto. However, in order to maintain an orderly procedure, any intervener desiring to record objections and protests to the requested relief must file a formal protest to the noticed petition stating with particularity the nature of its objections.

The Commission orders:

(A) DuPont's motion to modify the extraordinary relief provided by the Commission in its Order issued on December 13, 1973, in Docket No. RP74-31-3 is granted as indicated herein, on a temporary basis pending notice and hearing.

(B) The petition for extraordinary relief filed by Brockway is granted, to the extent indicated above, on a temporary basis pending notice and hearing.

(C) A hearing shall be convened at 10:00 a.m. (E.T.) on April 8, 1974, in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C., before an Administrative Law Judge to determine whether extraordinary relief should be granted to Brockway on the basis requested in its petition for extraordinary relief.

(D) All parties including interveners and Staff will file and serve on all other

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[1] Michigan Seamless Tube Company (Michigan Seamless) filed a request for Emergency Relief dated December 26, 1973, pursuant to the Commission's Order on Clarification issued on December 13, 1973. This request was docketed at RP74-31-18. Michigan Seamless was granted temporary extraordinary relief on January 14, 1974, by order issued in RP71-119.

[2] Brockway submitted this request pursuant to the guidelines set forth in the December 13, 1973, Order on clarification issued in Docket No. RP71-119 after Panhandle denied their request for emergency relief.

[3] Petitions to intervene in Panhandle Eastern Pipe Line Company (Brockway Glass Company, Inc.) in Docket No. RP74-31-19 were filed by Central Indiana Gas Company, Inc., Missouri Public Service Company, Columbia Gas Transmission Company, Caterpillar Tractor Company, National Distillers and Chemical Corporation, Foster Forbes Glass Company, Glass Container Corporation, Kerr Glass Manufacturing, Owens, Illinois, Inc., and General Motors Corporation.

parties their evidence and testimony on or before March 28, 1974.

(E) Cross-examination shall commence on April 8, 1974.

(F) Those petitioners seeking permission to intervene in the proceeding entitled Panhandle Eastern Pipe Line Company (Brockway Glass Company, Inc.) at Docket No. RP74-31-19, along with all other parties previously granted intervention in the proceeding entitled Panhandle Eastern Pipe Line Company in Docket No. RP71-119 are permitted to intervene in and participate in the above-styled proceeding relating to the Petition for Extraordinary Relief filed by Brockway Glass Company, Inc., in Docket No. RP74-31-19 subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such interveners shall be limited to matters effecting rights and interests specifically set forth in their petitions to intervene, *Provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that such interveners might be aggrieved, because of any order or orders issued by the Commission in this proceeding.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-5480 Filed 3-8-74;8:45 am]

[Docket No. E-8641]

NEW ENGLAND POWER CO.

Rate Increase Filing and Petition for Extraordinary Relief

MARCH 4, 1974.

Take notice that on February 26, 1974, New England Power Company (NEPCO) filed a proposed rate increase to its primary service for resale customers (Rate R-8) and a petition for emergency relief by way of waiver of the Commission's rules and regulations to permit its new Rate R-8 to become effective, subject to refund, on April 1, 1974, NEPCO requests waiver of §§ 35.13(b)(4)(i) and 35.13(b)(5)(i) of the Commission's regulations in order that its R-8 Rate may be accepted for filing unaccompanied by the detailed cost of service data and testimony required by those sections. NEPCO asks permission to file this data and testimony on April 15, 1974. NEPCO also requests waiver of § 1.7(b) of the Commission's regulations in order that an effective date of April 1, 1974, may be assigned to its Rate R-8.

NEPCO asserts that its Rate R-8, which increases its energy charge to its primary service for resale customers by 2.5 mills per kilowatt-hour, will result in increased annual revenues of $39,700,000. NEPCO states that its net earnings at the end of 1973 were insufficient to meet the interest coverage requirements on its long term bonds and were insufficient to meet requirements in its By-laws applicable to the issuance of preferred stock. Consequently, NEPCO asserts, it is currently unable to issue any long term bonds on preferred stock. NEPCO asserts a need to raise $92,000,000 of new funds in 1974, primarily for construction of facilities essential to meeting its utility responsibilities. NEPCO states that it will be unable to meet these responsibilities unless the Commission's regulations are waived as requested and its increased Rate R-8 is allowed to become effective as of April 1, 1974.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before March 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. The above filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5481 Filed 3-8-74;8:45 am]

[Docket No. E-8570]

SOUTHERN CALIFORNIA EDISON CO.

Order Suspending Proposed Changes in Rates, Rejecting Proposed Fuel Clause, Setting Matter for Hearing and Permitting Interventions

MARCH 1, 1974.

On January 2, 1974, Southern California Edison Company (Edison) tendered for filing Supplements to its FPC Rate Schedules including a rate increase and the addition of a fuel clause applicable to its small resale (R-1) customers and a rate increase applicable to its eleven large resale (R-2) customers.[1] The proposed rate changes which would become effective on March 1, 1974, would increase annual revenues from jurisdictional sales and service by an estimated $310,026 (28.3 percent) for the R-1 customers, and $20,279,684 (35.9 percent) for the R-2 customers, an overall increase of 35.7 percent, based upon sales forecasted for the twelve month period ending February 28, 1975. The proposed increase ranges from 26.0 percent to 30.0 percent for the R-1 customers and from 33.8 percent to 36.4 percent for the R-2 customers. The subject filing was found to be deficient and Edison was so notified by Secretary letter issued February 1, 1974. On February 4, 1974, Edison filed the necessary information to cure the deficiency and requested that the Commission waive the notice requirements to permit the rate changes to be effective March 1, 1974, as originally proposed.

The proposed changes in the R-1 schedule include increased demand charges in all blocks, elimination of an 8,000 KW block after 2,000 KW billing demand (which affects all customers except Arizona Public Service), and increased energy charges in all blocks. Proposed changes in the R-2 schedule include increased demand charges in all blocks, and elimination of blocked energy charges to be replaced by a single charge per kWh. Applicable to both R-1 and R-2 rate schedules is a proposed fuel cost adjustment provision.

In support of its proposed rate increase, Edison states that its present rates without a fuel clause would produce a return on rate base in calendar year 1974 of less than 1%. Edison further states that substantial increases in fuel costs are predicted for the near term which will have the effect of seriously reducing the return under base rates absent an effective fuel clause to enable the prompt reflection in revenues of fuel cost increases.

Notice of the initial tender was issued on January 11, 1974, providing for all comments and petitions to intervene to be filed on or before January 25, 1974.

By separate submittals the Cities of Riverside and Vernon protested the proposed increase and requested a five month suspension. On January 23, 1974, Arizona Public Service Company filed a petition to intervene. On January 17, 1974, the Cities of Anaheim, Riverside, Banning, Colton and Azusa (Cities) filed a motion to reject the filing for failure to comply with the Commission Regulations. On January 25, 1974, Cities filed a protest, petition to intervene, and further motion to reject the rate filing. In their filing, Cities objected to the proposed fuel clause which they alleged is in conflict with the Commission's Regulations. They also objected to the magnitude of the rate increase, Edison's proposed changes in its power factor adjustment, and Edison's methods of deriving its cost of service. On January 23, 1974, Anza Electric Cooperative, Inc. (Ansa) filed a petition to intervene, protest, and concurrence in Cities' motion to reject the rate filing. On February 4, 1974, and February 11, 1974, Edison filed answers to the motions of Cities and Anza in which it claimed that many of their complaints were matters to be considered in an evidentiary hearing.

As indicated above, Edison has cured the deficiency by its February 4, 1974 filing and therefore grounds for its rejection no longer exist. Our review of Edison's filing and the issues raised therein indicates that the proposed changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. For the foregoing reasons, we shall suspend the proposed changes for the full statutory period and establish hearing procedures to determine the justness and reasonableness of Edison's filing. With regard to Edison's proposed fuel clause, however, we note that the clause uses estimated data and thus does not represent actual fuel costs incurred. Since the proposed clause does not conform to the Commission's regulations, we shall reject the

[1] The subject rate filing and rate schedule supplements are more specifically described in Appendix A attached hereto.

clause without prejudice to Edison refiling a conforming clause.

As to Edison's request for waiver of the notice requirements of the Commission's regulations, we believe good cause does not exist for such a waiver, and we shall assign February 4, 1974, the date Edison cured the deficiency in its original tender, as the filing date for Edison's proposed changes.

The Commission finds:

(1) The proposed changes in rates and charges, tendered by Edison on January 2, 1974, should be accepted for filing as of February 4, 1974, as hereinafter ordered.

(2) Edison's proposed fuel clause should be rejected without prejudice to Edison refiling a clause conforming with the Commission's regulations.

(3) The motions to reject filed by Cities and Anza should be denied.

(4) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Edison's revised rate schedules proposed in this docket, and that the tendered rate schedules be suspended as hereinafter provided.

(5) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(6) Participation in this proceeding of the above-named petitioners to intervene may be in the public interest.

The Commission orders:

(A) The motions to reject filed by Cities and Anza are hereby denied.

(B) Edison's proposed fuel clause is rejected without prejudice to Edison's refiling a clause conforming with the Commission's regulations.

(C) Pursuant to authority of the Federal Power Act, particularly section 205 (e) thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held on July 9, 1974, at 10:00 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, concerning the lawfulness of the rate schedules as proposed to be amended herein.

(D) On or before May 14, 1974, the Commission Staff shall serve its prepared testimony and exhibits. Any prepared testimony and exhibits of intervening parties shall be served on or before June 6, 1974. Any rebuttal evidence by Edison shall be served on or before June 25, 1974.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(F) Nothing contained herein should be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(G) Pending hearing and a final decision thereon, Edison's proposed tariff sheets, tendered on January 2, 1974, are accepted for filing as of February 4, 1974, and suspended for five months and the use thereof deferred until August 4, 1974.

(H) The above named petitioners are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in its petition to intervene, and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that it may be aggrieved because of any order or orders issued by the Commission in this proceeding.

(I) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD, *Acting Secretary.*

Rate schedule designations—Southern California Edison Co.

Designations	Instrument	Other party
(1) Supplement No. 6 to rate schedule FPC No. 6 (supersedes supplement No. 5 to rate schedule FPC No. 6).	Resale service schedule No. R-1	Arizona Public Service Co., Gilboa.
(2) Supplement No. 6 to rate schedule FPC No. 11 (supersedes supplement No. 5 to rate schedule FPC No. 11).	do	U.S. naval ammunition depot.
(3) Supplement No. 7 to rate schedule FPC No. 13 (supersedes supplement No. 6 to rate schedule FPC No. 13	Resale service large schedule No. R-2.	City of Vernon, Calif.
(4) Supplement No. 8 to rate schedule FPC No. 15 (supersedes supplement No. 6 to rate schedule FPC No. 15).	Resale service large schedule No. R-2 (66,000 V).	City of Anaheim, Calif.
(5)* Supplement No. 9 to rate schedule FPC No. 15 (supersedes supplement No. 17 to rate schedule FPC No. 15).	Resale service large schedule R-2 (220,000 V).	Do.
(6) Supplement No. 6 to rate schedule FPC No. 16 (supersedes supplement No. 5 to rate schedule FPC No. 16).	Resale service large schedule No. R-2.	City of Azusa, Calif.
(7) Supplement No. 8 to rate schedule FPC No. 17 (supersedes supplement No. 6 to rate schedule FPC No. 17).	Resale service large schedule No. R-2 (66,000 V).	City of Riverside, Calif.
(8) Supplement No. 9 to rate schedule FPC No. 17 (supersedes supplement No. 7 to rate schedule FPC No. 17).	Resale service large schedule No. R-2 (220,000 V).	Do.
(9) Supplement No. 5 to rate schedule FPC No. 19 (supersedes supplement No. 4 to rate schedule FPC No. 19).	Resale service schedule No. R-1	Anza Electric Coop., Inc.
(10) Supplement No. 5 to rate schedule FPC No. 21 (supersedes supplement No. 4 to rate schedule FPC No. 21).	Resale service large schedule No. R-2.	City of Banning, Calif.
(11) Supplement No. 5 to rate schedule FPC No. 22 (supersedes supplement No. 4 to rate schedule FPC No. 22).	Resale service schedule No. R-1	Sierra Pacific Power Co. (Mineral County Power System).
(12) Supplement No. 5 to rate schedule FPC No. 29 (supersedes supplement No. 4 to rate schedule FPC No. 29).	do	Arizona Public Service Co. (Ehrenburg).
(13) Supplement No. 7 to rate schedule FPC No. 31 (supersedes supplement No. 6 to rate schedule FPC No. 31).	Resale service large schedule No. R-2.	City of Colton, Calif.
(14) Supplement No. 5 to rate schedule FPC No. 33 (supersedes supplement No. 4 to rate schedule FPC No. 33).	do	Southern California Water Co. (Gold Hill).
(15) Supplement No. 3 to supplement No. 2 to rate schedule FPC No. 33 (supersedes supplement No. 2 to supplement No. 2 to rate schedule FPC No. 33).	Resale service schedule No. R-1	Southern California Water Co. (Harnish).

[FR Doc.74-5478 Filed 3-8-74;8:45 am]

[Docket No. R-405-A]

RELIABILITY OF ELECTRIC AND GAS SERVICE

Order Granting Stay

FEBRUARY 28, 1974.

TransOcean Oil Inc. on February 19, 1974, filed a motion that the Commission stay until April 12, 1974, (or seven days after it rules on TransOcean's application for rehearing in the above proceedings, whichever is earlier) the filing of the uncommitted gas reserve data questionnaire required on or before March 1, 1974, by Ordering Clause (A) of the Commission's Opinion No. 687 and order issued February 4, 1974.

TransOcean states that it intends to file an application for rehearing of Opinion No. 687 and, if it is denied, to seek review. It argues that since the very question at issue is the Commission's authority to produce the required data where confidentiality is to be maintained, compliance with the Commission's order would moot the case and render court review futile.

Pennzoil Company and Pennzoil Producing Company on February 27, 1974, also filed a motion for stay making similar contentions that they otherwise would be irreparably injured if required to file the reserve data before the Commission has ruled on their application for rehearing or before they have had opportunity to request a further stay pending appeal. They agree with the length of stay requested by TransOcean.

In order to afford TransOcean and the Pennzoil Companies opportunity to exercise their rights under the Natural Gas Act, we shall grant their motions.

The Commission orders:

The filing of completed questionnaires by Pennzoil Company, Pennzoil Producing Company, Tenneco Oil Company and TransOcean Oil Inc. required in Ordering Clause (A) of the Commission's order of February 4, 1974, is hereby deferred until the earlier of (1) April 12, 1974, or (2) seven days after the Commission rules on all applications for rehearing.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-5479 Filed 3-8-74;8:45 am]

[Docket No. RP74-39-9]

TEXAS EASTERN TRANSMISSION CORP. AND SOMERSET GAS SERVICE

Petition for Emergency Relief

MARCH 4, 1974.

Public notice is hereby given that on February 14, 1974, a petition for emergency relief was filed by the Somerset Gas Service of Somerset, Kentucky (Somerset) pursuant to § 1.7 of the Commission's rules of practice and procedure. Somerset, a municipally owned and run distributor of natural gas, requests that the Commission issue an order directing its sole supplier of natural gas, Texas Eastern Transmission Corporation (TETCO), to exempt it from annual curtailment.

Somerset cites, in support of its request, an order issued by the Commission on December 13, 1973, in Docket No. RP71-119, accepting tariff sheets filed by Panhandle Eastern Pipeline Company which exempt 40 of its small distributor customers from end-use curtailment. That order permits Panhandle to exempt from curtailment customers whose contract demand is 6,000 Mcf per day or less and who (a) did not supply during the billing month (i) gas classified in priority-of-service categories 4 through 9 when such categories were being curtailed by Panhandle or (ii) gas for electric generation; and (b) it did not attach or supply any new gas usage on its system falling within (i) Priorities 3 through 9 after November 1, 1971 (the date on which curtailment was announced on the Panhandle system), and (ii) any priority subsequent to February 1, 1974.

Somerset states that it meets all the criteria necessary under the Panhandle order. It states that it has complied with the provisions in (b) above and is willing to comply with the provisions in (a) above. Somerset's MDQ is 6300 Mcf from April 16 to November 15 and 6500 Mcf from November 16 through April 15 when it receives gas under TETCO's WS Rate Schedule.

Somerset states that TETCO's presently estimated curtailment to Somerset is 605,184 Mcf or 37 percent of Somerset's Annual Quantity Entitlement, nearly 2½ times the average on the TETCO system.

Somerset claims that as a result of the curtailment many of the industrial customers it supplies may be forced to close down. In order to give these customers time to convert to alternate fuels and to obtain supplies of alternate fuels. Somerset did not impose heavy curtailments on them until December 1973. Now Somerset claims that even if it lives within TETCO's curtailment for the rest of the year it will be liable for $225,000 in penalty charges for exceeding its curtailed Annual Quantity Entitlement. Somerset states that it is reluctant to force its industries to close down, but that to supply them with gas for the remainder of the year would expose Somerset to penalty charges approaching $1 million.

Somerset claims that it has instituted a program to achieve savings by all of its customers and that it is trying to obtain gas from other sources, albeit unsuccessfully. Somerset claims that its use of gas during the period September 1 through December 31, 1973, is down 13 percent from the same period in 1972.

Somerset requests relief not on a permanent basis, but only until the "conclusion of present proceedings", presumably referring to the curtailment proceedings in Docket Nos. RP71-130, *et al.* Such relief, Somerset claims, would allow it time to locate other sources of supply and would allow its customers time to convert to alternate fuels.

Somerset requests that its petition be granted without a hearing, citing that the December 13, 1973, order in *Panhandle* (which was not framed as a grant of a petition for emergency relief) was so granted.

Any person desiring to be heard or to make protest with reference to said petition should on or before March 18, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The petition is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5476 Filed 3-8-74;8:45 am]

[Docket No. E-8619]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Proposed Rate Increases

MARCH 4, 1974.

Take notice that on February 4, 1974, Wisconsin Electric Power Company (WE) and Wisconsin Michigan Power Company (WM) tendered for filing proposed changes in their FPC Electric Service Tariffs Schedule A of "Rate for Wholesale Service To Large Electric Public Utilities", Schedule B of WE "Electric Service Rules and Regulations" and WM "Electric Service Rules and Regulations" related to the aforesaid rate schedule applicable to ten wholesale customers of WE and eight large wholesale customers of WM, respectively; and "Rate for Wholesale Service to Small Electric Public Utilities" applicable to two small wholesale customers served by WM. The Companies propose an effective date of April 5, 1974.

The Companies state that the proposed changes would increase revenues from jurisdictional sales and service by $3,018,000 based on projected sales for the 12 month period ending December, 1974. The Companies further contend that the increase in rates of approximately 34.9 percent is necessary to bring the rate of return on wholesale business into line with the required rate of return on overall electric business to yield a rate of return of 8.46 percent.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 11, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5463 Filed 3-8-74;8:45 am]

[Docket No. E-8157]

WISCONSIN PUBLIC SERVICE CORP.

Certification of Proposed Settlement

MARCH 4, 1974.

Take notice that on February 11, 1974, the Presiding Administrative Law Judge in the above referenced docket certified to the Commission a settlement agreement entered into between Wisconsin Public Service Corporation and the customer intervenors. Volume Nos. 1 and 2 (Tr. 1-61) of the transcript and Exhibits 1 through 6 were attached to the certified settlement agreement. All parties support the proposed settlement. If the settlement agreement is approved by the Commission, it would resolve all outstanding issues in this proceeding.

Any person desiring to be heard or to protest said agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All such comments should be filed on or before March 18, 1974. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of

the agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5475 Filed 3-8-74;8:45 am]

[Docket No. RP73-43]

MID LOUISIANA GAS CO.

Notice of Proposed Change in Rates

MARCH 5, 1974.

Take notice that Mid Louisiana Gas Company (Mid Louisiana), on February 19, 1974, tendered for filing as a part of First Revised Volume No. 1 of its FPC Gas Tariff, Seventh Revised Sheet No. 3a, proposed to become effective on April 6, 1974.

Mid Louisiana states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment to Mid Louisiana's Rate Schedules G-1, SG-1, I-1 and E-1; that the revised tariff sheet and supporting information are being filed to coincide with a major rate increase by United Gas Pipe Line Company, in Docket No. RP74-20, one of Mid Louisiana's gas suppliers; that the filing also reflects the January 1, 1974 increase in the Louisiana Gas severance tax applicable to gas supplier contracts; and that copies of the filing were served on interested customers and state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 11, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5571 Filed 3-8-74;8:45 am]

[Docket No. RP74-39-8]

TEXAS EASTERN TRANSMISSION CORP. AND NORTH ALABAMA GAS DISTRICT

Notice of Petition for Emergency Relief

MARCH 5, 1974.

Public notice is hereby given that on February 13, 1974, North Alabama Gas District (North Alabama or Petitioner) filed a petition for emergency relief pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure. Petitioner requests that the Commission issue an order directing Texas Eastern Transmission Corporation (TETCO) to exempt it from TETCO's current curtailment plan and deliver to North Alabama its full contractual entitlement of 14,800 Mcf per day.

Petitioner states that it receives gas under TETCO's DCQ-B Rate Schedule pursuant to a firm contract under which North Alabama is entitled to receive 14,800 Mcf per day. Since September 1, 1973, Petitioner has been curtailed by TETCO by amounts varying from 0% to 51%, the latter figure being the effective rate on the date of filing of the petition.

All of the gas Petitioner receives from TETCO is resold under firm contract to U.S.S. Agrichemicals Division (Ag-Chem) at its facility at or near Cherokee, Alabama. An affidavit by John M. Hoerner of U.S.S. Agrichemicals Division, which is attached to the petition, states the following: All of the gas sold to Ag-Chem is used in the production of ammonia. Sixty per cent of the gas is used as feedstock, the remaining 40% as process gas. All of the gas is classified in priority-of-service category (2) for purposes of curtailment under TETCO's curtailment plan. Ninety per cent of the ammonia produced is used in the manufacture of fertilizer. The plant is capable of producing up to 520 tons of ammonia per day. Under the curtailment at the date of filing, production was reduced by approximately 200 tons per day.

A shortened notice period in this proceeding may be in the public interest. Any person desiring to be heard or to make protest with reference to said petition should, on or before March 11, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The petition is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-5572 Filed 3-8-74;8:45 am]

FEDERAL RESERVE SYSTEM

ALABAMA FINANCIAL GROUP, INC.

Order Permitting Revision of the Proposed Acquisition of Southern States Life Insurance Company

By order dated September 13, 1973, the Board approved an application of Alabama Financial Group, Inc., Birmingham, Alabama, a bank holding company within the meaning of the Bank Holding Company Act, to acquire all of the voting shares of Southern States Life Insurance Company, Birmingham, Alabama ("Company"), and thereby to engage *de novo* in the activity of underwriting credit life and credit accident and health insurance directly related to extensions of credit by Applicant's subsidiaries.

On October 23, 1973, Applicant requested modification of the proposed acquisition whereby Company would be incorporated in Arizona, rather than Alabama; and would engage in the underwriting, as reinsurer, of credit life and credit accident and health insurance, rather than as direct underwriter. Such activities would be conducted at offices in Phoenix, Arizona.

The Board finds that the same public benefits factors which were considered in approving the original proposal are present in the modified proposal. Accordingly, the Board has concluded that the request should be granted. The Board's Order of September 13, 1973, is hereby amended to permit Applicant to acquire all of the voting shares of Southern States Life Insurance Company, Phoenix, Arizona, a company that will engage *de novo* in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance directly related to extensions of credit by Applicant's subsidiaries.

By order of the Board of Governors [1] effective March 1, 1974.

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

[FR Doc.74-5459 Filed 3-8-74;8:45 am]

ATLANTIC BANCORP.

Order Approving Acquisition of Bank

Atlantic Bancorporation, Jacksonville, Florida, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under Section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 54 percent or more of the voting shares of of Mid-County Commercial Bank, Largo, Florida ("Bank").

Notice of the application affording opportunity for interested persons to submit comments and views has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and this Federal Reserve Bank has considered the application and all comments received in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the sixth largest banking organization in Florida, controls 30 existing or approved banks which have deposits of $1,056.5 million or 5.1 percent of deposits in all commercial banks of the state. (All banking data are as of June 30, 1973, and reflect acquisitions and formations approved by the Board through November 28, 1973). Acquisition of Bank, having deposits of $22.1 million, would increase Applicant's share of Florida commercial bank deposits by less than one percent, and would not change Applicant's rank in size. No un-

[1] Voting for this action: Vice Chairman Mitchell and Governors Daane, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns and Governor Brimmer.

due concentration of banking resources in Florida would result.

Applicant is seeking to make its initial entry into the north Pinellas County market which includes the cities of Belleair Bluffs, Clearwater, Dunedin, Largo, Safety Harbor, and Tarpon Springs. By acquiring Bank, the eleventh largest in the market, with deposits representing 3.1 percent of commercial bank deposits in the market, the Applicant will not be gaining a dominant position.

Applicant's closest subsidiary bank is at Tampa, 18 miles southeast of Bank. No competition exists between Applicant's present banking subsidiaries and Bank, and it is not likely that significant future competition would develop between them because of the distances involved and Florida's restrictive branching laws. The proposed acquisition will result in breaking an existing affiliation and is pro-competitive. Therefore, competitive considerations are consistent with approval.

The financial and managerial resources and prospects of Applicant, its subsidiaries and Bank are satisfactory in light of Applicant's commitment to increase capital in its other subsidiary banks. The proposed affiliation with Applicant will assist Bank in offering specialized services, such as trust services, construction lending, and leasing arrangements. Applicant also proposes to improve Largo Bank's internal operations. Considerations relating to convenience and needs of the community to be served lend weight toward approval of the application. It is this Federal Reserve Bank's judgment that the consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Federal Reserve Bank of Atlanta acting under delegated authority for the Board of Governors of the Federal Reserve System effective February 27, 1974.

[SEAL] KYLE K. FOSSUM,
First Vice President.

[FR Doc.74-5455 Filed 3-8-74;8:45 am]

CENTRAL BANCORPORATION, INC.

Acquisition of Bank

Central Bancorporation, Inc., Cincinnati, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of The Central Trust Company of Montgomery County, National Association, Dayton, Ohio. 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 Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 28, 1974.

Board of Governors of the Federal Reserve System, March 4, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-5461 Filed 3-8-74;8:45 am]

COLONIAL BANCORP, INC.

Order Approving Acquisition of Policy Advancing Corp.

Colonial Bancorp, Inc., Waterbury, Connecticut, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Policy Advancing Corp., Watertown, New York ("Policy"), a company that engages in the activity of making extensions of credit to individuals and corporations to finance the payment of casualty, liability, and other insurance premiums. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1)).

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 35353). The time for filing comments and views has expired, and none has been timely received.

Applicant is the seventh largest banking organization in Connecticut and controls one subsidiary bank with deposits of approximately $278.6 million,[1] representing approximately 4.4 per cent of total commercial bank deposits in the State. Policy (assets of $5.9 million, as of June 30, 1973) presently operates in 10 cities[2] and engages in the financing of casualty, liability, and other insurance premiums for individuals and corporations. Applicant's subsidiary bank is engaged to a very limited extent in insurance premium financing through its Waterbury offices. Policy does not presently derive any business from the Waterbury area. Accordingly, it appears that consummation of the proposal would not eliminate any significant existing competition between Applicant and Policy. Furthermore, it does not appear likely that a significant amount of competition would develop in the future, since Policy's present owners have indicated their intention to discontinue insurance premium financing as engaged in by Policy, and since Applicant's subsidiary bank is only nominally engaged in this activity and is not likely to significantly increase its present volume of business. The Board concludes, therefore, that competitive considerations are consistent with approval of the application.

Applicant has stated its intention to expand the operations of Policy into other geographic areas and thereby provide an additional competitor in these new areas. In addition, Applicant will provide more efficient service to Policy's customers through the introduction of an electronic data processing system. There is no evidence in the record indicating that consummation of the proposed acquisition would result in undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects on the public interest. In its consideration of this application, the Board has examined the covenant not to compete which was executed in connection with the proposal. The Board finds that the provisions of this covenant are reasonable in duration, scope, and geograpic area and are consistent with the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Boston.

By order of the Board of Governors,[3] Dallas.

effective March 1, 1974.

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

[FR Doc.74-5460 Filed 3-8-74;8:45 am]

COMMERCIAL BANK INVESTMENT CO., AND COMMERCIAL BANCORPORATION OF COLORADO

Acquisition of Bank

Commercial Bank Investment Company ("Investment Company"), and its subsidiary, Commercial Bancorporation of Colorado ("Bancorporation"), both of Sterling, Colorado, have applied in sepa-

[1] All banking data are as of June 30, 1973.

[2] The 10 cities are located in four States—New York, Pennsylvania, Ohio, and Connecticut.

[3] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Sheehan, Bucher and Holland. Voting against this action: Governor Brimmer. Dissenting statement of Governor Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of The Federal Reserve System, Washington, D.C., 20551, or to the Federal Reserve Bank of

rate applications, for the Board's approval under section 3(a)(3) of the Bank Holding Comapny Act (12 U.S.C. 1842(a)(3)) for Bancorporation to acquire directly, and for Investment Company to acquire indirectly, 95 per cent or more of the voting shares of Bank of Colorado, Colorado Springs, Colorado. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications 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 applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 1, 1974.

Board of Governors of the Federal Reserve System, March 1, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-5457 Filed 3-8-74;8:45 am]

FIRST BANC GROUP, INC.

Acquisition of Bank

First Banc Group, Inc., Creve Coeur, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Hermann Bank, Hermann, Missouri. 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)).

First Banc Group, Inc. is also engaged in the following nonbank activities: land ownership and data processing activities. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 25, 1974.

Board of Governors of the Federal Reserve System, March 1, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-5458 Filed 3-8-74;8:45 am]

S & S INVESTMENT CO.

Order Approving Formation of Bank Holding Company

S & S Investment Company, Odell, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 per cent of the voting shares (less directors' qualifying shares) of State Bank of Odell, Odell, Nebraska ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and finds that:

Applicant has no operating history but was incorporated in September 1973 to effect a corporate reorganization of the ownership of the stock of Bank ($3 million deposits). (All banking data are as of June 30, 1973.) Bank is located in Odell, Gage County, Nebraska, 58 miles south of Lincoln. The county has a population of approximately 26,000 and Odell a population of 349. Bank is the sixth largest of eight competing banks located in an area which encompasses sections of Gage and Jefferson Counties, Nebraska, and a portion of Marshall County in Kansas. The three largest of these banks hold, collectively, deposits of $60 million, representing approximately 75 per cent of total deposits for the area. The proposal represents a reorganization of the present ownership of Bank; consummation of the formation would neither alter existing banking competition nor significantly affect potential competition. Accordingly, the Board regards competitive considerations as being consistent with approval of the application.

The financial and managerial resources and prospects of Bank are satisfactory and consistent with approval of the application. In acquiring Bank, Applicant will incur substantial debt. However, Bank's capital appears adequate and is expected to remain adequate during debt amortization. Approval of the formation should enable Applicant to increase its income above projected levels with the establishment of a small loan department within Bank. Considerations relating to the convenience and needs of the communities involved weigh in favor of approval in view of Applicant's plans to introduce passbook savings accounts for Bank and to establish the aforementioned small loan department. It is the Board's judgment that the transaction would be in the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] effective March 1, 1974.

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

[FR Doc.74-5454 Filed 3-8-74;8:45 am]

SOUTHERN NATIONAL CORP.

Order Approving Acquisition of Marvin Greene Mortgage Corporation

Southern National Corporation, Lumberton, North Carolina, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Marvin Greene Mortgage Corporation, Charlotte, North Carolina ("Company"), a company that engages in the activities of origination, sale and service of residential and commercial mortgages. The above described activities have been determined by the Board to be closely related to banking or managing or controlling banks (12 CFR 225.4(a)(1)). A bank holding company may acquire a company engaged in an activity determined by the Board to be closely related to banking provided that the proposed acquisition is warranted under the relevant public interest factors specified in § 4(c)(8) of the Act.

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 1124). The time for filing comments and views has expired, and none has been timely received.

Applicant, a one-bank holding company, controls Southern National Bank of North Carolina, Lumberton, North Carolina ("Bank"), the ninth largest bank in North Carolina with deposits of $262 million, which represent 2.6 percent of aggregate commercial bank deposits in the State. (All banking data are as of June 30, 1973.) Applicant engages in grandfathered nonbank activities which include operating insurance agencies and a farm development company. Such companies are required to be divested by Applicant on or before December 31, 1980, unless Applicant has received Board approval prior to that time for their retention.

Company's activities include the origination, sale and servicing of residential and commercial mortgage loans. It commenced operations in November 1972 by purchasing mortgage loans that were warehoused through local commercial banks. Company ceased making mortgage loans in March 1973 because it was unable to place any loans with permanent lenders, and its Board of Directors actively sought a purchaser for the mort-

[1] Voting for this action: Vice Chairman Mitchell and Governors Daane, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns and Governor Brimmer.

gage lending business. As of June 30, 1973, Company had mortgage notes receivable of $1,596,168.

A branch office of Bank and Company's sole office are located in the relevant geographic market, which is approximated by the Charlotte SMSA (Standard Metropolitan Statistical Area) and includes the counties of Mecklenburg, Union, and Gaston. Approximately 80 per cent of Company's total mortgage originations ($2 million) from November 1972 through March 1973 were derived within the market. Applicant's subsidiary banking office in Charlotte has mortgage loans outstanding of $400,000. The product market is 1–4 family residential mortgages, and approximately 12 mortgage companies and numerous savings and loan associations and banks compete for this business. The total residential mortgage loans for the market area are estimated to have been in excess of $300 million for the year 1973. The combined mortgage loans of Applicant's subsidiary bank and Company would result in a control of less than 1 per cent of total mortgage loans in the Charlotte market area. On the basis of the facts of record, the elimination of existing or potential competition resulting from this proposal appears minimal, and the Board regards the competitive considerations as being consistent with approval of the application.

It appears that consummation of this proposed transaction would not result in any undue concentration of resources, conflicts of interests, unsound banking practices, or any other adverse effects on the public interest. Applicant states that public benefits will result from the proposal since it will provide Company with management assistance necessary to enable Company to operate as a viable competitive force in the relevant mortgage lending market. Moreover, affiliation with Applicant should enable Company to expand its scope of mortgage operations. Thus, the Board regards public benefits considerations as lending weight toward approval of the application.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under Section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be consummated not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta.

By order of the Board of Governors,[1] effective March 1, 1974.

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

[FR Doc.74-5453 Filed 3-8-74;8:45 am]

SOUTHWEST KANSAS BANC SHARES, INC.

Formation of Bank Holding Company

Southwest Kansas Banc Shares, Inc., Hutchinson, Kansas, 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 93.2 per cent or more of the voting shares of First National Bank, Meade, Kansas. 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 views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 25, 1974.

Board of Governors of the Federal Reserve System, March 1, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-5456 Filed 3-8-74;8:45 am]

THIRD NATIONAL CORP.

Acquisition of Bank

Third National Corporation, Nashville, Tennessee, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 50 per cent or more of the voting shares of The Bank of Huntingdon, Huntingdon, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 1, 1974.

Board of Governors of the Federal Reserve System, March 1, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-5452 Filed 3-8-74;8:45 am]

[1] Voting for this action: Vice Chairman Mitchell and Governors Daane, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns and Governor Brimmer.

FOREIGN-TRADE ZONES BOARD

[Docket No. 1–74]

EWA, OAHU, AND HONOLULU, HAWAII

Invitation for Comments and Notice of Filing of Application by State of Hawaii To Contiguously Expand the Area of Foreign-Trade Subzone No. 9A and To Establish a Terminal Annex to the Subzone in in Honolulu Harbor Area

Notice is hereby given that the State of Hawaii, grantee of Foreign-Trade Zone No. 9 and Subzone No. 9A, has, through its Department of Planning and Economic Development, applied to the Foreign-Trade Zones Board (the Board) pursuant to the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400) for authority to contiguously expand the area of Foreign-Trade Subzone No. 9A and to establish a subzone annex in the Honolulu Harbor area for terminal storage facilities. The application was formally filed on February 14, 1974. Public notice appeared in the FEDERAL REGISTER (39 FR 5653) on February 14, 1974, concerning the draft environmental impact statement prepared for the proposal.

The State of Hawaii is the sponsor and operator of Foreign-Trade Zone No. 9, Honolulu, a general-purpose zone located at Pier 39 in the Honolulu Harbor area. In operation since 1967, the site was used during the past year by over 140 firms, 17 of which used the facility on a permanent basis. Subzone 9A, approved in 1970 (Board Order No. 82) and located on Barbers Point at Ewa, Oahu, is an oil refinery site also sponsored by the State. The refinery operator is Hawaiian Independent Refinery, Inc. (HIRI), which started operations at this site in April 1972. Zone procedures facilitate the operation under the Oil Import Program as the facility is designed to supply Hawaii's foreign and bonded fuel market with locally refined products using foreign crude petroleum raw materials.

The proposed expansion would increase the subzone area from its present 110.4 acres to 139.1 acres within the same industrial park site in order to permit the existing 29,500 barrel per day oil refinery to increase its output to 125,000 barrels per day and increase its storage capacity by 3.3 million barrels to 6.3 million. This would involve modifying the existing crude distillation unit to increase throughput capacity and the installation of additional processing units to upgrade products as well as supplemental tankage and support systems.

The proposed subzone annex would consist of a 660,000 barrel capacity petroleum storage and distribution facility covering 3.5 acres on a 4-acre parcel owned by the State of Hawaii located on the SW side of Sand Island Access Road just before the Bascule Bridge in the Honolulu Harbor area. The State of Hawaii plans to contract with HIRI for the construction and operation of the

facility. Connection with the subzone refinery will be through a 22-mile product pipeline. Another pipeline will connect the annnex with Foreign-Trade Zone No. 9 at Pier 39 located less than one mile away to provide bunkering fuel for shipping. The site will also serve the Honolulu International Airport, some 2.2 miles distant, by pipeline.

In accordance with the Board's regulations an Examiners Committee has been appointed to conduct an investigation of the proposal and report its findings to the Board. The Committee is composed of Mr. Jack Gaines, Director, Energy Resources Division, Office of Energy Programs, U.S. Department of Commerce, Washington, D.C. 20230; Dr. Ernest Murai, District Director, U.S. Customs Service, Honolulu, Hawaii 96806; and Colonel Leonard Edelstein, District Engineer, Corps of Engineers, Ft. Armstrong, Honolulu, Hawaii 96813.

A copy of the application and accompanying exhibits, including an environmental report, will be available for public inspection during regular business hours until April 10, 1974 at the following locations:

Office of the Executive Secretary
Foreign-Trade Zones Board
U.S. Department of Commerce, Room 6886B
14th and E Street, N.W.
Washington, D.C. 20230

Office of the District Director
U.S. Customs Service
228 Federal Building
335 Merchant Street
Honolulu, Hawaii 96806

In connection with its investigation of the application the Examiners Committee invites interested persons and organizations to submit their written views regarding the proposal. They should be addressed to the Committee Chairman, c/o Office of the Board's Executive Secretary (address above) and be postmarked by April 10, 1974. An original and twelve copies are required.

Dated: March 5, 1974.

JOHN P. DAPONTE, Jr.,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc.74-5532 Filed 3-8-74;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

MANDATORY DUST STANDARD

Applications for Renewal Permits; Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Mandatory Dust Standard (2.0 mg/m³) have been received as follows:

(1) ICP Docket No. 20165, OLD BEN COAL COMPANY, Mine No. 26, Mine ID No. 11 00590 0, Sesser, Illinois,
Section ID No. 002 (12th thru 20th East South Cross Entry Group),
Section ID No. 003-0 (1st thru 11th East South Cross Entry Group),
Section ID No. 003-2 (1st thru 11th East South Cross Entry Group),
Section ID No. 036 (10A, 10th, 11th, 12th S. Panel off 20th East South),
Section ID No. 037 (13A, 13th, 14th, 15th S. Panel off 20th East South),
Section ID No. 041 (37A, 37th, 38th, 39th N. Panel off 1st East South),
Section ID No. 042 (1st thru 13th West South Cross Entry),
Section ID No. 043 (16A, 16th, 17th, 18th N. Panel off 12th East South),
Section ID No. 044 (46th, 47th, 48th, 48A N. Panel off 1st East South),
Section ID No. 045 (1st, 2nd, 3rd, 3A South off 1st West South),
Section ID No. 046 (19A, 19th, 20th, 21st N. Panel off 12th East South),

(2) ICP Docket No. 20237, SMITH & STOVER COAL COMPANY, Hunter-Burma Slope Mine, Mine ID No. 46 01505 0, Whitby, West Virginia,
Section ID No. 004-0 (7½ Left),
Section ID No. 005-0 (2nd Right).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) 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 renewal may be filed by March 26, 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 on request.

A copy of the 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, 173 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

MARCH 5, 1974.

[FR Doc.74-5485 Filed 3-8-74;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MUSEUM ADVISORY SUBPANEL

Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Museum Advisory Subpanel to the National Endowment for the Arts will be held at 10 a.m. on March 12, and at 10 a.m. on March 13, 1974 in Room 808 of the Shoreham Building, 806 15th Street, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence by the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5), and (6)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 382-5871.

PAUL BERMAN,
Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.74-5520 Filed 3-8-74;8:45 am]

MUSEUM ADVISORY SUBPANEL

Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Museum Advisory Subpanel to the National Endowment for the Arts will be held at 10 a.m. on March 14, 1974 in the 8th floor conference room of the McPherson Building, 1425 K Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552 (b) (4), (5), and (6)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 382-5871.

PAUL BERMAN,
Director of Administration, National Foundation of the Arts and the Humanities.

[FR Doc.74-5521 Filed 3-8-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

ADVISORY COMMITTEE ON GNP DATA IMPROVEMENT

Extension of Operation

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), I hereby certify that it is in the public interest to extend to December 31, 1974 the period of operation of the Advisory Committee on GNP Data Improvement of the Office of Management and Budget in connection with the duties imposed upon the Director by the Budget and Accounting Procedures Act of 1950 (P.L. 81-784, section 103).

The Budget and Accounting Procedures Act of 1950 in section 103 makes the Director of the Office of Management and Budget responsible for the development of programs for the improved gathering, compiling, analyzing, publishing,

and disseminating of statistical information. The GNP statistics, which are widely used by Federal policy makers and private economists alike, have recently been subject to revisions which have impaired their usefulness in making economic policy decisions. These revisions have been necessary because some of the basic source data used in making GNP estimates are deficient in accuracy, completeness, or timeliness. Therefore, the Advisory Committee on GNP Data Improvement has been established to conduct an intensive investigation into the data presently being utilized and to make recommendations as to what improvements are needed or what alternate sources should be developed.

The Committee is composed of nongovernment experts who, except for the Chairman, serve without compensation except for travel expenses. The Chairman serves as Staff Director, for which he receives salary when actually employed. Other staff consist of a paid secretary and other Federal agency personnel who are assigned on nonreimbursable detail.

The determination will terminate on December 31, 1974.

ROY L. ASH,
Director.

[FR Doc.74-5613 Filed 3-8-74;8:45 am]

GROSS NATIONAL PRODUCT DATA IMPROVEMENT PROJECT

Notice of Cancellation of Meeting

Notice of public meeting for the Gross National Product Data Improvement Project appearing on page 7843, Vol. 39, No. 41 of the FEDERAL REGISTER dated February 28, 1974 and scheduled for March 12, 1974, in room 10104 of the New Executive Office Building at 9:45 a.m. has been canceled.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74-5667 Filed 3-8-74;8:45 am]

REQUEST FOR CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on March 6, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529).

NEW FORMS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Administrative Review Report (Schools and Institutions in Food Distribution Program), Form FNS-168, Occasional, Lowry, Hospitals, private schools and institutions.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Office of Education, In-depth Field Instruments for Conditions and Processes of Effective School Desegregation, Forms OE-190-12 through 20, Annual, HRP/Planchon, 48 schools selected for in-depth study.

Health Services Administration, Emergency Medical Services Household Interview Survey, Form HSABHSRE 1227, Occasion, HRP/Reese, Sample of 1200 households in 7 county area.

Social and Rehabilitation Service, Narrative Reports—Title IV-A State Agency Family Planning Activities FY 73 and 74, Form ____, Quarterly, Reese/Sunderhauf, Title IV-A—State Agency.

Statistical Data Report—Title IV-A State Agency Planning Activities—FY 1974, Form ____, Quarterly, Sunderhauf, Title IV-A State Agency.

VETERANS ADMINISTRATION

Claim for Monthly Payments—USGLI, Form 29-4125K, Occasion, Caywood, Beneficiary.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Agreement—Special Food Service Program for Children, Form FNS-80, Annual, Lowry, Public & Nonprofit Private Service Institutions.

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration, Health and Safety Individual Training Record, Form 6-1457, Occasional, Ellett, All mines required to train their employees.

EXTENSIONS

DEPARTMENT OF THE TREASURY

Departmental, Unit of Local Government Status of Trust Fund Report and Actual Use Report, Form ____, Annual, Ellett, Local governments.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-5666 Filed 3-8-74;8:45 am]

FEDERAL ENERGY OFFICE

EMERGENCY ADVISORY COMMITTEE FOR NATURAL GAS; SUBCOMMITTEE ON LP-GAS SUPPLY AND DEMAND

Meeting

Pursuant to the provisions of The Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat 770) notice is Hereby given that The Demand Task Group and the Supply Task Group of the Emergency Advisory Committee for Natural Gas's Subcommitee on LP-Gas Supply and Demand will meet in Tulsa, Oklahoma on March 12 and 13, respectively.

The Demand Task Group will meet at 10:00 a.m., Tuesday, March 12, 1974, in the Resource Science Building, Tulsa, Oklahoma.

The agenda for the meeting is as follows:

1. Progress report on the entire LP-Gas Supply and Demand study.
2. Receive reports on the demand forecast for the various end-use consuming categories.
3. Review and discuss the reports, and develop a common basis for a demand forecast.
4. Make assignments for preparation and submission of Task Group report.

The Supply Task Group will meet at 10:00 a.m., Wednesday, March 13, 1974, in Tulsa, Oklahoma, in the Pomperiau Room of the Fairmont-Mayo Hotel.

The agenda for the meeting is as follows:

1. Progress report on the entire LP-Gas Supply and Demand Study.
2. Receive reports on the supply forecast for LP-Gas.
3. Review and discuss the reports and develop a common basis for a supply forecast.
4. Make assignments for preparation and submission of Task Group Report.

The Demand Task Group and Supply Task Group provide the Administrator, Federal Energy Office, with direct and timely access to the technical knowledge possessed by a wide range of businessmen in the LP-Gas industry concerning demand and supply of LP-Gas respectively.

The meetings are open to the public; however, space and facilities are limited.

Further information concerning the meetings may be obtained from Lou D'Andrea, Federal Energy Office, Washington, D.C., telephone: 202/961-8559. Minutes of the meetings will be available for public inspection at the Federal Energy Office, Washington, D.C.

The chairmen of the groups are empowered to conduct the meetings in a fashion that will, in their judgments, facilitate the orderly conduct of business.

Issued in Washington, D.C. on March 6, 1974.

WILLIAM N. WALKER,
General Counsel.

[FR Doc.74-5687 Filed 3-8-74;9:26 am]

[Federal Energy Office Order No. 4]

GOVERNOR OF THE COMMONWEALTH OF PUERTO RICO

Delegation of Authority

Pursuant to the authority vested in me as Administrator of the Federal Energy Office by Executive Order 11748, *It is hereby ordered*, as follows:

1. There is delegated to the Governor of the Commonwealth of Puerto Rico all authority delegated to the Administrator of the Federal Energy Office by section 3(a) of Executive Order 11748 with respect to the allocation of propane, butane, motor gasoline, middle distillate and residual fuel oil within the Commonwealth of Puerto Rico, provided that any allocation program established pursuant to this delegation complies with

the provisions of paragraphs 2, 3 and 4 of this order.

2. The volume of each product subject to allocation pursuant to this order shall not exceed one hundred percent (100%) of the volume of each such product sold for use within the Commonwealth of Puerto Rico during the corresponding calendar quarter of the base period January 1 to December 31, 1973. Any amounts of allocated products in excess of 100% of the base period used within Puerto Rico any amounts of allocated products exported from Puerto Rico shall be subject to the Mandatory Petroleum Allocation Regulations of the Federal Energy Office as set forth in Part 211 of Title 10, Code of Federal Regulations.

3. The Administrator of the Federal Energy Office shall be fully advised of any allocation program implemented pursuant to this order and shall receive monthly reports on the operation of such allocation program from the Governor of the Commonwealth of Puerto Rico in accordance with forms and instructions to be issued by the Federal Energy Office.

4. The Governor of the Commonwealth of Puerto Rico shall submit to the Administrator of the Federal Energy Office a program for energy conservation for Puerto Rico, which must be approved by the Administrator before this delegation may be implemented.

5. The Governor of the Commonwealth of Puerto Rico may redelegate to any officer or agency of the Commonwealth of Puerto Rico any authority delegated to him by this order.

6. This delegation may be modified or amended by the Administrator of the Federal Energy Office at any time after consultation with the Governor of the Commonwealth of Puerto Rico.

7. This order is effective immediately.

WILLIAM E. SIMON,
Administrator,
Federal Energy Office.

MARCH 7, 1974.

[FR Doc.74-5700 Filed 3-8-74;10:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 461]

Assignment of Hearings

MARCH 6, 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 the date of this publication.

MC-109533 Sub 53, Overnite Transportation Co., is continued to April 8, 1974, at the Campbell House Inn, 1375 Harrodsburg Road, Lexington, Ky.

MC 84687 Sub-2, Veterans Truck Line, Inc., now being assigned May 20, 1974 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC 8948 Sub-104, Western Gillette, Inc., now assigned March 26, 1974, at Dallas, Texas, will be held in the Marriott Hotel, 2101 Stemmons Freeway.

No. 35801 & No. 35808, United States Steel Corporation V. Penn Central Transportation Company, Et Al., is continued to April 1, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-8948 Sub 106, Western Gillette, Inc., now being assigned hearing April 29, 1974 (2 weeks), at Carson City, Nev., in a hearing room to be later designated.

MC 28573 Sub-34, Burlington Northern, Inc., now being assigned June 3, 1974 (2 weeks), at Helena, Mont., in a hearing room to be later designated.

MC 110563 Sub 118, Coldway Food Express, Inc., now assigned April 15, 1974, MC 110563 Sub 115, Coldway Food Express, Inc., now assigned April 16, 1974, and MC 101219 Sub 50, Merit Dress Delivery, Inc., now assigned April 18, 1974, at New York, New York, will be held in Court Room A, Room 238, Court of Claims, 26 Federal.

MC 115716 Sub 17, Denver-Limon Burlington Transfer Co., now being assigned hearing May 13, 1974 (1 week), at Denver, Colo., in a hearing room to be later designated.

MC-C-8277, Cedar Rapids Steel Transportation, Inc.—Investigation and Revocation of Certificates—now assigned March 25, 1974, at Omaha, Nebr., is postponed indefinitely.

MC 103926 Sub-30, W. T. Mayfield Sons Trucking Co., now being assigned May 8, 1974 (3 days), at Atlanta, Ga., in a hearing room to be later designated.

MC 138271 Sub-2, Lowder's Horse Transport, Inc., now being assigned May 13, 1974 (1 week), at Atlanta, Ga., in a hearing room to be later designated.

W-406 Sub 11, Ohio Barge Line, Inc., now assigned March 12, 1974, at Washington, D.C., is postponed to April 2, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-12028, Robco Transportation, Inc.—Purchase (Portion)—Brown Transport Corp., now assigned March 19, 1974, at Washington, D.C., is postponed to April 2, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 116004 Sub-30, Texas-Oklahoma Express, Inc., now being assigned May 13, 1974 (2 weeks), at Oklahoma City, Okla., in a hearing room to be later designated.

MC 119656 Sub 17, North Express, Inc., now being assigned hearing May 14, 1974 (3 days), at Chicago, Ill., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-5551 Filed 3-8-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before March 26, 1974.

FSA No. 42812—*Chlorine to Norco, Louisiana.* Filed by M. B. Hart, Jr., Agent (No. A6334), for interested rail carriers. Rates on chlorine, in tank-car loads, as described in the application, from McIntosh, Alabama, to Norco, Louisiana.

Grounds for relief—Market competition.

Tariff—Supplement 167 to Southern Freight Association, Agent, tariff 820-E, I.C.C. No. S-938. Rates are published to become effective on April 11, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-5553 Filed 3-8-74;8:45 am]

[Notice No. 41]

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 April 5, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74900. By order of March 4, 1974, the Motor Carrier Board approved the transfer to Redman Van & Storage Company, a corporation, Salt Lake City, Utah, of (1) that portion of the operating rights in Certificate No. MC-69062 issued June 30, 1965, to Redman Van Lines, a corporation, Salt Lake City, Utah, authorizing the transportation of household goods as defined by the Commission between points in Utah, and (2) the license in No. MC-14386 issued December 28, 1965, to Redman Warehousing Corporation, Salt Lake City, Utah, authorizing operations as a broker at Salt Lake City in connection with transportation by motor vehicle, in interstate or foreign commerce, of household goods, as defined by the Commission, between points in the United States (excluding Alaska and Hawaii)—William S. Richards, 900 Walker Bank

Building, P.O. Box 2465, Salt Lake City, Utah 84110, Attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-5560 Filed 3-8-74;8:45 am]

[Ex Parte No. 293 (Sub-No. 1)]

NORTHEASTERN RAILROAD INVESTIGATION

Review of the Secretary of Transportation's Rail Service Report; Public Hearings

On February 15, 1974, an order was entered herein setting the sites, the times and the address and phone number of the public contact individual with respect to hearings to be conducted by this Office during the weeks of March 4 and 11, 1974.

Now on this day, for good cause shown, a hearing is scheduled, beginning May 1, 1974, 9:30 a.m. and 7:00 p.m., local time, to continue each day thereafter as needed, in Buffalo, New York, at the Buffalo and Erie County Public Library, Clinton Street entrance, Lafayette Square, Buffalo, New York. Persons interested in speaking at such hearing should contract Ann Siler, c/o Interstate Commerce Commission, 612 Federal Building, 14203. Phone: 716/824-2008. The procedures and practices denominated in the aforementioned order of February 15, 1974, will also apply with respect to this hearing.

Written testimony or correspondence relative to the Buffalo, New York, hearing must still be mailed by May 22, 1974. If not handed in at the hearing, it should be sent directly to: Rail Services Planning Office, 1900 L Street, NW., Washington, D.C., 20036.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-5554 Filed 3-8-74;8:45 am]

[No. AB-72 (Sub-No. 1)]

SACRAMENTO NORTHERN RAILWAY

Abandonment Between Clyde and Concord in Contra Costa County, Calif.

Upon consideration of the record in the above-entitled proceeding and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, *et seq.*; and good cause appearing therefore:

It is ordered, That applicant be, and is hereby, directed to publish the appended notice in a newspaper of general circulation in Contra Costa County, Calif., on or before March 21, 1974, and certify to this Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 27th day of February, 1974.

By the Commission, Commissioner Deason.

[SEAL] ROBERT L. OSWALD,
Secretary.

SACRAMENTO NORTHERN RAILWAY ABANDONMENT BETWEEN CLYDE AND CONCORD IN CONTRA COSTA COUNTY, CALIF.

The Interstate Commerce Commission hereby gives notice that by order dated February 27, 1974, it has been determined that the proposed abandonment of the line of Sacramento Northern Railway between Clyde and Concord, Calif., a distance of approximately 5.24 miles, if approved by the Commission, would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that traffic over this line has not been substantial and has been decreasing. The abandonment is consistent with State and local land use plans which include a State highway project and the possible extension of the Bay Area Rapid Transit System. The determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request at the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-6989.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C. 20423, on or before March 26, 1974.

[FR Doc.74-5552 Filed 3-8-74;8:45 am]

CUMULATIVE LIST OF PARTS AFFECTED—MARCH

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 March.

LIST OF FEDERAL REGISTER PAGES AND DATES—MARCH:

Pages	*Date*
7915–8146	Mar. 1
8147–8307	4
8309–8598	5
8599–8896	6
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federal register

MONDAY, MARCH 11, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 48
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

■

SOCIAL AND REHABILITATION SERVICE

Medicaid Eligibility

Title 45—Public Welfare

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

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

PART 248—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

Medicaid Eligibility

Notice of proposed rule making regarding Medicaid eligibility requirements upon implementation of the Supplemental Security Income Program was published in the FEDERAL REGISTER on November 21, 1973 (38 FR 32216). The proposal related to the following provisions of P.L. 92–603, Social Security Amendments of 1972, and P.L. 93–66:

1. Section 209(b) of P.L. 603. Provides that, notwithstanding any other requirement of title XIX, a State is not required to cover any aged, blind or disabled individual who cannot qualify under the medical assistance standard in effect in that State in January 1972, after medical expenses are deducted from income (§ 248.1(b)(2)(iii)).

2. Section 230 of P.L. 93–66. Provides that a State must provide Medicaid coverage to persons eligible under title XIX in December 1973 as essential spouses, who continue to meet the definition of an essential spouse, and the financial criteria, of December 1973 (§ 248.1(b)(2)(v)).

3. Section 231 of P.L. 93–66. Provides that a State must provide Medicaid coverage to persons eligible under title XIX in December 1973 as inpatients in an institution provided such persons remain in an institution, financially eligible under the December 1973 standard, and their need for institutional care is determined (§ 248.1(b)(2)(vi)).

4. Section 232 of P.L. 93–66. Provides that persons eligible for Medicaid in December 1973 by reason of a finding of blindness or disability (but not recipients of cash assistance) remain disabled or blind for purposes of Medicaid eligibility so long as they meet the definitions of blindness and disability, and the financial standards, in effect in December 1973.

The proposal specified that technical amendment of title XIX was required to provide a legislative base for the proposed regulations. That legislation was enacted December 31, 1973 (P.L. 93–233). These regulations, as set forth in final form, also relate to the following provisions of P.L. 93–233:

1. Section 13. Provides general standards for Medicaid eligibility for the aged, blind and disabled upon implementation of the Supplemental Security Income Program. Provides that recipients of a Federal title XVI payment must be eligible, unless a State restricts coverage by return to its January 1972 medical assistance standard. Also provides that recipients of "State-supplementary-payments-only" may be eligible as categorically needy at State option, provided reasonable classifications of such recipients are covered and their income does not exceed a specified standard. Also requires that recipients of State supplementary payments mandated by Section 212 of P.L. 93–66 must be covered. (§ 248.1(b)).

2. Section 18(q). Provides that four-month extension of Medicaid coverage for cash assistance families who become ineligible for cash assistance because of increased earnings also applies to ineligibility caused by increased hours of work (§ 248.1(b)(1)(iii)).

Comments were received from thirteen respondents. Several comments objected to the imposition of a ceiling on the amount of income allowed to a person qualifying as categorically needy on the basis of receipt of (or eligibility for) a State supplementary payment. The ceiling of 133⅓ percent of the published payment standard, or 133⅓ percent of the adjusted payment level, whichever is higher, has been revised by P.L. 93–233 to 300 percent of the Supplemental Security Income benefit (income is measured against this standard without application of disregards). One comment objected to the requirement that such a supplement must be paid in order to use it as a standard to make persons in institutions eligible for Medicaid. The regulation has been revised to indicate full payment is required only for regular supplement recipients; payment is not required for persons in institutions who qualify because they would be eligible if outside the institution.

Several comments objected to the establishment of a minimum maintenance level for aged, blind and disabled persons of $25 a month; some States felt this was too high, others felt it should be increased by requiring retention of both $25 and all disregarded income. The $25 standard was retained because it reflects available Congressional guidance on a level of maintenance for persons in institutions ($25 is specified in title XVI). Additionally, one comment requested flexibility to retain a higher level of maintenance for a limited period to allow retention of a home for a person likely to return to it from the institution. A change was made to permit this State flexibility.

Several comments objected to the limitation on available Federal financial participation after receipt of notice by the Social Security Administration of ineligibility and suggested extension of title XIX matching for one quarter. This time period was not accepted, although the available period was lengthened somewhat. Several comments objected to the implication of the regulations that separate standards for medically needy aged, blind and disabled persons and for families with children would be established. The regulations were revised to indicate clearly that this was not the intent, and that the level of the higher payment standard generally available would govern. Several comments raised issue with the establishment of authority for the single State title XIX agency to undertake Medicaid eligibility determinations. This authority is contained in P.L. 93–233. While the single State agency under title XIX retains its current authority to oversee and be responsible for all Medicaid policies, where eligibility is dependent on receipt of a cash payment, the State IV–A and Federal title XVI agencies retain policy authority on cash assistance questions.

One comment objected to failure to interpret section 209(b) of P.L. 92–603 to allow States to cover persons not eligible for a title XVI payment or supplement. This was not accepted because Congressional intent in section 209(b) was clearly to allow States to restrict coverage, not to provide them an option to broaden it beyond the title XVI provisions. Several comments objected to provisions in the regulation which were not changed: the requirement for coverage of children under 21 who would be AFDC recipients except for age or school attendance (this is in the law itself); the requirement that cash assistance families losing their cash eligibility because of increased earnings retain Medicaid as categorically needy for 4 months (this reflects Congressional intent that such persons not be disadvantaged through any loss or reduction of Medicaid—as might occur with the possible lesser benefits, higher cost-sharing, and premium requirements of the medically needy); the requirement that persons benefitting from the disregard of the 20 percent Social Security increase must meet the current eligibility conditions of Medicaid, as well as having been a cash recipient in August (this reflects the direct wording of the law).

One comment noted the requirement that children included in the classification "would be eligible if outside the institution" must meet the AFDC conditions of eligibility failed to take into account that a child might qualify through SSI as a blind or disabled child. The special reference to children has been eliminated in response to this comment, making them subject only to the general requirement "would be eligible if outside the institution." One comment objected that elimination of an age requirement for the blind and disabled might be construed as allowing them to qualify for services, such as inpatient psychiatric care, which are limited to certain age groups. This is not the intention and the regulations were clarified.

The following changes have been made in the regulations to clarify the language, reflect comments received, or to incorporate changes made necessary by new legislation.

(1) Section 205.100(a)(2) has been revised to clarify that the options on performing or contracting for Medicaid eligibility determinations are available both to single State agencies which administer the title XIX plan, or to single State agencies which supervise its administration.

(2) A provision exempting Guam, Puerto Rico and the Virgin Islands from application of §§ 248.1 through 248.4 has been incorporated in the body of the regulations. Changes specifying differ-

ences in requirements for Guam, Puerto Rico and the Virgin Islands have been added to §§ 248.70 and 248.80.

(3) Subparagraph (1)(iii) of § 248.1 (b) has been amended to include the legislative provision including increased hours of work in factors which, if they cause a loss of AFDC, require Medicaid to continue for 4 months.

(4) Subparagraph (2)(i) of § 248.1(b) has been amended to clarify that eligible spouses are included as "individuals receiving a benefit under title XVI".

(5) Subparagraph (2) of § 248.1(b) has been amended to reflect the P.L. 93–233 requirement that recipients of a mandatory supplement must be included as categorically needy, and the requirement that the State supplementary payment be deducted from income in determining eligibility if the State returns to its January 1, 1972 medical assistance standard.

(6) Subparagraphs (c)(i) and (d) of § 248.1 and subparagraph (b)(8) of § 248.4 have been amended to reflect revised legislative language providing for continuation of Federal matching for Medicaid for non-cash disabled and blind persons eligible for Medicaid in December 1973; these persons retain coverage so long as they meet current financial standards (as well as all December 1973 eligibility standards) and the State covers these general classifications of eligibles.

(7) Subparagraph (c)(iv) has been amended to clarify it by elimination of unnecessary references which appeared to require children to meet additional AFDC standards and to allow only children in institutions for the mentally retarded (rather than in all ICF's) to be covered, as well as to specify directly the currently allowable reasonable classification of financially eligible children in susbsidized adoptions.

(8) Subparagraph (d) of § 248.2 has been modified to make clear persons in institutions must not be receiving a supplement to be eligible; subparagraph (e) of § 248.2 has been added to specify persons in institutions may be covered even if no supplement is paid provided their income does not exceed 300 percent of the SSI benefit rate.

(9) Subparagraph (d)(4) of § 248.2, subparagraph (a)(1)(ii)(B) of § 248.3, and subparagraph (b)(3) of § 248.4 has been amended to reflect the ceiling on income (before benefit of disregards) of 300 percent of the SSI benefit established by P.L. 93–233.

(10) Subparagraph (b)(4) of § 248.3 has been revised to allow application of a higher level of maintenance for an institutionalized person for a limited period of time if the person is likely to return to the home.

(11) Subparagraph (c)(1) of § 248.3 has been amended to clarify that medically needy levels must be uniform among individuals and families of similar size, and to clarify requirements for establishment of this level, tying it to the higher payment standard generally available in any of the money payment programs; a similar clarification was made on resource requirements for the medically needy.

(12) Subparagraph (b)(7) of § 248.4 has been amended to allow States a slightly longer time period after receipt of a notice of ineligibility from the Social Security Administration during which Federal financial participation (FFP) will continue while Medicaid eligibility is determined, and to clarify that FFP continues while a timely requested hearing is pending.

(13) Subparagraph (b)(1) of § 248.30 has been revised to clarify that the absence of an age limitation for blind or disabled persons does not override the specific age limitations placed on some services by the law.

Chapter II, Title 45, Code of Federal Regulations is amended as set forth below.

1. Section 205.100 is revised to read as follows:

§ 205.100 Single State agency.

(a) *State plan requirements.* (1) A State plan under title I, X, XIV or XVI, or IV–A, or XIX of the Social Security Act must:

(i) Provide for the establishment or designation of a single State agency with authority to administer or supervise the administration of the plan.

(ii) Include a certification by the attorney general of the State identifying the single State agency and citing the legal authority under which such agency administers, or supervises the administration of, the plan on a statewide basis including the authority to make rules and regulations governing the administration of the plan by such agency or rules and regulations that are binding on the political subdivisions, if the plan is administered by them.

(2) In addition, the State plan under title XIX must:

(i) Specify the agency which determines eligibility.

(A) For families or individuals under age 21, this must be either:

(*1*) The single State agency administering or supervising the administration of the medical assistance program, or

(*2*) The State agency administering or supervising the administration of the title IV–A program (except in Guam, Puerto Rico, or the Virgin Islands) or the State plan program under title I or XVI.

(B) For the aged, blind, and disabled, this must be:

(*1*) The single State agency administering or supervising the administration of the medical assistance program, or

(*2*) The State agency administering or supervising the administration of the title IV–A program (except in Guam, Puerto Rico, or the Virgin Islands) or the State plan program under title I or XVI, or

(*3*) The Federal agency administering the supplemental security income program under title XVI if such agency has an agreement with the State. In this case the plan must also specify whether the agency named in (*1*) or (*2*) will make determinations for groups not covered in the agreement.

(ii) Provide for a written agreement between the single State title XIX agency and the State or Federal agency making eligibility determinations for title XIX under the provisions of paragraph (a)(2)(i) of this section. The agreements must state the relationships and respective responsibilities of the agencies.

(b) *Conditions for implementing the requirements of paragraph (a) of this section.* (1) The State agency will not delegate to other than its own officials its authority for exercising administrative discretion in the administration or supervision of the plan including the issuance of policies, rules, and regulations on program matters.

(2) In the event that any rules and regulations or decisions of the single State agency are subject to review, clearance, or other action by other offices or agencies of the State government, the requisite authority of the single State agency will not be impaired.

(3) In the event that any services are performed for the single State agency by other State or local agencies or offices, such agencies and offices must not have authority to review, change, or disapprove any administrative decision of the single State agency, or otherwise substitute their judgment for that of the agency as to the application of policies, rules, and regulations promulgated by the State agency.

2. New §§ 248.1 through 248.4 are added to read as follows:

§ 248.1 State plan requirements and options for coverage under the medical assistance program.

The provisions of §§ 248.1 through 248.4 do not apply to Guam, Puerto Rico and the Virgin Islands, with respect to which §§ 248.10, 248.11, and 248.21 apply.

(a) *General provisions governing eligibility for medical assistance.*—(1) *Categorically needy.*—(i) *General.* In order to be considered as categorically needy for purposes of title XIX, an individual must in general be receiving financial assistance or sufficiently in need to be financially eligible for financial assistance under title IV–A or XVI of the Social Security Act, or under a State supplement to title XVI assistance.

(ii) *States limiting coverage by returning to earlier Medicaid standard.* (A) In a State which covers both the categorically needy and medically needy under its title XIX plan, and in addition has exercised its option under section 209(b) of P.L. 92–603 to limit Medicaid coverage of aged, blind, and disabled individuals, an individual who meets the more restrictive eligibility criteria through having his title XVI payment (if any) and incurred medical expenses deducted from income is considered as categorically needy if he is eligible for a cash payment under title XVI of the Social Security Act or a State supplementary payment which meets the conditions specified in § 248.2(d).

(B) In a State which covers only the categorically needy under its title XIX plan, and in addition has exercised its option under section 209(b) of P.L. 92–

603 to limit Medicaid coverage of aged, blind, and disabled individuals, all individuals establishing eligibility for medical assistance by deducting their title XVI payments (if any) and incurred medical expenses from income will be considered categorically needy regardless of whether their income would allow them to qualify for cash assistance.

(2) *Medically needy.* (i) An individual is considered to be medically needy if he has income and resources which exceed the amount of income and resources allowed to the categorically needy but which are insufficient to meet the costs of necessary medical and remedial care and services.

(ii) In determining whether an individual's income is above the medically needy level, medical expenses are not deducted from income. However, in determining eligibility for medical assistance, incurred medical expenses must be deducted from income for a medically needy individual.

(b) *Required coverage of the categorically needy.* A State plan under title XIX of the Social Security Act must specify what groups of individuals are covered as categorically needy for Medicaid. These groups must, as a minimum—

(1) In the case of families and children, include: (i) All individuals receiving aid under the State's approved plan under title IV–A;

(ii) All individuals under 21 who are (or would be, except for age or school attendance requirements) dependent children under the State's approved AFDC plan; and

(iii) All families which were receiving assistance under the State's plan under title IV–A in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such assistance because of increased hours of, or increased income from, employment. As long as a member of the family is employed, such families will continue to be eligible for medical assistance, for a period of 4 calendar months beginning with the month in which such family became ineligible for assistance under title IV–A because of increased hours of employment, or increased earnings, to the same extent and under the same conditions as it is furnished to the categorically needy under the title XIX plan in effect during such months.

(2) In the case of the aged, blind and disabled, include one of the groups listed in paragraph (b)(2)(i), (ii) or (iii) of this section, and in addition, those listed in paragraph (b)(2)(iv), (v) and (vi) of this section:

(i) Individuals receiving a benefit under title XVI (for purposes of the regulations in this part, the phrase "individuals receiving a benefit under title XVI" includes the eligible spouses of such individuals), or

(ii) Individuals receiving a benefit under title XVI or a State supplementary payment which meets the conditions specified in § 248.2(d), or

(iii) Individuals who meet the eligibility criteria used for medical assistance on January 1, 1972 (or any other criteria which are less restrictive than the January 1, 1972 criteria but no less restrictive than the comparable criteria under title XVI or for a State supplementary payment which meets standards described in § 248.2(d)), after the amount of the title XVI payment and State supplementary payment (if any) and incurred medical expenses are deducted from income;

(iv) All individuals who receive a State supplementary payment mandated pursuant to section 212 of P.L. 93–66;

(v) All individuals who in December 1973 were eligible as essential spouses under the State title XIX plan which for such month provided for medical assistance to individuals described in section 1905(a)(vi) of the Social Security Act, provided that:

(A) The individual with whom such an essential spouse is living continues to meet the December 1973 criteria for aid or assistance under one of the State plans under titles I, X, XIV or XVI as in effect in such month.

(B) The essential spouse continues to be the spouse of and to live with such individual, and under the State plan approved under title I, X, XIV or XVI as in effect in December 1973, would still be considered to be essential to the well being of such individual, and such spouse's needs would be taken into consideration in determining the amount of aid or assistance furnished to such individual under such State plan.

(vi) All individuals who, for all (or any part of) the month of December 1973:

(A) Were eligible under the State title XIX plan as inpatients or residents in institutions qualified for reimbursement under title XIX of the Act; and

(B)(*1*) Would (except for being an inpatient or resident in such institution) have been eligible to receive aid or assistance under a State plan approved under title I, X, XIV, or XVI of such Act; or

(*2*) Were, on the basis of need for care in such institution, considered to be eligible for aid or assistance under a State plan under title I, X, XIV or XVI for purposes of determining their eligibility for medical assistance under a State plan approved under title XIX of the Act (whether or not such individuals actually received aid or assistance under a State plan under title I, X, XIV or XVI) provided that:

(*i*) Such individuals continue to be (for all of any month after December 1973) inpatients or residents in such an institution and would (except for being inpatients or residents in such institution) continue to meet the conditions of eligibility to receive aid or assistance under such plan (as such plan was in effect for December 1973), and

(*ii*) Such individuals are determined (under the utilization review and other professional audit procedures applicable to State plans approved under title XIX of the Act) to be in need of care in such an institution.

(3) With respect to both families with children and aged, blind, or disabled individuals include:

(i) Any individual who would be eligible for aid under title IV–A of the Act or benefits or supplementary payments under title XVI (as may be applicable) except for any eligibility condition or other requirement that is specifically prohibited in a program of medical assistance under title XIX.

(ii) for any month prior to July 1, 1975, any individual;

(A) Who, for the month of August 1972, was receiving or eligible for financial assistance under the State's plan approved under title I, IV–A, X, XIV, or XVI of the act and who was also entitled to monthly insurance benefits under title II of the act for the month of August 1972, and

(B) Who, except for the increase in monthly insurance benefits under title II resulting from enactment of Public Law 92–336, would have been eligible for financial assistance for the current month. Under this requirement:

(1) An individual qualifies as receiving or eligible for financial assistance for August 1972 if, with respect to such month:

(*i*) He was receiving financial assistance; or

(*ii*) He met all conditions of eligibility for financial assistance under title I, IVA, X, XIV, or XVI as in effect in August 1972 but had not applied, provided the State title XIX plan included such individuals as categorically needy in August 1972; or

(*iii*) He was in a medical facility or interminate care facility, and had he left, would have been eligible for financial assistance, provided the State title XIX plan included such individuals as categorically needy in August 1972.

(*2*) An individual is considered as though he were eligible for financial assistance for the current month (after August 1972 and prior to July 1, 1975) if with respect to such month, except for the increase in monthly insurance benefits under title II resulting from enactment of Public Law 92–336:

(*i*) He would meet all conditions of eligibility for financial assistance (however, he need not file an application). In such case he is eligible under the current title XIX plan to the same extent as individuals who are receiving financial assistance; or

(*ii*) He is in a medical or intermediate care facility and, if he left, would be eligible for financial assistance, provided the State title XIX plan includes such individuals as categorically needy. In such case he is considered as though he were categorically needy and is eligible under the title XIX plan to the same extent as other categorically needy individuals in such a facility. Countable income for categorically needy individuals in such a facility does not include the amount specified as a pass-along in sections 306 of P.L. 92–603 and 1007 of P.L. 91–172.

(c) *Options for coverage of categorically needy.* A State may at its option also cover additional groups of individuals as categorically needy provided they

are so specified in the plan. These groups may include any of the following:

(i) Individuals who meet all the conditions of eligibility, including financial eligibility, for aid under title IV–A, benefits under title XVI or State supplementary payments (provided such supplementary payments meet standards specified in § 248.2(d), and the State plan approved under title XIX specifies that recipients of such payments are treated as categorically needy) but have not applied for such assistance. If such group is included in the plan, it must also include all individuals who meet the financial criteria and who:

(A) Although they were not actually receiving cash assistance, in December 1973 met all the conditions of eligibility, including financial eligibility, for aid under a State plan approved under title X, XIV, or XVI of the Act (by reason of their having been previously determined to meet the criteria for blindness or disability established by such a State plan) and

(B) they were eligible under the State title XIX plan in effect in that month if, for each consecutive month after December 1973 such individuals continue to meet the criteria for blindness or disability, and the financial criteria, established by the State plan, approved under title X, XIV or XVI as it was in effect for December 1973.

(ii) Individuals in a facility eligible for reimbursement for services rendered under title XIX who, if they left such facility would be eligible for aid under title IV–A, benefits under title XVI or State supplementary payments (provided such payments meet standards specified in § 248.2(d), and the State plan approved under title XIX specifies that recipients of such payments are treated as categorically needy). This includes individuals who have enough income to meet their personal needs while in the facility, but not enough to meet their needs outside the facility according to the applicable program.

(iii) Individuals who would be eligible for financial assistance under the State public assistance plan approved under title IV–A except that the State plan imposes eligibility conditions more stringent than, or in addition to, those required under the Social Security Act. For example, individuals who would be eligible for AFDC if the State's program covered families with children deprived of parental support or care to the full extent permitted under title IV–A of the Act, including AFDC for families with unemployed fathers.

(iv) All individuals under 21 who qualify on the basis of financial eligibility, but do not qualify as dependent children under a State's AFDC plan: or groups of such individuals if based on reasonable classifications. Children in foster homes or private institutions, or in subsidized adoptions, for whom public agencies are assuming financial responsibility, in whole or in part, constitute a reasonable classification. The additional inclusion of children placed in foster homes or private institutions by private, nonprofit agencies would also be considered reasonable. Individuals under age 21 who are in intermediate care facilities or in psychiatric hospitals, also constitute a reasonable classification.

(v) Caretaker relatives enumerated in section 406(a)(1) of the Act who have in their care one or more children under 21 who, except for age or school attendance requirements, would be dependent children under the State's AFDC plan.

(vi) Individuals who would be eligible for financial assistance if their work-related child care costs were paid out of earnings rather than as a service expenditure by the agency, provided the State plan for financial assistance otherwise recognizes child care costs in determining the amount of the payment.

(d) *Coverage of the medically needy.* If the State opts to include medically needy individuals under title XIX, the State plan must specify that it covers all medically needy groups that correspond to the categorically needy groups covered in the plan; except that this requirement will not apply with respect to individuals required to be covered pursuant to paragraph (b)(1)(iii), (2)(iv), (v), and (vi), and (3)(ii) of this section. Included as medically needy are all individuals who are financially eligible under the standard for medical assistance in effect and who, for the month of December 1973, were eligible as medically needy persons by reason of their having been previously determined to meet the criteria for blindness or disability established by a State plan approved under title X, XIV, or XVI of the Act, if, for each consecutive month after December 1973, such individuals continue to meet the criteria for blindness or disability so established by the State plan (as it was in effect for December 1973), and continue to meet the financial criteria established under the title XIX plan as in effect for December 1973.

(e) *Conditions of eligibility.* The State plan must specify all conditions of eligibility that must be met by members of all optional groups included in the plan.

§ 248.2 Conditions for State plan approval.

(a) All groups the State elects to include in the program are based on reasonable classifications that do not result in arbitrary or inequitable treatment of individuals or groups and are not otherwise inconsistent with the broad objectives of title XIX of the Act.

(b) Except for financial eligibility, the conditions of eligibility that are imposed on elective groups

(1) In the case of families and children, are not more stringent or more numerous than those imposed on families and children receiving aid under the approved State title IV–A plan, and

(2) In the case of aged, blind, or disabled individuals, are not more stringent or more numerous than those imposed on such individuals receiving benefits under title XVI (except for individuals receiving a State supplementary payment as provided in paragraph (d) of this section, or individuals who become eligible for medical assistance as provided in § 248.1(b)(2)(iii)).

(c) No age, residence, citizenship, or other requirement is imposed that is prohibited by title XIX of the Act.

(d) If individuals who receive only a State supplementary payment (but no title XVI payment) are covered as categorically needy, the supplementary payment meets the following standards. It is

(1) Regular, in cash and based on need;

(2) Made to some reasonable classification of aged, blind, and disabled individuals who, except for the level of their income, would be eligible for benefits under title XVI; such reasonable classifications are limited to any of the following, or any combination thereof:

(i) The aged, or the blind, or the disabled;

(ii) The aged, or the blind, or the disabled who:

(A) Are in domiciliary facilities or other group-living arrangements as defined in title XVI regulations;

(B) Are receiving a supplemental payment which is administered by the Federal government in accordance with an agreement made pursuant to Section 1616(a) of the Social Security Act, provided, however, that such payment meets conditions specified in paragraph (d)(3) and (4) of this section;

(iii) Other additional classifications as may be specified by the Secretary;

(3) Available to the reasonable classifications of individuals covered on a Statewide basis, and any variations in level of payment by political subdivision are demonstrated to the satisfaction of the Secretary to be based on cost-of-living differentials; and

(4) Equal to the difference between income and the financial standard used to determine eligibility for the supplement. The income allowed under such standard, before application of any disregards applied under title XVI, may not exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1) of the Social Security Act, except for those persons required to be covered pursuant to § 248.1(b)(2)(vi) or persons receiving a mandatory supplement under section 212 of P.L. 93–66.

(e) Notwithstanding the provisions specified in paragraph (d) of this section, if a State plan provides that persons who would be eligible except that they are in a medical institution (or intermediate care facility) are covered as categorically needy, the financial standard applied to determine eligibility for such persons who are aged, blind, or disabled may not exceed that standard which will allow income, before application of any disregards applied under title XVI, of up to 300 percent of the SSI benefit rate established by section 1611(b)(1) of the Social Security Act, even though a State supplementary payment might not actually be made. The State plan must specify the financial eligibility standard for such persons.

§ 248.3 State plan requirements on financial eligibility for medical assistance programs.

(a) With respect to the categorically needy, a State plan under title XIX of the Social Security Act must:

(1) Specify the financial eligibility conditions that apply to the covered categorically needy groups.

(i) In the case of families and children, the financial eligibilty conditions of the State plan approved under title IV–A shall be applied.

(ii) In the case of aged, blind and disabled individuals, either:

(A) If the State plan provides for categorically needy coverage only for individuals receiving or eligible for a benefit under title XVI, the financial eligibility conditions of title XVI shall be applied;

(B) If the State plan provides for categorically needy coverage for all individuals receiving or eligible for a benefit under title XVI and in addition provides for coverage of defined classifications of persons receiving a State supplementary payment, (*1*) the financial eligibility conditions of title XVI shall be applied for individuals who are receiving or eligible for only a title XVI benefit and are not eligible for a State supplementary payment, and (2) the financial eligibility conditions of the State supplementary payment program shall be applied to individuals receiving such payments, provided that the financial standard for the supplementary payment program does not allow income, before application of any disregards applied under title XVI, which exceeds 300 percent of the supplemental security income benefit rate established by section 1611(b)(1) of the Social Security Act (except that these conditions will not apply to individuals in institutions required to be covered pursuant to § 248.1(b)(2)(vi) or individuals receiving a mandatory State supplement under sec. 212 of P.L. 93–66); or

(C) If the State plan limits coverage by applying any eligibility requirement as restrictive as or less restrictive than those in its January 1, 1972 medical assistance plan but more restrictive than the eligibility criteria for title XVI or supplementary payment recipients, financial eligibility criteria must be specified. These criteria may be: (*1*) As low as those of the January 1, 1972 medical assistance standard, or (2) up to or as high as the standards which would be allowed for title XVI beneficiaries, or for recipients of State supplementary payments as specified in paragraph (a)(1)(ii)(B) of this section.

(2) Provide for the application of income first to maintenance costs, except that this does not preclude imposition of copayments or deductibles pursuant to § 249.40 of this chapter.

(b) With respect to both the categorically needy and, if they are included in the plan, the medically needy, a State plan must:

(1) Provide that only such income and resources as are actually available will be considered and that income and resources will be reasonably evaluated.

(2) Provide that financial responsibility of any individual for any applicant or recipient of medical assistance will be limited to the responsibility of spouse for spouse and of parents for children under age 21, or blind, or disabled.

(3) Specify the extent to which the financial responsibility of any such relatives is taken into account.

(4) Provide that a lower income level for maintenance shall be used for individuals not living in their own homes but receiving care in hospitals, skilled nursing facilities, intermediate care facilities, and institutions for tuberculosis or mental diseases which are covered under title XIX. This lower income level must be reasonable in amount for clothing and personal needs for such individuals, and

(i) For aged, blind, and disabled individuals, such income level must be at a minimum of $25.00 per month;

(ii) For others, States may establish reasonable standards different from that specified in subdivision (i), provided they are based on a reasonable differential in personal needs.

When such an individual's home is maintained for a spouse or other dependents, the appropriate income level for such dependents, plus the individual's income level for maintenance in a long-term care facility, shall be applied. A higher level of maintenance may also be applied for a temporary period, not to exceed six months, to allow an individual to apply his income and resources to maintenance of a home if a physician has certified that such individual is likely to return to the home within such temporary period.

(5) Provide, for individuals in long-term care facilities specified in paragraph (b)(4) of this section, for the application of income first to personal needs, and for the medically needy only, to the title XIX enrollment fee, premium or similar charge imposed under section 1902(a)(14)(B) of the Act, and provide for the application of the remainder to the cost of medical or remedial care.

(6) Provide that, with respect to an aged, blind, or disabled individual receiving a benefit under title XVI or a State supplemental payment, who is not eligible for medical assistance unless he can meet additional eligibility criteria from the January 1972 standard, the amount of such individual's title XVI benefit and State supplemental payment will be disregarded in determining eligibility for medical assistance.

(c) With respect to the medically needy, the State plan must:

(1) Provide levels of income and resources for maintenance, in total dollar amounts, as a basis for establishing financial eligibility for medical assistance. Under this requirement:

(i) Such income levels must be comparable as among individuals and families of varying sizes;

(ii) Except as specified in paragraph (c)(1)(iii) of this section, the income levels for maintenance must be, as a minimum, at the higher of the levels of the payment standards generally used as a measure of financial eligibility in the money payment programs, that is:

(A) In the case of families of three or more, at the level of the payment standard of the State plan approved under title IV–A generally applied;

(B) In the case of individuals, or families (including families with children) of two persons, at the higher of:

(*1*) The payment standard of the State plan approved under title IV–A generally applied, or

(2) The highest level of payment which is generally available to individuals in any of the three groups (aged, blind and disabled) who are (or would be, except for income) eligible for benefits under title XIX;

except that this subparagraph (B) shall not be construed to require the provision of medical assistance to any aged, blind or disabled individual who would not be eligible under the medical assistance standard in effect in such State for January 1972.

(iii) The income levels for maintenance may be less than those specified in paragraph (c)(1)(ii) of this section if the level for which Federal financial participation available pursuant to § 248.4(b)(4) is less, but if so, not lower than the Federal financial participation level.

(iv) Resources which may be held must, as a minimum, be at the higher of the levels allowed under the State plan approved under title IV–A or allowed in the supplemental security income program established under title XVI of the Social Security Act, and the amount of liquid assets which may be held must increase with an increase in the number of individuals in a family (except that a State may allow to aged, blind or disabled individuals only the level of resources allowed in the January 1972 medical assistance standard, if this is not less than the State allows the categorically needy). There must be separate levels established for resources.

(2) Provide that there will be a flexible measurement of available income which will be applied in the following order of priority:

(i) First, for maintenance, so that any income in an amount at or below the established level will be protected for maintenance, except that this does not preclude imposition of the enrollment fee, premium or similar charge, or of copayments or deductibles pursuant to § 249.40 of this chapter;

(ii) Next, income will be applied to costs incurred for medical insurance premiums (including the enrollment fee, premium or similar charge imposed under section 1902(a)(14)(B) of the Act), for any copayments or deductibles imposed under such section, and for necessary medical or remedial care recognized under State law and not encompassed within the State plan for medical assistance. States may set reasonable limits on such medical services for which excess income may be applied. Any medical resource of an individual in the form of insurance or other entitlement will also be applied to such costs. (See also § 250.31 of this chapter regarding third party liability.);

(iii) All of the remaining excess income and medical resources in the form of insurance or other entitlement will be applied to costs of medical assistance included in the State plan. Once such income and resources are exhausted, the full amount, duration and scope of care and services provided by the plan are available.

(3) Provide that all income and resources will be considered in establishing eligibility, and for the flexible application of income to medical costs not in the plan, and for payment toward the medical assistance costs. In considering all income and resources when establishing eligibility, the State plan must provide for:

(i) In the case of families and children, consideration of all disregards applicable to income and resources which are utilized when determining eligibility, or setting aside for future needs under the State's approved title IV–A plan;

(ii) In the case of the aged, blind, or disabled, the highest of:

(A) The disregards applied in title XVI, or

(B) The disregards applied in the State supplementary payment program which are available to all individuals who are or would be (except for their income level) eligible for a title XVI benefit,

except that in a State which has limited coverage of the categorically needy by applying eligibility requirements which are the same as or at a level between those in its January 1, 1972 plan and those under title XVI, disregards which similarly fall within January 1, 1972 and title XVI levels, provided that they are at least the same as those allowed to the aged, blind, and disabled categorically needy.

(4) Provide that only such income and resources will be considered as will be "in hand" within a period, not in excess of six months ahead, including the month in which medical services which are covered under the plan were rendered.

§ 248.4 Federal financial participation.

(a) *Administrative costs.* Federal financial participation is available in the administrative costs of providing medical care and services to all individuals covered under the plan, in the cost of whose medical care and services the Federal government shares.

(b) *Medical assistance.* (1) Except for the exclusion in paragraph (b) (2) of this section, and subject to the provisions of paragraphs (b) (3) and (4) of this section and of Part 250 of this chapter, Federal financial participation is available in payments for medical care and services provided under the State plan to any financially eligible individual who is:

(i) Under the age of 21 (or under age 22 and receiving inpatient psychiatric hospital services pursuant to § 249.10(b) (16) of this chapter); or

(ii) A parent or other caretaker relative specified in section 406(a) (1) of the Act (see § 233.90(c) (1) (v) (*a*) of this chapter) with whom a child under the age of 21 is living, if such relative is eligible or would, except that the child is not regularly attending school or a course of vocational training, and except for need, be eligible to receive payments within the scope of Federal financial participation under title IV–A of the Act. Only one such parent or other caretaker relative, plus the spouse of such parent or caretaker relative who meets the conditions specified in section 406(b) (1) of the Act (see § 237.50(b) (3) and (4) of this chapter), are within the scope of Federal financial participation under title IV–A of the Act; or

(iii) An aged, blind, or disabled individual, as specified in section 1614 of the Social Security Act.

(2) Federal financial participation is not available for care or services provided to any individual who is an inmate of a public institution (except as a patient in a medical institution or a resident in an intermediate care facility), or who is under age 65 and a patient in an institution for tuberculosis or mental diseases (see exception in paragraph (b) (1) (i) of this section for individuals under age 22). See § 248.60.

(3) Federal financial participation is available in payments made on behalf of individuals specified in the plan as categorically needy, subject to the condition, in respect to aged, blind or disabled individuals receiving State supplementary payments, that the State's eligibility standard for the supplementary payment does not allow income, before application of any disregards applied under title XVI, which exceeds 300 percent of the supplemental security income benefit rate established by section 1611(b) (1) of the Social Security Act, except for those individuals required to be covered pursuant to § 248.1(b) (2) (v) of this chapter or individuals receiving a mandatory supplement under section 212 of P.L. 93–66.

(4) Payments in behalf of medically needy individuals are subject to Federal financial participation only to the extent that they are made for a member of a family which has annual income within the following levels:

(i) 133⅓ percent of the amounts specified in paragraph (b) (4) (ii) of this section. Any total yearly income levels established by applying the above percentage which are not multiples of $100 shall be rounded to the next higher multiple of $100. Federal financial participation is available for an individual whose annual income exceeds this level to the extent that medical expenses exceed the income excess (see paragraph (b) (4) subdivision (ii) (C) of this section).

(ii) The amounts to be applied in calculating the income levels referred to in paragraph (b) (4) (i) of this section are the highest money payments which would ordinarily be made to a family of the same size without any income or resources, under the State's approved AFDC plan, subject to the following modifications:

(A) In the case of a single individual the amount of the income level shall be reasonably related to the amounts payable under such plan to families consisting of two or more individuals who are without income or resources.

(B) If the amounts established under such plan are subject to a maximum family limit, the income level for families which exceed such limit will be determined by adding an amount for each member of the family to such limit. The amounts to be added shall be reasonably related to those established under the plan for families which are within the maximum family limit.

(C) In computing a family's or individual's income for purposes of paragraph (b) (4) (i) and (ii) of this section, there shall be excluded any costs (whether in the form of insurance premiums or otherwise) incurred by such family or individual for medical care or for any other type of remedial care recognized under State law, provided that such costs are not subject to reimbursement by a third party.

(5) Federal financial participation is available in medical assistance provided to individuals who were eligible therefor in the month in which the medical care or services were provided, except that this does not apply to costs incurred for medical care by families and individuals in process of establishing eligibility for medical assistance through the incurment of medical expenses which are deducted from income. (See § 206.10(a) (6) of this chapter for retroactive entitlement.)

(6) Federal financial participation is available in medical assistance for individuals, in accordance with the State plan, during a temporary period through the second month following the month in which eligibility ceases, or for the period of time during which financial assistance is received, while the effects of certain eligibility conditions such as blindness, disability, continued absence or incapacity of a parent, or unemployment of a father are being overcome.

(7) Federal financial participation will be available in medical assistance for individuals during a reasonable period of time from the effective date an aged, blind, or disabled individual is no longer eligible for title XVI benefits (in order for the State to determine whether he is still eligible for Medicaid and to allow for notification by the State to such individual of his ineligibility for medical assistance). If the notice is received from the Social Security Administration on or before the 10th of the month, such period may not extend beyond the end of that month, unless the recipient has timely requested a hearing; if the notice is received from the Social Security Administration after the 10th of the month, it may not extend beyond the end of the next month, unless the recipient has timely requested a hearing. The State must take the necessary steps promptly upon receipt of notice from the Social Security Administration.

(8) Notwithstanding any other provision of this section, Federal financial participation is available in medical assistance provided to individuals in groups

listed in § 248.1(b)(1)(iii); (2) (iv), (v), and (vi); and (3)(ii); and for persons included within sections 248.1(c)(i) and (d) except for the definition of disability established by title XVI, as specified in those sections.

(c) *Limitation.* If a State furnishes medical assistance on the basis of income levels which are higher than those specified in this section, the State agency must submit to the Department of Health, Education, and Welfare for its approval income levels which are calculated on the basis provided in this section, and must establish procedures to assure that claims for Federal financial participation are limited accordingly.

(d) *Agreement for supplementary payments.* No Federal financial participation is available under title XIX for any given quarter in which the State does not have in effect in such quarter an agreement with the Secretary for State supplementary payments as specified in section 212 of P.L. 93–66. This provision does not apply with respect to any State which meets the conditions specified in section 212(f) of P.L. 93–66 or to Puerto Rico, Guam, and the Virgin Islands.

§§ 248.10, 248.11, 248.21 [Amended]

3. Sections 248.10, 248.11 and 248.21 are amended by inserting immediately following the heading of each such section the following sentences: "Effective January 1, 1974, the provisions of this section are applicable only to Guam, Puerto Rico and the Virgin Islands. See §§ 248.1 through 248.4 for provisions applicable to other jurisdictions participating in the medical assistance program under title XIX of the Social Security Act."

4. Sections 248.30, 248.50, 248.70, and 248.80 are revised to read as follows:

§ 248.30 Age.

(a) *Conditions for plan approval.* A State plan under title XIX of the Social Security Act may not impose:

(1) Any age requirement of more than 65 years;

(2) Any age requirement which excludes any individual who has not attained the age of 21 and is or would, except for the provisions of section 406(a)(2) of the Act (regarding attendance at school or a training course), be a dependent child under the State's AFDC plan; or

(3) Age requirements more stringent than are imposed in the State's approved plan for financial assistance under title IV–A.

(b) *Federal financial participation.* (1) Federal financial participation is available in medical assistance provided to otherwise eligible persons who were, for any portion of the month in which they received medical care or services, under 21 years of age (or under 22 years of age and receiving inpatient psychiatric services pursuant to § 249.10(b)(16) of this chapter), or 65 years of age or over. Except in Guam, Puerto Rico and the Virgin Islands, blind and disabled persons are not subject to any Federal age requirement in determining Federal financial participation for medical services (except as the services themselves are limited to persons of a specified age).

(2) Federal determination of whether an individual meets the age requirements of the Social Security Act will be made according to the common-law method (under which a specific age is attained the day before the anniversary of birth), unless the State plan specifies that the popular usage method (under which an age is attained on the anniversary of birth) is used, or that the determination of age by the SSI agency is used.

(3) The State agency may adopt an arbitrary date such as July 1 as the point from which age will be computed in all instances where the month of an individual's birth is not available, but the year can be established.

§ 248.50 Citizenship and alienage.

Conditions for plan approval. A State plan under title XIX of the Social Security Act shall include an otherwise eligible individual who is a resident of the United States but only if he is either (a) a citizen or (b) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).

§ 248.70 Blindness.

(a) *State plan requirements.* A State plan under title XIX of the Social Security Act must:

(1) Contain a definition of blindness in terms of ophthalmic measurement. This may be the same definition as is used in the Supplemental Security Income program under title XVI of the Act, or a more restrictive definition; however it may not be more restrictive than the definition used by the State in its approved title XIX plan as in effect on January 1, 1972. The definition may be broader than the title XVI definition only for blind individuals who, for the month of December 1973, were eligible for medical assistance by reason of their having been previously determined to meet the criteria for blindness established by a State plan under title X or XVI of the Act, (see § 248.1(b)(2)(vi) and 248.1(d)(2)); and in Guam, Puerto Rico and the Virgin Islands where the definition contained in the State plan approved under titles X or XVI will apply.

(2) Provide that, in any instance in which a determination is to be made whether an individual is blind according to the State's definition, there will be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select. Under this requirement, no examination is necessary when both eyes are missing.

(3) Provide that each eye examination report will be reviewed by a State supervising ophthalmologist who is responsible for making the agency's decision that the applicant or recipient does or does not meet the State's definition of blindness, and for determining if and when reexaminations are necessary.

(b) *Exception.* The requirements of paragraph (a)(2) and (3) of this section are waived for individuals who are determined to be eligible for payments under title XVI on the basis of blindness unless the State's title XIX plan includes a different definition of blindness as described in paragraph (a)(1) of this section.

(c) *Federal financial participation—*(1) *Assistance payments.* Federal financial participation is available in medical assistance provided to any otherwise eligible person who is blind. Blindness may be considered as continuing until an examination by a qualified examiner establishes the fact that the recipient's vision has improved beyond the State's definintion of blindness.

(2) *Administrative expenses.* Federal financial participation is available in any expenditures incident to the eye examination necessary to determine whether an individual is blind.

§ 248.80 Disability.

(a) *State plan requirements.* A State plan under title XIX of the Social Security Act must:

(1) Contain a definition of disability. This may be the same definition as is used in the Supplemental Security Income program under title XVI of the Act, or a more restrictive definition; however it may not be more restrictive than the definition used by the State in its approved title XIX plan as in effect on January 1, 1972. The definition may be broader than the title XVI definition only for disabled individuals who, for the month of December 1973, were eligible for medical assistance by reason of their having been previously determined to meet the criteria for disability established by a State plan under title XIV or XVI of the Act (see § 248.1(b)(2)(vi) and 248.1(d)(2); and in Guam, Puerto Rico and the Virgin Islands where the definition contained in the State plan approved under titles XIV or XVI will apply.

(2) Provide for the review of each medical report and social history by technically competent persons—not less than a physician and a social worker qualified by professional training and pertinent experience—acting cooperatively, who are responsible for the agency's decision that the applicant does or does not meet the State's definition of disability. Under this requirement:

(i) The medical report must include a substantiated diagnosis, based either on existing medical evidence or upon current medical examination;

(ii) The social history must contain sufficient information to make it possible to relate the medical findings to the activities of the "useful occupation" and to determine whether the individual is totally disabled; and

(iii) The review physician is responsible for setting dates for reexamination;

the review team is responsible for reviewing reexamination reports in conjunction with the social data, to determine whether disabled recipients whose health condition may improve continue to meet the State's definition of disability.

(b) *Exception.* The requirements of paragraph (a)(2) of this section are waived for individuals who are determined to be eligible for payments under title XVI on the basis of disability unless the State's title XIX plan includes a different definition of disability as described in paragraph (a)(1) of this section.

(c) *Federal financial participation—*(1) *Assistance payments.* Federal financial participation is available in medical assistance provided to any otherwise eligible individual who is disabled. Disability may be considered as continuing until the review team establishes the fact that the recipient's disability is no longer within the State's definition of that a determination by the Social Security Administration that a title XVI recipient's disability is no longer within the Federal definition of disability may be utilized by the State in lieu of a State review team's determination for individuals who are determined to be eligible for payments under title XVI on the basis of disability unless the State's title XIX plan includes a different definition of disability as described in paragraph (a)(1) of this section.

(2) *Administrative expenses.* Federal financial participation is available in any expenditures incident to the medical examination necessary to determine whether an individual is disabled.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302)).

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Effective Date: March 11, 1974.

Dated: January 10, 1974.

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

Approved: March 1, 1974.

CASPER W. WEINBERGER,
Secretary.

[FR Doc.74-5349 Filed 3-8-74;8:45 am]

federal register

MONDAY, MARCH 11, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 48

PART III

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

■

INTERSTATE HIGHWAY SYSTEM

Substitution of Mass Transit Projects

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 476]

[Docket No. 74–1]

INTERSTATE HIGHWAY SYSTEM

Substitution of Mass Transit Projects

The Federal Highway Administration and Urban Mass Transportation Administration are considering issuing regulations to implement certain provisions of title 23, United States Code, which were added or amended by the Federal-Aid Highway Act of 1973 (87 Stat. 250). These provisions concern the modification and revision of the Interstate System of highways, including removal, withdrawal, substitution, and addition of Interstate segments, and substitution of public mass transit projects in lieu of Interstate segments.

The proposed regulations would add Part 476 to Chapter I of title 23 of the Code of Federal Regulations. Existing regulations in title 23, CFR, are not affected by these proposed regulations.

BACKGROUND

The National System of Interstate and Defense Highways (the "Interstate System") is the formal name of the now-familiar American freeway system. The present routes of the interconnected 42,500-mile system were selected through the cooperative action of the several State highway departments, subject to the approval of the Secretary of Transportation (formerly Commerce) under section 103(e)(1) of title 23, United States Code. So-called Interstate Highways have been built on the routes of the Interstate System by the State highway departments with Federal-aid funds provided by the Federal Highway Administration of the Department of Transportation. Since enactment of the Highway Revenue Act of 1956, which established assured continued funding through the dedication of Federal fuel taxes to the Highway Trust Fund, the Federal share of the construction of the Interstate has been 90 percent, and construction of the System is now about 83 percent complete.

As the System nears completion, however, it has become apparent that changed social, economic, and environmental conditions mean that some segments, particularly in urban areas, cannot or should not be built. The States have in some cases been reluctant to give up these segments for fear of losing substantial amounts of Federal-aid funds and the resulting economic impact. The Congress has for some time recognized this problem and has provided the States some flexibility in realigning the Interstate System already approved to help meet new transportation needs, while at the same time preserving the integrity of the interconnected System. With the enactment of the Federal-Aid Highway Act of 1973, a State that would rather not build a particular segment of the System on its presently approved alignment has four options. If, in the opinion of the Federal Highway Administrator, the segment in question is not essential to the completion of a unified and connected Interstate System, a State has the following choices:

1. It may elect to transfer the segment to another part of the State, subject to the limitation that the estimated cost of the new segment may not exceed the estimated cost of the transferred segment, and a nationwide limitation of the new Interstate mileage which can be added to the System. This type of alteration of the System is known as "Cramer-Howard" transfer, and is accomplished under the so-called Cramer-Howard amendment to title 23, codified as 23 U.S.C. 103(e)(2). These transfers can also be made between different States.

2. The State may elect not to construct a segment and to use an equivalent amount of general treasury (as opposed to Highway Trust Fund) monies on a non-highway public mass transportation project. This option, restricted to segments in urbanized areas, is authorized by 23 U.S.C. 103(e)(4). The mileage of highway not built can be added to the Interstate System in another State.

3. The State may seek modification or revision of the segment by the Federal Highway Administrator under 23 U.S.C. 103(e)(1) or (f).

4. The State may simply not build the segment. The segment would then be available to other States as in option 2.

In addition, where a State would prefer not to build a segment located entirely within the boundaries of a city, the city may choose to assume the State's role in its construction.

Each of the options is subject to several statutory conditions. It is the purpose of these regulations to set forth the conditions in some detail and to clarify the roles of the various State, local and Federal officials who must participate in the decisions and determinations required by section 103.

The regulations would also address the requirements the States must meet to comply with 23 U.S.C. 103(g). That subsection is designed to settle as quickly as possible exactly which segments of the Interstate System will be built and to provide the Federal Government with assurances that the States will actually complete segments of the System not yet under construction. It requires first that the States provide in 1974 a notice of their intentions with respect to each segment so that this Department and the Congress will have an accurate estimate of what the routes of the final Interstate System will be. By July 1, 1975, section 103(g) requires that the States provide a schedule for the completion of these segments and assurances adequate to the Federal Highway Administrator that they will be constructed. Segments for which the States do not provide the required information are to be removed from the System and thus made ineligible for Federal-aid, unless the Federal Highway Administrator finds their construction necessary in the interest of national defense or for other reasons of national interest. Because of the close relationship of these statutory requirements to the planning necessary by the States to exercise the transfer options described above, the following proposed regulations also set forth the materials required by this Department to assure compliance with the 103(g) requirements to assure the prompt completion of the Interstate System.

A more detailed explanation of the technical provisions of the proposed regulations follows:

PART 476, SUBPART A

Subpart A provides that terms used in these regulations have the same meaning as in title 23, United States Code, unless otherwise defined. Additional essential terms used in this Part are defined.

A key term in the statute, and in these proposed implementing regulations, is "responsible local officials". This term is not defined in the statute. The proposed regulations define the term to mean the principal elected officials of general purpose local governments, acting through the areawide transportation planning organization which has been designated by the Governor as responsible for carrying out the provisions of 23 U.S.C. 134. The term is defined in this way because of the importance of involving those responsible for long-range, comprehensive planning in urbanized areas in decisions having a significant impact on the development of those areas.

Another important term is "local governments concerned". The proposed regulations define this term to mean the local units of general purpose government within whose jurisdiction an Interstate segment lies or is to be withdrawn, added, or substituted. Whether or not a particular governmental entity is a unit of general purpose government is dependent on the State law.

"Nonhighway mass transportation project", another important term, is defined to mean any transportation facility which is developed to provide public mass transit service. Although the statute only directly refers to purchase of passenger equipment or construction of fixed rail facilities, the Department feels that the legislative intent was to also provide for support facilities for substitute projects. Further, we feel that so-called "people-movers" or personal rapid transit type projects should be considered "nonhighway public mass transportation projects".

While we are aware that some substitute projects will involve various combinations of modes, such as rail and bus, we have not included busways within this definition. Busways can now be built under the provisions of 23 U.S.C. 142 and need not be built to Interstate System standards. Regulations implementing 23 U.S.C. 142 will be issued in the near future.

PART 476, SUBPART B

Section 110 of the Federal-Aid Highway Act of 1973 amends 23 U.S.C. 103(g)

to require that the Secretary of Transportation remove from the Interstate System designated Interstate segments for which the States fail to take certain actions by specific dates. The proposed Subpart B contains regulations to implement 23 U.S.C. 103(g), as amended. The District of Columbia is not required to make the submissions which these regulations call for, however, with respect to Interstate segments referred to in 23(a), Federal-Aid Highway Act of 1968, (82 Stat. 815).

By June 1, 1974, a State is required to notify the Federal Highway Administration of what action is intended with respect to each designated Interstate segment which has not advanced to the development stage at which advertising for bids for initial basic construction has been authorized. A State need not notify the FHWA of what is intended with respect to segments which have advanced beyond that stage of development, since it is presumed for the purposes of this Subpart that the State intends to build a segment for which authority to advertise for bids for basic construction has been requested and received.

June 1, 1974, is the deadline set for receipt of notification from States since under the statute the Federal Highway Administrator must, on July 1, 1974, remove from the Interstate System all segments for which he has not received proper notification, unless he finds a segment essential to a unified and connected Interstate System. The June 1 deadline allows the Federal Highway Administrator a period of one month in which to assess the notificatons he has received and the essentiality of each segment for which he has not received notification.

In the required notification, the State should indicate that it intends to build the segment. The State may also indicate that, while its present intention is to build the segment, it anticipates that one or more actions may occur which would affect that intention. These anticipated alternative actions include: a request by the State highway department for a substitute segment (a Cramer-Howard substitute) under 23 U.S.C. 103(e)(2) as implemented in Subpart C of this Part; a request by the State highway department for a modified or revised segment under 23 U.S.C. 103(e)(1) or (f), which gives general authority to designate and alter the Interstate System; and a request by the Governor, local governments concerned, and responsible local officials for a substitute mass transit project under 23 U.S.C. 103(e)(4) as implemented in Subpart D of this Part.

As an alternative the State may indicate that withdrawal of the segment has been requested under Subpart C or D of these regulations.

A notification to the Federal Highway Administrator of one of these intents does not preclude a change of intention at a later date. The object of the notification requirement, in both the statute and these proposed implementing regulations, is to obtain the best possible current information about plans affecting the Interstate System. The object is not to force final, irrevocable decisions to be made by June 1974.

For example, when the present intention is to construct an Interstate segment, the Federal Highway Administrator should be so informed. If circumstances later change, the earlier notification of an intent to construct will not be held to prevent a subsequent decision to request a mass transit substitute or an alternative Interstate segment.

By July 1, 1975, a State must submit to the Federal Highway Administrator a funding schedule and an assurance that the schedule will be met, together with supporting data, with respect to any Interstate segment which has not advanced to the development stage at which advertising for bids for initial basic construction has been authorized, and with respect to any proposed alternative Interstate segment. However, such a submission is not required for any segment for which the Governor, local governments concerned and responsible local officials have requested withdrawal and have stated an intent to substitute a mass transit project.

Although the statute only calls for a "schedule for the expenditure of funds" to be submitted by July 1, 1975, with respect to segments which are to be constructed, these proposed regulations require additional supporting data determined necessary by FHWA. This data will be valuable to the Department in analyzing the final stages of the Interstate System. The policy determination to require this supporting data called for in these proposed regulations is consistent with the policy statement in 23 U.S.C. 101(b) with respect to prompt completion of the Interstate System.

As soon as practicable after July 1, 1975, the Federal Highway Administrator will remove from the Interstate System any designated segment for which the State highway department has not submitted the required material. No segment so removed will be redesignated as part of the Interstate System unless the Federal Highway Administrator finds redesignation to be necessary in the national interest.

The fact that a funding schedule and assurance have been submitted will not preclude the State highway department or the Governor, local governments concerned, and responsible local officials from subsequently requesting an alternative Interstate segment or a substitute mass transit project should circumstances change.

PART 476, SUBPART C

23 U.S.C. 103(e)(2) allows FHWA to revise or modify the Interstate System by approving withdrawal of a previously designated segment for the Interstate System, and approving substitute and additional Interstate segments. Section 137(a) of the Federal-Aid Highway Act of 1973 amended 23 U.S.C. 103(e)(2) (known as the Cramer-Howard Amendment) to make 300 additional miles available for revised Interstate segments. It provides for use of the 1972 Interstate System cost estimate of withdrawn segments as the Federal-aid cost estimate of withdrawn segments as the Federal-aid cost ceiling for substitute and additional segments. Further, it requires the Secretary, in approving substitute and additional segments, to give preference to segments in States from which segments have been removed and segments which will provide through Interstate service in municipalities where such service does not presently exist, as well to give due regard to nationwide needs for Interstate highways.

The proposed Subpart C implements 23 U.S.C. 103(e)(2), as amended. The regulations provide that any segment which was designated as part of the Interstate System prior to August 13, 1973, is eligible for withdrawal and substitution.

There was considerable discussion within the Department as to whether "prior to the enactment of this paragraph" in 23 U.S.C. 103(e)(2) is meant to be interpreted to make segments eligible which were designated prior to January 1968, when 23 U.S.C. 103(e)(2) was first enacted, or August 13, 1973, when the Federal-Aid Highway Act of 1973 was enacted. A legal opinion on this issue concluded that Congress recognized that the problems to which the 1968 statute was addressed still exist, and thus it will best further the legislative purpose to allow the withdrawal of approval of segments designated prior to August, 1973. On the basis of this legal opinion, the proposed regulations provide that the August, 1973, date will determine eligibility under 23 U.S.C. 103(e)(2).

A request may be made to the Federal Highway Administrator to approve withdrawal of a designated Interstate segment. The request must be submitted by the State highway department, except that if the segment to be withdrawn is in an urbanized area, the request must be made by the State highway department after consultation with the local governments concerned and responsible local officials. A policy determination has been made to require that a request for withdrawal of an Interstate segment in an urbanized area be made by the State highway department only after it has consulted with the local governments concerned and the responsible local officials of that urbanized area. The statute states that the "State highway department" shall make the request for withdrawal, and that in considering segments to be added, the Secretary shall consult with the "State and local governments concerned." The Department believes that in urbanized areas, the local governments concerned should be involved in a decision to withdraw a segment as well as in the decision to add a segment. Similarly, the responsible local officials should be involved in these decisions. Such cooperation and consultation is considered important and in keeping with the emphasis on local involvement in the 1973 Highway Act and in 23 U.S.C. 134. Additionally, it insures that all concerned entities are kept informed of plans and decisions affecting their interests.

The withdrawal request must include a statement that the segment involved will not be constructed as part of the Interstate System, and the reasons for this decision. It must contain a statement of the amount and cost of the mileage to be withdrawn. It must also contain an assurance that a toll road will not be constructed in the traffic corridor from which the segment is to be withdrawn.

The Federal Highway Administration will approve the withdrawal request if it meets these requirements and if it determines that the segment to be withdrawn is not essential to a unified and connected Interstate System. In determining essentiality, he will consider urban routes necessary for metropolitan transportation. If the segment is in an urbanized area, FHWA will coordinate with UMTA in making its determination.

At the same time as requesting withdrawal, or after withdrawal of an Interstate segment has been approved, a State highway department may request approval of a substitute or additional Interstate segment, which may utilize withdrawn mileage, or additional mileage, or both. Where the substitute or additional segment is to be located in an urbanized area, the request must be made by the State highway department after consultation with the local governments concerned and responsible local officials of the urbanized area where the new segment is to be located.

Before approving a request for a substitute or additional Interstate segment, the Federal Highway Administration will consult with the States and local governments concerned, and with UMTA if the segment is in an urbanized area. In considering the requests, it will give preference to segments in States from which Interstate segments have been withdrawn, and to segments which will provide through Interstate service to municipalities where such service does not exist, as well as giving due regard to nationwide needs for Interstate highways.

The total Federal cost for substitute or additional Interstate segments approved under these regulations cannot exceed the total cost of the segments withdrawn, as that cost is shown in the 1972 Interstate System Cost Estimate. As a general rule, therefore, the Federal cost of a substitute or additional segment cannot exceed the Federal cost of the withdrawn segment. Where the Federal cost of the substitute or additional segment is less than the Federal cost of the withdrawn route, the Federal Highway Administrator is authorized to make the excess Federal funds available for other Interstate segment substitutes and additions approved under these regulations. Therefore, a request for a substitute or additional segment for which the Federal cost would exceed the Federal cost of the withdrawn route may be approved if the State highway department agrees to provide the excess cost from other than Federal-aid Interstate funds, or if the Federal Highway Administration agrees to provide the excess funds available by virtue of other withdrawn routes.

PART 476, SUBPART D

Section 137(b) of the Federal-Aid Highway Act of 1973 amends title 23, United States Code, by adding a new subsection 103(e)(4). This new subsection allows public mass transit projects to be substituted for Interstate segments under certain conditions. The proposed Subpart D contains regulations to implement 23 U.S.C. 103(e)(4).

A mass transit project substitution can be made only in lieu of certain Interstate segments. To be eligible, the segment of the Interstate System on Au- and must have been a designated segment of the Interstate System on August 13, 1973. A segment is not eligible for substitution, however, if it was designated as part of the Interstate System under the provisions of 23 U.S.C. 139(a) which allows existing routes on the Federal-aid primary system to be designated as Interstate routes when the Secretary determines that designation appropriate.

When a mass transit project is desired in lieu of an Interstate segment, the State Governor and local governments concerned must submit to the Federal Highway Administration and the Urban Mass Transportation Administration, through the Federal Highway Administration, a request that the segment be withdrawn from the Interstate System. This request must have the concurrence of the responsible local officials. The withdrawal request must include a statement that it is being submitted under 23 U.S.C. 103(e)(4). It must positively state an intent to substitute a mass transit project for the withdrawn segment. It must also include an assurance that a toll road will not be constructed in the traffic corridor from which the segment is to be withdrawn.

The Federal Highway Administration may approve the request for withdrawal if it meets these requirements, and if it determines that the segment to be withdrawn is not essential to a unified and connected Interstate System, or if UMTA and FHWA determine that the segment will no longer be essential because of a substituted mass transit project. The Department believes that the provision in the statute, which is not entirely clear, must be administratively determined to mean that withdrawal can be approved on one of two grounds: First, on the basis that the segment is not essential; or second, that it is not essential in that a mass transit project can provide the transportation service that the Interstate System segment would have provided.

Approval of a withdrawal request under this Subpart assures the availability of funds, in an amount not to exceed the cost of the withdrawn segment as included in the 1972 Interstate System Cost Estimate, to pay the Federal share of the cost of a substitute public mass transit project. Withdrawal approval does not, however, obligate Federal funds; obligation is dependent upon approval of the substitute project by and under the procedures of the Urban Mass Transportation Administration.

A proposal for a substitute public mass transit project is to be prepared by the responsible local officials. The proposal is to be forwarded to the Governor, who is to submit it to the Urban Mass Transportation Administration if he and the State highway department concur in certain of the findings made by the responsible local officials as a part of their proposal.

The responsibility for initiating a proposal for a public mass transit project in lieu of a withdrawn Interstate segment rests with the responsible local officials of the urbanized area. When they determine that their needs require a mass transit project instead of the withdrawn segment, they are required to notify the State highway department of this determination. This requirement of notification, which is contained in the statute, assures that the State highway department will be kept informed of decisions made at the local level which may have an eventual effect on the State's Interstate highway apportionment.

The regulations provide that the responsible local officials are to prepare the proposal for a substitute public mass transit project, in consultation with local transit operating officials. This proposal need not, at this stage, meet all the formal requirements of an actual application for Federal financial assistance in the development of a public mass transit project. It must, however, contain sufficient information and supporting data to support a determination that the proposed project is appropriate for approval under 23 U.S.C. 103(e)(4). The necessary information includes an assurance that the substitute project will be fully utilized by the public mass transportation system, and a determination that the project is in accord with the planning process required by 23 U.S.C. 134.

The proposal for a substitute public mass transit project is to be forwarded to the State Governor. The Governor is to submit the proposal to the Urban Mass Transportation Administration if he concurs in the assurance that the proposed substituted project will be fully utilized by the public mass transportation system, and if the State highway department concurs in the determination that the proposed project is in accordance with and is entitled to priority under the 23 U.S.C. 134 planning process.

The regulations provide that the proposal for a substitute public mass transit project may be submitted at the same time as the request for withdrawal of the Interstate segment, although this is not required. In addition, the proposal for a substitute project may be combined with a request for a substitute or additional Interstate segment under Subpart C, or with an application for Federal financial assistance under the Urban Mass Transportation Act. These provisions serve to emphasize that maximum flexibility is given to the States and local governments in deciding how best to utilize the various available forms of transportation assistance.

For example, if the responsible local officials of an urbanized area wished to construct a rapid rail transit system, and Federal funds available because of a withdrawn Interstate segment would not be sufficient to provide 80 percent of the total cost of the project, an application could also be made to the Urban Mass Transportation Administration for a capital grant of 80 percent of the remaining cost of the project.

Proposed substitute public mass transit projects must meet certain requirements peculiar to projects being substituted for withdrawn Interstate segments, before they can be considered for approval. Accordingly, the Urban Mass Transportation Administration and the Federal Highway Administration will review a proposal for a substitute public mass transit project to determine that three essential preconditions are met:

1. The proposed project must serve the urbanized area from which the Interstate segment was withdrawn, although it need not utilize the same transportation corridor as the withdrawn segment and need not be physically located within that urbanized area.

2. The Federal share of the proposed project's cost which is to be provided as a result of the withdrawal of an Interstate segment, and substitution of a public mass transit project therefore, cannot exceed the cost of the withdrawn segment as included in the 1972 Interstate System Cost Estimate.

3. The assurance that the proposed project will be fully utilized by the public mass transportation system must be satisfactory.

The determination that these preconditions have been met is necessary before the substitute project can be considered for approval. However, this determination does not result in the obligation of Federal funds to pay the Federal share of the project.

The regulations provide that approval of a substitute public mass transit project will be governed by the requirements and procedures of the Urban Mass Transportation Administration as contained in the UMTA External Operating Manual. This approval of a project, or any phase thereof (which may include necessary planning or engineering activities associated with the project), obligates general funds from the Treasury to pay the Federal share of the project's cost that is to be provided under this Subpart. This obligation of Federal funds causes the Interstate apportionment of the State involved to be reduced by the amount thus obligated if the apportionment is based upon an Interstate System cost estimate which includes the withdrawn segment for which the public mass transit project is being substituted.

The obligation of Federal funds for a substitute project under this Subpart of the regulations is limited in several ways. The Federal share of the project's cost is determined under the Urban Mass Transportation Act of 1964; currently, the Federal share under that statute is 80 percent. The Federal proportional share of the substitute project's cost provided under this Subpart cannot exceed the Federal cost of the withdrawn Interstate segment, as included in the 1972 Interstate System Cost Estimate. Furthermore, no general funds can be obligated under the provisions of these regulations after June 30, 1981.

Mileage which has been withdrawn from the Interstate System under the provisions of this Subpart is available for redesignation on the Interstate System, and is not subject to an established Federal cost ceiling limitation. However, the Secretary cannot redesignate any Interstate mileage where that action would result in the overall 42,500 mileage limitation being exceeded. Furthermore, the withdrawn mileage cannot be redesignated in the State from which withdrawn.

These proposed regulations do not cover the questions of possible limitations on the amount of general funds that can be made available for a substitute Interstate segment or a substitute public mass transit project by virtue of the withdrawal of a previously designated Interstate segment, and the disposition of Federal monies already committed to abandoned highway projects. This issue will be covered in Subpart E of 23 CFR Part 476. A proposed Subpart E will be published in the FEDERAL REGISTER for notice and comment in the near future.

Inquiries, comments, views and arguments received on these proposed regulations may be submitted to the Federal Highway Administration, Room 4226, 400—7th Street SW., Washington, D.C. 20590. All written communications received on or before April 15, 1974, will be considered before final action is taken on this proposal. Copies of all written communications received will be available for examination during normal business hours at the foregoing address.

These amendments to title 23, Code of Federal Regulations, are proposed under the authority of 23 U.S.C. 103(e)(2), 103(e)(4), 103(g), 103(h) and 315, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b) and 105(f).

In consideration of the foregoing, it is proposed to amend Chapter I of Title 23 of the Code of Federal Regulations by adding new Part 476 as set forth below.

FRANK C. HERRINGER,
Urban Mass Transportation Administrator.

NORBERT T. TIEMANN,
Federal Highway Administrator.

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AUTHORITY: 23 U.S.C. 103(e)(2), 103(e)(4), 103(g), 103(h) and 315; delegation of authority in 49 CFR 1.48(b) and 1.50(f).

Subpart A—General

§ 476.2 Definitions.

(a) Except as otherwise provided, terms defined in 23 U.S.C. 101(a) are used in this part as so defined.

(b) The following terms, where used in the regulations in this part, have the following meaning—

"Interstate segment" means any designated, toll-free route, or portion thereof, of the Interstate System described in 23 U.S.C. 103(e)(1) and 23 U.S.C. 103(e)(3).

"Initial basic construction" means the first physical construction—

(1) Which is on, or directly connected with, the through traffic lanes of a highway project (including grading, drainage, paving, and the construction of grade separations, interchanges, and major stream crossing structures, but not including the construction of frontage roads); and

(2) For which the Federal matching payment will be from sums apportioned under 23 U.S.C. 104(b)(5).

"Local governments concerned" means local units of general purpose government under State law within whose jurisdiction the Interstate segment to be withdrawn, added, or substituted lies.

"Nonhighway public mass transit project" ("public mass transit project") means any transportation facility which is developed to provide public mass transit service. This includes purchase of buses of various sizes, rail rolling stock, and other rolling stock providing mass transit service, and the acquisition of right-of-way and construction of rail lines, terminals and other mass transit support facilities.

"Responsible local officials" means the principal elected officials of general pur-

pose local governments acting through the areawide transportation planning agency designated by the Governor.

Subpart B—Required State Action Regarding Designated Segments of the Interstate System

§ 476.100 Purpose.

The purpose of the regulations in this subpart is to implement 23 U.S.C. 103(g), which requires that States provide certain information to the Secretary with respect to segments of the Interstate System to which these regulations apply. Failure to supply the required information may result in removal of a segment from the Interstate System.

§ 467.102 Relation to Subparts C and D.

Any information or schedule provided to the Federal Highway Administrator (FHWA) under this Subpart will not prevent the State highway department or the Governor, local governments concerned, and responsible local officials from subsequently exercising the options provided by Subparts C and D of this part.

§ 476.104 Applicability.

The regulations in this subpart shall be applicable to each Interstate segment for which the State highway department has not received FHWA authorization to advertise for bids for initial basic construction and to each proposed alternative Interstate segment substituted therefor, except that this Subpart shall not apply to District of Columbia Interstate System segments referred to in § 23(a), Federal-Aid Highway Act of 1968, 82 Stat. 815.

§ 476.106 Required State Action—June 1, 1974.

With respect to each Interstate segment to which these regulations are applicable, the State shall notify FHWA by June 1, 1974, that—

(a) It presently intends to construct the segment; or

(b) It presently intends to construct the segment, but anticipates that:

(1) The State highway department may request withdrawal of the segment and substitution of an alternative segment as provided in Subpart C of this Part;

(2) The State highway department may request modification or revision of the segment under the provisions of 23 U.S.C. 103 (e) (1) or (f);

(3) The Governor, the local governments concerned, and responsible local officials may request withdrawal of the segment and substitution of a public mass transit project as provided in Subpart D of this Part; or

(4) Any combination of (a), (b), and (c) may occur;

(5) Construction of a segment which is entirely within the boundaries of an incorporated city may be dependent upon an agreement between the city and the Secretary under the provisions of 23 U.S.C. 103(h).

(c) It has requested withdrawal of the segment as provided in Subpart C or D of this part.

§ 476.108 Required State Action—July 1, 1975.

(a) Unless a request for withdrawal of the segment has been made as provided in Subpart D of this part, the State shall submit the following to FHWA by July 1, 1975, with respect to each Interstate segment or proposed alternative segment to which these regulations are applicable:

(1) A schedule for the expenditure of funds for completion of construction of the segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System; and

(2) An assurance that the segment will be built according to that schedule.

(b) The schedule and assurance shall be accompanied by, and the assurance shall discuss the following supporting material:

(1) A description of the basis for the schedule (which shall include, but not be limited to, assumed completion date, assumed funding level, and use of five year plan);

(2) A detailed analysis of the current status of the segment (which shall include, but not be limited to, hearings, environmental impact statement, and section 4(f) determination);

(3) A discussion of any controversy concerning the segment, including litigation and local opposition, together with an estimation of the probable outcome of the controversy; and

(4) A summary of any further information and considerations supporting the assurance statement including a statement of the views of responsible local officials and local governments concerned.

§ 476.110 Noncompliance—Action by FHWA.

(a) On July 1, 1974, FHWA shall remove from the Interstate System any segment for which the State has not submitted a notification as provided in § 476.106, unless FHWA finds that the segment is essential to completion of a unified and connected Interstate System.

(b) As soon after July 1, 1975, as practicable, FHWA shall remove from the Interstate System any segment for which the State has not met the requirements of § 476.108.

(c) A segment removed for noncompliance under § 476.110(b) shall not be designated as a part of the Interstate System except upon a finding by FHWA that it is necessary in the interest of national defense or for other reasons of national interest.

Subpart C—Interstate System Modifications Under 23 U.S.C. 103(e)(2) (Cramer-Howard Amendment)

§ 476.200 Purpose.

The purpose of this Subpart is to implement 23 U.S.C. 103 (e) (2), which permits a withdrawal of a segment from the Interstate System and substitution or addition of other Interstate segments.

§ 476.202 Applicability.

The regulations in this Subpart apply to Interstate segments selected and approved under title 23, United States Code, prior to August 13, 1973, at any stage of development.

§ 476.204 Withdrawal request.

(a) A request to withdraw an Interstate segment from the Interstate System shall be submitted by the State highway department or, if the segment is located in an urbanized area, by the State highway department after consultation with the local governments concerned and responsible local officials of that urbanized area.

(b) The request for withdrawal shall include the following:

(1) A statement that the segment will not be constructed as a part of the Interstate System, and a statement of the basis for this determination, including—

(i) Reasons why the segment is not essential to the completion of a unified and connected Interstate System (including consideration of urban routes necessary for metropolitan transportation); and

(ii) Reasons why it will not be built.

(2) A statement of mileage and cost of the segment to be withdrawn as included in the 1972 Interstate System Cost Estimate.

(3) An assurance that a toll road will not be constructed in the traffic corridor which would be served by the segment.

§ 476.206 Request for substitute or additional segment.

(a) A State highway department may request use of the mileage withdrawn under § 476.204, or of the additional Interstate mileage authorized by 23 U.S.C. 103(e)(2), or both, for a substitute or additional segment. If the substitute or additional segment is to be located in an urbanized area, the request must be submitted by the State highway department after consultation with the local government concerned and responsible local officials of that urbanized area.

(b) A request for a substitute or additional Interstate segment may be combined with a proposal for a public mass transit project submitted under the provisions of Subpart D of this part.

§ 476.208 Withdrawal approval by FHWA.

The FHWA may withdraw the approval of an Interstate segment if—

(a) he determines that it is not essential to completion of a unified and connected Interstate System (including consideration of urban routes necessary for metropolitan transportation);

(b) the segment will not be constructed as part of the Interstate System; and

(c) he receives the assurance required in § 476.204(b)(3).

§ 476.210 Approval of substitute and additional segments by FHWA.

In considering requests for substitute or additional Interstate segments, FHWA shall—

(a) Consult with the States and local governments concerned;

(b) Give due regard to Interstate highway type needs on a nationwide basis; and

(c) Give preference to—

(1) segments in States in which he has withdrawn approval of other segments; and

(2) the extension of segments which terminate within municipalities served by a single Interstate route, so as to provide service entirely through those municipalities.

§ 476.212 Applicability of title 23, United States Code.

(a) All the provisions of title 23, United States Code, shall be applicable to substitute and additional mileage except that the currently estimated Federal cost of any mileage requested shall not exceed the Federal cost of the mileage withdrawn as included in the 1972 Interstate System Cost Estimate except as provided in paragraph (c) of this section.

(b) If the cost of the withdrawn mileage exceeds the current estimated cost of the substitute or additional mileage requested by a State highway department, FHWA may make the excess funds available for other substitute or additional Interstate segments in the same State or in other States.

(c) If the current estimated cost of the substitute or additional mileage requested exceeds the permissible cost, FHWA will not approve the request unless:

(1) The State highway department agrees to provide the excess cost with other than Federal-aid Interstate funds; or

(2) FHWA agrees to provide the excess cost from funds available under paragraph (b) of this section.

Subpart D—Withdrawal of Interstate Segments and Substitution of Public Mass Transit Projects

§ 476.300 Purpose.

The purpose of the regulations in this subpart is to prescribe policies and procedures for implementation of 23 U.S.C. 103(e)(4), which permits the withdrawal of Interstate System segments and the substitution of public mass transit projects.

§ 476.302 Applicability.

(a) Except as provided in paragraphs (b) and (c) of this section, an Interstate segment at any stage of development may be withdrawn, and public mass transit projects substituted in lieu thereof, if—

(1) The segment is within an urbanized area as defined in 23 U.S.C. 101(a); and

(2) The segment was designated as part of the Interstate System prior to August 13, 1973.

(b) The regulations in this Subpart shall not apply to a segment removed from the Interstate System prior to August 13, 1973.

(c) The regulations in this Subpart shall not apply to Interstate segments designated under 23 U.S.C. 139(a).

§ 476.304 Withdrawal request.

(a) A request to withdraw a segment under this Subpart shall be submitted to the Federal Highway Administrator (FHWA) and the Urban Mass Transportation Administrator (UMTA), through FHWA.

(b) A withdrawal request submitted under this Subpart shall—

(1) Be submitted jointly by the Governor and local governments concerned, with the concurrence of responsible local officials;

(2) Include a statement that the request is filed pursuant to 23 U.S.C. 103(e)(4);

(3) State the reasons why the segment is not essential to the completion of a unified and connected Interstate System, or would not be essential after completion of a substitute mass transit project;

(4) Include a statement of intent to submit a mass transit proposal upon approval of the withdrawal; and

(5) Include an assurance that a toll road will not be constructed in the traffic corridor which would be served by the segment.

§ 476.306 Withdrawal approval.

(a) FHWA may approve the withdrawal of an Interstate segment under the provisions of this Subpart if—

(1) The requirements of § 476.304 are met; and

(2) He determines that the segment is not essential to completion of a unified and connected Interstate System or FHWA and UMTA determine that the segment will no longer be essential because of a substitute public mass transit project.

(b) When FHWA approves the withdrawal of an Interstate segment under paragraph (a) of this section, an amount not to exceed the Federal share of the cost which would have been paid for the withdrawn segment (as such cost is included in the 1972 Interstate System Cost Estimate) will be available for obligation until June 30, 1981, out of the general funds in the Treasury to pay the Federal share of a substitute public mass transit project or phase thereof, provided that the substitute project or phase thereof is approved under § 476.316.

§ 476.308 Proposal for substitute public mass transit project by responsible local officials.

(a) When the responsible local officials determine that their needs require a public mass transit project in lieu of a withdrawn Interstate segment, they shall notify the State highway department of this determination. The responsible local officials, in consultation with local transit operating officials, shall prepare a proposal for a substitute public mass transit project. This proposal shall be forwarded to the Governor for submission to UMTA in accordance with the provisions of § 476.310.

(b) The proposal from the responsible local officials shall include the following:

(1) A statement of the reasons for their determination that a substitute public mass transit project is required;

(2) A description of the proposed substitute project;

(3) A cost estimate for the proposed substitute project, accompanied by supporting documentation;

(4) A statement of the Federal share of the cost of the withdrawn Interstate segment for which the proposed public mass transit project is to be substituted;

(5) Where the Federal share of the cost of the withdrawn segment is less than 80 percent of the cost estimate of the proposed substitute project, an assurance that adequate funding to complete the project will be provided from other sources, with a discussion of the basis of that assurance.

(6) An assurance that the proposed substitute project will be fully utilized, with a discussion of the relevant information provided by local transit operating officials and other bases of that assurance; and

(7) A determination that the proposed substitute project is in accord with and is entitled to priority under the 23 U.S.C. 134 planning process, with a discussion of the basis of the determination.

§ 476.310 Submission of proposal for substitute public mass transit project by Governor.

(a) When the Governor receives a proposal for a substitute public mass transit project from responsible local officials which meets the requirements of § 476.308, he shall submit the proposal to UMTA, provided that—

(1) He concurs in the assurance that the proposed project will be fully utilized; and

(2) The State highway department concurs in the determination that the proposed project is in accord with and is entitled to priority under the 23 U.S.C. 134 planning process.

(b) A proposal for a substitute public mass transit project may be submitted to UMTA at the same time as a withdrawal request is submitted to FHWA under § 476.304.

§ 476.312 Combined proposals.

(a) A proposal for a substitute public mass transit project may be combined with a request for a substitute or additional Interstate segment submitted under the provisions of Subpart C of this part.

(b) A proposal for a substitute public mass transit project may be combined with an application for Federal financial assistance under the Urban Mass Transportation Act of 1964, as amended.

§ 476.314 UMTA-FHWA review of proposal for substitute public mass transit project.

(a) UMTA and FHWA shall review the proposal for a substitute public mass

transit project to determine whether the following criteria have been met:

(1) The proposed project must serve the urbanized area from which the Interstate segment is withdrawn, but need not be located in the same transportation corridor as the withdrawn segment;

(2) The Federal share of the proposed project's cost which is to be provided under this subpart does not exceed the Federal share of the cost of the withdrawn Interstate segment, as that cost is included in the 1972 Interstate System Cost Estimate;

(3) The assurance that the proposed project will be fully utilized is satisfactory.

(b) UMTA's determination that the criteria of paragraph (a) of this section have been met is a precondition to approval of a substitute public mass transit project. However, no Federal funds will be obligated to pay the Federal share of the cost of the substitute project until the conditions of § 476.316 have been met.

§ 476.316 Approval of substitute public mass transit project.

(a) Approval of the plans, specifications, and estimates of the substitute public mass transit project, or any phase thereof, shall be deemed to occur on the date the Urban Mass Transportation Administrator approves the substitute project or phase thereof in accordance with the UMTA External Operating Manual (UMTA Order 1000.2, dated August 22, 1972). This approval of the substitute project or phase thereof obligates the United States to pay its proportional share of the cost of the project or phase thereof out of the general funds in the Treasury.

(b) The Federal proportional share of a substitute project or phase thereof is determined under the provisions of the Urban Mass Transportation Act of 1964, as amended. This Federal obligation is subject to the following conditions:

(1) The total Federal proportional share provided under this Subpart cannot exceed the Federal share of the cost which would have been paid for the withdrawn Interstate segment for which the public mass transit project is being substituted, as that cost is included in the 1972 Interstate System Cost Estimate.

(2) No general funds shall be obligated under the provisions of this section after June 30, 1981.

(c) When Federal funds are obligated to pay the Federal share of the cost of a substitute public mass transit project or phase thereof, the State's Interstate apportionment shall be reduced by the amount thus obligated.

§ 476.318 Redesignation of withdrawn mileage.

Mileage withdrawn under the provisions of this Subpart shall be available for redesignation under 23 U.S.C. 103 (e)(1) without cost limitation, but subject to the following conditions:

(a) It shall not be redesignated in the State from which withdrawn; and

(b) Its redesignation shall not cause the overall Interstate mileage limitation to be exceeded.

[FR Doc.74-5525 Filed 3-8-74;8:45 am]